
CONSENT CALENDAR - Continued

Items 4-10

5. RATIFY/APPROVE BOARD OF DIRECTORS' ATTENDANCE AT MEETINGS AND EVENTS

Recommendation: That the Board ratify/approve the meetings and events for Steven LaMar, Mary Aileen Matheis, Douglas Reinhart, and Peer Swan.

6. RESOLUTION OF COMMENDATION FOR JOHNNIE JOHANNESSEN

Recommendation: That the Board adopt a resolution commending Johnnie Johannessen for his service to the District.

Reso. No. 2011-

7. HANDY CREEK BRIDGE DISTRIBUTION MAIN RELOCATION FINAL ACCEPTANCE

Recommendation: That the Board accept construction of the Handy Creek Bridge Distribution Main Relocation, project 11607 (3241); authorize filing of a Notice of Completion; and authorize the payment of the retention 35 days after the date of recording the Notice of Completion.

8. 2012 STATE LEGISLATIVE PLANNING UPDATE

Recommendation: Receive and file.

9. AMENDED AND RESTATED 401(A) PLAN

Recommendation: That the Board approve the amended and restated IRS Section 401(a) Money Purchase Pension Plan and adopt a resolution adopting amendments with respect to the Great-West Retirement Services Section 401(a) Money Purchase Pension Plan for Governmental Employers.

Reso. No. 2011-

10. TERMINATION OF EXECUTIVE 401(A) PLAN

Recommendation: That the Board approve the termination of IRS Section 401(a) Executives' Profit Sharing Plan and Trust and adopt a resolution terminating the Plan.

Reso. No. 2011-

ACTION CALENDAR

11. PROPOSED CONSUMER PRICE INDEX CHANGES TO SALARY GRADE SCHEDULE AND EMPLOYEE COST OF LIVING ADJUSTMENTS, AND ADDITIONAL EMPLOYEE CONTRIBUTIONS TO CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM

Recommendation: That the Board approve a 2.47% increase to the salary grade ranges and a 2.47% Cost of Living Adjustment (COLA) for each eligible employee, and increase the employee contributions to the California Public Employees Retirement System effective December 1, 2011 and adopt resolutions:

- 1) rescinding Resolution No. 2011-31 and establishing a revised schedule of positions and salary rate ranges;
- 2) modifying Employer Paid Member Contributions (executive management);
- 3) modifying Employer Paid Member Contributions (senior management); and
- 4) modifying Employer Paid Member Contributions (full-time regular employees).

Reso. No. 2011-

Reso. No. 2011-

Reso. No. 2011-

Reso. No. 2011-

12. WIRELESS NETWORK UPGRADE

Recommendation: That the Board approve the addition of a General Plant expenditure in the amount of \$87,000 to the FY 2011-12 Operating Budget and authorize the General Manager to execute a contract with Sirius Computer Solutions in the amount of \$77,028 to purchase and implement the wireless network upgrade.

13. INCREASE IN TACTICAL INCENTIVE FUNDING FOR FY 2011-12

Recommendation: That the Board authorize an increase of \$100,000 in the FY 2011-12 Operating Budget using available over-allocation revenues, and authorize the General Manager to execute Amendment No. 10 to the Agreement for Participation and Co-funding by Irvine Ranch Water District in specified Municipal Water District of Orange County Rebate Programs to add \$200,000 for cost-effective tactical incentive water use efficiency measures in FY 2011-12.

14. ENTERPRISE RESOURCES PLANNING SYSTEM IMPLEMENTATION UPDATE AND CONSULTANT VARIANCE APPROVALS

Recommendation: That the Board approve Variance No. 2 with AST Corporation for implementation services in the amount of up to \$352,100, approve Variance No. 1 with AST Corporation for its Remote Managed Services contract in the amount of up to \$134,400, approve Expenditure Authorizations for projects 1278 and 1660, in the sum of \$350,000 each; and approve additions to the FY 2011-12 Capital Budget for projects 1278 and 1660, in the sum of \$350,000 each.

ACTION CALENDAR - Continued

15. ORDINANCE AMENDING REGULATIONS FOR WASTEWATER DISCHARGES TO IRWD SEWERAGE FACILITIES TRIBUTARY TO SOCWA FIRST READING AND INTRODUCTION

Recommendation: That Ordinance No. 96-12-1 be introduced for first reading and read by title only, that further reading of the ordinance be waived, that the title of the proposed ordinance amending regulations for the wastewater discharges to IRWD sewerage facilities tributary to South Orange County Wastewater Authority be read, and Ordinance No. 2011-1 be introduced and placed on the agenda for the November 28, 2011 Board meeting.

OTHER BUSINESS

Pursuant to Government Code Section 54954.2, members of the Board of Directors or staff may ask questions for clarification, make brief announcements, make brief reports on his/her own activities. The Board or a Board member may provide a reference to staff or other resources for factual information, request staff to report back at a subsequent meeting concerning any matter, or direct staff to place a matter of business on a future agenda. Such matters may be brought up under the General Manager's Report or Directors' Comments.

16. A. General Manager's Report

B. Directors' Comments

1)

2)

3)

4)

5)

C. Adjourn.

* * * * *
Availability of agenda materials: Agenda exhibits and other writings that are disclosable public records distributed to all or a majority of the members of the Irvine Ranch Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection in the District's office, 15600 Sand Canyon Avenue, Irvine, California ("District Office"). If such writings are distributed to members of the Board less than 72 hours prior to the meeting, they will be available from the District Secretary of the District Office at the same time as they are distributed to Board Members, except that if such writings are distributed one hour prior to, or during, the meeting, they will be available at the entrance to the Board of Directors Room of the District Office.

The Irvine Ranch Water District Board Room is wheelchair accessible. If you require any special disability-related accommodations (e.g., access to an amplified sound system, etc.), please contact the District Secretary at (949) 453-5300 during business hours at least seventy-two (72) hours prior to the scheduled meeting. This agenda can be obtained in alternative format upon written request to the District Secretary at least seventy-two (72) hours prior to the scheduled meeting.

November 14, 2011

Prepared and

Submitted by: D. Pedersen *D.P.*

Approved by: Paul Cook *P. Cook*

PRESENTATION

RESOLUTION COMMENDING DAVE LOCHRIDGE
FOR HIS SERVICE TO THE DISTRICT

SUMMARY:

As Dave Lochridge has retired from the District following 20 years of dedicated and outstanding service, staff has prepared a resolution, which is provided as Exhibit "A", to honor him at the Board meeting.

FISCAL IMPACTS:

Not applicable.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

Not applicable.

RECOMMENDATION:

THAT THE BOARD ADOPT THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION NO. 2011 –

RESOLUTION OF THE BOARD OF DIRECTORS
OF IRVINE RANCH WATER DISTRICT COMMENDING
DAVE LOCHRIDGE FOR HIS DEDICATED AND
LOYAL SERVICE TO THE DISTRICT.

LIST OF EXHIBITS:

Exhibit "A" – Resolution

EXHIBIT "A"

RESOLUTION NO. 2011-

RESOLUTION OF THE BOARD OF DIRECTORS
OF IRVINE RANCH WATER DISTRICT COMMENDING
DAVE LOCHRIDGE FOR HIS DEDICATED AND
LOYAL SERVICE TO THE DISTRICT

WHEREAS, Dave Lochridge began his career at the Irvine Ranch Water District on October 28, 1991 as a Senior Painter; and

WHEREAS, Dave was promoted to a Painting Supervisor on July 1, 1993; to a Painting/Coatings Manager on April 1, 1994; and to a Facilities Services Manager in 1999 and a Facilities/Fleet Manager in 2008; and

WHEREAS, Dave was a valued member of the Painting and Coating Specification Process Team; and

WHEREAS, Dave has provided the District with valuable expertise on coatings and paintings for over 20 years and ensured that contractors performing work for the District provided the highest quality workmanship; and

WHEREAS, Dave was recognized for significant contributions as a member of the 1995/96 Safety Process Review Committee; and

WHEREAS, Dave was instrumental in establishing and maintaining an effective Hazardous Waste Disposal Program for the District; and

WHEREAS, Dave has served as a member of the Board of Directors and as the Operations Manager of the Shadetree Partnership, dedicating countless hours of volunteer time to promote more livable communities through the planting of shade trees; and


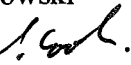
WHEREAS, Dave's reputation for his integrity, professionalism and strong work ethic have earned him the respect of his staff, co-workers, and management.

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors of the Irvine Ranch Water District commends Dave Lochridge for his long and loyal service. His dedication and outstanding service to the District stand as an example to all employees. On this occasion, the Board extends its best wishes to Dave Lochridge in his retirement.

SIGNED and APPROVED this 14th day of November 2011.

President, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

Secretary, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

November 14, 2011
Prepared and
Submitted by: L. Bonkowski 
Approved by: P. Cook 

CONSENT CALENDAR

MINUTES OF REGULAR BOARD MEETING

SUMMARY:

Provided are the minutes of the October 24, 2011 Regular Board Meeting.

FISCAL IMPACTS:

None.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

Not applicable.

RECOMMENDATION:

THAT THE MINUTES OF THE OCTOBER 24, 2011 REGULAR BOARD MEETING BE APPROVED AS PRESENTED.

LIST OF EXHIBITS:

Exhibit "A" - October 24, 2011 Adjourned Regular Board Meeting

EXHIBIT "A"

MINUTES OF REGULAR MEETING – OCTOBER 24, 2011

The regular meeting of the Board of Directors of the Irvine Ranch Water District (IRWD) was called to order at 5:00 p.m. by President LaMar on October 24, 2011 in the District office, 15600 Sand Canyon Avenue, Irvine, California.

Directors Present: LaMar, Matheis, Swan and Withers.

Directors Absent: Reinhart

Also Present: Interim General Manager Cook, Senior Director of Finance Cherney, Senior Director of Operations Pedersen, Director of Engineering Burton, Treasurer Jacobson, Secretary Bonkowski, Legal Counsel Arneson, Director of Water Resources Heiertz, Director of Public Affairs Beeman, Director of Human Resources Wells, Ms. Kirsten McLaughlin, Mr. Paul Weghorst, Ms. Fiona Sanchez, Mr. Mike Hoolihan, Mr. Wayne Clark, Mr. Jim Reed, and other members of the public and staff.

WRITTEN COMMUNICATION: None.

ORAL COMMUNICATION:

Mrs. Joan Irvine Smith's assistant addressed the Board of Directors with respect to the Dyer Road Wellfield. She said it was her understanding that currently wells C-8 and C-9 will operate in accordance with the District's annual pumping plan. Wells, 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17 and 18 will be off. This was confirmed by Mr. Cook, Interim General Manager of the District.

With respect to the Orange County Basin Groundwater Conjunctive Use Program being coordinated by Municipal Water District of Orange County (MWDOC) and Orange County Water District (OCWD), a Notice of Completion was approved by the OCWD Board of Directors on March 19, 2009. Metropolitan Water District has given notice to OCWD to extract 22,000 acre feet in fiscal year 2009/10. The extraction is being performed by agencies that constructed conjunctive use wells under this program. IRWD is not a participant. This was confirmed by Mr. Cook.

With respect to the OCWD annexation of certain IRWD lands, on June 5, 2009, IRWD received a letter from OCWD noting that OCWD has completed the formal responses to comments they previously received on the draft program Environmental Impact Report. The letter further noted that with this task completed, OCWD has exercised its right to terminate the 2004 Memorandum of Understanding (MOU) regarding annexation. OCWD also indicated that due to the lack of progress on the annexation issue, the draft program Environmental Impact Report will not be completed. On June 8, 2009, OCWD completed the Long-Term Facilities Plan which was received and filed by the OCWD Board in July 2009. Staff has been coordinating with the City of Anaheim (Anaheim) and Yorba Linda Water District (YLWD) on their most recent annexation requests and has reinitiated the annexation process with OCWD. IRWD, YLWD and Anaheim

have negotiated a joint MOU with OCWD to process and conduct environmental analysis of the annexation requests. The MOU was approved by the OCWD Board on July 21, 2010. This was confirmed by Mr. Cook.

With respect to the Groundwater Emergency Service Plan, IRWD has an agreement in place with various south Orange County water agencies, MWDOC and OCWD, to produce additional groundwater for use within IRWD and transfer imported water from IRWD to south Orange County in case of emergencies. IRWD has approved the operating agreement with certain south Orange County water agencies to fund the interconnection facilities needed to affect the emergency transfer of water. MWDOC and OCWD have also both approved the operating agreement. This was confirmed by Mr. Cook.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED - None.

PRESENTATION

Interim General Manager Cook presented a Certificate of Commendation to Mr. Don Davis, Board Member, and Mr. Kevin Chudy, Executive Director, of the Woodbridge Village Association. He said that the District has worked closely with this association since 1976 and that they are the first association to use reclaimed water use for irrigation systems and other water saving ventures.

WORKSHOP

IRVINE RANCH WATER DISTRICT'S GOALS AND PRIORITIES

Interim General Manager Cook reported that the draft 2011 IRWD Goals and Objectives were presented to the Board at its Strategic Planning Workshop on January 14, 2011. Mr. Cook said that the Board adopted these goals and objectives and used as a planning tool to focus staff's efforts throughout the year. He said that staff has included an updated version of the IRWD Target Activities Priorities List provided in the exhibits and includes changes to the Priorities List as requested by the Board on June 17, 2011. He reviewed the proposed revisions to the Priorities List. Following discussion, staff was asked to adjust four items in different tier levels and to also agendize this item for the next Strategic Planning Workshop for further discussion.

CONSENT CALENDAR

On MOTION by Withers, seconded and unanimously carried, CONSENT CALENDAR ITEMS 5 THROUGH 12 WERE APPROVED AS FOLLOWS:

5. MINUTES OF REGULAR BOARD MEETING

Recommendation: That the minutes of the October 7, 2011 Adjourned Regular Board Meeting, the October 10, 2011 Adjourned Regular Board Meeting, the October 10, 2011 Regular Board Meeting, and the October 17, 2011 Special Board Meeting be approved as presented.

CONSENT CALENDAR (CONTINUED)

6. RATIFY/APPROVE BOARD OF DIRECTORS' ATTENDANCE AT MEETINGS AND EVENTS

Recommendation: That the Board ratify/approve the meetings and events for Steven LaMar, Mary Aileen Matheis, Douglas Reinhart, John Withers and Peer Swan.

7. STRATEGIC MEASURES DASHBOARD

Recommendation: That the Board receive and file the Strategic Measures Dashboard and information items.

8. SEPTEMBER 2011 FINANCIAL REPORTS

Recommendation: That the Board receive and file the Treasurer's Investment Summary Report and the Monthly Interest Rate Swap Summary for September 2011; approve the September 2011 Disbursement Summary of Warrants Nos. 323092 through 323975 Workers' Compensation distributions, wire transfers, payroll direct deposit ACH payments, payroll withholding distributions and voided checks in the total amount of \$28,698,742.93.

9. STATE LEGISLATIVE UPDATE

Recommendation: Receive and file.

10. QUITCLAIM OF REAL PROPERTY

Recommendation: That the Board adopt the following resolution by title approving execution of a Quitclaim Deed to Kaiser Foundation Hospital.

RESOLUTION NO. 2011 - 44

RESOLUTION OF THE BOARD OF DIRECTORS OF
IRVINE RANCH WATER DISTRICT
APPROVING EXECUTION OF THE QUITCLAIM DEED TO
KAISER FOUNDATION HOSPITAL

11. NEWPORT COAST IRRIGATION RUNOFF REDUCTION PROGRAM

Recommendation: That the Board authorize an increase of \$150,000 to the Fiscal Year 2011-12 Operating Budget from unallocated conservation revenues, and authorize the General Manager to execute an agreement with the City of Newport Beach for participation in the Newport Coast Irrigation Runoff Reduction program.

CONSENT CALENDAR (CONTINUED)

12. ORANGE PARK ACRES TRANSMISSION PIPELINES PROJECT REDUCTION OF RETENTION

Recommendation: That the Board authorize the reduction of retention from 10% to 5% of the contract amount and release of funds in excess of 5% of the contract amount from retention currently held for the Orange Park Acres Transmission Pipelines Project, project 11408 (1279).

ACTION CALENDAR

WELLS 21 AND 22 WELLHEAD FACILITIES CONTRACT CHANGE ORDER

Interim General Manager Cook reported that the construction contract for the Wells 21 and 22 Wellhead Facilities (Wellheads) was awarded to F.T. Ziebarth Company in July 2011 in the amount of \$2,183,700. The finished well sites will provide raw water for the Wells 21 and 22 Design-Build Desalter Plant currently being constructed by Pascal & Ludwig via the untreated water pipeline currently being constructed by Flatiron West. Mr. Cook said that Wells 21 and 22 Projects are receiving 25% matching funds, up to a maximum of \$11,700,000, in Title XVI funding through the United States Bureau of Reclamation from the American Recovery and Reinvestment Act of 2009.

Director of Engineering Burton reported that following the construction award, the Wells 21 and 22 video surveys were completed and some tubercle mounds were found to have re-established, primarily within the mild steel portions of each well. Mr. Burton said that based on the video survey analyses, staff and Geoscience Support Services, Inc. (Geoscience) completed limited rehabilitation and testing specifications. He said that these specifications were distributed to three well drillers: Best Drilling and Pump, Inc. (Best Drilling), Bakersfield Well and Pump Co. (Bakersfield), and Boart Longyear. He also said that cost proposals were received from Best Drilling and Bakersfield; and that Boart Longyear did not submit a proposal. Best Drilling provided the lower cost proposal in the amount of \$356,275, with Bakersfield's cost at \$362,742. Best Drilling is serving as a subcontractor to F.T. Ziebarth Company on the original contract to provide and set the submersible pumps, and staff recommends that the well rehabilitation work be performed by Best Drilling as a change order to F.T. Ziebarth Company. Staff reviewed F.T. Ziebarth Company's cost proposal, negotiated changes, and mutually agreed on the costs for the new work for a Contract Change Order No. 2 is in the amount of \$356,275.

Mr. Burton reported that Geoscience provided the hydrogeologic services for the original Wells 21 and 22 rehabilitation work completed in 2008 and also reviewed the recent video surveys. He said that due to their historic knowledge of these wells and their ongoing assistance, staff requested a proposal from Geoscience to prepare the technical specifications; solicit, obtain and evaluate the driller's rehabilitation cost proposals; field inspect the rehabilitation work at each well; and prepare a summary rehabilitation report. He further said that Geoscience's proposal is for \$55,399, and staff finds its scope and fee proposal to be reasonable and recommends awarding a Professional Service Agreement to them.

Director Withers reported that this item was reviewed and approved by the Engineering and Operations Committee on October 18, 2011.

On MOTION by Withers, seconded and unanimously carried, THE BOARD APPROVED AN EXPENDITURE AUTHORIZATION IN THE AMOUNT OF \$441,000 FOR PROJECT 10286 (1081); APPROVED CONTRACT CHANGE ORDER NO. 2 IN THE AMOUNT OF \$356,275 TO F.T. ZIEBARTH COMPANY; AND AUTHORIZED THE GENERAL MANAGER TO AWARD A PROFESSIONAL SERVICES AGREEMENT TO GEOSCIENCE SUPPORT SERVICES, INC. IN THE AMOUNT OF \$55,399 FOR THE WELLS 21 AND 22 WELLHEAD FACILITIES PROJECT 10286 (1081).

WELLS 21 AND 22 DESALTER PROJECT IMPACT ANALYSIS AND MITIGATION PLAN

Interim General Manager Cook reported that the Wells 21 and 22 Mitigated Negative Declaration (MND), completed in 2009, identified the potential for drawdown impact to some of the City of Tustin's existing wells. Mr. Cook said that while processing the MND, IRWD agreed to complete an impact analysis study to quantify potential impacts and identify a mitigation plan as necessary.

Director of Water Resources Heiertz reported that staff solicited proposals for engineering services for preparation of the Wells 21 and 22 Desalter Project Impact Analysis and Mitigation Plan from Geoscience, Psomas, MWH, CDM and AKM Consulting. Mr. Heiertz said that MWH and CDM declined to submit proposals. He said that in September 2010, two proposals were received: one from Psomas and a second from a combined team of Geoscience and AKM. Staff reviewed both proposals and included staff from the City of Tustin and the Orange County Water District to develop the final recommendation. The Geoscience proposed analyzing all 13 of the City of Tustin's wells, whereas Psomas proposed only analyzing seven of the 13 wells. The selection team requested Geoscience resubmit the cost proposal for the purposed of a fair comparison. He said that the selection team recommends Geoscience be selected to complete this study based on their experience and scope of work.

Director Withers said that this item was reviewed and approved by the Engineering and Operations Committee on October 18, 2011. Following discussion, Director Swan asked that the consultant be made aware of the District's history with the five Frances Mutual wells so they can accurately perform their analysis and determine project impacts on the baseline condition to groundwater production capacity per the Tustin-IRWD cooperative agreement. Additionally, he asked staff to provide an update to the Board once the study is completed. On MOTION by Withers, seconded and unanimously carried, THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE AN ENGINEERING SERVICES AGREEMENT WITH GEOSCIENCE IN THE AMOUNT OF \$99,801 FOR PREPARATION OF THE WELLS 21 AND 22 GROUNDWATER TREATMENT PROJECT IMPACT ANALYSIS AND MITIGATION PLAN, PROJECT 10286 (1081).

GENERAL MANAGER'S REPORT

Interim General Manager Cook reported that CSDA is in the process of obtaining interest for its 2012 Committees, and that to date, both Director Matheis and Ms. Kirsten McLaughlin have

submitted an interest. He asked that if any other Board members are interested, to please contact the District Secretary as the deadline is Friday, October 28, 2011.

Mr. Cook said that a short tour of the District's new Medical facility currently being constructed will be held as part of the Asset Management Committee meeting, and if any other Board members are interested, it will be held tomorrow at 7:30 a.m.

DIRECTORS' COMMENTS

Director Swan reported that he attended MWDOC's Water Policy Forum, an ACWA Region 8, 9, and 10 mini-conference in San Diego which he chaired, a WACO Planning meeting, a CORO luncheon, an ACWA Water Financing Task Force meeting in Sacramento, and a Northern California Water tour.

Director Matheis reported that she met at SMWD for a Chiquita Reservoir dedication along with Director Reinhart, and that she attended a Water Education event relative to the Delta. She said that she will be attending the Shadetree Board meeting on Thursday and that she received a letter from Ms. Pat Bates for input on transportation needs in the area.

Director Withers said that he attended MWDOC's Water Policy Forum, an OCSD Board Meeting, and an NWRI Operations Committee meeting. He said that he has accepted a Board position on the Concordia Public Policy Committee which will be headed by Mr. Keith Curry.

Director LaMar reported on his attendance at a meeting with MWDOC, Building Industry Association and others, and that they are looking at options for Improvement Districts. In response to Director Swan's comment that the group should obtain legal opinions on this matter, Legal Counsel Arneson said that this is currently being analyzed.

Director LaMar said that he will be attending an NWRI Operations Committee tomorrow, an NROC Executive Committee meeting on Wednesday, and a Southern California Committee Task Force meeting on Thursday.

CLOSED SESSION

President LaMar said that a Closed Session would be held relative to Public Employee Appointment/Employment – Government Code Section 54957. Title: General Manager.

OPEN SESSION

President LaMar reported in the Closed Session on a vote of 5-0, Mr. Paul Cook was appointed as General Manager. On MOTION by Swan, seconded and unanimously carried, MR. COOK WAS AWARDED A 5% INCREASE TO HIS CURRENT SALARY AND THAT HIS CAR ALLOWANCE WAS INCREASED TO \$650 PER MONTH.

Director Withers said that he wanted to personally thank all of the internal candidates who applied as they impressed the Board. Director Swan said that the interview process was highly valuable with 50 candidates applying for the position, and that eight were interviewed by the

Board. Director Matheis said that she was impressed by the quality of individuals who had applied for the position. General Manager Cook thanked the Board for his appointment, and said that he appreciated their efforts and thoroughness of this interview process.

ADJOURNMENT

There being no further business, President LaMar adjourned the meeting at 6:40 p.m.

APPROVED and SIGNED this 14th day of November, 2011.

President, IRVINE RANCH WATER DISTRICT

Secretary IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:

Legal Counsel - Bowie, Arneson, Wiles & Giannone

November 14, 2011
Prepared and
Submitted by: N. Savedra
Approved by: Paul Cook */ Paul Cook*

CONSENT CALENDAR

RATIFY/APPROVE BOARD OF DIRECTORS'
ATTENDANCE AT MEETINGS AND EVENTS

SUMMARY:

Pursuant to Resolution 2006-29 adopted on August 28, 2006, approval of attendance of the following events and meetings are required by the Board of Directors.

Events/Meetings

Steven LaMar

11/01/11	EOCWD / IRWD Meeting regarding IRWD's OPA Well
11/18/11	Corps of Engineer Discussion Meeting
11/21/11	EOCWD / IRWD Meeting regarding IRWD's OPA Well

Mary Aileen Matheis

12/14-16/11	Colorado River Water Users Association Conference
-------------	---

Doug Reinhart

10/01/11	50 th Anniversary Past Board Members Update
11/01/11	EOCWD / IRWD Meeting regarding IRWD's OPA Well
11/02/11	Meeting with Paul Cook regarding District activities
11/03/11	MWDOC Board and Member Agency Elected Officials' Forum
11/21/11	EOCWD / IRWD Meeting regarding IRWD's OPA Well

Peer Swan

11/03/11	MWDOC Board and Member Agency Elected Officials' Forum
11/10/11	ACWA Water Finance Task Force Meeting
11/17-18/11	ACWA Board of Directors' Meeting
12/14-16/11	Colorado River Water Users Association Conference

RECOMMENDATION:

THAT THE BOARD RATIFY/APPROVE THE MEETINGS AND EVENTS FOR STEVEN LaMAR, MARY AILEEN MATHEIS, DOUG REINHART, AND PEER SWAN AS DESCRIBED.

LIST OF EXHIBITS:

None

Board Mtgs Events.doc

November 14, 2011

Prepared and

Submitted by: D. Pedersen *D.P.*

Approved by: Paul Cook *P. Cook*

CONSENT CALENDAR

RESOLUTION COMMENDING JOHNNIE JOHANNESSEN
FOR HIS SERVICE TO THE DISTRICT

SUMMARY:

As Johnnie Johannessen has retired from the District following 28 years of dedicated and outstanding service, staff has prepared a resolution, which is provided as Exhibit "A", to honor him at the Board meeting.

FISCAL IMPACTS:

Not applicable.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

Not applicable.

RECOMMENDATION:

THAT THE BOARD ADOPT THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION NO. 2011 –

RESOLUTION OF THE BOARD OF DIRECTORS
OF IRVINE RANCH WATER DISTRICT COMMENDING
JOHNNIE JOHANNESSEN FOR HIS DEDICATED AND
LOYAL SERVICE TO THE DISTRICT.

LIST OF EXHIBITS:

Exhibit "A" – Resolution

EXHIBIT "A"

RESOLUTION NO. 2011-

RESOLUTION OF THE BOARD OF DIRECTORS
OF IRVINE RANCH WATER DISTRICT COMMENDING
JOHNNIE JOHANNESSEN FOR HIS DEDICATED AND
LOYAL SERVICE TO THE DISTRICT

WHEREAS, Johnnie Johannessen began his career at the Irvine Ranch Water District on June 21, 1983, as a Systems Operator I; and

WHEREAS, Johnnie was promoted to a Systems Operator II on May 16, 1984; to a Cross Connection Control Inspector on July 16, 1984; and to a Operations Supervisor on November 26, 1984; and

WHEREAS Johnnie received his Associate in Science Degree with a major in water utility science from Rancho Santiago College in August 1989; and

WHEREAS Johnnie received a Certificate in Effective Supervision from the California State Polytechnic University, Pomona in January 1990; and

WHEREAS Johnnie was one of the first employees to reside in one of the historic homes that were located at the San Joaquin Wildlife Sanctuary; and

WHEREAS Johnnie participated as a Consulting Team Member for the "Improving Together: Basic Quality Training Program" in 1995; and

WHEREAS Johnnie participated as an active member of Toastmasters International and the local "Water Meeters" club hosted by the District; and

WHEREAS Johnnie will be missed at the District's annual holiday breakfasts for all of his extra efforts in the kitchen; and

WHEREAS Johnnie received numerous accolades and letters of recognition over the years for his strong customer service and interpersonal skills.

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors of the Irvine Ranch Water District commends Johnnie Johannessen for his long and loyal service. His dedication and outstanding service to the District stands as an example to all employees. On this occasion, the Board extends its best wishes to Johnnie Johannessen in his retirement.

SIGNED and APPROVED this 14th day of November 2011.

President, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

Secretary, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

November 14, 2011
Prepared by: R. Sundberg/M. Cortez
Submitted by: K. Burton
Approved by: Paul Cook

CONSENT CALENDAR

HANDY CREEK BRIDGE DISTRIBUTION MAIN RELOCATION
FINAL ACCEPTANCE

SUMMARY:

The Handy Creek Bridge Distribution Main Relocation Project was completed by GCI Construction, Inc. This project has received final inspection and acceptance of this project by the Board is recommended.

BACKGROUND:

In May 2011, the Board awarded a construction contract to GCI Construction, Inc. for the Handy Creek Bridge Distribution Main Relocation in Orange Park Acres. Under this project, IRWD's existing 6-inch diameter domestic water pipeline in the Handy Creek bridge was relocated to accommodate the Orange County Public Works (County) project to remove and replace the bridge. The work included lowering the pipeline to avoid interference with the County's proposed bridge project.

Project Title:	Handy Creek Bridge Distribution Main Relocation Project
Project No.:	11607 (3241)
Design Engineer:	Stantec, Inc.
Contractor:	GCI Construction, Inc.
Original Contract Cost:	\$198,527
Final Contract Cost:	\$223,321
Original Contract Days:	60
Final Contract Days:	60
Total Budget:	\$280,500
Total Project Cost (Est.):	\$270,000
Final Change Order Approved On:	November 4, 2011

FISCAL IMPACTS:

Project 11607 (3241) is included in the FY 2011-12 Capital Budget. The existing budget and Expenditure Authorization are sufficient to complete this project.

ENVIRONMENTAL COMPLIANCE:

This project is subject to the California Environmental Quality Act (CEQA) and in conformance with the California Code of Regulations Title 14, Chapter 3, Article 7, a Negative Declaration was certified by the Orange County Board of Supervisors, the lead agency, on March 1, 2011.

COMMITTEE STATUS:

This item was not reviewed by a Committee.

RECOMMENDATION:

THAT THE BOARD ACCEPT CONSTRUCTION OF THE HANDY CREEK BRIDGE DISTRIBUTION MAIN RELOCATION, PROJECT 11607 (3241); AUTHORIZE FILING OF A NOTICE OF COMPLETION; AND AUTHORIZE THE PAYMENT OF THE RETENTION 35 DAYS AFTER THE DATE OF RECORDING THE NOTICE OF COMPLETION.

LIST OF EXHIBITS:

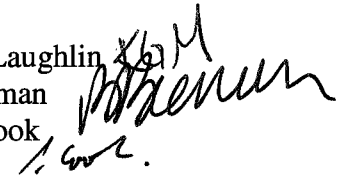
None.

November 14, 2011

Prepared by: K. McLaughlin

Submitted by: B. Beeman

Approved by: Paul Cook



CONSENT CALENDAR

2012 STATE LEGISLATIVE PLANNING UPDATE

SUMMARY:

This report provides an update on the upcoming 2012 legislative schedule and expected statewide legislative proposals. More in depth planning analysis and discussions of these items and proposed IRWD-led legislation will take place with the Water Resources Planning and Communications Committee at the December 7, 2011 legislative planning workshop.

BACKGROUND:

The California Legislature will return for the second year of the two-year session on January 4, 2012. All two-year bills that remain in their House of Origin must be passed out of that house by January 31 in order to remain alive in 2012. January 27 is the deadline for submitting new proposals to the Legislative Counsel's office and February 24 is the deadline for introducing bills. Spot bills must be amended in time to clear their first policy committee by April 27 for fiscal bills and May 11 for non-fiscal bills.

Expected 2012 Statewide Issues:

Government / Pension Reform

As California continues to face significant budget deficits, issues around pension reform and government reform will continue to dominate debates in Sacramento. Governor Brown's 12-point pension reform plan, as proposed on October 27, is expected to drive the discussions. On the government reform side, Senator Correa plans to move forward with SB 46 (Correa) on compensation transparency and reporting. Additionally, we are likely to see some of the government reform proposals that stalled in the 2011 session move forward this year and new introductions on topics such as compensation, public auditing, Brown Act requirements, etc.

Delta Issues

The Delta Stewardship Council and Bay Delta Conservation Plan (BDCP) processes continue to move forward and Delta issues are heating up. Senator Rubio has introduced SB 250 (Rubio) which would codify deadlines for the completion of the BDCP and the construction of conveyance facilities. SB 250 is expected to be one of the vehicles driving Legislative discussions around the Delta in 2012.

Infrastructure Financing

The Water Bond negotiated as part of the 2009 Delta/Water Legislative Package is scheduled to be on the November 2012 ballot. There are ongoing discussions around re-opening the bond in the Legislature to either delay its appearance on the ballot or trim the total dollar amount from

the current \$11.1 billion. Any changes to the bond would need a two-thirds vote of the legislature. It is widely expected that if the bond is on the November ballot in its current form, it will not be passed by the voters. Legislators and members of the water industry are looking at alternative infrastructure financing ideas. Senator Simitian plans to move forward with SB 34 establishing a public goods charge on water, despite the fact that his promised stakeholder process has not yet started. ACWA has convened a Board level Task Force tasked with developing alternative infrastructure financing proposal and hopes to have a developed proposal to discuss with legislators by the beginning of the 2012 Legislative session.

Renewable Energy

There have been several informational hearings this fall related to renewable energy, including a hearing of the Select Committee on Renewable Energy in Rural California on October 24. Issues taken on by this Select Committee may be of particular interest to IRWD as the District considers developing a large-scale solar power project on Jackson Ranch.

Other Water Industry Issues:

A wide variety of other water industry issues is expected to be introduced and debated in 2012. Issues of particular interest to IRWD are:

- The WaterReuse Association's "Law of Recycled Water" statutory rewrite project
- Water rights and recycled water
- Metal theft
- Direct potable reuse
- Regulatory reform

Staff will provide updates on issues and legislation on these topics and proposals being pursued by our associations at the December 7 legislative planning workshop.

FISCAL IMPACTS:

Not applicable.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS

This item was reviewed and approved at the Water Resources Policy and Communications Committee on November 7, 2011.

RECOMMENDATION:

RECEIVE AND FILE.

LIST OF EXHIBITS:

None.

November 14, 2011

Prepared by: Tanja Fournier/Rob Jacobson

Submitted by: Debby Cherney

Approved by: Paul Cook

CONSENT CALENDAR

AMENDED AND RESTATED 401(a) PLAN

SUMMARY:

The District has an IRS Section 401(a) Money Purchase Pension Plan (Plan) where the District's deferred compensation matching contributions are deposited. Periodically, the IRS requires retirement plans to be amended to include federal law changes that have occurred over time. Great West has provided an amended and restated Plan document that includes a number of required provisions. The amended and restated 401(a) Plan and Adoption Agreement is attached as Exhibit "A".

BACKGROUND:

Periodically, the IRS requires retirement plans to be updated to include any new changes in federal law. As such, Great West has provided the District with the amended and restated prototype 401(a) Plan document that has been approved by the IRS. The amended Plan includes provision related to the Pension Protection Act of 2006, the Heroes Earnings Assistance and Relief Tax Act of 2008 and the Workers, Retiree, and Employer Recovery Act of 2008.

The following summarizes the major items covered in the amended and restated 401(a) Plan:

- Rollover of distributions to Roth IRA
- Non-spousal beneficiary rollovers to an inherited IRA
- Various provisions related to payments made by the employer to participants performing qualified military service
- Waiver of required minimum distributions

FISCAL IMPACTS:

None.

ENVIRONMENTAL COMPLIANCE:

This activity is categorically exempt from the California Environmental Quality Act (CEQA) as authorized under the California Code of Regulations, Title 14, Chapter 3, Sections 15301 and 15302.

COMMITTEE STATUS:

This item was reviewed by the Finance and Personnel Committee on November 1, 2011.

RECOMMENDATION:

THAT THE BOARD APPROVE THE AMENDED AND RESTATED IRS SECTION 401(A) MONEY PURCHASE PENSION PLAN AND ADOPT THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION No. 2011-___

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
IRVINE RANCH WATER DISTRICT ADOPTING
AMENDMENTS WITH
RESPECT TO THE
GREAT-WEST RETIREMENT SERVICES
SECTION 401(a) MONEY PURCHASE PENSION PLAN
FOR GOVERNMENTAL EMPLOYERS

LIST OF EXHIBITS:

Exhibit "A" – Amended and Restated Section 401(a) Money Purchase Pension Plan
Exhibit "B" – Resolution

ADOPTION AGREEMENT

GREAT-WEST RETIREMENT SERVICES®

SECTION 401(a)

MONEY PURCHASE PENSION PLAN

FOR GOVERNMENTAL EMPLOYERS

Adopted By: IRVINE RANCH WATER DISTRICT
Employer

IRVINE RANCH WATER DISTRICT MONEY PURCHASE PENSION PLAN AND TRUST
Plan Name

**GREAT-WEST RETIREMENT SERVICES
SECTION 401(a)
MONEY PURCHASE PENSION PLAN
FOR GOVERNMENTAL EMPLOYERS**

The Employer named below hereby establishes (or, as applicable, amends and restates) a money purchase pension plan for eligible Employees as provided in this Adoption Agreement and the accompanying 2011 Great-West Retirement Services Section 401(a) Money Purchase Pension Plan for Governmental Employers sample Basic Plan Document.

A. EMPLOYER INFORMATION

1. EMPLOYER'S NAME AND ADDRESS:

IRVINE RANCH WATER DISTRICT

15600 SAND CANYON AVENUE

IRVINE, CA 92620

2. TELEPHONE NUMBER: 949-453-5341

3. TAX ID NUMBER: 95-2232918

4. NAME OF PLAN: IRVINE RANCH WATER DISTRICT MONEY PURCHASE PENSION PLAN AND TRUST

5. NAME OF PLAN ADMINISTRATOR (the Employer unless another person(s) is appointed as set forth in Section 3.02 of the Plan):

THE EMPLOYER

B. EFFECTIVE DATE. (Check Box 1 OR Box 2 and fill in the blank(s).)

1. This is a new Plan having an effective date of the date the Employer executes this Adoption Agreement or, if later:_____.

2. This is an amended and restated Plan.

The effective date of the original Plan was January 1, 1997.

C. PLAN YEAR. (Check Box 1 OR Box 2.)

Plan Year shall mean:

1. the calendar year.

2. the 12-consecutive-month period ending on _____ of each year.

D. CUSTODY OF ASSETS. (Check each box that applies.)

Internal Revenue Code ("Code") § 401(a) shall be satisfied by setting aside Plan assets for the exclusive benefit of Participants and Beneficiaries, as follows:

1. in a Trust pursuant to the provisions of Article VIII of the Plan. The Employer or certain Employees (or holders of certain positions with Employer) as named in the trustee appointment attached to this Adoption Agreement shall be the Trustee.
Note: if the Employer is the Trustee, it is the responsibility of the Employer to determine that it has the authority under applicable law to act as Trustee.
2. in a Trust pursuant to a separate written trust agreement entered into between the Employer and the bank or trust company named in the Trustee appointment attached to this Adoption Agreement.
3. in one or more annuity contracts meeting the requirements of Code § 401(f).
4. in a custodial account meeting the requirements of Code § 401(f), pursuant to a separate written agreement with the bank, trust company or other qualified entity named in the appointment of Custodian attached to this Adoption Agreement.

E. ELIGIBLE EMPLOYEES. (Check each box that applies.)

"Employee" shall mean:

1. any full-time employee working _____ or more hours per week
2. any permanent part-time employee working _____ hours per week
3. any seasonal, temporary or similar part-time employee
4. any elected or appointed official
5. any employee in the following class(es) of employees:

6. any employee eligible to participate in the Plan pursuant to Schedule A attached to this Adoption Agreement

who performs services for and receives any type of Compensation from the Employer (or any agency, department, subdivision or instrumentality of the Employer) for whom services are rendered. Unless Box E.4 is checked, elected or appointed officials will not be treated as Employees and will not be eligible to participate in the Plan, without regard to whether they are treated as common-law employees or independent contractors for other purposes.

Each Employee will be eligible to participate in this Plan in accordance with the provisions of Article IV of the Plan, except the following:

- Employees who have not attained the age of ____ (not to exceed 21).
- Employees who have not completed ____ Years of Service during the Eligibility Computation Period.
- Employees who do not satisfy the eligibility requirements pursuant to Schedule A attached to this Adoption Agreement.

F. SERVICE WITH PREDECESSOR EMPLOYER. (Check Box 1 OR Box 2 OR Box 3.)

1. This section is N/A because there are no predecessor employers.
2. Service with any predecessor employers will not be counted for any purposes under the Plan.
3. Service with (insert name of predecessor employer(s)):

will be counted under the Plan for the following purposes (check each box that applies):

- eligibility.
- vesting.
- allocation of Employer Contributions.

G. HOURS OF SERVICE. (Check Box 1 OR Box 2 OR Box 3 OR Box 4.)

Hours of Service shall be determined on the basis of:

1. actual hours for which an Employee is paid or entitled to payment.
2. days worked. An Employee shall be credited with 10 Hours of Service for each day that the Employee would otherwise be credited with one or more Hours of Service.
3. weeks worked. An Employee shall be credited with 45 Hours of Service for each week that the Employee would otherwise be credited with one or more Hours of Service.
4. months worked. An Employee shall be credited with 190 Hours of Service for each month that the Employee would otherwise be credited with one or more Hours of Service.

H. YEAR OF SERVICE: ELIGIBILITY AND VESTING. *(Check Box 1 OR Box 2 OR Box 3 OR Box 4.)*

For purposes of eligibility and vesting, Year of Service shall mean a 12-consecutive-month period during which the Employee completes:

1. at least one Hour of Service.
2. at least 1,000 Hours of Service.
3. at least 12 consecutive months of service.
4. _____

I. COMPENSATION DEFINITION. *(Check Box 1 OR Box 2 OR Box 3 OR Box 4 -- Complete Box 5 if applicable.)*

Compensation shall mean:

1. Code § 3401(a) compensation as defined in Section 2.06 of the Plan.
2. W-2 compensation as defined in Section 2.06 of the Plan.
3. Code § 415 compensation as defined in Section 2.06 of the Plan.
4. the definition set forth in Schedule A attached to this Adoption Agreement.
5. Compensation shall exclude: *(Check each box that applies.)*
 - overtime.
 - bonuses.
 - commissions.
 - _____.

J. COMPENSATION COMPUTATION PERIOD. *(Check Box 1 OR Box 2.)*

Compensation shall be determined on the basis of the:

1. Plan Year.
2. calendar year.

K. FIRST YEAR COMPENSATION. *(Check Box 1 OR Box 2.)*

For purposes of determining the Compensation on the basis of which Employer Contributions will be allocated for a Participant's first year of participation, the Participant's Compensation shall be his Compensation for the period commencing:

1. as of the first day of the Plan Year or calendar year (whichever was selected under Section J above).
2. as of the first day of the first payroll period after the Employee became a Participant.

