

**AGENDA
IRVINE RANCH WATER DISTRICT
BOARD OF DIRECTORS
REGULAR MEETING**

January 11, 2021

Due to COVID-19, this meeting will be conducted as a teleconference pursuant to the provisions of the Governor's Executive Orders N-25-20 and N-29-20, which suspend certain requirements of the Ralph M. Brown Act. Members of the public may not attend this meeting in person.

Participation by members of the Board of Directors will be from remote locations. Public access and participation will only be available telephonically/electronically.

To virtually attend the meeting and to be able to view any presentations or additional materials provided at the meeting, please join online via Webex using the link and information below:

Via Web: <https://irwd.webex.com/irwd/j.php?MTID=ma95e596295aa307f5b9225f4bd1ed186>

Meeting Number (Access Code): 146 904 1412

Meeting Password: 59tSPS8bQZc

After joining the meeting, in order to ensure all persons can participate and observe the meeting, please select the "Call in" option and use a telephone to access the audio for the meeting by using the call-in information and attendee identification number provided.

As courtesy to the other participants, please mute your phone when you are not speaking.

PLEASE NOTE: Participants joining the meeting will be placed into the WebEx lobby when the Board enters closed session. Participants who remain in the "lobby" will automatically be returned to the open session of the Board once the closed session has concluded. Participants who join the meeting while the Board is in closed session will receive a notice that the meeting has been locked. They will be able to join the meeting once the closed session has concluded.

CALL TO ORDER 5:00 p.m.

ROLL CALL Directors LaMar, McLaughlin, Swan, and Withers, and President Reinhart

PUBLIC COMMENT NOTICE

If you wish to address the Board of Directors on any item, please submit a request to speak via the "chat" feature available when joining the meeting virtually. Remarks are limited to three minutes per speaker on each subject. You may also submit a public comment in advance of the meeting by emailing comments@irwd.com before 12:00 p.m. on Monday, January 11, 2021.

ALL VOTES SHALL BE TAKEN BY A ROLL CALL VOTE.

COMMUNICATIONS TO THE BOARD

1. A. Written:

B. Oral:

2. ITEMS RECEIVED TOO LATE TO BE AGENDIZED

Recommendation: Determine the need to discuss and/or take immediate action on item(s).

PRESENTATIONS

3. COMMENDATIONS OF SERVICE

Staff will present proclamations to the Board recognizing recent IRWD retirees.

CONSENT CALENDAR, ITEMS 4-9

4. BOARD MEETING MINUTES

Recommendation: That the minutes of the December 14, 2020 Regular Board meeting be approved as presented.

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

Recommendation: That the Board ratify/approve the meetings and events for Karen McLaughlin, Steve LaMar and John Withers, as described.

6. MEMORANDUM ON OFFICERS OF THE BOARD, COMMITTEE APPOINTMENTS AND OTHER ASSIGNMENTS

Recommendation: That the Board receive and file the memorandum dated January 11, 2021, titled Officers of the Board, Committee Appointments and Other Assignments and approve attendance for meetings and events for the Board's representation for calendar year 2021 as delineated.

7. SAND CANYON OFFICE SPACE IMPROVEMENT PROJECT FINAL ACCEPTANCE

Recommendation: That the Board accept construction of the Sand Canyon Office Space Improvement, Projects 01257, 01336, and 01549, authorize the General Manager to file a Notice of Completion, and authorize the release of retention 35 days after filing of the Notice of Completion.

CONSENT CALENDAR, ITEMS 4-9 (Continued)

8. INTEREST RATE SWAPS – LIBOR INDEX TRANSITION

Recommendation: That the Board approve adherence to the International Swap and Derivatives Association 2020 LIBOR Fallback Protocol for IRWD's \$60 million notional fixed payer interest rate swaps and authorize the Treasurer to take steps to adhere to the ISDA Protocol prior to January 25, 2021.

9. FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE SAN JOAQUIN RESERVOIR FILTRATION FACILITY PROJECT

Recommendation: That the Board find on the basis of the whole record before it (including the Final Initial Study/Mitigated Negative Declaration and the comments received) that there is no substantial evidence that the San Joaquin Reservoir Filtration Facility Project will have a significant effect on the environment and that the Final Mitigated Negative Declaration reflects IRWD's independent judgment and analysis, adopt the proposed Final Mitigated Negative Declaration for the San Joaquin Reservoir Filtration Facility Project and the associated Mitigation Monitoring and Reporting Program, approve the San Joaquin Reservoir Filtration Facility Project, and authorize staff to post and file a Notice of Determination.

ACTION CALENDAR

(Next Resolution No. 2021-1)

10. FINAL ENVIRONMENTAL IMPACT REPORT FOR KERN FAN GROUNDWATER STORAGE PROJECT

Recommendation: That the Board direct staff to incorporate into the Draft Findings as presented such revisions as may be necessary to conform the findings to any information that may be received after preparation of said findings and prior to this action, including any changes made in the findings by the Authority in adopting the Final Environmental Impact Report and any comments from the Board at this meeting; direct that the findings, as so revised, be an attachment to the resolution, then consider adopting the resolution by title relative to its consideration of the Final Environmental Impact Report for the Kern Fan Groundwater Storage Project.

Reso. No. 2021-

11. REVISED PERSONNEL POLICIES AND PROCEDURES: PERSONNEL POLICY NO. 44 AND NO. 46

Recommendation: That the Board adopt a resolution superseding Resolution No. 2019-7 and Establishing Revised Personnel Policies and Procedures.

Reso. No. 2021-

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, and 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.

12. General Manager's Report
13. Directors' Comments
14. Receive oral update(s) from District liaison(s) regarding communities within IRWD's service area and provide information on relevant community events.
15. Closed Sessions:
 - 1) CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION – Pursuant to Government Code Section 54956.9(d)(1): *Kessner, et al. v. City of Santa Clara, IRWD, et al.*, Santa Clara County Superior Court Case No. 20CV364054
 - 2) CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL — ANTICIPATED LITIGATION. Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): (1 case)
16. Open Session.
17. 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 above-named Board in connection with a matter subject to discussion or consideration at an open meeting of the Board 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 electronically via the Webex meeting noted. Upon request, the District will provide for written agenda materials in appropriate alternative formats, and reasonable disability-related modification or accommodation to enable individuals with disabilities to participate in and provide comments at public meetings. Please submit a request, including your name, phone number and/or email address, and a description of the modification, accommodation, or alternative format requested at least two days before the meeting. Requests should be emailed to comments@irwd.com. Requests made by mail must be received at least two days before the meeting. Requests will be granted whenever possible and resolved in favor of accessibility.

January 11, 2021
Prepared and
submitted by: L. Bonkowski
Approved by: Paul A. Cook



CONSENT CALENDAR

BOARD MEETING MINUTES

SUMMARY:

Provided are the minutes of the December 14, 2020 Regular Board meeting for approval.

FISCAL IMPACTS:

None.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

Not applicable.

RECOMMENDATION:

THAT THE MINUTES OF THE DECEMBER 14, 2020 REGULAR BOARD MEETING BE APPROVED AS PRESENTED.

LIST OF EXHIBITS:

Exhibit "A" – December 14, 2020 Minutes

Note: This page is intentionally left blank.

EXHIBIT "A"

MINUTES OF REGULAR MEETING – December 14, 2020

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 Acting President Reinhart on December 14, 2020 via teleconference pursuant to the provisions of the Governor's Executive Orders N-25-20 and N-29-20 due to COVID-19. Members of the public did not attend this meeting in person.

Directors Present: Withers, Swan, McLaughlin, LaMar and Reinhart.

Directors Absent: None.

Also Present: General Manager Cook, Executive Director of Technical Services Burton, Executive Director of Water Policy Weghorst, Executive Director of Finance and Administration Clary, Director of Treasury and Risk Management Jacobson, Executive Director of Operations Chambers, General Counsel Collins, Director of Water Quality and Regulatory Compliance Colston, Director of Recycling Operations Zepeda, Director of Information Services Malone, Director of Water Resources Sanchez, Director of Maintenance Mykitta, Government Relations Officer/Deputy General Counsel Compton, Secretary Bonkowski, Special Legal Counsel Roux and members of staff and the public.

WRITTEN AND ORAL COMMUNICATIONS: None.

CONSENT CALENDAR

On MOTION by LaMar, seconded by Withers, and unanimously carried by a roll call vote (5-0) Withers, McLaughlin, Swan, LaMar, and Reinhart voting aye, and 0 noes, ITEMS 3 THROUGH 8 WERE APPROVED AS FOLLOWS:

3. BOARD MEETING MINUTES

Recommendation: That the minutes of the November 23, 2020 Regular Board meeting be approved as presented.

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

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

5. 2020 GENERAL DISTRICT ELECTION RESULTS

Recommendation: That the Board adopt the following resolution by title declaring results of the November 3, 2020 General Election.

RESOLUTION NO. 2020-23
RESOLUTION OF THE BOARD OF DIRECTORS OF
IRVINE RANCH WATER DISTRICT DECLARING THE RESULTS
OF THE NOVEMBER 3, 2020 GENERAL DISTRICT ELECTION

CONSENT CALENDAR (Continued)

6. NOVEMBER 2020 TREASURY REPORT

Recommendation: That the Board receive and file the Treasurer’s Investment Summary Report, the Summary of Fixed and Variable Rate Debt, and Disclosure Report of Reimbursements to Board members and staff, approve the November 2020 Summary of Payroll ACH payments in the total amount of \$2,404,543 and approve the October 2020 accounts payable Disbursement Summary of warrants 412087 through 413650, Workers’ Compensation distributions, wire transfers, payroll withholding distributions and voided checks in the total amount of \$11,536,504.

7. INFORMATION SERVICES CAPITAL PROJECTS

Recommendation: That the Board approve: 1) the addition of Projects 11808 and 11810, each in the amount of \$150,000, for a total of \$300,000 to provide funding for the OBIEE Upgrade Project, and 2) a budget increase to Project 11204, General Plant Project, in the amount of \$200,000 for the acquisition of additional IT equipment to support IRWD business operations.

8. SALE OF FORMER CARPENTER IRRIGATION DISTRICT OFFICE PROPERTY

Recommendation: That the Board designate the former Carpenter Irrigation District office property located at 18741 East Center Avenue in unincorporated Orange County as “Exempt Surplus Land” and authorize staff to initiate the process to sell the property.

ACTION CALENDAR

REVIEW OF 2020 GOVERNMENT RELATIONS ACTIVITIES AND 2021 LEGISLATIVE AND REGULATORY ISSUES PLANNING

Government Relations Officer/Deputy General Counsel Compton reviewed IRWD’s 2020 legislative and regulatory priorities and government relations activities. Ms. Compton provided an overview of expected 2021 legislative and regulatory issues in Washington, D.C., Sacramento, and regionally. She also described proposals that the District’s associations and stakeholders are sponsoring.

Director LaMar reported that this item was reviewed by the Water Resources Policy and Communications Committee on December 10, 2020 and complimented Ms. Compton on all of her efforts. In response to Director Swan’s inquiry, staff said they will monitor the Central Basin meter charge litigation. Following discussion, on MOTION by LaMar, seconded by Reinhart and unanimously carried by a roll call vote (5-0) Withers, McLaughlin, Swan, LaMar and Reinhart voting aye, and 0 noes, **THE BOARD PROVIDED INPUT ON THE PROPOSED 2021 REGIONAL, STATE AND FEDERAL LEGISLATIVE ISSUES OF INTEREST TO IRWD, AND RECEIVED AND FILED THE PROPOSED “INITIAL 2021 LEGISLATIVE AND REGULATORY RESOURCE ALLOCATION PLAN” AND THE “LEGISLATIVE / REGULATORY ISSUES AND ACTIVITIES OF HIGH CONCERN TO IRWD IN 2021.”**

AGREEMENTS FOR PARTICIPATION IN PLANNING OF SITES RESERVOIR AND DELTA CONVEYANCE PROJECTS

Using a PowerPoint presentation, Water Resources Manager Welch reported that on November 23, 2020, the Board adopted an updated Policy Position on Water Banking, Transfers and Wheeling that calls for increased consideration of smaller schedulable sources of water banking supplies as costs and competition for water supplies rise in the state of California. Ms. Welch said that in October, staff submitted non-binding letters of interest to participate in the Sites Reservoir and Delta Conveyance Projects. She said that participation in these large projects as small capacity owners could provide a smaller schedulable supply to IRWD's existing Water Bank and the Kern Fan Groundwater Storage Project (Kern Fan Project).

Ms. Welch provided an overview of the proposed Sites Project which: 1) provides for a new off-stream reservoir with an average annual delivery of approximately 230,000 acre-feet (AF) equaling 190,000 acre-feet for participants, and 40,000 acre-feet for the State ecosystem, 2) captures and stores Sacramento River stormwater flows, 3) recently "rightsized" storage from 1.8 million AF to 1.5 million AF to reduce costs, based on stakeholder, community and regulatory input, and 4) IRWD would access to 5,600 AF of storage at an average annual yield of 1,000 AF.

Ms. Welch then provided an overview of participation in the Delta Conveyance Project (DCP) which would consist of one tunnel (6,000 cfs) with two intakes, 42 miles of tunnels, a pump station, a forebay, and connections to the California Aqueduct. IRWD could also receive water supply benefits from the State Water Project including incremental Table A and Article 21 water.

Director Swan reported that this item was reviewed by the Supply Reliability Programs Committee on two occasions and that the Committee concurs with staff's recommendation. Following discussion, on MOTION by Swan, seconded by Reinhart, and unanimously carried by a roll call vote (5-0) Withers, McLaughlin, Swan, LaMar and Reinhart voting aye, and 0 noes, THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE THE SECOND AMENDMENT TO 2019 RESERVOIR PROJECT AGREEMENT BY AND AMONG THE SITES PROJECT AUTHORITY AND THE PROJECT AGREEMENT MEMBERS, AUTHORIZED THE GENERAL MANAGER TO EXECUTE AN AGREEMENT WITH ROSEDALE-RIO BRAVO WATER STORAGE DISTRICT TO PARTICIPATE IN THE PLANNING AND ENVIRONMENTAL REVIEW OF THE DELTA CONVEYANCE PROJECT, APPROVED THE ADDITION OF PROJECT 11746 TO THE FISCAL YEAR 2020-21 CAPITAL BUDGET IN THE AMOUNT OF \$275,000 FOR SITES RESERVOIR PLANNING, AND APPROVED THE ADDITION OF PROJECT 11747 TO THE FISCAL YEAR 2020-21 CAPITAL BUDGET IN THE AMOUNT OF \$263,000 FOR DELTA CONVEYANCE PROJECT PLANNING.

FY 2019-20 COMPREHENSIVE ANNUAL FINANCIAL REPORT

IRWD's auditor, Davis Farr LLP, completed its annual audit of the District's financial statements for the Fiscal Year (FY) ended June 30, 2020. As stated in its report, Davis Farr concluded that in all material aspects, the statements fairly present the District's financial position as of June 30, 2020 and conform with generally accepted accounting principles.

On MOTION by Reinhart, seconded by Swan and unanimously carried by a roll call vote (5-0) Withers, McLaughlin, Swan, LaMar and Reinhart voting aye, and 0 noes, THE BOARD

APPROVED THE COMPREHENSIVE AUDIT REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2020.

ANNUAL BOARD OF DIRECTORS' FEES

General Manager Cook reported that the Finance and Personnel Committee annually reviews the Board of Directors' compensation and recommends to the Board to either accept or deny a fee increase for the new calendar year. Mr. Cook said that Exhibit "A" is a new survey of the Director Fees of other water districts for comparative purposes containing service connections and combined operating and capital budgets. He said that in addition, provided as Exhibit "B" is the survey of Director Fees of local water districts.

Director Swan said that this item was reviewed by the Finance and Personnel Committee on December 8, 2020, and the Committee recommended accepting the 5% increase. Director Swan made a motion which was seconded by Withers to accept the increase. Prior to voting, Director Reinhart questioned voting for a fee increase during COVID-19, and he recommended declining the increase. Director Reinhart made a substitute motion to decline the fee for 2021 which was seconded by McLaughlin and unanimously carried by a roll call vote (5-0) Withers, McLaughlin, Swan, LaMar and Reinhart voting aye, and 0 noes.

ELECTION OF OFFICERS FOR 2021

General Manager Cook said that the Bylaws of the District provide that the President and Vice President shall be elected by the Board from among its members. The term of office of the President and Vice President is one year, or until the election and qualification of their successors. The General Manager was appointed temporary Chairman to conduct the election and opened nominations for President. Director Withers nominated Director Reinhart for President. Director Swan said he would be abstaining from voting tonight and stating his preference that the position be rotated around to be fair to each Board member. On MOTION by Withers, seconded by LaMar, the nominations were closed, AND DOUGLAS REINHART WAS ELECTED PRESIDENT FOR 2020 by the following roll call vote: (4-0-1) Withers, McLaughlin, LaMar and Reinhart voting aye, 0 noes, and Swan abstaining.

On MOTION by LaMar, seconded by Reinhart, and unanimously carried, JOHN WITHERS WAS NOMINATED AND ELECTED VICE PRESIDENT FOR 2021 by the following roll call vote: (5-0) Withers, McLaughlin, Swan, LaMar and Reinhart voting aye, and 0 noes.

GENERAL MANAGER'S REPORT

General Manager Cook updated the Board on COVID-19 cases noting that there had been 20 cases since the beginning of the pandemic, and that currently there are six cases and an additional six cases who are quarantining. He said that of the total cases, none were transmitted at the workplace.

Mr. Cook said that there is a Metropolitan Water District Board member seat open as Mr. Larry McKinney has resigned. He said that Director Reinhart has volunteered to be a member of the South Orange County Water Agencies Selection Committee, which is tasked with selecting a candidate for this seat to be recommended for appointment by the MWDOC Board. At this time, there are three interested candidates including Dennis Erdman from SCWD, Justin McCusker from SMWD, and Paul Jones (soon to be retired) from EMWD.

COMMUNITY UPDATES

Consultant Bruce Newell provided an update on the recent fires in the canyon area with 10 families displaced, and further relayed the problems with communication within the community due to two local generators failing. General Manager Cook said that staff will work with him to see if the District could assist with a backup generator in future times of need.

DIRECTORS' COMMENTS

Director LaMar reported on his attendance at an ACWA conference and various committee meetings, a WACO monthly meeting, a Scripps Water Advisory Committee meeting, and a Natural Communities Coalition Board meeting.

Director Swan reported on his attendance at a ACWA conference, a JPIA meeting, a monthly WACO meeting, an OCWD Water Issues Committee meeting and Finance Committee meeting, a pre-meeting of the Newport Bay Watershed Executive Committee, a Shadetree Partnership Board meeting, and a MWDOC Planning and Operations Committee meeting.

Director Withers reported on his attendance at a number of OCSD meetings, an NWRI meeting, an ACWA conference, and the OCWD Soarin' Over the Surface Recharge System virtual meeting.

Director McLaughlin said that she was very pleased to have been elected to the Board and looked forward to working with everyone.

Director Reinhart reported on his attendance at a South Orange County Agencies Group meeting, an ACWA conference, a Groundwater Banking Authority JPA Projects Committee meeting, an OCWD Board meeting, a WACO monthly meeting, an OCWD Water Issues Committee and a MWDOC Board meeting and Committee meeting.

CLOSED SESSION

Legal Counsel Collins said that the following Closed Session would be held:

Closed Session Conference with Legal Counsel – Existing Litigation - Pursuant to Government Code Section 54956.9(d)(1): *Filanc-Balfour Beatty, JV v. IRWD*, Case No. 30-2019-01048770-CU-BC-CXC

OPEN SESSION

Following the Closed Session, the meeting was reconvened with Directors McLaughlin, Swan, Reinhart, and Withers present. No action was reported.

ADJOURNMENT

There being no further business President Reinhart adjourned the meeting.

APPROVED and SIGNED this 11th day of January 2020.

President, IRVINE RANCH WATER DISTRICT

Secretary, IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:

Claire Hervey Collins, General Counsel
Hanson Bridgett LLP

January 11, 2021
Prepared and
submitted by: K. Swan
Approved by: Paul A. Cook



CONSENT CALENDAR

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

SUMMARY:

Pursuant to Resolution 2006-29 adopted on August 28, 2006, the following events and meetings require approval by the Board of Directors:

Steven LaMar

December 21, 2020 MWDOC Public Affairs and Legislation Committee Meeting via teleconference

Karen McLaughlin

December 28, 2020 IRWD Orientation Meeting with the General Manager

John Withers

December 21, 2020 Virtual Meeting with General Manager Regarding Elected Official Outreach and Local Governmental Public Affairs for 2021

January 20, 2021 Orange County Water Association's Monthly Industry Insight Virtual Presentation


RECOMMENDATION:

THAT THE BOARD RATIFY/APPROVE THE MEETINGS AND EVENTS FOR STEVEN LAMAR, KAREN MCLAUGHLIN, AND JOHN WITHERS AS DESCRIBED HEREIN.

LIST OF EXHIBITS:

None.

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January 11, 2021
Prepared and
submitted by: C. Compton
Approved by: Paul A. Cook 

CONSENT CALENDAR

MEMORANDUM ON OFFICERS OF THE BOARD,
COMMITTEE APPOINTMENTS AND OTHER ASSIGNMENTS

SUMMARY:

Each year, the President of the Board of Directors provides the Board with a memorandum on the upcoming year's officers of the Board, Committee appointments and other assignments. As a result of changes implemented by President Reinhart on Committees and other assignments, the following actions are necessary:

- Receive and file the January 11, 2021, Memorandum on Officers of the Board, Committee Appointments and Other Assignments (Memorandum), and
- Approve attendance at meetings and events by Director for the 2021 calendar year.

BACKGROUND:

IRWD Directors serve on various standing committees and ad hoc committees (when such a committee is created by the Board President), and also serve the District in various other assignments. President Reinhart has reviewed and updated the Committee appointments and other District assignments for 2021; the updated Memorandum is provided as Exhibit "A". The changes from appointments and assignments memorandum for 2021 are highlighted in red text.

Approval of Attendance at Meetings and Events:

Pursuant to Resolution 2014-38 (Resolution), adopted on August 25, 2014, approval / ratification of attendance at events and meetings for non-IRWD Board or Committee meetings is required by the Board of Directors for certain meetings and events. For those meetings and events falling under Section 2(b) of Article II of Exhibit "A" to the Resolution, approval is requested to authorize attendance of the Board Members assigned as the District's representative/lead, and their alternates, as listed in the Memorandum, at meetings and events of governmental agencies and external organizations during the 2021 calendar year. Also provided in Exhibit "A" is a list of the approved organizations.

FISCAL IMPACTS:

None.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

This item was not reviewed by a Committee.

RECOMMENDATION:

THAT THE BOARD RECEIVE AND FILE THE MEMORANDUM DATED JANUARY 11, 2021, TITLED OFFICERS OF THE BOARD, COMMITTEE APPOINTMENTS AND OTHER ASSIGNMENTS AND APPROVE ATTENDANCE FOR MEETINGS AND EVENTS FOR THE BOARD'S REPRESENTATION FOR CALENDAR YEAR 2021 AS DELINEATED.

LIST OF EXHIBITS:

Exhibit "A" – Memorandum from President Reinhart dated January 11, 2021, titled Officers of the Board, Committee Appointments and Other Assignments

Exhibit "A"
MEMORANDUM

DATE: **January 11, 2021 DRAFT**

TO: Board of Directors

FROM: Doug Reinhart, President

SUBJECT: MEMORANDUM RELATIVE TO OFFICERS OF THE BOARD, COMMITTEE APPOINTMENTS, AND OTHER ASSIGNMENTS

District Board of Directors:

- President Doug Reinhart
- Vice President John Withers
- Directors Steve LaMar, Karen McLaughlin, and Peer Swan

Officers of the District, Staff:

- District Treasurer Rob Jacobson
- Assistant District Treasurer Cheryl Clary
- District Secretary Leslie Bonkowski
- Assistant District Secretaries Kristine Swan, Christine Compton

Standing Committees Appointments*:

- Finance and Personnel Swan, LaMar (Alt. **Withers**)
- Engineering and Operations Withers, **McLaughlin** (Alt. **Reinhart**)
- Water Resources Policy & Communications LaMar, **McLaughlin** (Alt. Withers)
- Supply Reliability Programs Reinhart, Swan (Alt. **LaMar**)
- Serrano Water District / IRWD Reinhart, **Withers** (Alt. **Swan**)

** Committee chair name shown first*

Governmental Agencies Representation and Assignments:

- Canyons Communities Withers (Representative), LaMar (Alternate)
- City of Costa Mesa Swan (District Lead), **McLaughlin** (Alternate)
- City of Irvine **McLaughlin** (District Lead), LaMar (Alternate)
- City of Lake Forest Withers (District Lead), Reinhart (Alternate)
- Municipal Water District of Orange County Swan (District Lead), Reinhart (Alternate)
- Natural Communities Coalition** LaMar (Director), **McLaughlin** (Alternate)
- City of Newport Beach Swan (District Lead), Reinhart (Alternate)
- Newport Bay Watershed Executive Cte.** Swan (Representative), **McLaughlin** and Cook (Alternates)
- City of Orange / OPA Withers (District Lead), LaMar (Alternate)
- Orange County Sanitation District (OCSD)** Withers (Director), Reinhart (Alternate)
- Orange County Water District (OCWD) Reinhart (District Lead), LaMar (Alternate)

- Santiago Aqueduct Commission (SAC)** Withers (Director), **McLaughlin** (Alternate)
- South Orange County Watershed **McLaughlin** (Representative),
Management Area Executive Committee** LaMar (Alternate)
- So. OC Wastewater Authority (SOCWA)** Reinhart (Director), Cook (First Alternate) and
Burton (Second Alternate)
- City of Tustin LaMar (District Lead), **McLaughlin** (Alternate)

** Need to notify these agencies of any changes

External Organizations Assignments:

- Association of California Cities (ACC) – OC All Board Members
- Association of CA Water Agencies (ACWA) All Board Members
- ACWA/Joint Powers Insurance Authority Swan (District Lead), **LaMar** (Alternate)
- CalDesal LaMar (District Lead), Reinhart (Alternate)
- CA Association of San. Agencies (CASA) All Board Members
- CA Council for Environmental and Economic Balance CCEEB / WQ Task Force LaMar (District Lead); Compton and
Colston (Alternates)
- **County of Orange Area Safety Task Force** **LaMar (District Lead); Prewoznik (Alternate)**
- El Toro Restoration Advisory Board **McLaughlin** (District Lead), **Colston** (Alt.)
- Independent Special Districts of OC (ISDOC) **Withers** (District Lead), **Reinhart** (Alternate)
- Greater Irvine Chamber of Commerce **LaMar (District Lead); McLaughlin (Alternate)**
- **Kern Fan Groundwater Banking Authority** **Same as members of IRWD SRP Committee**
- **Kern Fan GBA – Finance Committee** **Swan and Clary**
- **Kern Fan GBA – Project Committee** **Reinhart, Cook, and Clary**
- National Water Research Institute (NWRI) Withers (District Lead), Reinhart (Alternate)
- Newport Chamber of Commerce Swan (District Lead), Reinhart (Alternate)
- Orange County Business Council (OCBC) LaMar (District Lead),
Withers (Infrastructure Committee)
- Orange County Water Association Reinhart and Swan
- Public Policy Institute of California Swan (District Lead), LaMar (Alternate)
- South Orange County Economic Coalition **McLaughlin** (District Lead), Reinhart (Alt.)
- South Orange County Water Agencies Group Reinhart (District Lead), LaMar (Alternate)
- Southern California Water Dialogue Group Swan (District Lead), LaMar (Alternate)
- So. California Water Coalition LaMar (District Lead), **McLaughlin** (Alternate)
- Urban Water Institute All Board Members
- WaterReuse Association All Board Members
- Water Advisory Committee of OC (WACO) All Board Members
- Water Education Foundation All Board Members

IRWD-Associated Organizations Officers:

- Bardeen Partners, Inc. Withers, President; Swan, Vice President
LaMar, **McLaughlin**, & Reinhart as Members
Jacobson, Treasurer
Clary, Assistant Treasurer
L. Bonkowski, Secretary

- IRWD Water Service Corporation **Reinhart**, Acting President;
Withers, Acting Vice President
LaMar, **McLaughlin**, & Swan as Members
Jacobson, Treasurer
Clary, Assistant Treasurer
L. Bonkowski, Secretary

- Post-employment Benefits Retirement Trust Board Swan, Chairman; LaMar, Vice Chair
Cook, Member (Alt. **Withers**)
Jacobson, Treasurer
Clary, Assistant Treasurer
L. Bonkowski, Secretary

IRWD-Supported Organizations Representation:

- San Joaquin Wildlife Sanctuary, Inc. Swan, President;
McLaughlin, Director (**proposed**)
L. Bonkowski, Treasurer, Director and Secretary

- Shadetree Partnership, Inc. T. Bonkowski, Director and Treasurer
L. Bonkowski, Director and Secretary
Cook, Director
Swift, Director

NOTE: The officers and directors of these two groups are selected by the Board of each organization, not IRWD.