L. ENTRY DATE. *(Check Box 1 OR Box 2 OR Box 3 OR Box 4 OR Box 5.)*

Entry Date shall mean:

1. the first day of each Plan Year and the first day of the seventh month of each Plan Year.
2. the first day of each Plan Year.
3. the first day of each month.
4. the first day of each payroll period.
5. _____

M. EMPLOYER CONTRIBUTIONS. *(Check each box that applies; use Box 2 if there are variations in contribution rates for different classes of employees or if After-tax Contributions are matched.)*

The Employer shall contribute:

1. ____% of Compensation of Participants for the Plan Year.
2. a percentage of Compensation pursuant to Schedule A attached to this Adoption Agreement.
3. a contribution matching the Participant's contribution to the Employer's § 457(b) plan, as follows *(specify rate of match and time of allocation, e.g., payroll by payroll, monthly, last day of Plan Year):* _____

4. a contribution for each Participant equal to the value of the unpaid vacation and/or unpaid sick leave that is accrued by a Participant and which pursuant to the laws, ordinances, or policies of the Employer or agreements entered into with the Employer would otherwise be forfeited by the Participant.

N. ALLOCATION OF EMPLOYER CONTRIBUTIONS. *(Check each box that applies.)*

1. A Participant must be employed on the last day of the Plan Year to receive an allocation of Employer Contributions for the Plan Year.
2. Allocations of Employer Contributions will be made to Accounts of Participants who terminate employment before the last day of the Plan Year due to *(Check each box that applies):*
 - death.
 - disability.
 - retirement on or after Early Retirement Age.
 - retirement on or after Normal Retirement Age.
 - other Severance of Employment.
 - other Severance of Employment, provided that the Participant is credited with a Year of Service for the Plan Year. For this purpose, a Participant shall be credited with one Year of Service for the Plan Year if the Participant completes at least _____ Hour(s) of Service during the Plan Year.

O. CODE § 414(h). *(Check Box 1 OR Box 2.)*

1. This Plan is a Code § 414(h) pick-up plan. Each Employee must contribute ___% of Compensation to the Plan, which the Employer agrees to pick-up within the meaning of Code § 414(h). *Note: the Employer is responsible for ensuring that proper pick-up elections are made. Please refer to IRS Revenue Ruling 2006-43, or its successor, for more guidance.*
2. This Plan does not contain a Code § 414(h) feature.

P. AFTER-TAX CONTRIBUTIONS. *(Check Box 1 OR Box 2.)*

1. Participant After-tax Contributions SHALL BE allowed.
2. Participant After-tax Contributions SHALL NOT BE allowed.

Q. FORFEITURES. *(Check Box 1 OR Box 2 OR Box 3 OR Box 4 OR Box 5.)*

Forfeitures will be:

1. reallocated to Participants in the same manner as the Employer Contribution is allocated.
2. used first to offset Plan expenses and then reallocated to Participants in the same manner as the Employer Contribution is allocated.
3. used first to offset Plan expenses, then to reduce the Employer's Employer Contribution and then reallocated to Participants in the same manner as the Employer Contribution is allocated.

- 4. used first to reduce the Employer's Employer Contribution, then to offset Plan expenses.
- 5. N/A because all contributions are 100% vested immediately.

R. RETIREMENT AGES AND DISABILITY DEFINITION.

1. Normal Retirement Age shall mean (*Check Box a OR Box b OR Box c OR Box d*):

- (a) age 65.
- (b) age 50. For Plans where substantially all of the Plan's Participants are qualified public safety employees, Normal Retirement Age may be age 50.
- (c) the later of age _____, or the Participant's age upon completion of _____ Years of Service.
- (d) the ages set forth in Schedule _____ attached to this Adoption Agreement.

2. Early Retirement Age shall mean (*Check Box a OR Box b*):

- (a) Not applicable.
- (b) the later of age _____, or the Participant's age upon completion of _____ Years of Service.

3. Disability shall mean (*Check Box a OR Box b OR Box c OR Box d*):

- (a) the inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration, within the meaning of Code § 72(m)(3).
- (b) an illness or injury of a potentially permanent nature, expected to last for a continuous period of not less than 12 months, certified by a physician selected by or satisfactory to the Employer which prevents the Employee from engaging in any occupation for wage or profit for which the Employee is reasonably fitted by training, education or experience, as specified in the Adoption Agreement.
- (c) an illness or injury of a potentially permanent nature, expected to last for a continuous period of not less than 12 months, certified by a physician selected by or satisfactory to the Employer which prevents the Employee from engaging in his or her occupation.
- (d) Other: _____

S. VESTING SCHEDULE. (Check Box 1 OR Box 2 OR Box 3 OR Box 4.)

The vested interest of each Participant in his or her Employer Contribution Account shall be determined on the basis of the following schedule:

1. 100% vesting immediately.
2. 100% vesting after ____ Years of Service.
3. 20% after two Years of Service.
40% after three Years of Service.
60% after four Years of Service.
80% after five Years of Service.
100% after six Years of Service.
4. ____% after ____ Years of Service.
____% after ____ Years of Service.
____% after ____ Years of Service.
____% after ____ Years of Service.
____% after ____ Years of Service.
____% after ____ Years of Service.
____% after ____ Years of Service.
____% after ____ Years of Service.
____% after ____ Years of Service.

T. VESTING COMPUTATION PERIOD. (Check Box 1 OR Box 2.)

A Participant's Years of Service for purposes of vesting shall be computed by reference to:

1. the Plan Year.
2. the 12-consecutive month period beginning on the Employee's Employment Commencement Date and each anniversary thereof.

U. ROLLOVERS. (Check each box that applies.)

1. Rollovers from eligible Code § 457(b) plans SHALL BE allowed.
2. Rollovers from plans qualified under Code §§ 401(a), 403(a) and 403(b) SHALL BE allowed.
3. Rollovers from Individual Retirement Accounts and Annuities described in Code §§ 408(a) and (b) SHALL BE allowed.

V. TRANSFERS. *(Check Box 1 OR Box 2.)*

1. Transfers from plans qualified under Code § 401(a) SHALL BE allowed.
2. Transfers from plans qualified under Code § 401(a) SHALL NOT BE allowed.

W. PARTICIPANT LOANS. *(Check Box 1 OR Box 2.)*

1. The Administrator MAY direct the Trustee to make Participant loans in accordance with Article XIII of the Plan.
2. The Administrator MAY NOT direct the Trustee to make Participant loans in accordance with Article XIII of the Plan.

X. QUALIFIED DOMESTIC RELATIONS ORDERS. *(Check Box 1 OR Box 2.)*

1. The Plan SHALL accept qualified domestic relations orders as provided in Section 15.02 of the Plan.
2. The Plan shall NOT accept qualified domestic relations orders as provided in Section 15.02 of the Plan.

Y. PAYMENT OPTIONS. *(Check each box that applies.)*

The following forms of payment will be allowed under the Plan to the extent consistent with the limitations of Code § 401(a)(9) and proposed or final Treasury regulations thereunder.

- A single lump-sum payment;
- Installment payments for a period of years;
- Partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years;
- Annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the Participant or for the lifetimes of the Participant and Beneficiary;
- Such other forms of installment payments as may be approved by the Employer.

Z. "SNAP-OFF" PROVISIONS FOR PLANS IN EFFECT BEFORE JANUARY 1, 2002.

For Plans that were in effect for Plan Years beginning before January 1, 2002, the following rules shall apply:

1. Compensation.

For Plan Years beginning before January 1, 1998, Compensation is defined as in Section I of the Adoption Agreement, except that Compensation does not include amounts that are not includible in the gross income of the Employee pursuant to Code §§ 125, 132(f), 402(a)(8), 402(h), or 403(b).

2. Allocation of Employer Contributions.

The provisions regarding the Allocation of Employer Contributions, including the definition of Compensation used for such allocation, that were set forth in the prior adoption agreement shall apply to Plan Years before January 1, 2002.

3. Special Rule for Employers Maintaining or That Have Maintained a Defined Benefit Plan.

If a Participant is or has ever been a participant in a defined benefit plan maintained by the Employer, then for limitation years beginning before January 1, 2000, the limitation of Code § 415(e) shall be satisfied by (*Check one*):

adjusting the defined contribution fraction.

adjusting the defined benefit fraction.

other: _____

This Adoption Agreement to the sample Basic Plan Document attached hereto is duly executed on behalf of the Employer by the undersigned authorized signors.

The Employer further understands and acknowledges that:

- The sample Basic Plan Document including this Adoption Agreement is a sample provided as a courtesy to the Employer and has not been approved by the Internal Revenue Service. Obtaining such approval, if desired by the Employer is solely the responsibility of the Employer.
- Great-West Retirement Services is not a party to the Plan and shall not be responsible for any tax or legal aspects of the Plan. the Employer assumes responsibility for these matters.
- Employer has counseled to the extent necessary, with its own legal and tax advisors.
- Great-West Retirement Services will send courtesy amendments for changes in applicable law to Employers adopting this sample Basic Plan Document until a restated sample Basic Plan Document is made available. We will cease providing amendments to prior versions of the sample Basic Plan Document and only those Employers adopting the restated sample Basic Plan Document will receive sample amendments.

EMPLOYER'S AUTHORIZED SIGNORS:

By: _____ By: _____

Title: Treasurer Title: Assistant Treasurer

Date: _____ Date: _____

TRUSTEE

A. Effective _____, the following is hereby appointed as Trustee for and accepts the Trust created by the Employer's § 401(a) Money Purchase Pension Plan or by a separate trust agreement to be entered into between the Employer and the person(s) or entity named in item 2 below or as otherwise created by Article VIII of the Plan.

1. Complete this Section A. 1. only if Box D. 1. was checked.

- The Employer which the undersigned represents is authorized and qualified to serve in such capacity under applicable local law or
 The following named employees:

2. Complete this Section A. 2. only if Box D. 2. was checked.

- The following named bank or trust company:

B. NAME(S) OF EMPLOYEE(S) AUTHORIZED TO ISSUE INSTRUCTIONS TO TRUSTEE:

This Trustee appointment is duly signed on behalf of the Employer and the Trustee.

EMPLOYER

By: Robert Jacobson

[Signature]
Treasurer

[Title]

[Date]

TRUSTEE

By: Debby Cherney

[Signature]
Assistant Treasurer

[Title]

[Date]

TRUSTEE

By: Robert Jacobson

[Signature]
Treasurer

[Title]

[Date]

TRUSTEE

By: Tanja Fournier

[Signature]
Assistant Treasurer

[Title]

[Date]

SCHEDULE A

- 1) **Eligibility:** Any permanent full-time employee working 1 or more hours per week and has one (1) year of service.
- 2) **Compensation:** Compensation shall mean base salary, excluding all other forms of compensation, including but not limited to, overtime, bonuses, sick pay, vacation pay, disability pay, rideshare reimbursements, health and wellness benefits and reimbursements, water audit pay, auto or educational reimbursements, health safety or suggestion awards.
- 3) **Employer Matching Contributions:** An amount equal to the amount deferred by the Participant to the Irvine Ranch Water District 457 Deferred Compensation Plan, but not to exceed 3.0% of the Participant's Compensation as defined in item 2 above.

GREAT-WEST RETIREMENT SERVICES®

SECTION 401(a)

MONEY PURCHASE PENSION PLAN

FOR GOVERNMENTAL EMPLOYERS

**INTRODUCTION TO GREAT-WEST RETIREMENT SERVICES
SECTION 401(a) MONEY PURCHASE PENSION PLAN
FOR GOVERNMENTAL EMPLOYERS**

The attached sample Basic Plan Document may be used together with the related Adoption Agreement by eligible governmental employers and their counsel as a model in preparing a money purchase pension plan document intended to satisfy § 401(a) of the Internal Revenue Code of 1986, as amended. In general, under a § 401(a) plan, which is also referred to as a “qualified plan,” an employer’s contributions to a participant’s account (and income earned on those contributions) are not subject to federal income taxation until those amounts are paid to the participant.

This sample Basic Plan Document contains provisions that may be included in a qualified governmental plan. No local, state or federal government has passed on the legal sufficiency (including the conformity with § 401(a)) of this sample Basic Plan Document. It was prepared for your convenience and is not intended to provide you with legal or accounting advice, nor should it be implemented without regard to your particular needs or any applicable laws of your state or local jurisdiction. Neither Great-West Retirement Services, a unit of Great-West Life & Annuity Insurance Company, nor any of its affiliated companies, (collectively referred to herein as “Great-West”) assumes any liability to any person or entity with respect to the adequacy of this document for any purpose, or with respect to any tax, accounting or legal ramifications arising from its use. You and your counsel should review and, where appropriate, modify the provisions to meet your particular needs and applicable local laws. Alterations to the Adoption Agreement are permissible, but any such alteration that requires a Plan amendment must be set forth in a separate amendment attached to the front of the plan document.

Great-West is not a party to any plan which you may adopt, and Great-West has no responsibility, accountability, or liability to you, any employer, any participant or any beneficiary with regard to the operation or adequacy of this sample Basic Plan Document, any § 401(a) plan prepared from this sample Basic Plan Document, or any future amendments made to this sample Basic Plan Document, including any amendments to satisfy any changes in applicable law. You should consult with your legal counsel prior to adopting any plan document.

TABLE OF CONTENTS

**SECTION 401(a) MONEY PURCHASE PENSION PLAN
FOR GOVERNMENTAL EMPLOYERS**

	Page
Introduction.....	i
MONEY PURCHASE PENSION PLAN	
I. INTRODUCTION.....	1
II. DEFINITIONS.....	1
2.01 “Account”	1
2.02 “Administrator” or “Plan Administrator”	1
2.03 “Adoption Agreement”	1
2.04 “Beneficiary”	1
2.05 “Code”.....	1
2.06 “Compensation”	1
2.07 “Custodial Account”	3
2.08 “Custodian”	3
2.09 “Disability”	3
2.10 “Early Retirement Age”	3
2.11 “Eligibility Computation Period”	3
2.12 “Employee”	3
2.13 “Employer”	3
2.14 “Employment Commencement Date”.....	3
2.15 “Entry Date”.....	4
2.16 “Hour of Service”	4
2.17 “Normal Retirement Age”	4
2.18 “Participant”	4
2.19 “Plan”	4
2.20 “Plan Year”	4
2.21 “Qualified Domestic Relations Order” or “QDRO”	4
2.22 “Qualified Military Service” s	4
2.23 “Severance from Employment”	4
2.24 “Trust”	4
2.25 “Trustee”	4
2.26 “USERRA”	5
2.27 “Vesting Computation Period”	5
2.28 “Year of Service”	5
III. ADMINISTRATION.....	5
3.01 Administrator	5
3.02 Appointment and Termination of Administrator	5

TABLE OF CONTENTS (Continued)

SECTION 401(a) MONEY PURCHASE PENSION PLAN
FOR GOVERNMENTAL EMPLOYERS

	<u>Page</u>
3.03 Duties of Plan Administrator	5
3.04 Administrative Fees and Expenses	6
3.05 Actions of Administrator	6
3.06 Delegation	6
3.07 Investment and Service Providers	6
IV. PARTICIPATION IN THE PLAN	7
4.01 Eligibility	7
4.02 Participation Upon Reemployment	7
4.03 Change in Employment Status	7
4.04 Years of Service Taken Into Account for Participation Purposes	7
4.05 Beneficiary	7
4.06 Qualified Military Service	7
V. CONTRIBUTIONS AND FORFEITURES	7
5.01 Employer Contributions	7
5.02 Treatment of Forfeitures	8
5.03 Allocation of Employer Contributions	8
5.04 Return of Employer Contributions	8
5.05 Employee Contributions	8
5.06 Rollover Contributions	9
5.07 Transfer Contributions	9
5.08 USERRA	10
VI. LIMITATIONS ON ALLOCATIONS	10
6.01 General Limitation	10
6.02 Estimation of Compensation	11
6.03 Treatment of Excess Annual Additions	11
6.04 Participation in Other Individual Account Plans	12
6.05 Participation in Defined Benefit Plan	12
6.06 Definitions	12
VII. VESTING	13
7.01 Vesting	13
7.02 Years of Service for Vesting	14
VIII. HOLDING OF PLAN ASSETS; CREATION OF TRUST AND TRUST FUND	14
8.01 Custody of Plan Assets	14
8.02 Establishment of Trust	15
8.03 Appointment and Termination of Trustee	15
8.04 Acceptance	16
8.05 Control of Plan Assets	16
8.06 General Duties of the Trustee	16
8.07 Investment Powers of the Trustee	17
8.08 Trustee Fees and Expenses	18
8.09 Exclusive Benefit Rules	18

TABLE OF CONTENTS (Continued)

**SECTION 401(a) MONEY PURCHASE PENSION PLAN
FOR GOVERNMENTAL EMPLOYERS**

	<u>Page</u>
8.10 Trustee Actions	18
8.11 Delegation	18
8.12 Division of Duties and Indemnification	19
8.13 Purchase of Life Insurance	20
IX. INVESTMENTS	20
9.01 Investment Options	20
9.02 Participant Investment Direction	21
9.03 Employer Investment Direction	21
9.04 Participant Accounts	22
X. DISTRIBUTIONS	22
10.01 Distributions from the Plan	22
10.02 Conditions for Distributions	22
10.03 Times of Distribution	23
10.04 Death Benefit Distributions	23
10.05 Payment Options	27
10.06 Default Distribution Option	28
10.07 Limitations on Distribution Options	28
10.08 Taxation of Distributions	29
10.09 Eligible Rollover Distributions	29
10.10 Elections	30
10.11 Practices and Procedures	30
10.12 Required Minimum Distribution Waiver of 2009	30
XI. CLAIMS PROCEDURES	30
11.01 Application for Benefits	30
11.02 Review	31
XII. LEAVE OF ABSENCE	32
12.01 Paid Leave of Absence	32
12.02 Unpaid Leave of Absence	32
XIII. PARTICIPANT LOANS	32
13.01 Authorization of Loans	32
13.02 Maximum Loan Amount	32
13.03 Repayment of Loan	32
13.04 Loan Terms and Conditions	33
XIV. AMENDMENT OR TERMINATION OF PLAN	34
14.01 Termination	34
14.02 Amendment	34
14.03 Exclusive Benefit	34
14.04 Copies of Amendments	34
XV. NON-ASSIGNABILITY	34
15.01 Non-Assignability	34
15.02 Qualified Domestic Relations Orders	35

TABLE OF CONTENTS (Continued)

**SECTION 401(a) MONEY PURCHASE PENSION PLAN
FOR GOVERNMENTAL EMPLOYERS**

	<u>Page</u>
XVI. DISCLAIMER	36
XVII. INTERPRETATION	36
17.01 Governing Law	36
17.02 § 401(a)	36
17.03 Word Usage	36
17.04 Headings	36
17.05 Entire Agreement.....	36

**SECTION 401(a) MONEY PURCHASE PENSION PLAN
FOR GOVERNMENTAL EMPLOYERS**

I. INTRODUCTION

In accordance with the provisions of § 401(a) of the Internal Revenue Code of 1986, as amended, the Employer named in Section A of the Adoption Agreement hereby establishes this § 401(a) Money Purchase Pension Plan, hereinafter referred to as the "Plan." The Plan is intended to be a money purchase pension plan under § 401(a) of the Code and a governmental plan under §414(d) of the Code and ERISA § 3(32) and shall be construed in a manner consistent with those provisions. Nothing contained in this Plan shall be deemed to constitute an employment agreement between any Participant and the Employer, and nothing contained herein shall be deemed to give a Participant any right to be retained in the employ of the Employer.

II. DEFINITIONS

2.01 "Account" shall mean the separate account or accounts established by the Plan Administrator or the Trustee on behalf of each Participant in accordance with Section 9.04.

2.02 "Administrator" or "Plan Administrator" shall mean the person, persons or entity appointed by the Employer to administer the Plan pursuant to Section 3.02, if any, but shall not include any company which issues policies, contracts, or investment media to the Plan in respect of a Participant, as such.

2.03 "Adoption Agreement" shall mean the Agreement which, together with this sample Basic Plan Document, constitutes the Plan.

2.04 "Beneficiary" shall mean the persons or entities designated by a Participant pursuant to Section 4.05.

2.05 "Code" shall mean the Internal Revenue Code of 1986, as now in effect or as hereafter amended or recodified. References herein to specific section numbers of the Code shall be deemed to include Treasury regulations and Internal Revenue Service guidance thereunder as in effect now, as amended or recodified in corresponding provisions of any future United States internal revenue law.

2.06 "Compensation" shall mean a Participant's Code § 3401(a) compensation, Code § 415 compensation, W-2 compensation, or any other form of compensation, whichever is specified in the Adoption Agreement.

If Code § 3401(a) compensation is selected in the Adoption Agreement, Compensation shall mean a Participant's wages as defined in Code § 3401(a) for purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of employment or the services performed (such as the exception for agriculture labor in Code § 3401(a)(2)).

If Code § 415 compensation is selected in the Adoption Agreement, Compensation shall have the meaning provided in Code § 415(c)(3) and the Treasury regulations issued thereunder. In addition, compensation that is received after severance from employment and paid by the later of 2 ½ months after severance from the Employer maintaining the Plan or the end of the calendar year in which the Employee severs employment with the Employer maintaining the Plan and is described in (a) Treasury Regulation § 1.415(c)-2(e)(3)(ii); or (b) Treasury Regulation § 1.415(c)-2(e)(3)(iii) and those amounts would have been included in the definition of Compensation if such amounts were paid prior to severance from the Employer maintaining the Plan, shall not fail to be §415 Compensation.

If W-2 compensation is selected in the Adoption Agreement, Compensation shall mean a Participant's wages as defined in Code § 3401(a) for purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of employment or the services performed and all other payments of compensation paid by the Employer to the Participant for which the Employer is required to issue statements under Code §§ 6041(d), 6051(a)(3) and 6052. W-2 compensation must be determined without regard to any rules that limit the remuneration included in wages based on the nature or location of employment or the services performed (such as the exception for agriculture labor in Code § 3401(a)(2)).

Compensation shall include only the compensation that is actually paid to the Participant during the period for which compensation is determined with respect to a Plan Year. For Plan Years beginning on or after January 1, 1998, Compensation shall also include any amount which is contributed by the Employer for the period pursuant to a salary reduction agreement and which is not includible in the gross income of the Employee under Code §§ 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b).

Compensation for any Plan Year will be determined for the Plan Year or the calendar year ending with or within the Plan Year, whichever is specified in the Adoption Agreement. With respect to a Participant's first year of participation in the Plan, the Participant's Compensation for purposes of allocating Employer contributions shall be his Compensation for the period commencing (i) as of the first day of the Plan Year or calendar year, whichever is applicable, or (ii) as of the first day the Employee became a Participant, consistent with the Employer's designation in the Adoption Agreement.

The annual Compensation of each Participant taken into account under the Plan for any year shall not exceed \$200,000 (\$150,000 for years prior to 2002) as adjusted for cost-of-living increases in accordance with Code § 401(a)(17)(B). If the Plan determines Compensation based on a period of time that contains fewer than 12 calendar months, the annual Compensation limit is an amount equal to the annual Compensation limit for the calendar year in which the Compensation period begins multiplied by the ratio obtained by dividing the number of full months in the period by 12.

For Plan Years after December 31, 2008, to the extent permitted by the applicable Code provisions and Treasury regulations, Compensation shall include pay received by a Participant from the Employer while performing Qualified Military Service but only to the extent

the pay does not exceed the amounts the Participant would have received if the Participant had continued to perform services for the Employer rather than entering Qualified Military Service.

2.07 “Custodial Account” shall mean the account established with a bank, trust company or other entity that satisfies the provisions of Code § 401(f), if the Employer has elected to satisfy the trust requirement of Code § 401(a) by setting aside Plan assets in a custodial account.

2.08 “Custodian” shall mean the bank, trust company or other person authorized to hold the assets of such a custodial account in accordance with regulations issued by the Secretary of the Treasury pursuant to Code § 401(f) that is selected by the Employer to hold Plan assets, if the Employer has elected to use a custodial account pursuant to Code § 401(a) and § 401(f).

2.09 “Disability” shall mean, as selected in the Adoption Agreement: (a) the inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration, within the meaning of Code § 72(m)(3); (b) an illness or injury of a potentially permanent nature, expected to last for a continuous period of not less than 12 months, certified by a physician selected by or satisfactory to the Employer which prevents the Employee from engaging in any occupation for wage or profit for which the Employee is reasonably fitted by training, education or experience; (c) an illness or injury of a potentially permanent nature, expected to last for a continuous period of not less than 12 months, certified by a physician selected by or satisfactory to the Employer which prevents the Employee from engaging in his or her occupation; or (d) an alternative definition of Disability as set forth in the Adoption Agreement.

2.10 “Early Retirement Age” shall mean the age set by the Employer in the Adoption Agreement (but not earlier than 55), which is the earliest age at which a Participant may retire and receive his or her benefits under the Plan.

2.11 “Eligibility Computation Period” shall mean the period for determining Years of Service for purposes of eligibility. The initial Eligibility Computation Period is the 12-consecutive month period beginning on the Employment Commencement Date. In the event an Employee fails to become a Participant within the initial Eligibility Computation Period, the Eligibility Computation Period shall mean the Plan Year, beginning with the Plan Year in which occurs the first anniversary of the Employee’s Employment Commencement Date.

2.12 “Employee” shall mean those individuals specified in the Adoption Agreement.

2.13 “Employer” shall mean the sponsor of the Plan as named in the Adoption Agreement. The Employer must be the government of a state or political subdivision of a state or an agency or instrumentality of a state or political subdivision of a state, which is eligible to maintain a governmental plan within the meaning of Code § 414(d) and ERISA § 3(32).

2.14 “Employment Commencement Date” shall mean the Employee’s date of hire or rehire, as applicable, with respect to which an Employee is first credited with an Hour of Service.

2.15 “Entry Date” shall mean the entry date(s) specified in the Adoption Agreement.

2.16 “Hour of Service” shall generally mean an hour for which an Employee is paid or entitled to be paid, and the basis for determining Hours of Service shall be specified in the Adoption Agreement.

2.17 “Normal Retirement Age” shall mean the normal retirement age specified in the Adoption Agreement.

2.18 “Participant” shall mean any Employee who becomes a Participant pursuant to Section 4.01. Except for purposes of Articles IV, XII, and XIII, the term “Participant” shall include former Participants. The Administrator, if he or she is otherwise eligible, may participate in the Plan.

2.19 “Plan” shall mean the Plan named in the Adoption Agreement and consisting of the Adoption Agreement and this sample Basic Plan Document.

2.20 “Plan Year” shall mean the calendar year or other 12-consecutive-month period as specified in the Adoption Agreement.

2.21 “Qualified Domestic Relations Order” or “QDRO” shall have the meaning specified in Section 15.02.

2.22 “Qualified Military Service” shall mean any service in the uniformed service (as defined in Chapter 43 of Title 38 of the United States Code as in effect as of December 12, 1994) by any individual if such individual is entitled to reemployment rights under such Chapter with respect to such service.

2.23 “Severance from Employment” shall mean severance of the Participant’s employment with the Employer. A Participant shall be deemed to have severed his employment with the Employer for purposes of this Plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the Participant by the Employer.

2.24 “Trust” shall mean the trust created under Article VIII of the Plan if the Employer or certain employees are named as Trustee(s) in the Adoption Agreement. Alternatively, “Trust” shall mean a trust created by a separate written agreement between the Employer and the Trustee if a bank or trust company is named as Trustee in the Adoption Agreement. The Trust shall consist of all Plan assets held by the Trustee named in the Adoption Agreement.

2.25 “Trustee” shall mean the Employer or such other person, persons or entity selected by the Employer who agrees to act as Trustee hereunder if elected in the Adoption Agreement. This term (except as used in Article VIII) also refers to the person holding the assets of any custodial account or holding any annuity contract described in Section 8.01.

2.26 “USERRA” shall mean the Uniformed Services Employment and Re-employment Rights Act of 1994, as amended.

2.27 “Vesting Computation Period” shall mean, as designated by the Employer in the Adoption Agreement, the Plan Year or the 12-consecutive-month period beginning on an Employee’s Employment Commencement Date and each anniversary thereof.

2.28 “Year of Service” shall mean a Year of Service as designated by the Employer in the Adoption Agreement.

III. ADMINISTRATION

3.01 Administrator. The Employer shall be the Administrator unless another person or persons is appointed by the Employer in the Adoption Agreement as set forth in Section 3.02.

3.02 Appointment and Termination of Administrator. The Administrator may be named in the Adoption Agreement by the Employer and may be a Participant. The Administrator shall remain in office at the will of the Employer and may be removed from office at any time by the Employer, with or without cause. Such removal shall be effective upon delivery of written notice to the Administrator or at such later time as may be designated in such notice; provided that any such notice of removal shall take effect no later than 60 days after the delivery thereof, unless such 60 day period shall be waived. The Administrator may resign at any time upon giving written notice to the Employer or at such later time as may be designated in the notice of resignation; provided that (a) any such notice of resignation shall take effect no later than 60 days after the delivery thereof, unless such 60 day period shall be waived, and (b) upon such resignation or removal the Employer shall have the power and the duty to designate and appoint a successor Administrator (which may be the Employer), and the actual appointment of a successor Administrator is a condition that must be fulfilled before the resignation or removal of the Administrator shall become effective. Upon appointment, the successor Administrator shall have all the rights, powers, privileges, liabilities and duties of the predecessor Administrator. The Administrator so resigned or removed shall take any and all action necessary to vest the rights, powers, privileges, liabilities and duties of the Administrator in the successor.

3.03 Duties of Plan Administrator. Subject to any applicable laws and any approvals required by the Employer, the Plan Administrator shall have full power and authority to adopt rules, regulations and procedures for the administration of the Plan and to interpret, alter, amend, or revoke any rules, regulations or procedures so adopted. The Plan Administrator’s duties shall include:

- (a) appointing the Plan’s attorney, accountant, actuary, custodian or any other party needed to administer the Plan or the Plan assets;
- (b) directing the Trustee with respect to payments from the Plan assets held in Trust;
- (c) communicating with Employees regarding their participation and benefits under the Plan, including the administration of all claims procedures;

- (d) filing any returns and reports with the Internal Revenue Service or any other governmental agency;
- (e) reviewing and approving any financial reports, investment reviews, or other reports prepared by any party appointed under paragraph (a);
- (f) establishing a funding policy and investment objectives consistent with the purposes of the Plan; and
- (g) construing and resolving any question of Plan interpretation. The Plan Administrator's interpretation of Plan provisions including eligibility and benefits under the Plan is final.

3.04 Administrative Fees and Expenses. All reasonable costs, charges and expenses incurred by the Plan Administrator in connection with the administration of the Plan (including fees for legal services rendered to the Plan Administrator) may be paid by the Employer, but if not paid by the Employer when due shall be paid from Plan assets. Such reasonable compensation to the Administrator as may be agreed upon from time to time between the Employer and Plan Administrator may be paid by the Employer, but if not paid by the Employer when due shall be paid from Plan assets. Notwithstanding the foregoing, no compensation other than reimbursement for expenses shall be paid to a Plan Administrator who is the Employer or a full-time Employee of the Employer. In the event any part of the assets in the Plan becomes subject to tax, all taxes incurred shall be paid from the Plan assets unless the Plan Administrator advises the Trustee not to pay such tax.

3.05 Actions of Administrator. Every action taken by the Plan Administrator shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon him, her or it. The Plan Administrator shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all persons interested, unless the contrary be proven by affirmative evidence. The Plan Administrator shall not be liable for Employer contributions or for other amounts payable under the Plan.

3.06 Delegation. Subject to any applicable laws and any approvals required by the Employer, the Plan Administrator may delegate any or all of his, her or its powers and duties hereunder to another person, persons or entity, and may pay reasonable compensation for such services as an administrative expense of the Plan, to the extent such compensation is not otherwise paid.

3.07 Investment and Service Providers. Any company which issues policies, contracts, or investment media to the Employer or in respect of a Participant is not a party to this Plan, and such company shall have no responsibility, accountability, or liability to the Employer, the Administrator, any Participant or any Beneficiary with regard to the operation or adequacy of this Plan, including any future amendments made thereto.

IV. PARTICIPATION IN THE PLAN

4.01 **Eligibility.** Each Employee shall become a Participant on the Entry Date coinciding with or next following his satisfaction of the participation requirements designated by the Employer in the Adoption Agreement.

4.02 **Participation Upon Reemployment.** A former Participant or former Employee who satisfied the eligibility requirements of Section 4.01 prior to his termination of employment shall become a Participant immediately upon the date of his reemployment. Any other Employee who is reemployed shall become a Participant on the Entry Date coinciding with or next following satisfaction of the eligibility conditions of Section 4.01, or if later, the date of reemployment.

4.03 **Change in Employment Status.** In the event a Participant is no longer a member of an eligible class of Employees and becomes ineligible to participate, such Employee will participate immediately upon returning to an eligible class of Employees. In the event an Employee who is not a member of an eligible class of Employees becomes a member of an eligible class, such Employee will participate immediately if such Employee has satisfied the minimum age and service requirements and would have otherwise previously become a Participant.

4.04 **Years of Service Taken Into Account for Participation Purposes.** All Years of Service with the Employer are counted toward eligibility. Years of Service with a predecessor employer are counted only if selected in the Adoption Agreement.

4.05 **Beneficiary.** Each Participant may designate, in a manner authorized by the Administrator, a Beneficiary or Beneficiaries to receive any amounts which may be distributed in the event of the death of the Participant prior to the complete distribution of benefits. A Participant may change the designation of Beneficiaries at any time by filing with the Administrator a written notice on a form approved by the Administrator. If no such designation is in effect on the Participant's death, the Beneficiary shall be the Participant's surviving spouse, if any, and then his estate.

4.06 **Qualified Military Service.** A Reemployed Veteran's period of Qualified Military Service shall be taken into account in determining Years of Service under Section 7.02 of the Plan. "Reemployed Veteran" means any Employee who terminated employment with the Employer, subsequently had the right to be reemployed by the Employer under Chapter 43 of Title 38 of the United States Code and became reemployed by the Employer under that Chapter as an Employee.

V. CONTRIBUTIONS AND FORFEITURES

5.01 **Employer Contributions.** The Employer shall contribute to the Plan for each Plan Year the amount determined pursuant to the contribution option selected by the Employer in the Adoption Agreement; provided, however, that the Employer shall not make a contribution to the

Plan for any Plan Year to the extent such contribution would exceed the limitations of Section 6.01.

If any Employee who should be included as a Participant for any Plan Year is erroneously omitted and discovery of such omission is not made until after a contribution for the Plan Year has been made pursuant to this Section 5.01, the Employer shall, subject to applicable IRS guidance, make a subsequent contribution so that the omitted Employee receives the total amount which such Employee would have received had he or she not been omitted.

If any person who should not have been included as a Participant for any Plan Year is erroneously included, discovery of such incorrect inclusion is not discovered until after a contribution on behalf of such person has been made for the Plan Year pursuant to this Section 5.01, and such incorrect inclusion is not a mistake of fact, then the amount contributed on behalf of such person shall, subject to applicable IRS guidance, constitute a forfeiture. Such forfeiture shall be used to reduce contributions otherwise due from the Employer.

5.02 Treatment of Forfeitures. As designated by the Employer in the Adoption Agreement, forfeitures arising under the Plan shall be reallocated to Participants in accordance with Section 5.03 as an additional Employer contribution, used to offset plan expenses or used to reduce Employer contributions for the next Plan Year. A forfeiture occurs at the earlier of the time the Participant receives or is deemed to receive distribution of his vested Employer Contribution Account balance following the Participant's Severance from Employment or the last day of the Plan Year in which his Severance from Employment occurs. If a Participant's vested Employer Contribution Account balance is zero at the time of his or her Severance from Employment, the Participant shall be deemed to have received a distribution of the entire Account balance.

5.03 Allocation of Employer Contributions. Employer contributions shall be allocated to the appropriate Account of eligible Participants as designated by the Employer in the Adoption Agreement. Employer contributions shall be allocated to eligible Participants in the ratio that each such Participant's Compensation bears to the Compensation of all Participants, or in such other manner as designated by the Employer in the Adoption Agreement.

5.04 Return of Employer Contributions. Contributions to and income of the Plan shall not be diverted to or used for any purpose other than the exclusive benefit of the Participants or their Beneficiaries. Notwithstanding the preceding sentence, contributions made by an Employer may be returned to such Employer if the contribution was made by the Employer because of a mistake of fact and is returned to the Employer within one year of the contribution or if the contribution is conditioned on the initial qualification of the Plan and the contribution is returned to the Employer within one year after the date of an adverse determination, but only if the application for the initial qualification is made on or before or such date as the Secretary of the Treasury may prescribe for the filing of an initial request for a determination letter by a governmental plan.

5.05 Employee Contributions. If so elected in the Adoption Agreement, (a) each Participant shall contribute to the Plan the percentage of Compensation mandated in the

Adoption Agreement, and/or (b) each Participant may make "After-tax Contributions"; provided, however, that a Participant shall not make a contribution to the Plan for any Plan Year to the extent such contribution would exceed the limitations of Section 6.01.

Employee contributions shall be credited to appropriate Account(s) established for the Participant and shall be distributed to such Participant or his Beneficiary at such time and in such form as shall be selected in accordance with Article X. A Participant's Mandatory Contribution Account and a Participant's After-tax Contribution Account shall be nonforfeitable at all times.

All mandatory amounts designated as employee contributions under this Section, shall be paid by the Employer for all Employees ("picked up by the Employer") in order to be treated as Employer contributions under Code § 414(h)(2).

5.06 Rollover Contributions. If authorized by the Employer in the Adoption Agreement, the Plan Administrator, in its sole discretion, may direct the Trustee to accept a rollover contribution on behalf of a Participant or an Employee who may become a Participant. A rollover contribution for purposes of this Section 5.06 is an eligible rollover distribution (as defined in Code § 402(f)(2)) to a Participant from (i) a plan qualified under Code § 401(a); (ii) an annuity qualified under Code § 403(a); (iii) an individual retirement account or annuity described in Code §§ 408(a) or 408(b); or (iv) for Plan Years beginning on or after January 1, 2002, an eligible deferred compensation plan described in Code § 457(b) maintained by an eligible employer described in Code § 457(e)(1)(A), that is either paid directly from such plan or contributed to the Plan by the Participant within 60 days of such Participant's receipt of such distribution from the distributing plan. Prior to accepting any rollover contributions, the Plan Administrator may require that the Participant establish that the amount to be rolled over to the Plan is a valid rollover within the meaning of Treasury Regulation § 1.401(a)(31)-1 or as otherwise provided in the Code. The Plan Administrator shall separately account for the portion of any rollover contribution which is includible in gross income and the portion which is not so includible.

Rollover contributions shall be credited to a Rollover Contribution Account established for the Participant or Employee, and such Account shall be nonforfeitable at all times. A Participant's Rollover Contribution Account shall be distributed to such Participant or his Beneficiary at such time and in such form as shall be selected in accordance with Article X.

Notwithstanding any other provisions of Section 5.06 of the Plan, and solely for purposes of applying the rollover provisions of the Plan, 2009 RMDs and Extended 2009 RMDs, will be treated as eligible rollover distributions.

5.07 Transfer Contributions. If authorized by the Employer in the Adoption Agreement, the Plan Administrator, in its sole discretion, may direct the Trustee to accept a direct transfer of amounts from the trustee of another plan qualified under Code § 401(a) on behalf of a Participant or Employee.

Direct transfers shall be credited to a Transfer Contribution Account established for the Participant or Employee, and such Account shall be nonforfeitable at all times. A Participant's Transfer Contribution Account shall be distributed to such Participant or his Beneficiary at such time and in such form as shall be selected in accordance with Article X.

5.08 USERRA. Notwithstanding any provision of this Plan to the contrary, contributions and benefits with respect to Qualified Military Service shall be provided in accordance with Code § 414(u). During the period that begins on a Reemployed Veteran's date of reemployment and continues for the lesser of three times the duration of the period of his Qualified Military Service or five years, a Reemployed Veteran may make mandatory Employee contributions, After-tax Contributions or other contributions equal to the maximum contributions of each type that he would have been required or permitted to make under the Plan had the Reemployed Veteran been an eligible Participant during the period of Qualified Military Service, less any such contributions of the same type actually made during such period. If the Employer has elected in the Adoption Agreement to make pick-up or Employer contributions with respect to mandatory contributions or to make Matching Contributions with respect to After-tax Contributions or contributions to or deferrals under any other plan, then the Employer shall make such Employer contributions or Matching Contributions on behalf of any Reemployed Veteran with respect to any mandatory contributions or After-tax Contributions made under this Section 5.08 or such other contributions or deferrals made under the other plan following his reemployment.

Earnings or forfeitures shall not be required to be credited with respect to contributions made under this Section 5.08 for any period before such contributions are actually made to the Plan. For purposes of applying the limitations on each type of contribution under the Plan and annual additions under Section 6.01, the limitations for the year to which a contribution under this Section 5.08 relates (rather than the year in which such contribution is actually made) shall apply. For purposes of this Section 5.08 and applying the limitations of Section 6.01, a Reemployed Veteran will be treated as having received Compensation for a Plan Year during which the Reemployed Veteran performed Qualified Military Service equal to the (i) Compensation the Reemployed Veteran would have received during such period if he had remained actively employed, determined based on the rate of pay he would have received from the Employer but for the period of Qualified Military Service, or (ii) if the Compensation the Reemployed Veteran would have received during such period is not reasonably certain, the Reemployed Veteran's average Compensation for the 12-month period (or other period if his period of employment is shorter than 12 months) immediately before he commenced his Qualified Military Service.

VI. LIMITATIONS ON ALLOCATIONS

6.01 General Limitation. The amount of annual additions which may be credited to the Participant's Account (a) for any limitation year beginning prior to 2002 shall not exceed the lesser of \$30,000 (as adjusted under Code § 415(d)) or 25% of such Participant's Compensation for the limitation year, or (b) for any limitation year beginning in 2002 or later shall not exceed the lesser of \$40,000 (as adjusted under Code § 415(d)) or 100% of such Participant's

Compensation for the limitation year. The percentage of Compensation limit shall not apply to any contribution for medical benefits (within the meaning of Code § 401(h) or Code § 419A(f)(2) after separation from service) which is otherwise treated as an annual addition under Code § 415(l)(1) or Code § 419A(d)(2).

If the Employer contribution that would otherwise be contributed or allocated to the Participant's Account would cause the annual additions for the limitation year to exceed the limitations of the preceding sentence, the amount contributed or allocated shall be reduced so that the annual additions for the limitation year shall equal the applicable limitation.

If a short limitation year is created because of an amendment changing the limitation year to a different 12-consecutive-month period, the maximum permissible amount will not exceed the dollar limitation specified above multiplied by the following fraction:

$$\frac{\text{Number of months in the short limitation year}}{12}$$

6.02 Estimation of Compensation. Prior to determining the Participant's actual Compensation for the limitation year, the Employer may determine the applicable limitation of Section 6.01 for a Participant on the basis of a reasonable estimation of the Participant's Compensation for the limitation year, uniformly determined for all Participants similarly situated; provided, however, that as soon as is administratively feasible after the end of the limitation year, the applicable limitation for the limitation year shall be determined on the basis of the Participant's actual Compensation for the limitation year.

6.03 Treatment of Excess Annual Additions. If pursuant to Section 6.02, as a result of the allocation of forfeitures, or in other circumstances determined by the Commissioner of Internal Revenue to justify application of these rules, an amount in excess of the limitation of Section 6.01 is allocated to such Participant, the excess amount will be deemed to consist of the annual additions last allocated, except that annual additions attributable to a welfare benefit fund or individual medical account will be deemed to have been allocated first regardless of the actual allocation date.

- (a) Subject to applicable IRS guidance, the excess shall be disposed of as follows:
 - (i) Any After-tax Contributions or elective deferrals (plus attributable earnings) to the extent they would reduce the excess amount will be distributed to the Participant;
 - (ii) If the Participant is covered by the Plan at the end of the limitation year, the excess amount in the Participant's Account shall be used to reduce Employer contributions (including any allocation of forfeitures) for such Participant in the next limitation year and succeeding limitation years if necessary;

- (b) If after the application of subsection (a) an excess amount still exists and the Participant is not covered by the Plan at the end of a limitation year, the excess amount shall be held unallocated in a suspense account. The suspense account shall be applied to reduce future Employer contributions for all remaining Participants in the next limitation year and succeeding limitation years if necessary.

If a suspense account is in existence at any time during a limitation year pursuant to this Section, it shall not participate in the allocation of the Plan's investment gains and losses. If a suspense account is in existence at any time during a particular limitation year, all amounts in the suspense account must be allocated and reallocated to Participants' accounts before any Employer contributions may be made to the Plan for that limitation year.

6.04 Participation in Other Individual Account Plans. This Section applies if, in addition to this Plan, the Participant is covered under a qualified defined contribution plan maintained by the Employer, a welfare benefit fund as defined in Code § 419(e) maintained by the Employer, an individual medical account as defined in Code § 415(1)(2) maintained by the Employer, or a simplified employee pension maintained by the Employer that provides an annual addition as defined in Section 6.06 during any limitation year. The annual additions which may be credited to a Participant's Account under this Plan for any such limitation year shall not exceed the limitation of Section 6.01 reduced by the annual additions credited to a Participant's account under such other plans and welfare benefits funds for the same limitation year. If the annual additions with respect to the Participant under other defined contribution plans and welfare benefit funds maintained by the Employer are less than the limitation of Section 6.01 and the Employer contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the annual additions for the limitation year to exceed this limitation, the amount contributed or allocated shall be reduced so that the annual additions under all such plans and funds for the limitation year shall equal the limitation of Section 6.01. If the annual additions with respect to the Participant under such other defined contribution plans and welfare benefit funds in the aggregate are equal to or greater than the limitation of Section 6.01, no amount shall be contributed or allocated to the Participant's Account under this Plan for the limitation year.

6.05 Participation in Defined Benefit Plan. For limitation years beginning before December 31, 1999, if selected in the Adoption Agreement, with respect to a Participant who also participates in a defined benefit plan maintained by the Employer, annual additions to this plan will be limited as necessary to comply with Code § 415(e).

6.06 Definitions. The following definitions shall apply for purposes of this Article VI only:

- (a) Annual additions. The sum of the following amounts credited to a Participant's Account for the limitation year:
- (i) Employer contributions;

- (ii) Employee contributions;
- (iii) forfeitures;
- (iv) amounts allocated to an individual medical account, as defined in Code § 415(1)(2), which is part of a pension or annuity plan maintained by the Employer; and
- (v) amounts which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code § 419A(d)(3)) under a welfare benefit fund (as defined in Code § 419(e)) maintained by the Employer.

For this purpose, any excess amount applied in a limitation year to reduce Employer contributions shall be considered an annual addition for such limitation year.

- (b) **Compensation.** Compensation shall mean Code § 415 compensation as defined in Section 2.05.
- (c) **Employer.** For purposes of this Article, Employer shall mean the Employer that adopts this Plan, and all members of a controlled group of corporations (as defined in Code § 414(b) as modified by Code § 415(h)), all commonly controlled trades or businesses (as defined in Code § 414(c) as modified by Code § 415(h) or affiliated service groups (as defined in Code § 414(m)) of which the adopting Employer is a part, and any other entity required to be aggregated with the Employer pursuant to regulations under Code § 414(o).
- (d) **Excess Amount.** The excess of the Participant's annual additions for the limitation year in excess of the limitations of Section 6.01.
- (e) **Limitation Year.** The calendar year. All qualified plans maintained by the Employer shall use the same limitation year. If the limitation year is amended to a different 12-consecutive month period, the new limitation year must begin on a date within the limitation year in which the amendment is made. If the Plan is terminated effective as of a date other than the last day of the limitation year, the Plan is treated for purposes of this definition as if the Plan was amended to change its limitation year resulting in a short limitation year on the date of termination.

VII. VESTING

7.01 Vesting. Each Participant shall acquire a vested interest in his Employer Contribution Account in accordance with the vesting schedule selected by the Employer in the Adoption Agreement, provided, however, that a Participant shall be fully vested in his Employer Contribution Account upon attaining Early Retirement Age (if employed by the Employer on

such date), Normal Retirement Age (if employed by the Employer on such date), if his employment terminates as a result of death, disability or as provided in Section 14.01. If a Participant's employment terminates prior to his Early Retirement Age, if any, or, if none, his Normal Retirement Age for any reason other than death or disability, then he shall be entitled to receive the vested percentage of his Employer Contribution Account balance (and the remaining balance shall be forfeited) derived from Employer contributions determined based on Years of Service with the Employer and the vesting schedule selected by the Employer in the Adoption Agreement.

7.02 Years of Service for Vesting. For purposes of determining a Participant's vested interest (a) all Years of Service shall be credited to the Participant without regard to any breaks in service, and (b) the determination of whether a Participant has completed a Year of Service for vesting purposes shall be made with reference to the Vesting Computation Period. Notwithstanding the foregoing, a Reemployed Veteran's period of Qualified Military Service shall be taken into account in determining Years of Service under the Plan.

VIII. HOLDING OF PLAN ASSETS; CREATION OF TRUST AND TRUST FUND

8.01 Custody of Plan Assets. All contributions under the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights shall be held for the exclusive benefit of Participants and their Beneficiaries. The trust requirement of Code § 401(a) shall be satisfied in the manner specified in the Adoption Agreement. Depending upon the choices made in the Adoption Agreement, Plan assets shall be set aside as follows:

- (a) If elected in Box D. 1 of the Adoption Agreement, Plan assets shall be set aside in trust pursuant to this Article VIII with the Employer or certain employees of (or holders of certain positions with) the Employer named as Trustee. The Trustee shall be named in the Adoption Agreement and shall accept such appointment by executing same. All contributions to the Plan shall be transferred to the Trust established under the Plan within a period that is not longer than is reasonable for the proper administration of the Accounts of Participants.
- (b) If elected in Box D. 2 of the Adoption Agreement, Plan assets will be set aside in trust pursuant to a separate written trust agreement entered into between the Employer and the bank or trust company named as Trustee, and the provisions of Sections 8.02 through 8.13 shall not apply to the Plan. The bank or trust company named in the Adoption Agreement shall be the Trustee and shall accept such appointment by executing the same. Any Trust under the Plan shall be established pursuant to a written agreement that constitutes a valid trust under the law of the state where the Employer is located. All contributions to the Plan shall be transferred to a Trust established under the Plan within a period that is not longer than is reasonable for the proper administration of the Accounts of Participants.

- (c) If elected in Box D. 3 of the Adoption Agreement, Plan assets shall be set aside in one or more annuity contracts described in Code § 401(f), and the provisions of Sections 8.02 through 8.13 shall not apply to the Plan. Notwithstanding any contrary provision of the Plan, including any annuity contract issued under the Plan in accordance with Code § 401(a), all contributions to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held under one or more annuity contracts, as defined in Code § 401(g), issued by an insurance company qualified to do business in the state where the contract was issued, for the exclusive benefit of Participants and Beneficiaries under the Plan. For this purpose, the term “annuity contract” does not include a life, health or accident, property, casualty, or liability insurance contract. The owner of the annuity contract is the “deemed trustee” of the assets invested under the contract for purposes of Code § 401(a). All contributions to the Plan shall be transferred to such annuity contract within a period that is not longer than is reasonable for the proper administration of the Accounts of Participants.
- (d) If elected in Box D. 4 of the Adoption Agreement, Plan assets shall be set aside in one or more Custodial Accounts described in Code § 401(f). The bank, trust company or other person named in the Adoption Agreement shall be the Custodian and “deemed trustee” for purposes of Code § 401(a) and shall accept such appointment by executing the same. The Employer and Custodian shall enter into a separate written custodial agreement, and the provisions of Sections 8.02 through 8.13 shall not apply to the Plan. For purposes of this paragraph, the Custodian of any Custodial Account created pursuant to the Plan must be a bank, as described in Code § 408(n), or a person who meets the non-bank Trustee requirements of paragraphs (2)-(6) of § 1.408-2(e) of the Treasury regulations relating to the use of non-bank Trustees. All contributions to the Plan shall be transferred to a Custodial Account described in Code § 401(f) within a period that is not longer than is reasonable for the proper administration of the Accounts of Participants.

8.02 Establishment of Trust. If elected in Box D. 1 of the Adoption Agreement, the Employer or named Employees of the Employer (or certain holders of positions with the Employer) shall serve as Trustee as evidenced by the Trustee’s execution of the applicable page of the Adoption Agreement. In that event, a Trust is hereby created to hold all of the assets of the Plan for the exclusive benefit of Participants and Beneficiaries. The Trust shall consist of all contributions made under the Plan and the investment thereof and earnings thereon. Except to the extent that the Employer enters into a separate written trust agreement with an institutional Trustee, the assets in Trust shall be administered as provided in this document.

8.03 Appointment and Termination of Trustee. A Trustee may be named by the Employer and may be a Participant. The Trustee shall remain in office at the will of the Employer and may be removed from office at any time by the Employer, with or without cause. Such removal shall be effective upon delivery of written notice to the Trustee or at such later

time as may be designated in such notice; provided that any such notice of removal shall take effect no sooner than 30 days and no later than 60 days after the delivery thereof, unless such 30 or 60-day period shall be waived. The Trustee may resign at any time upon giving written notice to the Employer or at such later time as may be designated in the notice of resignation; provided that (a) any such notice of resignation shall take effect no sooner than 30 days and no later than 60 days after the delivery thereof, unless such 30-day or 60-day period shall be waived; and (b) upon such resignation or removal the Employer shall have the power and the duty to designate and appoint a successor Trustee and the actual appointment of a successor Trustee is a condition that must be fulfilled before the resignation or removal of the Trustee shall become effective.

Upon appointment, the successor Trustee shall have all the rights, powers, privileges, liabilities and duties of the predecessor Trustee. The Trustee so resigned or removed shall take any and all action necessary to vest the rights, powers, privileges, liabilities and duties of the Administrator in his, her or its successor.

8.04 Acceptance. By signing the Adoption Agreement the Trustee accepts the Trust created under the Plan and agrees to perform the obligations imposed under this Article VIII.

8.05 Control of Plan Assets. The assets of the Trust or evidence of ownership shall be held by the Trustee, under the terms of the Plan and under either this Article VIII or under the separate written trust agreement with a bank or trust company. If the assets represent amounts transferred from a former plan, the Trustee shall not be responsible for the propriety of any investment under the former plan.

8.06 General Duties of the Trustee. The Employer or the individual(s) named as Trustee(s) in the Adoption Agreement shall be responsible for the administration of investments held in the Plan. The Trustee's duties shall include:

- (a) receiving contributions under the terms of the Plan;
- (b) making distributions from Plan assets held in Trust in accordance with written instructions received from an authorized representative of the Employer;
- (c) keeping accurate records reflecting the administration of the Trust assets and making such records available to the Employer for review and audit. Within 90 days after each Plan Year, and within 90 days after its removal or resignation, the Trustee shall file with the Employer an accounting of the administration of the Trust assets during such year or from the end of the preceding Plan Year to the date of removal or resignation. Such accounting shall include a statement of cash receipts and disbursements since the date of its last accounting and shall contain an asset list showing the fair market value of investments held in the Trust as of the end of the Plan Year; the value of marketable investments shall be determined using the most recent price quoted on a national securities exchange or over-the-counter market. The value of non-marketable investments shall be determined in the sole judgment of the Trustee, which determination shall be binding and

conclusive. The value of investments in securities or obligations of the Employer in which there is no market shall be determined in the sole judgment of the Employer, and the Trustee shall have no responsibility with respect to the valuation of such assets. The Employer shall review the Trustee's accounting and notify the Trustee in the event of its disapproval of the report within 90 days, providing the Trustee with a written description of the items in question. The Trustee shall have 60 days to provide the Employer with a written explanation of the items in question; and

- (d) employing such agents, attorneys or other professionals as the Trustee may deem necessary or advisable in the performance of the Trustee's duties.

The Trustee's duties shall be limited to those described above. The Employer or the Administrator shall be responsible for any other administrative duties required under the Plan or by applicable law.

8.07 Investment Powers of the Trustee. The Trustee shall implement an investment program based on the Employer's investment objectives. If either the Employer or the Employee fails to issue investment directions as provided in Article IX, the Trustee shall have authority to invest the Trust assets in its sole discretion. In addition to powers given by law, the Trustee may:

- (a) invest the Trust assets in any form of property, including common and preferred stocks, exchange and trade put and call options, bonds, money market instruments, mutual funds (including Trust assets for which the Trustee or an affiliate serves as investment advisor), Treasury bills, deposits at reasonable rates of interest at banking institutions, including but not limited to savings accounts and certificates of deposit, and other forms of securities or investment of any kind, class, or character whatsoever, or in any other property, real or personal, having a ready market;
- (b) invest and reinvest all or any part of the Trust assets in any insurance policies or other contracts with insurance companies, including but not limited to individual or group annuity, deposit administration, and guaranteed interest contracts. Such contracts shall be held in the name of the Trustee;
- (c) transfer any assets of the Trust to any group or common, collective or commingled fund that is maintained by a bank or other institution that is established to permit the pooling of separate trusts so long as such trust assets are permitted investments for § 401(a) plans;
- (d) hold cash uninvested and deposit same with any banking or savings institution at reasonable interest;
- (e) deposit fees earned from revenue sharing, 12(b)(1) fees, any investment gains and any otherwise unallocated trust assets into an account to be invested in any employer-directed investment option available under the Plan;

- (f) join in or oppose the reorganization, recapitalization, consolidation, sale or merger of corporations or properties, including those in which it is interested as a Trustee, upon such terms as it deems wise;
- (g) hold investments in nominee or bearer form;
- (h) to vote or refrain from voting any stocks, bonds, or other securities held in the Trust, to exercise any other right appurtenant to any securities or other property held in the Trust, to vote or refrain from voting proxies;
- (i) exercise all ownership rights with respect to assets held in the Trust; and
- (j) do any and all other acts that may be deemed necessary in the performance of the Trustee's duties hereunder.

8.08 Trustee Fees and Expenses. All reasonable costs, charges and expenses incurred by the Trustee in connection with the administration of the Trust assets (including fees for legal services rendered to the Trustee) may be paid by the Employer, but if not paid by the Employer when due, shall be paid from the Trust. Such reasonable compensation to an institutional Trustee as may be agreed upon from time to time between the Employer and the Trustee may be paid by the Employer, but if not paid by the Employer when due shall be paid by the Trust. The Trustee shall have the right to liquidate Trust assets to cover its fees. Notwithstanding the foregoing, no compensation other than reimbursement for expenses shall be paid to a Trustee who is the Employer or a full-time Employee of the Employer. In the event any part of the Trust assets become subject to tax, all taxes incurred shall be paid from the Trust unless the Plan Administrator advises the Trustee not to pay such tax. If pursuant to 8.07(e) an account holding uninvested trust assets is in existence at anytime during the Plan Year, all amounts in the account shall be first used to offset any plan expenses and any amounts remaining shall be allocated to Participant's accounts no later than the end of the Plan Year.

8.09 Exclusive Benefit Rules. No part of the Trust assets shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants, former Participants with an interest in the Plan, and the Beneficiary or Beneficiaries of a deceased Participant having an interest in the Trust assets at the death of the Participant.

8.10 Trustee Actions. Every action taken by the Trustee shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The Trustee shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all persons interested, unless the contrary be proven by affirmative evidence. The Trustee shall not be liable for amounts of Employer contributions or for other amounts payable under the Plan.

8.11 Delegation. Subject to any applicable laws and any approvals required by the Employer, the Trustee may delegate any or all powers and duties hereunder to another person, persons, or entity, and may pay reasonable compensation for such services as an administrative expense of the Plan, to the extent such compensation is not otherwise paid.

8.12 Division of Duties and Indemnification.

- (a) The Trustee shall have the authority and discretion to manage the Trust assets to the extent provided in this instrument, but the Trustee does not guarantee the Trust in any manner against investment loss or depreciation in asset value or guarantee the adequacy of the Trust assets to meet and discharge all or any liabilities of the Plan.
- (b) The Trustee shall not be liable for the making, retention or sale of any investment or reinvestment made by it, as herein provided, or for any loss to, or diminution of the Trust assets or for any other loss or damage which may result from the discharge of its duties hereunder except to the extent it is judicially determined that the Trustee has failed to exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims.
- (c) The Employer warrants that all directions issued to the Trustee by it or the Plan Administrator shall be in accordance with the terms of the Plan and not contrary to the provisions of the Code.
- (d) The Trustee shall not be answerable for any action taken pursuant to any direction, consent, certificate, or other paper or document on the belief that the same is genuine and signed by the proper person. All directions by the Employer or the Plan Administrator shall be in writing from the authorized individual or individuals named in the Adoption Agreement.
- (e) The duties and obligations of the Trustee shall be limited to those expressly imposed upon it by this instrument or subsequently agreed upon by the parties. Responsibility for administrative duties required under the Plan or applicable law not expressly imposed upon or agreed to by the Trustee shall rest solely with the Employer.
- (f) The Trustee shall be indemnified and held harmless by the Employer from and against any and all liability to which the Trustee may be subjected, including all expenses reasonably incurred in its defense, for any action or failure to act resulting from compliance with the instructions of the Employer, the employees or agents of the Employer, the Plan Administrator, or any other fiduciary to the Plan, and for any liability arising from the actions or inactions of any predecessor Trustee, custodian or other fiduciaries of the Plan, except to the extent liability is the result of the Trustee's gross negligence, willful misconduct or bad faith.
- (g) The Trustee shall not be responsible in any way for the application of any payments it is directed to make or for the adequacy of the Trust assets to meet and discharge any and all liabilities under the Plan.

8.13 Purchase of Life Insurance. If life insurance contracts are purchased by the Trustee on the life of any Participant, the following limitations shall be applicable:

- (a) Ordinary Life - For purposes of these incidental insurance provisions, ordinary life insurance contracts are contracts with both non-decreasing death benefits and non-increasing premiums. If such contracts are purchased, less than one-half of the aggregate Employer contributions allocated to any Participant will be used to pay the premiums attributable to them.
- (b) Term and Universal Life - No more than one-quarter of the aggregate Employer contributions allocated to any Participant will be used to pay the premiums on term life insurance contracts, universal life insurance contracts, and all other life insurance contracts which are not ordinary life.
- (c) Combination - The sum of one-half of the ordinary life insurance premiums and all other life insurance premiums will not exceed one-quarter of the aggregate Employer contributions allocated to any Participant.

As, when and if premium payments shall become due, the Trustee shall make such payment to the insurer from any funds then held by it and available for that purpose. The Trustee shall not be liable for non-payment of any premium unless funds sufficient for the purpose are delivered to it by the Employer within five business days prior to the expiration of the grace period for the payment of such premium or premiums. The insurance contracts on a Participant's life shall be converted to cash or an annuity or distributed to the Participant upon commencement of benefits.

The Trustee shall apply for and will be the owner of any insurance contract purchased under the terms of this Plan, and any contract will be endorsed as nontransferable. The insurance contract(s) must provide that proceeds will be payable to the Trustee, however the Trustee shall be required to pay over all proceeds of the contract(s) to the Participant's Beneficiary in accordance with the distribution provisions of the Plan. Under no circumstances shall the Trust retain any part of the proceeds. In the event of any conflict between the terms of this Plan and the terms of any insurance contract purchased hereunder, the Plan provisions shall control. The insurer shall not be or be deemed to be a party to the Plan.

IX. INVESTMENTS

9.01 Investment Options. The Employer shall have the sole discretion to select one or more investment options from which Participants may instruct the Trustee as to the investment of their Account balances. These investment options may include specified life insurance policies, annuity contracts or investment media issued by an insurance company. It shall be the sole responsibility of the Employer to ensure that all investment options offered under the Plan are appropriate and in compliance with any and all state laws pertaining to such investments.

9.02 Participant Investment Direction.

- (a) If the Employer chooses to designate one or more investment options in which Participants may direct investment of their Account, Participants shall have the option to direct the investment of their Account from among the investment options designated by the Employer. Such investment options shall be under the full control of the Trustee. A Participant's right to direct the investment of Account balances shall apply only to making selections among the options made available under the Plan and only to the extent specified by the Employer pursuant to uniform rules.
- (b) Each Participant shall designate in a manner authorized by the Administrator the one or more investment options in which he or she wishes to have his Account invested and may change such investment directions in accordance with and at the time or times specified under uniform rules established by the Administrator. The Participant's Account shall be debited or credited as appropriate to reflect all gains or losses on such investments.
- (c) Neither the Employer, the Administrator, the Trustee nor any other person shall be liable for any loss incurred by virtue of following the Participant's directions or by reason of any reasonable administrative delay in implementing such directions.
- (d) The Employer may from time to time change the investment options made available under the Plan pursuant to uniform rules established by the Administrator. If the Employer eliminates an investment option, all Participants who had chosen that investment option shall select another option. If no new option is selected by the Participant, money remaining in the eliminated investment option shall be reinvested at the direction of the Employer. The Participants shall have no right to require the Employer to select or retain any investment option. Any change with respect to investment options made by the Employer or a Participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options.

9.03 Employer Investment Direction.

- (a) To the extent the Employer chooses not to allow Participant direction of the investment of his Account, the Employer may direct the Trustee with respect to investments of the Plan assets, may appoint an investment manager to direct investments or may give the Trustee sole investment management responsibility. Any investment directive shall be made in writing by the Employer or investment manager. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing. The Trustee shall not be responsible for the propriety of any investment made at the direction of the Employer or an investment manager and shall not be required to consult with or

advise the Employer regarding the investment quality of any directed investment held hereunder.

- (b) If the Employer fails to direct the investment of Plan assets or name an investment manager, the Trustee shall have full investment authority, including the right to automatically invest the available cash in an appropriate interim investment until specific investment directions are received.

9.04 Participant Accounts. The Administrator shall maintain or cause to be maintained one or more individual Accounts for each Participant. Such Accounts shall include, as necessary, an Employer Contribution Account for Employer contributions, Mandatory Contribution Account for mandatory contributions, After-tax Contribution Account for after-tax contributions, Rollover Accounts for IRA rollovers, qualified plan rollovers, after-tax contribution rollovers, Code § 457(b) plan rollovers, and Code § 403(b) plan rollovers; a Transfer Account for transfer contributions and such other accounts as may be appropriate from time to time for plan administration. At regular intervals established by the Administrator, each Participant Account shall be credited with the amount of any Employer contributions paid into the Plan; debited with any applicable administrative or investment expense, including, but not limited to, fees charged to Participants allocated on a reasonable and consistent basis; credited or debited with investment gain or loss, as appropriate; and debited with the amount of any distribution. At least once a year each Participant shall be notified in writing of his total Account balance.

X. DISTRIBUTIONS

10.01 Distributions from the Plan. The payment of benefits from the Plan in accordance with the terms of the Plan may be made by the Trustee or by any Custodian or other person so authorized by the Employer to make such distribution. Neither the Plan Administrator, the Trustee or any other person shall be liable with respect to any distribution from the Plan made at the direction of the Employer or a person authorized by the Employer to give disbursement direction.

10.02 Conditions for Distributions.

- (a) Employer Contribution, Mandatory Contribution and Transfer Contribution Accounts. Payments from a Participant's Employer Contribution Account, Mandatory Contribution Account and Transfer Contribution Account to the Participant or Beneficiary shall not be made earlier than the Participant's Severance from Employment, disability, attainment of Early Retirement Age, Normal Retirement Age or death.
- (b) Rollovers and After-tax Contribution Accounts. Payments from a Participant's Rollover Account or After-tax Contribution Account may be made at any time.

10.03 Times of Distribution.

- (a) Subject to subsection (b), distributions to a Participant shall commence following his attainment of Early Retirement Age, Normal Retirement Age, Disability, death, or Severance from Employment on the regular distribution commencement date (as the Employer or Administrator may establish from time to time) elected by the Participant in a form and manner determined pursuant to Sections 10.05 and 10.06.
- (b) Upon notice to Participants, and subject to Sections 10.07 and 10.09, the Administrator may establish procedures under which a Participant whose total Account balance is less than an amount specified by the Administrator (not in excess of \$5,000 or other applicable limitation under the Code, but disregarding amounts in the Participant's Rollover Account for years after 2001 or amounts in the Participant's deemed IRA) will receive a lump sum distribution as soon as practicable following the Participant's Severance from Employment, notwithstanding any election made by the Participant pursuant to Section 10.03(a).
- (c) Notwithstanding the foregoing, distribution to a Participant shall commence no later than the Participant's Required Beginning Date. For Plan Years ending before January 1, 1998, or the date selected in the Adoption Agreement, a Participant's Required Beginning Date shall be the date selected in the Adoption Agreement. For Plan Years beginning on or after January 1, 1998, or the date selected in the Adoption Agreement, a Participant's "Required Beginning Date" is April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 ½ or retires and severs service with the Employer.

10.04 Death Benefit Distributions. Upon receipt of satisfactory proof of the Participant's death, the Participant's remaining Account Balance shall be paid under a method satisfying the required minimum distribution rules of Code § 401(a)(9) and the Treasury regulations thereunder. In the case of a Participant who dies while performing Qualified Military Service under Code § 414(u), the Beneficiaries of the Participant shall, to the extent required by Code § 401(a)(37), be entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) that would be provided under the Plan had the Participant resumed and then terminated employment on account of death.

- (a) **Death of Participant Before Participant's Required Beginning Date.** If the Participant dies before the required beginning date, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (i) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then, except as provided in Section 10.04(e) and unless the surviving spouse elects the five-year rule, distributions to the surviving spouse will begin by December 31st of the calendar year immediately

following the calendar year in which the Participant died, or by December 31st of the calendar year in which the Participant would have attained age 70½, if later.

A Beneficiary is deemed to elect the five-year rule if distributions do not begin by the required beginning date provided in this Section.

- (ii) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then, unless the Beneficiary elects the five-year rule, distributions to the designated beneficiary will begin by December 31st of the calendar year immediately following the calendar year in which the Participant died.

A Beneficiary is deemed to elect the five-year rule if distributions do not begin by the required beginning date provided in this Section.

- (iii) If there is no designated beneficiary as of September 30th of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31st of the calendar year containing the fifth anniversary of the Participant's death.
- (iv) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 10.04(a), other than Section 10.04(a)(i), will apply as if the surviving spouse were the Participant.

For purposes of this Section 10.04(a) and Section 10.04(e) unless Section 10.04(a)(iv) applies, distributions are considered to begin on the Participant's required beginning date. If Section 10.04(a)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 10.04(a)(i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 10.04(a)(i)), the date distributions are considered to begin is the date distributions actually commence.

- (b) **Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Section 10.04. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code § 401(a)(9) and the Treasury regulations.

- (c) Amount of Required Minimum Distribution For Each Distribution Calendar Year During the Participant's Lifetime. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
- (i) the quotient obtained by dividing the Participant's Account balance by the distribution period in the Uniform Lifetime Table set forth in Treasury Regulation § 1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
 - (ii) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in Treasury Regulation § 1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.
- (d) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under Sections 10.04(c) and (d) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.
- (e) Amount of Required Minimum Distribution Where Death Occurs On or After Participant's Required Beginning Date.
- (i) Participant Survived by Designated Beneficiary. If the Participant dies on or after the Participant's required beginning date and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:
 - (A) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (B) If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's

death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(ii) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30th of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(f) Amount of Required Minimum Distribution Where Death Occurs Before Participant's Required Beginning Date.

(i) Participant Survived by Designated Beneficiary. If the Participant dies before the required beginning date and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in Section 10.04(e).

(ii) No Designated Beneficiary. If the Participant dies before the required beginning date and there is no designated beneficiary as of September 30th of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31st of the calendar year containing the fifth anniversary of the Participant's death.

(iii) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the required beginning date, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 10.04(a)(i), this Section 10.04(f)(iii) will apply as if the surviving spouse were the Participant.

- (g) **Designated Beneficiary.** The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code § 401(a)(9) and Treasury Regulation § 1.401(a)(9)-1, Q&A-4.
- (h) **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 10.04(a). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31st of that distribution calendar year.
- (i) **Life Expectancy.** Life expectancy as computed by use of the Single Life Table in Treasury Regulation § 1.401(a)(9)-9.
- (j) **Participant's Account Balance.** The Account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- (k) **Required Beginning Date.** The date specified under Code § 401(a)(9) when distributions are required to begin, which, for a Participant, is the April 1st following the year the Participant attains age 70 ½ or retires and severs service with the Employer, whichever is later.

10.05 **Payment Options.** A payee's election of a payment option must be made at least 30 days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in accordance with Section 10.06. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options if selected in the Adoption Agreement.

- (a) A single lump-sum payment;

- (b) Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis), which extends no longer than the life expectancy of the Participant or Beneficiary as permitted under Code § 401(a)(9) and proposed or final Treasury regulations thereunder;
- (c) Partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years, as described in subsection (b);
- (d) Annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the Participant or for the lifetimes of the Participant and Beneficiary;
- (e) Such other forms of installment payments as may be approved by the Employer consistent with the limitations of Code § 401(a)(9) and proposed or final Treasury regulations thereunder; or
- (f) A Participant who is an eligible retired public safety officer, as defined under Code § 402(l)(4)(B), may elect to have distributions made directly to an insurer to pay qualified health insurance premiums for coverage for the eligible retired public safety officer, his/her spouse and dependents by an accident or health insurance plan or qualified long-term care insurance contract as defined in Code § 7703B(b). Any elections and distributions made under this Section 10.05(f) shall be made in a manner consistent with the requirements and limits contained in Code § 402(l) and any applicable guidance issued thereunder.

10.06 Default Distribution Option. In the absence of an effective election by the Participant, Beneficiary or other payee, as applicable, as to the commencement and/or form of benefits, distributions shall be made in accordance with the applicable requirements of Code § 401(a)(9) and proposed or final Treasury regulations thereunder.

10.07 Limitations on Distribution Options. Notwithstanding any other provision of this Article X, subject to Sections 16.06 and 17.06, Plan distributions shall satisfy the requirements of this Section 10.07.

- (a) No distribution option may be selected by a payee under this Article X unless it satisfies the applicable requirements of Code § 401(a)(9) and proposed or final Treasury regulations thereunder.
- (b) For mandatory distributions, if any, made on or after the effective date of and subject to the final Treasury regulations under Code § 401(a)(31), payment of an Account balance that exceeds \$1,000 but is less than \$5,000 (or other applicable limit under the final Treasury regulations) and for which the Participant has not made an election either to receive in a lump sum or to roll over to a qualified retirement plan shall, to the extent required by and in accordance with such regulations, be rolled over to an account set up for the benefit of the Participant with the IRA provider designated from time to time by the Employer or Administrator.

- (c) The terms of this Article shall be construed in accordance with all applicable Code sections.

10.08 Taxation of Distributions. To the extent required by law, income and other taxes shall be withheld from each benefit payment, and payments shall be reported to the appropriate governmental agency or agencies.

10.09 Eligible Rollover Distributions.

- (a) General. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Employer, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. A non-spousal Beneficiary may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid in a direct rollover to an inherited IRA, referred to in Code § 402(c)(11).
- (b) Definitions. For purposes of this Section, the following definitions shall apply.
- (i) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee or to the non-spousal Beneficiary, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequent than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Code § 401(a)(9); any distribution that is a deemed distribution under the provisions of Code § 72(p); the portion of any distribution that is not includable in gross income (except to the extent authorized by the Code); and any hardship distribution (or, for years prior to 2002 and after 1998, any hardship distribution described in Code § 401(k)(2)).
- (ii) Eligible Retirement Plan. An eligible retirement plan is any plan described in Code § 402(c)(8). An eligible retirement plan is described as an individual retirement account described in Code § 408(a), an individual retirement annuity described in Code § 408(b), a qualified trust described in Code § 401(a) (including § 401(k)), an annuity plan described in Code § 403(a), a tax-sheltered annuity described in Code § 403(b), or an eligible deferred compensation plan described in Code § 457(b) that accepts the distributee's eligible rollover distribution. Effective for distributions made on/after January 1, 2008, an eligible retirement plan includes a Roth IRA described in Code § 408A.

- (iii) **Distributee.** A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in Code § 414(p), are distributees with regard to the interest of the spouse or former spouse.
- (iv) **Direct Rollover.** A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee or to the inherited IRA specified by the non-spousal Beneficiary.

10.10 **Elections.** Elections under this Article shall be made in such form and manner as the Plan Administrator may specify from time to time.

10.11 **Practices and Procedures.** The Employer may adopt practices and procedures applicable to existing and new distribution elections.

10.12 **Required Minimum Distribution Waiver of 2009.** Notwithstanding any other provisions of Article X. of the Plan, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. If the Participant or Beneficiary has not elected to receive a 2009 RMD or Extended 2009 RMD then the Participant or Beneficiary will not receive a 2009 or Extended 2009 RMD unless the Participant elects to receive the distribution(s).

XI. CLAIMS PROCEDURES

11.01 **Application for Benefits.** All applications for benefits under the Plan shall be submitted to and processed by the Administrator. Applications for benefits must be in writing on forms acceptable to the Administrator. The Administrator reserves the right to require the Participant to furnish proof of his or her age and the age of the Participant's Beneficiary(s) before processing any application. Each application shall be acted upon and approved or disapproved by the Administrator within 90 days following receipt by the Administrator (or within 180 days if special circumstances require and notice is given to the applicant before the end of the 90-day period informing the applicant of the circumstances requiring the extension of time and the date by which the Administrator expects to render a decision).

If any application for benefits is denied, in whole or in part, the Administrator shall notify the applicant in writing of such denial and of the applicant's right to a review of the decision as set forth below and shall set forth, in a manner calculated to be understood by the applicant, the specific reasons for such denial, the specific references to pertinent Plan provisions on which the denial is based, a description of any additional material or information necessary for the applicant to perfect the application, an explanation of why such material or information is necessary, and an explanation of the Plan's review procedure and the time limits applicable to such procedures.

11.02 Review. Any person whose application for benefits is denied in whole or in part may appeal to the Administrator for review of the decision by submitting, within 60 days after receiving notice of the denial of the claim, a written statement to the Administrator that:

- (a) requests a review of the application for benefits;
- (b) sets forth all of the grounds upon which the request for review is based and any facts in support of such request; and
- (c) sets forth any issues or comments that the applicant deems pertinent to the application.

In addition, an applicant may submit written comments, documents, records, and other information in support of the appeal, and the applicant shall be provided, free of charge, reasonable access to and copies of all documents, records and other information relevant to the applicant's claim for benefits.

The Administrator shall review appeals of denials of applications for benefits submitted to it. The Administrator shall act upon each appeal within 60 days after receipt of the applicant's request for review by the Administrator. The Administrator shall make a full and fair review of each application and any written material submitted by the applicant in connection with such review, without regard to whether such information was submitted or considered in the initial benefit determination. If the Administrator determines that special circumstances require an extension of time for processing an appeal, it may extend the initial period, in which case written notice of the extension shall be furnished to the applicant before the end of the initial period indicating the special circumstances requiring an extension and the date by which the Administrator expects to render a determination on review. In no event shall such extension exceed a period of 60 days from the end of the initial period. Based on this review, the Administrator shall make an independent determination of the applicant's eligibility for benefits under the Plan.

In the case of a denial of any appeal, the Administrator shall notify the applicant in writing of such determination and shall set forth, in a manner calculated to be understood by the applicant, the specific reasons for the adverse determination, references to the specific Plan provisions on which the determination is based, a statement that the applicant is entitled to receive, upon request and free of charge, reasonable access to and copies of all documents, records and other information relevant to the applicant's claim for benefits.

The decision of the Administrator on any application for benefits shall be final and conclusive upon all persons.

XII. LEAVE OF ABSENCE

12.01 **Paid Leave of Absence.** If a Participant is on an approved leave of absence from the Employer with Compensation, or on approved leave of absence without Compensation, said Participant's participation in the Plan may continue.

12.02 **Unpaid Leave of Absence.** If a Participant is on an approved leave of absence without Compensation and such leave of absence continues to such an extent that the Participant's employment with the Employer terminates, a Severance from Employment shall occur for purposes of this Plan.

XIII. PARTICIPANT LOANS

13.01 **Authorization of Loans.** If so specified in the Adoption Agreement, the Administrator may direct the Trustee to make loans to Participants. Such loans shall be made on the application of the Participant in a form approved by the Administrator and under such terms and conditions as are set forth in this Article, provided, however, that the Administrator may adopt regulations, rules or procedures specifying different loan terms and conditions if necessary or desirable to comply with or conform to such Treasury Regulations, other guidance or other applicable law.

13.02 **Maximum Loan Amount.** In no event shall any loan made to a Participant be in an amount which shall cause the outstanding aggregate balance of all loans made to such Participant under this Plan exceed the lesser of:

- (a) \$50,000, reduced by the excess (if any) of: (i) the highest outstanding balance of loans from the Plan to the Participant during the one-year period ending on the day before the date on which the loan is made; over (ii) the outstanding balance of loans from the Plan to the Participant or the Beneficiary on the date on which the loan is made; or
- (b) One-half of the Participant's total Account balance.

13.03 **Repayment of Loan.** Each loan shall mature and be payable, in full and with interest, within five years from the date such loan is made, unless

- (a) The loan is used to acquire any dwelling unit that within a reasonable time (determined at the time the loan is made) will be used as the principal residence of the Participant; or
- (b) Loan repayments are, at the Employer's election, suspended as permitted by Code § 414(u)(4) (with respect to Qualified Military Service).

13.04 Loan Terms and Conditions. In addition to such rules and regulations as the Administrator may adopt, which rules are hereby incorporated into this Plan by reference, all loans to Participants shall comply with the following terms and conditions:

- (a) Loans shall be available to all Participants on a reasonably equivalent basis.
- (b) Loans shall bear interest at a reasonable rate to be fixed by the Administrator based on interest rates currently being charged by commercial lenders for similar loans. The Administrator shall not discriminate among Participants in the matter of interest rates, but loans granted at different times may bear different interest rates based on prevailing rates at the time.
- (c) Each loan shall be made against collateral, including the assignment of no more than one-half of the present value of the Participant's total Account balance as security for the aggregate amount of all loans made to such Participant, supported by the Participant's collateral promissory note for the amount of the loan, including interest.
- (d) In all events, payments of principal and interest must be made at least quarterly and such payments shall be sufficient to amortize the principal and interest payable pursuant to the loan on a substantially level basis.
- (e) A loan to a Participant or Beneficiary shall be considered a directed investment option for such Participant's Account balance.
- (f) No distribution shall be made to any Participant, or to a Beneficiary of any such Participant, unless and until all unpaid loans, including accrued interest thereon, have been satisfied. If a Participant terminates employment with the Employer for any reason, the outstanding balance of all loans made to him shall become fully payable and, if not paid within 30 days, any unpaid balance shall be deducted from any benefit payable to the Participant or his Beneficiary. In the event of default in repayment of a loan or the bankruptcy of a Participant who has received a loan, the note will become immediately due and payable, foreclosure on the note and attachment of the security will occur, the amount of the outstanding balance of the loan will be treated as a distribution to the Participant, and the defaulting Participant's Account balance shall be reduced by the amount of the outstanding balance of the loan (or so much thereof as may be treated as a distribution without violating the requirements of the Code).
- (g) The loan program under the Plan shall be administered by the Administrator in a uniform and nondiscriminatory manner. The Administrator shall establish procedures for loans, including procedures for applying for loans, guidelines governing the basis on which loans shall be approved, procedures for determining the appropriate interest rate, the types of collateral which shall be accepted as security, any limitations on the types and amount of loans offered, loan fees and

the events which shall constitute default and actions to be taken to collect loans in default.

XIV. AMENDMENT OR TERMINATION OF PLAN

14.01 **Termination.** The Employer may at any time terminate this Plan; provided, however, that no termination shall affect the amount of benefits which at time of such termination shall have accrued for Participant or Beneficiaries. Such amount shall be calculated in accordance with Section 9.04 and the terms and conditions of the affected investment option. In the event of the termination or partial termination of the Plan, or the complete discontinuance of contributions under the Plan, the Account balance of each affected Participant shall be nonforfeitable.

14.02 **Amendment.** The Employer may also amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for Participants or Beneficiaries, calculated in accordance with Section 9.04 and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the Trustee unless executed by the Trustee.

To the extent permitted by applicable law, the Employer delegates to the Administrator the authority to adopt rules, regulations or procedures from time to time as may be necessary or desirable to conform Plan provisions to, or to elaborate Plan provisions in light of, technical amendments to the Code, Treasury regulations or other guidance issued under the Code, and such rules, regulations or procedures are hereby ratified by the Employer as having the force and effect of Plan amendments.

14.03 **Exclusive Benefit.** Except as provided in Section 5.04, the corpus or income of the Trust and Plan may not be diverted to or used for other than the exclusive benefit of Participants and Beneficiaries.

14.04 **Copies of Amendments.** The Administrator shall provide a copy of any Plan amendment to any Trustee or custodian and to the issuers of any investment options selected pursuant to Section 9.01.

XV. NON-ASSIGNABILITY

15.01 **Non-Assignability.** It is agreed that neither the Participant, nor any Beneficiary, nor any other designee shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be non-assignable and non-transferable; and in the event of attempt to assign or transfer, the Employer shall have no further liability hereunder nor shall any unpaid amounts be subject to attachment, garnishment or execution or be transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law.

15.02 Qualified Domestic Relations Orders. If so specified in the Adoption Agreement, domestic relations orders approved by the Plan Administrator shall be administered as follows.

- (a) To the extent required under a final judgment, decree, or order meeting the requirements of Code § 414(p), herein referred to as a Qualified Domestic Relations Order (“QDRO”), which is duly filed the Employer or the Trustee, any portion of a Participant’s Account may be paid or set aside for payment to a spouse, former spouse or child of the Participant. Where necessary to carry out the terms of such a QDRO, a separate Account shall be established with respect to the spouse, former spouse or child, and such person shall be entitled to make investment selections with respect thereto in the same manner as the Participant. All costs and charges incurred in carrying out the investment selection shall be deducted from the Account created for the spouse, former spouse or child making the investment selection.
- (b) Any amounts so set aside for a spouse, former spouse or a child shall be paid out in a lump sum at the earliest date that benefits may be paid to the Participant, unless the QDRO directs a different form of payment or different payment date, including an immediate payment date. Withholding and income tax reporting shall be done with respect to the alternate payee under the terms of the Code as amended from time to time.
- (c) The Employer’s liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to a spouse, former spouse or child pursuant to this Section. No amount shall be paid or set aside unless the Employer, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the Participant with respect to these amounts. The Participant shall be deemed to have released the Employer from any claim with respect to such amounts in any case in which the Employer has been notified of or otherwise joined in a proceeding relating to a QDRO which sets aside a portion of the Participant’s Account for a spouse, former spouse or child and the Participant fails to obtain an order of the court in the proceeding relieving the Employer from the obligation to comply with the QDRO.
- (d) The Employer shall not be obligated to comply with any judgment, decree or order which attempts to require the Plan to violate any Plan provision or any provision of Code § 401(a). Neither the Employer nor its agents or assigns shall be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a Participant’s benefits under the Plan unless the full expense of such legal action is borne by the Participant. In the event that the Participant’s action (or inaction) nonetheless causes the Employer, its agents or assigns to incur such expense, the amount of the expense may be charged against the Participant’s Account and thereby reduce Employer’s obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation or child support, the Employer, its agents and assigns shall be authorized to disclose information relating to

Participant's individual account to the Participant's spouse, former spouse, child (including the legal representatives of the spouse, former spouse or child) or to a court.