Organization / Committee Staff Representation and Support:

- Association of CA Cities – OC (ACC-OC) Cook, Compton
- Association of CA Water Agencies (ACWA) Clary (Treasurer), Cook, Compton
- Bioenergy Association of CA Compton (Vice Chair)
- California Assoc. of Sanitation Agencies Chambers, Zepeda, Colston, Compton
- California Municipal Utilities Assoc. (CMUA) Cook, Compton
- California Special Districts Assoc. (CSDA) Compton
- California Water Environmental Assoc. Chambers, Zepeda
- National Water Research Institute (NWRI) Colston, Clary (Treasurer)
- Newport Bay Watershed Mgmt. Comm. Tettermer (Representative), Cook (Alternate)
- Santiago Aqueduct Commission (SAC) Cook (General Manager), Burton (Engineer)
Clary (Treasurer)

- South Orange County Watershed Mgmt. Area Executive Committee Tettermer

- WateReuse National Cook (Board member)
- WateReuse California Cook (Board member), Tettermer, Compton

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January 11, 2021
Prepared by: T. Fournier
Submitted by: R. Jacobson/C. Clary
Approved by: Paul A. Cook 

CONSENT CALENDAR

SAND CANYON OFFICE SPACE IMPROVEMENT PROJECT
FINAL ACCEPTANCE

SUMMARY:

The Sand Canyon Office Space Improvement Project is complete. IRWD’s contractor Layton Construction has received final inspection from the City of Irvine and Board acceptance of the project is recommended.

BACKGROUND:

Layton Construction was awarded the construction contract on June 23, 2020 and completed construction on December 21, 2020. Staff processed four contract change orders during construction as described on the contract change order summary, provided as Exhibit “A”.

Project Title:	Sand Canyon Office Space Improvement
Project Nos.:	01257, 01336, 01549
Design Architect/Engineer:	Ware Malcomb
Construction Manager:	Newport Real Estate Services, Inc.
Contractor:	Layton Construction
Original Contract Cost:	\$1,799,849.00
Final Contract Cost:	\$2,062,319.24
Original Contract Days:	181
Final Contract Days:	181

FISCAL IMPACTS:

Project Nos. 01257, 01336, and 01549 are included in the FY 2020-21 Capital Budget. The existing budget is sufficient to fund the final payment for this project.

ENVIRONMENTAL COMPLIANCE:

A Final Environmental Impact Report has been prepared, certified and the project approved by the County of Orange Environmental Management Agency in compliance with the California Environmental Quality Act (CEQA) of 1970 (as amended), codified at California Public

Resources Code Sections 21000 et. seq., and the State CEQA Guidelines in the Code of Regulations, Title 14, Division 6, Chapter 3.

COMMITTEE STATUS:

This item was not reviewed by a Committee.

RECOMMENDATION:

THAT THE BOARD ACCEPT CONSTRUCTION OF THE SAND CANYON OFFICE SPACE IMPROVEMENT, PROJECTS 01257, 01336, AND 01549, AUTHORIZE THE GENERAL MANAGER TO FILE A NOTICE OF COMPLETION, AND AUTHORIZE THE RELEASE OF RETENTION 35 DAYS AFTER FILING OF THE NOTICE OF COMPLETION.

LIST OF EXHIBITS:

Exhibit "A" – Summary of Construction Change Orders

Exhibit "A"
Sand Canyon Office Space Improvement Project
Change Order Summary

Original Contract Amount \$1,799,849.00

Number	Change Orders Description	Amount
1		
	Office Sound Caulking	\$1,698.00
	Relocate an Existing Vent Line	\$2,249.00
	Revised Ceiling Config./New Lights (office 208)	\$3,588.00
	Drywall Patching Second Floor	\$3,742.00
	Total CO #1	\$11,277.00

Original Contract Amount \$1,799,849.00

Change Order #1 \$11,277.00

0.63%

Revised Contract After Change Order #1 \$1,811,126.00

Revised Contract \$1,811,126.00

Number	Change Orders Description	Amount
2		
	Permit Set Plans to Included ADA Requirements	\$32,616.00
	Millwork and Related Glass, Support and Electrical Revisions	\$51,075.56
	Larger (10 Ton Liebert Split Air system Units and Temp Unit	\$77,869.44
	Ph 3 & Ph 4 New Hard Lid & Lighting	\$33,644.82
	Additional Electrical for Dedicated Circuits	\$1,181.28
	Deletion of Instahot, Garbage Disposal Upgrade & Soap Disp.	\$400.12
	Total CO #2	\$196,787.22

Previous Revised Contract Amount \$1,811,126.00

Change Order #2 \$196,787.22

10.93%

Revised Contract After Change Order #2 \$2,007,913.22

Revised Contract \$2,007,913.22

Number	Change Orders Description	Amount
3		
	Credit - Blinds Allowance Adjustment	(\$1,070.00)
	Credit - Reuse of Existing Doors and Hardware	(\$12,123.10)
	Halon Cage/Wall Demo in Mail Room & Conf. Rm Installation for Sound Improvements	\$11,122.65
	Department Coffee Counter Changes -ADA	\$21,162.46
	Credit - Less Concrete Needed for IS Conf. Room.	(\$6,516.57)
	Extension of Drywall Installation at Server Room & Office with Shared Wall with HR	\$16,760.48
	Total CO #3	\$29,335.92

Previous Revised Contract Amount \$2,007,913.22

Change Order #3 \$29,335.92

1.63%

Revised Contract After Change Order #3 \$2,037,249.14

Revised Contract \$2,037,249.14

Number	Change Orders Description	Amount
4		
	Drywall Patching Throughout the First floor	\$7,524.24
	F/A Strobes Missing in Room (No Cost)	\$0.00
	Construction of Floor Partition at Conference Room 127 (IS dept)	\$4,229.71
	Three Added Lights in Development Services Near Coffee Bar	\$1,819.00
	Furnish and Install Temporary A/Construct for computer room during construction	\$11,497.15
	Total CO #4	\$25,070.10

Previous Revised Contract Amount \$2,037,249.14


Change Order #4 \$25,070.10

1.39%

Final Revised Contract After Change Order #4 **\$2,062,319.24**

Total Change Orders \$262,470.24
Percent Change to the Original Contract 14.58%

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January 11, 2021
Prepared by: R. Jacobson
Submitted by: C. Clary
Approved by: Paul A. Cook 

CONSENT CALENDAR

INTEREST RATE SWAPS – LIBOR INDEX TRANSITION

SUMMARY:

IRWD has two LIBOR Index-based fixed payer interest rate swaps which hedge a portion of its variable rate debt portfolio. The regulator for the LIBOR Index announced its intent to discontinue the LIBOR Index in late 2021, and the Secured Overnight Funding Rate Index (SOFR) has been named as the intended Fallback Rate replacing LIBOR when it is discontinued. An option is currently available which will facilitate the transition into the new SOFR rate. Based on an evaluation of alternatives available when the index is discontinued, staff recommends the Board approve adherence to the International Swaps and Derivatives Association's LIBOR Fallback Protocol to facilitate the transition into the new Fallback Rate when LIBOR is discontinued.

BACKGROUND:

In 2004, the District entered into two fixed payer interest rate swap agreements to hedge a portion of its variable rate debt portfolio. The swaps are indexed to the one-month London Interbank Offered Rate (LIBOR) Index which is regulated by the U.K. Financial Conduct Authority (FCA). The swaps are each for a \$30 million notional amount (total of \$60 million) with Merrill Lynch and Citibank as the swap counterparties and both are scheduled to mature in March 2029. Based on the swap agreements, the District pays a fixed rate of 5.687% and receives the one-month LIBOR rate (currently at 0.145% as of December 28, 2020).

In 2017, the FCA announced that it will no longer require its participating banks to provide daily submissions of LIBOR rates after 2021, which will effectively discontinue the LIBOR index when that occurs.

Based on the planned discontinuance of LIBOR, staff and IRWD's swap advisor, PFM Financial Advisors, evaluated alternatives available to the District to replace the LIBOR Index. The alternatives considered include adherence to the International Swaps and Derivatives Association's (ISDA) Fallback Protocol transitioning to the Secured Overnight Funding Rate Index as the Fallback Rate, or amending the swap agreements with the counterparties to substitute an alternative index (e.g., SIFMA Index, Federal Funds rate).

The SOFR Index is a secured, short-term (overnight) borrowing rate based on U.S. Treasury repurchase agreements. In June 2017, the Federal Reserve identified SOFR as its preferred alternative rate to LIBOR. To provide for a comparable one-month SOFR rate, a spread to the overnight SOFR rate will be determined on the date the FCA announces the discontinuation of LIBOR based on five years of historical data. As of December 28, 2020, the one-month LIBOR was 0.145% and the one-month SOFR was 0.191%, or a difference of approximately 0.046%.

Interest Rate Swaps – Index Transition Alternatives:

ISDA Fallback Rate and Protocol:

In October 2020, ISDA announced the LIBOR Fallback Protocol (Protocol) to efficiently transition LIBOR-based interest rate swaps to the Fallback Rate when LIBOR is discontinued. Under the Protocol, existing LIBOR-based interest rate swaps will transition to the Fallback Rate when LIBOR is discontinued if both counterparties have adhered to the Protocol. Based on discussions between staff and the District's swap counterparties, Merrill Lynch (B of A) and Citibank, each have acknowledged its firm's intent to adhere to the Protocol.

Adherence to the Protocol is completed on the ISDA website. Following adherence to the Protocol, all LIBOR-based swaps will continue to use the LIBOR rate until such time as the FCA has announced its discontinuance. At that time, the swaps will transition to the Fallback Rate with no additional steps required. For counterparties adhering to the Protocol deadline by January 25, 2021, there is no fee. After January 25, 2021, a nominal fee will be charged and there is no guaranteed date for when the FCA may discontinue LIBOR. Adherence to the Protocol could also be rescinded by IRWD prior to the discontinuance of LIBOR if it decided to do so.

Benefits to adhering to the Protocol include avoiding LIBOR discontinuation risk, automatic transition to a known Fallback Rate and no change to the current swap fixed rate. Also, based on proposed regulations by the Internal Revenue Service, transitioning from LIBOR to SOFR as the new benchmark rate will avoid potential amendment of the existing agreements and reissuance issues that would likely be required to be recognized on IRWD's financial statements. As of November 30, 2020, the market value of the District's interest rate swaps was negative \$24.8 million. An annual hedge effectiveness test would continue to be required as part of the District's audit process with the SOFR Index.

Transition to an Alternative Index:

Staff and PFM also evaluated amending the current swap agreements to change the index to the Securities Industry and Financial Markets Association (SIFMA) tax-exempt municipal index. Based on analysis provided by PFM, the difference in expected cash flows between the estimated SIFMA-based swap rate and the one-month SOFR index was nominal.

Amending the swap agreements to an alternative index would include transactional and legal costs estimated at between \$75,000 and \$100,000. A significant consideration in amending the swap agreements would be the likely loss recognition from the reissuance that would be required to be reflected on IRWD's financial statements.

Based on the evaluation of the alternatives to the LIBOR rate transition, as well as input from PFM, bond counsel and the District's counterparties, staff recommends the Board approve adherence to the ISDA Fallback Protocol prior to January 25, 2021.

FISCAL IMPACTS:

Cannot be determined at this time.

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 January 5, 2021.


RECOMMENDATION:

THAT THE BOARD APPROVE ADHERENCE TO THE INTERNATIONAL SWAP AND DERIVATIVES ASSOCIATION 2020 LIBOR FALLBACK PROTOCOL FOR IRWD'S \$60 MILLION NOTIONAL FIXED PAYER INTEREST RATE SWAPS AND AUTHORIZE THE TREASURER TO TAKE STEPS TO ADHERE TO THE ISDA PROTOCOL PRIOR TO JANUARY 25, 2021.

LIST OF EXHIBITS:

None.

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January 11, 2021
Prepared by: J. Corey / K. Welch
Submitted by: F. Sanchez / P. Weghorst
Approved by: Paul A. Cook 

CONSENT CALENDAR

FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE SAN JOAQUIN RESERVOIR FILTRATION FACILITY PROJECT

SUMMARY:

A Final Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed San Joaquin Reservoir Filtration Facility Project. The proposed project would improve the quality of recycled water delivered from the San Joaquin Reservoir by constructing and operating new filtration facilities that would reduce algae and detritus concentrations. Staff recommends the Board adopt the Final IS/MND and the associated Mitigation Monitoring and Reporting Program (MMRP), approve the proposed project and authorize staff to file a Notice of Determination.

BACKGROUND:

The San Joaquin Reservoir was originally constructed in the 1960s by the Metropolitan Water District of Southern California (MWD) to serve as a potable water reservoir. A location map of the reservoir is provided as Exhibit "A". MWD used the facility as a potable water reservoir for many years but changes in the regulations led to a requirement to cover the facility. A proposal to cover the reservoir was met with resistance due to cost considerations and aesthetics. MWD made the decision to sell the reservoir to IRWD for use as a recycled water reservoir, which does not require a cover.

The San Joaquin Reservoir serves IRWD's Zone B recycled water system. The reservoir is filled principally in the winter when irrigation demands are low and drained in the summer and fall when irrigation needs are high. In 2015, IRWD split its Zone B service area such that the reservoir only provides service to a portion of IRWD's Zone B system. This change was made because of customer complaints in the Irvine Spectrum area regarding algae and detritus appearing in the recycled water coming from the reservoir. Recycled water service to the Irvine Spectrum area was reconfigured to be served by other IRWD recycled water zones. The proposed project will improve the quality of water delivered from the reservoir by constructing new filtration facilities to reduce algae and detritus concentrations.

Filtration Facility Project Overview:

The proposed project is necessary to improve the quality of recycled water delivered from the San Joaquin Reservoir. The proposed project would maintain the facility outflow capacity of 18.5 cubic feet per second with a filtration limit of 70 micrometers, which is an acceptable standard for irrigation system components. The proposed project would include new dual-module filtration strainers. The filtration facility would be constructed on the existing concrete pad north of the existing Flow Control Facility. The booster pumps, which are located in the existing pump room of the Flow Control Facility, would be replaced to accommodate the new filters. Additional proposed project improvements include:

- New filter waste wash water equalization basin, return pumps and pipeline to return the wash water to the southern end of the reservoir;
- Modifications to the existing hypochlorite system;
- Electrical and programmable logic controller modifications, including installation of a new Southern California Edison (SCE) transformer on the project site to meet increased power needs and serve the new pumps and associated mechanical equipment;
- An enlarged electrical room inside the Flow Control Facility to accommodate the new booster pump variable frequency drives that would be created by removing an interior wall in the existing electrical room;
- Demolition and removal of the existing Southern California Edison (SCE) transformer and existing electric control cabinet; and
- Notching of the eastern hillside adjacent to the transformer pad to install a retaining wall.

Environmental Review:

A Draft IS/MND for the San Joaquin Reservoir Filtration Facility Project was prepared by environmental consultants at LSA. The Draft IS/MND was originally circulated for public review from June 3, 2020 to July 2, 2020. During the public review period, IRWD determined that a new pad would need to be constructed for the 1,500-kilovolt ampere transformer that is required by SCE to provide electrical service. Construction of the new transformer pad would require notching of the adjacent hillside to install a retaining wall. The new retaining wall would impact a maximum of 0.0184 acre of coastal sage scrub (CSS), located adjacent to the site.

Use of CSS Take Credits:

The proposed project site is located within the Orange County Central/Coastal Natural Community Conservation Planning/Habitat Conservation Plan (NCCP/HCP). As a participatory member of the NCCP/HCP, IRWD has “take” authorization credits, which can be used for approved impacts. IRWD informed the California Department of Fish and Wildlife (CDFW) that it intends to use up to 0.0184 acres of credit for the proposed project impact and CDFW approved the action. Since neither the retaining wall nor the new transformer were included in the initial project description, the project description was revised and the Draft IS/MND was recirculated to comply with California Environmental Quality Act (CEQA) requirements.

Recirculation of Draft IS/MND:

On November 2, 2020, the Draft IS/MND was re-circulated for a 30-day public review period pursuant to CEQA. Two letters providing comments on the re-circulated Draft IS/MND were received during the public review period that concluded on December 1, 2020. Agencies that provided comments were MWD and CDFW. MWD owns and operates the East Orange County Feeder No. 2 and the Irvine Cross Feeder pipelines. Both pipelines are located immediately adjacent to the San Joaquin Reservoir and MWD requested continuous access to their facilities.

CDFW requested that IRWD provide a final amount of take credits used for the proposed project after negotiations with SCE regarding the size of the transformer are finalized.

Staff reviewed the comments received and worked with LSA to prepare responses to comments and a MMRP for the proposed project. The Response to Comments and MMRP are included in the Final IS/MND that is provided as Exhibit “B”.

FISCAL IMPACTS:

The funds necessary for the environmental review and required filing fees associated with the proposed San Joaquin Reservoir Filtration Facility Project are included in project 10379 in the Fiscal Year 2019-21 Capital Budget. The existing budget and Expenditure Authorizations are sufficient at this time.

ENVIRONMENTAL COMPLIANCE:

This project is subject to CEQA and in conformance with California Code of Regulations Title 14, Chapter 3, Article 6. A Notice of Intent to adopt a Mitigated Negative Declaration was filed with the County of Orange and the State Clearinghouse on November 2, 2020. Pursuant to State Guideline §15073, the IS/MND was made available for public review for a period of 30 days from November 2, 2020, through December 1, 2020.

COMMITTEE STATUS:

This item was not reviewed by Committee.

RECOMMENDATION:

THAT THE BOARD FIND ON THE BASIS OF THE WHOLE RECORD BEFORE IT (INCLUDING THE FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND THE COMMENTS RECEIVED) THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE SAN JOAQUIN RESERVOIR FILTRATION FACILITY PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND THAT THE FINAL MITIGATED NEGATIVE DECLARATION REFLECTS IRWD'S INDEPENDENT JUDGMENT AND ANALYSIS, ADOPT THE PROPOSED FINAL MITIGATED NEGATIVE DECLARATION FOR THE SAN JOAQUIN RESERVOIR FILTRATION FACILITY PROJECT AND THE ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM, APPROVE THE SAN JOAQUIN RESERVOIR FILTRATION FACILITY PROJECT, AND AUTHORIZE STAFF TO POST AND FILE A NOTICE OF DETERMINATION.

LIST OF EXHIBITS:

- Exhibit “A” – San Joaquin Reservoir Filtration Facility Project Location Map
- Exhibit “B” – San Joaquin Reservoir Filtration Facility Recirculated Final Initial Study/Mitigated Negative Declaration

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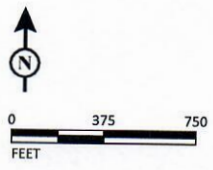
Exhibit "A"



FIGURE 2.1

LSA

LEGEND
Project Location



SOURCE: Google Maps (2018)

\\vcorp12\images\IRW1601.03\GIS\MXD\SanJoaquinReservoirLoc.mxd (2/6/2020)

San Joaquin Reservoir Filtration Facility
San Joaquin Reservoir Location

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Exhibit "B"

A COPY OF EXHIBIT "B"
CAN BE OBTAINED FROM THE BOARD
SECRETARY
AND IS AVAILABLE FOR DOWNLOAD AT THE
FOLLOWING LINK

[https://www.irwd.com/images/pdf/doing-business/environmental-documents/env-documents-2021/sjr filtration facility final is mnd.pdf](https://www.irwd.com/images/pdf/doing-business/environmental-documents/env-documents-2021/sjr%20filtration%20facility%20final%20is%20mnd.pdf)

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January 11, 2021

Prepared by: J. Corey / K. Welch

Submitted by: F. Sanchez / P. Weghorst

Approved by: Paul A. Cook



ACTION CALENDAR

FINAL ENVIRONMENTAL IMPACT REPORT FOR KERN FAN GROUNDWATER STORAGE PROJECT

SUMMARY:

The proposed Kern Fan Groundwater Storage Project would provide a regional water bank to capture, recharge and store water for later use in providing water supply reliability for IRWD and Rosedale-Rio Bravo Water Storage District. The proposed project would also provide ecosystem and other benefits in exchange for Water Storage Investment Program (WSIP) funding from the state of California. The Groundwater Banking Joint Powers Authority (Authority) as the Lead Agency, in consultation with Rosedale and IRWD as Responsible Agencies, has prepared a Final Environmental Impact Report (EIR) for the proposed Kern Fan Groundwater Storage Project. Staff recommends the Board:

- Consider the attached Final EIR, the Findings and Facts in Support of Findings and the Mitigation Monitoring and Reporting Program (MMRP);
- Direct staff to incorporate into the findings as presented in this meeting such revisions as may be necessary to conform the findings to any information that may be received after preparation of said findings and prior to this action, including any changes made in the findings by the Authority in adopting the Final EIR and any comments from the Board at this meeting;
- Direct that the findings, as so revised, be attached to the provided resolution; and
- Adopt the resolution adopting written findings pursuant to the California Environmental Quality Act (CEQA), adopting the MMRP, approving the project, and authorizing the filing of a Notice of Determination.

BACKGROUND:

The Authority as the Lead Agency, in consultation with Rosedale and IRWD as Responsible Agencies, proposes the development of the Kern Fan Groundwater Storage Project. The proposed project would provide a regional water bank to capture, recharge and store water for later use in providing water supply reliability for IRWD and Rosedale. The proposed project would also provide ecosystem and other benefits in exchange for Water Storage Investment Program (WSIP) funding from the state of California. The proposed project will allow Rosedale and IRWD to more effectively manage sources of water supply by using available underground storage in the local San Joaquin Valley Groundwater Basin.

Kern Fan Project Overview:

The proposed Project would include the construction of up to 1,300 acres of recharge basin facilities and up to 12 recovery wells on project properties. The proposed project water

conveyance facilities would consist of a canal, pipelines, pump stations and a new turnout at the California Aqueduct to convey water between the project facilities and the California Aqueduct. The proposed project would be operated such that surplus surface water from the State Water Project, Central Valley Project, Kern River and other available water sources would be recharged and stored for subsequent recovery and use. It is estimated that the project would be able to recharge and store up to 100,000 acre-feet. At the meeting, staff will present an update on the project and an overview of the associated environmental review.

Environmental Review of Proposed Project:

Pursuant to the requirements of CEQA Guidelines, a Notice of Preparation was publicly circulated for 30 days on April 8, 2020. In addition, a public scoping meeting was held on April 29, 2020. The purpose of the meeting was to provide the public and governmental agencies information on the CEQA process and to give further opportunities to identify environmental issues and alternatives for consideration in the EIR.

Public Review of Draft EIR:

On October 19, 2020, Rosedale filed a Notice of Completion of a Draft EIR for the proposed project with the Governor's Office of Planning and Research. Pursuant to Section 21091 of the Public Resources Code, the filing initiated a 45-day public review period. A Notice of Availability of the Draft EIR was posted on October 16, 2020, with the County Clerks in Kern County and Orange County. A public meeting was held at Rosedale's office in Bakersfield on November 4, 2020. No comments were offered from the audience at the public meeting.

Nine letters providing comments on the Draft EIR were received during the public review period. The agencies that provided comments are the California Department of Water Resources, California Department of Water Resources Division of Safety of Dams, California Department of Fish and Wildlife, West Kern Water District, Kern County Water Agency, Kern Water Bank Authority, Metropolitan Water District of Southern California, Dudley Ridge Water District and City of Bakersfield.

Preparation of Final EIR:

The Authority, in consultation with Rosedale and IRWD, reviewed all the written comments received on the Draft EIR and prepared detailed responses to comments directed to any significant environmental issues. The comments, responses and revisions to the Draft EIR text are included in a separate document comprised of additional chapters (8-11) which, together with the Draft EIR, comprise the Final EIR, which is provided as Exhibit "A". The Findings and Facts in Support of Findings for the Project are provided as Exhibit "B". The associated MMRP is provided as Exhibit "C".