XVI. DISCLAIMER

The Employer and the Administrator make no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any Participant, Beneficiary, or any other person with respect to (a) the financial soundness, investment performance, fitness or suitability (for meeting a Participant's objectives, future obligations under the Plan or any other purpose) of any investment option offered pursuant to Section 9.01 or any investment vehicle in which contributions under the Plan are actually invested or (b) the tax consequences of the Plan to any Participant, Beneficiary or any other person.

XVII. INTERPRETATION

17.01 **Governing Law.** This Plan shall be construed under the laws of the state in which the Employer's headquarters is located.

17.02 **§ 401(a).** This Plan is intended to be a qualified plan within the meaning of Code § 401(a), and shall be interpreted so as to be consistent with the applicable requirements of such Section and the regulations promulgated thereunder.

17.03 **Word Usage.** Words used herein in the singular shall include the plural and the plural the singular where applicable, and one gender shall include the other genders where appropriate.

17.04 **Headings.** The headings of articles, sections or other subdivisions hereof are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.

17.05 **Entire Agreement.** This Plan, the executed Adoption Agreement and any properly adopted amendment thereof, shall constitute the total agreement or contract between the Employer and the Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the Participant. This Plan and any properly adopted amendment shall be binding on the parties hereto and their respective heirs, administrators, trustees, successors and assigns and on all designated Beneficiaries of the Participant.

EXHIBIT "B"

RESOLUTION NO. 2011-

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
IRVINE RANCH WATER DISTRICT ADOPTING
AMENDMENTS WITH RESPECT TO THE
GREAT-WEST RETIREMENT SERVICES
SECTION 401(a) MONEY PURCHASE PENSION PLAN
FOR GOVERNMENTAL EMPLOYERS

WHEREAS, on December 16, 1997, this Board of Directors approved an Internal Revenue Code Section 401(a) money purchase pension plan, which was amended and restated by the adoption of Resolution No. 2003-30 on August 11, 2003; and

WHEREAS, Great-West Retirement Services has provided a model amended and restated plan document (2011 Basic 401(a) MPP Plan Document for Governmental Employers and related adoption agreement), for the Great-West Retirement Services Section 401(a) Money Purchase Pension Plan For Governmental Employers to comply with recent legislative and regulatory changes and Great West Retirement Services recommends adoption of the amended and restated plan document on or before December 31, 2011; and

NOW, THEREFORE, the Board of Directors of the Irvine Ranch Water District DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. The Amended and Restated Great-West Retirement Services Section 401(a) Money Purchase Pension Plan For Governmental Employers document (2011 Basic 401(a) MPP Plan Document for Governmental Employers and related adoption agreement), provided as Exhibit "A" attached hereto, for regular and non-regular employees is hereby adopted and approved, in the form presented to this meeting, effective as January 1, 2011.

Section 2. The following persons, acting singly, be and each of them hereby is authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for amending the Plan and carrying out all the transactions contemplated by this resolution, including, but not limited to, adoption of plan documents substantially in the form presented to this meeting:

Director of Finance
Treasurer
Assistant Treasurer

ADOPTED, SIGNED, AND APPROVED this 14th day of November, 2011.

President/Vice President
IRVINE RANCH WATER DISTRICT
and of the Board of Directors
thereof

Secretary/Assistant Secretary
IRVINE RANCH WATER DISTRICT
and of the Board of Directors
thereof

APPROVED AS TO FORM

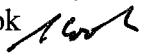
BOWIE, ARNESON,
WILES & GIANNONE
Legal Counsel – IRWD

By _____

November 14, 2011

Prepared by: Tanja Fournier/Rob Jacobson

Submitted by: Debby Cherney

Approved by: Paul Cook 

CONSENT CALENDAR

TERMINATION OF EXECUTIVE 401(a) PLAN

SUMMARY:

The District has an IRS Section 401(a) Executives' Profit Sharing Plan (Plan) which allows the Board to make discretionary contributions for the benefit of the General Manager or other employees as the Board may determine. Currently there is only one non-employee participant in this Plan. Staff is recommending that the Plan be terminated and the participant be required to either roll over assets into the District's regular 401(a) money purchase plan, or other outside retirement plan of the participant's choosing. Staff recommends that the Board approve the termination of IRS Section 401(a) Executives' Profit Sharing Plan and Trust and adopt a resolution terminating the Plan, which is attached as Exhibit A".

BACKGROUND:

In 2001, the Board approved the Plan which allows the Board to make discretionary contributions for the benefit of the General Manager or other employees as the Board may determine. The Plan was drafted by the District's deferred compensation legal counsel and is proprietary to the Irvine Ranch Water District. As such, staff must rely on legal counsel to make the District aware of any IRS or legislative changes that impact the Plan, draft required amendments and, in some cases, submit the Plan document to the IRS for private letter rulings. Often the notification of required plan changes is not timely and puts the District's plan at risk of being out of compliance with applicable law.

Currently there is only one non-employee participant in the Plan. Staff is recommending that the Plan be terminated in its current form and require the participant to either roll over assets into the District's regular 401(a) money purchase plan, or other outside retirement plan of the participant's choosing. By rolling the funds directly to another retirement plan, the participant will not take receipt of the funds; therefore, there will be no tax consequence to the participant. Should the Board decide to utilize a separate executive plan in the future, a prototype plan provided by the District's record keeper, Great-West Retirement Services (Great-West), could be used. The District currently uses prototype plans for the Section 457 deferred compensation plan where the employee contributions are made, and the 401(a) money purchase pension plan where the District's matching contributions are deposited. When legislative or IRS changes occur that affect either of these plans, Great-West amends and restates the plan document in a timely manner at no cost to the District.

FISCAL IMPACTS:

The District will achieve some marginal annual savings for plan administration and legal fees.

ENVIRONMENTAL COMPLIANCE:

This activity is categorically exempt from the California Environmental Quality Act (CEQA) as authorized under the California Code of Regulations, Title 14, Chapter 3, Sections 15301 and 15302.

COMMITTEE STATUS:

This item was reviewed by the Finance and Personnel Committee on November 1, 2011.

RECOMMENDATION:

THAT THE BOARD APPROVE THE TERMINATION OF IRS SECTION 401(A) EXECUTIVES' PROFIT SHARING PLAN AND TRUST AND ADOPT THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION No. 2011-____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
IRVINE RANCH WATER DISTRICT
TERMINATING IRS SECTION 401(A)
EXECUTIVES' PROFIT SHARING PLAN AND TRUST

LIST OF EXHIBITS:

Exhibit "A" – Resolution

EXHIBIT "A"

RESOLUTION NO. 2011-

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
IRVINE RANCH WATER DISTRICT
WITH RESPECT TO THE TERMINATION OF THE
EXECUTIVES' PROFIT SHARING PLAN AND TRUST

WHEREAS, the Irvine Ranch Water District (the "District") has adopted the Irvine Ranch Water District Executives' Profit Sharing Plan and Trust (the "Plan"), and the Internal Revenue Service has previously determined that the form of the Plan meets the requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, there are no active participants in the Plan at this time and it is anticipated that all benefits under the Plan shall be paid out to all participants on or before December 31, 2011; and

WHEREAS, the Board has determined that it is in the best interest of the District to terminate the Plan effective December 31, 2011 (the "Termination Date").

NOW, THEREFORE, the Board of Directors of the Irvine Ranch Water District DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. The Board hereby does approve the termination of the Plan as of the Termination Date.

Section 2. All participants in the Plan shall be fully vested in their accrued benefits as of the Termination Date and have been notified of the impending termination and all distributions shall commence as soon as administratively feasible following the termination of the Plan.

Section 3. The below-authorized persons shall be and hereby are authorized to effect and implement any and all modifications or amendments to the Plan as such persons deem appropriate in their discretion.

Section 4. The below-authorized persons shall be and hereby are authorized in their discretion to make all necessary or appropriate government filings in connection with the actions anticipated by this Resolution.

Section 5. The following persons, acting singly, be and each of them hereby is authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for amending the Plan and carrying out all the transactions contemplated by this Resolution, including, but not limited to, the actions authorized in Sections 3 and 4 hereof and adoption of plan documents substantially in the form presented to this meeting:

Director of Finance
Treasurer
Assistant Treasurer

ADOPTED, SIGNED, AND APPROVED this 14th day of November, 2011.


President/Vice President
IRVINE RANCH WATER DISTRICT
and of the Board of Directors
thereof

Secretary/Assistant Secretary
IRVINE RANCH WATER DISTRICT
and of the Board of Directors
thereof

APPROVED AS TO FORM

BOWIE, ARNESON,
WILES, & GIANNONE
Legal Counsel – IRWD

By _____

November 14, 2011
Prepared by: Gretchen Maswadeh
Submitted by: Janet Wells
Approved by: Paul Cook 

ACTION CALENDAR

PROPOSED CONSUMER PRICE INDEX CHANGES TO SALARY GRADE SCHEDULE AND EMPLOYEE COST OF LIVING ADJUSTMENTS AND ADDITIONAL EMPLOYEE CONTRIBUTIONS TO CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM

SUMMARY:

The Bureau of Labor Statistics has released the Consumer Price Index (CPI) for the period ending September 2011, which reflects a 3.09% increase from September 2010 to September 2011. Last year, the Board agreed to carry forward the negative 0.62% adjustment in the 2010 annual Cost of Living Adjustment (COLA) for one year and apply the negative 0.62% adjustment to the 2011 COLA. This would result in a 2.47% adjustment for the 2011 COLA. Based on discussion in the Finance and Personnel Committee (Committee) at its meeting on November 1, 2011, the recommendations are as follows, to be effective December 1, 2011:

- Approve a Cost of Living Adjustment of 2.47% for eligible employees;
- Approve an increase to the Salary Range Schedule; and
- Increase the District employee contributions to the California Public Employees Retirement System (CalPERS) by 2% of salary. This would increase regular full-time employee contributions from 3% to 5% of salary; senior management would increase their contributions from 5% to 7% of salary; and executive management would increase their contributions from 6% to 8% of salary.

BACKGROUND:

On January 18, 1999, the Board of Directors approved the separation of the COLA component from the overall employee merit increase. Each year, staff recommends changes to the Salary Grade Schedule and employee COLAs based on a September to September comparison of the CPI for the Orange-Riverside-Los Angeles All Urban Consumers. The COLA adjustments are typically made effective on December 1 of each year. This item implements the COLA to be effective December 1, 2011.

Salary Grade Schedule Changes:

The salary grade ranges were last adjusted July 1, 2011. This change was based on the Board-approved one-time 2.0% salary adjustment granted to offset the financial impact of the increase in the employee-paid PERS contributions. Provided as Exhibit "A" is a resolution rescinding the previous resolution and establishing a revised schedule of positions and salary rate ranges.

Attached as Exhibit "B" (page B-1) is the CPI information for September 2010 and September 2011, reflecting a change in CPI from 226.048 to 233.022, or 3.09%. Page B-2 of Exhibit "B" reflects the calculation of the COLA including the negative 0.62% from the prior year. The impact to the salary grade schedule is detailed in Exhibit "C".

Changes to the Employee Contribution Rates for CalPERS:

The Committee discussed increasing the District employee contributions made to CalPERS. The employee contribution rate is 8%, and the District currently pays 2% of the 8% for executive management (defined as General Manager and Assistant General Manager), 3% of the 8% for senior management (Department Directors and Senior Directors), and 5% of the 8% for all other full-time regular employees. Those are paid as "Employer Paid Member Contributions" (EPMC). Those contribution rates were adjusted effective July 1, 2011 from the prior rates which had all employees paying 1% of the 8% employee contribution. At the time the Board approved those contribution adjustments, employees were informed that the Board intended to transition employees to paying the full 8% employee contribution in a multi-year process, but did not establish a schedule for that transition.

The Committee recommended adjusting the employee contribution rates such that the new rates would have the District pay no portion of the EPMC for executive management, 1% for senior management, and 3% for all other full-time regular employees. After a Committee discussion, the recommendation was to make such change effective December 1, 2011, the same time as the proposed COLA adjustment. Attached as Exhibits "D", "E" and "F", respectively, are resolutions associated with these proposed changes.

FISCAL IMPACTS:

During the budgetary process, staff included a 0.38%, or approximately \$93,000, increase in salaries for COLA for FY 2011-12. Actual funds needed to implement a 2.47% increase for the last seven months of the fiscal year will be approximately \$352,000. Therefore, the projected annual cost for FY 2011-12 for COLA will be approximately \$259,000 (1.06%) over budget. Increasing the employee contributions to CalPERS will reduce District expense by approximately \$300,000 for the balance of FY 2011-12.

ENVIRONMENTAL COMPLIANCE:

This item is not a project as defined in the California Environmental Quality Act (CEQA), Code of Regulations, Title 14, Chapter 3, Section 15378.

COMMITTEE STATUS:

This item was reviewed by the Finance and Personnel Committee on November 1, 2011.

RECOMMENDATION:

THAT THE BOARD APPROVE A 2.47% INCREASE TO THE SALARY GRADE RANGES AND A 2.47% COST OF LIVING ADJUSTMENT (COLA) FOR EACH ELIGIBLE EMPLOYEE, AND INCREASE THE EMPLOYEE CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM EFFECTIVE DECEMBER 1, 2011 AND ADOPT THE FOLLOWING RESOLUTIONS BY TITLE:

RESOLUTION NO. 2011 - _____

RESOLUTION OF THE BOARD OF DIRECTORS OF IRVINE RANCH
WATER DISTRICT, RESCINDING RESOLUTION NO. 2011-31
AND ESTABLISHING A REVISED SCHEDULE OF POSITIONS
AND SALARY RATE RANGES

RESOLUTION NO. 2011 - _____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
IRVINE RANCH WATER DISTRICT, ORANGE COUNTY,
CALIFORNIA MODIFYING EMPLOYER PAID MEMBER
CONTRIBUTIONS (EXECUTIVE MANAGEMENT)

RESOLUTION NO. 2011 - _____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
IRVINE RANCH WATER DISTRICT, ORANGE COUNTY,
CALIFORNIA MODIFYING EMPLOYER PAID MEMBER
CONTRIBUTIONS (SENIOR MANAGEMENT)

RESOLUTION NO. 2011 - _____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
IRVINE RANCH WATER DISTRICT, ORANGE COUNTY,
CALIFORNIA MODIFYING EMPLOYER PAID MEMBER
CONTRIBUTIONS (FULL-TIME REGULAR EMPLOYEES)

LIST OF EXHIBITS:

- Exhibit "A" – Resolution Revising Schedule of Positions/Salary Rate Ranges
- Exhibit "B" – Bureau of Labor Statistics Consumer Price Index
- Exhibit "C" – Revised Salary Grade Schedule
- Exhibit "D" – Resolution Modifying Contributions for Executive Management
- Exhibit "E" – Resolution Modifying Contributions for Senior Management
- Exhibit "F" – Resolution Modifying Contributions for Full-Time Regular Employees

Exhibit "A"

RESOLUTION NO. 2011 -

RESOLUTION OF THE BOARD OF DIRECTORS
OF IRVINE RANCH WATER DISTRICT,
RESCINDING RESOLUTION NO. 2011-31 AND
ESTABLISHING A REVISED SCHEDULE OF POSITIONS
AND SALARY RATE RANGES

WHEREAS, the Board of Directors of Irvine Ranch Water District, by adoption of Resolution No. 2011-31 on July 11, 2011, established a Schedule of Positions and Salary Rate Ranges of the Irvine Ranch Water District; and

WHEREAS, the Board of Directors of Irvine Ranch Water District has reviewed the Schedule of Positions and Salary Rate Ranges and desires to make revisions thereto.

NOW, THEREFORE, the Board of Directors of Irvine Ranch Water District does hereby resolve, determine and order as follows:

Section 1. That the Schedule of Positions and Salary Rate Ranges adopted by Resolution No. 2011-31 on July 11, 2011 is hereby rescinded, effective December 1, 2011.

Section 2. That the Schedule of Positions and Salary Rate Ranges for the Irvine Ranch Water District be and hereby is approved and adopted as more particularly set forth in Exhibit "A" to this Resolution, attached hereto and by this reference made a part hereto.

Section 3. That the provisions of this Resolution shall be effective December 1, 2011.

ADOPTED, SIGNED and APPROVED THIS 14th day of November 2011.

President, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

Secretary, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

APPROVED AS TO FORM:
BOWIE, ARNESON, WILES & GIANNONE

Exhibit "B"

Consumer Price Index Calculation

SEP 09	1.31%	225.226	-0.98%	Adjust from 9/01/08	0% COLA given (Negative 0.98% to be deducted 12/2010)
OCT 09	-0.96%	225.264	-0.40%	-0.96%	
NOV 09	-0.42%	224.317	0.94%	-1.38%	
DEC 09	-0.30%	223.643	1.83%	-1.67%	
JAN 10	0.43%	224.610	1.76%	-1.25%	
FEB 10	0.00%	224.620	1.44%	-1.24%	
MAR 10	0.38%	225.483	1.86%	-0.86%	
APR 10	0.19%	225.916	1.90%	-0.67%	
MAY 10	0.23%	226.438	1.76%	-0.44%	
JUN 10	-0.25%	225.877	0.88%	-0.69%	
JUL 10	0.05%	225.991	0.88%	-0.64%	
AUG 10	0.17%	226.373	0.83%	-0.47%	
SEP 10	-0.14%	226.048	0.36%	-0.62%	0% COLA given (Negative 0.62% to be deducted 12/2011)
OCT 09	0.70%	226.794	0.68%	0.06%	
NOV 09	-0.38%	225.941	0.72%	0.11%	
DEC 09	0.31%	226.639	1.34%	0.72%	
JAN 10	0.89%	228.652	1.80%	1.18%	
FEB 10	0.47%	229.729	2.27%	1.66%	
MAR 10	1.09%	232.241	3.00%	2.38%	
APR 10	0.46%	233.319	3.28%	2.66%	
MAY 10	0.02%	233.367	3.06%	2.44%	
JUN 10	-0.45%	232.328	2.86%	2.24%	
JUL 10	-0.44%	231.303	2.35%	1.73%	
AUG 10	0.23%	231.833	2.41%	1.80%	
SEP 10	0.51%	233.022	3.09%	2.47%	9/2010 to 9/2011: 3.09% increase, less 0.62% = 2.47% COLA

CONSUMER PRICE INDEXES PACIFIC CITIES AND U. S. CITY AVERAGE
September 2011
ALL ITEMS INDEXES
(1982-84=100 unless otherwise noted)

MONTHLY DATA	All Urban Consumers (CPI-U)						Urban Wage Earners and Clerical Workers (CPI-W)					
	Indexes			Percent Change			Indexes			Percent Change		
				Year ending	1 Month ending					Year ending	1 Month ending	
Sep 2010	Aug 2011	Sep 2011	Aug 2011	Sep 2011	Sep 2011	Sep 2010	Aug 2011	Sep 2011	Aug 2011	Sep 2011	Sep 2011	
U. S. City Average.....	218.439	226.545	226.889	3.8	3.9	0.2	214.306	223.326	223.688	4.3	4.4	0.2
(1967=100).....	654.346	678.628	679.658	-	-	-	638.353	665.221	666.299	-	-	-
Los Angeles-Riverside-Orange Co.....	226.048	231.833	233.022	2.4	3.1	0.5	218.427	224.665	226.096	2.7	3.5	0.6
(1967=100).....	667.846	684.939	688.450	-	-	-	645.519	663.954	668.183	-	-	-
West	221.384	228.222	229.147	3.0	3.5	0.4	215.804	223.204	224.237	3.3	3.9	0.5
(Dec. 1977 = 100)	357.855	368.908	370.404	-	-	-	347.216	359.123	360.785	-	-	-
West - A*.....	225.726	232.219	233.221	2.8	3.3	0.4	218.524	225.662	226.764	3.1	3.8	0.5
(Dec. 1977 = 100)	368.077	378.665	380.300	-	-	-	353.748	365.302	367.086	-	-	-
West - B/C**(Dec. 1996=100).....	133.544	138.171	138.564	3.3	3.8	0.3	133.346	138.255	138.770	3.6	4.1	0.4

BI-MONTHLY DATA	All Urban Consumers (CPI-U)						Urban Wage Earners and Clerical Workers (CPI-W)					
	Indexes			Percent Change			Indexes			Percent Change		
				Year ending	2 Months ending					Year ending	2 Months ending	
Aug 2010	Jun 2011	Aug 2011	Jun 2011	Aug 2011	Aug 2011	Aug 2010	Jun 2011	Aug 2011	Jun 2011	Aug 2011	Aug 2011	
San Francisco-Oakland-San Jose.....	227.954	233.646	234.608	2.4	2.9	0.4	224.195	230.605	231.445	2.9	3.2	0.4
(1967=100).....	700.794	718.293	721.251	-	-	-	682.693	702.213	704.769	-	-	-
Seattle-Tacoma-Bremerton.....	227.645	233.250	233.810	3.2	2.7	0.2	223.444	230.072	230.558	3.7	3.2	0.2
(1967=100).....	693.951	711.038	712.742	-	-	-	662.734	682.392	683.835	-	-	-

* A = 1,500,000 population and over

** B/C = less than 1,500,000 population

Dash (-) = Not Available.

Release date Oct. 19, 2011. The next monthly releases are scheduled for Nov. 16, 2011. The next bi-monthly releases are scheduled for Nov. 16, 2011.

Please note: As of October 1, 2009 all hotline numbers were discontinued with the exception of San Francisco's. Customers can continue to receive information by calling the BLS West Region Information Office: (415) 625-2270.

This card is available on the day of release by electronic distribution. Just go to www.bls.gov/bls/list.htm and sign up for the free on-line delivery service. For questions, please contact us at BLSinfoSF@BLS.GOV or (415) 625-2270.

IRVINE RANCH WATER DISTRICT
SALARY GRADE SCHEDULE

August-December 1, 2011

<u>NON-EXEMPT</u>	Exhibit "C"		<u>EXCEPTIONAL PERFORMANCE TOP OF RANGE</u>
	<u>MINIMUM</u>	<u>MAXIMUM</u>	
SALARY GRADE I	\$25332472	\$31403064	\$32963217
SALARY GRADE II	\$25882526	\$32263148	\$33873305
SALARY GRADE III	\$26422578	\$33153235	\$34813397
SALARY GRADE IV	\$26902625	\$34113329	\$35813495
SALARY GRADE V	\$27502684	\$35053421	\$36813592
SALARY GRADE VI Office Assistant Mail Coordinator	\$28062738	\$36073520	\$37873696
SALARY GRADE VII	\$28622793	\$37073618	\$38933799
SALARY GRADE VIII	\$29242854	\$38143722	\$40053908
SALARY GRADE IX	\$29812909	\$39193825	\$41154016
SALARY GRADE X	\$30412968	\$40253928	\$42264124
SALARY GRADE XI Material Control Clerk I Maintenance Apprentice Utility Worker	\$31003025	\$41294029	\$43344230
SALARY GRADE XII	\$31623086	\$42504148	\$44634355
SALARY GRADE XIII Customer Service Specialist I Computer Operator	\$32213143	\$43724267	\$45914480
SALARY GRADE XIV	\$32933214	\$44954387	\$47204606

<u>NON-EXEMPT</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>EXCEPTIONAL PERFORMANCE TOP OF RANGE</u>
SALARY GRADE XV Office Specialist Collection Systems Technician I	\$33643283	\$46144503	\$48454728
SALARY GRADE XVI Accounting Clerk Customer Service Field Technician Metering Systems Technician I Water Maintenance Technician I Laboratory Analyst	\$34433360	\$47434629	\$49804860
SALARY GRADE XVII Customer Service Specialist II	\$35163431	\$48624745	\$51054982
SALARY GRADE XVIII Material Control Clerk II Senior Computer Operator	\$35943507	\$49934873	\$52435117
SALARY GRADE XIX Senior Office Specialist Purchasing Coordinator	\$36753586	\$51194996	\$53765246
SALARY GRADE XX Senior Accounting Clerk Engineering Technician I Operator I Maintenance Mechanic Maintenance Technician Collection Systems Technician II	\$37743683	\$52845157	\$55495415
SALARY GRADE XXI Customer Service Specialist III Senior Customer Service Field Technician Collection Systems CCTV Technician II	\$38803786	\$54445313	\$57175579
SALARY GRADE XXII Executive Secretary Government Affairs Assistant Sr. Purchasing Coordinator Metering Systems Tech. II Water Maintenance Technician II Facilities Services Technician Vehicle/Equipment Mechanic Recycled Water Specialist	\$39873891	\$56165481	\$58975755

<u>NON-EXEMPT</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>EXCEPTIONAL PERFORMANCE TOP OF RANGE</u>
SALARY GRADE XXIII Construction Inspector I	\$40933994	\$57865647	\$60755929
SALARY GRADE XXIV Buyer Cross Connection Specialist Wetlands Specialist Water Use Efficiency Specialist	\$42084107	\$59675823	\$62656114
SALARY GRADE XXV Engineering Technician II Senior Collection Systems CCTV Technician	\$43194215	\$61506002	\$64586302
SALARY GRADE XXVI Executive Assistant Safety and Security Specialist Metering Systems Tech. III Water Maintenance Technician III Scientist	\$44524345	\$63336180	\$66496489
SALARY GRADE XXVII Accountant Risk Analyst Senior Vehicle/Equipment Maintenance Mechanic Operator II Senior Maintenance Mechanic Senior Recycled Water Specialist	\$45824472	\$65196362	\$68456680
SALARY GRADE XXVIII Construction Inspector II Landscape Contracts Administrator Electrical Technician Instrumentation Technician	\$47164602	\$67136551	\$70496879
SALARY GRADE XXIX Public Affairs Specialist Government Affairs Specialist Payroll Administrator Senior Buyer Engineering Technician III Senior Wetlands Specialist Operator III Lead Maintenance Mechanic Recycled Water Project Specialist Senior Water Use Efficiency Specialist	\$48564739	\$69086741	\$72537078

<u>NON-EXEMPT</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>EXCEPTIONAL PERFORMANCE TOP OF RANGE</u>
SALARY GRADE XXX Facilities Services Supervisor Fleet Supervisor Senior Electrical Technician Senior Instrumentation Technician Collection Systems Supervisor	\$ <u>50034882</u>	\$ <u>71126941</u>	\$ <u>74687288</u>
SALARY GRADE XXXI Human Resources Analyst Treasury Analyst Information Services Coordinator Construction Inspector III Cross Connection Supervisor Water Maintenance Supervisor Senior Scientist Water Use Efficiency Analyst	\$ <u>51515027</u>	\$ <u>73267149</u>	\$ <u>76917506</u>
SALARY GRADE XXXII Automation Specialist Network Administrator Mechanical Maintenance Supervisor	\$ <u>52995171</u>	\$ <u>75437361</u>	\$ <u>79207729</u>
SALARY GRADE XXXIII Supervising Wetlands//Wildlife Biologist	\$ <u>54545323</u>	\$ <u>77627575</u>	\$ <u>81507954</u>
SALARY GRADE XXXIV Electrical/Instrumentation Designer Electrical Supervisor Instrumentation Supervisor	\$ <u>56165481</u>	\$ <u>79777785</u>	\$ <u>83768174</u>
SALARY GRADE XXXV Operations Supervisor	\$ <u>57855646</u>	\$ <u>82168018</u>	\$ <u>86278419</u>
<i>Effective Date</i> <u>08/01/11</u> <u>12/01/11</u>			

IRVINE RANCH WATER DISTRICT
SALARY GRADE SCHEDULE

August-December 1, 2011

<u>EXEMPT</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>EXCEPTIONAL PERFORMANCE TOP OF RANGE</u>
SALARY GRADE 1	\$40723974	\$52325106	\$54935361
SALARY GRADE 2	\$42074106	\$54355304	\$57075569
SALARY GRADE 3	\$43434238	\$56385502	\$59205777
SALARY GRADE 4	\$44784370	\$58535712	\$61465998
SALARY GRADE 5	\$46144503	\$60715925	\$63756221
SALARY GRADE 6	\$47734658	\$63066154	\$66226462
SALARY GRADE 7	\$49274808	\$65396381	\$68656700
SALARY GRADE 8	\$50864963	\$67946630	\$71346962
SALARY GRADE 9	\$52415115	\$70436873	\$73957217
SALARY GRADE 10 Customer Service Supervisor Assistant Engineer/Planner Administrative Assistant Analyst	\$54175286	\$73117135	\$76777492
SALARY GRADE 11 Senior Accountant Laboratory QA/QC Recycled Water Supervisor	\$55905455	\$75817398	\$79607768
SALARY GRADE 12 Programmer/Analyst	\$57725633	\$78717681	\$82648065
SALARY GRADE 13 Senior Human Resources Analyst Right of Way Agent Senior Analyst Laboratory Supervisor Water Use Efficiency Supervisor	\$59585814	\$81577960	\$85648358

<u>EXEMPT</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>EXCEPTIONAL PERFORMANCE TOP OF RANGE</u>
SALARY GRADE 14 District Secretary Oracle Business Analyst Associate Engineer/Planner Assistant Facilities/Fleet Manager	\$61526004	\$84728268	\$88958681
SALARY GRADE 15 Senior Government Affairs Specialist Senior Programmer/Analyst Senior Network Administrator	\$63476194	\$87888576	\$92279005
SALARY GRADE 16 Customer Service Manager Construction & Repair Manager Electrical & Controls Project Manager Principal Analyst Collection Systems Manager Laboratory Manager Regulatory Compliance Manager	\$65596401	\$91218901	\$95779346
SALARY GRADE 17 District Safety and Security Manager Accounting Manager Purchasing Manager Engineer/Planner Construction Inspection Manager Water Maintenance Manager Facilities/Fleet Manager Electrical Maintenance Manager Mechanical Maintenance Manager Energy & Water Resource Planner Water Resources Manager	\$67686605	\$94579229	\$99299690
SALARY GRADE 18 Public Affairs Manager Human Resources Manager Treasury Manager Manager of Contracts Admin & Risk Chief Plant Operator Water Quality Manager	\$69876819	\$98179580	\$1030740059
SALARY GRADE 19 Operations Manager Recycled Water Development Manager Water Use Efficiency Manager	\$72107036	\$101799934	\$1068910431

<u>EXEMPT</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>EXCEPTIONAL PERFORMANCE TOP OF RANGE</u>
SALARY GRADE 20 Assistant Controller Senior Engineer Assistant Director of Water Operations	\$74337254	\$1055610302	\$1108410817
SALARY GRADE 21	\$76607475	\$1093810674	\$1148511208
SALARY GRADE 22	\$79067715	\$1134411071	\$1191211625
SALARY GRADE 23 Principal Engineer	\$81567959	\$1175511472	\$1234412046
SALARY GRADE 24 Principal Water Resources Manager	\$83778175	\$1222811933	\$1283912530
SALARY GRADE 25 Treasurer	\$86368428	\$1269112385	\$1332513004
SALARY GRADE 26	\$90308812	\$1336213040	\$1403013692
SALARY GRADE 27 Director of Public Affairs Director of Human Resources Director of Administrative Services Director of Engineering & Construction Director of Wastewater Operations Director of Water Quality	\$94449216	\$1406913730	\$1477314417
SALARY GRADE 28 Director of Planning & Water Resources	\$98789640	\$1481114454	\$1555215177
SALARY GRADE 29 Senior Director of Finance & Administrative Services Senior Director of Water Operations & Quality	\$1032910080	\$1559515219	\$1637515980
SALARY GRADE 30	\$1080510545	\$1642216026	\$1724316827
SALARY GRADE 31	\$1134311070	\$1735416936	\$1822217783

<u>EXEMPT</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>EXCEPTIONAL PERFORMANCE TOP OF RANGE</u>
SALARY GRADE 32 Assistant General Manager	\$ <u>1191111624</u>	\$ <u>1834317901</u>	\$ <u>1926018796</u>
SALARY GRADE 33	\$ <u>1250412203</u>	\$ <u>1938318916</u>	\$ <u>2035319862</u>
SALARY GRADE 34	\$ <u>1313112814</u>	\$ <u>2048419990</u>	\$ <u>2150820990</u>

| *Effective Date* 08/01/1112/01/11

Exhibit "D"

RESOLUTION 2011-

RESOLUTION OF THE BOARD OF
DIRECTORS OF THE IRVINE RANCH WATER DISTRICT,
ORANGE COUNTY, CALIFORNIA MODIFYING
EMPLOYER PAID MEMBER CONTRIBUTIONS
(FOR EXECUTIVE MANAGEMENT)

WHEREAS, the governing body of the Irvine Ranch Water District (District) has the authority to implement Government Code Section 20691; and

WHEREAS, the governing body of the District has a written policy which specifically provides for the normal member contributions to be paid by the employer; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the District of a resolution to commence said Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of the District has identified conditions for the purpose of its election to pay EPMC.

NOW, THEREFORE, that the governing body of the Board of Directors of Irvine Ranch Water District modifies its prior election to pay EPMC as set forth below:

Section 1. The modified EPMC benefit adopted and set forth below in this Resolution shall apply to all employees of Executive Management staff.

Section 2. This benefit shall consist of paying none of the normal member contributions as EPMC.

Section 3. The effective date of this Resolution shall be December 1, 2011.

ADOPTED, SIGNED and APPROVED this 14th day of November, 2011.

President, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

Secretary, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

APPROVED AS TO FORM:
BOWIE, ARNESON, WILES AND GIANNONE

Legal Counsel

Exhibit "E"

RESOLUTION 2011-

RESOLUTION OF THE BOARD OF
DIRECTORS OF THE IRVINE RANCH WATER DISTRICT,
ORANGE COUNTY, CALIFORNIA MODIFYING
EMPLOYER PAID MEMBER CONTRIBUTIONS
(FOR SENIOR MANAGEMENT STAFF)

WHEREAS, the governing body of the Irvine Ranch Water District (District) has the authority to implement Government Code Section 20691; and

WHEREAS, the governing body of the District has a written policy which specifically provides for the normal member contributions to be paid by the employer; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the District of a resolution to commence said Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of the District has identified conditions for the purpose of its election to pay EPMC.

NOW, THEREFORE, that the governing body of the Board of Directors of Irvine Ranch Water District modifies its prior election to pay EPMC as set forth below:

Section 1. The modified EPMC benefit adopted and set forth below in this Resolution shall apply to all employees of Senior Management staff.

Section 2. This benefit shall consist of paying 1% (one percent) of the normal member contributions as EPMC.

Section 3. The effective date of this Resolution shall be December 1, 2011.

ADOPTED, SIGNED and APPROVED this 14th day of November, 2011.

President, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

Secretary, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

APPROVED AS TO FORM:
BOWIE, ARNESON, WILES AND GIANNONE

Legal Counsel

Exhibit "F"

RESOLUTION 2011-

RESOLUTION OF THE BOARD OF
DIRECTORS OF THE IRVINE RANCH WATER DISTRICT,
ORANGE COUNTY, CALIFORNIA MODIFYING
EMPLOYER PAID MEMBER CONTRIBUTIONS
(FOR FULL-TIME REGULAR EMPLOYEES)

WHEREAS, the governing body of the Irvine Ranch Water District (District) has the authority to implement Government Code Section 20691; and

WHEREAS, the governing body of the District has a written policy which specifically provides for the normal member contributions to be paid by the employer; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the District of a resolution to commence said Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of the District has identified conditions for the purpose of its election to pay EPMC.

NOW, THEREFORE, that the governing body of the Board of Directors of Irvine Ranch Water District modifies its prior election to pay EPMC as set forth below:

Section 1. The modified EPMC benefit adopted and set forth below in this Resolution shall apply to all Full-time Regular Employees.

Section 2. This benefit shall consist of paying 3% (three percent) of the normal member contributions as EPMC.

Section 3. The effective date of this Resolution shall be December 1, 2011.

ADOPTED, SIGNED and APPROVED this 14th day of November, 2011.

President, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

Secretary, IRVINE RANCH WATER DISTRICT
and of the Board of Directors thereof

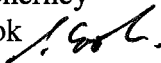
APPROVED AS TO FORM:
BOWIE, ARNESON, WILES AND GIANNONE

Legal Counsel

November 14, 2011

Prepared by: Tony Mossbarger

Submitted by: Debby Cherney

Approved by: Paul Cook 

ACTION CALENDAR

WIRELESS NETWORK UPGRADE

SUMMARY:

Currently, the District provides an open access public Wi-Fi network originally intended for the limited use of visitors and consultants who need internet access while working or visiting the District. As Wi-Fi enabled devices have become more ubiquitous with District staff and as the District continues to move many of its applications to a web-based architecture, the District identified that its current open access public network would be insufficient to meet its security needs and support for efficient use of computing devices. Wireless site surveys were conducted at the Sand Canyon Headquarters and the Operations Center to determine the requirements for providing secure Wi-Fi coverage. The site survey reports indicate that the existing Wi-Fi open access coverage provided for public use does not provide adequate secure Wi-Fi coverage required for both locations, and recommended a configuration that will provide reliable and secure Wi-Fi coverage. Staff requests that the Board approve an addition to the FY 2011-12 General Plant budget at a total cost of \$87,000, and authorize the General Manager to execute a contract with Sirius Computer Solutions to configure and install a secure wireless network at both the Sand Canyon offices and the Operations Center.

BACKGROUND:

The current Wi-Fi open access coverage provided for public use is insufficient due to spotty coverage and lack of the required security for use on the District's enterprise network. The District is expanding the use of Wi-Fi enabled devices to access information more effectively; Wi-Fi enabled devices reduce the amount time required to distribute information and the cost of paper and toner used to print. Staff has determined that an upgrade to the wireless network is needed to support the expanded use of Wi-Fi enabled devices in a secure and reliable manner.

Wireless Site Surveys:

Wireless site surveys were conducted at the Sand Canyon offices and the Operations Center in July 2011 to determine the requirements for providing secure Wi-Fi coverage. (The District maintains Wi-Fi coverage at the San Joaquin Marsh Campus but this site was not surveyed.) The site surveys were conducted using equipment that identified the placement of wireless access points for optimum coverage at each location. The surveys confirmed that the existing open Wi-Fi access provided for public use does not provide adequate secure Wi-Fi coverage for access to the District's enterprise network. The site survey reports also identified the wireless network hardware, software, and implementation services required to provide reliable and secure Wi-Fi coverage for both locations.

Based on the locations identified in the site surveys for wireless access point placement, additional network cabling will be required to connect to the backbone network.

Wireless Network Upgrade Vendor Selection:

The site survey reports identified the hardware, software, and implementation services needed to complete the Wireless Network Upgrade. Staff requested proposals from three firms that have expertise and experience implementing secure wireless networks. Proposals were received from Sirius Computer Solutions, Ciber, and Data Systems Plus. The proposal results were as follows:

<u>Vendor</u>	<u>Proposal Amount</u>
Sirius Computer Solutions	\$77,028
Ciber	\$94,879
Data Systems Plus	\$97,746

Sirius Computer Solutions provided the best overall pricing for the Wireless Network Upgrade, providing the District significant discounts from list pricing, and has experience providing hardware, software, and implementation services to the District on the Oracle ERP System Upgrade project and the Network Server Reliability Improvement project. Staff believes that Sirius is the best equipped to implement a secure wireless network at both the Sand Canyon Headquarters and the Operations Center.

Estimated cost to provide additional network cabling is \$5,800. Sales tax on the hardware was not included in the proposal amount and is estimated to be \$4,122.

Staff requests that the Board approve the addition of a General Plant expenditure in the amount of \$87,000 to the FY 2011-12 Operating Budget and authorize the General Manager to execute a contract with Sirius Computer Solutions in the amount of \$77,028 to purchase and implement the Wireless Network Upgrade.

FISCAL IMPACTS:

Subject to Board approval, a General Plant expenditure will be added to the FY 2011-12 Operating Budget in the amount of \$87,000.

ENVIRONMENTAL COMPLIANCE:

This item is not a project as defined in the California Environmental Quality Act Code of Regulations, Title 14, Chapter 3, Section 15378.

COMMITTEE STATUS:

This item was reviewed by the Finance and Personnel Committee on November 1, 2011.

RECOMMENDATION:

THAT THE BOARD APPROVE THE ADDITION OF A GENERAL PLANT EXPENDITURE IN THE AMOUNT OF \$87,000 TO THE FY 2011-12 OPERATING BUDGET AND AUTHORIZE THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH SIRIUS COMPUTER SOLUTIONS IN THE AMOUNT OF \$77,028 TO PURCHASE AND IMPLEMENT THE WIRELESS NETWORK UPGRADE.

LIST OF EXHIBITS:

Exhibit "A" – Sirius Computer Solutions Wireless Network Upgrade Proposal

Sirius Computer Solutions

Proposal

Cisco Wireless Network Upgrade Project for Sand Canyon and Michelson



BILL TO:
 Irvine Ranch Water District
 15600 Sand Canyon Ave.
 Irvine, CA 92618
 Contact: Tony Mossbarger

DATE October 14, 2011
Account Executive Bryan Libby
Phone 310.937.1536
eFax 210.918.1900
Quotation valid until: November 13, 2011

Item	Description	Qty	Unit List Sales Price	Ext List Sales Price	Ext Discounted Sales Price
Cisco Items:					
AIR-CAP3502I-AK910	802.11a/g/n Ctrir-based 10APs w/CleanAir; Int; A Reg Domain	2	12,950.00	25,900.00	\$15,022.00
AIR-AP-BRACKET-1	802.11n AP Low Profile Mounting Bracket (Default)	20	Included	Included	Included
AIR-AP-T-RAIL-R	Ceiling Grid Clip for Aironet APs - Recessed Mount (Default)	20	Included	Included	Included
AIR-CAP3502I-ABULK	BOM LEVEL BULK PACK PID FOR -A	20	Included	Included	Included
S3G1RK9WB-12423JA	Cisco 3500 Series IOS Wireless LAN Controller-based Recovery	2	Included	Included	Included
CON-SNT-C352IA10	SMARTNET 8X5XNBD 802.11a/g/n Ctrir-based 10APs w/CleanAir	2	Included	Included	Included
AIR-CAP3502I-C-K9	802.11a/g/n Ctrir-based AP w/CleanAir; Int Ant; C Reg Domain	7	1,295.00	9,065.00	\$5,257.70
AIR-AP-BRACKET-1	802.11n AP Low Profile Mounting Bracket (Default)	7	Included	Included	Included
AIR-AP-T-RAIL-R	Ceiling Grid Clip for Aironet APs - Recessed Mount (Default)	7	Included	Included	Included
S3G1RK9WB-12423JA	Cisco 3500 Series IOS Wireless LAN Controller-based Recovery	7	Included	Included	Included
CON-SNT-CAP352IC	SMARTNET 8X5XNBD 802.11a/g/n Ctrir-based AP w/CleanAir; I	7	104.00	728.00	\$600.60
AIR-CT5508-50-K9	5508 Series Controller for up to 50 APs	2	22,495.00	44,990.00	\$26,094.20
AIR-PWR-CORD-NA	AIR Line Cord North America	2	Included	Included	Included
GLC-T=	1000BASE-T SFP	4	395.00	1,580.00	\$916.40
LIC-CT5508-50	50 AP Base license	2	Included	Included	Included
LIC-CT5508-BASE	Base Software License	2	Included	Included	Included
SWC5500K9-70	Cisco Unified Wireless Controller SW Release 7.0	2	Included	Included	Included
CON-SNT-CT0850	SMARTNET 8X5XNBD 5508 Series Control	2	1,800.00	3,600.00	\$2,970.00
WCS-STANDARD-K9	WCS Top Level SKU for AP capacity options.	1	Included	Included	Included
WCS-APBASE-50	WCS-Standard-K9 50 APs. License Only.	1	3,995.00	3,995.00	\$2,317.10
CON-SAU-WCSSTDK9	SW APP SUPP + UPGR WCS Top Level SKU for AP capacity option	1	Included	Included	Included
Total Cisco Items				\$89,858.00	\$53,178.00
Services	Sirius Implementation Services. Please see SOW 14000. Services to be billed separately upon completion.	1		\$23,850.00	\$23,850.00
Total List Price				\$113,708.00	

Irvine Ranch Water District
Sales Price Total: \$77,028.00

* Supply subject to availability. These prices do NOT include applicable taxes, insurance, shipping, delivery, setup fees, or any cables or cabling services or material unless specifically listed above. Please contact your Sirius Account Executive for any configuration changes. This configuration is not valid if altered or changed in any way.