Consideration of Final EIR:

On December 28, 2020, the Authority adopted a resolution certifying the Final EIR. As a responsible agency, IRWD must comply with CEQA by considering the EIR that was prepared and certified by the Authority. IRWD's consideration must be given to the environmental effects

of the Project prior to reaching a decision on the Project. In addition, IRWD must approve findings related to the Project and file a Notice of Determination.

Staff requests that the Board consider the environmental effects, proposed mitigation measures and all findings of the Project through the review of the exhibits provided. A resolution for adopting the findings, adopting the MMRP, approving the project and authorizing the filing of a Notice of Determination is provided as Exhibit "D".

FISCAL IMPACTS:

No additional expenditures are recommended for approval at this time.

ENVIRONMENTAL COMPLIANCE:

This project is subject to CEQA and in conformance with California Code of Regulations Title 14, Chapter 3, Article 6, a Notice of Availability to review an Environmental Impact Report was filed with the County of Kern and the County of Orange on October 16, 2020. Pursuant to State Guideline § 15073, the Draft EIR was made available for public review for a period of 45 days from October 16, 2020 through November 30, 2020.

COMMITTEE STATUS:

This item was not reviewed by a Committee.

RECOMMENDATION:

THAT THE BOARD DIRECT STAFF TO INCORPORATE INTO THE DRAFT FINDINGS AS PRESENTED IN THIS MEETING SUCH REVISIONS AS MAY BE NECESSARY TO CONFORM THE FINDINGS TO ANY INFORMATION THAT MAY BE RECEIVED AFTER PREPARATION OF SAID FINDINGS AND PRIOR TO THIS ACTION, INCLUDING ANY CHANGES MADE IN THE FINDINGS BY THE AUTHORITY IN ADOPTING THE FINAL ENVIRONMENTAL IMPACT REPORT AND ANY COMMENTS FROM THE BOARD AT THIS MEETING; DIRECT THAT THE FINDINGS, AS SO REVISED, BE ATTACHED TO THE BELOW-MENTIONED RESOLUTION, THEN CONSIDER ADOPTING THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION NO. 2021 –

RESOLUTION OF THE BOARD OF DIRECTORS OF THE IRVINE RANCH WATER DISTRICT RELATIVE TO ITS CONSIDERATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE KERN FAN GROUNDWATER STORAGE PROJECT; ADOPTING WRITTEN FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING A MITIGATION, MONITORING AND REPORTING PROGRAM; APPROVING THE PROJECT; AND AUTHORIZING THE FILING OF A NOTICE OF DETERMINATION TO PROCEED WITH THE PROJECT

LIST OF EXHIBITS:

Exhibit "A" – Final Environmental Impact Report for Kern Fan Groundwater Storage Project

Exhibit "B" – Findings and Facts in Support of Findings

Exhibit "C" – Kern Fan Mitigation Monitoring and Reporting Program

Exhibit "D" – Draft Resolution

A COPY OF EXHIBIT "A"
CAN BE OBTAINED FROM THE BOARD
SECRETARY
AND IS AVAILABLE FOR DOWNLOAD AT
THE FOLLOWING LINK

[https://www.irwd.com/images/pdf/doing-business/environmental-documents/env-documents-2020/KernFanGroundwater StorageProject FEIR Dec2020.pdf](https://www.irwd.com/images/pdf/doing-business/environmental-documents/env-documents-2020/KernFanGroundwaterStorageProjectFEIRDec2020.pdf)

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EXHIBIT "B"

FINDINGS AND FACTS IN SUPPORT OF FINDINGS

GROUNDWATER BANKING JOINT POWERS AUTHORITY KERN FAN GROUNDWATER STORAGE PROJECT (State Clearinghouse No. 2020049019)

I. Description of the Project

Rosedale-Rio Bravo Water Storage District (Rosedale) and Irvine Ranch Water District (IRWD) have formed the Groundwater Banking Joint Powers Authority (Authority) for the purpose of developing, constructing and operating the Kern Fan Groundwater Storage Project (proposed project) in western Kern County. The proposed project would involve the construction and operation of water conveyance, recharge and recovery facilities. The proposed recharge and recovery facilities would be constructed in two phases on approximately 1,300 acres of agricultural or vacant land within or near the Rosedale service area. The proposed project would also involve the acquisition of easements for construction, operation and maintenance of proposed Kern Fan Conveyance Facilities that would deliver water to and from the California Aqueduct and other facilities operated in Rosedale's Conjunctive Use Program. Implementation of the proposed facilities would allow Rosedale and IRWD to more effectively manage sources of water supply by using available underground storage in the local San Joaquin Valley Groundwater Basin.

II. Compliance with the California Environmental Quality Act

The Authority is the Lead Agency for the project under the California Environmental Quality Act ("CEQA"). Pursuant to the requirements of the State CEQA Guidelines, a Notice of Preparation was publicly circulated for a 30-day period concluding May 8, 2020. In addition, the Authority held one virtual public scoping meeting on April 29, 2020 to provide the public and governmental agencies information on the CEQA process and to give further opportunities to identify environmental issues and alternatives for consideration in the EIR.

On October 16, 2020, the Authority posted a Notice of Availability of the Draft EIR (DEIR) with the County Clerks in Kern County and Orange County. The DEIR was circulated for public review during the public review period established for the DEIR (October 16, 2020 through November 30, 2020). One virtual public meeting on the DEIR was held on November 4, 2020; no comments were received from the audience at the meeting.

Written comments were received. The Authority reviewed all of the written comments received from interested persons, organizations and agencies and prepared detailed responses on the comments directed to any significant environmental issues. The comments and responses, along with revisions to the DEIR text, are included in separate chapters, which, together with the DEIR, comprise the Final EIR.

III. Findings Regarding Potentially Significant Environmental Impacts

The EIR described the baseline environmental setting and addressed the environmental resource areas in which the proposed project could result in potentially significant effects:

aesthetics; agriculture and forestry resources; air quality; biological resources; cultural resources; energy; geology and soils; greenhouse gas emissions; hazards and hazardous materials; hydrology and water quality; land use and planning; mineral resources; noise and vibration; transportation; tribal cultural resources; utilities and service systems; and wildfire. Measures to mitigate the impacts of the proposed project were presented for each resource area where significant potential impacts were identified. Based on the results of the EIR analysis, it was concluded that the implementation of environmental commitments incorporated into the project along with proposed mitigation would insure that impacts to these environmental resources would be less than significant for the project.

The EIR reviewed combined cumulative impacts associated with the project's effects in conjunction with the effects of past, present and reasonably foreseeable future projects in the same geographic area. For this purpose, the EIR included a list of past, present and reasonably-foreseeable future capital improvement, development and other construction projects located in the vicinity of the project, as well as identified past, present and reasonably-foreseeable groundwater banking projects in the Kern Fan Area. The cumulative impact analysis was conducted for each of the same environmental resources listed above for the project impact analysis. The EIR analysis concluded that, with the implementation of the proposed mitigation measures, the project would not have any cumulatively significant impacts.

Population projections and water demands within the IRWD and Rosedale service areas were presented and the growth-inducement potential of the project was analyzed.

CEQA provides that when an EIR identifies any significant environmental effects that would occur if the project is approved or carried out, the agency must make a finding or findings for each of the identified significant effects, accompanied by a brief explanation of the rationale for each finding. The possible types of findings are:

- Finding 1 Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
- Finding 2 Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- Finding 3 Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

CEQA provides that when making findings, a public agency must adopt a reporting monitoring program for the changes to the project that it has adopted or made conditions of approval in order to mitigate or avoid significant project-related impacts on the environment. In accordance with CEQA, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the proposed project. The MMRP is designed to ensure compliance during implementation of the approved project through ongoing monitoring and reporting of adopted mitigation measures as well as environmental commitments incorporated into the project. The primary goal of the MMRP is to ensure that during final design, construction, and operation, the project will avoid or reduce potentially significant environmental impacts.

The facts listed herein in support of findings summarize the basis for the findings, as set forth more fully in the DEIR, Final EIR and appendices thereto. For convenience of reference, impacts and mitigation measures are referenced by designations given in the EIR (e.g., "AES-1"). A complete description of each mitigation measure is contained in the MMRP. By specific topic area, the findings and facts in support of the findings are as follows:

A. Aesthetics

POTENTIAL EFFECTS: Potential effects examined included: the potential to adversely affect a scenic vista [Impact 3.1-1]; the potential to damage scenic resources within a state scenic highway [Impact 3.1-2]; the potential to degrade existing visual character or quality of the project area and its surroundings [Impact 3.1-3]; the potential to create a new source of substantial light or glare that would adversely affect day or nighttime views [Impact 3.1-4]; and the potential to result in cumulatively considerable impacts to aesthetics [Impact 3.1-5].

FINDINGS: Adherence to the mitigation measure AES-1 listed in the EIR will reduce Impact 3.1-4 and 3.1-5 to less than significant (Finding 1). Impact 3.1-3 will be less than significant, requiring no mitigation. The remaining potential impacts will not occur.

FACTS IN SUPPORT OF THE FINDINGS:

Impacts Not Occurring: The project area is not considered a scenic vista and would not be located within a designated scenic vista or scenic highway corridor. No impacts to scenic vistas would occur as a result of the proposed project. There are no designated scenic highways in the project vicinity; therefore, the proposed project would not affect any scenic resources within a scenic highway corridor.

Impact 3.1-3: The visual character of the project area and its surroundings would not be substantially degraded by implementing recharge and recovery facilities within the area. Neighboring and surrounding properties include a mixture of agricultural, rural residential, and groundwater banking land uses and facilities. Conversion of the project area from agricultural production to include groundwater banking and water conveyance would not change the composition and character of the surrounding landscape. Impacts to visual character would be less than significant. As a result, Impact 3.1-3 would be less than significant, requiring no mitigation.

Impact 3.1-4: Nighttime construction lighting and security lighting would be shielded and directed downward, away from neighboring properties and surrounding areas, in accordance with Mitigation Measure AES-1. Construction lighting would be temporary and permanent security lighting would be connected to motion sensors. As a result, the proposed project would minimize new nighttime light sources and would protect the ability to view the night sky by restricting unnecessary upward projection of light, in support of the Kern County Dark Skies Ordinance. Impacts related to light and glare would be less than significant with mitigation.

Impact 3.1-5: The geographical extent of cumulative impacts related to aesthetics includes viewsheds in the San Joaquin Valley in which the project is visible. Significant cumulative impacts related to aesthetics could occur if the project, in conjunction with cumulative projects, could block significant scenic vistas, create cumulative light and glare, or substantially degrade the visual quality of an area. The cumulative projects are projects that either involve road improvements and extensions, and one recharge, conveyance and recovery project within the Rosedale service area. There are no scenic vistas within the general vicinity of the proposed

project, therefore cumulative projects would not combine with the proposed project to impact scenic vistas within the area. Further, there are no State Scenic Highways in the general vicinity of the area, therefore no cumulative impacts would occur in regards to degrading aesthetic resources within view corridors of State Scenic Highways.

While the cumulative projects would involve construction equipment similar to the proposed project, the machinery would only be visible for short periods of time and construction work is temporary in nature. Therefore, construction of cumulative projects in conjunction with the proposed project would not result in significant cumulative impacts to the visual character of the area during construction. Some cumulative projects would implement road improvements and extensions on existing streets and highways; therefore, implementation of these cumulative projects would not result in significant impacts to the visual character of the area once constructed. Various cumulative projects would introduce new built facilities into the project area that are similar to the proposed project. The proposed facilities would include water recharge, recovery and conveyance facilities. Similar to discussed above, the project area's existing environment consists of similar water facilities spread out amongst agricultural and rural residential areas. Because these cumulative projects would implement similar facilities that are within the existing environment of the project area, the project would not substantially alter or degrade the visual character and quality of the general vicinity of the proposed project. Cumulative projects, in conjunction with the proposed project would result in less than significant cumulative impacts to visual character and quality.

Cumulative projects that include road improvements would occur within existing roadways, and therefore would not implement new structures that would introduce new light or glare into the area. However, similar to the proposed project, other cumulative projects would include wells, which would require overnight drilling and nighttime lighting during construction. Further, new built water facilities proposed as part of the cumulative projects may contain security lighting. Implementation of cumulative projects could result in significant impacts regarding light and glare. However, the proposed project would include implementation of Mitigation Measure AES-1, which would direct and shield lighting away/from neighboring properties. Therefore, the proposed project's contribution to cumulative light and glare impacts would result in less than cumulatively considerable impacts regarding light and glare. The project would not combine together with the projects in the cumulative scenario to be cumulatively considerable, and impacts would be less than significant with mitigation.

MITIGATION MEASURES: AES-1.

B. Agricultural and Forestry Resources

POTENTIAL EFFECTS: Potential effects examined included the potential to: convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland) to non-agricultural use [Impact 3.2-1]; conflict with existing zoning for agricultural use, or a Williamson Act contract [Impact 3.2-2]; conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production [Impact 3.2-3]; result in the loss of forest land or conversion of forest land to non-forest use [Impact 3.2-4]; involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use [Impact 3.2-5]; or result in cumulatively considerable impacts to agriculture and forestry resources [Impact 3.2-6].

FINDINGS: Adherence to the Mitigation Measure AGR-1 listed in the EIR will reduce Impact 3.2-2 and 3.2-6 to less than significant (Finding 1). Impact 3.2-1 would be less than significant, requiring no mitigation. The remaining potential impacts will not occur.

FACTS IN SUPPORT OF THE FINDINGS:

Impacts Not Occurring: The proposed project does not include lands zoned as forest land, timberland, or timberland zoned Timberland Production, and does not include forest land. There would be no conflict with forest land zoning, and the proposed project would not result in the loss of forest land or conversion of forest land to non-forest use.

Impact 3.2-1: The proposed project would support agricultural resources in the region through groundwater recharge and conveyance. The proposed project would be compatible with the goals and policies of the Kern County General Plan for protecting agricultural resources through the beneficial use of percolation basins and conveyance facilities and would reduce the potential for the project sites to be converted to permanent non-agricultural land uses, such as residential, commercial, or industrial uses. The implementation of groundwater recharge, recovery, and conveyance facilities within the project area would not result in the conversion of Prime Farmland or other FMMP-designated farmland to non-agricultural uses. Agricultural land uses, such as annual farming, grazing, or fallowing, would be allowed within the basins when not operated for water recharge or water management purposes. The project sites would be managed in accordance with Kern County's rules for agricultural preserves as applicable. The Authority (or their respective lessees) shall supply any water necessary for irrigated agriculture or other overlying uses. Thus, impacts relating to the conversion of farmland to non-agricultural uses would be less than significant.

Impact 3.2-2: If a proposed project site were to be located within a County-designated agricultural preserve and/or under an existing Williamson Act contract, then Kern County's *Agricultural Preserve Standard Uniform Rules* may apply. The rules are designed to restrict land uses to those compatible with agriculture, including crop cultivation, livestock breeding, grazing operations, and dairies. The *Standard Uniform Rules* state that public water utility facilities are considered compatible uses. Therefore, the Kern Fan Conveyance Facilities would be considered compatible uses on lands under Williamson Act contract. The *Standard Uniform Rules* also state that groundwater recharge operations are compatible land uses on agricultural preserves if the preserve is used for commercial agriculture for at least seven months out of a twelve-month period. Therefore, if the proposed recharge and recovery facilities would be located on Williamson Act lands, then during periods when the basins are not operated for water recharge or water management purposes, the basins would be used for agricultural purposes, such as annual farming, grazing, or fallowing. Farming and livestock grazing are considered compatible agricultural uses. Alternatively, groundwater recharge facilities are considered compatible land uses if the Land Use Contract is amended by the County Board of Supervisors to allow water recharge as the primary purpose of an "open space" contract. Implementation of Mitigation Measure AGR-1 would require compliance with the *Standard Uniform Rules* as applicable to avoid conflict with agricultural zoning or potential Williamson Act contracts. If a proposed project site is not under a Williamson Act contract, then Mitigation Measure AGR-1 would not apply. Impacts would be less than significant with mitigation.

Impact 3.2-6: The geographic scope used to analyze cumulative impacts to agriculture is the San Joaquin Valley. As discussed above the proposed project would not involve the conversion of forested land nor would the proposed project be located on any forested land. As such, the project would have no impacts to forested land or conversion of forested land and would, in turn,

not be cumulatively considerable for impacts to forestry resources. The project would, however, potentially impact agricultural lands in the project area.

The cumulative impact of the proposed project on agricultural resources is dependent on the past, present, and reasonably-foreseeable future conditions of development and land use in the project vicinity. There is an abundance of land in the vicinity of the proposed project that is categorized as Prime Farmland, Unique Farmland, and Farmland of Statewide Importance. Other related projects in the area could result in the conversion of agricultural lands. The projects to be considered cumulatively, together with the proposed project, are listed in Table 3-2 of the EIR. The projects in Table 3-2 include road improvements, management plans and water recharge, conveyance, and diversion. Rosedale serves as the lead agency for several of the projects considered for cumulative analysis. The water recharge and water banking projects (Projects No. 3 to 10, 12 and 13) could be considered cumulative if they involve the conversion of agricultural lands in the greater San Joaquin Valley. However, similar to the proposed project, water utility infrastructure and groundwater recharge facilities are compatible with agricultural zoning and agricultural preserves.

The proposed project would not contribute to cumulative farmland conversion in conjunction with the projects discussed in Table 3-2. As discussed above, the proposed project would provide benefits to agriculture in the project vicinity by preventing the conversion of the proposed project area from farmland to residential or commercial development and preventing overdraft conditions in the underlying groundwater basin, upon which regional farmers depend for irrigation water, and supporting sustainable management of the Kern County Sub-basin in the future as part of the Kern Groundwater Authority GSP. Groundwater recharge is a compatible agricultural land use, and the proposed project would not convert agricultural lands to non-agricultural use. Additionally, the implementation of Mitigation Measure AGR-1 would ensure the Kern Fan Project Properties would be managed as applicable in accordance with Kern County's *Agricultural Preserve Standard Uniform Rules*. As such, the proposed project would not cumulatively contribute to impacts on agriculture and forestry resources.

MITIGATION MEASURES: AGR-1.

C. Air Quality

POTENTIAL EFFECTS: Potential effects examined included the potential to: conflict with or obstruct implementation of the applicable air quality plan [Impact 3.3-1]; result in a cumulatively considerable net increase of any nonattainment pollutant [Impact 3.3-2]; expose sensitive receptors to substantial pollutant concentrations [Impact 3.3-3]; or result in other emissions (such as those leading to odors) adversely affecting a substantial number of people [Impact 3.3-4].

FINDINGS: Adherence to the Mitigation Measure AIR-1 listed in the EIR will reduce Impact 3.3-2 to less than significant (Finding 1). Impacts 3.3-1, 3.3-3, and 3.3-4 will be less than significant, requiring no mitigation.

FACTS IN SUPPORT OF THE FINDINGS:

Impact 3.3-1: If a City or County's General Plan is consistent with the most recently adopted clean air plan, a project that is consistent with the General Plan's land use designation is considered consistent with applicable air quality plans and policies. As stated in Chapter 3.10, Land Use and Planning, the proposed project would be consistent with the Kern County land use designations and

zoning for the project area. In addition, the County General Plan is consistent with the applicable air quality plan because data and projections from the General Plans are incorporated into the clean air plans. Development of the proposed project would not interfere with population and long-term vehicle-miles-traveled (VMT) projections used to develop the air quality plan projections as it would not increase the population of the area and operational VMT traveled would be negligible. Therefore, the proposed project would result in a less-than-significant impact because it would not conflict with the applicable air quality management plan.

Impact 3.3-2: PM10 and PM2.5 emissions from construction would vary greatly from day to day depending on the level of activity, the equipment being operated, silt content of the soil, and the prevailing weather. Therefore, unmitigated construction dust emissions could result in significant local effects. For all construction projects, implementation of all Regulation VIII fugitive dust control measures is required by law. Implementation of the Regulation VIII fugitive dust control measures and all additional feasible measures would reduce construction PM10 emissions associated with the project to a less-than-significant level, based on the short-term exposure of any single sensitive receptor to residual fugitive dust emissions. The Authority would comply with all applicable SJVAPCD rules and regulations, including Rule 8011 (fugitive dust control measures).

In addition, construction equipment, construction-worker commute vehicles, construction vendor, water, concrete and haul trucks would also generate criteria air pollutant emissions. Criteria pollutant emissions of ROG, NOX, CO, SOX from these emissions sources would incrementally add to regional atmospheric loading of ozone precursors during the construction period. In addition, the project would need to comply with SJVAPCD Rule 9510, which would reduce emissions of NOX and PM10 during project construction. As depicted in Impact 3.3-2, the estimated unmitigated emissions from construction would exceed applicable significance thresholds for NOX. However, implementation of Mitigation Measure AIR-1 would require the project to utilize off-road diesel-powered construction equipment that meet or exceed CARB and USEPA Tier 4 Interim or better off-road emissions standards for equipment rated at 50 horsepower (hp) or greater during project construction.

Long-term project operations would result in a less-than-significant individual project impacts. The project would result in less than cumulatively considerable increases of criteria air pollutants with the implementation of Mitigation Measure AIR-1 during construction.

Impact 3.3-3: Construction of the proposed project would result in short-term diesel exhaust emissions (DPM), which are TACs, from on-site heavy-duty equipment. Project construction would generate DPM emissions from the use of off-road diesel equipment required for site grading and excavation, and other construction activities, as well as from the use of on-road heavy duty trucks. The dose to which sensitive receptors are exposed is the primary factor used to determine health risk. The distribution of construction over a large area would disperse pollutants generated by construction activity as construction moves from one location to another within the Phase 1 and Phase 2 areas such that any one specific sensitive receptor location would not be exposed to prolonged periods of construction activity and would not be exposed to substantial pollutant concentrations.

The project would also utilize a construction contractor(s) that complies with required and applicable BACT and the In-Use Off-Road Diesel Vehicle Regulation that would minimize diesel particulate matter emissions from construction activities. Furthermore, compliance with the CARB anti-idling Air Toxics Control Measure, which limits idling to no more than five minutes at any location for diesel-fueled commercial vehicles, would further minimize diesel particulate matter emissions in the construction area. Because the use of mobilized equipment would be temporary and because

construction activity would move from one location to another within the Phase 1 and Phase 2 areas such that any one specific sensitive receptor location would not be exposed to prolonged periods of construction activity, DPM from construction activities would not be anticipated to result in the exposure of sensitive receptors to levels that exceed applicable standards.

The long-term operation of the project would result in minimal TAC emissions associated with routine maintenance operations including weed and pest control and triennial earthwork activities. As a result, exposure of sensitive receptors to substantial toxic air emissions from the project would be less-than-significant.

Valley Fever. The project has the potential to generate fugitive dust containing Valley Fever spores (*Coccidioides immitis* fungus) that could then reach nearby sensitive receptors during construction. The majority of the project area consists of cultivated fields, canals and ditches, recharge ponds, and paved roadways, which have a low likelihood of containing Valley Fever spores due to the past soil disturbance and turnover. As a result, the proposed project would not be anticipated to expose nearby sensitive receptors to active Valley Fever spores. Furthermore, the project would be required to implement SJVAPCD Rule 8011, fugitive dust control measures. In addition, the project would be required to comply with SJVAPCD Rule 8021 Section 6.3, which requires applicants to develop, prepare, submit, obtain approval of, and implement a Dust Control Plan, which would reduce fugitive dust emission impacts to less than significant for all construction phases of the project, which would also control the release of the *Coccidioides immitis* fungus from construction activities. Controlled construction practices to prevent fugitive dust make the spreading of Valley Fever to nearby sensitive receptors and surrounding communities unlikely.

Long-term operation of the proposed project would result in minimal fugitive dust emissions associated with routine maintenance operations including weed and pest control and triennial earthwork activities. The proposed facilities associated with the proposed project include the same kinds of water recharge, recovery and conveyance facility operations occurring under existing conditions in the project area. Therefore, the potential for the proposed project to result in an increase in the exposure of nearby sensitive receptors and onsite workers to Valley Fever spores at a greater level than in the existing condition would not be anticipated. Impacts would be less than significant.

Carbon Monoxide Hotspots. CO is a localized pollutant of concern. However, construction activities would only constitute approximately 7 percent of the total 70-year exposure period. In addition, the majority of project construction activity would occur at a substantial distance from sensitive receptors, and because the use of mobilized equipment, worker and truck vehicles would be temporary and there are no sensitive receptors located immediately adjacent to areas where construction would occur for prolonged periods, construction would not emit CO in quantities that could pose health concerns. Also, due to the existing low concentrations of CO in the area that are projected to further decline in the future, project operations would not result in or contribute substantially to an air quality. Long-term operations would result in minimal CO emissions associated with routine weed and pest control and triennial earthwork activities. Thus, operational emissions of CO would not result in or contribute substantially to an air quality violation. The short-term construction and long-term operational mobile-source impact of the project on CO concentrations would be less-than-significant and no mitigation is required.

Impact 3.3-4: Types of land uses that typically pose potential odor problems include agriculture. However, agricultural land uses are part of the baseline conditions for the project sites and surrounding area. Therefore, the proposed project would not change baseline conditions to

introduce new land uses that would create objectionable odors. Occasionally, diesel exhaust from heavy equipment used during construction activities or during operational maintenance activities can generate objectionable odors, but these dissipate very quickly. Thus, neither construction nor the operation of the project would create objectionable odors affecting a substantial number of people, and odor impacts would be less-than-significant.

MITIGATION MEASURES: AIR-1.

D. Biological Resources

POTENTIAL EFFECTS: Potential effects examined included the potential to: have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species [Impact 3.4-1]; have a substantial adverse effect on any riparian habitat or other sensitive natural community [Impact 3.4-2]; have a substantial adverse effect on federally protected wetlands [Impact 3.4-3]; interfere substantially with the movement of any native resident or migratory species or with established wildlife corridors or nursery sites [Impact 3.4-4]; conflict with any local policies or ordinances protecting biological resources [Impact 3.4-5]; conflict with the provisions of a local, regional, or state habitat conservation plan [Impact 3.4-6]; or result in cumulatively considerable impacts to biological resources [Impact 3.4-7].