Purchase Authorization:

Until Sirius receives and accepts a Purchase Order or this Purchase Authorization for the solution proposed, pricing provided in this Proposal is subject to change based on manufacturer's pricing schedule. All of the information provided in this Proposal is considered confidential and proprietary between Sirius and Irvine Ranch Water District. Information enclosed in this Proposal may not be disclosed, disseminated, or otherwise revealed to any party outside of Irvine Ranch Water District or any party within Irvine Ranch Water District who is not privileged to receive such information.

This Proposal is subject to the terms and conditions of the above referenced Agreement(s). Acceptance of this Proposal by an authorized representative of Irvine Ranch Water District will be deemed the equivalent of a Customer Purchase Order, which will authorize Sirius to order the Products and Services listed in this Proposal.

Accepted by:
 Irvine Ranch Water District

Approved by:
 Sirius Computer Solutions, Inc.

Signature of Authorized Representative

Signature of Authorized Representative

Printed Name

Printed Name

Title of Authorized Representative

Title of Authorized Representative

Date Signed

Date Signed

Ship to Address:
 Irvine Ranch Water District

Bill to Address:
 Irvine Ranch Water District

PURCHASE/LEASE TERMS AND CONDITIONS

1. **Purchase Price; Payment; Taxes.** Irvine Ranch Water District ("Customer") agrees to pay the total purchase price as shown on the attached Sirius proposal (the "Order"), plus any applicable sales/use tax. These Purchase/Lease Terms and Conditions (the "Terms") are explicitly made a part of the Order and are hereby incorporated therein by reference. Payment is due within thirty (30) days from the date of the invoice. Customer agrees that any payment not received by Sirius within thirty (30) days of the invoice date shall be subject to an annual interest charge of 12%, or the maximum allowed by law, whichever is less.
2. **Payment by Third Party Leasing Company.** If Customer enters into a lease agreement with a third party leasing company to finance the Order, Customer shall remain bound by these terms and conditions, except to the extent that the third party leasing company shall be obligated to pay the total purchase price of the Order. In the event the third party leasing company fails to make such payment, Customer shall make such payment, and Sirius shall convey title (where applicable) to Customer upon payment of the total purchase price of the Order.
3. **Freight Costs; Delivery.** Sirius will arrange for delivery of the products listed in the Order to the installation site. Unless otherwise indicated on the Order, Customer shall be responsible for all costs associated with delivery, including securing proper packaging and insurance.
4. **Title; Security Interest.** Title to each product (other than software) to be sold by Sirius hereunder shall pass to Customer upon payment of the total purchase price therefor, as set forth on the Order. Sirius reserves title to the products sold hereunder as security for the performance of Customer's obligations, until Sirius receives payment in full. Title to software is not being transferred and the right to use software included in the Order shall be governed by a separate license agreement between Customer and the software vendor.
5. **Returns.** No products shall be returned to Sirius by Customer without prior written approval from Sirius.

6. **Limited Warranties.** Sirius represents and warrants that, at the time each product is delivered, Sirius will be the lawful owner of such product (other than software products), free and clear from any liens and encumbrances, and will have full right, power and authority to transfer good and valid title to the same to Customer. Sirius, as the lawful/authorized reseller of the products being delivered to Customer, represents and warrants that such products will be accompanied by the applicable manufacturer's or software licensor's representations and warranties (either directly through the manufacturer/software licensor or as transferred by Sirius) in accordance with the manufacturer's/software licensor's policies. Customer agrees it is relying solely on the manufacturer's representations and warranties (except as expressly set forth above) and Sirius shall have no liability or obligations with respect to any manufacturers' representations and warranties, and any claims by Customer shall be made solely against the manufacturer.

As Sirius is not the manufacturer of the products listed on the Order, Customer waives any claim against Sirius based upon (i) any infringement or alleged infringement of any patent or other intellectual property rights with respect to any products sold hereunder or any software licensed by any third party or (ii) any indemnity claim or obligation made by another against Customer arising out of any such infringement or alleged infringement.

EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, SIRIUS MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, TO CUSTOMER OR TO ANY OTHER PERSON OR ENTITY REGARDING PRODUCTS, SOFTWARE AND/OR SERVICES OR OTHER ITEMS PROVIDED BY SIRIUS UNDER THE ORDER OR THE RESULTS TO BE DERIVED FROM THE USE THEREOF, AND SIRIUS EXPRESSLY DISCLAIMS ANY REPRESENTATIONS AND WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OF TRADE OR COURSE OF PERFORMANCE, AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. **Limitation of Liability.** IN NO EVENT WILL SIRIUS BE LIABLE TO CUSTOMER FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR ANY OTHER NON-DIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF OR DAMAGE TO DATA, LOST PROFITS OR FUTURE REVENUES, COST OF CAPITAL, LOSS OF BUSINESS REPUTATION OR OPPORTUNITY OR ANY CLAIM OR DEMAND AGAINST CUSTOMER BY ANY THIRD PARTY, HOWEVER CAUSED, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SIRIUS' LIABILITY ARISING FROM OR RELATED TO THE ORDER SHALL NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL AMOUNT PAID OR PAYABLE TO SIRIUS HEREUNDER. THIS LIMITATION SHALL APPLY TO THE FULLEST EXTENT PROVIDED BY LAW, AND CUSTOMER AGREES TO RELEASE SIRIUS, ITS EMPLOYEES, AFFILIATES, AND AGENTS FROM AND AGAINST ANY AND ALL LIABILITY EXCEEDING THE LIMITS STATED IN THIS PROVISION, REGARDLESS OF THE REMEDY UNDER WHICH DAMAGES ARE SOUGHT AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN.

8. **Applicable Law.** The Order (including these Terms) and the rights and obligations of the parties hereto shall be construed under and governed by the laws of the State of Texas, without giving effect to principles of conflict of laws.

9. **Arbitration.** Subject to the right of either party to seek emergency injunctive relief from a court of competent jurisdiction in order to protect its rights under this Section 9 or the Order, any and every dispute arising out of or relating to the Order and any claim affecting its validity, construction, effect, performance or termination shall be determined by binding arbitration conducted in Bexar County, Texas, and shall be administered by the American Arbitration Association ("AAA") under its then effective commercial arbitration rules to the extent such rules do not conflict with these Terms. The arbitrators shall have no authority to award consequential, punitive or exemplary damages or any statutory multiple damages, and shall only have the authority to award compensatory damages, arbitration costs, attorney's fees, declaratory relief, and permanent injunctive relief, if applicable, consistent with the terms of this Agreement. All costs of arbitration and the arbitrators (including the legal fees and expenses of the prevailing party) shall be borne by the non-prevailing party. In the event a party seeks emergency injunctive relief in a court of competent jurisdiction pursuant to the Order, such action shall not constitute a waiver of the provisions of this Section 9 including, without limitation, any right to damages, permanent injunctive relief and any other remedy, at law or in equity.

10. **General.** The Order (including these Terms) represents the entire and integrated agreement and understanding between the parties with respect to the attached Sirius proposal and supersedes all prior or contemporaneous understandings and agreements, whether written or oral. Neither party will be liable or deemed to be in default for any delay or failure to perform its obligations hereunder if such failure results directly or indirectly from any cause beyond its reasonable control. The Order may be executed in any number of counterparts, each of which when executed and delivered (which deliveries may be made by email or facsimile) shall be deemed to be an original, and all of which counterparts taken together shall constitute but one and the same instrument. No modification of these Terms, nor waiver of any rights hereunder, shall be valid unless in writing and signed by the party against whom the modification or waiver is sought to be enforced. The waiver of any term hereof shall in no way be construed as a waiver of any other term or breach hereof. Neither the Order nor any of its rights or duties hereunder may be assigned or transferred by Customer, unless Sirius has consented to such assignment or transfer in writing. The Order does not and is not intended to confer any rights or remedies upon any person or entity other than the parties hereto. If any provision of these Terms are held by a court of competent jurisdiction to be contrary to law or otherwise invalid or unenforceable, the remaining provisions hereof shall remain in full force and effect.

Irvine Ranch Water District Cisco Wireless Upgrade

This Statement of Work ("SOW") is made by and between Sirius Computer Solutions, Inc., ("Sirius") and Irvine Ranch Water District ("Customer") for the provision of certain professional services as more fully described herein, ("Services"). Unless otherwise agreed, Sirius reserves the right to subcontract any or all portions of the Services contemplated hereunder. In consideration of the mutual promises and covenants contained herein, the parties agree as follows:

SCOPE OF SERVICES

1. Configuration and deployment services for wireless solution to include (1) Wireless Control System (WCS), (2) Wireless Controllers and (27) Wireless Access Points (APs) for the Headquarters and Operations Center office locations at Customer sites.
2. Installation, configuration and deployment of (1) Wireless Control System (WCS) Cisco management software application on a dedicated VMWare VM with Windows Server 2003 installed.
 - a. To include upload and configuration of scanned in architectural floor plans from each Customer site into WCS.
 - b. Configuration, identification and placement of wireless APs shall be applied to the architectural floor plans uploaded into WCS.
3. Installation, configuration and deployment of (1) Wireless Controller for support of up to 50 wireless AP's at each of the aforementioned Customer sites.
4. Installation, configuration and deployment of wireless encryption for (1) iPad and (1) Windows laptop.
5. Consultation and optimization recommendations for the deployment and configuration of an isolated VLAN for the wireless infrastructure deployed at the Customer sites.
6. Wireless consultation and optimization recommendations for optimal signal strength and RF configuration for wireless AP's deployed at the Customer sites.
7. Documentation of deployed wireless environment and performance and management test results

RESPONSIBILITIES

Sirius Responsibilities

1. Document each task necessary to complete the Services and send a final report to Customer when such tasks are completed.
2. Staff this effort with appropriately skilled individuals to perform the Services.
3. Promptly notify Customer of any unsafe condition about which Sirius has knowledge.

Customer Responsibilities

1. Back-up all data, software, operating systems, software configurations and networking configurations in preparation for and during the performance of the Services. Sirius shall not be liable for any lost, damaged or corrupted data.
2. Have the appropriate software and hardware available at the beginning of the project and ensure that the necessary hardware environment (operating system, network, ports) is configured appropriately and is stable.
3. Provide Sirius with access to Customer's facilities and appropriate resources as reasonably necessary for Sirius to fulfill its obligations hereunder, including but not limited to: an adequate work area, network access, telephones, terminal, access to PC-based printer, remote access to systems (if applicable), and access to an outside telephone line that can be used for internet access.
4. Promptly notify Sirius of any unsafe condition about which Customer has knowledge and to which Sirius resources could be exposed.
5. Promptly notify Sirius of any accidents or injuries involving Sirius employees or subcontractors assigned to Customer.
6. Promptly inspect and accept Services and/or Deliverables upon completion by Sirius.
7. Install all required cabling for support of data and power requirements for (27) wireless AP's, (1) Cisco WCS and (2) Cisco wireless controllers.

Statement of Work

8. Customer will install and hang or mount all wireless AP's, power injectors, antennas and power cords required to support the wireless implementation.

Joint Responsibilities

1. Sirius and Customer will work together to establish acceptance criteria.

DELIVERABLES

This SOW will produce the following specific deliverables and/or objectives ("Deliverables"). Costs contained in this SOW were created based on these Deliverables and objectives only. Tasks, deliverables and responsibilities not explicitly addressed within this SOW are beyond its scope and can only be provided pursuant to the change process described herein or pursuant to a separate SOW as mutually agreed to by both parties. Except as explicitly set forth in this SOW, Sirius shall have no obligation to provide maintenance or support services for Deliverables or to modify or remediate Deliverables in any manner following Customer's acceptance thereof.

1. Configuration of (1) WCS, (2) Wireless LAN Controllers and verification of RF coverage and AP placement for wireless environment at two customer sites.
2. Documentation of the implemented changes to the wireless infrastructure upon completion of stated deliverables and provide a final report to the Customer.
3. Provide a document outlining basic management of the WCS, Wireless Controllers, Wireless APs and installation of encrypted wireless clients on (1) IPod and (1) Laptop.

ASSUMPTIONS

Sirius has created this SOW under the following assumptions. If one or more of these assumptions proves to be invalid, costs and other project factors may be impacted.

1. Where appropriate, knowledgeable resources will be made available for functional questions and making business decisions. It is also expected that Customer staff will participate throughout the implementation.
2. Customer will have the appropriate software and hardware available at the beginning of the project. The necessary hardware environment (operating system, network, ports) is configured appropriately and stable.
3. Sirius will have access to appropriate resources including: network access, telephones and an adequate work area.
4. Customer will install all required cabling for installation and support of data and power requirements for (27) wireless AP's, (1) Cisco WCS and (2) Cisco wireless controllers.
5. Customer will install and hang all cabling, wireless AP's, power injectors and power cords required to support the wireless implementation.

SCHEDULE

Sirius and Customer will determine a schedule for work to be performed once execution of this SOW occurs. The schedule will include expected response times for Customer to review and complete tasks. Sirius will use commercially reasonable efforts to timely complete the Services.

FEE SCHEDULE

Services Costs

The Services and travel costs will be provided for a fixed price of \$23,850. Customer will be invoiced upon completion of the Services.

Travel Costs

Travel costs are included in the Services costs above provided that two weeks' notice is given to Sirius.



Statement of Work

SERVICES COORDINATION

Customer designates the following authorized representative assigned to serve as the primary point of contact for communication, issue escalation, contract administration, project scope change administration, and acceptance of Deliverables and/or Services as set forth herein.

Customer's Authorized Representative	Email Address
Tony Mossbarger (949) 453-5480	mossbarg@irwd.com
Jeff Bertsch	bertschj@irwd.com

SITE OF PERFORMANCE

Performance of the Services will be at the following Customer location(s):

Services Location(s):	Bill To:
15600 Sand Canyon Ave. Irvine, CA 92618	15600 Sand Canyon Ave. Irvine, CA 92618
Ops Center 3512 Michelson Drive Irvine, CA 92612	

ACCEPTANCE

Upon completion of the Services, Sirius will submit a Completion Document in a form set forth at Exhibit A. Customer will return the Completion Document in accordance with its instructions within three (3) business days from the date of receipt thereof. If Customer reasonably believes that Sirius failed to substantially complete the Services in accordance with this SOW, Customer will notify Sirius in writing of its reasons for rejection of the Services or any portion thereof within three (3) business days from Customer's receipt of the Completion Document. If Sirius does not receive the signed Completion Document or written notification of the reasons for rejection within three (3) business days of Customer's receipt thereof, the absence of Customer's response will constitute Customer's acceptance of the Services and a waiver of any right of rejection.

CHANGE REQUESTS

From time to time Customer may request, or Sirius may propose, that Sirius implement a change to the Services reflected in this SOW including, without limitation, (a) a change to the scope of Services, or (b) a change in the prioritization or manner in which Sirius is performing the Services (each, a "Change"). In the event of the occurrence of a mutually agreed Change, Sirius shall prepare and provide to Customer a proposed change order. Sirius shall include in the proposed change order the effect, if any, the Change will have on Sirius' schedule of delivery of the Services, and if there will be any effect on the estimated cost or other Customer payments. Sirius shall not be responsible or liable for any delays, costs or damages resulting from Customer's rejection of, or delay in approving, a proposed change order relating to a Change. In the event the authorized representative of Customer requests that Sirius perform work without a mutually agreed upon change order, Customer shall compensate Sirius for the additional fees and expenses incurred by Sirius related thereto. In the event the Customer desires to retain Sirius for additional services outside the scope of the Services to be provided hereunder, Customer and Sirius agrees to execute and deliver such additional statements of work to evidence the additional services to be provided by Sirius.

NO SOLICITATION

Upon Customer's signature of this SOW and for a period of one year following completion, expiration or termination of this SOW, neither party will, directly or indirectly, solicit to employ or employ any of the current employees or independent contractors of the other party (or subcontractors or independent contractors) who are involved in the performance of Services under this SOW, without obtaining the prior written consent of such party. Notwithstanding the foregoing, solicitation of a party's current employees, subcontractors or independent contractors who are not involved in the performance of Services under this SOW by means of a general media solicitation or trade publication or advertisement shall not constitute a breach of this provision. This provision will survive the completion, expiration, or termination of this SOW and/or the Agreement.

Statement of Work



INTELLECTUAL PROPERTY

Upon full payment of all amounts due Sirius under this SOW and the Agreement, Customer shall own all rights, title, and interest in and to the Deliverables and all changes, modification or improvements related thereto, developed by Sirius under this SOW. Sirius hereby grants, sells, assigns, and conveys to Customer all rights of Sirius in and to the Deliverables and the tangible and intangible property rights relating to or arising out of the Deliverables, including, without limitation, patent, copyright, trade secret, trademark, and other proprietary rights. Deliverables shall not include, and the transfer of any rights hereunder shall not apply to, Background Technology (as hereinafter defined) or any software, materials or other technology which is owned or controlled by a third party ("Third Party Technology").

"Background Technology" means all processes, tools, works of authorship, programs, data, utilities or other intellectual property, in whatever form, that Sirius prepared or had prepared outside the scope of the Services provided hereunder and are included in, or necessary to, the Deliverable. Sirius Background Technology, working papers, scripts, proprietary methodology and confidential information belong exclusively to Sirius, including to the extent included in the Deliverable. Customer is granted a nonexclusive license to use Sirius Background Technology or Third Party Technology for the limited purpose of implementing the Deliverable for Customer's internal purposes.

PROPRIETARY AND CONFIDENTIAL

This SOW contains confidential and proprietary information of Sirius and its vendors. Information contained in this SOW may not be disclosed, disseminated, or otherwise revealed to any party outside of the Customer or any party within the Customer who is not privileged to receive such information without the express written permission of Sirius. There is no obligation to maintain the confidentiality of any information which was known to the Customer prior to receipt of such information from Sirius, or becomes publicly known through no fault of the Customer, or is received without obligation of confidentiality from a third party owing no obligation of confidentiality to Sirius.

ADDITIONAL TERMS

- 1. Payment Terms.** Sirius shall send periodic invoices to Customer for Services rendered. Customer shall pay to Sirius at its corporate offices located at 613 N.W. Loop 410, Suite 1000, San Antonio, Texas 78216, or such other address as Sirius may designate, within thirty (30) days of the date of such invoice. Customer shall be liable for a monthly rate of interest equal to the lesser of one percent (1%) or the maximum allowed by federal or state law, on any unpaid amounts, which shall be in addition to such fees due and owing to Sirius. Any personal property taxes assessable on the Services on or after actual delivery are the responsibility of Customer.
- 2. Limitation of Liability.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR ANY OTHER NON-DIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR FUTURE REVENUES, COST OF CAPITAL, LOSS OF BUSINESS REPUTATION OR OPPORTUNITY OR ANY CLAIM OR DEMAND AGAINST THE OTHER PARTY BY ANY THIRD PARTY, HOWEVER CAUSED, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF SAID PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT WITH RESPECT TO ITEM (iii) UNDER SECTION 3, EACH PARTY'S LIABILITY UNDER THIS AGREEMENT OR OTHERWISE ARISING OUT OF THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL AMOUNT PAID OR PAYABLE BY CUSTOMER TO SIRIUS AS SHOWN ON THE APPLICABLE PURCHASE ORDER OR SOW, AS THE CASE MAY BE, WITH RESPECT TO WHICH SUCH CLAIM RELATES.
- 3. Indemnification.** Subject to the limitations on liabilities and damages set forth herein, each party (the "Indemnifying Party") agrees to indemnify and hold harmless the other party (the "Indemnified Party") for, and to pay the Indemnified Party, the amount of, any loss, liability, claim or damage or expense (including costs of investigation and defense and reasonable attorneys' fees) (collectively, "Damages"), incurred or suffered by the Indemnified Party to the extent directly arising from: (i) any breach of any express written representation or warranty made by the Indemnifying Party in this Agreement; (ii) any breach by the Indemnifying Party of any express written covenant or obligation in this Agreement; (iii) any bodily injury or death to persons or physical damages to or loss of tangible personal property, either of which is caused by the negligence or willful

- misconduct of the Indemnifying Party, and in such case, the Damages, if any, to which the Indemnified Party shall be entitled, shall be limited to those directly attributable to physical bodily injury (including death), or to the lesser of the replacement cost or the cost of repair of such tangible personal property. In no event shall either party be entitled to Damages from the other party arising from damage to such party's intangible personal property.
4. **Exclusive remedy.** The indemnification provided for in Section 3 above shall be the exclusive remedy in any action seeking Damages or any other form of monetary relief brought by any party to this Agreement against another party to this Agreement with respect to any provision of this Agreement or otherwise arising in connection with this Agreement (regardless of the basis of such claims); provided that nothing herein shall be construed to limit the right of a party, in a proper case, to seek injunctive relief for a breach of this Agreement.
 5. **Warranties.** Sirius warrants that Sirius will perform the Services in a professional manner, and according to the description in the SOW. Customer acknowledges and agrees that with respect to the software that is the subject of the Services, if any, Customer is relying solely on the representations and warranties of the licensor of such software and Sirius makes no representations or warranties with respect thereto. Customer waives any and all claims against Sirius based upon (i) any infringement or alleged infringement of any patent or other intellectual property rights with respect to any third party software or (ii) any indemnity claim or obligation made by another against Customer arising out of any such infringement or alleged infringement. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, SIRIUS MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, TO CUSTOMER OR TO ANY OTHER PERSON OR ENTITY REGARDING ANY SERVICES, DELIVERABLES, RESOURCES, EQUIPMENT, SOFTWARE, OR OTHER ITEMS PROVIDED BY SIRIUS UNDER THIS AGREEMENT OR THE RESULTS TO BE DERIVED FROM THE USE THEREOF, AND SIRIUS EXPRESSLY DISCLAIMS ANY REPRESENTATIONS AND WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OF TRADE, OR COURSE OF PERFORMANCE, AND THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR PARTICULAR PURPOSE.
 6. **Amendments and Waiver.** This Agreement may only be amended, modified or waived by a written instrument executed by Customer and Sirius. With respect to Sirius, only the President and Vice Presidents of Sirius are authorized to execute, amend, modify or waive this Agreement or any provision hereof and no other employees of Sirius have any authority (express or implied) to bind Sirius or make any representations or warranties on its behalf regarding the Services to be provided hereunder.
 7. **Termination.** Either party may at any time terminate this SOW upon thirty (30) days' prior written notice. Either party may immediately terminate this Agreement in the event that (i) the other party defaults in a material obligation under this Agreement and fails to cure such default after thirty (30) days written notice or (ii) the other party becomes insolvent, makes a general assignment for the benefit of creditors or becomes subject to any proceeding under any bankruptcy or insolvency laws. Customer shall pay for all Services rendered by Sirius up to the effective date of termination within thirty (30) days of such termination date.
 8. **Assignments; Parties in Interest; No Implied Rights.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. This Agreement shall not be assigned by Customer without the prior written consent of Sirius, which will not be unreasonably withheld. Except as otherwise expressly provided herein, nothing herein expressed or implied is intended or shall be construed to create any third party beneficiary rights.
 9. **Force Majeure.** Neither party shall be liable for any delay in performance or any failure in performance hereunder caused in whole or in part by reason of force majeure, which shall be deemed to include the occurrence of any event beyond the control of the party, including war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot and other acts of civil disobedience, action of a public enemy or other acts of terrorism, failure or delays in transportation, laws, regulations or acts of any national, state or local government (or any agency, subdivision or instrumentality thereof), judicial action, labor dispute, accident, fire, explosion, flood, storm or other act of God, shortage of labor, fuel or raw materials or machinery or technical failures.
 10. **Independent Contractor; Non-Exclusivity.** Under this Agreement, Sirius shall be an independent contractor. This Agreement shall not be construed as creating a partnership, joint venture, agency or employment relationship, or as granting a franchise under either federal or state law. This Agreement shall not preclude Sirius from selling Products and/or providing Services to others, which may result in, among other things, computer programming techniques, products and documentation that are competitive, whether or not such materials are similar to materials developed by Sirius pursuant to this Agreement or otherwise.
 11. **Governing Law; Arbitration; Limited Time for Action.** All matters arising under or relating to this SOW shall be governed by and construed in accordance with the laws of the State of Texas. The parties agree to submit any disputes arising in connection with this SOW or any additions, amendments or supplements thereto to binding arbitration, pursuant to the rules of the American Arbitration Association. No action, regardless of form,



Statement of Work

arising out of or relating to this Agreement may be brought by either party more than two (2) years after the cause of action has accrued.

12. **Entire Agreement.** This Agreement embodies the entire agreement and understanding between the parties hereto relating to the subject matter hereof, and supersedes any prior agreements and understandings relating to the subject matter hereof. Unless otherwise expressly agreed upon by the parties, in the event of any conflict between the terms set forth herein and any other document referenced herein, the terms set forth in this Agreement shall control. CUSTOMER EXPRESSLY WARRANTS, REPRESENTS AND ACKNOWLEDGES THAT NO PROMISE, AGREEMENT, REPRESENTATION OR STATEMENT HAS BEEN MADE TO CUSTOMER OTHER THAN THOSE EXPRESSLY STATED IN WRITING IN THE AGREEMENT OR THIS SOW, UPON WHICH CUSTOMER HAS RELIED IN ENTERING INTO THIS SOW, AND CUSTOMER EXPRESSLY WAIVES AND DISCLAIMS ANY CLAIMS AGAINST SIRIUS FOR FRAUD OR FRAUDULENT INDUCEMENT TO ENTER INTO THIS SOW IN RELIANCE UPON OR BASED UPON ANY SUCH PROMISES, AGREEMENTS, REPRESENTATIONS OR STATEMENTS OR OTHERWISE.

ACCEPTANCE & AUTHORIZATION

This SOW expires if not signed by Customer and returned to Sirius (as set forth below) within thirty (30) days of October 14, 2011. However, this SOW shall not be binding or effective until countersigned by Sirius. If performance of the Services does not commence within ninety (90) days of the date hereof, this SOW will automatically terminate in the absence of a written amendment rescheduling the Services. Please indicate your acceptance of this SOW by signing below and returning to:

Attn: Services Support Team
Fax: 1-866-206-2816

IRVINE RANCH WATER DISTRICT

By: _____

Name: _____

Title: _____

Date: _____

PO# (if applicable):

SIRIUS COMPUTER SOLUTIONS, INC.

By: _____


Name: Bonnie M. Cerrito

Title: Senior Vice President, Sales Operations

Date: _____

SOW Number: 14000

Exhibit A

Completion Document	
Customer	Date
Project Name	SOW #
Customer's Authorized Representative	Sirius Project Manager or Technical Consultant
Services Location(s)	Sirius Phone and Email: (xxx) xxx-xxxx xxxxx@siriuscom.com

Activities/Tasks	Status

Deliverables Provided

Customer will return this Completion Document in accordance with its instructions within three (3) business days from the date of receipt hereof. If Customer reasonably believes that Sirius failed to substantially complete the Services in accordance with the referenced SOW, Customer will notify Sirius in writing of its reasons for rejection of the Services or any portion thereof within three (3) business days from Customer's receipt of this Completion Document. If Sirius does not receive the signed Completion Document or written notification of the reasons for rejection within three (3) business days of Customer's receipt hereof, the absence of Customer's response will constitute Customer's acceptance of the Services and a waiver of any right of rejection.

Authorization: Services described above have been rendered to Customer's satisfaction and will be charged against the referenced Statement of Work.

CUSTOMER NAME

SAMPLE

Signature Date

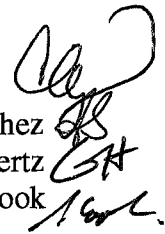
Name (Print) Title

INTERESTED IN BECOMING A SIRIUS CUSTOMER REFERENCE? Yes No
Thank you for considering becoming a Sirius reference for the solution we have provided.

Contact Name Phone

RETURN INSTRUCTIONS: Please return to the Sirius Services Support Team via email at services.support@siriuscom.com or via fax to: (866) 206-2816. If you have any questions or concerns, please contact us at the email address noted above or by phone at the number listed above.

November 14, 2011
Prepared By: F.Sanchez
Submitted by: G. Heiertz
Approved by: Paul Cook



ACTION CALENDAR

INCREASE IN TACTICAL INCENTIVE FUNDING FOR FY 2011-12

SUMMARY:

The Water Conservation Business Plan included a "Tactical Incentives" element to encourage customers to install water conservation devices. Customer participation has been very strong in the residential program. This, combined with changes in the way IRWD's fiscal year co-funding is applied by Metropolitan Water District of Southern California (MWD), has resulted in available funding already being more than 70% depleted. Staff proposes that an additional \$200,000 be allocated to regional residential program Tactical Incentives in FY 2011-12. An amount of \$100,000 in the approved Operating Budget can be reallocated from industrial to residential incentives due to some projects being deferred this year. Staff recommends that the Board authorize an increase to the Operating Budget from over-allocation revenues for the additional \$100,000. Additionally, staff recommends the Board authorize the General Manager to execute an updated Amendment, included as Exhibit "A", to the existing Agreement with the Municipal Water District of Orange County (MWDOC) to increase the Tactical Incentive funding for FY 2011-12 by \$200,000.

BACKGROUND:

Tactical Incentives are one of the key elements of IRWD's Water Use Efficiency Program. Incentive payments are based on the water and wastewater systems avoided costs for each device and are, therefore, cost-effective for IRWD. In some cases IRWD's Tactical Incentives are supplemented by regional rebate programs administered by MWD and offered through MWDOC. The majority of the participation in the residential incentives program is for high efficiency clothes washers. Staff has previously conducted an analysis of the water savings and determined that the average annual savings in IRWD's service area for clothes washers is 0.033 acre-feet. The lifetime avoided cost to IRWD per device is \$615, and the IRWD incentive amount is \$200, making it very cost-effective.

The current program is operating under a Ninth Amendment to the Agreement for Participation and Co-funding by Irvine Ranch Water District in Specified Municipal Water District of Orange County Rebate Programs. Participation in the regional residential program has been very strong, and 70% of the total available funding has been reserved by customers. MWD has contacted IRWD since IRWD's available funding has dropped below MWD's preferred threshold, and to allow time to amend and process revised agreements. Based on residential program participation levels over the past 15 months, staff projects that an additional \$200,000 in Tactical Incentive funding will be required this fiscal year, as shown in Table 1.

Table 1: Projected FY 2011-12 Residential Tactical Incentive Funding Requirements

Tactical Incentive Invoices Paid (July – Sept 2011)	\$ 107,000
Projected Funding Requests (Oct 2011– June 2012)*	\$ 338,000
Total Projected Residential Tactical Funding FY 2011-12	\$ 445,000
<i>Less Approved Residential Tactical Incentive Budget</i>	<i>- \$ 245,000</i>
Additional Tactical Incentive Funding Requirement	\$ 200,000

**Based on analysis of program participation levels over past 15 months*

Staff proposes executing an updated Amendment to the existing Agreement to provide an additional \$200,000 in Tactical Incentive funding for regional residential programs in FY 2011-12. An amount of \$100,000 in the already adopted budget can be reallocated from industrial to residential programs due to some projects being deferred. Staff is requesting an increase of the additional \$100,000 to the FY 2011-12 Operating Budget from over-allocation revenues. This will ensure continued operation of the program and minimize disruptions for IRWD customers.

FISCAL IMPACTS:

The FY 2011-12 Operating Budget would be adjusted to increase the Tactical Incentives by \$100,000 using over-allocation revenues. An additional \$100,000 in the already approved FY 2011-12 Operating Budget would be reallocated from industrial to residential tactical incentives, for a total combined increase to the residential program of \$200,000.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

This item was reviewed at the Water Resources Policy and Communications Committee on November 7, 2011.

RECOMMENDATION:

THAT THE BOARD AUTHORIZE AN INCREASE OF \$100,000 IN THE FY 2011-12 OPERATING BUDGET USING AVAILABLE OVER-ALLOCATION REVENUES, AND AUTHORIZE THE GENERAL MANAGER TO EXECUTE AMENDMENT NO. 10 TO THE AGREEMENT FOR PARTICIPATION AND CO-FUNDING BY IRVINE RANCH WATER DISTRICT IN SPECIFIED MUNICIPAL WATER DISTRICT OF ORANGE COUNTY REBATE PROGRAMS TO ADD \$200,000 FOR COST-EFFECTIVE TACTICAL INCENTIVE WATER USE EFFICIENCY MEASURES IN FY 2011-12.

LIST OF EXHIBITS:

Exhibit “A” – Tenth Amendment to Agreement for Participation and Co-Funding by IRWD in Specified MWDOC Rebate Programs

EXHIBIT "A"

Tenth Amendment to Agreement for Participation and Co-Funding By Irvine Ranch Water District in Specified Municipal Water District of Orange County Rebate Programs

This Tenth Amendment ("Amendment") to the existing "Agreement for Participation and Co-Funding by Irvine Ranch Water District in Specified Municipal Water District of Orange County Rebate Programs" ("Agreement") is entered into by and between the Municipal Water District of Orange County ("MWDOC") and Irvine Ranch Water District ("IRWD"). The Agreement provides for participation and co-funding by IRWD of residential and commercial water use efficiency devices through Metropolitan Water District of Southern California's ("Metropolitan") Save Water Save A Buck ("Save A Buck") and SoCal WaterSmart ("SoCal WaterSmart") rebate programs in IRWD's service area.

This Amendment modifies the Agreement, which includes without limitation all previous amendments and attachments. Except as stated below, this Amendment is effective November 15, 2011, and the Agreement, as amended hereby, remains in full force and effect.

1. "Exhibit A" to the Agreement, entitled "Proposed Rebate Funding Levels FY 2011-2012," is deleted in its entirety and replaced with the following table. The amounts shown below for "Maximum Funding" are cumulative amounts for fiscal year 2011-2012 to date, and reflects an increase in funding of \$200,000 for the SoCal WaterSmart rebate program.

///

///

///

///

///

///

///

///

///

Exhibit A: Proposed Rebate Funding Levels FY 2011-2012

Program	Maximum Funding*	Devices	IRWD Rebate Funding Level Per Device
WaterSmart Program	\$445,000	High Efficiency Clothes Washers	\$200
Program	Maximum Funding*	Devices	IRWD Rebate Funding Level Per Device
Save Water – Save A Buck Rebate Program	\$105,000	Commercial High Efficiency Toilet	\$100
		Zero Water/Ultra Low Water Urinals	\$100
		Connectionless Food Steamer	\$485 Per Compartment
		Commercial Ice Making Machine (Tier III)	\$250
		Hotel Connectionless Food Steamer	\$485 Per Compartment
		Hotel Commercial Ice Making Machine (Tier III)	\$250.00
Total Funding for All Programs	\$550,000		

* Where indicated, "Maximum Funding" amounts for certain programs are subject to the provisions of Paragraph 3 of the Agreement and will be adjusted upon notification by IRWD to transfer funding between programs.

Dated: _____

MUNICIPAL WATER DISTRICT OF
ORANGE COUNTY

By: _____

Kevin P. Hunt
General Manager

Dated: _____

IRVINE RANCH WATER DISTRICT

By: _____

Paul Cook
General Manager

Dated: _____

Approved as to Form:


Bowie, Arneson, Wiles & Giannone


Joan C. Arneson
Legal Counsel

Internal Use Only:	
Program No.	_____
Line Item:	_____
Funding Year:	_____
Contract Amt.:	_____
Purchase Order #:	_____

November 14, 2011

Prepared and

Submitted by: Debby Cherney 

Approved by: Paul Cook 

ACTION CALENDAR

ENTERPRISE RESOURCES PLANNING SYSTEM IMPLEMENTATION UPDATE AND CONSULTANT VARIANCE APPROVALS

SUMMARY:

The District is currently live on both the first wave of implementation of the Oracle Enterprise Resource Planning (ERP) software, which is focused on financial management and human resources, and on the second wave of implementation of the ERP software, which is focused on payroll, employee self-service and benefits administration. The system is now functioning on a transactional basis, but requires additional stabilization and optimization through business intelligence and reporting capabilities in order to achieve the District's expected results. Staff recommends that the Board:

- Approve Variance No. 2 with AST Corporation for its implementation services in the amount of up to \$352,100;
- Approve Variance No. 1 with AST Corporation for its Remote Managed Services contract in the amount of up to \$134,400;
- Approve Expenditure Authorizations for Projects 1278 and 1660, in the sum of \$350,000 each to accommodate the two variances and additional internal IRWD labor; and
- Approve additions to the FY 2011-12 Capital Budget for Projects 1278 and 1660, in the sum of \$350,000 each.

BACKGROUND:

In 2009 staff began the process to procure and implement a commercial off-the-shelf Enterprise Resource Planning (ERP) solution. The key benefits to IRWD of implementing an ERP system include the following:

- Improved management visibility and accountability, including more accurate and timely financial statements, through easy access to reliable real-time data and information;
- Better planning and visibility into funding needs through improved budget-to-actual reporting;
- Increased operational efficiencies utilizing up-to-date project accounting;
- Improved administrative labor efficiencies by minimizing staff time spent extracting and reformatting data;
- Audit compliance through reliable data and robust, flexible reporting capabilities; and
- Enhanced security through improved audit trails.

Status of the Implementation:

The District is currently live on both the first wave of implementation of the Oracle ERP software, focused on financial management and human resources, and is now live on the second wave of implementation of the ERP software, focused on payroll, employee self-service and benefits administration. The system is now functioning on a transactional basis, but requires additional stabilization and optimization through business intelligence and reporting capabilities in order to achieve the District's expected results.

AST Corporation is the systems implementation consultant that was engaged by the District in August 2010 to design and implement both Wave 1 and Wave 2. The Board approved a Professional Services Agreement with AST in the sum of \$3,425,440. In February 2011, the Board approved Variance No. 1 in the sum of \$401,874 to implement hardware and software to ensure high-availability of the ERP system so that system users would not be impacted by a computer failure as well as a comprehensive data protection, data availability, and disaster recovery solution for the Oracle Database. The levels of support beyond go-live in the existing AST contracts are limited to approximately 30 days.

This is the first enterprise software implementation of significance at the District in nearly 20 years, and, as expected, the transition from a homegrown set of software to a commercial off-the-shelf solution has had its challenges. Further complicating this transition are the multiple business process improvements to map the District's practices to align with best and leading business practices. Many of the District's employees have exclusively used the District's AS/400 system for more than 20 years for all financial and human resource applications. At the same time, the District completely re-architected its Chart of Accounts to provide a stronger foundation for more robust and timely performance reporting without the use of secondary spreadsheets. After completing multiple training modules employees have risen to the challenge of learning the new system and staff's comfort level and confidence with the new system has increased steadily.

The Wave 2 "go live" in early October 2011 was a smoother transition than that in Wave 1, largely due to the lessons learned during the first wave. Training, communications and a more robust change management plan were put into effect, with senior management taking a very active role in employee all-hands meetings and open forums where employees could ask questions and raise concerns. The mid-year transition of payroll from a semi-monthly payroll to a bi-weekly payroll went very smoothly; work continues on updating historical information that still needs to be transitioned to correctly state year-end tax reporting on employee W-2s. In addition, the CalPERS health open enrollment period opened up after the go-live and will require additional support from the AST team in order to ensure a successful transition.

Some open items from Wave 1 continue to persist, and the AST team is working with District staff to resolve software capability issues with Oracle directly. Service requests to Oracle are prioritized and, when escalated to "level one" importance, require AST and District staff to be available 24/7 to resolve issues. The District engaged AST under a separate Professional Services Agreement for an amount not to exceed \$30,000 to provide Remote Managed Services to the District to augment IRWD staff resources and work with staff on a variety of Wave 1

stabilization and training items post-go live. Staff recommends extending this agreement for another six months at an average of 160 hours per month performed by a variety of consultants and technical resources.

Variations to AST Contracts:

The District requires variations to both the existing AST contracts for additional services:

- Variance No. 2 for implementation services will provide additional Wave 1 and Wave 2 stabilization services to work with District staff and Oracle on various transactional items, as well as to design and implement additional data elements and dashboard reporting for the Oracle Business Intelligence system, which will ultimately become the District's primary source of reporting on financial and other data. This variance, in the total sum of \$352,100, is set forth in Exhibit "A".
- Variance No. 1 for Remote Managed Services will provide additional resources to resolve Oracle application and database issues as well as to work with the District's technical resources to achieve consistent database optimization. This variance, in the total sum of \$134,400, is set forth in Exhibit "B".

FISCAL IMPACTS:

Subject to Board approval, adjustments to the FY 2011-12 Capital Budget to fund the projects from the IRWD Replacement Funds are summarized in the table below:

Project No.	Current Budget	Addition <Reduction>	Total Budget	Existing EA	This EA Request	Total EA Request
1-1660	\$3,161,100	\$350,000	\$3,511,100	\$3,161,100	\$350,000	\$3,411,100
2-1278	\$3,161,100	\$350,000	\$3,511,100	\$3,161,100	\$350,000	\$3,411,100
Total	\$6,322,200	\$700,000	\$7,022,200	\$6,322,200	\$700,000	\$7,022,200

ENVIRONMENTAL COMPLIANCE:

This item is not a project as defined in the California Environmental Quality Act Code of Regulations, Title 14, Chapter 3, Section 15378.

COMMITTEE STATUS:

This item was reviewed by the Finance and Personnel Committee on November 1, 2011.

RECOMMENDATION:

THAT THE BOARD APPROVE VARIANCE NO. 2 WITH AST CORPORATION FOR IMPLEMENTATION SERVICES IN THE AMOUNT OF UP TO \$352,100, APPROVE VARIANCE NO. 1 WITH AST CORPORATION FOR ITS REMOTE MANAGED SERVICES CONTRACT IN THE AMOUNT OF UP TO \$134,400, APPROVE EXPENDITURE AUTHORIZATIONS FOR PROJECTS 1278 AND 1660, IN THE SUM OF \$350,000 EACH; AND APPROVE ADDITIONS TO THE FY 2011-12 CAPITAL BUDGET FOR PROJECTS 1278 AND 1660, IN THE SUM OF \$350,000 EACH.