FINDINGS: Adherence to the Mitigation Measures BIO-1 through BIO-11 listed in the EIR will reduce Impact 3.4-1 to less than significant, adherence to Mitigation Measures BIO-10 through BIO-12 will reduce Impact 3.4-2 to less than significant, adherence to Mitigation Measure BIO-13 will reduce Impact 3.4-3 to less than significant, and adherence to Mitigation Measures BIO-1 through BIO-13 will reduce Impact 3.4-5 to less than significant, adherence to Mitigation Measures BIO-10, BIO-11, and BIO-14 will reduce Impact 3.4-6 to less than significant, adherence to Mitigation Measures BIO-1 through BIO-14 will reduce Impact 3.4-7 to less than significant (Finding 1). Impact 3.4-4 will be less than significant, requiring no mitigation.

FACTS IN SUPPORT OF THE FINDINGS:

Impact 3.4-1: *Reptiles*. Construction activities associated with the proposed project could result in adverse impacts to blunt-nosed leopard lizard. Direct impacts to blunt-nosed leopard lizard would involve the removal of the non-native grassland, which is suitable habitat for the species. Implementation of Mitigation Measure BIO-1 would reduce potential impacts to blunt-nosed leopard lizard to a less than significant level. Mitigation Measure BIO-1 requires protocol level surveys to be conducted in accordance with the CDFW *Approved Survey Methodology for the Blunt-Nosed Leopard Lizard* and, if necessary, subsequent surveys to determine measures for avoidance, minimization, restoration, preservation, or compensation.

Birds. Construction activities associated with the proposed project could result in adverse impacts to migratory birds protected under the MBTA and special-status bird species, including Swainson's hawk, burrowing owl, California horned-lark, and tricolored blackbird. Direct impacts to migratory birds and special-status bird species, including raptors, the Watch List species California horned-lark and the State threatened tricolored blackbird, would involve the removal/disturbance of the non-native grassland, active agricultural fields, which have the potential to provide nesting opportunities for resident birds. Removal of nesting habitat during the breeding season could result in the direct mortality of birds. Vegetation and tree removal, construction noise, vibrations, and human disturbance could cause nest abandonment, death of the young, or loss of reproductive potential at active nests located near proposed project

activities. Implementation of Mitigation Measure BIO-2 would reduce potential impacts to special-status, common nesting and migratory birds to less than significant levels.

The project areas provide potential foraging habitat for this species. To avoid impacts to the species, preconstruction surveys would be conducted as described in Mitigation Measure BIO-3, with additional measures implemented to avoid disturbance in the event the species is detected. With implementation of Mitigation Measure BIO-3, any impacts to Swainson's hawk would be less than significant.

Burrowing owl suitable habitat was observed within the project areas, which includes non-native and annual grasslands, agriculture fields and the earthen berms located adjacent to access roads. As a State Species of Special Concern, displacement of burrowing owls would be considered a significant impact. Burrowing owl surveys would be required prior to project implementation and would be conducted according to the *Staff Report on Burrowing Owl Mitigation* prepared by CDFW (2012). With implementation of Mitigation Measure BIO-4, any impacts to the burrowing owl would be less than significant.

Mammals. Construction activities associated with the proposed project could result in adverse impacts to San Joaquin kit fox. No burrows or dens were observed during the reconnaissance; however, the non-native and annual grasslands and earthen berms provide suitable habitat. With implementation of Mitigation Measure BIO-5, potential impacts to the San Joaquin kit fox would be reduced to a less than significant level. Mitigation Measure BIO-5 requires the USFWS "early evaluation" be completed in accordance with its most recent *San Joaquin Kit Fox Survey Protocol*, and, if necessary, subsequent surveys to determine measures for avoidance, minimization, restoration, preservation, or compensation. The federally and State endangered Tipton kangaroo rat and federally threatened Nelson's antelope squirrel could also be subject to adverse impacts to their habitats on-site. Implementation of Mitigation Measure BIO-6 would reduce impacts to Tipton kangaroo rat to a less than significant level. Mitigation Measure BIO-6 requires protocol level surveys to be conducted with the USFWS *Survey Protocol for Determining Presence of San Joaquin Kangaroo Rats*, and if necessary, subsequent surveys and consultation with CDFW and USFWS to determine measures for avoidance, minimization, restoration, preservation, or compensation. Implementation of Mitigation Measure BIO-7 would reduce impacts to Nelson's antelope squirrel to a less than significant level. Mitigation Measure BIO-7 requires a qualified biologist to survey for Nelson's antelope squirrel, and if necessary, to determine measures for avoidance, minimization, restoration, preservation, or compensation. Implementation of Mitigation Measure BIO-8 would reduce impacts to American badger to a less than significant level. Mitigation Measure BIO-8 should be conducted concurrently to Mitigation Measures BIO-4 and BIO-5, as American badger share similar habitat as burrowing owl and San Joaquin kit fox.

Plants. Based on the disturbed and developed conditions of the Phase 1 and Phase 2 project areas, special-status plant species are not expected to occur. Implementation of Mitigation Measure BIO-9 would identify any special-status plants that occur within the Conveyance Facilities project area, and if necessary, require implementation of avoidance measures, or if avoidance is not feasible then implementation of a Revegetation/Restoration Mitigation Plan.

Reptiles, Birds, Mammals, and Plants. In addition to construction activities, activities associated with operations and maintenance could also pose a significant impact to special-status wildlife and plant species. Implementation of Mitigation Measure BIO-10 would reduce impacts associated with operations and maintenance to a less than significant level. Application of pesticides, rodenticides and herbicides is an additional potential operations and maintenance

impact that can be detrimental to special-status species, especially smaller special-status species such as Tipton kangaroo rat and Nelson's antelope squirrel. The need for rodenticide use will be reduced by the installation raptor boxes every 0.25 miles of berm with perching structures. Owls and hawks can help to offset harmful effects of burrowing rodents causing damage to earthen berms and the need to use rodenticide to control them. Implementation of Mitigation Measure BIO-11 would reduce impacts to a less than significant level.

Impact 3.4-2: No sensitive natural communities were observed within the Phase 1 or Phase 2 project areas; however, the Conveyance Facilities project area contains five sensitive natural communities, all with an S3 ranking. If construction impacts are anticipated to affect any sensitive natural communities, Implementation of Mitigation Measure BIO-12 would reduce impacts to a less than significant level. In addition to construction activities, activities associated with operations and maintenance activities could also pose a significant impact to sensitive natural communities. Implementation of Mitigation Measure BIO-10 would reduce impacts associated with operations and maintenance to a less than significant level. Application of pesticides, rodenticides and herbicides is an additional potential operations and maintenance impact that can affect sensitive natural communities. Implementation of Mitigation Measure BIO-11 would reduce impacts to a less than significant level.

Impact 3.4-3: There are potentially wetlands and jurisdictional features in the project areas that may be impacted by habitat modification during construction. Implementation of Mitigation Measure BIO-13 would reduce potential impacts to a less than significant level by requiring a jurisdictional delineation to be prepared for project facilities with potential to affect jurisdictional resources, and if jurisdictional features are identified, requiring mitigation and compensation requirements to be implemented prior to construction. If wetlands are present on-site, Authority would be required to obtain a Section 404 Permit from the USACE, Section 401 from the Regional Water Quality Control Board and a 1602 Streambed Alteration Agreement from the California Department of Fish and Wildlife or written documentation that one is not required.

Impact 3.4-4: The project areas boast several wildlife movement corridors; including the Pacific Flyway, Goose Lake Channel and Kern Water Bank. All three of the wildlife movement corridors could support special-status species with a medium or high potential to occur, as well as the three additional special-status species detected during the reconnaissance. The Kern Water Bank (within the Conveyance Facilities project area) connects to the southern areas of the Phase 1 and Phase 2 project areas, and thus linkage value is deemed high quality; however, the proposed project is not anticipated to affect the continued movement of any fish or wildlife species. No impact would occur, and no mitigation measures are required.

Impact 3.4-5: The proposed project is within the jurisdiction of the Kern County General Plan and the Metropolitan Bakersfield General Plan. Several biological resource ordinances and policies are required for implementation to protect special-status species. Implementation of Mitigation Measures BIO-1 through BIO-9, BIO-12, and BIO-13, would cover protecting the ordinances and policies implemented in the Kern County General Plan and the Metropolitan Bakersfield General Plan during project construction. Implementation of Mitigation Measures BIO-10 and BIO-11 would reduce impacts to a less than significant level, regarding operations and maintenance activities.

Impact 3.4-6: The proposed project has the potential to conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The Kern Water Bank HCP/NCCP is a plan to accomplish both water conservation and environmental objectives. The primary water

conservation objective is the storage of water in aquifers during times of surplus for later recovery during times of shortage. In addition, conservation areas are established within the HCP/NCCP area. If located within the Kern Water Bank HCP/NCCP, the proposed project could result in adverse habitat modifications or vehicle collisions to sensitive species in the HCP/NCCP area. Implementation of Mitigation Measures BIO-10, BIO-11, and BIO-14 would ensure that the proposed project does not adversely impact biological resource mitigation within the HCP/NCCP.

Impact 3.4-7: As summarized in Table 3-2 of Chapter 3 of the EIR, there are cumulative projects that are located in the project area and could contribute to cumulatively considerable impacts to biological resources. The cumulative projects include groundwater storage and recharge facilities, water conveyance infrastructure, and transportation projects.

The environmental setting, biological resources, and impact mechanisms must be taken into account when evaluating the cumulative impacts on biological resources. The existing environmental setting is already largely developed with remnant native and non-native vegetation communities. The cumulative projects are occurring a matrix of developed land cover types—agriculture, urban, and recharge basins—with both patches and larger areas of native and non-native vegetation communities. This environmental setting maintains suitable habitat for special-status species and natural communities; however, the much of the habitat is already degraded. There are a number of special-status species, both plants and wildlife, that currently utilize the project area and surrounding vicinity. Those special-status species that persist have adapted to use developed land cover types as habitat or continue to persist in the remnant native and non-native vegetation communities.

The groundwater banking and recovery projects are located in existing agricultural lands which may include remnant native and nonnative vegetation communities. The transportation projects fall within the MBHCP area. This area has a similar composition, but with urban development being the dominate land use type.

It is anticipated that most of the cumulative project impacts from construction will occur in agricultural and urban lands. The cumulative projects impact mechanisms for the groundwater banking and recovery projects would be similar to the proposed project if they occur in suitable habitat for special status wildlife and plants or sensitive natural communities. The roadway projects within the City of Bakersfield and would require compliance with the MBHCP. Their impacts to biological resources would be mitigated or avoided and minimized in accordance with the MBHCP. Based on the review of the projects contributing to cumulative effects, it is anticipated that the proposed project would not have effects that are cumulatively considerable with implementation of Mitigation Measures BIO-1 through BIO-9 and BIO-12 and BIO-14. Cumulative impacts would be less than significant with mitigation.

It is anticipated that cumulative project impacts from operations and maintenance from the groundwater banking and recovery projects would be similar to the proposed project. The impacts could be evaluated as beneficial or neutral for project components implemented in agricultural lands. The cumulative projects impact mechanisms for the groundwater banking and recovery project operations and maintenance would be similar to the proposed project if they occur in suitable habitat for special status wildlife and plants or sensitive natural communities. Similar to construction, the roadway projects within the City of Bakersfield and would require compliance with the MBHCP. Their impacts to biological resources would be mitigated or avoided and minimized in accordance with the MBHCP. Based on the review of the projects contributing to cumulative effects (those projects covered by the MBHCP plus the proposed

project), it is anticipated that the proposed project would not have effects that are cumulatively considerable with implementation of Mitigation Measures BIO-10 through BIO-14. Cumulative impacts would be less than significant with mitigation.

MITIGATION MEASURES: BIO-1, BIO-2, BIO-3, BIO-4, BIO-5, BIO-6, BIO-7, BIO-8, BIO-9, BIO-10, BIO-11, BIO-12, BIO-12, and BIO-14.

E. Cultural Resources

POTENTIAL EFFECTS: Potential effects examined included the potential to cause a substantial adverse change in the significance of a historical resource [Impact 3.5-1] or an archaeological resource [Impact 3.5-2]; disturb any human remains, including those interred outside of dedicated cemeteries [Impact 3.5-3]; or result in cumulatively considerable impacts to cultural resources [Impact 3.5-4].

FINDINGS: Adherence to the Mitigation Measures CUL-1 through CUL-11 listed in the EIR will reduce Impact 3.5-1 to less than significant, adherence to Mitigation Measures CUL-3 through CUL-11 will reduce Impact 3.5-2 to less than significant, adherence to Mitigation Measure CUL-12 will reduce Impact 3.5-3 to less than significant, and adherence to Mitigation Measures CUL-1 through CUL-12 will reduce Impact 3.5-4 to less than significant (Finding 1).

FACTS IN SUPPORT OF THE FINDINGS:

Impact 3.5-1: Historic built environment resources and archaeological resources have been previously recorded within the project area. It is unknown if any of these resources would be impacted since the project components have yet to be sited. There could also be other as yet undocumented historic built environment resources or archaeological resources that could be impacted by the proposed project. The geoarchaeological review indicated that the Phase 2 area and Kern Fan Conveyance Facilities area have a higher sensitivity for buried archaeological sites, whereas the Phase 1 area has a moderate to very low sensitivity for buried archaeological resources. If known or unknown historic built environment resources or archaeological resources are impacted by the project and determined to be historical resources as defined in *CEQA Guidelines* Section 15064.5, impacts to the resources could be significant. Implementation of Mitigation Measures CUL-1 through CUL-11, which require retention of a qualified professionals, and provide for additional cultural resources studies, evaluation and treatment of resources, development of a cultural resources monitoring and mitigation program, and construction worker cultural resources sensitivity training, would ensure that impacts are reduced to a less-than-significant level.

Impact 3.5-2: Archaeological resources have been previously documented within the proposed project area and there could be as undocumented archaeological resources in the project area, including surface and subsurface resources. If known or unknown archaeological resources are impacted by the project and determined to be historical resources as defined in *CEQA Guidelines* Section 15064.5 or unique archaeological resources pursuant to as defined in *PRC* Section 21083.2, impacts to the resources could be significant. Implementation of Mitigation Measures CUL-3 through CUL-11, which include the retention of a Qualified Archaeologist, additional archaeological studies, avoidance of resources if feasible, data recovery, development of a cultural resources monitoring and mitigation program, construction worker cultural resources sensitivity training, establishment of Environmentally Sensitive Areas, treatment of inadvertent discoveries, and curation of recovered materials, would ensure that impacts are reduced to a less-than-significant level.

Impact 3.5-3: One known site within the project area was identified as containing possible human remains. Additionally, some portions of the project area are known to have been used by prehistoric Native Americans. In the event that human remains are inadvertently discovered during project construction activities, the human remains could be inadvertently damaged, which could be a significant impact. Implementation of Mitigation Measure CUL-12 would reduce impacts to human remains to a less-than-significant level.

Impact 3.5-4: The geographic area of analysis of cumulative impacts for cultural resources includes the area bounded by those projects listed in Table 3-2 of the EIR. This geographic scope of analysis is appropriate because the archaeological and historical resources within this area are expected to be similar to those that occur on the project area because of their proximity, and because the similar environments, landforms, and hydrology would result in similar land-use and thus, site types. The projects listed in Table 3-2 include water infrastructure projects that could contain cultural resources. Cumulative impacts to cultural resources could occur if other related projects, in conjunction with the proposed project, had or would have impacts on cultural resources that, when considered together, would be significant.

Construction and operation of the proposed project, in combination with other projects in the area, has the potential to contribute to a cumulatively significant cultural resources impact due to the potential loss of historical and archaeological resources unique to the region. A total of 73 resources were identified within the project area as a result of the cultural resources assessment, including 47 archaeological resources and 26 historic built environment resources. Of these, it is currently known that one historical resource will be impacted by the project (California Aqueduct [P-15-015820/CA-KER-008698H]).

The project is not anticipated to result in a substantial adverse change to the California Aqueduct (P-15-015820/CA-KER-008698H) and impacts to the California Aqueduct are less than significant. While other past and foreseeable projects have or will impact the California Aqueduct, the proposed project would result in less than significant impacts and it could not contribute to a cumulative effect when combined with other projects. Therefore, the project's incremental impact to this historical resource is not cumulatively considerable.

Potential impacts to the other known 72 historical or archaeological resources are undetermined at this time since the project components have yet to be sited. Additionally, there could be as yet undocumented in the project area, including surface and subsurface resources, that may be impacted by the project. Nevertheless, Mitigation Measures CUL-1 through CUL-11 are included in this EIR to reduce potentially significant project impacts to both known and unknown historical and archaeological resources to less than significant, which would, in turn, reduce the project's incremental contribution to cumulative impacts to less than significant. Implementation of these mitigation measures would reduce potential impacts to historical and archaeological resources to a less-than-significant level.

Although project construction has the potential to disturb human remains, Mitigation Measure CUL-12 requires compliance with state laws dictating the appropriate treatment of any unearthed human remains. With implementation of this measure, and adherence to state laws, there will be a less-than-significant impact to human remains. Therefore, the project's incremental impact to human remains is not cumulatively considerable.

With implementation of Mitigation Measures CUL-1 through CUL-12, the project would not result in significant impacts to cultural resources. Given the required mitigation for the current project

and required adherence to state and local laws for other projects in the cumulative region, cumulative impacts to cultural resources would be less than significant.

MITIGATION MEASURES: CUL-1, CUL-2, CUL-3, CUL-4, CUL-5, CUL-6, CUL- 7, CUL-8, CUL-9, CUL-10, CUL-11, and CUL-12.

F. Energy

POTENTIAL EFFECTS: Potential effects examined included the potential to: result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation [Impact 3.6-1]; conflict with or obstruct a State or local plan for renewable energy or energy efficiency [Impact 3.6-2]; or result in cumulatively considerable impacts to energy [Impact 3.6-3].

FINDINGS: Impacts 3.6-1, 3.6-2, and 3.6-3 will be less than significant, requiring no mitigation.

FACTS IN SUPPORT OF THE FINDINGS:

Impact 3.6-1: Construction of the proposed project would use fuel-efficient equipment consistent with federal and State regulations, such as fuel-efficiency regulations in accordance with CARB's Pavley Phase II standards; the anti-idling regulation in accordance with 13 CCR Section 2485; and fuel requirements for stationary equipment in accordance with 17 CCR Section 93115. Project construction would also comply with State measures to reduce the inefficient, wasteful, and unnecessary consumption of energy, such as petroleum-based transportation fuels. While these regulations are intended to reduce construction emissions, compliance with the anti-idling and emissions regulations discussed above would also result in fuel savings from the use of more fuel-efficient engines. Construction would use energy for on-site activities, for construction worker travel, and to transport construction materials and demolition debris to and from the project area. Idling restrictions and the use of cleaner, energy-efficient equipment would result in relatively less fuel combustion and energy consumption. Thus, the proposed project's construction-related energy use would be minimized. Therefore, construction of the proposed project would not result in the wasteful, inefficient, or unnecessary consumption of energy, and construction-related impacts would be less than significant.

During operations energy would primarily be consumed in the form of electricity for water management activities, such as pumping, groundwater extraction, conveyance, and treatment. The project-related net increase in annual electricity consumption, 39,000 MWh, would represent approximately 0.014 percent of Statewide electricity. The project's future energy use would represent about 0.012 percent of future State consumption and would be within projected electricity supplies. Project-related vehicle use would consume petroleum-based fuels for vehicular travel to and from the project area and off-road equipment activity for weed and pest control and earthwork operations. The project's mobile sources would result in an annual net increase in petroleum-based fuel usage of approximately 555 gallons of gasoline and 29,754 gallons of diesel. The proposed project would account for less than 0.00001 percent of Statewide consumption for gasoline, 0.0008 percent for diesel, and for 0.0001 percent and 0.01 percent of countywide consumption of gasoline and diesel, based on the available county fuel sales data for the year 2018. Fuels used for vehicle trips resulting from the proposed project would be required to comply with CAFE fuel economy standards, which would result in more efficient use of transportation fuels (lower consumption). Vehicles used for project-related vehicle trips would also comply as applicable with AB 1493 and the LCFS, which are designed to reduce vehicular GHG emissions, but would also result in additional fuel savings.

Implementation of the proposed project would intermittently increase demands on local energy providers. The demands to the electrical grid would not be as constant as residential, commercial or industrial uses due to the irregular use of the recharge and recovery facilities. In addition, it is anticipated that the proposed pump stations would utilize high-efficiency motors with variable frequency drives (VFD) that would minimize large electrical demand flickers at start up and maximize energy efficiency due to the ability to match pump speed with exact flow requirements. It is not anticipated that additional power generation facilities would be required to serve the proposed project, or that the demand would exceed capacity of energy providers. The Authority would be required to engage PG&E through the normal power service application process to ensure adequate power supplies are provided to the project sites. In addition to the normal service application process, the Authority plans to provide PG&E with an overall project feasibility design at least 6 months prior to any service requests to allow for better discussion and system planning between the Authority and PG&E's engineering and planning division. For these reasons, operation of the proposed project would not result in the wasteful, inefficient, and unnecessary consumption of energy, and the impact would be less than significant.

Impact 3.6-2: Under SB 100, PG&E would have to increase its renewable sources for electricity to 50 percent by year 2026, 52 percent by year 2027, 60 percent by year 2030 and 100 percent by year 2045. While the project would not actively be involved in the procurement of increasingly cleaner electricity through SB 100, the project would receive power from PG&E. PG&E and all utility providers are required to comply with the SB 100 mandate, thus the project would not conflict with the State's goals of more procurement of cleaner energy.

The Heavy-Duty Vehicle and Light-Duty vehicle rules have been established to reduce CO₂ emissions and, consequently, the combustion of fossil fuels. The proposed project would not involve the manufacture of vehicles or production of vehicle fuels. However, vehicles that are purchased and used within the project area would comply with any vehicle and fuel standards that the CARB adopts or has adopted. Therefore, the construction and operation of the proposed project would not conflict with these regulations, and the project would not conflict with or obstruct a State or local plan for energy efficiency. Impacts would be less than significant.

Impact 3.6-3: The geographic area for cumulative energy impacts is the state of California. Past, present, and future development projects contribute to the State's energy impacts. If a project is determined to have a significant energy impact, it is concluded that the impact would be cumulatively considerable. The proposed project would not result in significant energy impacts or conflict with or obstruct a State or local plan for energy efficiency. The proposed project, therefore, would not have a cumulatively considerable contribution to a significant cumulative energy impact. As a result, this impact would be less than significant.

MITIGATION MEASURES: None required.

G. Geology and Soils

POTENTIAL EFFECTS: Potential effects examined included the potential to: expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, including liquefaction, and/or landslides [Impact 3.7-1]; result in substantial soil erosion or the loss of topsoil [Impact 3.7-2]; be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse [Impact 3.7-3]; be located on expansive soil [Impact 3.7-4]; have soils incapable of adequately supporting the use of septic

tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater [Impact 3.7-5]; directly or indirectly destroy a unique paleontological resource or site or unique geologic feature [Impact 3.7-6]; or result in cumulatively considerable impacts to geology, soils, and paleontological resources [Impact 3.7-7].

FINDINGS: Adherence to the Mitigation Measures PALEO-1 and PALEO-2 listed in the EIR will reduce Impact 3.7-6 and Impact 3.7-7 to less than significant (Finding 1). Impacts 3.7-1, 3.7-2, 3.7-3, and 3.7-4 will be less than significant, requiring no mitigation. Impact 3.7-5 will not occur.

FACTS IN SUPPORT OF THE FINDINGS:

Impacts Not Occurring: There are no active faults that cross the project area, and the nearest active fault is more than 15 miles away. Therefore, the potential for fault rupture to affect the proposed project is very low. Furthermore, the proposed project is located within an area that is relatively flat with very little topographic relief. Therefore, there is no potential for landslides or lateral spreading. No impact would occur regarding fault rupture or landslides and lateral spreading. The proposed project does not involve the construction or use of septic tanks or alternative wastewater disposal systems. Therefore, there would be no impact associated with soils supporting septic or alternative wastewater disposal systems.

Impact 3.7-1: Construction activities would be temporary and would not involve construction of enclosed habitable structures, and thus, are not anticipated to exacerbate the exposure of people or structures to substantial adverse effects involving seismic hazards. In addition, construction of the proposed project would not exacerbate the potential for earthquakes because the placement of water in the recharge basins would not occur until after construction is complete.

The placement of recharge basins on an active fault could result in water entering the fault zone, which could activate movement along the fault and cause an earthquake. However, the project area is not located on or within at least 15 miles of an active fault. Therefore, the project could not exacerbate the potential for earthquakes. The project vicinity has experienced and would likely continue to experience strong seismic ground shaking due to its proximity to a number of active faults, including the San Andreas Fault and the Garlock fault. In the event that ground shaking caused damage to a recharge basin and/or conveyance structure, released water would likely infiltrate into the permeable soils that comprise the project area. The recharge basins would be constructed below grade with berms constructed above grade, which, coupled with the relatively flat topography, would hinder movement of water offsite. In addition, the project area and its surroundings are characterized primarily by agricultural land use with few, if any, structures. Therefore, the potential risk of loss, injury, or death from strong seismic shaking is considered low, and impacts would be less than significant.

In addition, if strong seismic ground shaking were to occur during a time of a relatively shallow depth to groundwater or otherwise saturated soil conditions from recharge activities, the project area soils could be susceptible to seismically-induced liquefaction hazards. At the proposed recharge basins, shallow depth to groundwater could cause liquefaction during a seismic event if groundwater levels were allowed to rise up to and remain within 50 feet of the ground surface beneath the basins. With operation of the proposed project, shallow depth to groundwater is not expected to rise up to within 50 feet of the ground surface as demonstrated by the results of the groundwater modeling conducted for representative recharge basin locations in and around the Phase 1 and Phase 2 areas. During periods of high groundwater levels, such as during 2012, recharge of up to approximately 117,000 AF would result in groundwater levels rising up to

approximately 64 feet below the ground surface directly beneath the recharge basins; and depth to groundwater would increase with distance from the recharge basins offsite. Therefore, the proposed project would not result in shallow groundwater within 50 feet of the ground surface and thus would not cause liquefaction during a seismic event. There would be no potential for risk of loss, injury or death from liquefaction, and impacts would be less than significant.

Impact 3.7-2: Construction activities at the project area would require excavation for the construction of the recharge basins, conveyance canals and pipelines; drilling activities for the construction of recovery wells, and the construction of a turnout at the California Aqueduct. To prevent water and wind erosion during the construction period, a Storm Water Pollution Prevention Plan (SWPPP) would be developed and implemented for the proposed project as required for all projects that disturb more than one acre. The Construction General Permit requires the preparation and implementation of a SWPPP that would specify BMPs to prevent construction pollutants, including eroded soils (such as topsoil), from moving off-site and provide erosion control measures to protect the topsoil. The recharge basins and supply canals would be designed in an effort to balance earthwork on site in which all excavated soils would be redistributed and utilized to construct the project facilities. Topsoil materials would be stripped from the ground surface and used for construction of the earthen berms of the recharge ponds. The SWPPP also requires stockpiled soils to be watered and/or covered to prevent loss due to wind erosion. As a result of these efforts, loss of topsoil and substantial soil erosion during the construction period are not anticipated.

During operation of the groundwater recharge basins, the recharge basins would contain water, which would inhibit erosion; during periods of non-recharge, the recharge basins would be subject to wind erosion. Plant cover in the basins would minimize wind erosion. Operation of the recovery wells, canals, pump stations, and pipelines would not contribute to wind erosion since these structures would not have exposed soil. To minimize soil erosion and loss of topsoil during construction, the project would be required to develop and implement a SWPPP, which would provide water and wind erosion control measures to protect the topsoil. During project operation, the groundwater recharge basins would contain water, which would inhibit erosion, and plant cover would minimize wind erosion during non-recharge periods. With implementation of the SWPPP and the operational design of the proposed project, impacts related to soil erosion and topsoil loss would be less than significant.

Impact 3.7-3: Construction activities would not include the extraction or recharge of water, and thus, would not result in any changes to soil or a geologic unit that would cause subsidence or collapse. Rosedale conducts subsidence monitoring in the project area. Subsidence has occurred historically north and south of Rosedale but not within its boundaries. Data indicates subsidence has not resulted from recovery operations during extended droughts. DWR has developed, as part of their SGMA technical assistance a statewide InSAR subsidence dataset. InSAR is a satellite-based remote sensing technique that measures vertical surface displacement changes at high degrees of measurement resolution and spatial detail. Subsidence for 2016 and 2017 in the Rosedale area was upward by about 0.01 foot per year. This increase denotes swelling rather than subsidence in the project area.

The proposed project is a groundwater banking project that would require water to be recharged prior to extraction. Groundwater banking programs generally benefit water levels in the local aquifer because the amount of water available for recovery is less than the amount recharged; this difference can raise groundwater levels. The proposed project would serve to correct declining groundwater levels, one of the primary causes of compaction and subsidence, and therefore would serve to mitigate against additional subsidence to some degree. The proposed

project would provide additional recharge capacity in excess of recovery and as such would not cause subsidence relative to existing conditions. Impacts would be less than significant, and no mitigation is required.

Impact 3.7-4: Construction activities would not include the placement of water in the recharge basins, and thus, would not cause expansion of soils. The proposed project would include the placement of water in recharge basins that would infiltrate down into the underlying aquifer. The soils within the basins would undergo alternating wetting and drying cycles. The clay content of onsite soils may be moderately susceptible to shrinkage or swelling. The wetting of soil within the basins may cause expansion but there would be no structures within the basins that could be damaged. The berms that form the basin sides may experience some effects of the alternating wetting and drying cycles. However, it is anticipated that the basins would require periodic earthwork to maintain the berms, and such maintenance would be included in the routine operations of the project. The interior of the recharge basins would not have structures that could be damaged by the expansion of soil during operation of the basins for recharge. Maintenance of the proposed project would include periodic earthwork to maintain the berms that form the recharge basins. Therefore, the proposed project would not result in damage to structures due to expansive soils, and there would be no direct or indirect risk to life or property. Impacts would be less than significant, and no mitigation is required.

Impact 3.7-6: Construction activities at the project area would require excavation for the construction of the recharge basins, conveyance canals and pipelines; drilling activities for the construction of recovery wells, and the construction of a turnout at the California Aqueduct. All of these construction activities have the potential to expose paleontological resources or unique geologic features.

The analysis of paleontological resources for the proposed project indicates that Late Holocene alluvial deposits are found within surficial deposits in the Phase 1 area. These deposits have a low paleontological sensitivity, though sensitivity increases with depth due to the age. Based on standard geological principles and similar encounters elsewhere in Kern County, there is a potential to encounter fossils at depth. Estimating the depth is difficult, but it is likely to be over 20 feet below the present surface. Any excavation below 20 feet may encounter paleontological resources, unless the depth to older facies is encountered at a shallower or deeper depth. The Phase 2 area is underlain predominantly by young lake, playa, and estuarine deposits. As these deposits are inferred to extend at depth to the Pleistocene and are composed of fine-grained sediments, there is a high potential for recovering unique paleontological resources below the agriculturally modified soils. The Kern Fan Conveyance Facilities Area spans all of these alluvial units, and excavations in this area could encounter unique paleontological resources at various depths.

The Tulare Formation underlies the project area. Excavations that penetrate below the alluvium into the underlying Tulare Formation, which has a high potential for preserving significant fossils based on the known record as well as mix of marine and non-marine, fine-grained sediments and Pleistocene tar seeps, may encounter unique paleontological resources. Since the proposed project includes ground disturbance up to 900 feet in depth for drilling and 22 feet for excavation, the proposed project could impact unique paleontological resources. Mitigation Measures PALEO-1 and PALEO-2, which include retention of a Qualified Paleontologist, development of a paleontological resources' mitigation and monitoring plan, construction worker training, monitoring, procedures to follow in the event of discovery of paleontological resources, and preparation of a paleontological monitoring report, would reduce potentially significant impacts to paleontological resources to a less than significant level.

Once constructed, the operations phase of the project would have no potential to encounter paleontological resources.

Impact 3.7-7: This section presents an analysis of the cumulative effects of the proposed project in combination with other past, present, and reasonably foreseeable future projects that could cause cumulatively considerable impacts.

The proposed project would have no impact with respect to fault rupture, landslides, lateral spreading, septic tanks and alternate wastewater disposal systems. Accordingly, the proposed project could not contribute to cumulative impacts related to these topics and are not discussed further.

The geographic area affected by the proposed project and its potential to contribute to cumulative impacts varies based on the environmental resource under consideration. The geographic scope of analysis for cumulative geologic impacts encompasses and is limited to the project area and its immediately adjacent area. This is because impacts relative to geologic hazards and paleontological resources are generally site-specific. For example, the effect of erosion would tend to be limited to the localized area of a project and could only be cumulative if erosion occurred as the result of two or more adjacent projects that spatially overlapped.

The timeframe during which proposed project could contribute to cumulative geologic hazards includes the construction and operations phases. For the proposed project, the operations phase is permanent. However, similar to the geographic limitations discussed above, it should be noted that impacts relative to geologic hazards are generally time-specific. Geologic hazards could only be cumulative if two or more geologic hazards occurred at the same time, as well as overlapping at the same location.

Significant cumulative impacts related to geologic hazards could occur if the incremental impacts of the proposed project combined with the incremental impacts of one or more of the cumulative projects identified in Table 3-2 of the EIR to substantially increase risk that people or the environment would be exposed to geologic hazards. The only cumulative project that could be geographically adjacent or overlap components of the proposed project would be the groundwater banking and recovery Project Numbers 3 through 10, 12, and 13 being implemented by Rosedale, Kern Fan Authority, City of Bakersfield, Buena Vista Water Storage District, and the Kern Water Bank Authority. All of these cumulative projects are similar to the proposed Kern Fan Groundwater Storage Project and include recharge basins, recovery wells, pipelines and/or canals, and associated infrastructure.

If the projects are constructed at the same time, the erosion effects could be cumulatively significant. However, the state Construction General Permit would require each project to prepare and implement a SWPPP. The SWPPPs would describe BMPs to control runoff and prevent erosion for each project. Through compliance with this requirement, the potential for erosion impacts would be reduced. The Construction General Permit has been developed to address cumulative conditions arising from construction throughout the state and is intended to maintain cumulative effects of projects subject to this requirement below levels that would be considered significant. For example, two adjacent construction sites would be required to implement BMPs to reduce and control the release of sediment and/or other pollutants in any runoff leaving their respective sites. The runoff water from both sites would be required to achieve the same action levels, measured as a maximum amount of sediment or pollutant allowed per unit volume of runoff water. Thus, even if the runoff waters were to combine after leaving the sites, the sediments and/or pollutants in the combined runoff would still be at

concentrations (amount of sediment or pollutants per volume of runoff water) below action levels and would not be cumulatively considerable (less than significant).

The proposed project has the potential to encounter significant paleontological resources. To reduce the potential impact to less than significant, the proposed project would implement mitigation measures PALEO-1 and PALEO-2. Given the nearby locations of Cumulative Projects 3 through 10, 12, and 13 the cumulative projects would also have the potential to encounter significant paleontological resources. To reduce the potential impact to less than significant, the cumulative projects that include substantial depths of excavation would also be required to implement mitigation measures similar to Mitigation Measures PALEO-1 and PALEO-2. With implementation of these mitigation measures, the potential impacts to paleontological resources would be reduced to not cumulatively considerable and less than significant.

Seismically-induced groundshaking, liquefaction and lateral spreading, and expansive soils could cause structural damage or pipeline leaks or ruptures. State and local building regulations and standards have been established to address and reduce the potential for such impacts to occur. The proposed project and cumulative projects would be required to comply with applicable provisions of these laws and regulations. Through compliance with these requirements, the potential for impacts would be reduced. Therefore, based on compliance with these requirements, the incremental impacts of the proposed project combined with impacts of other projects in the area would not cause a significant cumulative impact to the risk of loss, injury or death related to seismically-induced groundshaking, liquefaction, or expansive soils. The proposed project's contribution to cumulative effects would not be cumulatively considerable, and this impact would be less than significant.

Once the proposed project and the cumulative projects have completed construction, there would be no further potential to encounter paleontological resources. There would be no potential cumulative impacts associated with paleontological resources during project operation.

MITIGATION MEASURES: PALEO-1 and PALEO-2.

H. Greenhouse Gas Emissions

POTENTIAL EFFECTS: Potential effects examined included the potential to: generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment [Impact 3.8-1]; or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases [Impact 3.8-2].

FINDINGS: Impact 3.8-1 and Impact 3.8-2 will be less than significant, requiring no mitigation.

FACTS IN SUPPORT OF THE FINDINGS:

Impact 3.8-1: The following activities associated with the proposed project could contribute to the generation of GHG emissions: off-road equipment activities; electricity; and motor vehicle use. Construction and operational emissions due to off-road equipment activities were modeled using CalEEMod software. One-time, short-term construction GHG emissions are typically summed and amortized over the Project's lifetime (assumed to be 30 years). Project construction would continue until fall of 2026, with the project being operational in fall of 2026. However, in year 2026, while there is technically enough time for the worst-case scenario of operational maintenance activities to occur simultaneously during the few months of the project operations for

year 2026, only a portion of the project's recharge capacity and subsequent energy consumption could occur during the partial project operations of the year 2026, which is the main source of the project's total GHG emissions. Emissions for the first full year of project operations in 2027 include the amortized construction emissions in order to determine a conservative impact. Emissions from construction and operations would be below the significance threshold and the impacts would be less than significant without mitigation.

Impact 3.8-2: The proposed project would not conflict with any applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions and reaching future anticipated Statewide GHG reductions goals. CARB has outlined a number of potential strategies and regulations for achieving the 2030 reduction target of 40 percent below 1990 levels, as mandated by SB 32. These potential strategies and regulations to reduce GHGs include using renewable resources for State electricity, which the project will benefit from, as well as increasing the fuel economy of vehicles and the number of zero-emission or hybrid vehicles, supporting other alternative transportation options, reducing the rate of growth in VMT and associated GHG emissions, and use of high-efficiency appliances, water heaters, and HVAC systems that reduce or replace the use of fossil fuels with cleaner energy and reduces associated GHG emissions (Energy + Environmental Economics, 2015). Thus, as the proposed project would not conflict with any applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions and reaching future anticipated Statewide GHG reductions goals, there would be a less than significant impact.

MITIGATION MEASURES: None required.

I. Hazards & Hazardous Materials

POTENTIAL EFFECTS: Potential effects examined included the potential to: create a significant hazard to the public or the environment through the routine transport, use, disposal, or the accidental release of hazardous materials [Impact 3.9-1]; emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school [Impact 3.9-2]; be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment [Impact 3.9-3]; for a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport or a private airstrip, result in a safety hazard for people residing or working in the project area [Impact 3.9-4]; impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan [Impact 3.9-5]; expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands [Impact 3.9-6]; cause an increase in airborne insect populations [Impact 3.9-7]; or result in cumulatively considerable impacts to hazards and hazardous materials [Impact 3.9-8].

FINDINGS: Adherence to the Mitigation Measures HAZ-1, HAZ-2 and HAZ-3 listed in the EIR will reduce Impact 3.9-1 to less than significant, adherence to Mitigation Measure HAZ-4 will reduce Impact 3.9-2 to less than significant, adherence to Mitigation Measures HAZ-1 and HAZ-3 will reduce Impact 3.9-3 to less than significant, adherence to Mitigation Measure TRA-1 will reduce Impact 3.9-5 to less than significant, adherence to Mitigation Measure HAZ-5 will reduce Impact 3.9-7 to less than significant, and adherence to Mitigation Measures HAZ-1 through HAZ-5 and TRA-1 will reduce Impact 3.9-8 to less than significant (Finding 1). Impact 3.9-6 will be less than significant, requiring no mitigation. Impact 3.9-4 will not occur.

FACTS IN SUPPORT OF THE FINDINGS:

Impacts Not Occurring: The project area is outside of the ALUCP planning areas in Kern County. Therefore, the proposed project construction and operation would not result in an airport-related safety hazard or airport-related noise for people residing or working in the area. There would be no impact.

Impact 3.9-1: Construction activities would be required to comply with numerous hazardous materials regulations designed to ensure that hazardous materials are transported, used, stored, and disposed of in a safe manner to protect worker safety, and to reduce the potential for a release of construction-related fuels or other hazardous materials into the environment. Contractors would be required to prepare and implement Hazardous Materials Business Plans (HMBPs) that would require that hazardous materials used for construction would be used properly and stored in appropriate containers with secondary containment to contain a potential release. The California Fire Code would also require measures for the safe storage and handling of hazardous materials. Construction contractors would be required to prepare a SWPPP for construction activities according to the NPDES General Construction Permit requirements. The SWPPP would list the hazardous materials (including petroleum products) proposed for use during construction; describe spill prevention measures, equipment inspections, equipment and fuel storage; protocols for responding immediately to spills; and describe BMPs for controlling site runoff. In addition, the transportation of hazardous materials would be regulated by the USDOT, Caltrans, and the CHP. Together, federal and State agencies determine driver-training requirements, load labeling procedures, and container specifications designed to minimize the risk of accidental release.

Workers handling hazardous materials are required to adhere to OSHA and Cal/OSHA health and safety requirements. Hazardous materials must be transported to and from the proposed project area in accordance with RCRA and USDOT regulations, managed in accordance with the OCEHD regulations, and disposed of in accordance with RCRA and the CCR at a facility that is permitted to accept the waste. Since compliance with existing hazardous materials regulations and programs are mandatory, project construction activities are not expected to create a potentially significant hazard to construction workers, the public, or the environment.

Furthermore, in the event of a spill that releases hazardous materials at the project site, a coordinated response would occur at the federal, State, and local levels, including the KCFD, which is the local hazardous materials response team. In the event of a hazardous materials spill, the KCFD and local police department would be simultaneously notified and sent to the scene to assess and respond to the situation.

The potential for residual pesticides to be transported to the groundwater by the recharge water is minimal since the surface soils would be scrapped from the basin floors. Nonetheless, implementation of Mitigation Measure HAZ-1 would require that samples of soils onsite are analyzed and appropriately remediated or removed if soils contain hazardous quantities of contaminants. This would reduce any potential impacts to construction workers due to encounters with hazardous materials to less than significant levels and reduce impacts to groundwater due to potential transport of hazardous substances during recharge activities.

In addition, as with many former agricultural properties, it is possible that irrigation lines on the property may contain asbestos or be wrapped in asbestos. If these irrigation lines are reused or demolished, asbestos materials may pose an adverse impact to the workers and the environment. If asbestos-containing materials are uncovered during construction, Mitigation

Measure HAZ-2 would require all work at the project sites to halt so that a proper assessment can be made and proper worker protection measures can be implemented. Implementation of Mitigation Measures HAZ-1 and HAZ-2 would reduce impacts related to accidental upset or encounter of hazardous materials to less than significant levels.

In the event that facilities would be located on a site that contains an active oilfield, impacts to the environment resulting from spillage, releases, and disposal of oil associated with oilfield production and storage may have occurred in the past or could occur during construction. Active wells could have also released hazardous materials that migrated beyond the boundaries of the oilfield within the project area. This could potentially expose construction workers to potential hazardous substances or introduce hazardous substances to groundwater during recharge operations. Mitigation Measure HAZ-3 would require the completion of a Phase I ESA to ensure hazards and appropriate mitigation measures are identified within the project sites prior to construction. Implementation of these mitigation measures would reduce potential impacts to a less than significant level.

The required compliance with the numerous laws and regulations discussed above that govern the transportation, use, handling, and disposal of hazardous materials during construction of the proposed project would limit the potential for creation of hazardous conditions due to the routine use or accidental release of hazardous materials. Furthermore, implementation of Mitigation Measure HAZ-1 through HAZ-3 would reduce potential impacts to the public and the environment to less than significant levels.

The required compliance with the numerous laws and regulations discussed above that govern the transportation, use, handling, and disposal of hazardous materials during operation of the proposed project and maintenance activities would limit the potential for creation of hazardous conditions due to the routine use or accidental release of hazardous materials. The impact to the public and the environment would be less than significant.

Impact 3.9-2: The transport of the hazardous materials could use haul routes that pass by schools, particularly Del Rio Elementary School and Bakersfield Christian High School. The routine use or an accidental spill of hazardous materials could result in inadvertent releases in proximity to nearby schools, which could adversely affect students, staff, and the general public. Construction activities would be required to comply with numerous hazardous materials regulations designed to ensure that hazardous materials are transported, used, stored, and disposed of in a safe manner to protect worker safety, and to reduce the potential for a release of construction-related fuels or other hazardous materials into the environment, including in proximity to schools. The required compliance with the numerous laws and regulations discussed above that govern the transportation, use, handling, and disposal of hazardous materials during construction of the proposed project would minimize the potential risks associated with hazardous materials within one-quarter mile of a school. Nonetheless, for project facilities that will be constructed within one-quarter mile of a school, implementation of Mitigation Measure HAZ-4 would require coordination with the Rio Bravo-Greeley Union School District and any affected schools to determine a haul route that would not impact existing school safety routes. Implementation of the Mitigation Measure HAZ-4 would ensure impacts to the school facilities during construction are reduced to less than significant levels.

The required compliance with the numerous laws and regulations discussed above that govern the transportation, use, handling, and disposal of hazardous materials during operation of the proposed project would reduce the impact to schools within one-quarter mile of the project site to less than significant.

Impact 3.9-3: GeoTracker and EnviroStor database searches identified one Cleanup Program Site and one Land Disposal Site within the project area. Implementation of Mitigation Measures HAZ-1 and HAZ-3 would require preparation of a Phase I Environmental Site Assessment for the project sites once they are identified, and would require that samples of soils taken from the project sites are analyzed and appropriately remediated or removed if soils contain hazardous quantities of contaminants. This would reduce any potential impacts to construction workers due to encounters with hazardous materials to less than significant levels and reduce impacts to groundwater due to potential transport of hazardous substances during recharge activities. Implementation of these mitigation measures would reduce impacts related to hazardous material sites to a less than significant level.

Impact 3.9-5: Construction of the proposed Kern Fan Conveyance Facilities would require tunneling under Interstate 5 (I-5) so that water may be transferred to/from the Kern Fan Project Properties to the California Aqueduct, which may require short-term lane or road closures or detours. Potential road closures or detours could congest local roadways that could be used by the public and emergency responders if an emergency or disaster were to occur. To ensure that impacts to local rights-of-way do not occur as a result of the proposed project, implementation of Mitigation Measure TRA-1 would require the preparation and implementation of a Construction Traffic Control Plan. The Construction Traffic Control Plan would include, but not be limited to, signage, striping, delineated detours, flagging operations, changeable message signs, delineators, arrow boards, and K-Rails that would be used during construction to guide motorists, bicyclists, and pedestrians safely through the construction area and allow for adequate emergency access and circulation to the satisfaction of the KCFD. The Construction Traffic Control Plan would be coordinated with the City of Bakersfield, as necessary, as well as with emergency responders, which include fire departments, police departments, and ambulances that have jurisdiction within the proposed project area. Therefore, with implementation of Mitigation Measure TRA-1, impacts to circulation system within the project area during construction of the proposed project would be reduced to a less than significant level, and project construction would not impair or physically interfere with emergency response teams or an evacuation plan. Impacts would be less than significant.

Impact 3.9-6: The primary fire hazards from project construction would involve the use of vehicles and equipment. Heat or sparks from construction vehicles and equipment could ignite dry vegetation and cause a fire, particularly during the dry, hot conditions from June to September and from September to December when dry winds are more likely to occur. Additionally, construction activities that could result in sparks have a greater likelihood of creating a source of ignition. Therefore, depending on the time of year (as seasonality may affect climate conditions, prevailing winds, and vegetation/fuels) and the location of construction activities, the increase in sources of potential ignition associated with project construction could exacerbate the risk of wildfire at a project site and in surrounding areas. Project construction could increase the risk of exposure of people or structures to significant loss, injury, or death involving wildland fires, which would result in a potentially significant impact.

All personnel on a project site would have to comply with *PRC* Sections 4427, 4428, 4431, and 4442, which include regulations relating to the handling of combustible fuels and equipment that can exacerbate fire risks. During construction, strict adherence to these *PRC* sections would ensure that contractors are responsible for all monitoring and safety measures ensuring that any risk to exacerbate wildfire would be reduced. Additionally, all construction must comply with fire protection and prevention requirements specified by the *CCR* and *Cal/OSHA*. This includes various measures such as easy accessibility of firefighting equipment, proper storage of combustible liquids, no smoking in service and refueling areas, spark arrestors on equipment,

and worker training for firefighter extinguisher use. Implementation of all relevant PRC sections, and requirements specified by the CCR and Cal/OSHA would ensure that potential impacts regarding wildland fires would be less than significant.

Operation of the proposed project would not include any activities that would exacerbate wildfire risk relative to existing conditions. Therefore, there would be a less than significant impact due to wildland fires during operation of the proposed project.

Impact 3.9-7: The proposed recharge facilities within the project area would create new standing pools of water. If algae growth develops or insects such as midges or mosquitoes use the water as a breeding area, any standing pools of water could be considered a nuisance or a health threat to the surrounding community. Hatching midges can emerge in such tremendous numbers that they create nuisance problems. Midges often emerge simultaneously forming vast clouds of flying insects. They are especially attracted to lights. Large clouds of insects could form over local roadways creating a traffic hazard.

West Nile Virus, a disease transmitted by mosquitoes, has been detected in Kern County. The proposed project could contribute to a public health hazard if the standing water in the recharge basins contributed to an increase in the mosquito population in the project area. However, the implementation of Mitigation Measure HAZ-5 would require coordination with the Kern County Department of Public Health Services and the Kern Mosquito and Vector Control District to ensure development of appropriate insect control measures that utilize abatement methods appropriate for recharge basins, such that groundwater quality is protected. Mitigation Measure HAZ-5 would minimize the potential effects associated with airborne insect populations by minimizing population increases. Impacts would be less than significant with mitigation.

Impact 3.9-8: This section presents an analysis of the cumulative effects of the proposed project in combination with other past, present, and reasonably foreseeable future projects that could cause cumulatively considerable impacts relative to hazards and hazardous materials. The proposed project would have no impact with respect to being located within two miles of an airport. Accordingly, the proposed project could not contribute to cumulative impacts related to this topic and is not discussed further.

The geographic area affected by the proposed project and its potential to contribute to cumulative impacts varies based on the environmental resource under consideration. The geographic scope of analysis for cumulative hazardous materials impacts encompasses and is limited to the future project sites and their immediately adjacent area. This is because impacts relative to hazardous materials are generally site-specific and depend on the nature and extent of the hazardous materials release, and existing and future soil and groundwater conditions. For example, hazardous materials incidents tend to be limited to a smaller more localized area surrounding the immediate spill location and extent of the release and could only be cumulative if two or more hazardous materials releases spatially overlapped.

The timeframe during which the proposed project could contribute to cumulative hazards and hazardous materials effects includes both the construction and operations phases. For the proposed project, the operational phases are permanent. However, similar to the geographic limitations discussed above, it should be noted that impacts relative to hazardous materials are generally time-specific. Hazardous materials events could only be cumulative if two or more hazardous materials releases occurred at the same time, as well as overlapping at the same location.

Significant cumulative impacts related to hazards and hazardous materials could occur if the incremental impacts of the project combined with the incremental impacts of one or more cumulative projects identified in Table 3-2 of the EIR substantially increase risk that people or the environment would be exposed to hazards and hazardous materials. The cumulative projects that could be geographically adjacent or overlap components of the proposed project. The cumulative projects are projects that either involve road improvements and extensions or projects similar to the proposed project, which include recharge, recovery, and conveyance facilities within the Rosedale service area.

Cumulative projects would be subject to the same regulatory requirements discussed for the project, including the implementation of HMBPs and compliance with existing regulations for the transport, use, storage, and disposal of hazardous materials. That is, cumulative projects involving releases of or encountering hazardous materials also would be required to manage their hazardous materials to the same established regulatory standards and, in the case of spills or accidents, remediate their respective sites to the same established regulatory standards.

This would be the case regardless of the number, frequency, or size of the release(s), or the residual amount of chemicals present in the soil from previous spills. While it is possible that the project and cumulative projects could result in releases of hazardous materials at the same time and in overlapping locations, the responsible party associated with each spill would be required to remediate site conditions to the same established regulatory standards. Further, implementation of Mitigation Measures HAZ-1 through HAZ-3 would require that samples of soils on various project sites are analyzed and appropriately remediated or removed if soils contain hazardous quantities of contaminants. This would reduce any potential impacts to construction workers due to encounters with hazardous materials to less than significant levels and reduce impacts to groundwater due to potential transport of hazardous substances during recharge activities. The residual less-than-significant effects of the project that would remain after remediation would not combine with the potential residual effects of cumulative projects to cause a potential significant cumulative impact because residual impacts would be highly site-specific. Accordingly, no significant cumulative impact with respect to the use or release of hazardous materials would result. For the above reasons, the combined effects of the construction of the project in combination with cumulative projects would not have a cumulatively considerable contribution to a cumulative impact relative to the use of hazardous materials.