LIST OF EXHIBITS:

Exhibit "A" – Variance No. 2 for Implementation Services

Exhibit "B" – Variance No. 1 for Remote Managed Services Support

**IRVINE RANCH WATER DISTRICT
PROFESSIONAL SERVICES VARIANCE**

Exhibit "A"

Project Title: ACCOUNTING SYSTEMS IMPLEMENTATION File No. N/A _____
Date: _____

Variance No.: 2 _____

Project No.: 1660 / 1278 (Legacy 11521 / 21521) _____
Purchase Order No.: 503688

Originator: IRWD ENGINEER/CONSULTANT Other (Explain) _____

Description of Variance (*attach any back-up material*):
See accompanying Committee write-up. _____

Engineering & Management Cost Impact:

Classification	Manhours	Billing Rate	Labor \$	Direct Costs	Subcon. \$	Total \$
Wave 2 Stabilization	1120	\$140				\$156,800
Calendar Year-End Payroll Support	240	\$140				\$ 33,600
Oracle Business Intelligence – reports, dashboards, additional data elements from various IRWD systems	750	\$140				\$ 105,000
Related travel expenses (estimated)						\$ 56,700
Total \$ =						\$ 352,100

Schedule Impact:

Task No.	Task Description	Original Schedule	Schedule Variance	New Schedule

Required Approval Determination:

Total Original Contract	\$3,425,440	<input type="checkbox"/> General Manager: Single Variance less than or equal to \$30,000. <input type="checkbox"/> Committee: Single Variance greater than \$30,000, and less than or equal to \$60,000. <input checked="" type="checkbox"/> Board: Single Variance greater than \$60,000. <input type="checkbox"/> Board: Cumulative total of Variances greater than \$60,000, or 30% of the original contract, whichever is higher.
Previous Variances	\$401,874	
This Variance	\$352,100	
Total Sum of Variances	\$ 753,974	
New Contract Amount	\$4,179,414	
Percentage of Total Variances to Original Contract	_____ 18.0 %	

ENGINEER/CONSULTANT: _____
Company Name

IRVINE RANCH WATER DISTRICT

Project Engineer/Manager _____ Date _____

Thley
Department Director _____ Date 10-27-2011

Engineer's/Consultant's Management _____ Date _____

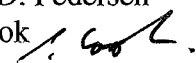
General Manager/Comm./Board _____ Date _____

November 14, 2011

Prepared by: C. Beck

Submitted by: J. Hills/D. Pedersen

Approved by: Paul Cook



ACTION CALENDAR

ORDINANCE AMENDING REGULATIONS FOR WASTEWATER DISCHARGES TO IRWD SEWERAGE FACILITIES TRIBUTARY TO SOCWA FIRST READING AND INTRODUCTION

SUMMARY:

The current Irvine Ranch Water District (IRWD) regulations to control the discharge of industrial waste to IRWD sewerage facilities tributary to the South Orange County Wastewater Authority (SOCWA) were originally adopted by the Los Alisos Water District (LAWD) in 1996. Periodic amendments to these regulations are needed to incorporate the requirements of new state and federal pretreatment regulations and to address changes in administrative procedures. Staff recommends that the Board direct the Secretary to read the Ordinance by title only, waive further reading of the ordinance, and place the Ordinance on the agenda at the next regular meeting for a second reading, hearing, and adoption.

BACKGROUND:

IRWD is required by state and federal laws and regulations to control the discharge of non-domestic wastewater to its collection and treatment systems to prevent pollutants from upsetting the treatment systems or passing through to the environment. To comply with these requirements, IRWD retained the Pretreatment and Source Control Program (Program) that was established by LAWD through Ordinance No. 96-12-1, for the portions of its wastewater collection and treatment systems that are tributary to SOCWA. IRWD adopted Resolution No. 2001-7 on January 22, 2001, to affirm its intention to retain the Program in effect following the IRWD-LAWD consolidation.

Periodic amendments to the Program are needed to incorporate the requirements of new state and federal pretreatment regulations and to address changes in administrative procedures. IRWD recently worked cooperatively with SOCWA to incorporate the necessary changes to the Program. Exhibit "A" provides a draft Ordinance consisting of the updated Program provisions for the portions of IRWD's wastewater collection and treatment systems that are tributary to SOCWA. The proposed revisions to the Program are summarized in Exhibit "B".

The Ordinance will repeal Ordinance No. 96-12-1 and amend regulations for the discharge of wastewater to sewerage facilities of IRWD that are in the SOCWA service area. Adoption of the Ordinance is a two-step process that requires: (1) a first reading and introduction and (2) a public hearing, second reading and adoption, scheduled for November 28, 2011.

FISCAL IMPACTS:

The Program is already being administered and the proposed revisions are not expected to result in a significant fiscal impact to IRWD.

ENVIRONMENTAL COMPLIANCE:

The adoption of the Ordinance is categorically exempt from the California Environmental Quality Act pursuant to the California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15307 and 15308, which provide exemptions for actions by regulatory agencies for protection of natural resources and the environment.

COMMITTEE STATUS:

This item was reviewed by the Engineering and Operations Committee on October 18, 2011.

RECOMMENDATION:

- (1) THAT THE ORDINANCE BE READ BY TITLE ONLY, WAIVE FURTHER READING OF THE ORDINANCE.

Secretary: Read the title of the proposed Ordinance:

ORDINANCE NO. 2011-1

ORDINANCE OF THE BOARD OF DIRECTORS OF IRVINE RANCH
WATER DISTRICT REPEALING ORDINANCE NO. 96-12-1 AND ADOPTING
AMENDED REGULATIONS FOR THE DISCHARGE OF THE WASTEWATER
TO SEWERAGE FACILITIES OF THE IRVINE RANCH WATER DISTRICT
THAT ARE IN THE SOUTH ORANGE COUNTY WASTEWATER
AUTHORITY SERVICE AREA.

- (2) INTRODUCE ORDINANCE NO. 2011-1 AND DIRECT THE SECRETARY TO PLACE THE ORDINANCE ON THE AGENDA FOR THE NEXT REGULAR MEETING OF THE BOARD OF DIRECTORS FOR SECOND READING, HEARING AND ADOPTION.

LIST OF EXHIBITS:

- Exhibit "A" – Ordinance No. 2011-1
Exhibit "B" – Summary of Revisions to Ordinance

**IRVINE RANCH WATER DISTRICT
WASTE DISCHARGE PRETREATMENT
AND
SOURCE CONTROL PROGRAM**

An Ordinance Repealing Ordinance No. 96-12-1 and Adopting
Amended Regulations for the Discharge of
Wastewater to Sewerage Facilities of the
Irvine Ranch Water District
that are in the
South Orange County Wastewater Authority Service Area

ORDINANCE
2011-XX

Prepared by the
Industrial Waste Division
South Orange County Wastewater Authority
for the
Irvine Ranch Water District
2010

Table of Contents

<u>Section</u>		<u>Page</u>
ARTICLE 1 GENERAL PROVISIONS		
101	Introduction.	1
102	Objectives	1
103	Purpose	2
104	Policy	2
105	Applicability	2
106	Availability of Sewerage Facilities	3
107	Notice to Employees.	3
ARTICLE 2 DEFINITIONS AND ABBREVIATIONS		
201	Definitions Contained in Publications	4
202	Definition of Terms	4
203	Abbreviations	13
ARTICLE 3 AUTHORITIES AND POWERS		
301	Authority	14
302	Delegation of Authority	14
303	Enforcement Powers	15
ARTICLE 4 ADMINISTRATION		
401	Irvine Ranch Water District	16
402	SOCWA	16
403	Program Enforcement	17
404	Applications	17
405	Wastewater Discharge Permits.	17
406	Inspections, Monitoring, and Enforcement	17
407	Funding	17
408	Appeals	17
ARTICLE 5 GENERAL DISCHARGE PROHIBITIONS AND LIMITATIONS		
501	Prohibited Discharges	18
502	Prohibition on Dilution	18
503	Prohibition on Biohazardous Wastes	18
504	Prohibition on Toxic or Hazardous Wastes	18
505	Prohibition on Warfare Agents	19
506	Limitations on Disposal of Spent Solutions and Sludges	19
507	Limitations on the Use of Grinders.	19
508	Limitations on Rainwater, Stormwater, and Street Drainage.	19
509	Limitations on Groundwater and Subsurface Drainage	19
510	Limitations on Trucked or Hauled Wastes	19
511	Limitations on Point of Discharge	20
512	Limitations on Radioactive Wastes	20
513	Limitations on Unpolluted Water	20
514	Mass Emission Limit Determination	20
515	Wastewater Strengths and Characteristics.	21
516	Specific Local Limits	22
517	State Requirements	22
518	Federal Requirements	22

**ARTICLE 6
WASTEWATER DISCHARGE PERMITS**

601	Written Authorization	23
602	Types of Wastewater Discharge Permits	23
603	Transfer Prohibition	23
604	Change of Ownership.	23
605	Excess Capacity Regulatory Fee	23
606	Out of Service Area Wastewater Discharge Permits	24
607	Required Information	24
608	Confidential Information	24
609	Class I - Wastewater Discharge (WD) Permit.	24
610	Class II - Wastewater Discharge (WD) Permit	24
611	Class III - Wastewater Discharge (WD) Permit	25
612	Class IV - Special Wastewater Discharge (SWD) Permit	25
613	Non-Industrial Wastewater Discharge (NIWD) Form	25
614	Application for Wastewater Discharge Permit.	25
615	Application for Special Wastewater Discharge Permit.	26
616	Application for Non-Industrial Wastewater Discharge (NIWD)	27
617	Wastewater Discharge Permit Terms, Conditions, and Limitations.	27
618	Wastewater Discharge Permit Duration	28
619	Wastewater Discharge Permit Renewal	29
620	IRWD's Right of Revision	29

**ARTICLE 7
PRETREATMENT EQUIPMENT REQUIREMENTS**

701	Pretreatment.	30
702	Spill Containment	30
703	Monitoring and Metering Equipment.	30
704	Drawing Submittals	31
705	Waste Minimization, Recycling, and Treatment	31

**ARTICLE 8
INSPECTION, MONITORING, SAMPLING,
NOTIFICATION, AND REPORTING REQUIREMENTS**

801	Inspection and Monitoring	32
802	Self-Monitoring and Reporting	32
803	Report of Spill, Slug Discharge, Batch Dumping, or Upset	35
804	Reporting of By-pass.	35
805	Baseline Monitoring Reports (40 CFR 403.12(b)).	36
806	Report on Progress in Meeting Compliance Schedules (40CFR 403.12(c)).	37
807	Report on Compliance with Categorical Pretreatment Standards Deadline (40 CFR 403.12(d))	37
808	Periodic Compliance Report	37
809	Right of Entry.	38
810	Analytical Requirements	38
811	Sample Collection	38
812	Timing	38
813	Notification of Changed Discharge	38

**ARTICLE 9
ENFORCEMENT**

901	Enforcement Scope	39
902	Notice of Noncompliance (NON)	39
903	Notice of Violation (NOV).	39
904	Administrative Orders	40
905	Wastewater Discharge Permit Suspension or Revocation	40
906	Termination of Service.	42
907	Emergency Suspension	42
908	Injunction	42
909	Civil Fines and Penalties	42
910	Criminal Penalties	44
911	Public Nuisance	44
912	Appeals to the General Manager.	45
913	Appeals to the Board of Directors	46
914	Judicial Review	47
915	Payment and Collection of Fees and Charges	47
916	Recovery of Enforcement Costs	48
917	Financial Security Conditions	48
918	Report of Analysis	49
919	Damage to Facilities or Interruption of Normal Operation	49
920	Industrial Waste Pass Through	49
921	Batch Dumps	49
922	Publication of Users in Significant Noncompliance (SNC)	49

**ARTICLE 10
FEES AND CHARGES**

1001	Application Fees.	50
1001	Annual Wastewater Discharge Permit Fees	50
1003	Inspection, Monitoring, and Sampling Charges	50
1004	Delinquency Fees	50
1005	Additional Fees and Charges	50
1006	Recording of Fees and Charges	50

**ARTICLE 11
SEVERABILITY**

1101	Severability.	51
------	-----------------------	----

**ARTICLE 12
REPEAL**

1201	Repeal.	51
------	-----------------	----

**ARTICLE 13
EFFECTIVE DATE**

1301	Effective Date.	51
------	-------------------------	----

THE BOARD OF DIRECTORS OF THE IRVINE RANCH WATER DISTRICT DOES ORDAIN AS FOLLOWS:

**ARTICLE 1
GENERAL PROVISIONS**

101 INTRODUCTION

- A. The Irvine Ranch Water District ("IRWD") was organized in 1961 by authority of the California Water District Law (Section 34000 of the Water Code of the State of California). The IRWD is governed by a five member Board of Directors (Board) elected from the qualified voters in the entire IRWD service area. For the purpose of this ordinance, the IRWD provides water distribution and wastewater collection and treatment services to residential and commercial establishments in the City of Lake Forest area. Wastewater is treated at the IRWD's Los Alisos Wastewater Reclamation Plant. Any unused wastewater is discharged to the ocean via the South Orange County Wastewater Authority's (SOCWA) Aliso Creek Ocean Outfall.
- B. SOCWA is governed by its own Board of Directors with each director representing a member agency (MA). MAs join together in various project committees to construct and operate joint sewerage facilities. The SOCWA Ocean Outfalls are the key facilities in the SOCWA system. Treated wastewater is discharged to the outfalls from SOCWA wastewater treatment plants and the IRWD's Los Alisos Wastewater Reclamation Plant.
- C. SOCWA is the lead agency responsible for the implementation of the provisions contained in this ordinance. The IRWD, a MA of SOCWA may opt to administer and enforce these provisions under SOCWA's oversight, or may contract with SOCWA to have these services provided directly to the IRWD. An interagency agreement has been adopted between the IRWD and SOCWA that defines each agency's duties and responsibilities. This interagency agreement is on file at the IRWD and SOCWA offices.

102 OBJECTIVES

- A. The objectives of this ordinance are to:
 - 1. Ensure compliance with various regulatory agencies and the National Pollutant Discharge Elimination System (NPDES) Requirements.
 - 2. Prevent the introduction of pollutants that may cause interference of sewerage facility operations.
 - 3. Identify the goals, objectives and procedures for complying with federal pretreatment standards.
 - 4. Prevent biosolids contamination.
 - 5. Promote the opportunity to recycle and reclaim wastewaters or biosolids from sewerage facilities.
 - 6. Encourage waste minimization and material substitution by users.
 - 7. Protect sewerage facility employees and the general public who may be affected by wastewater, biosolids and chemical hazards.
 - 8. Encourage the reuse, recycling and reduction of water, wastewater or solids that are discharged to sewerage facilities.
 - 9. Minimize the discharge of volatile organic compounds that could individually or collectively contribute to a decrease in the quality of air emission from sewerage facilities.
 - 10. Establish an effective monitoring program for the control of user discharges to sewerage facilities.
 - 11. Establish an enforcement response plan (ERP).
 - 12. Equitably distribute costs.

102 OBJECTIVES (cont)

13. Prevent the introduction of pollutants into sewerage facilities that may pass through a sewerage facility, inadequately treated, into the receiving waters, or otherwise be incompatible with sewerage facilities.
14. Incorporate the necessary laws and regulations in order to implement and enforce federal, State of California (State), IRWD and SOCWA standards.
15. Seek to identify users that discharge or have the potential to discharge toxic pollutants, non-compatible or excessive amounts of compatible wastes to sewerage facilities.

103 PURPOSE

A. The purpose of this ordinance is to:

1. Provide for the maximum public benefit from the use of IRWD sewerage facilities. This is accomplished by regulating the use of sewerage facilities and wastewater discharges by providing equitable distribution of costs in compliance with applicable state and federal regulations and by providing procedures that will allow the IRWD to comply with requirements placed upon it by other regulatory agencies. Any revenues derived from the application of this ordinance may be used to recover the cost of providing services by the IRWD which includes but are not limited to administration, monitoring, and enforcement.
2. Comply with federal and state regulations which allow the IRWD to meet applicable standards for the final effluent and ocean outfall quality. This ordinance establishes quality and quantity limitations on all wastewater discharges whether or not the discharges adversely affect IRWD's sewerage facilities, processes, ocean outfall effluent quality, or inhibit IRWD's ability to meet its specific discharge limitations. It is the intent of this ordinance to improve the quality of wastewater being received for treatment and to encourage water conservation by all users connected to a sewerage facility. It is the IRWD's intent to discourage the increase in quantity (mass emission) of waste constituents being discharged. This ordinance also imposes pretreatment requirements on the degree of waste authorized to be discharged to the IRWD's sewerage facilities; provides for the issuance of wastewater discharge permits or other controlling mechanism to impose additional case-by-case requirements, as appropriate, and establishes fees and other penalties for noncompliance and/or violation of this ordinance.

104 POLICY

A. The policy of this ordinance is to be:

1. Interpreted in accordance with the definitions set forth in Article 2. The provisions of this ordinance shall apply to the discharge of all wastes carried to IRWD sewerage facilities, and have been liberally construed so as to effectuate the environmental purposes, objectives, and other provisions set forth herein.
2. Committed to wastewater reclamation and reuse in order to provide an alternate source of water supply. The adoption of programs for reclamation through secondary and tertiary wastewater treatment processes may necessitate more stringent quality requirements on wastewater discharges. In the event that more stringent quality requirements are necessary, this ordinance may be amended to reflect those changes.
3. Committed to the beneficial use of biosolids. The implementation of programs to land apply or provide for the marketing and distribution of biosolids may necessitate more stringent quality requirements on waste water discharges. In the event that more stringent quality requirements are necessary, this ordinance may be amended to reflect these changes.
4. Committed to compliance with all applicable state and federal laws including the Clean Water Act in 33 United States Code 1251 et seq. and the general pretreatment regulations described in 40 CFR 403.

105 APPLICABILITY

This ordinance applies to users within the portion of the IRWD service area that discharges wastewater to facilities served by the SOCWA wastewater collection, treatment and disposal facilities and to users outside the IRWD service area who, by wastewater discharge permit or other controlling mechanism, make use of IRWD sewerage facilities that discharge wastewater to facilities served by the SOCWA wastewater collection, treatment and disposal facilities. IRWD also provides sewer service to the portions of its service area that are

served by IRWD's Michelson Water Reclamation Plant and/or regional facilities of the Orange County Sanitation District. This ordinance does not apply to users within or outside the IRWD service area who make use of IRWD sewerage facilities that discharge wastewater to facilities served by IRWD's Michelson Water Reclamation Plant and/or the facilities of the Orange County Sanitation District.

106 AVAILABILITY OF SEWERAGE FACILITIES

If capacity in a sewerage facility as a whole is not available, IRWD may restrict discharge of existing users until sufficient capacity can be made available. The IRWD may refuse immediate service to new users where their proposed quality or quantity of wastewater is unacceptable to the available sewerage facilities.

107 NOTICE TO EMPLOYEES

- A. The IRWD may provide one (1) copy of this ordinance to each user that has received a wastewater discharge permit, upon request.
- B. Users who are issued a wastewater discharge permit may make available to their employees, copies of this ordinance.
- C. Users who are issued a wastewater discharge permit may make copies of it, so as to make it available to all personnel at all times.
- D. A notice may be permanently posted in prominent places advising employees to call the IRWD in the event of an uncontrolled spill or discharge as soon as possible and to submit a report as indicated in section 803 or 804 of this ordinance. The notice shall provide for necessary instruction and information, including but not limited to:
 - 1. IRWD phone numbers.
 - 2. SOCWA phone numbers.
 - 3. Recording the time of the incident.
 - 4. Name and location of user.
 - 5. Type, concentration and volume of the discharge.
 - 6. Corrective action taken.
 - 7. Name of person reporting the incident.

ARTICLE 2
DEFINITIONS AND ABBREVIATIONS

201 DEFINITIONS CONTAINED IN PUBLICATION

- A. Unless otherwise defined herein, terms related to water quality shall be defined in the same manner as in the latest edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association (APHA), The American Water Works Association (AWWA), and the Water Environment Federation (WEF).
- B. The testing procedure for waste constituents and characteristics shall be as described in 40 CFR 136.

202 DEFINITION OF TERMS

- A. Words used in this ordinance in the singular may include the plural and the plural singular. Use of masculine shall mean feminine and the use of feminine shall mean masculine.
- B. The definitions in this ordinance are not intended to narrow the scope of definitions set forth in federal or state regulations. Unless the context specifically indicates otherwise the following terms, or pronouns used in their place, shall be interpreted as follows:
 - 1. Act or "the Act". The Federal Water Pollution Control Act also known as the Clean Water Act (CWA) as well as any amendments, guidelines, limitation or standards promulgated by the EPA pursuant to the Act, (33 USC 1251 et seq).
 - 2. Approval Authority. Refers to the US Environmental Protection Agency (EPA), the California State Water Resources Control Board (SWRCB), or the local California Regional Water Quality Control Board (RWQCB).
 - 3. Baseline Monitoring Report (BMR). A required report for all industrial users subject to a categorical pretreatment standard. A BMR provides information that documents an industrial user's compliance status with all applicable pretreatment standards.
 - 4. Batch Dump. The discharge of pollutants or compatible wastes in a manner or method that is not approved or is prohibited by the IRWD.
 - 5. Best Available Technology (BAT). A level of technology that is based on the very best (state of the art) control and treatment measures that have been developed or are capable of being developed for a particular industrial category.
 - 6. Best Management Practices (BMPs). A set of schedules of activities, prohibitions of practices, maintenance procedures, operating procedures and other management practices used to control a user or a group of similar users' discharge to sewerage facilities. BMPs may include, but are not limited to treatment requirements, operating procedures, and practices to control plant site runoff, spillage of leaks, sludge or waste disposal, or drainage from raw materials storage.
 - 7. Best Practicable Technology (BPT). A level of technology represented by the average of the best existing wastewater treatment performance levels within an industrial category.
 - 8. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter in wastewater using appropriate testing procedure and expressed as a concentration (e.g. mg/L).
 - 9. Biodegradable. A material that can be decomposed by a biological process.
 - 10. Biohazardous Waste. area material that is likely to transmit etiologic agents that cause, or significantly contribute to the cause of, increased morbidity or mortality of human beings as set forth by the State Medical Waste Management Act.

202 DEFINITION OF TERMS (cont)

11. Board. The Board of Directors of the Irvine Ranch Water District (IRWD).
12. Building Sewer. The entire length of private sewage service lateral extending from the building or structure that is connected to a sewerage facility.
13. By-Pass. Any intentional diversion of waste streams around any portion of a user's pretreatment equipment.
14. Categorical Industrial User (CIU). A user subject to a federal categorical pretreatment standard or categorical standard
15. Chain of Custody. A document used to ensure the integrity of a sample, which includes a record of each person involved in the possession of a sample, securing the sample, and final disposal of the sample.
16. Chemical Oxygen Demand (COD). The quantity of oxygen required to oxidize all compounds, both organic and inorganic, in wastewater using the appropriate testing procedure and expressed as a concentration (e.g. mg/L).
17. Class I User. Any user determined by the IRWD that meets the criteria of significant industrial user (SIU) as described in 40 CFR 403.
18. Class II User. Any user determined by the IRWD that is not a SIU and may discharge pollutants or non-compatible wastes which may impact sewerage facilities.
19. Class III User. Any user determined by the IRWD that is not a SIU and may discharge conventional pollutants or compatible wastes, which may impact sewerage facilities.
20. Class IV User. Any user determined by IRWD that may discharge or is proposing to discharge special wastewater that may contain toxic or conventional pollutants, or non-compatible or compatible wastes which may impact sewerage facilities.
21. Code of Federal Regulations (CFR). The code of the Federal Government of the United States of America, which contains all of the federal regulations including environmental regulations.
22. Company Authorized Representative (CAR). An individual designated by the user, who is responsible for signing all submittals to the IRWD and who meets the criteria as described in 40 CFR 403.
23. Compatible Waste. Waste that does not contain toxic pollutants or non-compatible wastes. This may include a combination of, but not limited to, conventional pollutants or other wastes that sewerage facilities are designed to accept and/or remove. Compatible wastes are non-compatible when discharged in quantities that have an adverse effect on sewerage facilities or NPDES Permit, or when discharged in qualities or quantities violating any National Pretreatment Standard or other discharge requirement or as determined by the IRWD.
24. Composite Sample. A collection of individual samples obtained at intervals based on an increment of either flow or time. The resulting mixture, a composite sample, forms a representative sample of the wastestream discharged during the sample period.
25. Control Authority (CA). The Irvine Ranch Water District (IRWD) and/or the South Orange County Wastewater Authority (SOCWA).
26. Conventional Pollutants. Those pollutants which are designated pursuant to section 304(a)(4) of the Act which include, biochemical oxygen demand (BOD), total suspended solids (TSS), fecal coliform, pH, and oil and grease.
27. Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

202 DEFINITION OF TERMS (cont)

28. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
29. Discharger. Any entity which discharges or causes a discharge of wastewater that is directly or indirectly discharged to sewerage facilities. May be interchangeable with indirect discharger, industrial user, permittee, person or user.
30. Discharge Requirements. The requirements of federal, state or local public agencies having jurisdiction over the effluent discharged sewerage facilities or the environment.
31. Disposal. A controlled release to sewerage facilities or to the environment.
32. Effluent. Usually water or wastewater discharged partially or completely treated or untreated from an industrial user or treatment plant, or part thereof.
33. Enforcement. A series of progressively more stringent actions used to seek compliance with federal, state or local laws, regulations, limitations and this ordinance. Any enforcement may include monetary fees, fines or penalties.
34. Environmental Protection Agency (EPA). The U. S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
35. Existing Source. Any source of discharge that is not a "New Source".
36. Fee. Any amount assessed to a discharger for the use of any portion of a sewerage facility which shall include, but not be limited to, connection fees, monthly sewer service, wastewater discharge permit, excess capacity fee, industrial wastewater treatment, laboratory testing, industrial inspection, and monitoring fees.
37. Flow Monitoring Equipment. Equipment and/or structures provided at the user's sole expense to measure, totalize, record and/or sample incoming water to the user's site or the wastewater discharged to sewerage facilities.
38. General Manager. The individual duly designated by the Board of the IRWD to administer this ordinance.
39. Grab Sample. A sample collected from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes..
40. Grease. Includes, but is not limited to fats, oils and grease (FOG), waxes and other non-volatile materials as determined by the appropriate testing procedures.
41. Groundwater. Water that is beneath the surface of the earth.
42. Hazardous Waste. Any waste that is potentially damaging to of the environment or a person's health due to toxicity, ignitability, corrosivity, chemical reactivity or other reasons.
43. Industrial User. Any site that discharges industrial wastewater to sewerage facilities. May be interchangeable with discharger, indirect discharger, permittee or user.
44. Industrial Wastewater. All liquid-carried wastes or wastewater of the community, excluding domestic wastewater, and may include all wastewater from any producing, manufacturing, processing, agricultural, or other operation or location.

202 DEFINITION OF TERMS (cont)

45. Inspector. A person authorized by the General Manager to inspect and/or monitor any industrial user's discharge or anticipated discharge to any sewerage facility.
46. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts any sewerage facilities, any treatment processes or operations or any sludge processes, use or disposal and therefore, is a cause of violation of the IRWD's or SOCWA's NPDES permits (including an increase in the magnitude or duration of a violation) or prevents lawful biosolids or treated effluent use or disposal.
47. Interjurisdictional Agreements (Also referred to as Interagency Agreements). An agreement between SOCWA and any individual or combination of MA's or other local sewerage agency that defines the authority and responsibility to implement the Waste Discharge Pretreatment and Source Control Program and to enforce the regulations contained in this ordinance within the individual and/or combination of MAs, or any other local sewerage agency's service area.
48. Irvine Ranch Water District (IRWD). The agency that is responsible for the adoption of this ordinance and is a MA of SOCWA.
49. Local Limits. A set of specific discharge limits developed and enforced by the IRWD and/or SOCWA upon a user's site in order to implement the general and specific discharge prohibitions as described in 40 CFR 403.
50. Local Sewering Agency. Any public agency or private company responsible for the collection, treatment or disposal of wastewater to sewerage facilities that is duly authorized under the laws of the State to construct and/or maintain sewerage facilities.
51. Lower Explosive Limit (LEL). The point where an explosive gas in an area of atmosphere that is at a sufficient concentration as to result in an explosion if a sufficient ignition source is present.
52. Mass Emission Rate. The weight of material discharged to sewerage facilities during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combinations of constituents.
53. May. Permissive or discretionary.
54. Member Agency (MA). Any one, combination, or all of the individual districts or cities which are members of SOCWA. They are: City of Laguna Beach (CLB), City of San Clemente (CSC), City of San Juan Capistrano (CSJC), El Toro Water District (ETWD), Emerald Bay Service District (EBSD), Irvine Ranch Water District (IRWD), Moulton Niguel Water District (MNWD), Santa Margarita Water District, (SMWD), South Coast Water District, (SCWD) and the Trabuco Canyon Water District (TCWD).
55. Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during the month.
56. National Pollutant Discharge Elimination System (NPDES) Permit. The document issued for the control of discharges to surface waters of the United States as detailed in Section 402 of the Act.
57. National Pretreatment Standards. Includes the following terms: "Prohibited Discharges", "General Prohibitions", "Specific Prohibitions", "Local Limits", "Categorical Standards", "Categorical Pretreatment Standards", "Pretreatment Standards" and "Standards". These terms apply to any pollutant discharge regulations that are promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act that limits and/or prohibits the wastewater discharged by users into a sewerage facility.
58. New Source. Those sources that are new as defined by 40 CFR 403.
59. Non-Compatible Waste. Waste that contains toxic or non-compatible pollutants that may pass-through or cause interference if discharged to sewerage facilities.

202 DEFINITION OF TERMS (cont)

60. Non-industrial Wastewater Discharge (NIWD) Form. A form issued users that are considered to have wastewater of no concern discharging to sewerage facilities. This form may contain BMP's.
61. Normal Working Day. Any period of time during which production or operation is taking place or any period which discharge to sewerage facilities is occurring..
62. North America Industry Classification System (NAICS). An industry classification system that groups establishments into industries based on the activities which they are primarily engaged.
63. Nuisance. Anything which may be injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
64. Ordinance. The document entitled "An Ordinance of Regulations for the Discharge of Wastewater to Sewerage Facilities of the Irvine Ranch Water District that are in the South Orange County Wastewater Authority Service Area" containing IRWD's requirements, conditions and limitations for discharging to sewerage facilities, as may be amended and modified.
65. Pass Through. A discharge from a user which exits sewerage facilities into waters of the United States in quantities or concentrations which, alone or in conjunction with any discharge from other sources, is a cause of a violation of any requirement of IRWD's or SOCWA's NPDES Permits, including an increase in the magnitude or duration of a violation.
66. Permittee. A discharger who has received a permit to discharge wastewater into the IRWD's sewerage facilities subject to the requirements and conditions established by the IRWD. May be interchangeable with discharger, indirect discharger, industrial user, person or user.
67. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, tenant, lessee, renter, governmental entity, or any other legal entity; or their legal representatives, agents or assigns. This definition includes all federal, state and local government entities. May be interchangeable with discharger, indirect discharger, industrial user, permittee or user.
68. Pesticides. Those compounds classified as such under Federal or State law or regulations including, but not limited to, DDT (dichlorodiphenyltrichloroethane, both isomers), DDE (dichlorodiphenylethylene), DDD (dichlorodiphenyldichloroethane), Aldrin, Benzene Hexachloride (alpha, beta and gamma isomers), Chlordane, Endrin, Endrin aldehyde, TCDD (2,3,7,8-tetrachlorodibenzo-p-dioxin), Toxaphene, Alpha-endosulfan, Beta-endosulfan, Endosulfan sulfate, Heptachlor, Heptachlor epoxide, Dieldrin Demeton, Guthion, Malathion, Methoxychlor, Merex and Parathion.
69. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
70. Pollutant. Any substance, constituent, compound or characteristic of wastewaters on which a discharge limitation may be imposed either by the IRWD, SOCWA, or the regulatory agencies empowered to regulate the IRWD and SOCWA.
71. Polychlorinated Biphenyls (PCBs). Those compounds classified as such under Federal and State law or regulations including, but not limited to Aroclors 1016, 1221, 1228, 1232, 1242, 1248, 1254, 1260 and 1262.
72. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into sewerage facilities. This reduction, elimination or alteration of pollutants can be obtained by physical, chemical, or biological process, by process changes or other means except as described by 40 CFR 403.
73. Pretreatment Equipment. Any equipment, structures or devices used for the treatment or flow limitation of industrial wastewater prior to discharge to sewerage facilities.

202 **DEFINITION OF TERMS (cont)**

74. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a national pretreatment standard.
75. Prohibited Discharges. Any prohibitions against the discharge of certain substances; these prohibitions appear in Article 5.
76. Public Agency. The State and any city, county, district, agency, other local authority or public body of or within this state.
77. Rainwater. Water resulting from precipitation which directly falls upon any surface.
78. Regulatory Agencies. Those Agencies having jurisdiction over the operation of the IRWD, including, but not limited to, the following:
 - a. United States Environmental Protection Agency (EPA).
 - b. State Water Resources Control Board (SWRCB).
 - c. Regional Water Quality Control Board (RWQCB).
 - d. South Coast Air Quality Management District (SCAQMD).
 - e. Department of Health Services (DOHS).
 - f. California Environmental Protection Agency (Cal-EPA).
79. Representative Sample Point. A location set forth in the user's wastewater discharge permit or other control mechanism from which wastewater can be collected that is as nearly identical in content and consistency as possible to that of the entire flow of wastewater being sampled. For categorical users, this point shall be at the end of each regulated process, and for all other users shall be determined on a case-by-case basis.
80. Resource Conservation and Recovery Act (RCRA). The RCRA Act of 1976 (42 U.S.A. 6901, et seq.) to implement the conservation and recovery of used or spent resources and as amended.
81. Routine Sampling. Any sampling conducted by the IRWD to verify compliance of a user's discharge to sewerage facilities. Sampling may consist of either grab or composite samples or a combination of both.
82. Sampling Equipment. Equipment or structure provided at the user's sole expense for the IRWD or the user to measure and record wastewater constituents, collection of samples or provide access to plug or terminate the discharge.
83. Scum. Any layer of matter or combination of air and matter that forms on or rises to the surface of a liquid or body of water.
84. Sewage. Wastewater.
85. Sewerage Facilities. Any and all systems used for collecting, conveying, pumping, reclamation, recycling, reuse, storage, transportation, treatment or disposal of sewage, industrial waste of a liquid nature, wastewater, sludge or biosolids that are owned and/or operated by the IRWD, SOCWA or other public agency and which discharge wastewater to systems operated by SOCWA. This definition includes, but is not limited to, publicly owned treatment works (POTW's) as defined by Section 212 of the Act (33 U.S.C. Section 1292), public sewers, trunk lines, sewer mains, wet wells, treatments plants and ocean outfalls which are owned by the IRWD and discharge wastewater to systems operated by SOCWA, or are owned by SOCWA.
86. Shall. Mandatory.

202 **DEFINITION OF TERMS (cont)**

87. Significant Industrial User (SIU). A user as defined by 40 CFR 403, except as provided in paragraphs c and d of this definition, which includes the following:
- a. An industrial users subject to categorical pretreatment standards; or
 - b. An industrial user that: discharges an average of twenty-five (25,000) gallons per day or more of process wastewater to the IRWD or SOCWA (excluding sanitary, noncontact cooling water, and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of IRWD's or SOCWA's sewerage facilities; or is designated as such by the IRWD on the basis that the industrial user has a reasonable potential for adversely affecting the IRWD's or SOCWA's operation or for violating any pretreatment standard or requirement.
 - c. The IRWD may determine that an industrial user subject to categorical pretreatment standards is a Non-Significant Categorical Industrial User (NSCIU) rather than a Significant Industrial User on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - i. The industrial user, prior to IRWD's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - ii. The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
 - iii. The industrial user never discharges any untreated concentrated wastewater.
 - d. Upon a finding that an industrial user meeting the criteria in paragraph b above of this definition has no reasonable potential for adversely affecting IRWD's operation or for violating any pretreatment standard or requirement, IRWD may at any time, on its own initiative or in response to a petition received from a industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user should not be considered a significant industrial user.

202 DEFINITION OF TERMS (cont)

88. Significant Non-Compliance. A violation by a SIU (or any IU which violates paragraphs c, d or h of this definition) as described in 40CFR 403.8(f)(2)(viii)(A-H) which meets one or more of the following criteria:
- a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as described in 40 CFR 403.3(l);
 - b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standards or requirement including instantaneous limits, as described in 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
 - c. Any other violation of a pretreatment standard or requirement as defined in 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that IRWD determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of IRWD or SOCWA personnel or the general public;
 - d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the IRWD's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;
 - e. Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit, other control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - f. Failure to provide within forty-five (45) days after the due date, required reports, including, but not limited to baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;
 - g. Failure to accurately report noncompliance;
 - h. Any other violation or group of violations, which may include a violation of Best Management Practices, which IRWD determines will adversely affect the operation or implementation of the local pretreatment program.
89. Sludge. Any solid, semi-solid or liquid decant, subnate, or supernate from an industrial manufacturing process, utility service or pretreatment equipment.
90. Slug Discharge. A discharge that may exceed the standards and prohibitions contained in Article 5 of this ordinance and significantly exceeds the usual industrial flow or pollutants loading, either mass concentration..
91. Solvent. Any substance that is used to dissolve another substance in it.
92. South Orange County Wastewater Authority. The Joint Powers Authority (JPA) which is formed by the participating MAs. The MAs individually and/or collectively use SOCWA's sewerage facilities. SOCWA is the holder of the NPDES permits, which states the pretreatment and waste discharge requirements for the sewerage facilities.
93. Spent Solutions. Any concentrated industrial wastewater.
94. Spill Containment. Any protection equipment provided and installed at the user's sole expense to prohibit the discharge of non-compatible wastes to sewerage facilities.

202 DEFINITION OF TERMS (cont)

95. Standard Methods. Procedures described in the current edition of Standard Methods for the Examination of Water and Wastewater, as published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation.
96. Stormwater. Any flow occurring during or following any form of natural precipitation, including snowmelt, which runs off, or travels over the ground surface to a drainage area or channel.
97. Street Drainage. Water resulting from surface runoff generated by rainwater, stormwater or other sources.
98. Subsurface Drainage. A method of draining that is situated under the ground (e.g., leachate control system).
99. Surface Runoff. Runoff other than that which is caused by rainfall, stormwater, or street drainage (e.g., car wash runoff, washdown runoff) originating from a user.
100. Total Organic Carbon (TOC). The measure of total organic carbon in domestic or other wastewater as determined by the appropriate testing procedure.
101. Total Suspended Solids. Any insoluble material contained as a component of wastewater and capable of separation from the liquid portion by laboratory filtration as determined by the appropriate testing procedures and expressed in terms of milligrams per liter (mg/L).
102. Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic by the EPA under the provisions of Section 307(a) of the Act or other acts or that can harm human health, aquatic life or the biological treatment processes.
103. Unpolluted Water. Water to which no constituent has been added either intentionally or accidentally.
104. Upset. Any upset that meets the criteria as described in 40 CFR 403.
105. User. Any person or entity which discharges or causes a discharge of wastewater to a sewerage facility, as defined by EPA regulations. May be interchangeable with discharger, indirect discharger, industrial user, permittee or person.
106. Volatile. Natural (plant or animal origin) or synthetic substances that is capable of being evaporated or changed to vapor at relatively low temperatures.
107. Waste. Sewage and any other waste substances, liquid, solid, gaseous or radioactive.
108. Waste Manifest. A receipt which is retained by the generator of hazardous wastes as required by the State or the United States Government pursuant to RCRA or the California Hazardous Materials Act or that receipt which is retained by the generator for recyclable wastes or liquid non-hazardous wastes as required by the IRWD.
109. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing, and institutions, whether treated or untreated, which are discharged or permitted to enter sewerage facilities..
110. Wastewater Constituents and Characteristics. The individual chemical, physical, bacteriological, radiological, volume, flow rate and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.
110. Wastewater Discharge (WD) Permit . The form of authorization from the IRWD issued to an industrial user for the discharge of wastewater. This wastewater discharge permit sets forth the limits and conditions under which the industrial user shall be able to discharge wastewater into sewerage facilities.

203 ABBREVIATION

A. The following abbreviations shall have the designated meanings:

1.	<u>"BAT"</u>	Best Available Technology	
2.	<u>"BMP"</u>	Best Management Practice	
3.	<u>"BMR"</u>	Baseline Monitoring Report	
4.	<u>"BOD"</u>	Biochemical Oxygen Demand	
5.	<u>"BPT"</u>	Best Practicable Technology	
6.	<u>"CA"</u>	Control Authority	
7.	<u>"CAR"</u>	Company Authorized Representative	
8.	<u>"CFR"</u>	Code of Federal Regulation	
9.	<u>"CIU"</u>	Categorical Industrial Use	
10.	<u>"COD"</u>	Chemical Oxygen Demand	
11.	<u>"CWF"</u>	Combined Wastestream Formula	
12.	<u>"DO"</u>	Dissolved Oxygen	
13.	<u>"EPA"</u>	Environmental Protection Agency	
14.	<u>"ERP"</u>	Enforcement Response Plan	
15.	<u>"FOG"</u>	Fats, Oils and Grease	
16.	<u>"FROG"</u>	Fats, Roots, Oil and Grease	
17.	<u>"gpd"</u>	Gallons per Day	
18.	<u>"gpm"</u>	Gallons per Minute	
19.	<u>"IU"</u>	Industrial User	
20.	<u>"IRWD"</u>	Irvine Ranch Water District	
21.	<u>"lb/day"</u>	Pounds Per Day	
22.	<u>"JPA"</u>	Joint Powers Authority	
23.	<u>"LEL"</u>	Lower Explosive Limit	
24.	<u>"MA"</u>	Member Agency	
25.	<u>"MGD"</u>	Million Gallons Per Day	
26.	<u>"MSDS"</u>	Material Safety Data Sheet	
27.	<u>"NAICS"</u>	North America Industry Classification System	
28.	<u>"NPDES"</u>	National Pollutant Discharge Elimination System	
29.	<u>"NSCIU"</u>	Non-Significant Categorical Industrial User	
30.	<u>"O&G"</u>	Oil and Grease	
31.	<u>"PCBs"</u>	Polychlorinated Biphenyls	
32.	<u>"POTW"</u>	Publicly Owned Treatment Works	
33.	<u>"PSES"</u>	Pretreatment Standards for Existing Sources	
34.	<u>"PSNS"</u>	Pretreatment Standards for New Sources	
35.	<u>"RCRA"</u>	Resource Conservation and Recovery Act	
36.	<u>"RWQCB"</u>	Regional Water Quality Control Board	
37.	<u>"SOCWA"</u>	South Orange County Wastewater Authority	
38.	<u>"SIU"</u>	Significant Industrial User	
39.	<u>"SNC"</u>	Significant Non-Compliance	
40.	<u>"SWRCB"</u>	State Water Resources Control Board	
41.	<u>"TDS"</u>	Total Dissolved Solids	
42.	<u>"TOC"</u>	Total Organic Carbon	
43.	<u>"TOMP"</u>	Toxic Organic Management Plan	
44.	<u>"TRC"</u>	Technical Review Criteria	
45.	<u>"TSS"</u>	Total Suspended Solids	
46.	<u>"TTO"</u>	Total Toxic Organics	
47.	<u>"U.S.C."</u>	United States Code	
48.	<u>"mg/L"</u>	Milligrams per Liter	(0.001)
49.	<u>"ug/L"</u>	Microgram per Liter	(0.000001)
50.	<u>"ng/L"</u>	Nanograms per Liter	(0.000000001)
51.	<u>"pg/L"</u>	Picograms pre Liter	(0.000000000001)

**ARTICLE 3
AUTHORITIES AND POWERS**

301 AUTHORITY

- A. The IRWD is regulated by Agencies of the United States Federal Government and the State under provisions of federal and state law. Federal law requires SOCWA and the IRWD and the state grants the IRWD the authority to regulate and/or prohibit by adoption of ordinances, resolutions, and issuance of wastewater discharge permits or other control mechanisms, the discharge of any waste, directly or indirectly, to SOCWA's or the IRWD's sewerage facilities. That authority includes, but is not limited to, the right to establish local limits, conditions, prohibitions, flow rates, prohibit flows discharged to the IRWD's sewerage facilities, and enforce federal, state and local requirements. This may require the implementation of compliance schedules for the installation of flow monitoring equipment by users and for the IRWD to take all actions necessary to enforce its authority, whether within or outside IRWD's service area, including those users to whom this Ordinance is applicable as specified in Section 105.
- B. The IRWD has the authority under California Health and Safety Codes 5471 and 5474 to prescribe, revise, and collect all regulatory fees and to charge for services and sewerage facilities furnished by the IRWD and/or SOCWA either within or without its service area.
- C. Administration and enforcement of the pretreatment program may be carried out on a daily basis by any individual and/or combination of IRWD personnel as granted by an interjurisdictional agreement under the oversight of SOCWA. However, SOCWA retains the authority to assume, at any time, administrative and enforcement powers of the pretreatment program requirements within the IRWD jurisdiction.
- D. The IRWD shall have the authority to seek compliance with 40 CFR 403, its NPDES permit and the provisions of this ordinance by, but not limited to, the following:
 - 1. Issue WD permits.
 - 2. Require the installation of pretreatment equipment.
 - 3. Require the installation of monitoring and/or sampling equipment and/or structures.
 - 4. Require self-monitoring and reporting of the user's discharge.
 - 5. Require the implementation of spill containment plans.