The construction of cumulative projects could involve hazardous materials within one-quarter mile from a school. Similar to the proposed project's Mitigation Measure HAZ-1, cumulative projects near schools should coordinate with the local school district and specific schools in order to avoid locations and routes near school facilities. This would reduce any potential impacts to schools to less than significant. Implementation of this mitigation measure would reduce the cumulatively considerable contribution to a cumulative impact relative to hazardous material use within one-quarter mile of schools.

The construction of cumulative projects could potentially expose workers, structures, and the public to contaminated soils located on hazardous materials sites. Similar to Mitigation Measure HAZ-1 through HAZ-3 of the proposed project, cumulative projects would be required to sample of soils onsite appropriately remediated or removed if soils contain hazardous quantities of contaminants. This would reduce any potential impacts to construction workers due to encounters with hazardous materials to less than significant levels and reduce impacts to groundwater due to potential transport of hazardous substances during recharge activities.

Implementation of this mitigation measure would reduce the cumulatively considerable contribution to a cumulative impact relative to hazardous material sites.

The construction of the cumulative projects could require the temporary closure of traffic lanes, which could impact emergency access. Similar to the proposed project, other cumulative construction projects would be required to provide appropriate traffic control and emergency access for their projects similar to Mitigation Measure TRA-1. Implementation of traffic control plans would reduce the cumulatively considerable contribution to a cumulative impact relative to emergency access.

Finally, cumulative projects in areas susceptible to wildfires would also be required to implement wildfire prevention measures to prevent wildfire. For the above reasons, the combined effects of the project and cumulative projects would not result in a cumulatively considerable effect, and impacts would be less than significant.

Similar to the proposed project, the cumulative projects' activities involve the handling, storage, and disposal of hazardous materials, and would be required to prepare and implement an HMBP and comply with applicable regulations, including those governing the use, storage, transportation, and disposal of hazardous materials, including emergency response and notification procedures in the event of a spill or release. Specifically, the use of pesticides for cumulative projects involving recharge basins, would be required to comply with regulations enforced by the CDPR, which regulates the sale, use, and disposal of pesticides within California. Transportation and disposal of wastes would also be subject to regulations for the safe handling, transportation, and disposal of chemicals and wastes. As noted previously, such regulations include standards to which parties responsible for hazardous materials releases must return spill sites, regardless of location, frequency, or size of release, or existing background contaminant concentrations to their original conditions. Compliance with existing regulations regarding hazardous materials use would reduce the risk of environmental or human exposure to such materials would reduce the cumulatively considerable contribution to a cumulative impact relative to hazardous materials.

Cumulative projects in areas susceptible to wildfires would also be required to implement wildfire prevention measures to prevent wildfire. With compliance with existing regulations, the combined effects of the project and cumulative projects would not result in a cumulatively considerable effect, and impacts would be less than significant relative to wildfires. Lastly, cumulative projects that include recharge facilities similar to the proposed project could result in an increase in airborne insect populations. Similar to the proposed project, cumulative projects should coordinate with the Kern County Department of Public Health Services and the Kern Mosquito and Vector Control District. Potential cumulative impacts regarding vectors would be considered less than cumulatively considerable with the implementation of best practices for insect abatement that would result due to implementation of Mitigation Measure HAZ-5. Impacts would be less than significant with mitigation.

MITIGATION MEASURES: HAZ-1, HAZ-2, HAZ-3, HAZ-4, HAZ-5, and TRA-1.

J. Hydrology and Water Quality

POTENTIAL EFFECTS: Potential effects examined included the potential to: violate any water quality standards, waste discharge requirements, or otherwise degrade surface or groundwater quality [Impact 3.10-1]; substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management

of the basin [Impact 3.10-2]; substantially alter the existing drainage pattern of a site or area through the alteration of the course of a stream or river, or by other means, in a manner that would result in substantial erosion or siltation on- or off-site, substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede and redirect flood flows [Impact 3.10-3]; in flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation [Impact 3.10-4]; conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan [Impact 3.10-5]; or result in cumulatively considerable impacts to hydrology and water quality [Impact 3.10-6].

FINDINGS: Adherence to the Mitigation Measure HAZ-1 listed in the EIR will reduce Impact 3.10-1 to less than significant (Finding 1). Impacts 3.10-2, 3.10-3, 3.10-4, and 3.10-6 will be less than significant, requiring no mitigation. The remaining potential impacts will not occur.

FACTS IN SUPPORT OF THE FINDINGS:

Impacts Not Occurring: Until the proposed project is constructed, there would be no water recharge or recovery, and no addition of impervious surfaces. Therefore, relative to groundwater supplies and recharge during construction, there would be no impact.

The proposed project would be designed to provide infiltration of surface water within the proposed recharge basins within the project area. Storm water runoff would be captured onsite and therefore would not cause or exacerbate any potential flooding on- or off-site. The proposed conveyance canal would not cross or alter any drainages. The conveyance pipelines would be underground, and once installed there would be no change in surface runoff. Pump stations would have a minimal footprint surrounded by pervious soil into which precipitation would infiltrate, as it does now. Therefore, there would be no impact regarding flooding due to altering the existing drainage pattern of the project area. The proposed project would not create or contribute new sources of runoff or polluted runoff. The proposed project would be designed to provide infiltration of surface waters within the recharge basins at the project area and as such would capture storm water runoff onsite. No drainage system would be necessary for storm water capture. The Kern Fan Conveyance Facilities would consist of some combination of a canal or pipelines, none of which would require the use of any drainage system. Therefore, there would be no impact in regards to exceeding the capacity of drainage systems within the project area.

The proposed project is not located within a FEMA-designated 100-year flood zone and does not include the construction or renovation of any housing units. The perimeter berms of the recharge basins would be compacted and constructed to minimize any potential damage that may occur from the filling of the basins. In the event that damage occurs to the berms during times when the ponds are full, released water would infiltrate into the permeable soils that comprise the relatively flat area surrounding the recharge ponds. Therefore, there would be no impact to people or structures related to potential risk of loss, injury or death involving inundation in a flood hazard zone. The project area is not located in an area that is susceptible to the effects of a seiche or tsunami. Therefore, there would be no impact to people or structures related to potential risk of loss, injury or death involving inundation by a seiche or tsunami. Until the proposed project is constructed, there would be no potential for inundation from a dam failure, and there would be no impact.

Until the proposed project is constructed, there would be no conflicts or obstructions to the water quality control plan (basin plan) or sustainable groundwater management plan, and there would be no impact. The purpose of the proposed project is to augment the recharge, storage, and recovery capabilities of existing water supply programs and provide greater operational flexibility. By storing additional surface water underground in Kern County, the proposed project would generally benefit groundwater levels and storage in the Sub-basin and help support groundwater sustainability efforts required by SGMA. In addition, the proposed project would enhance water supply reliability by augmenting supplies for periods when other sources may be limited or unavailable. Therefore, relative to the water quality control plan (basin plan) and the sustainable groundwater management plan, the proposed project would have a beneficial impact.

Impact 3.10-1: During construction activities, soils could be become exposed to high winds or heavy precipitation causing a substantial increase in sedimentation in storm water run-off. In addition, construction activities would require the use of hazardous materials including but not limited to petroleum products. The mobilization of sediment or inadvertent spills or leaks of such pollutants could affect the quality of runoff water from the construction sites. However, because the project would disturb more than one acre, construction would be subject to the NPDES General Permit for Discharges of Storm Water Runoff Associated with Construction Activity. As part of this process, the Authority would be required to comply with the NPDES Construction General Permit. Compliance with this permit would require the preparation and implementation of a SWPPP that would identify pollutant sources that may affect the quality of storm water discharge and implement BMPs, such as erosion control and pollution prevention measures, to be used during the course of construction. The project SWPPP would include BMPs to minimize the impacts of construction activities to water quality. With implementation of the BMP requirements required by the state Construction General Permit, the potential for pollutants and sediment to affect the water quality of runoff from construction sites would be minimized to less-than-significant levels.

The transport, use, and disposal of pesticides associated with past, present and future agricultural activities would continue to be done in accordance with applicable regulatory requirements in order to protect water quality and public health. Mitigation Measure HAZ-1 would require that samples of soils at new recharge basins are analyzed and removed in accordance with all applicable federal and state regulations if soils contain hazardous quantities of contaminants. Therefore, impacts to water quality would be considered less than significant with mitigation.

During operations, recharge water would be placed in recharge basins and allowed to infiltrate into the underlying aquifer for later recovery. The quality of typical surface water sources and groundwater in the aquifer beneath the project area has been characterized through laboratory analysis and compared with drinking water parameters. The water quality of the surface water sources for groundwater banking is in general lower in constituent concentrations than that of the local groundwater. The introduction of surface water into the shallow zone would improve groundwater quality. In addition, as the water placed in the recharge basins infiltrates through the soil column down to the aquifer, the water quality would be anticipated to further improve because the soil would filter out some of the chemical constituents. Consequently, the recharge of surface water would improve the groundwater quality, resulting in a beneficial impact. Once recovered, the groundwater would be introduced into the new proposed conveyance facilities. The Authority will enter into an agreement with DWR for construction of a new turnout into the California Aqueduct. Prior to pumping extracted groundwater into the CVC and California Aqueduct, it would be the Authority's responsibility to ensure that the water quality

was sufficient to meet applicable water quality requirements of KCWA and DWR, and submit a Pump-In Proposal that identifies the water sources, planned operation, inflow water quality, and any anticipated impacts to water quality and/or operations. The operational agreement with DWR will specify that any introduction of water into the California Aqueduct must comply with DWR water quality requirements. Any water that did not meet water quality requirements or could not be blended to meet such requirements, as imposed by the conveyance facility operators, would not be conveyed within the canals.

The proposed recharge water would not have elevated concentrations of arsenic and its addition would be expected to reduce the concentrations of arsenic in the aquifer. Therefore, the addition of the recharge water would be a beneficial impact to groundwater quality. The transport, use, and disposal of pesticides associated with past, present and future agricultural activities at the proposed recharge basins would continue to be done in accordance with applicable regulatory requirements in order to protect water quality and public health. Future agricultural activities at the recharge basins would be subject to all applicable regulatory requirements of the USEPA, CDPR, and the Kern CAC. Farming operations at the proposed recharge basins could include the use of restricted or unrestricted materials. The Authority would require all contract farmers to comply with regulations pertaining to application of pesticides within recharge basins and in proximity to wellheads. All required measures pertaining to wellhead protection also would be implemented. The Authority would require the contract farmer to obtain a permit from the CAC for application of restricted materials and to comply with all conditions of the permit in order to ensure the protection of human health and the environment. Compliance with regulatory requirements pertaining to pesticide use would ensure impacts would be less than significant.

Impact 3.10-2: Groundwater Recharge Operations. Mounding groundwater resulting from recharging on the project sites could impact the integrity of these structures or cause cracks in sub-surface concrete panels. Groundwater modeling conducted for the proposed project evaluated the effects that proposed recharge would have during times of relatively high baseline groundwater levels. Groundwater mounding would not raise groundwater levels in any area to less than 50 feet from the ground surface, therefore, the project would not cause damage to surface and underground structures due to pressure or liquefaction. Groundwater mounding further away from the recharge basins and outside of the project site would be much less, on the order of less than 10 feet. The impact relative to recharge operations would be less than significant.

Groundwater Recovery Operations. During periods of lower groundwater levels, the pumping of groundwater to recover stored water could decrease groundwater levels to below the Minimum Thresholds established in the GSP or trigger levels established in the Operating Plans. This could damage project and nearby wells if the groundwater levels decreased below existing well pumps. Groundwater modeling conducted for the proposed project evaluated the effects of groundwater recovery operations during relatively low groundwater conditions. Groundwater levels would decrease to below baseline conditions for a brief time period but then recover to baseline conditions within 2 years. To further evaluate the effects of groundwater recovery, the groundwater model compared the lowest projected groundwater levels to the Minimum Thresholds on the baseline condition hydrographs. Groundwater levels would be expected to recover to above the minimum thresholds once recovery pumping is completed. Therefore, impacts relative to recovery operations would be less than significant.

The Long Term Operations Plan considers that project-related decreases in groundwater levels that are 30 feet or greater relative to baseline conditions are considered negative project

impacts that trigger mitigation if neighboring wells experience mechanical failure or other operational problems due to declining water levels. Given historical fluctuations in groundwater levels in the area when other nearby groundwater banking projects are recovering, it is expected that additional declines attributable to the proposed project beyond historic low groundwater levels could result in operational problems at some existing wells. However, the proposed project would not be anticipated to result in declines of groundwater levels greater than 20 feet at neighboring existing wells. Therefore, no mitigation would be required and, impacts relative to recovery operations would be less than significant.

Sustainable Groundwater Management. The proposed project is one of many projects proposed by Rosedale, as part of the Kern Groundwater Authority and its Groundwater Sustainability Plan (GSP), for implementation in its management area of the GSA. As such, the proposed project would assist Rosedale (and by extension the Kern Groundwater Authority) with the stabilization of groundwater levels and help achieve groundwater sustainability in the Kern Fan area by the SGMA-mandated date of 2040.

The proposed project would be incorporated into existing MOUs and Operations Plans. The MOUs define recharge losses as amounts of water that are non-bankable and non-recoverable that provide a benefit by increasing the volume of water in groundwater storage and supporting sustainability. The Operations Plans would ensure that any lowering of localized groundwater levels within a cone of depression around the proposed recovery wells would not have adverse effects to the operation of neighboring wells. Therefore, the proposed project would not have adverse localized effects to groundwater supplies and would support sustainable groundwater management of the basin. Impacts would be less than significant.

Impact 3.10-3: During construction activities, soils could become exposed to high winds or heavy precipitation causing erosion. The project would be required to comply with the NPDES Construction General Permit, which would require the preparation and implementation of a SWPPP. The SWPPP would describe BMPs describing erosion control and pollution prevention measures to be used during the course of construction. The project SWPPP would include BMPs to minimize the impacts of construction to a less than significant level. Erosion control BMPs have been proven effective at minimizing erosion during construction and associated earthwork activities. With implementation of the SWPPP, the project would minimize the potential for erosion or siltation to occur during construction, and the impact would be less than significant.

The proposed project would construct recharge basins, which would also capture storm water during precipitation events. Although the drainage pattern would be altered in the immediate location of the recharge basins, the basins would not cause substantial erosion or siltation on- or off-site because rainwater would be contained within the basins. The basins also would continue to be used for agricultural purposes when not being used for recharge. Thus, with the continuation of farming, grazing, or fallowing, the existing land cover would not be substantially altered from existing conditions and would not alter the conditions that affect erosion or siltation. The conveyance canal and/or pipelines would not alter the overall drainage pattern within their alignments. Pipelines would be below ground and would not alter existing topography or drainage once construction is complete. Canals would contain rainwater, similar to recharge basins, and would be constructed as gravity flow structures to the extent feasible, aligned with the existing topography. The pump stations would have relatively small footprints. Precipitation falling on the pump stations would flow off to the surrounding unpaved soils and infiltrate into the ground, as it does now. Therefore, the addition of the recharge basins, canal, pipelines, and pump stations would not substantially alter the existing drainage pattern of the project area site

and would not result in substantial erosion or siltation on- or off-site, resulting in a less than significant impact.

Impact 3.10-4: In the event of a failure of the dam at Lake Isabella, the Phase 1 area would be located within the distal end of the inundation zone. The eastern portion of the Phase 1 area could be flooded with 0 to 5 feet of reservoir water in 14 to 24 hours. However, the flood waters would have slowed by the time they reach the Phase 1 area and would have lost velocity, reducing the potential for damage. In addition, the flood waters would be shallow relative to the heights of the recharge basin berms, further reducing the potential for damage. Finally, the flood waters would consist of surface water that would not be expected to contain pollutants other than entrained sediment. By the time the inundation flood waters reach the Phase 1 area, the flow velocity would have decreased and sediment load would be dropped out. The addition of the proposed recharge and recovery facilities would not introduce new land uses to the project area, relative to existing conditions, that would result in the introduction of new pollutants during potential inundation by flood waters. The inundation flood waters would not reach the Phase 2 area or the Kern Fan Conveyance Facilities area. In the unlikely event of a failure of the dam at Lake Isabella, the distance from the dam to the Phase 1 project area would reduce the potential for damage. Any damage to the recharge basin berms could be easily repaired. Impacts relative to flooding by inundation from the failure of the Lake Isabella dam would be less than significant.

Impact 3.10-6: This section presents an analysis of the cumulative effects of the proposed project in combination with other past, present, and reasonably foreseeable future projects that could cause cumulatively considerable impacts.

The proposed project would have no impact with respect to altered drainages, drainage system capacities, impeding flood flow in flood hazard zones, seiches, and tsunamis. Accordingly, the proposed project could not contribute to cumulative impacts related to these topics and are not discussed further.

The geographic area affected by the proposed project and its potential to contribute to cumulative impacts varies based on the environmental resource under consideration. The geographic scope of analysis for cumulative hydrology and water quality impacts encompasses the Sub-basin. The timeframe during which proposed project could contribute to cumulative hydrology and water quality impacts includes the construction and operations phases. For the proposed project, the operations phase is permanent.

Significant cumulative impacts related to hydrology and water quality impacts could occur if the incremental impacts of the proposed project combined with the incremental impacts of one or more of the cumulative projects identified in Table 3-2 of the EIR to substantially increase risk that people or the environment would be exposed to hydrology and water quality impacts. Cumulative Projects numbers 1 and 2 are road improvement projects. Cumulative Projects number 3 through 10, 12, and 13 are water supply improvement projects, similar to the proposed project that include recharge basins, recovery wells, pipelines, and/or canals, and associated infrastructure. Cumulative Project number 11 is a maintenance project that would raise portions of existing concrete liners and would not have any impacts relative to water quality of supply. Table 3-1 lists the groundwater banking programs in Kern County. The groundwater banking programs would have routine water banking activities that could result in cumulative impacts.

Similar to the proposed project, the cumulative projects have the potential to disturb more than one acre. If the projects are constructed at the same time, the erosion effects could be

cumulatively significant and could affect water quality of nearby surface water bodies. However, the state Construction General Permit would require each project to prepare and implement a SWPPP. The SWPPPs would describe BMPs to control runoff and prevent erosion for each project. Through compliance with this requirement, the potential for erosion impacts would be reduced. The Construction General Permit has been developed to address cumulative conditions arising from construction throughout the state and is intended to maintain cumulative effects of projects subject to this requirement below levels that would be considered significant. For example, two adjacent construction sites would be required to implement BMPs to reduce and control the release of sediment and/or other pollutants in any runoff leaving their respective sites. The runoff water from both sites would be required to achieve the same action levels, measured as a maximum amount of sediment or pollutant allowed per unit volume of runoff water. Thus, even if the runoff waters were to combine after leaving the sites, the sediments and/or pollutants in the combined runoff would still be at concentrations (amount of sediment or pollutants per volume of runoff water) below action levels and would not be cumulatively considerable. Impacts would be less than significant.

Once constructed, the road improvements for Cumulative Projects numbers 1 and 2, and the concrete liner maintenance project for Cumulative Project number 11 would be complete and could no longer affect water quality. Once operational, the cumulative water supply improvement projects (i.e., Cumulative Projects 3 through 10, 12, and 13) would be subject to the same regulations and similar agreements as the proposed project relative to water quality. Similar to the proposed project, the water quality of the surface source waters would generally be better than the water quality of groundwater in the aquifer, and the recharge of surface water into the aquifer would improve groundwater quality. Once recovered, groundwater would be subject to the pump-in water quality requirements of regional water conveyance systems, similar to the proposed project. Any water that did not meet water quality requirements or could not be blended to meet such requirements, would not be conveyed within the California Aqueduct and the CVC.

Similar to the proposed project, the cumulative water supply improvement projects would be subject to the same regulations and similar agreements as the proposed project relative to water supply and groundwater levels. Similar to the proposed project, recharge and recovery operations would be subject to operating plans, MOUs, and other agreements that would require the establishment of groundwater level monitoring programs in wells at and around each of the water banking operations.

The proposed project would be operated subject to Rosedale's Operations Plans. The Operations Plans designate specific measures to be employed to "prevent, eliminate or mitigate significant adverse impacts" resulting from project operations, including effects to neighboring wells. The Operations Plans includes monitoring of groundwater conditions and the use of Rosedale's groundwater model to predict the contribution of the various water banking projects to groundwater increases or declines in the area. Consequently, the proposed project would be operated in such a way as to prevent cumulative impacts with neighboring water banking operations. Implementation of the Operations Plans would ensure that local groundwater users and neighboring well owners/operators to the proposed recharge and recovery facilities would not be adversely affected during operation of the proposed recovery wells. Therefore, the proposed project would not have adverse localized effects to groundwater supplies and would support sustainable groundwater management of the basin. With implementation of Rosedale's Operations Plans, the proposed project would be in compliance with SGMA and other regulations, MOUs, and agreements and would not have a cumulatively considerable impact to

groundwater supplies or sustainable groundwater management of the basin. Impacts would be less than significant.

Similar to the proposed project, cumulative projects that allow farming in unused recharge basins would be required to transport, use, and dispose of pesticides in accordance with applicable regulatory requirements in order to protect water quality and public health. Compliance with regulatory requirements pertaining to pesticide use would ensure cumulative impacts would be less than significant.

MITIGATION MEASURES: HAZ-1.

K. Land Use and Planning

POTENTIAL EFFECTS: Potential effects examined included the potential to: physically divide an established community [Impact 3.11-1]; cause a significant environmental impact due to a conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect [Impact 3.11-2]; or result in cumulatively considerable impacts to land use [Impact 3.11-3].

FINDINGS: Adherence with Mitigation Measures AGR-1, BIO-10, BIO-11, and BIO-14 listed in the EIR will reduce Impact 3.11-2 and 3.11-3 (Finding 1). Impact 3.11-1 will not occur.

FACTS IN SUPPORT OF THE FINDINGS:

Impacts Not Occurring: The project area is located in an agricultural and rural residential community. Construction and operation of recharge basins and associated facilities in the project area would be consistent with existing community land use and would not serve to divide an established community. The proposed recharge basins and recovery wells are anticipated to be constructed on land already used for agricultural purposes and once constructed would have roadways to allow access in and around the recharge basins. Dirt roads approximately 14 to 20 feet wide would run along the perimeter of and in between all basins to provide access to facilities during operation and maintenance activities. The proposed basins and recovery wells would not divide any established communities, and no impact would occur.

As a linear project feature, the Kern Fan Conveyance Facilities would be constructed so as to not divide existing roadways. Siphons would be installed when crossing Interstate-5, Stockdale Highway and other surface features, potentially such the East Side Canal and Kern Water Bank Main Canal. Additionally, where surface features exist, jack and bore methods would be used so that the conveyance facilities could tunnel under to avoid disruption. The proposed new turnout from the California Aqueduct would be constructed within the State of California right-of-way and subject to approval by DWR and KCWA. To avoid disruptions to the California Aqueduct operations, cofferdams would be required during turnout construction. Cofferdams are temporary watertight structures that would allow for a portion of the Aqueduct to be dewatered during construction of the turnouts and allow flows to continue passing through the Aqueduct channel. The proposed Kern Fan Conveyance Facilities would not divide any established communities, and no impact would occur.

Impact 3.11-2: Both the Phase 1 and Phase 2 project areas are largely designated as Intensive Agriculture and Rural Residential by the Kern County General Plan. The Intensive Agriculture designation allows for groundwater recharge facilities. The Phase 1 and Phase 2 areas are also largely zoned for Exclusive Agriculture and Limited Agriculture. The County Zoning Ordinance

allows groundwater recharge facilities in Exclusive Agriculture. In addition, agricultural land uses, such as annual farming, grazing, or fallowing, would be allowed within the basins at all Kern Fan Project Property sites when the properties are not needed for water recharge or water management purposes. Grazing could be used to remove or control vegetative growth. The proposed project would be compatible with the goals and policies of the Kern County General Plan for protecting agricultural resources through the beneficial use of percolation basins and conveyance facilities. The Kern County's *Agricultural Preserve Standard Uniform Rules* state that groundwater recharge operations are compatible land uses on agricultural preserves if the preserve is used for commercial agriculture for at least seven months out of a twelve-month period. For portions of the project area under a Williamson Act contract, implementation of Mitigation Measure AGR-1 would be required to ensure consistency with land uses at those areas should the recharge basins be constructed there.

The area where the Kern Fan Conveyance Facilities would be located is dominated by a land use of Intensive Agriculture. The Kern Fan Conveyance Facility area is almost entirely zoned as A (Exclusive Agriculture). Construction and operation of the Kern Fan Conveyance Facilities would require temporary and permanent easements across small portions of various properties along the canal and/or pipeline alignment. The easements would not prevent the parcels from continuing to be used for agricultural use. Also, water conveyance facilities are considered to be compatible agricultural land uses according to Kern County's *Agricultural Preserve Standard Uniform Rules*, Kern County's General Plan Land Use designation of Intensive Agriculture, and Kern County's zoning designation for Exclusive Agriculture. Therefore, implementation of the proposed Kern Fan Conveyance Facilities would not conflict with designated land uses.

The proposed project is one of more than 150 projects and management actions in the Kern Groundwater Authority GSP. The projects and management actions may be implemented as necessary to ensure the Kern County Sub-basin can achieve its sustainability goals, including maintaining groundwater use within the sustainable yield of the basin. With implementation of the projects and management actions in the GSP, during the implementation period of 2020 to 2040, the Kern County Sub-basin would have an average surplus of 85,578 AFY (KGA 2020). The proposed project would be consistent with, and would not conflict with, the local groundwater sustainability plan.

The proposed project would be compatible with the goals and policies of the Kern County General Plan for providing adequate supplies of quality water for residential, industrial, and agricultural users within Kern County, and effective groundwater resource management.

Additionally, the project area does reside within the Bakersfield Habitat Conservation Plan as well as the Kern Water Bank HCP/NCCP. Implementation of Mitigation Measures BIO-10, BIO-11, and BIO-14 would reduce any potential impacts to less than significant levels. As such impacts related to conflict with land use plans, policies or regulations with Kern County or other relevant agencies would be less than significant with the incorporation of the Mitigation Measures discussed above.

Impact 3.11-3: This section presents an analysis of the cumulative effects of the proposed project in combination with other present and reasonably foreseeable future projects that could generate cumulatively considerable impacts to land use and planning.