302 DELEGATION OF AUTHORITY

Whenever any authority or power is granted to or a duty imposed upon the General Manager, that authority or power may be exercised or that duty may be performed by a person authorized by the General Manager.

303 ENFORCEMENT POWERS

- A. Enforcement action against a user for being in non-compliance with the provision of this ordinance may include, but is not limited to, the following:
 - 1. Issuing a Warning Notice of Non-compliance letter.
 - 2. Issuing a notice of non-compliance (NON) form.
 - 3. Issuing a notice of violation (NOV) form.
 - 4. Issuing an administrative order (AO) which may also include, but are not limited to, the following:
 - a. Probation Order (PO)
 - b. Show Cause Order (SCO)
 - c. Cease and Desist Order (CDO)
 - 5. Petition the courts for injunction or civil penalties.
 - 6. Signing criminal complaints.
 - 7. Suspension or revocation of an issued wastewater discharge permit or other control mechanism.
 - 8. Termination of services.
 - 9. Administrative complaints.
- B. The issuance of an enforcement action shall not be a bar against, or a prerequisite for, taking any other enforcement action against the user.

**ARTICLE 4
ADMINISTRATION**

401 IRVINE RANCH WATER DISTRICT (IRWD)

- A. The IRWD may implement pretreatment and source control programs in accordance with federal, state, and SOCWA regulations, the provisions of this ordinance, and any interjurisdictional agreements.
- B. If the IRWD desires to perform its own pretreatment and source control program, it shall do so pursuant to the interjurisdictional agreement with SOCWA, under the oversight of SOCWA.
- C. The IRWD, when operating its own pretreatment and source control program, shall keep SOCWA apprised of all activities on a regular and consistent basis. This may be accomplished by, but not limited to, correspondence, meetings and submittal of periodic reports.
- D. The IRWD shall have the authority to use fees and charges provided for within this ordinance when a user is in non-compliance.
- E. The IRWD shall provide SOCWA any and all information and submittals by users for review and central filing.
- F. The IRWD, which may operate its own sewerage facilities, shall coordinate with SOCWA the establishment of technically based local limits. These limits shall be established in accordance with section 402 H. of this ordinance. These limits are to ensure that any user's effluent that is discharged to sewerage facilities does not cause, but is not limited to, the following:
 - 1. Upset, pass through or interference of the biological treatment process.
 - 2. Upset, pass through or interference of the sludge digestion process.
 - 3. Reclaimed or recycled water or generated biosolids to be unable to meet regulatory standards for beneficial reuse or unlimited distribution as defined by regulatory agencies.
 - 4. Violation of any IRWD or SOCWA NPDES permit limitations.
 - 5. Pass-through or interference causing the IRWD or SOCWA to violate any discharge limits of the SOCWA Ocean Outfalls.

402 SOCWA

- A. SOCWA has the authority to implement pretreatment and source control programs in accordance with federal and state regulations and the provisions of this ordinance, SOCWA's pretreatment and source control ordinance and interjurisdictional agreements with the MAs.
- B. SOCWA has the authority to approve all forms used in the pretreatment and source control program.
- C. SOCWA has the authority to, at any time, assume administration and enforcement of this ordinance within the service area of the IRWD.
- D. SOCWA has the authority to locate and terminate any non-compliant discharge that is not discontinued, upon notification that a non-compliant discharge is occurring.
- E. SOCWA has the authority to review all applications, wastewater discharge permits, other control mechanisms and any enforcement actions that have been taken.
- F. SOCWA has the authority to review all ordinances pertaining to pretreatment and source control programs before adoption or implementation by the IRWD.
- G. SOCWA has the authority to audit the IRWD when performing its own pretreatment and source control program.
- H. SOCWA shall oversee the establishment of technically based local limits for the IRWD. A review of the local limits may be conducted every five years or in conjunction with the renewal of SOCWA's NPDES Permits.

403 PROGRAM ENFORCEMENT

- A. The IRWD shall have first priority to enforce the regulations contained within this ordinance in accordance with, but not limited to, the following:
 - 1. SOCWA shall conduct the pretreatment and source control program for the IRWD unless otherwise directed by the interjurisdictional agreement with the IRWD.
 - 2. When the IRWD is performing its own program it shall inform SOCWA of all program activity.
 - 3. The IRWD when performing its own program shall conduct routine sampling of permitted users for constituents the industry must sample and analyze for as part of their self-monitoring program, and inform SOCWA of such activity.

404 APPLICATIONS

All applications for wastewater discharge permits may be reviewed by the IRWD and SOCWA.

405 WASTEWATER DISCHARGE (WD) PERMITS

- A. All proposed WD Permits may be reviewed by the IRWD and SOCWA before being issued to the user.
- B. All issued WD Permits shall be signed, identified and/or numbered by the IRWD or SOCWA.

406 INSPECTIONS, MONITORING AND ENFORCEMENT

- A. SOCWA shall be notified by the IRWD when inspecting, monitoring, or enforcement activities will or have already occurred. This may be done by, but not limited to, the following:
 - 1. Phone contact or correspondence.
 - 2. Submittal of written schedule reports or status reports.
- B. Emergency enforcement actions by the IRWD shall be reported to SOCWA by phone within twenty-four (24) hours during weekdays and within seventy-two (72) hours during weekends, and by written report within five (5) days of their notice to the user.

407 FUNDING

- A. Upon review by SOCWA, the IRWD may establish a schedule of wastewater discharge permit application fees, annual fees, sample analysis charges, and any other fees or charges required to recover reasonable costs of implementing a pretreatment and source control program.
- B. Costs incurred by the IRWD for its pretreatment activity may be collected by, but not limited to invoicing directly to the industrial user.

408 APPEALS

- A. The IRWD shall have first priority to handle appeals in accordance with the provisions of this ordinance.
 - 1. Appeals on staff action shall be directed to the General Manager.
 - 2. Appeals on the General Manager action shall be directed to the Board.
 - 3. Actions by the Board shall be final.
- B. SOCWA shall have the authority to handle appeals where the IRWD has no jurisdiction, or fails to enforce against a user in accordance with the provision of this ordinance or the interjurisdictional agreements.

ARTICLE 5
GENERAL DISCHARGE PROHIBITIONS AND LIMITATIONS

501 PROHIBITED DISCHARGES

- A. These prohibitions apply to all users of sewerage facilities whether or not they are subject to categorical pretreatment standards or any other national, State or local pretreatment standards or requirement.
- B. No user shall discharge directly or indirectly a quality or quantity of wastes, solids, viscous substances, wastewater or pollutants to sewerage facilities, either alone or by interaction with other substances, which cause or will cause:
 - 1. Obstruction of flow.
 - 2. Pass through or interference.
 - 3. Inhibition of biological activity.
 - 4. The final effluent to fail a toxicity test.
 - 5. Corrosive or physical structural damage to sewerage facilities.
 - 6. Danger to life and/or safety of any person.
 - 7. Impairment of the effective maintenance or operation of any sewerage facility.
 - 8. A fire or explosion hazard based upon a closed cup flashpoint of less than 140 degrees Fahrenheit (60°C) using the test method specified in 40 CFR 261.21.
 - 9. The presence of toxic gases, vapors, fumes, or poisonous, noxious or malodorous gas producing substances that may cause acute worker health and safety problems.
 - 10. Any product of any sewerage facility including, but not limited to the final effluent ,biosolids, residue, sludge, or scum to be unsuitable for reclamation, reuse, or disposal.
 - 11. Discoloration or any other condition which affects the quality of the final effluent in such a manner that discharge requirements established by regulatory agencies cannot be met.
 - 12. Conditions which violate any statute, rule, regulation, or ordinance of any public agency or regulatory agency having jurisdiction over the discharge of wastewater through sewerage facilities.
 - 13. The discharge of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, which cause interference or pass through.

502 PROHIBITION ON DILUTION

Except where expressly authorized to do so by an applicable standard, no user shall discharge directly or indirectly to sewerage facilities an increase in the use of water to attempt to dilute a waste being discharged, as a partial or complete substitute for treatment to achieve compliance with this ordinance, a wastewater discharge permit, other control mechanism or to establish an artificially high flow rate for mass emission rates.

503 PROHIBITION ON BIOHAZARDOUS WASTE

No user shall discharge directly or indirectly to sewerage facilities a biohazardous waste without rendering it non-biohazardous prior to discharge if the biohazardous waste is deemed to pose a threat to public health and safety or will result in any violation of applicable waste discharge requirements.

504 PROHIBITION ON TOXIC OR HAZARDOUS WASTE

No user shall discharge directly or indirectly to sewerage facilities, any substance that is defined as a toxic or hazardous waste by regulatory agencies, except those wastes which meet the requirements of 40 CFR 403.

505 PROHIBITION ON WARFARE AGENTS

No user shall discharge directly or indirectly to sewerage facilities any radiological, chemical, or biological warfare agent.

506 LIMITATIONS ON DISPOSAL OF SPENT SOLUTIONS AND SLUDGES

- A. Any spent solutions, sludges, and/or other wastes generated by the user that are a hazardous waste and not treated on site shall be hauled by a registered hazardous waste transporter. The user shall complete and maintain a hazardous waste manifest that documents the removal and transport of the waste.
- B. All hazardous waste manifests shall be retained for a minimum of three (3) years and shall be made available to the IRWD upon request. The IRWD may require a longer period of retention if litigation is being considered.
- C. No user shall batch dump to sewerage facilities without written approval from the IRWD.

507 LIMITATIONS ON THE USE OF GRINDERS

Wastes from industrial or commercial grinders shall not be discharged into a sewerage facility, except wastes generated in packing or preparing food or food products on a case by case bases as approved by the IRWD. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the sewerage facilities.

508 LIMITATION ON RAINWATER, STORMWATER, AND STREET DRAINAGE

No user shall discharge or cause to be discharged directly or indirectly into sewerage facilities any rainwater, stormwater, or street drainage that exceeds the first one-tenth (1/10) of an inch of precipitation from any storm event.

509 LIMITATIONS ON GROUNDWATER AND SUBSURFACE DRAINAGE

- A. Groundwater and subsurface drainage shall not be discharged directly or indirectly to sewerage facilities except as provided herein.
- B. the IRWD may approve the discharge of such water, by wastewater discharge permit or other control mechanism only, when no alternate method of disposal is reasonably available or to mitigate an environmental risk or health hazard.
- C. The discharge of such water shall require the following:
 - 1. A Class IV Special Wastewater Discharge Permit or other control mechanism issued by the IRWD, and
 - 2. Documentation from the user or user's consultant that all other alternate methods of disposal have been exhausted, and
 - 3. User shall pay all applicable fees and charges and shall meet any other conditions as required by the IRWD.

510 LIMITATIONS ON TRUCKED OR HAULED WASTES

- A. No user shall discharge trucked or hauled wastes directly or indirectly to sewerage facilities without written approval from the IRWD and SOCWA. Written approval may be in the form of an individual special wastewater discharge permit or other control mechanism.
- B. No user shall transport waste from one location to another for the purpose of treating or discharging it directly or indirectly to sewerage facilities without written approval from the IRWD and SOCWA. Written approval may be in the form of an individual special wastewater discharge permit or other control mechanism.

511 LIMITATIONS ON POINT OF DISCHARGE

No user shall discharge any wastewater directly or indirectly into a manhole or other opening in a sewerage facility other than through an approved building sewer unless approved in writing by the IRWD.

512 LIMITATIONS ON RADIOACTIVE WASTES

- A. No user shall discharge directly or indirectly to sewerage facilities any radioactive waste except as provided herein:
 - 1. When the user is authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials, and
 - 2. When the waste is discharged in strict conformity with current California Radiation Control Regulations (Cal. Adm. Code Title 17) for safe disposal, and
 - 3. When the user is in compliance with all other rules and regulations of all other applicable regulatory agencies.

513 LIMITATION ON UNPOLLUTED WATER

- A. Unpolluted water such as deionized, steam waste, distilled, single pass cooling water in excess of laboratory usage, blow-down or bleed water from cooling towers, or other evaporating coolers, or commercial swimming pool water drainage shall not be discharged directly or indirectly to sewerage facilities except as provided herein.
- B. The IRWD may approve the discharge of such water when no alternate method of disposal or reuse is reasonably available or there is need to mediate an environmental risk or health hazard.
- C. The discharge of such water shall require the following:
 - 1. A Class IV Special Wastewater Discharge Permit or other control mechanism, and
 - 2. Documentation from the user or user's consultant that all other alternate methods of disposal have been exhausted, and
 - 3. User shall pay all applicable fees and charges and shall meet any other conditions as required by the IRWD.

514 MASS EMISSION LIMIT DETERMINATION

- A. Mass emission limits for non-compatible and compatible wastes that are present or anticipated in the user's wastewater discharge may be set for each user and made an applicable part of each user's wastewater discharge permit or other control mechanism. These limits shall be based on Table I, local limits or national pretreatment standards and the user's average daily wastewater discharge for the past three (3) years, the most recent representative data, or other data acceptable by the IRWD.
- B. To verify the user's operating data, the user may be required to submit an inventory of all wastewater streams and production data.
- C. The IRWD may revise local limit concentration limits or mass emission limits previously established in the user's wastewater discharge permit or other control mechanism at any time, based on current and/or anticipated operating data, the ability to meet NPDES Limits, and/or changes in the requirements of regulatory agencies.
- D. The increased use of water to establish an artificially high flow rate data base for mass emission limit determinations is prohibited.

515 WASTEWATER STRENGTHS AND CHARACTERISTICS

- A. No user shall discharge wastewater directly or indirectly to sewerage facilities with the following strengths and characteristics:
1. Having a temperature higher than 140 degrees Fahrenheit (60 degrees Centigrade) or which causes the temperature at the influent to a wastewater treatment plant to exceed 104 degrees Fahrenheit (40 degrees Centigrade).
 2. Containing substances that may precipitate, solidify, or become viscous at temperatures between 50 degrees Fahrenheit (10 degrees Centigrade) and 104 degrees Fahrenheit (40 degrees Centigrade).
 3. Containing materials which will readily settle or cause an obstruction to flow in sewerage facilities or be detrimental to the proper operation of a sewerage facility. These materials may include, but are not limited to, asphalt, concrete, dead animals, offal ashes, sand, mud, straw, industrial process shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, bones, hair, coffee grounds, egg shells, flashings, diatomaceous earth, seafood shells, and paper products not intended for use in sewerage facilities.
 4. Producing a gaseous mixture that is ten percent (10%) or greater of the lower explosive limit (LEL). Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, ketones, and alcohols.
 5. Having a pH less than 5.0 or greater than 11.0.
 6. Containing recognizable portions of human or animal anatomy.
 7. Containing excessive flow, constituents or other materials, including but not limited to, biological oxygen demand, chemical oxygen demand, total organic carbon, toxic pollutants, suspended solids, grease and oil of animal or vegetable origin total dissolved solids, detergents, surface active agents, phenolic compounds or other substances that are released in a discharge at a flow rate and/or concentration which will cause problems, pass-through or interference with sewerage facilities.
 8. Containing PCBs in excess of 0.01 mg/L as a daily maximum.
 9. Containing pesticides in excess of 0.01 mg/L as a daily maximum.
 10. Violation of any applicable national pretreatment standards, state standards, or other local regulations covering wastewater disposal.

516 SPECIFIC LOCAL LIMITS

- A. IRWD in coordination with SOCWA is authorized to establish local limits pursuant to 40 CFR 403.
- B. No user shall discharge directly or indirectly a quality or quantity of wastes or wastewater containing toxic pollutants, non-compatible or compatible wastes in excess of Table I, Specific Local Limits. All local limits for the metal pollutants are for the “total metal” amount analyzed, unless indicated otherwise.

Table I
Specific Local Limits

Pollutant	Limit (mg/L)
Arsenic	3.4
Cadmium	0.93
Chromium	4.9
Copper	7.2
Lead	4.9
Mercury	0.19
Nickel	9.5
Silver	2.8
Zinc	7.9
Cyanide	4.3
Oil and Grease	300

- C. Local limits are subject to more stringent standards as established by national pretreatment standards. Local limits are deemed to be pretreatment standards for the purposes of Section 307(d) of the Act, and are enforceable under Section 309 of the Act, potentially subjecting an IU to a penalty of \$25,000 per day for each violation.
- D. The IRWD may place more stringent standards within any wastewater discharge permit or other control mechanism issued to a user at any time, based on current and/or anticipated operating conditions presented in the wastewater discharge permit application, the ability to meet NPDES permit limits, and/or changes in the requirements of regulatory agencies.
- E. The IRWD may develop Best Management Practices (BMPs) for use in any wastewater discharge permit or other control mechanism to implement local limits and the requirements in this ordinance.

517 STATE REQUIREMENTS

Upon the adoption of any state requirements on user discharges that are more stringent than federal requirements or the limitations contained in this ordinance, that state standard shall then immediately supersede the federal standard and the limitations of this ordinance.

518 FEDERAL REQUIREMENTS

- A. Upon adoption of a national pretreatment standard more stringent than those contained in this ordinance, the federal standard shall immediately supersede the limitations listed in this ordinance and the affected significant industrial users shall be notified of the new standards and applicable reporting requirements.
- B. The significant industrial user shall comply with the national pretreatment standard within the time provided in the federal regulations that establish such standards even if their wastewater discharge permit has not yet been modified to incorporate the new requirement or standards.
- C. The significant industrial user shall comply with any applicable requirements under Sections 204(b) and 405 of the Act and Subtitles C and D of the RCRA.

**ARTICLE 6
WASTEWATER DISCHARGE PERMITS**

601 WRITTEN AUTHORIZATION

- A. Users may be required to obtain written authorization to use sewerage facilities. This written authorization may be in the form of a wastewater discharge permit or other control mechanism issued by the IRWD. No vested right shall be given or be granted by issuance of wastewater discharge permit or other control mechanism as provided for in this ordinance.
- B. When written authorization is granted, all the types of wastewater discharge permits and any other control mechanisms shall be expressly subject to all provisions of this ordinance and all other regulations, charges for use and fees established by the IRWD. The requirements contained in wastewater discharge permits or other control mechanisms are subject to enforcement under this ordinance and under state and federal law.
- C. All users that have obtained written authorization shall discharge their process wastewater only as provided for by their wastewater discharge permit or other control document.
- D. Compliance with wastewater discharge permit or other control mechanism provisions does not relieve the user from complying with any other applicable federal, state or local requirement.

602 TYPES OF WASTEWATER DISCHARGE PERMITS

- A. The wastewater discharge permit may be in one of four (4) types and is dependent upon process, volume and pollutant characteristics of the users discharge. The four types of wastewater discharge permits are:
 - 1. Class I – Wastewater Discharge (WD) Permit.
 - 2. Class II – Wastewater Discharge (WD) Permit.
 - 3. Class III – Wastewater Discharge (WD) Permit.
 - 4. Class IV – Special Wastewater Discharge (SWD) Permit.

603 TRANSFER PROHIBITION

Wastewater discharge permits issued under this ordinance are for a specific user, for a specific operation at a specific location. Wastewater discharge permits shall not be transferred for an operation at a different location.

604 CHANGE OF OWNERSHIP

- A. Upon the sale or transfer of ownership of any business operating under a wastewater discharge permit issued by the IRWD, the user shall notify the IRWD in writing prior to the change of ownership. The successor owner shall be required to apply for a new wastewater discharge permit prior to the sale or transfer of ownership.
- B. In the event that the original owner fails to notify the IRWD of the sale or transfer of ownership than said original owner may be jointly liable for any charges incurred by the new owner.
- C. This does not relieve the new owner of any liability for non-compliance with any federal, state, or local regulations or the provisions of this ordinance.

605 EXCESS CAPACITY REGULATORY FEE

New users or existing users that expand operations that require substantial sewerage facility capacity may be subject to an excess capacity sewerage facility regulatory fee in an amount and method to be solely determined by the IRWD on a case-by-case basis.

606 OUT OF SERVICE AREA WASTEWATER DISCHARGE PERMITS

Wastewater discharge permits for users located outside of the IRWD's service area but tributary to the IRWD's sewerage facilities shall only be issued after approval by the IRWD. Inspection and sampling of the user's discharge to determine compliance with discharge regulations will be made under a coordinated plan developed by SOCWA, the IRWD and the local sewerage agency. The more stringent discharge regulations and effluent limitations of affected agencies shall apply to the user. The fees for use shall be determined by the IRWD and set forth in an interjurisdictional agreement.

607 REQUIRED INFORMATION

- A. To provide for the equitable use of sewerage facilities, the IRWD shall have the right to require a user to provide all information necessary to maintain compliance with the provisions of this ordinance, including treatability studies to determine whether the wastewater would be compatible with all sewerage facilities. This information shall include, but is not limited to the following:
1. Wastewater discharge flow rates, peak flow rates and volume over any period of time.
 2. Physical, chemical or bacteriological analysis of wastewater.
 3. Information on raw materials, processes and products.
 4. Quantity, disposition and waste manifests of specific liquids, sludge, oil, solvent or other materials.
 5. Details of any pretreatment equipment.
 6. Details of systems to prevent and control the loss of material through spills and slug discharges.
 7. Review of all types of water bills.

608 CONFIDENTIAL INFORMATION

All user information and data on file shall be available to the public and governmental agencies without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the IRWD that the release of such information would divulge information, processes or methods which would be detrimental to the user's competitive position. The demonstration of the need for confidentiality made by the user must meet the burden necessary for withholding such information from the general public under applicable state and federal law. Any such claim must be made at the time of submittal of the information by marking "Confidential Business Information" on each page containing such information within the submittal. Information which is demonstrated to be confidential shall not be transmitted to any governmental agency without prior notification to the user. Information concerning wastewater quality and quantity shall not be recognized as confidential information and shall be available to the public without reservation.

609 CLASS I – WASTEWATER DISCHARGE (WD) PERMIT

No user requiring a Class I WD Permit shall discharge wastewater without obtaining a Class I WD Permit. A Class I user, as determined by the IRWD, proposing to discharge directly or indirectly into a sewerage facility shall obtain a WD Permit by filing an application and paying any applicable fees before discharging.

610 CLASS II – WASTEWATER DISCHARGE (WD) PERMIT

No user requiring a Class II WD Permit shall discharge wastewater without obtaining a Class II WD Permit. A Class II user, as determined by the IRWD, proposing to discharge directly or indirectly into a sewerage facility shall obtain a WD Permit by filing an application and paying any applicable fees before discharging.

611 CLASS III – WASTEWATER DISCHARGE (WD) PERMIT

No user requiring a Class III WD Permit shall discharge wastewater without obtaining a Class III WD Permit. A Class III user, as determined by the IRWD, proposing to discharge directly or indirectly into a sewerage facility shall obtain a WD Permit by filing an application and paying any applicable fees before discharging.

612 CLASS IV – SPECIAL WASTEWATER DISCHARGE (SWD) PERMIT

- A. No user requiring a Class IV SWD Permit shall discharge wastewater without obtaining a Class IV SWD Permit. A Class IV user, as determined by the IRWD, proposing to discharge directly or indirectly into a sewerage facility shall obtain a SWD Permit by filing an application and paying any applicable fees before discharging.
- B. The SWD Permit may be issued when no alternative method of disposal is reasonably available or to mitigate an environmental risk or health hazard.
- C. A user proposing to discharge diverted urban nuisance water may be issued a nuisance special wastewater discharge (NSWD) Permit only after they have completed the requirements contained in the IRWD and SOCWA “Nuisance Flow Diversion Policy.”
- D. A user proposing to discharge trucked or hauled wastes may be issued a hauled special wastewater discharge (HSWD) Permit only after they have completed all requirements set forth by the IRWD on a case by case basis. All trucked or hauled waste users shall comply with the terms, conditions and limitation set forth in a HSWD Permit as determined by the IRWD to be necessary to protect sewerage facilities. A trucked or hauled waste user proposing to discharge waste into a IRWD or SOCWA sewerage facility may be required to obtain both a valid Orange County Health Department permit (where applicable) and a HSWD Permit prior to any discharge.

613 NON-INDUSTRIAL WASTEWATER DISCHARGE (NIWD) FORM

- A. At the sole discretion of the IRWD, any user that is considered to have wastewater of no concern discharging to sewerage facilities may be classified as an NIWD user and issued an NIWD form.
- B. Any user that has had a Class I, II, or III WD Permit that no longer has a discharge containing noncompatible wastes to the IRWD’s sewerage facilities may be classified as an NIWD user and issued an NIWD form.
- C. The main functions of the NIWD form are to assist in maintaining the IRWD’s user survey data base and to track and verify by inspection any user that is considered to have wastewater of no concern discharging to sewerage facilities.

614 APPLICATION FOR WASTEWATER DISCHARGE PERMIT

- A. Users required to obtain a WD Permit shall complete and file with the IRWD, prior to commencing discharge, if applicable, an application on a form prescribed by the IRWD.
- B. Users seeking a WD Permit may be required to submit, in unit and terms appropriate for evaluation, the following information:
 - 1. Name, address of the site, NAICS numbers (if applicable), and a description of the manufacturing process or service activity.
 - 2. Name, address of any and all, (whichever is applicable) principals/owners/major share holders of company; articles of incorporation; most recent report of the Secretary of State and business license.
 - 3. Flow, volume, time, duration and type of wastewater to be discharged.
 - 4. Name, address and contact information of the individual who shall serve as the CAR.
 - 5. Name and address of property owner, landlord and/or manager of the property.
 - 6. Water supplier and water account numbers.

614 APPLICATION FOR WASTEWATER DISCHARGE PERMIT (cont)

7. Wastewater constituents and characteristics as required or deemed necessary by the IRWD, including but not limited to, those mentioned in this ordinance. These constituents and characteristics shall be determined by a laboratory of the discharger approved by the IRWD.
 8. Number of employees and average hours of work per employee per day.
 9. Waste minimization, best management practices and water conservation practices.
 10. All production records, if applicable.
 11. Waste manifests, if applicable.
 12. Tons of cooling tower capacity, if applicable.
 13. List of other environmental control permits and EPA Hazardous Waste Generator number, if applicable.
 14. Application signed by CAR of the user and contains the certification statement in Section 802.E
 15. Any other information as specified.
- C. Users may be required to submit site floor, mechanical, plumbing, toxic organic management, and spill containment plans for evaluation.
- D. After evaluation of the data furnished, the IRWD may issue a WD Permit, a NIWD Form or other control mechanism subject to the terms and conditions set forth in this ordinance and as otherwise determined by the General Manager to be necessary to protect sewerage facilities.
- E. The WD Permit application may be denied if the user fails to establish to IRWD's satisfaction that adequate pretreatment equipment is included within the user's plans to ensure that the discharge limits will be met or if the user has, in the past demonstrated an inability to comply with applicable discharge limits or has in the past demonstrated an inability to keep current with invoices for the items such as WD Permit fees, noncompliance fees, civil penalties, administrative civil penalties or charge for use.

615 APPLICATION FOR SPECIAL WASTEWATER DISCHARGE PERMIT

- A. Users required to obtain a SWD Permit shall complete and file with the IRWD, prior to commencing discharge, if applicable, an application on a form prescribed by the IRWD.
- B. Users seeking a SWD Permit may be required to submit, in unit and terms appropriate for evaluation, the following information:
1. Name, address and a description of the wastewater to be discharged.
 2. Name, address and contact information of the individual who shall serve as the CAR.
 3. Volume, time and duration of wastewater to be discharged.
 4. Construction and plumbing plans, if applicable.
 5. Detailed analysis of the alternatives for wastewater disposal, if applicable.
 6. Wastewater constituents and characteristics as required or deemed necessary by the IRWD, including but not limited to, those mentioned in this ordinance. These constituents and characteristics shall be determined by a laboratory selected by the user acceptable to the IRWD.
 7. Any other data as specified.

615 APPLICATION FOR SPECIAL WASTEWATER DISCHARGE PERMIT (cont)

- C. Users may be required to submit site, mechanical, plumbing, toxic organic management, and spill containment plans for evaluation if applicable.
- D. After evaluation of the information furnished, IRWD may issue a SWD Permit or other control mechanism subject to the terms and conditions set forth in this ordinance and as otherwise determined by the General Manager to be necessary to protect sewerage facilities.
- E. In the case of diverted urban nuisance water, after evaluation of the information furnished, IRWD may issue a NSW Permit, subject to the terms and conditions set forth in this ordinance and the "Nuisance Flow Diversion Policy" as otherwise determined by the General Manager to be necessary to protect sewerage facilities.
- F. The SWD Permit application may be denied if the user fails to establish to IRWD's satisfaction that adequate pretreatment equipment is included within the user's plans to ensure that the discharge limits will be met or if the user has, in the past demonstrated an inability to comply with applicable discharge limits or has in the past demonstrated an inability to keep current with invoices for items such as SWD Permit fees, non-compliance fees, civil penalties, administrative civil penalties or charges for use .

616 APPLICATION FOR NON-INDUSTRIAL WASTEWATER DISCHARGE (NIWD) FORM

- A. Users meeting the criteria for a NIWD form may be asked to complete and file with the IRWD an application on a form prescribed by the IRWD.
- B. Information on users that meet the criteria for a NIWD form may be obtained solely by the IRWD during site inspections or by other means.
- C. After evaluation of the data furnished by the user or from information collected solely by the IRWD an NIWD form may be issued.

617 WASTEWATER DISCHARGE PERMIT TERMS, CONDITIONS, AND LIMITATIONS

- A. All wastewater discharge permits shall be expressly subject to all terms, conditions, and limitations of this ordinance, other regulatory agencies, Best Management Practices, charge for use, and fees established by the IRWD. The terms, conditions, and limitations in a WD Permits are subject to enforcement by the IRWD in accordance with this ordinance, and applicable state and federal regulations. Any WD Permit violation shall be a violation of this ordinance.
- B. The terms, conditions, and limitations of any issued WD Permit may be subject to modification and changes by the IRWD during the life of the WD Permit based on:
 - 1. The discharger's current or anticipated operating data.
 - 2. The IRWD's current or anticipated operating data.
 - 3. Changes in the requirements of regulatory agencies.
- C. Users may request a modification to the terms, conditions, and limitations of an issued WD Permit. The request shall be in writing stating the requested change, and the reasons for the change. The IRWD shall review the request, make a determination and respond in writing. A request for a wastewater discharge permit modification does not relieve a user from complying with its existing WD Permit terms, conditions and limitations.
- D. Any changes to the terms, conditions or limitations in a WD Permit shall include a reasonable time schedule for compliance where allowed under applicable federal, state and local law.

617 WASTEWATER DISCHARGE PERMIT TERMS, CONDITIONS, AND LIMITATIONS (cont)

- E. A WD Permit may contain any, but is not limited to, the following terms, conditions and limitations:
1. Effluent limits, including mass emission rates, concentration limits or best management practices based on applicable pretreatment standards for regulated pollutants.
 2. Discharge limits based upon the combined wastestream formula (CWF).
 3. Limits on rate and time of discharge or requirements for flow regulation and equalization.
 4. Requirements for the user to make notification in writing prior to the physical expansion or any change to any wet processes. Notification is also required in the event of changes in production if production-based limits are being applied.
 5. Requirements for the user to construct and maintain, at the user's own expense, pH control, flow monitoring and/or sampling equipment and/or structures.
 6. Requirements for submission of technical reports, discharge reports and waste manifests.
 7. Location of sampling point(s) and the requirements to self-monitor.
 8. Requirements for maintaining plant records relating to wastewater discharge and waste manifests as specified by the IRWD.
 9. Predetermined rates or values for wastewater strength characteristics.
 10. Requirements to submit copies of water bills.
 11. Other provisions which may be applicable to ensure compliance with this ordinance.
 12. Other terms, conditions and limitations determined by the IRWD to be necessary to protect sewerage facilities.
 13. Predetermined rate or value for BOD and suspended solids.
 14. Requirements for notification of bypass discharges.
 15. Requirements for notification of any new introduction of wastewater constituents or any substantial change in the volume or character of wastewater constituents.
 16. Requirements to meet compliance schedules.
 17. Requirements for the user to control slug discharges by developing and implementing a slug discharge control plan if determined by the IRWD to be necessary as described in 40 CFR 403.8(f)(1)(iii)(B)(6).
 18. Requirements for the user to control toxic organic discharges by developing and implementing a toxic organics management plan if determined by the IRWD to be necessary.

618 WASTEWATER DISCHARGE PERMIT DURATION

All wastewater discharge permits shall not exceed a duration of five (5) years. Any wastewater discharge permit may be issued for a shorter period of time at the sole discretion of the IRWD.

619 WASTEWATER DISCHARGE PERMIT RENEWAL

- A. The user may file a new application prior to the expiration date of any existing wastewater discharge permit for renewal.
- B. Discharge after the termination date of a wastewater discharge permit is prohibited except:
 - 1. If the user filed a timely renewal application which is complete, and:
 - 2. The IRWD, through no fault of the user, does not issue a new wastewater discharge permit with an effective date on or before the expiration date of the previous wastewater discharge permit.

620 IRWD's RIGHT OF REVISION

- A. The IRWD reserves the right to establish, by ordinance, or by wastewater discharge permit or by Best Management Practices, or by any other control mechanism, more stringent standards or requirements on the discharge of users to sewerage facilities
- B. The terms, conditions and limitations contained in any WD Permit, Best Management Practices or other control mechanism may be modified by the IRWD at any time. This modification shall be by written notification to the user.

**ARTICLE 7
PRETREATMENT EQUIPMENT REQUIREMENTS**

701 PRETREATMENT

- A. All pretreatment equipment or devices may be reviewed by the IRWD. Such review shall not absolve the user of any responsibility of meeting prohibitions, limitations, requirements, standards and local limits on discharges.
- B. User shall provide wastewater treatment as necessary which may include, but is not limited to, the use of best available technology (BAT) or best practicable technology (BPT) concepts to comply with this ordinance and shall achieve compliance with all prohibitions, limitations, standards and local limits before discharging to any sewerage facility. Any equipment required to pretreat, sample, control or transport wastewater shall be provided and maintained in proper operating condition at all times at the user's sole expense.
- C. User may be required to submit waste analysis plans, contingency plans, and meet other requirements to ensure proper operation of pretreatment equipment and compliance with their wastewater discharge permit limits and this ordinance.
- D. No user shall increase the use of water or in any other manner attempt to dilute a discharge as a partial or complete substitute for treatment to achieve compliance with this ordinance, a wastewater discharge permit or other control mechanism.

702 SPILL CONTAINMENT

- A. Each user shall provide spill containment for protection against the discharge of prohibited materials or other wastes regulated by this ordinance. This protection shall be designed in accordance with reasonable engineering standards to secure the discharges and to prevent them from entering into a sewerage facility. This equipment shall be provided and maintained at the user's sole expense.
- B. If it can be shown that a user's spill containment equipment did not prevent a discharge which caused the IRWD to violate its requirements, incur additional operational expenses, or suffer loss or damage to sewerage facilities, that user shall be responsible for any costs or expenses, including assessment by other agencies or any costs incurred by the IRWD.
- C. A notice may be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a prohibited discharge. Employers shall ensure that all employees who may cause or suffer such a prohibited discharge to occur are advised of the emergency notification procedure.

703 MONITORING AND METERING EQUIPMENT

- A. The user may be required to construct and maintain in proper operating condition at the user's sole expense, flow and/or constituent monitoring and/or sampling equipment.
- B. Any sample taken from a user's sample point shall be considered to be representative of the discharge to sewerage facilities.
- C. Monitoring or metering equipment may be required to include a security enclosure that can be locked with a IRWD provided lock during any sampling and monitoring periods.
- D. Location of the monitoring or metering equipment shall be subject to approval by the IRWD.
- E. The IRWD shall be provided clear and uninterrupted access to monitoring or metering locations.
- F. When one or more users discharge into a sewerage facility, those users may be required to install a separate monitoring location for each user. Also in the judgment of the IRWD, if there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, that user may be required to install separate monitoring locations for each operation. Separate monitoring may also be required for different processes subject to categorical pretreatment standards.

703 MONITORING AND METERING FACILITIES (cont)

- G. Users with the potential to discharge flammable solutions may be required to install and maintain at their sole expense a combustible gas detection meter.
- H. All wastewater samples shall be representative of the user's discharge. Wastewater monitoring and flow measurement equipment shall be operated, kept clean, and maintained in good working order at all times. Failure by the user to keep its monitoring equipment in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

704 DRAWING SUBMITTALS

- A. Detailed plans of any proposed construction of pretreatment, spill containment, monitoring and metering equipment and operating procedures shall be submitted for review by the due date contained within a written request from the IRWD. The review of the plans and procedures shall in no way relieve the user of the responsibility of modifying the equipment or procedures in the future as necessary to meet the requirements of this ordinance or any other requirement of other regulatory agencies.
- B. All drawings shall include:
 - 1. North arrow.
 - 2. Scale size.
 - 3. User name and address.
 - 4. Date drawn or revised.
 - 5. Location of proposed pretreatment, spill containment, monitoring and metering equipment.
- C. The IRWD may require drawings to scale depicting the manufacturing process (waste generating source), spill containment, pretreatment and/or monitoring or metering equipment.
- D. The IRWD may require a schematic drawing of the pretreatment, spill containment, monitoring and metering equipment.
- E. The IRWD may require the drawings be prepared by a California registered chemical, mechanical, or civil engineer.

705 WASTE MINIMIZATION, RECYCLING, AND TREATMENT

- A. User shall provide waste minimization plans to conserve water, investigate product and/or materials substitution, maintain inventory control records and implement employee education, and other steps as necessary to minimize waste produced by the due date contained within a written request from the IRWD.
- B. Waste minimization, recycling and treatment shall be demonstrated wherever feasible in the following priority:
 - 1. Source reduction which includes, but is not limited to, substitution of less hazardous materials, spill prevention and control measures, proper storage and handling of chemicals and raw materials.
 - 2. Recovery and reuse which includes, but is not limited to, substitution of less hazardous materials, spill prevention and control measures, proper storage and handling of chemicals and raw materials.
 - 3. Treatment which includes, but is not limited to, pretreatment techniques as to render hazardous wastes harmless or suitable for disposal to sewerage facilities.

ARTICLE 8
INSPECTION, MONITORING, SAMPLING,
NOTIFICATION, AND REPORTING REQUIREMENTS

801 INSPECTION AND MONITORING

- A. The IRWD may inspect and sample the wastewater generating and disposal equipment of any user's site to ascertain whether the requirements of this ordinance are being met and the user is complying with all requirements.
- B. Where a user has instituted security measures requiring proper identification and clearance before entry onto the premises, the user shall make all necessary arrangements with its security in order that the inspectors of the IRWD shall be allowed to enter the premises without delay for the purpose of performing their authorized duties.
- C. The IRWD shall have the right to set up on the user's property or any other locations, as determined by the IRWD, such devices as are necessary to conduct sampling or metering operations of the user's discharge to sewerage facilities.
- D. In order for the IRWD to determine the wastewater characteristics of a discharge for compliance with this ordinance, wastewater discharge permit, or other control mechanism requirements, the user may be required to make available for inspection and copying all records including, but not limited to, production records, required self-monitoring and chain of custody records, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, documents associated with Best Management Practices and waste manifests without restriction, but subject to the confidential provisions set forth in this ordinance. All records shall be maintained by users for a minimum of three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user, or when the user has been notified by written request from the IRWD. Such records shall be made available to the IRWD upon request.
- E. Any temporary or permanent obstruction to safe and easy access to the user's site to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the IRWD and shall not be replaced. The costs of cleaning such access shall be at the sole expense of the user.
- F. Inspection and/or sampling of any user's site shall be conducted at any time, by any means, in any amount, at any location, on any limit, requirement or pollutant in a manner and frequency as determined at the sole discretion of the IRWD.

802 SELF-MONITORING AND REPORTING

- A. Self-monitoring of wastewater pollutants, constituents and characteristics of the user needed for determining compliance with any limitations and requirements as specified in the user's wastewater discharge permit, federal regulations, or this ordinance may be required. The self-monitoring requirement, frequency, forms and reporting shall be set forth in the user's wastewater discharge permit or other control mechanism. These reports may include, but are not limited to, the following:
 - 1. Baseline monitoring reports (BMR's).
 - 2. Compliance schedule progress reports.
 - 3. 90-day compliance reports.
 - 4. Self-monitoring reports containing monitoring and analysis to demonstrate continued compliance as described in 40 CFR 403.12(g)(1-6).
 - 5. Other reports as required by the IRWD, other regulatory agencies or applicable law.

802 SELF-MONITORING AND REPORTING (cont)

- B. Failure by the user to perform any self-monitoring or reporting required by the IRWD shall be a violation of this ordinance, and is deemed to be a violation for each parameter and each day in the time period for which monitoring was required, and cause for the IRWD to initiate all necessary tasks and analysis to determine the wastewater pollutants, constituents and characteristics for any limitations and requirements specified in the user's wastewater discharge permit or in this ordinance. The user shall be responsible for any and all expenses incurred by the IRWD in undertaking such monitoring analysis and preparation of reports.
- C. All users required to sample and analyze their wastewater shall use the sampling methods and the sampling locations as set forth in their wastewater discharge permit. For each sample collected and analyzed, the user shall maintain a record of:
 - 1. Date, exact place, method and time of sampling and the name of the person taking the sample.
 - 2. Date analysis performed.
 - 3. Identity and address of the person who performed the analysis.
 - 4. The analytical methods used.
 - 5. Results of the analysis.
- D. Samples taken shall be representative of conditions occurring during the reporting period. Users shall submit all monitoring data, even if user samples more frequently than required by its wastewater discharge permit. User is required to provide advance notice of any substantial change in the volume or character of pollutants in their discharge.
- E. When required, all submitted applications and user reports shall be signed by the CAR as defined in this ordinance. Each application and any required user report shall contain the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Date: _____

Signature: _____

Print Name: _____

Title: _____

User Name: _____

User Site
Address: _____

User Mailing
Address: _____

Phone: _____

Permit No: _____

802 SELF-MONITORING AND REPORTING (cont)

- F. Self-monitoring reports shall be subject to the provisions of 18 U.S.C. Section 1001 relating to false statements and fraud and the provisions of Section 309(c)(2) of the Act governing false statements.
- G. The analysis of a user's wastewater pollutants, constituents and characteristics shall be done by a laboratory approved by the IRWD.
- H. If self-monitoring indicates a violation, the user shall notify the IRWD within 24 hours of becoming aware of the violation. The user shall repeat the sampling and analysis and submit the results of the repeat analysis to the IRWD within 30 days after the repeat sampling event. Resampling by a user is not required if the IRWD performs the sampling at the user's site at least once a month, or if the IRWD performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the user or the MNWD receives the results of the sampling, or if the IRWD has preformed the sampling and analysis in lieu of the user.
- I. The analysis of wastewater pollutants, constituents and characteristics and the preparation of the self-monitoring report shall be done at the sole expense of the user.
- J. The user shall establish and maintain a sample point on each discharge line at a location representative of the discharge to sewerage facilities. The maintenance of any sample point equipment shall be done at the sole expense of the user. Any sampling location shall be set forth in the user's wastewater discharge permit.
- K. Any user subject to the reporting requirements of this ordinance shall retain all records of monitoring activities and results for a minimum of three (3) years and shall make them available to the IRWD upon request. The IRWD may require a longer period of retention if litigation is being considered or has resulted.
- L. Any user subject to self-monitoring reporting requirements may be required to submit self-monitoring reports on forms approved by the IRWD.
- M. Any user determined to be a non-significant categorical industrial user (NSCIU) by SOCWA pursuant to Section 202.B.86.c. and 808.B shall annual submit the following certification statement signed by the CAR as defined in this ordinance. This certification shall accompany an alternative report required by SOCWA:

"Based on my inquiry of the person or persons directly responsible for managing compliance with categorical pretreatment standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from January 1, ____ to December 31, ____:

(a) The facility described as _____ met the definition of non-significant categorical industrial user as described in Section 202.B.86.c.;

(b) The facility complied with all applicable pretreatment standards and requirements during this reporting period; and (c) the facility never discharged more then 100 gallons of total categorical wastewater on any given day during this reporting period.