The geographic area addressed in the discussion of cumulative impacts varies depending on the environmental resource topic being analyzed. The geographic area for the analysis of the potential cumulative impacts of the proposed project and cumulative projects related to land use and planning is limited to the San Joaquin Valley in Kern County.

The cumulative impact of the proposed project on land use and planning is dependent on the past, present, and reasonably-foreseeable future conditions of development and land use in the project vicinity. Other related projects in the area could result in the conflict with existing land use policies, plans, or divide the existing community. The projects to be considered cumulatively with this project are discussed in Table 3-2 of the EIR and similar to the proposed project include groundwater recharge, conveyance, and water banking projects. The impacts associated with these cumulative projects would be similar to those discussed above for the proposed project. As such, these projects could also result in the permanent change of land uses in the San Joaquin Valley that could conflict with land use plans and policies and divide established communities. Other projects discussed in Table 3-2 of the EIR include road improvement projects led by the City of Bakersfield. These projects in conjunction with the proposed project could cumulatively contribute to impacts to land use and planning within the geographic scope defined above.

However, the proposed project would not contribute to any conflicts with land use designations with the implementation of the mitigation measures discussed above. Overall, the proposed project would provide benefits to agriculture and groundwater sustainability, and land uses in the project area would remain in agricultural use. Groundwater recharge and water conveyance facilities are compatible with agricultural land use in Kern County. As such the proposed project would not cumulatively contribute to impacts to land uses in the proposed project area.

MITIGATION MEASURES: AGR-1, BIO-10, BIO-11 and BIO-14.

L. Mineral Resources

POTENTIAL EFFECTS: Potential effects examined included the potential to: result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state [Impact 3.12-1]; result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan [Impact 3.12-2]; or result in cumulatively considerable impacts to mineral resources [Impact 3.10-3].

FINDINGS: Impact 3.12-1 and 3.12-3 will be less than significant. Impact 3.12-2 will not occur.

FACTS IN SUPPORT OF THE FINDINGS:

Impacts Not Occurring: The proposed project is not located within a designated mineral resource recovery site. A portion of recent alluvium deposited by the Kern River has been classified MRZ-2, but the resource is located upstream the Kern River and outside the boundaries of the project area. Kern River deposits south of the project area include sediments which are predominately fine-grained, and gravel does not occur in economic concentrations in the subsurface. Additionally, there are no sand and gravel extraction sites within the project area. Therefore, the proposed project would not result in the loss of availability of locally important mineral resources, nor would the proposed project result in the loss of availability of locally important sand and gravel resources. No impact would occur.

Impact 3.12-1: There are no MRZs located in the vicinity of the project. Therefore, the proposed project would not impact mineral resources of value to the region and residents of the State. While there are a number of active oil and gas wellfields located within the project area, the majority of the existing oil/gas wells have been plugged or cancelled as indicated by the California Department of Conservation CalGEM Well Finder GIS database. There are 6 currently active oil and gas wells within the Phase 1 area, two of which are located on Stockdale

East, which is owned by Rosedale. Mineral rights associated with and underlying the project area are not owned the Authority. In the event that construction of the proposed project would occur within an active wellfield, the Authority would be required to accommodate existing and future drill islands in the project area to ensure that access to underlying mineral rights may continue during construction and operation of the proposed project. As a result, implementation of the proposed project would not impede future access to subsurface mineral resources of regional importance. Impacts would be less than significant.

Impact 3.12-3: The geographic scope of the potential cumulative impact to mineral resources encompasses the Kern Fan area of Kern County and portions of Metropolitan Bakersfield, California. The proposed project is located on land that is primarily used for agricultural purposes. No MRZs or important sand and gravel resources have been identified within the project area. Thus, there is no potential for the project to impact the availability of important mineral resources during construction and operation. Therefore, the proposed project would not contribute to cumulatively considerable impacts to mineral resources in the project region.

Six active oil/gas wellfields are located within the project area: Strand Oil Field, Greeley Oil Field, Bellevue West Oil field, Bellevue Oil Field, McClung (ABD) Oil Field, and Canal Oil Field. In the event that construction of the proposed project would occur within an active wellfield, the Authority would be required to accommodate existing and future drill islands in the project area to ensure that access to underlying mineral rights may continue during construction and operation of the proposed project. Therefore, the proposed project would not contribute to cumulatively considerable impacts to the availability of locally important oil/gas resources in the project region.

MITIGATION MEASURES: None required.

L. Noise and Vibration

POTENTIAL EFFECTS: Potential effects examined included the potential to: generate substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies [Impact 3.13-1]; generate excessive groundborne vibration or groundborne noise levels [Impact 3.13-2]; for a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels [Impact 3.13-3]; or result in cumulatively considerable impacts to noise [Impact 3.13-4].

FINDINGS: Adherence with Mitigation Measure NOI-1 listed in the EIR will reduce Impact 3.13-1 and 3.13-4 (Finding 1). Impact 3.13-2 will be less than significant. Impact 3.13-3 will not occur.

FACTS IN SUPPORT OF THE FINDINGS:

Impacts Not Occurring: The proposed project is not located within two miles of public airport or public use airport or located within an airport land use plan area. The nearest airport to the project site is the Elk Hills-Buttonwillow Airport, located approximately 4 miles west of the BV8 Aqueduct Turnout. The nearest public commercial airport is Meadows Field Airport, approximately 4 miles northeast of the project area. Therefore, the proposed project would not expose people residing or working in the area to excessive noise levels.

Impact 3.13-1: Construction activities at the project sites would result in a temporary increase in noise levels in the project vicinity. Noise levels would be in accordance with the County noise ordinance requirements for construction during daytime hours; however, the project could violate the County's noise ordinance during 24-hour continuous well drilling. Implementation of Mitigation Measure NOI-1 would ensure that construction impacts are less than significant. Operational activities would not significantly increase noise levels and would not create noise impacts. Therefore, the proposed project would not expose sensitive receptors to noise levels in excess of established standards.

Impact 3.13-2: Proposed construction activities would occur throughout the project area and would not be concentrated at the point closest to the nearest structure. Based on the vibration levels presented in the EIR, at a distance of 50 feet from the project area, the maximum vibration level would be up to approximately 0.0361 in/sec PPV for a large bulldozer, which would not exceed the significance threshold of 0.2 in/sec PPV. Therefore, the use of all construction equipment would not result in a groundborne vibration velocity level above 0.2 inches per second at the nearest off-site structure. With respect to human annoyance, the nearest residential buildings located within 50 feet from the project site would be exposed to vibration levels below the 80 VdB threshold for human annoyance. Therefore, impacts would be less than significant and no mitigation is required.

Impact 3.13-4: *CEQA Guidelines* require a discussion of cumulative impacts of a project "when the project's incremental effect is cumulatively considerable" (2011 *CEQA Guidelines*, Section 15130). As defined by Section 15065 (a)(3) "cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects (2011 *CEQA Guidelines*, Section 15065 (a)(3)). These cumulative impacts are defined as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts" (*CEQA Guidelines* Section 15355).

Cumulative projects that may be constructed within 1,000 feet of the project area are listed in Table 3-2 of the EIR. Should cumulative projects undergo construction at the same time as the proposed project, the cumulative projects would be required to comply with the construction hours allowed by the County or comply with County restrictions imposed if a variance to the allowable construction hours for these projects is issued. As previously discussed, the proposed project construction and operation would comply with the County's noise standard. However, 24-hour well drilling may result in temporary noise level increases outside of normally acceptable construction hours and within 1,000 feet of an occupied residential dwelling. With the implementation of best management practices for noise control during 24-hour well drilling activities, as required by Mitigation Measure NOI-1, impacts would be less than significant with mitigation. Therefore, the proposed project, when combined with the identified cumulative projects, would not cause a cumulatively considerable noise impact. With regard to groundborne vibration, the construction vibration levels generated by the project would be substantially below the FTA thresholds for structure damage or human annoyance. Vibration level diminish rapidly from the source and the range of vibration concern is usually limited to 50 feet from the vibration source; thus, the proposed project, when combined with the identified cumulative projects, would not cause a cumulatively considerable vibration impact. As a result, cumulative impacts would be less than significant.

MITIGATION MEASURES: NOI-1.

N. Transportation

POTENTIAL EFFECTS: Potential effects examined included the potential to: conflict with a program, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities [Impact 3.14-1]; conflict or be inconsistent with *CEQA Guidelines* Section 15064.3, subdivision (b) [Impact 3.14-2]; Substantially increases hazards due to a geometric design feature or incompatible uses [Impact 3.14-3]; result in inadequate emergency access [Impact 3.14-4]; or result in cumulatively considerable impacts to transportation [Impact 3.14-5].

FINDINGS: Adherence to the Mitigation Measure TRA-1 listed in the EIR will reduce Impact 3.14-1 to less than significant, adherence to the Mitigation Measure TRA-1 and HAZ-4 will reduce Impact 3.14-3 to less than significant, adherence to the Mitigation Measure TRA-1 will reduce Impact 3.14-4 to less than significant, and adherence to Mitigation Measure TRA-1 will reduce Impact 3.14-5 to less than significant (Finding 1). Impact 3.14-2 will be less than significant, requiring no mitigation.

FACTS IN SUPPORT OF THE FINDINGS:

Impact 3.14-1: Construction of the Kern Fan Conveyance Facilities that would convey water to/from the California Aqueduct and the Kern Fan Properties would require tunneling under I-5 to avoid surficial impacts to the operation and circulation patterns of I-5. Construction of the Kern Fan Conveyance Facilities may require short-term lane or road closures on local surface roadways or detours within the project area as conveyance facilities are constructed. Implementation of Mitigation Measure TRA-1 would require preparation and implementation of a Construction Traffic Control Plan that ensures the Authority provides signage and flagging to alert motorists of pending lane or road closures and detours. Because construction of the proposed project would not substantially increase traffic on nearby roadways, the proposed project would not conflict with any applicable plans, ordinances, or policies that establish measures of effectiveness for the performance of the circulation system around the project area. Therefore, the construction phase of the proposed project would have a less than significant impact with implementation of mitigation measures on traffic circulation.

The operations phase of the proposed project would require trip amounts that are not substantial relative to the existing AADTs of project-related roadways, and project implementation would not conflict with the goals set forth by the Kern County General Plan or any other applicable ordinance or policy that set forth to measure the effectiveness of the circulation system in the vicinity of the project area. Therefore, the operations phase of the proposed project would have a less than significant impact on traffic circulation.

Impact 3.14-2: As defined in *CEQA Guidelines* Section 15064.3(a), vehicles miles traveled (VMT) refers to the amount and distance of automobile travel attributable to a project. The Technical Guidelines explain that the automobile in Section 15064.3 “refers to on-road passenger vehicles, specifically cars and light trucks.” For this reason, the focus of the VMT analysis is on passenger vehicle (i.e., cars and light trucks) trips generated by the project. It should be noted that the EIR also includes an analysis of GHG emissions associated with heavy truck traffic generated by the project (as well as other traffic) and addresses potential significant transportation impacts of all project vehicles, including heavy trucks, related to air quality, noise, and safety. The Technical Guidelines provide a screening criterion that could be used to determine if VMT analysis is warranted for small projects, which are defined as projects that would generate fewer than 110 trips per day and may generally be assumed to cause a less

than significant transportation impact. Construction of the proposed project would generate a maximum of 40 worker round-trips per day; worker trips generated during project operation and maintenance would be substantially lower than the trips generated by project construction. Therefore, daily passenger vehicle trips generated by the project would be well below State of California Office of Planning and Research's (OPR's) recommended small-project screening criterion threshold of 110 trips per day, and the project's impact to VMT would be less than significant.

Impact 3.14-3: Project construction would require the delivery of heavy construction equipment that may require transportation by oversize vehicles on roadways. The use of oversize vehicles could create a hazard to the public by limiting views on the roadways, obstructing space, and reducing travel speed on the roadway. To ensure that construction-related oversize vehicle loads and travel are in compliance with applicable California Vehicle Code sections and California Street and Highway Codes applicable to licensing, size, weight, load, and roadway encroachment of construction vehicles, the construction contractor would prepare a Construction Traffic Control Plan that conforms to requirements of the Kern County Public Works Department and the California Department of Transportation District 6. The Construction Traffic Control Plan would identify construction delivery times and vehicle travel routes in advance to minimize construction traffic during peak a.m. and p.m. hours. The preparation and approval of the Construction Traffic Control Plan would further reduce construction-related traffic and roadway hazards in the project vicinity. Mitigation Measure TRA-1 would ensure the Construction Traffic Control Plan is developed prior to construction.

The Del Rio Elementary School, Bakersfield Christian High School, and Rio Bravo Greeley School are located near the project area. In the event that project facilities are located within a quarter mile of the school, impacts related to the construction and operation of the proposed project could occur. Implementation of Mitigation Measure HAZ-4 would require coordination with applicable school districts to determine a construction route that would not impact existing school safety routes. With implementation of mitigation measures, project impacts related to hazards and incompatible uses would be less than significant.

Impact 3.14-4: The Kern Fan Properties are located in a rural agricultural area with adequate egress and ingress to the sites via Stockdale Highway, Rosedale Highway (SR-58), Enos Lane (SR-43), Brimhall Road, Heath Road, and Nord Avenue in the event of an emergency. During construction of the Kern Fan Conveyance Facilities, the project would utilize jack and bore and tunneling techniques to avoid disruption of surface transportation features such as I-5. However, implementation of some Kern Fan Conveyance Facilities may require temporary lane closures or a detour that could impact traffic within the project area. Construction-related traffic during installation of these facilities could affect emergency response to the project area and surrounding vicinity. To ensure emergency access is not impacted during construction in the project vicinity, the Authority would require the construction contractor to prepare a Construction Traffic Control Plan that would include assurance of access for emergency vehicles to the project area. Mitigation Measure TRA-1 would ensure the Construction Traffic Control Plan is prepared and implemented. Therefore, construction impacts would be less than significant.

Dirt roads would be constructed at the Kern Fan Project Properties along the perimeter of and in between all basins for access during operation and maintenance activities. Similar dirt roads already exist in some portions of the project area. These dirt roads would be constructed and accessible for emergency access within the project area, if necessary. Operation impacts would be less than significant.

Impact 3.14-5: The potential for cumulative transportation impacts exists where there are multiple projects proposed in an area that have overlapping construction schedule and/or project operations that could affect similar resources. Projects with overlapping construction schedules and/or operations could result in a substantial contribution to increased traffic levels throughout the surrounding roadway network. Cumulative impacts from the project, when considered with nearby, reasonably foreseeable planned projects, would occur only during project construction because project operation traffic would be minimal. As stated above in the evaluation of operational impacts, there would be minimal trip generation once construction activities have concluded. Therefore, operation of the project would result in less than significant cumulative impacts.

The proposed project would result in less than significant impacts on transportation with implementation of Mitigation Measure TRA-1. Even during construction, increased traffic associated with personnel and delivery of equipment and materials would not significantly affect road capacity or traffic volumes, given the rural location of the project and the low amount of existing traffic. Therefore, the proposed project, in conjunction with other cumulative projects in the area as identified in Table 3-2 of the EIR would not contribute to cumulative impacts on transportation. Cumulative impacts would be less than significant with implementation of Mitigation Measure TRA-1.

MITIGATION MEASURES: TRA-1 and HAZ-4.

O. Tribal Cultural Resources

POTENTIAL EFFECTS: Potential effects examined included the potential to: cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: a. listed or eligible for listing in the California Register of Historical Resources (California Register), or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k) [Impact 3.15-1a], or b. a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe [Impact 3.15-1b]; or result in cumulative impacts to tribal cultural resources [Impact 3.15-2].

FINDINGS: Impacts 3.15-1a, 3.15-1b, and 3.15-2 will not occur.

FACTS IN SUPPORT OF THE FINDINGS:

Impacts Not Occurring: The NAHC's SLF does not contain records of sacred sites within the project area. Outreach to California Native American tribes did not result in identification of tribal cultural resources that are listed in or eligible for listing in the California Register, or in a local register of historical resources as defined in *Public Resources Code* Section 5020.1(k) within or in close proximity to the proposed project area. Given that no tribal cultural resources have been identified within or immediately adjacent to the proposed project area, construction and operation of the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource, and no mitigation would be required.

No tribal cultural resources were identified as part of the Authority's outreach to Native American groups. Given that no tribal cultural resources have been identified within the proposed project area, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource, and no mitigation would be required. Therefore, the project would not contribute to any potential significant cumulative impact to tribal cultural resources.

MITIGATION MEASURES: None required.

P. Utilities and Service Systems

POTENTIAL EFFECTS: Potential effects examined included the potential to: require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects [Impact 3.16-1]; have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years [Impact 3.16-2]; result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments [Impact 3.16-3]; generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals [Impact 3.16-4]; not comply with federal, State, and local management and reduction statutes and regulations related to solid waste [Impact 3.16-5]; or result in cumulatively considerable impacts to utilities and service systems [Impact 3.16-6].

FINDINGS: Impacts 3.16-1, 3.16-2, 3.16-4, and 3.14-6 will be less than significant, requiring no mitigation. The remaining potential impacts will not occur.

FACTS IN SUPPORT OF THE FINDINGS:

Impacts Not Occurring: The proposed project would not require the relocation or construction of new or expanded wastewater treatment or storm water drainage, natural gas, or telecommunication facilities. No impact would occur with regard to these areas.

The proposed project would not permanently increase wastewater generation in the project area and would not require a wastewater treatment provider to serve the project. Therefore, the proposed project would have no impact on the capacity of wastewater treatment providers.

Construction, operation and maintenance of the proposed project would involve activities that would have the potential to generate solid waste. Statewide policies regarding solid waste have become progressively more stringent, reflecting Assembly Bill 939, which requires local government to develop waste reduction and recycling policies and meet mandated solid waste reduction targets. For the solid waste anticipated to be produced by the proposed project, the Authority would be required to comply with all laws and regulations related to the disposal and recycling of waste and for disposal of any hazardous materials resulting from demolition activities, as well as transport, use, and disposal of fertilizers and pesticides associated with agricultural activities at the proposed recharge basins. All construction, operation, and maintenance work would be conducted in compliance with all federal, State, and local statutes and regulations related to solid waste and its disposal. There would be no impact.

Impact 3.16-1: The proposed project would implement water recharge and recovery facilities over two phases of construction on approximately 1,300 acres of agricultural or vacant land within or near the Rosedale service area. The proposed project would also implement the Kern Fan Conveyance Facilities that would consist of canals and/or pipelines, pump stations and a new turnout at the California Aqueduct to convey water between the project facilities and the California Aqueduct. Since the proposed project in itself is a water facilities project, the environmental impacts that would occur as a result of the proposed project are discussed throughout Chapter 3 of the EIR. No other new or expanded water facilities would be required as a result of project implementation. Therefore, impacts related to water facilities would be less than significant.

The majority of project operational activity would be passive, gravity driven movement of water through canals, pipes and basins. However, under conditions when gravity driven conveyance of water is not possible, operation of the proposed Kern Fan Conveyance Facilities would require electricity to power three pump stations along the alignment that would lift water from the California Aqueduct to the Phase 1 and Phase 2 recharge sites and other recharge facilities within Rosedale's Conjunctive Use Program. The three pump stations along the Kern Fan Conveyance Facilities would each require approximately 3,000,000 kilowatt hours per year (kwh/year), or 9,000,000-kilowatt kwh/year combined, to convey water to the recharge sites on an as-needed basis. Additionally, up to approximately 30,000,000 kwh/year would be required to operate the 12 recovery wells on the project site. Recharge and recovery operations are not expected to occur simultaneously, and during some periods neither recharge nor recovery would be occurring. Energy demand for operation the recharge and recovery facilities described above would be met by the existing PG&E electrical grid. In addition to the normal service application process, the Authority plans to provide PG&E with an overall project feasibility design at least 6 months prior to any service requests to allow for better discussion and system planning between the Authority and PG&E's engineering and planning division. The proposed project would not necessitate the construction or relocation of electric power facilities. Impacts are considered less than significant.

Impact 3.16-2: The proposed project does not require a new water supply. Water used for recharge as part of the proposed project would be conveyed between the California Aqueduct and the proposed Phase 1 and Phase 2 recharge facilities via the proposed Kern Fan Conveyance Facilities. Source recharge waters for the proposed project would include SWP Article 21 water, which is a surplus supply managed by DWR, as well as Section 215 water, which is made available at Reclamation's discretion. However, other water supplies may be secured and acquired by the Authority for the proposed project depending on availability. The other potential sources include but are not limited to the following: federal, State, and local supplies through transfers, balanced and unbalanced water exchange agreements, water purchases or temporary transfers, supplies from the CVP, and high-flow Kern River water depending on annual hydrologic availability, water rights and regulatory considerations. Agreements would be made, as necessary, in advance of any water exchanges or transfers.

The unregulated water captured under the project for recharge would consist of water that would otherwise have left Kern County or created flooding conditions. Therefore, relative to baseline conditions, the use of unregulated water for recharge would not result in significant impacts to other legal users of water. No impacts to water rights holders, other water suppliers, or other public utilities would occur from the purchase, exchange, or transfer of water from the sources identified above. Should water from other sources be acquired for recharge, additional analysis may be required subject to the discretion of the entity proposing to use such supplies for the proposed project purposes. Impacts would be less than significant.

Impact 3.16-4: Construction of the proposed project would involve activities that would have the potential to generate waste. To minimize the export of soil from the project site following construction activities, recharge basins and supply channels would be designed to balance earthwork onsite in which all excavated soils would be redistributed and utilized to construct the project facilities, requiring no imported materials and leaving no excess materials. Topsoil materials generated during construction would be stripped from the ground surface and used for construction of the earthen berms of the recharge ponds. Construction of recovery facilities would include using onsite materials to construct earthen well pads, drilling wells with a standard drill rig, constructing transformers onsite, and connecting aboveground wellheads, motor control centers, and pump houses to the transformers. These activities would not generate significant amounts of solid waste that would need to be removed from the project site. Installation of the recovery well conveyance system would require trenching to a depth about 7 feet, and Kern Fan Conveyance Facilities would require excavation of up to 22 feet and tunneling under Interstate-5. If any excess soils are generated, they will be redistributed on-site for construction of earthen berms for the recharge ponds.

Demolition and construction debris generated during implementation of the recharge facilities, recovery facilities, and/or conveyance facilities would be removed from the project site and transported to Bena Landfill and/or Shafter-Wasco Landfill, which have adequate capacity to accept construction waste that is generated during construction. Further, work would be conducted in compliance with all federal, State, and local statutes and regulations related to solid waste and its disposal. Therefore, project construction impacts related to solid waste generation would be less than significant.

During operation, periodic earthwork operations would be required at the proposed recharge basins to maintain levees, enhance soil permeability, and remove undesirable vegetative growth unrelated to the proposed intermittent wetlands. Earthwork would involve disking or scraping the basins to remove the top layer of sediment, approximately once every three years. Maintenance would redistribute soils on-site and would not require off-site soil removal or disposal. Agricultural land uses, such as annual farming, grazing, or fallowing, would be allowed within the proposed recharge basins when they are not needed for water recharge or water management purposes. Grazing could be used to remove or control vegetative growth. The transport, use, and disposal of fertilizers and pesticides associated with agricultural activities at the proposed recharge basins would be done in accordance with applicable regulatory requirements. Project impacts during operation and maintenance related to solid waste generation are considered less than significant.

Impact 3.16-6: This section presents an analysis of the cumulative effects of the proposed project in combination with other present and reasonably foreseeable future projects that could generate cumulatively considerable impacts to utilities and service systems. As previously discussed, the proposed project would have no impact with regard to wastewater treatment or solid waste management and reduction statutes. Accordingly, the proposed project could not contribute to cumulative impacts related to these topics, and these topics are not discussed further.

The geographic area affected by the proposed project and its potential to contribute to cumulative impacts varies based on the environmental resource under consideration. The geographic scope of analysis for cumulative utilities and service systems impacts encompasses similar present and future project sites within Metropolitan Bakersfield and the Kern Fan Area, as well as the utilities and services systems that supply the project sites with water, solid waste disposal services, electricity, etc. Projects that may have cumulatively considerable impacts when

considered in combination with the proposed project are listed in Table 3-2 of the EIR. However, only Cumulative Projects 3 through 10 are considered in the cumulative impacts analysis for utilities and service systems. Cumulative Projects 1 and 2 are transportation infrastructure projects that would not require utilities services that are similar to the proposed project.

The timeframe during which the proposed project could contribute to cumulative utilities and service systems impacts includes both the construction and operations phases. For the proposed project, the operation phases are permanent. As stated previously, construction and operation of the proposed project would have less than significant impacts with regard to water supplies and solid waste generation as it relates to local infrastructure capacities and regulatory reduction goals. Thus, significant cumulative impacts related to utilities and services could occur if incremental impacts of the proposed project combined with one or more of the Cumulative Projects 3 through 10 substantially reduce water supply availability in the cumulative projects' region, or generate solid waste in amounts that exceed local infrastructure capacities or otherwise impair the attainment of solid waste reduction goals.

The proposed project and Cumulative Projects 3 through 10, 12 and 13 are, by definition, groundwater supply projects that have or will be implemented for the purpose of ensuring water supply reliability in the region. The proposed project and Cumulative Projects 3 through 10, 12 and 13 have each identified multiple recharge source waters that would be available to serve the projects, while allowing for reasonably foreseeable future variability during normal, dry and multiple dry years. Thus, cumulative impacts to water supplies would be less than significant. The proposed project would have a less-than-significant impact to landfill capacities and solid waste reduction goals, since Bena Landfill and Shafter-Wasco Landfill have adequate capacity to accept construction waste that would be generated during temporary periods of construction and scheduled maintenance, and because the proposed work would be conducted in compliance with all federal, State, and local statutes and regulations related to solid waste and its disposal. Similarly, construction and operation of Cumulative Projects 3 through 10, 12 and 13 would generate solid waste over temporary time periods in accordance with planned construction schedules and maintenance activities. Landfills in the cumulative projects' region have adequate capacity to accept wastes generated by each of the Cumulative Projects into the foreseeable future. Further, the Cumulative Projects are required comply with all federal, State, and local statutes and regulations related to solid waste and its disposal. Compliance with regulatory measures as they relate to solid waste generation would ensure that cumulative impacts remain less than significant through each project's operation schedule. Thus, impacts related to solid wastes would not be cumulatively considerable and would be less than significant.

MITIGATION MEASURES: None required.