Date: _____

Signature: _____

Print Name: _____

This compliance certification is based on the following information.

803 REPORT OF SPILL, SLUG DISCHARGE, BATCH DUMPING OR UPSET

- A. In the event the user is unable to comply with any of the wastewater discharge permit conditions due to a breakdown of equipment, accidents caused by human error, or intentional action by any party, or acts of God, or any other cause, the discharger shall notify the IRWD as soon as possible of any spill, slug discharge, batch dumping or upset.
- B. Confirmation of this notification shall be made in writing within five (5) working days of the original notification unless waived by the IRWD. The written notification shall contain:
 - 1. Date of the incident.
 - 2. Reason for the spill, slug discharge, batch dumping or upset.
 - 3. The steps that were taken to immediately correct the problem.
 - 4. The steps that are being taken to prevent the problem from recurring.
 - 5. Any other information the IRWD deems relevant.
- C. Such notification shall not relieve the user of any expense, loss, damage, liability or fees which may be incurred as a result of damage or loss to sewerage facilities or any damage or loss to persons or property. Such notification shall never relieve the user from any fees or liability which may be imposed by this ordinance, other regulatory agencies or other applicable law.
- D. Significant industrial users shall notify IRWD immediately of any changes at its site affecting the potential for a slug discharge

804 REPORTING OF BY-PASS

- A. By-pass of industrial wastewater through pretreatment equipment to the sewerage facilities is prohibited. Enforcement action may be taken against the user, unless:
 - 1. By-pass was unavoidable to prevent loss of life, personal injury, or severe property damage, and
 - 2. There were no feasible alternatives to the by-pass, such as the use of auxiliary treatment equipment, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a by-pass which occurred during normal periods of equipment downtime or preventative maintenance, and
 - 3. The user submitted notice as required by this ordinance, or;
 - 4. The bypass did not exceed user discharge limits and was required for essential maintenance.
- B. If a user knows in advance of the need for a by-pass, it shall submit prior notice to the IRWD at least ten (10) days before the date of the by-pass.
- C. The IRWD may approve an anticipated by-pass after considering its adverse effects, if the IRWD determines that it will meet the conditions listed within this section.

804 REPORTING OF BY-PASS (cont)

- D. A user shall submit notice of an unanticipated by-pass that exceeds their wastewater discharge permit limitation to the IRWD within 24 hours from the time the user becomes aware of the by-pass. A written report shall also be provided within five (5) working days of the time the user becomes aware of the by-pass. The report shall contain:
1. Description of the by-pass and its cause.
 2. Duration of the by-pass, including exact dates and times.
 3. Anticipated time it is expected to continue if the by-pass has not been corrected.
 4. Steps taken or planned to reduce, eliminate, and prevent recurrence of the by-pass.
- E. Failure to submit notice and/or written report may be grounds for wastewater discharge permit suspension or revocation. Failure to provide timely notice under Section 804 D. is deemed a waiver of the bypass defense for the user violation.
- F. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage or loss to sewerage facilities or any other damage or loss to person or property. Such notification shall never relieve the user from any fees or liability that may be imposed by this ordinance, other regulatory agencies or other applicable law.

805 BASELINE MONITORING REPORTS (40 CFR 403.12(b))

- A. Within either one hundred eighty (180) days after the effective date of a categorical standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, an existing categorical industrial user currently discharging to or scheduled to discharge shall submit to the IRWD a report containing the information listed below. At least ninety (90) days prior to commencement of discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard shall submit to the IRWD a report containing the information listed below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged. The baseline monitoring report shall include, but is not limited to, the following:
1. Identifying information. The name and address of the site, including the name of the operator and owner.
 2. Permits. A list of any environmental control permits held by or for the site.
 3. Description of Operations. A brief description of the nature, average rate of production, and North America Industrial Classification of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to sewerage facilities from the regulated processes.
 4. Flow Measurements. Information showing the measured average daily and maximum daily flow, gpd, to sewerage facilities from regulated process streams and other streams as necessary.
 5. Measurement of Pollutants. The categorical pretreatment standards applicable to each regulated process and the results and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the IRWD, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass where required, shall be reported. The sample shall be representative of daily operations. In cases where the standards requires compliance with a BMP or pollution prevention alternative, the industrial user shall submit documentation as required by the IRWD or the applicable standards to determine compliance with the standard.
 6. Certification. A statement, reviewed by the user's CAR and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

805 BASELINE MONITORING REPORTS (40 CFR 403.12(b)) (cont)

7. Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.
8. Signature and certification. All monitoring reports shall be signed and certified in accordance with Section 802 E. of this ordinance.

806 REPORT ON PROGRESS IN MEETING COMPLIANCE SCHEDULES(40 CFR 403.12(c))

- A. All Class I users required to submit compliance schedules shall report their progress no later than fourteen (14) days after each due date contained in their compliance schedule.
- B. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to comply with the applicable pretreatment standards.
- C. No increment referred to above shall exceed nine (9) months.
- D. In no event shall more than nine (9) months elapse between progress reports to the IRWD.

807 REPORT ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARDS DEADLINE (40 CFR 403.12(d))

- A. Within ninety (90) days following the date for final compliance with the applicable categorical standards or within ninety (90) days of the introduction of wastewater into sewerage facilities, the affected user shall submit a report containing the information listed below. This report shall include, but is not limited to the following:
 1. Flow Measurements. Information showing the measured average daily and maximum daily flow, in gallons per day, to sewerage facilities from regulated process streams and other streams.
 2. Measurement of Pollutants. The categorical pretreatment standards applicable to each regulated process and the results and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the IRWD, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass where required, shall be reported. The sample shall be representative of daily operations.
 3. Certification. A statement, reviewed by the user's CAR and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 4. Signature and certification. All monitoring reports shall be signed and certified in accordance with Section 802 E. of this ordinance.

808. PERIODIC COMPLIANCE REPORT

- A. All Class I users subject to federal pretreatment standards (except a non-significant categorical user) as a minimum shall submit reports containing the information required in 40 CFR 403.12 during the months of June and December, or as required in their wastewater discharge permit or other control mechanism.
- B. A Class I user determined to be a non-significant categorical industrial user by the IRWD pursuant to Section 202.B.86.c. shall annually submit a report containing information as required in their wastewater discharge permit or other control mechanism.
- C. All users may be required to submit periodic compliance reports containing information as required in their wastewater discharge permit, other control mechanism or as required by the IRWD.

809 RIGHT OF ENTRY

IRWD shall have the right to enter the premises of any user to determine whether the user is complying with the requirements of this ordinance and any individual wastewater discharge permit, other control mechanism or order issued hereunder. Users shall allow the IRWD ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any other duties.

810 ANALYTICAL REQUIREMENTS

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the IRWD or other parties approved by the EPA.

811 SAMPLE COLLECTION

- A. Samples collected by the user to satisfy reporting requirements contained in this ordinance, their wastewater discharge permit or other control mechanism shall be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
- B. Except as indicated in Section 811.C. and 811.D. below, the user shall collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the IRWD. Where time-proportional composite sampling or grab sampling is authorized by the IRWD, the samples shall be representative of the discharge. Using protocols specified in 40 CFR 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the IRWD, as appropriate. In addition, grab samples may be required at any time to show compliance with instantaneous discharge limits.
- C. Samples for analysis of oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds shall be obtained using grab sample collection techniques.
- D. For sampling required in support of baseline monitoring and 90-day compliance reports required by this ordinance and 40 CFR 403.12(b) and (d), a minimum of four (4) grab samples shall be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for users for which historical sampling data do not exist; for users for which historical sampling data are available, IRWD may authorize a lower minimum. For reports required by this ordinance and 40 CFR 403.12(e) and (h), the user shall collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

812 TIMING

Reports shall be deemed to have been submitted on the date postmarked. For reports that are not mailed or delivered with postage prepaid the date of receipt of the report shall govern.

813 NOTIFICATION OF CHANGED DISCHARGE

All users that have been issued a wastewater discharge permit shall notify the IRWD in advance of any substantial change in the volume or character of pollutants in their discharge in accordance with 40 CFR 403.12(j)

**ARTICLE 9
ENFORCEMENT**

901 ENFORCEMENT SCOPE

- A. The IRWD finds that in order for it to comply with the laws, regulations, and rules imposed upon it by regulatory agencies and to ensure that sewerage facilities and treatment processes are protected and are able to operate with the highest efficiency, specific enforcement provisions must be adopted to regulate discharges from industrial users.
- B. The IRWD is willing to cooperate with all users on improvements in wastewater quality, yet must be in a position to ensure that uncooperative users shall comply with this ordinance and any conditions set forth in a wastewater discharge permit.
- C. The IRWD intends to ensure that all interested parties are afforded due process of law and that any noncompliance or violation is resolved as soon as possible.
- D. All users have a right of appeal pursuant to the procedures set forth in this ordinance.
- E. Each non-compliance or violation per day and each day of noncompliance or violation shall be taken as a separate noncompliance or violation for determining the amount of fees, charges, fines or penalties and/or which enforcement actions may be taken. A violation of a weekly average is considered seven (7) days of violation for that parameter and a violation of a monthly average is based upon the number of days in that month. A violation of multiple parameters caused by a single operational upset is considered one violation.
- F. The issuance or exercise of any type of an enforcement action provided for under this ordinance shall not be a bar against, or a prerequisite for, taking any other or additional enforcement action against a user under this ordinance or any other local, state or federal law. The remedies provided for in this ordinance are not exclusive and the IRWD is empowered to take more than one enforcement action against any noncompliant user.

902 NOTICE OF NONCOMPLIANCE (NON)

- A. In the event that it is determined that a user is in noncompliance with any provision of this ordinance, or the terms, conditions and limitations of its wastewater discharge permit, the IRWD may issue a NON form, whereby the user shall comply with all directives, conditions and requirements therein within the time prescribed.
- B. The issuance of a NON form may contain terms and conditions including, but not limited to, installation of pretreatment equipment, sampling structures, submittal of drawings or technical reports, payment of fees or administrative fines, limits on rate and time of discharge or any other provisions to ensure compliance with this ordinance and the user's wastewater discharge permit. This action is not a prerequisite to taking other or more severe enforcement actions.

903 NOTICE OF VIOLATION (NOV)

- A. In the event that it is determined that a user has not responded to a NON form that was previously issued to them or that noncompliance of any pretreatment standards requires their immediate attention, the IRWD may issue a NOV form, whereby the user shall comply with all directives, conditions and requirements therein within the time prescribed.
- B. The issuance of a NOV form may contain terms and conditions including, but not limited to, installation of pretreatment equipment and facilities, submittal of drawings or technical reports, payment of fees, administrative fines, limits on rate and time of discharge or any other provisions to ensure compliance with this ordinance. This action is not a prerequisite to taking other or more severe enforcement actions.

904 ADMINISTRATIVE ORDER (AO)

A. The AO is an enforcement document from the IRWD directing the noncompliant user to undertake or to cease specific activities required to bring the user into compliance with this ordinance or the terms, conditions and limitation of a wastewater discharge permit as determined by the IRWD. The terms and conditions of the AO are not negotiable by the user. The circumstances of a user's noncompliance may dictate which theme the administrative order takes to achieve the earliest possible return to compliance by the user. AOs may include administrative complaints. Types of AOs may include, but are not limited to, the following:

1. Probation Order (PO)

a. The PO directs the noncompliant user to achieve compliance by a date specified in the order. The PO is usually issued when a user is in non-compliance of this ordinance, or the terms, conditions and limitations of its wastewater discharge permit or other enforcement action, or has not made payment of all amounts owed to the IRWD which include, but are not limited to, any fees, charges, fines and/or penalties. This action is not a prerequisite to taking other or more severe enforcement actions.

2. Show Cause Order (SCO)

a. The SCO directs the noncompliant user to appear at a formal meeting, usually at a IRWD location, to explain its noncompliance, and to show cause why more severe enforcement actions against the user should not go forward. This action is not a prerequisite to taking other or more severe enforcement actions.

3. Cease and Desist Order (CDO)

a. The CDO directs the noncompliant user to cease illegal or unauthorized discharges immediately, or to terminate its discharge altogether. A CDO may be issued in situations where a particular discharge could cause interference or pass through, or threaten human safety or the environment. The CDO may be issued immediately upon discovery of the problem. In an emergency, a CDO may be issued by any means, however, such an order should be followed by a written CDO on the user,. If necessary, the IRWD may order immediate cessation of any discharge to the a sewerage facility, regardless of the user's compliance status. If a user fails to comply with the CDO, the IRWD may take any independent action to halt the discharge. This action in not a prerequisite to taking other or more severe enforcement actions.

905 WASTEWATER DISCHARGE PERMIT SUSPENSION OR REVOCATION

A. Grounds

1. The IRWD may suspend or revoke any wastewater discharge permit, but is not limited to the following, when it is determined that a user:

a. Violated an administrative order.

b. Provided a false statement, representation, record, report or other document to the IRWD.

c. Refused to provide records, reports, plans or other documents required to determine wastewater discharge permit terms, conditions, or limitations, discharge compliance, or compliance with this ordinance.

d. Discharged effluent that causes pass-through or interference with sewerage facilities.

e. Falsified, tampered with, or knowingly rendered inaccurate any monitoring device or sample collection method.

f. Discharged effluent that endangers human health or the environment.

g. Failed to report significant changes in operations or wastewater constituents and characteristics.

905 WASTEWATER DISCHARGE PERMIT SUSPENSION OR REVOCATION (cont)

- h. Failed to comply with the terms and conditions of any enforcement action.
- i. Refused reasonable access to the permittee's premises for the purpose of inspection and monitoring.
- j. Failed to make timely payment of any fees, charges, fines or penalties owed to the IRWD.
- k. Violated any conditions or limitations of its wastewater discharge permit or any provision of this ordinance.
- l. Discharged batch dumps to sewerage facilities not authorized or permitted by the IRWD.

B. Notice of Wastewater Discharge Permit Suspension/Revocation

- 1. When the IRWD has reason to believe that grounds exist for suspension/revocation of a wastewater discharge permit, written notice shall be given by certified mail to the user setting forth a statement of facts and grounds deemed to exist together with a description of the time and place where the charge shall be heard by the General Manager. The hearing date shall not be less than fifteen (15) days nor more than sixty (60) days after the mailing of such notice.

C. Hearing on Permit Suspension/Revocation

- 1. At the wastewater discharge permit suspension/revocation hearing, the user shall have an opportunity to respond to the allegations set forth in the notice. The hearing shall be conducted in accordance with procedures established by the General Manager and approved by the IRWD's General Counsel.
- 2. After the hearing, the General Manager's designee shall submit a written report to the General Manager setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation.
- 3. Upon receipt of the written report, the General Manager shall make his determination. Should he find that the grounds exist for suspension/ revocation of the wastewater discharge permit, he shall issue his decision and order, in writing within thirty (30) days after the hearing by his designee. A copy of the written decision shall be sent by personal delivery or certified mail to the user.

D. Effect of Wastewater Discharge Permit Suspension

- 1. Upon the issuance of an order of suspension by the General Manager, the user shall have no right to discharge any industrial wastewater, directly or indirectly to sewerage facilities for the duration of the suspension. All costs for physically terminating and reinstating service shall be paid by the user.
- 2. An order of wastewater discharge permit suspension issued by the General Manager shall be deemed final upon delivery to the user, unless appealed to the Board as specified in Section 913 of this ordinance.

E. Effect of Wastewater Discharge Permit Revocation

- 1. On the effective date of a wastewater discharge permit revocation being final, the user shall permanently lose all rights to discharge any industrial wastewater directly or indirectly to sewerage facilities. All costs for physical termination shall be paid by the user.
- 2. Each owner and employee of the user shall be bound by the order of wastewater discharge permit revocation.
- 3. Any future application from any user subject to an order of wastewater discharge permit revocation will only be considered by the IRWD after fully reviewing the records of revocation. Such records may be the basis for denial of a new wastewater discharge permit.
- 4. An order of permit revocation issued by the General Manager shall be deemed final upon delivery to the user, unless appealed to the Board as specified in Section 913 of this ordinance.

906 TERMINATION OF SERVICE

The IRWD may physically terminate water or sewer service to any user that violates or continues to violate the provisions of this ordinance, a term of any order of suspension or revocation of a wastewater discharge permit or other control mechanism. All costs for physical termination shall be paid for by the user as well as all costs for reinstating services.

907 EMERGENCY SUSPENSION

- A. The IRWD may suspend water or sewer service when such suspension is necessary, in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, to the environment, cause interference to sewerage facilities, or cause the IRWD to violate any state or federal law or regulation.
- B. An emergency suspension order is final and has no right of appeal.

908 INJUNCTION

Whenever a discharge of wastewater is in violation of the provisions of this ordinance, the IRWD may petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate to restrain the continuance of such discharge.

909 CIVIL FINES AND PENALTIES

- A. Authority.
 - 1. All users of sewerage facilities are subject to administrative or judicial enforcement actions by the IRWD, EPA, State Regional Water Quality Control Board or the District Attorney of Orange County. Actions may be taken pursuant to the authority and provisions of several laws, including but not limited to:
 - a. Federal Water Pollution Control Act (Clean Water Act).
 - b. California Porter-Cologne Water Quality Act (California Water Code).
 - c. California Hazardous Waste Control Law.
 - d. Resource Conservation and Recovery Act (RCRA).
- B. Recovery of Fines or Penalties.
 - 1. Payment of fines or penalties by the IRWD due to enforcement actions of other regulatory agencies based upon a violation by the IRWD whose cause can be established as the discharge of any user which is in violation of any provisions of this ordinance or a wastewater discharge permit shall entitle the IRWD to recover from the user all cost and expenses, including, but not limited to the full amount of fines and penalties which the IRWD has been subjected to.
 - 2. Each violation shall constitute a new and separate violation and shall be subject to the fines and penalties contained herein.
- C. Civil Liability
 - 1. Pursuant to the authority of California Government Code Sections 54739-54740, any user, permittee, discharger or other person who violates any provision of this ordinance, any wastewater discharge permit condition, prohibition or effluent limitation, or any order, compliance schedule, suspension or revocation shall be civilly liable for a sum not to exceed twenty-five thousand dollars (\$25,000) per violation for each day in which such violation occurs.

909 CIVIL FINES AND PENALTIES (cont)

2. Pursuant to the authority of Act. 33 U.S.C. Section 1251 et seq., any user, permittee, discharger or other person who violates any provision of this ordinance, any wastewater discharge permit condition, prohibition or effluent limitation, or any order, compliance schedule, wastewater discharge permit suspension or revocation shall be civilly liable for a sum not to exceed twenty-five thousand dollars (\$25,000) per violation for each day in which such violation occurs.
3. The IRWD may petition the superior court to impose, assess and recover penalties or other such penalties as the IRWD may impose, assess and recover pursuant to federal and/or state legislative authorization.
4. Notwithstanding any other provisions of law, all civil penalties imposed by the court for a violation of this ordinance shall be distributed to the IRWD.
5. Remedies under this section are in addition to and do not supersede or limit any and all other remedies, civil or criminal, but no liability shall be recovered under this section for any violation for which liability is recovered under Section 909 D. of this ordinance.

D. Administrative Complaint

1. Pursuant to the authority of California Government Code Sections 54740.5 and 54740.6, the IRWD may issue an administrative complaint to any user, permittee, discharger or other person who violates any provision of this ordinance, any wastewater discharge permit condition, prohibition or effluent limitation, or any administrative, suspension or revocation order or other control mechanism.
2. The administrative complaint shall be served by personal delivery or certified mail on such person and shall inform the person that a hearing shall be conducted, within sixty (60) days following service. The administrative complaint will allege the act or failure to act that constitutes the violation(s), set forth the provisions of law authorizing civil liability to be imposed and the proposed civil penalty. The matter shall be heard by the General Manager or his designee. The person to whom an administrative complaint has been issued may waive the right to a hearing, in which case a hearing shall not be conducted.
3. At the hearing, the person shall have an opportunity to respond to the allegations set forth in the administrative complaint by presenting written or oral evidence. The hearing shall be conducted in accordance with the procedures established by the General Manager and approved by the IRWD's General Counsel.
4. After the conclusion of the hearing, the General Manager's designee shall submit a written report to the General Manager setting forth a brief statement of the facts found to be true, a determination of the issues presented, conclusions and a recommendation. Upon receipt of the written report, the General Manager shall make his determination and should he find that grounds exist for assessment of a civil penalty, he shall issue his decision and order in writing within thirty (30) calendar days after the conclusion of the hearing. If not appealed, the order shall be final thirty-one (31) days after it is served on the person.
5. A person dissatisfied with the decision of the General Manager may appeal to the Board pursuant to Section 913 of this ordinance within thirty (30) days of notice of the General Manager's decision.
6. If, after the hearing or appeal, if any, it is found that the person has violated reporting or discharge requirements or other provisions of the this ordinance, the General Manager or Board may assess a civil penalty against that person.
7. In the determination of the amount of the civil penalty, all relevant circumstances may be taken into consideration, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any non-compliance, the nature and persistence of the violations, the length of time over which the violation occurs and the corrective action(s), if any, attempted or taken by the person.

909 CIVIL FINES AND PENALTIES (cont)

8. Civil penalties may be assessed as follows:
 - a. In an amount which shall not exceed two thousand dollars (\$2,000) for each day for failing or refusing to furnish technical or monitoring reports.
 - b. In an amount which shall not exceed three thousand (\$3,000) for each day for failing or refusing to timely comply with any compliance schedule
 - c. In an amount which shall not exceed five thousand dollars (\$5,000) per violation for each day for discharges in violation of any waste discharge limitation, wastewater discharge permit condition, other control mechanism or requirement issued, reissued or adopted by the IRWD.
 - d. In an amount which does not exceed ten dollars (\$10) per gallon for discharges in violation of any suspensions, cease and desist order or other orders, or prohibition issued, reissued or adopted by the IRWD.
9. Payment of civil penalties shall be due within thirty (30) days of the date of the order assessing the penalties becomes final. The amount of any administrative civil penalties imposed which have remained delinquent for a period of sixty (60) days from the date they are due shall constitute a lien against the real property of the discharger from which the discharge resulting in the imposition of the penalty originated. The lien shall have no force and effect until recorded with the county recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for ten (10) years and be renewable in accordance with law.
10. Copies of the administrative order shall be served by personal service or by registered mail upon the party served with the administrative complaint and upon other persons who appeared at the hearing and requested a copy of the order.
11. Any party aggrieved by a final order issued by the Board after granting review of the order of the General Manager may obtain review of the order of the Board in the Superior Court, by filing in the court a petition for writ or mandate within thirty (30) days following the service of a copy of the decision and order issued by the Board.
12. Any party aggrieved by a final order issued by the General Manager, for which the Board denies review, may obtain review of the order of the General Manager in the Superior Court, by filing in the court a petition for writ of mandate within thirty (30) days following service of a copy of a decision and order denying review by the Board.
13. No administrative civil penalties shall be recoverable under this section for any violation for which civil liability is recovered under Section 909 C. of this ordinance.

910 CRIMINAL PENALTIES

- A. Any person who violates any provision of this ordinance is guilty of a misdemeanor, which upon conviction is punishable by a fine not to exceed one thousand dollars (\$1,000) or imprisonment for not more than thirty (30) days or both.
- B. Each violation shall constitute a new and separate violation and shall be subject to the penalties contained herein.

911 PUBLIC NUISANCE

- A. Discharge of wastewater in a manner that is in noncompliance or violation of this ordinance or of any order issued by the IRWD, in accordance with this ordinance, shall hereby be declared a public nuisance and shall be corrected or abated as directed by the IRWD.
- B. Any person creating a public nuisance is guilty of a misdemeanor and is subject to the criminal penalties identified in Section 910 of this ordinance.

912 APPEALS TO THE GENERAL MANAGER

A. General

1. Any user affected by a decision, action or determination made by IRWD staff may file with the General Manager a written request for an appeal hearing.
2. Request must be made within fifteen (15) days of the mailing of the original decision.
3. Request for hearing shall set forth details of all facts supporting the appellant's request for hearing.

B. Notice

1. The General Manager shall, within fifteen (15) days of receiving the request for appeal provide written notice to the user of the hearing date, time, and place.
2. The hearing time shall not be more than thirty (30) days from the mailing of such notice by certified mail to the appellant unless a later date is agreed to by the appellant.
3. If the hearing is not held within the time set due to actions of the appellant, then the IRWD's decision shall be deemed final.

C. Hearing

1. The appellate shall have the opportunity to present information supporting its position concerning the IRWD's original decision, action or determination.
2. The hearing shall be conducted in accordance with procedures established by the General Manager and approved by the IRWD's General Counsel.

D. Written Determination

1. After the hearing the General Manager shall make a determination whether to uphold, modify or reverse original decision, action or determination as issued by IRWD staff.
2. This decision shall be put into writing within a brief statement of facts found to be true, the determination of the issues presented, and the findings.
3. The final determination of the General Manager upon his approval shall be executed as the order.
4. A copy shall be mailed or delivered to the appellant.
5. The order of the General Manager shall be final in all respects fifteen (15) days after it is mailed to the appellant, unless appealed under Section 913 of this ordinance.

E. Wastewater Discharge Permit Suspension/Revocation Appeals

1. Appeals regarding wastewater discharge permit suspension or revocation are covered under Section 905 and Section 913 as specified in this ordinance.

913 APPEALS TO THE BOARD

A. General

1. The user may, within thirty (30) days after the date of notification of the General Manager's order upholding the IRWD's determination, file a written appeal to the Board.
2. A fee of one hundred dollars (\$100) shall accompany the written appeal which shall be refunded if the Board of Directors reverses or modifies the order of the General Manager.
3. A request for appeal to the Board shall set forth details of the past record and that new arguments cannot be raised on appeal to the Board that could have been, but were not, raised in the prior appeal to the General Manager.
4. Pending the hearing on appeal, the user shall not be entitled to discharge into sewerage facilities beyond the effective date of the original order determined by the General Manager, unless it has been determined by the General Manager that the user is pursuing good faith arguments and approves such discharge.

B. Notice

1. The Board Secretary, within fifteen (15) days of receiving the request for appeal, will provide written notice to the user of the hearing date, time and place.
2. The hearing date shall not be more than forty-five (45) days from the mailing of such notice by certified mail to the appellate unless a later date is agreed to by the appellant.
3. If the hearing is not held within the time set due to action of the appellant, the General Manager's decision shall be deemed final.

C. Hearing

1. The appellant shall have the opportunity to present information supporting its position concerning the General Manager's determination.
2. The hearing shall be conducted in accordance with procedures established by the Board and approved by the IRWD's General Counsel.

D. Written Determination

1. After the hearing, the Board shall make a determination whether to uphold, modify or reverse the original decision, action or determination as ordered by the General Manager.
2. The decision of the Board shall be reduced to writing within thirty (30) days after the hearing.
3. It shall contain a brief statement of facts found to be true, the determination of the issues presented, and the findings. The decision shall be submitted to the appellant.
4. The order of the Board shall be final upon its adoption.

914 JUDICIAL REVIEW

A. Purpose and Effect

1. Pursuant to Section 1094.6 of the California Code of Civil Procedure, the time in which a user may bring an administrative mandamus action shall be limited to ninety (90) days following the final decision in the adjudicative administrative hearing in question.

B. Time Limit for Judicial Review

1. Judicial review of any decision of the IRWD's Board may be made pursuant to Section 1094.5 of the California Code of Civil Procedure only if the petition for writ of mandate is filed no later than ninety (90) day following the date on which any decision becomes final.

C. Preparation of Records

1. The complete record of the proceedings shall be prepared by the IRWD and shall be delivered or mailed to the petitioner within one hundred-ninety (190) days after they have filed a written request.
2. The IRWD shall recover from the petitioner its actual costs for preparing and transcribing the record.

D. Extension

1. If the petitioner files a request for the record within ten (10) days after the date the decision becomes final, the time within which a petition may be filed, pursuant to Section 1094.5 of the California Code of Civil Procedures, shall be extended to no later than thirty (30) days following the date on which the record is delivered or mailed, by the IRWD, to the petitioner or the petitioner's attorney of record, if appropriate.

E. Notice

1. In making a final decision, the IRWD shall provide notice to the user whose wastewater discharge permit has been denied, suspended or revoked, that the time in which judicial review must be sought is governed by Section 1094.6 of the California Code of Civil Procedures.

F. This section does not apply to action taken under Section 909 of this ordinance.

915 PAYMENT AND COLLECTION OF FEES AND CHARGES

A. Except as otherwise provided, all fees and charges are due and payable upon receipt of an invoice or notice thereof. All such amounts are delinquent if unpaid forty-five (45) days after date of invoice or notice.

B. Any invoice or notice that becomes delinquent may have added to it an assessment in accordance with the following:

1. Forty-six (46) days after the date of invoice or notice, an assessment of ten percent (10%) of the base amount, not to exceed a maximum of \$1,000.
2. Ninety (90) days after the date of invoice or notice, a total of twenty-five percent (25%) of the base amount, not to exceed a maximum of \$2,500.

C. Any invoice or notice that is outstanding and unpaid after ninety (90) days may be cause for immediate initiation of wastewater discharge permit revocation proceedings or immediate wastewater discharge permit suspension.

D. Delinquent assessments under this section may not accrue to those invoices or notices successfully appealed, provided the IRWD received written notice of appeal prior to the payment due date.

E. Payment of disputed fees and charges are still required by the due date during review of any appeal submitted by permittee.

F. This section does not apply to Section 909 of this ordinance.

916 RECOVERY OF ENFORCEMENT COSTS

In the event a user fails to comply with any of the terms and conditions of this ordinance, wastewater discharge permit, administrative order, wastewater discharge permit suspension or revocation, other control mechanism or any other enforcement action, the IRWD shall be entitled to reasonable attorney's fees and costs which may be incurred during enforcement of any terms and conditions with or without filing proceedings in court.

917 FINANCIAL SECURITY CONDITIONS

A. Compliance Deposit

1. Users that have been subject to enforcement actions and/or fees, charges, penalties or fines may be required to deposit with the IRWD an amount determined by the General Manager as necessary to guarantee payment of all charges, fees, costs and expenses that may be incurred in the future.
2. A compliance deposit shall be received by the IRWD before the IRWD either issues a wastewater discharge permit, other control mechanism or grants the user permission for further discharge to sewerage facilities.

B. Delinquent Accounts

1. Any user who fails to make payment in full of all fees, charges, penalties or fines assessed by the IRWD including reconciliation amounts, delinquency fees, and other costs or fees may be required to obtain the issuance of an amendment to their wastewater discharge permit.

C. Bankruptcy

1. Any user filing any legal action in any court of competent jurisdiction, including the United States Bankruptcy Court, for purposes of discharging its financial debts or obligations or seeking court-ordered protection from its creditors, shall within ten (10) days of filing such action, apply for and obtain the issuance of an amendment to its wastewater discharge permit by the IRWD.

D. Wastewater Discharge Permit Amendments

1. An amendment issued to the user's wastewater discharge permit shall be in accordance with the provision of this ordinance.

E. Security Deposit

1. An amendment to a wastewater discharge permit issued in accordance with this ordinance may be conditional upon the permitted user depositing financial security in an amount equal to the total fees and charges from the preceding year.
2. Such a deposit shall be used to guarantee payment of all fees and charges incurred for future services and sewerage facilities provided by the IRWD and shall not be used by the IRWD to recover outstanding fees and charges incurred prior to the user filing and receiving protection from creditors in the United States Bankruptcy Court.

F. Return of Security Deposit

1. If the user makes full payment in time of all fees and charges incurred over a period of two (2) years following the issuance of an amendment to the user's wastewater discharge permit prescribed by this ordinance, the user's security deposit shall be returned or credited to the user's account.

918 REPORT OF ANALYSIS

All collected data from inspection and monitoring sampling conducted by the IRWD may be reported to the user. This data, if given to the user, shall be kept by the user and the IRWD and made available during inspections by the IRWD or any other regulatory agency.

919 DAMAGE TO FACILITIES OR INTERRUPTION OF NORMAL OPERATIONS

- A. When a discharger of wastes causes an obstruction, interference, damage, or other impairment to sewerage facilities or to the operation of sewerage facilities, the IRWD may assess the costs against the user for the work required to clean, replace or repair the sewerage facility together with expenses incurred to resume normal operations. This shall also be grounds for wastewater discharge permit revocation. A service charge of twenty-five percent (25%) of costs shall be added to the costs and charges to cover the IRWD's overhead, including administrative personnel and record keeping. The total amount shall be payable within forty-five (45) days of invoicing by the IRWD.
- B. If it can be shown that the discharge of any user is the cause of the IRWD violating its NPDES permit and pretreatment requirements established by any Regulatory Agency or incurring additional expenses or suffering losses or damage to IRWD sewerage facilities, then that user shall be responsible for any costs, expenses, or assessments incurred by the IRWD, made by other agencies or a court.
- C. Where two or more dischargers cause a single and indivisible harm to sewerage facilities, each is jointly and severally liable for the damages. The burden of proof is on the dischargers to demonstrate that the harm is divisible.

920 INDUSTRIAL WASTE PASS THROUGH

- A. If an industrial waste discharge results in a "pass through" event in sewerage facilities, all costs associated with the event, including but not limited to treatment costs, fines, regulatory fines, and other indirect costs may be charged against the user.
- B. The user shall submit plans which prevent future recurrences to the satisfaction of the IRWD.
- C. A second occurrence shall be grounds for wastewater discharge permit revocation without the right of appeal.

921 BATCH DUMPS

- A. When the IRWD determines that a user has discharged concentrated noncompatible wastes into a sewerage facility in a manner or method that is not approved by the IRWD, any enforcement action may be taken as set forth in this ordinance.
- B. The user shall be subject to wastewater discharge permit suspension or revocation in accordance with this ordinance as well as any other legal enforcement penalties or remedies available to the IRWD.

922 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE (SNC)

- A. To comply with the requirements of 40 CFR 403, the IRWD shall annually publish the names of all industrial users that are in SNC of federal pretreatment standards.
- B. Publication of this SNC notice shall be in the newspaper of general circulation that provides meaningful public notice within the IRWD service areas.
- C. The determination of SNC is based upon the definition set forth in Section 202 B.88. of this ordinance.

**ARTICLE 10
FEES AND CHARGES**

1001 APPLICATION FEE

- A. All application fees shall be in an amount as established by the IRWD.
- B. Payment of the application fee must be received before the issuance of a new or renewal of a wastewater discharge permit.
- C. User shall pay any delinquent invoices in full, prior to the wastewater discharge permit renewal.

1002 ANNUAL WASTEWATER DISCHARGE PERMIT FEE

- A. The annual wastewater discharge permit fee shall be in an amount as established by the IRWD.
- B. The annual wastewater discharge permit fee shall be due on or before the date set by the IRWD.

1003 INSPECTION, MONITORING AND SAMPLING CHARGES

Any and all costs incurred by the IRWD to inspect, monitor and sample a user for the purpose of assuring compliance with this ordinance, the user's wastewater discharge permit, other control mechanism or other regulations shall be paid for by the user only upon receipt of an invoice or bill from the IRWD or its representative.

1004 DELINQUENCY FEES

- A. Any fees that become delinquent may have added to it an amount as set forth in Section 915 of this ordinance.
- B. Any delinquent fee and all assessments including court costs and legal fees thereon may be collected by lawsuit in the name of the IRWD.

1005 ADDITIONAL FEES AND CHARGES

- A. The user will be required to pay all applicable additional fees and charges that are established by the IRWD only upon receipt of an invoice or bill.
- B. Any wastewater discharge permit issued for a location where the user is not the property owner, may be conditioned upon depositing financial security to guarantee payment of all additional fees and charges to be incurred, in accordance with the provisions of Section 917 of this ordinance.

1006 RECORDING OF FEES AND CHARGES

- A. The IRWD may keep a permanent record and account of all fees and charges received under this ordinance.
- B. Record information shall include, but is not limited to:
 - 1. Name and address of user.
 - 2. Date and amount of fee or charge.
 - 3. Purpose for which fees or charges were paid.

**ARTICLE 11
SEVERABILITY**

1101 SEVERABILITY

- A. If any provisions of this ordinance or the application thereof to any users or circumstances is held invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, the remainder of this ordinance or the application of such provision to other users or other circumstances shall not be affected.
- B. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid, unenforceable or unconstitutional by any court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance. The Board declares that they would have passed said ordinance by section, subsection, sentence, clause or phrase thereof.

**ARTICLE 12
REPEAL**

1201 REPEAL

- A. Ordinance No. 96-12-1 adopted by LAWD is hereby repealed in its entirety.
- B. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent that they are inconsistent with the provisions of this ordinance.

**ARTICLE 13
EFFECTIVE DATE**

1301 EFFECTIVE DATE

- A. This ordinance shall become effective thirty (30) days after adoption. The Secretary of IRWD is directed to certify to the adoption of this ordinance and to cause a summary hereof to be published in a newspaper of general circulation as required by law.
- B. Amendments to this ordinance shall become effective thirty (30) days after their adoption.

PASSED AND ADOPTED by the Board of Directors of the Irvine Ranch Water District this _____ day of _____, 2011.

IRVINE RANCH WATER DISTRICT

Dated _____ by _____
President

Dated _____ by _____
Secretary

EXHIBIT “B”

SUMMARY OF PROPOSED CHANGES TO IRVINE RANCH WATER DISTRICT WASTE DISCHARGE PRETREATMENT AND SOURCE CONTROL PROGRAM, AS SET FORTH IN AN ORDINANCE OF REGULATIONS FOR THE DISCHARGE OF WASTEWATER TO SEWERAGE FACILITIES OF THE IRVINE RANCH WATER DISTRICT THAT ARE IN THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY SERVICE AREA

BACKGROUND

The Waste Discharge Pretreatment and Source Control Ordinance (the “Ordinance”) regulates sewer use and wastewater discharges in compliance with applicable state and federal regulations. The Ordinance also establishes quality and quantity limitations on all wastewater discharges and imposes pretreatment requirements on the degree of waste authorized to be discharged to Irvine Ranch Water District (“IRWD”) sewerage facilities. The Ordinance provides for the issuance of permits to impose additional case-by-case requirements as appropriate and establishes fees and other penalties for noncompliance and/or violations. The Ordinance establishes specific facility requirements, inspection, monitoring, sampling, notification and reporting requirements. For the purposes of the Ordinance, IRWD provides water distribution and wastewater collection and treatment services to residential and commercial establishments served by the portion of IRWD’s collection system (generally, the City of Lake Forest area) (the “SOCWA Service Area”) that delivers wastewater to the regional facilities of the South Orange County Wastewater Authority (“SOCWA”). Wastewater from IRWD’s SOCWA Service Area is treated at the IRWD’s Los Alisos Wastewater Reclamation Plant. Any unused treated wastewater is discharged to the ocean via SOCWA’s Aliso Creek Ocean Outfall. SOCWA, as the owner of the ocean outfall is the lead agency responsible for the implementation of the provisions contained in the Ordinance. An interagency agreement has been adopted between the IRWD and SOCWA that defines each agency’s duties and responsibilities in the implementation of the Ordinance.

PRETREATMENT AND SOURCE CONTROL ORDINANCE

Revisions are made periodically to the Ordinance to maintain compliance with changing Federal pretreatment regulations and to update administrative provisions. The majority of the currently proposed changes reflected in the Ordinance are administrative. The following summary reflects the revisions that have been made by the Ordinance (IRWD Ordinance No. 2011- xx) to the previous Waste Discharge Pretreatment and Source Control Program (Ordinance 96-12-1).

SUMMARY OF CHANGES TO ORDINANCE

Throughout the document, all references to “SOCRA” (previous acronym) have been changed to “SOCWA.” In 2000, IRWD’s predecessor water and wastewater agency for the SOCWA Service Area, Los Alisos Water District (“LAWD”), was consolidated into IRWD, and all references to “Los Alisos Water District” or “LAWD” have been changed to “Irvine Ranch Water District” or “IRWD.” The term “sludge” has been revised to “biosolids”.

Section 202-Definition of Terms. Several definitions have been added or revised, including Best Management Practices, Categorical Industrial User, Class IV User, Company Authorized Representative, Control Authority, Daily Maximum, Daily Maximum Limit, Existing Source, Monthly Average, North American Industry Classification System, California Environmental Protection Agency, and expanded definition of Significant Industrial User.

Section 303-Enforcement Powers. Warning Notice of Non-compliance letter has been included as an additional low-level enforcement action.

Section 406-Inspections, Monitoring and Enforcement. Clarification has been made in the communications timelines that apply if IRWD performs emergency enforcement actions.

Section 501- Prohibited Discharges. Clarification has been made in the applicability of discharge prohibitions.

Section 510-Limitations on Trucked or Hauled Wastes. A prohibition has been added on discharge of trucked or hauled waste directly or indirectly to sewerage facilities without written approval, permit, or control mechanism.

Section 513-Limitation on Unpolluted Water. A limitation has been added on unpolluted water and commercial swimming pool discharges directly or indirectly to sewerage systems without IRWD approval.

Section 515-Wastewater Strengths and Characteristics. Changes have been made to insert additional discharge prohibitions to the sewerage system, including concrete, materials with excessive biological oxygen demand, detergents, and surface active agents.

Section 518-Federal Requirements. The changes reiterate that federal requirements must be followed if they are more stringent than state pretreatment requirements.

Section 612-Class IV Special Wastewater Discharge (SWD) Permit. Language has been added to specify that a user proposing to discharge diverted urban nuisance water must complete the requirements of the "Nuisance Flow Diversion Policy" and receive a permit, and that dischargers of hauled waste proposed to be discharged in IRWD sewers must obtain a permit from IRWD.

Section 617-Wastewater Discharge Permit Terms, Conditions, and Limitations. Language has been added allowing the user to request modification to the terms, conditions and limitations of an issued waste discharge permit.

Section 620-IRWD's Right of Revision. Language has been added allowing IRWD to modify a user's permit at any time.

Section 703-Monitoring and Metering Facilities. Language has been added requiring that the user collect samples that are representative of the user's discharge and maintain monitoring equipment in clean, working order.

Section 802-Self-Monitoring and Reporting. Language has been added introducing a certification statement for non-significant categorical industrial users.

Section 808-Periodic Compliance Report. Language has been added clarifying when reports by Class 1 users are to be submitted.

Section 811-Sample Collection. Language has been added specifying which constituents should be collected by the 24 hour composite method and which constituents should be grab samples.