O. Wildfire

POTENTIAL EFFECTS: Potential effects examined included the potential to: substantially impair an adopted emergency response plan or emergency evacuation plan [Impact 3.17-1]; due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire [Impact 3.17-2]; require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment [Impact 3.17-3]; expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage

changes [Impact 3.17-4]; or result in cumulatively considerable impacts to wildfire [Impact 3.17-5].

FINDINGS: Adherence to the Mitigation Measure TRA-1 listed in the EIR will reduce Impacts 3.17-1 and 3.17-5 to less than significant (Finding 1). Impacts 3.17-2, 3.17-3, and 3.17-4 will be less than significant, requiring no mitigation.

FACTS IN SUPPORT OF THE FINDINGS:

Impact 3.17-1: The Kern County Fire Department maintains the Emergency Operations Plan (EOP) for the area which includes information for the public about what to do if an emergency or disaster were to occur. The EOP does not identify any specific evacuation areas or routes within the project area; therefore, construction activities within the project area would not interfere with an emergency evacuation plan. However, during installation of the Kern Fan Conveyance Facilities tunneling under Interstate-5 would be required so that the water from the recharge basins could make its way to and from the California Aqueduct. As such, short-term lane or road closures or detours could be required. Potential road closures or detours could congest local roadways that could be used by the public and emergency responders if an emergency or disaster were to occur. However, a Construction Traffic Control Plan per Mitigation Measure TRA-1 would ensure that impacts to local rights-of-way do not occur as a result of the proposed project. The Construction Traffic Control Plan would be coordinated with the City of Bakersfield, as necessary, as well as with emergency responders, which include fire departments, police departments, and ambulances that have jurisdiction within the proposed project area. Operation and maintenance activities for the proposed project would be substantially similar to current conditions respective to emergency response and evacuation. No operation-related activities would occur within surrounding rights-of-ways that could impair or physically interfere with an adopted emergency response plan or emergency evacuation plan. Therefore, with implementation of Mitigation Measure TRA-1, impacts to circulation system within the project area during construction of the proposed project would be reduced to a less than significant level, and project construction would not impair or physically interfere with emergency response teams or an evacuation plan. Impacts would be less than significant.

Impact 3.17-2: The majority the project area does not have a fire hazard severity zone designation. The Phase 1 area and the Kern Fan Conveyance Facilities area include lands designated as a moderate fire hazard severity zone. During project construction, the operation of construction equipment and vehicles and use of combustible materials such as diesel fuel could pose a wildfire risk to people and property with possible ignition sources such as internal combustion engines, gasoline-powered tools, and equipment that could produce a spark, fire, or flame. The use of spark-producing construction machinery could expose project workers and contractors to pollutant concentrations from a wildfire resulting in a potentially significant impact. However, all personnel on the project areas would have to comply with *PRC* Sections 4427, 4428, 4431, and 4442, regulations relating to the handling of combustible fuels and equipment that can exacerbate fire risks. During construction, adherence to existing State and local fire hazard regulations would ensure that any risk to exacerbate wildfire would be reduced. Additionally, all construction activities and crews must comply with fire protection and prevention requirements specified by the California Code of Regulations (CCR) and Cal/OSHA. This includes various measures such as easy accessibility of firefighting equipment, proper storage of combustible liquids, no smoking in service and refueling areas, and worker training for firefighter extinguisher use. The risk of construction-based ignition events could also be exacerbated by Santa Ana winds, which are known to occur in the project region. However, with compliance to the regulations discussed above, this impact would be less than significant.

Once operational, the recharge basin would either act as agricultural land or be inundated with water, posing little risk to exacerbate wildfire, even during large Santa Ana wind events. As such, impacts regarding pollutant concentrations from a wildfire or uncontrolled spread of a wildfire would be less than significant.

Impact 3.17-3: The potential to exacerbate wildfire risk would be limited to construction and maintenance activities, during which all personnel would be required to comply with the regulations and policies discussed above, to limit potential for wildfire. The use of construction equipment would adhere to CCR Title 24, the CBC, and Kern County Safety Element discussed above in Section 3.17.2. These regulations and policies provided guidance on proper operation of diesel-fueled construction equipment that could exacerbate wildfire and proper safety equipment to extinguish a fire should one become present during construction. Adherence to applicable laws and regulations would reduce impacts to a less than significant level.

Once operational the proposed project would largely resemble the existing conditions for wildfire. The recharge basins would either be agricultural lands as they are now or would be inundated with water which would reduce the potential risk for wildfire. The conveyance facilities would be either located underground or would be constructed out of nonflammable material that would not exacerbate wildfire risk. As such, project operation would not exacerbate fire risk.

Impact 3.17-4. Due to the flat topography, the project area is not prone to landslides. The proposed project would involve the construction of berms to create recharge basins that would be approximately 3 to 6 feet above ground. In the event of a fire, the flat topographic characteristic of the proposed project area would not put structures or people at risk to post-fire landslide, flooding or slope instability. Once operational the proposed project would be designed to withstand a variety of site conditions and would be managed in a manner that would not result in runoff, post-fire slope instability, or drainage changes as a result of potential wildland fire. Impacts to structures or people due to post-fire slope or drainage changes would be less than significant.

Impact 3.17-5: The geographic area affected by the proposed project and its potential to contribute to cumulative impacts varies based on the environmental resource under consideration. The geographic scope of analysis for cumulative wildfire impacts encompasses and is limited to the future project sites and their immediately adjacent area. This is due to the site-specific nature of projects and their impact to wildfire such as fuels (vegetation), climate conditions, and fire history.

The proposed project would only have potential impacts during construction due to construction vehicles that use fuel contributing to potential ignition sources in the project area. During operation the proposed project would largely resemble existing conditions, and as discussed above, would not exacerbate wildfire risks significantly. As such the time frame during which the project could contribute to cumulative wildfire impacts would be only during the construction phase. Given that the proposed project would not result in potentially significant environmental impacts during its operational period, only the construction period is evaluated relative to potential cumulative impacts.

Significant cumulative impacts related to wildfire could occur if the incremental impacts of the proposed project combined with the incremental impacts of one or more cumulative projects to substantially increase wildfire risk to people or the environment. Cumulative projects would be subject to the same regulatory requirements discussed for the proposed project, including the adherence to emergency planning. Cumulative projects involving activities that could

exacerbate wildfire risk would also be required to adhere to established regulatory standards for fire protection.

There are several cumulative projects currently under construction near the proposed project. Several of these cumulative projects are led by Rosedale and involve the implementation of groundwater banking, recharge, storage and conveyance. Ultimately, more access to water resources and more inundated recharge basins in and around the project area would reduce potential impacts of wildfire in the area.

Construction of the Kern Fan Conveyance Facilities could result in traffic related impacts to emergency response and evacuation plans as discussed above. This could cumulatively contribute impacts to the operation of emergency response or evacuation plans in conjunction with other cumulative projects in the proposed project area happening at the same time. With implementation of Mitigation Measure TRA-1 the proposed project would not create significant cumulative impacts to implementation of an emergency response or evacuation plan in conjunction with cumulative projects.

For the above reasons, the combined effects of the construction of the proposed project in combination with cumulative projects would not have a cumulatively considerable contribution to a cumulative impact. Similarly, other cumulative projects would be required to provide appropriate traffic control, emergency access, and fire safety for their projects. No significant cumulative impact related to wildfire would occur.

MITIGATION MEASURES: TRA-1.

P. Environmental Justice

POTENTIAL EFFECTS: Effects examined include the potential to affect the health or environment of minority or low-income populations disproportionately.

FINDINGS: The proposed project does not have the potential to affect the health or environment of low-income populations disproportionately. There would be no impact.

FACTS IN SUPPORT OF THE FINDINGS:

Implementation of the proposed project would not result in any potential significant impacts that could not be reduced to less than significant levels with the implementation of mitigation measures, as analyzed throughout Chapter 3 of the EIR. The adverse environmental effects of the proposed project that have potential to result in adverse effects to public health and environment would occur primarily during construction of the proposed project. The census tract that would be most affected by the proposed project would be Census Tract 37, which contains the vast majority of the project area. However, with the implementation of Mitigation Measure AIR-1, HAZ-1 through HAZ-4, NOI-1, TRA-1, and the other mitigation measures discussed in the EIR, the minority community of Census Tract 37 would not experience significant impacts to health or the environment due to implementation of the proposed project. Once the proposed project is operational, there would be no adverse effects to public health or the environment; rather the proposed project would have beneficial impacts to water supply sustainability, agriculture, and intermittent wetland habitat.

MITIGATION MEASURES: AIR-1, HAZ-1, HAZ-2, HAZ-3, HAZ-4, NOI-1, and TRA-1.

Q. Growth Inducement

POTENTIAL EFFECTS: Potential effects examined included: direct and/or indirect growth inducement potential of the proposed project.

FINDINGS: The proposed project would not have a direct or indirect growth-inducing effect within the IRWD service area or the Rosedale district boundaries.

FACTS IN SUPPORT OF THE FINDINGS:

The proposed project would provide additional groundwater recharge, storage and recovery capacity in the Kern Fan region to augment Rosedale's existing and future conjunctive use programs and enhance water supply reliability for Rosedale and IRWD during periods when other supplies are reduced or interrupted. The proposed project would not have a direct growth-inducing effect within the IRWD service area or the Rosedale district boundaries.

Implementation of the proposed project would not have a direct growth inducement effect because it does not propose to support development of new housing, business, or industrial that would attract additional population to the area. Further, implementation of the proposed project would not result in substantial permanent employment that could indirectly induce population growth. Although construction activities would create some short-term construction employment opportunities over the approximately 5-year duration of construction, the amount of opportunities created would not require persons outside of the Kern County workforce. Further, up to 3 to 5 new permanent employees would be required to operate the proposed recharge, recovery, and Kern Fan Conveyance Facilities. These new Rosedale employees also are anticipated to come from the existing County workforce.

The proposed project provides water supply reliability to Rosedale and IRWD through redundancy and diversification of water supply options available in future years. For Rosedale, the proposed project would allow storage of surplus water that could help alleviate water supply shortfalls and work to achieve groundwater sustainability within the Kern County Sub-basin of the San Joaquin Valley Groundwater Basin.

IRWD has more than adequate water supplies (existing and under development) to meet projected demands to the year 2035. This proposed project provides a means of augmenting supplies during periods when existing sources may be temporarily reduced or interrupted and provides a cost-effective means of managing contingency and drought planning needs. The proposed project would not be capable of providing water every year and therefore could not support the continuous demands associated with population growth within IRWD's service area.

Neither IRWD nor Rosedale has authority or responsibility for approving land use designations. Neither district makes decisions about approving new development that would require connections to potable water supplies. Planning in the IRWD service area is the responsibility of all municipalities within IRWD's service area. Cities within the IRWD service area include the cities of Irvine, Tustin, Orange, Newport Beach, Lake Forest, and Costa Mesa. Some unincorporated areas of the County of Orange are also within IRWD's service area boundary. Rosedale encompasses unincorporated Kern County and the City of Bakersfield sphere of influence that dominate the growth projections. The cities and the counties are responsible for identifying and accommodating growth within their boundaries. Each city and county have prepared a General Plan that identifies growth projections specific to their areas. Each of the cities and counties acknowledge that population is increasing and each entity has identified significant impacts associated with the growth. Each entity has evaluated the environmental

effects of growth authorized by their existing, adopted general plans and if necessary has adopted overriding considerations pursuant to CEQA requirements, acknowledging that growth results in secondary impacts that may be significant and unavoidable. These impacts include increased air pollution, traffic congestion, and loss of open space and farmland. As a result, the water supply reliability improvements associated with the proposed project would support existing development and planned growth envisioned by the land use agencies with authority to approve such decisions. Land use planning, which creates water demand in a conceptual sense, must precede water planning to meet that demand (County of Amador v. El Dorado County Water Agency (1999) 76 Cal.App.4th 931, 950-951.), which ensures land use agencies consider environmental effects of authorizing growth at general plan level before water suppliers develop the supplies needed to serve that growth.

Water banking provides for effective groundwater management within the Rosedale service area that benefits overlying groundwater users and banking entities. Water banking does not promote or induce growth within the Rosedale service area. This analysis does not evaluate growth inducing impacts of any third parties that may contract with Rosedale for eventual use in the project. That would require additional environmental analysis. Use of property for recharge basins prevents other development on the site and is compatible with existing agricultural land uses in the area.

The proposed project neither supports nor encourages growth within the IRWD or Rosedale service areas to a greater degree than presently estimated by the agencies with land use jurisdiction within their service areas. The proposed project would not remove any obstacles to growth and would not indirectly have a significant impact on growth inducement.

MITIGATION MEASURES: None required.

IV. Findings Regarding Alternatives to the Project

CEQA requires an EIR to describe a reasonable range of alternatives to the project or to the location of the project, which could feasibly attain the project objectives and to evaluate the comparative merits of the alternatives. Only alternatives that meet most of the project objectives, are feasible, and that would avoid or substantially reduce at least one of the significant impacts of the project need be considered. Five project alternatives were considered but rejected. Along with evaluation of the No Project Alternative as required by CEQA, the EIR provides a full assessment of one other additional alternative: the Water Bank Alternative.

A. Alternatives Considered but Rejected

An EIR need not consider an alternative whose impact cannot be reasonably ascertained and whose implementation is remote and speculative. Project alternatives that were considered but rejected from further consideration were location alternatives, injection wells, alternative storage in Orange County, water conservation and water recycling.

Recharge Basin Location Alternative: *CEQA Guidelines* Section 15126.6(f)(2) provides guidance regarding consideration of one or more alternative location(s) for a proposed project, stating that putting the project in another location should be considered if doing so would allow significant effects of the project to be avoided or substantially lessened. As part of the proposed project, the Authority is considering alternative locations for the proposed recharge and recovery facilities in the designated Phase 1 and Phase 2 areas. The locations of the Phase 1 and Phase

2 areas were evaluated and delineated based on a list of criteria that define the ideal conditions for implementation of the proposed project.

The criteria included the following:

- Properties are available for purchase and at an economically-feasible price;
- Development costs are reasonable and economically feasible;
- Soil permeability conditions and infiltration rates are adequate for groundwater recharge;
- There is an unconfined aquifer below the properties (i.e., no clay layers that could impede long term recharge and storage);
- There is adequate storage space in the aquifer below the properties;
- Groundwater quality is compatible with pump-in requirements of the California aqueduct;
- Existing conveyance facilities are proximate to the properties; and
- Other environmental constraints such as soil quality and existing land use are compatible with a groundwater banking project.

Based on these criteria, the Phase 1 and Phase 2 areas were selected for the proposed project. Implementing recharge and recovery facilities in other areas in and around the Rosedale service area would either be infeasible due to costs or the lack of available properties for purchase, or would result in greater environmental impacts due to construction and operation of facilities that are further from regional conveyances such as the CVC or California Aqueduct. If facilities are further from regional conveyances, the proposed Kern Fan Conveyance Facilities would be longer, resulting in greater amounts of ground disturbance, and would require more energy to move water to/from the proposed recharge and recovery facilities. The impacts associated with implementing the proposed recharge and recovery facilities in the proposed Phase 1 and Phase 2 areas are described throughout the EIR and would meet the project objectives.

Injection Well Alternative: Under the Injection Well Alternative, the Authority would construct injection wells within the Phase 1 and 2 areas to inject water into the groundwater basin rather than construct recharge basins on the surface. This proposed alternative would include construction of large water storage facilities onsite to hold water for injection. The other components of the project, including conveyance and extraction facilities, would be similar to the proposed project. The Injection Well Alternative would be cost prohibitive. In addition, the aquifer characteristics make injection at this level not practical. Due to cost limitations and operational impracticalities, this alternative was rejected from further analysis.

Orange County Storage: Water storage facilities could be constructed in Orange County to provide water supply reliability during dry years for IRWD. IRWD could develop an in-county storage program either by (a) partnering with Orange County Water District (OCWD) to develop a groundwater banking program to store water in the Orange County Groundwater Basin or (b) constructing surface storage facilities.

OCWD is not partnering with individual retail water agencies to develop groundwater banking programs at this time. Therefore, a groundwater banking program within Orange County is not feasible.

IRWD could construct surface storage facilities within its service area, such as reservoirs and tanks, to store water during wet years for use during dry years and multiple-drought years. Implementing an in-county surface storage program would require IRWD to purchase a substantial amount of land that could accommodate enough storage reservoirs and tanks with a combined maximum capacity of at least 37,500 AF. An average storage tank holds 8-million-

gallons or approximately 25 AF and is approximately 135 feet in diameter. If the groundwater storage were to be converted to aboveground storage tanks, approximately 1,500 8-million-gallon storage tanks would need to be constructed within IRWD's service area. This scale of facility construction and operation would be infeasible for IRWD to implement given open space constraints in the service area. Additionally, constructing 1,500 storage tanks would not be economically feasible for IRWD. As a result, replacement of groundwater storage with aboveground storage tanks is not considered to be a feasible project alternative and is rejected from further consideration in the EIR.

Water Conservation: In 2016, Governor Brown issued an Executive Order calling for Californians to build on the actions taken during the recent statewide drought, and to "Make Conservation a Way of Life in California." In response, legislation requiring statewide long-term water use efficiency passed in 2018. As a result, the state will establish new long-term water efficiency objectives by June 30, 2022. IRWD has a long history of implementing cost-effective water efficiency programs, and it is well prepared to meet the future efficiency standards.

In December 2019, the District completed a Future Potential Water Efficiency Study which provided a comprehensive evaluation of IRWD's water use efficiency programs. The Study found that the water efficiency programs implemented by IRWD have been very successful, with over 150,000 devices and over 100 acres of turf replaced by IRWD customers through participation in the wide variety of water efficiency programs offered over the last ten years. Participation in these water efficiency programs coupled with natural replacement with newer more efficient devices has resulted in measurable water savings and a substantial reduction in water use. IRWD's average residential gallons per capita per day (gpcd) is one of the lowest in the state. IRWD's average fiscal year 2019-20 residential gpcd was 69, compared with a statewide average of 88 gpcd.

IRWD always has basic measures that are always in effect in its service area: inform the public consciousness in order to help reduce water demand; prevention of irrigation run-off and water waste; leak prevention; and prohibitions on water waste. This is supplemented with targeted outreach and programs to different customer sectors. In addition, IRWD has a budget-based rate structure that is based on the cost of service, which also limits the amount of water allocated to each customer to an amount that is reasonable for the customer's needs and property characteristics, reducing wasteful use of water. IRWD continues to promote new ways to conserve water and enhance urban water use efficiency, both locally and statewide, and continues to engage productively in statewide policy discussions on how to enhance urban water use efficiency while improving statewide and local drought resiliency.

Under extreme shortage scenarios, IRWD can temporarily implement further demand reduction efforts as described in IRWD's Water Shortage Contingency Plan (2018). Conservation efforts combined with supplemental supplies provided by the proposed project to augment IRWD's supply portfolio provide the most effective and reliable water supply alternative. Therefore, conservation by itself was not considered feasible to achieve the project objectives.

Recycled Water: Water recycling and reuse is a form of water conservation. In 1967, IRWD began using recycled water to supplement its potable water supply portfolio. In half a century, IRWD has created one of the most comprehensive and technologically advanced water recycling systems in the nation. Approximately 26 percent of IRWD's water demands are met through recycled water. In recent years, IRWD and its customers have reduced the use of outdoor irrigation by approximately 50 percent. However, the long-term reduction in recycled

water use can undervalue IRWD's water use efficiency programs and undercut potable water savings. IRWD treats the amount of water that flows through its recycled water treatment plants. Additional recycled water use expansion could not be implemented as an alternative to the proposed project because IRWD already extensively serves recycled water to meet non-potable demands which has reduced potable water use. When imported water supplies may be cutback due to drought or interrupted, IRWD cannot use recycled water to meet potable water demands and therefore would need to augment potable water supply. Therefore, recycled water was not considered as a feasible project alternative.

B. No Project Alternative

FINDINGS: The No Project Alternative is not environmentally superior to the proposed project.

FACTS IN SUPPORT OF THE FINDINGS:

The No Project Alternative would not meet most of the project objectives. Without the proposed project, Rosedale and IRWD would continue to capture, recharge, and store water from the SWP, CVP, and other available water supplies for later use through existing projects and facilities within Rosedale's Conjunctive Use Program. Under the No Project Alternative, greater operating flexibility would not be provided for existing and future conjunctive use programs. In addition, under the No Project Alternative, the benefits of the proposed project, which includes ecosystem public benefits, emergency water supply public benefits during extended droughts or a Delta levee failure, and water supply reliability benefits to agricultural and M&I users would not occur. Additionally, under the No Project Alternative, the benefit of the proposed project to provide operational flexibility to the CVP and Incremental Level 4 supplies to federal wildlife refuges would not occur. Finally, under the No Project Alternative, the benefit to groundwater sustainability in the Kern County Sub-basin would not occur.

The No Project Alternative would avoid all of the mitigated environmental impacts associated with the proposed project but would not meet all of the project objectives. Because the proposed project does not result in any Significant and Unavoidable impacts, the No Project Alternative does not avoid or substantially lessen significant environmental effects.

C. Water Bank Alternative

FINDINGS: The Water Bank Alternative is not environmentally superior to the proposed project.

FACTS IN SUPPORT OF THE FINDINGS:

As part of the Water Bank Alternative, the Authority would pay to buy into the developed capacities of the WSWB to store up to 100,000 AF of water. The water stored by the Authority could consist of a mix of Article 21 and non-Article 21 SWP water. The storage of CVP Section 215 water would not be possible. Only a portion of the project objectives identified as part of the proposed project would be realized with the Water Bank Alternative. Groundwater recharge and storage would occur in the Antelope Valley, and thus, the project objectives that are local to the Kern Fan area of Kern County would not be met. Participation in the WSWB would not generate ecosystem public benefits such as new intermittent wetland benefits in the Kern Fan area. Agricultural benefits resulting from crop substitution and improved groundwater levels, Incremental Level 4 water to federal wildlife refuges, and groundwater sustainability in the Kern County Sub-basin would not occur. The Water Bank Alternative would only achieve one of the project objectives, which is to provide Rosedale and IRWD customers and existing partners with

increased water supply reliability during periods when other supply sources may be reduced or interrupted.

The Water Bank Alternative would result in many similar environmental impacts to the proposed project but would not achieve all the project objectives. This alternative would implement similar storage, recovery, and conveyance facilities as the proposed project, but within a different location, in the Antelope Valley at the border of Kern County with Los Angeles County, and a different groundwater basin. Implementation of this alternative could lessen impacts to land use and mineral resources, as described above. However, the Water Bank Alternative would need to operate longer lengths of conveyance facilities in order to deliver water to/from the East Branch of the California Aqueduct and to/from the WSWB facilities. This would increase the energy demand associated with this alternative to levels above the proposed project. Further, since implementation of the Water Bank Alternative would not occur within the Kern Fan area, the local benefits to groundwater sustainability for the Kern County Sub-basin, benefits to wetland habitat, and Incremental Level 4 water for federal wildlife refuges would not take place, resulting in greater impacts to biological resources and groundwater resources.

Because the proposed project does not result in any Significant and Unavoidable impacts, the Water Bank Alternative does not avoid or substantially lessen significant environmental effects. The Water Bank Alternative would only achieve one of the project objectives, which is to provide Rosedale and IRWD customers and existing partners with increased water supply reliability during periods when other supply sources may be reduced or interrupted. Only the proposed project would fully achieve all of the project objectives.

Implementation of the Water Bank Alternative also would reduce benefits to the Delta ecosystem associated with pulse flows from Lake Oroville into the Feather River. If the Authority participates in the WSWB Conjunctive Use Project instead of constructing and operating the proposed project, DWR would forgo the availability of 18,000 to 25,000 AF of pulse flows associated with the proposed project. If the Authority proceeds with the proposed project, then other entities would participate in the WSWB Conjunctive Use Project, and together both groundwater banking projects would have the potential to provide DWR with up to 65,000 AF of water for pulse flows and benefits to fishery resources.

V. General Findings

A. The written Responses to Comments contained in the FEIR have adequately responded to the comments received on the DEIR in the public review process.

B. Recirculation of the DEIR following the preparation of the Responses to Comments is not required. The Responses to Comments and resulting revisions to the DEIR do not add significant new information to the EIR, including information showing any new significant impact from the project, any increase in the severity of any impact, or any considerably different, feasible alternative.

FACTS IN SUPPORT OF THE FINDINGS. The primary comment areas were concerns over effects to groundwater levels, groundwater quality, special status species, water supply sources for the proposed project, and adverse impacts to the City of Bakersfield's water supply and surrounding environment.

Each of these areas was analyzed in the DEIR, was determined not to raise significant environmental issues that are required to be analyzed in the EIR or were clarified or amplified by analysis in the Responses to Comments.

The Responses to Comments merely clarify and amplify the DEIR's discussion of the analyses. EIR text revisions were provided, to further clarify and/or strengthen measures and commitments regarding groundwater levels on neighboring properties. Other clarifying text revisions were made. Revisions made merely clarify information presented in the DEIR. Only minor technical changes or additions have been made.

KERN FAN GROUNDWATER STORAGE PROJECT

Mitigation Monitoring and Reporting Program

CEQA Requirements

Section 15091(d) and Section 15097 of the CEQA Guidelines require a public agency to adopt a program for monitoring or reporting on the changes it has required in the project or conditions of approval to substantially lessen or avoid significant environmental effects. This Mitigation Monitoring and Reporting Program (MMRP) summarizes the mitigation commitments identified in the Kern Fan Groundwater Storage Project Final EIR (State Clearinghouse No. 2020049019). Mitigation measures are presented in the same order as they occur in the Final EIR.

The columns in the MMRP table provide the following information:

- **Mitigation Measure(s):** The action(s) that will be taken to reduce the impact to a less-than-significant level.
- **Implementation, Monitoring, and Reporting Action:** The appropriate steps to implement and document compliance with the mitigation measures.
- **Responsibility:** The agency or private entity responsible for ensuring implementation of the mitigation measure. However, until the mitigation measures are completed, the Authority, as the CEQA Lead Agency, remains responsible for ensuring that implementation of the mitigation measures occur in accordance with the MMRP (CEQA Guidelines, Section 15097(a)).
- **Monitoring Schedule:** The general schedule for conducting each task, either prior to construction, during construction and/or after construction.

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
Aesthetics			
<p>AES-1: All nighttime construction lighting and security lighting installed on new facilities shall be shielded and directed downward to avoid light spill onto neighboring properties and visibility from surrounding vantage points.</p>	<ul style="list-style-type: none"> • Include mitigation measure in project design and construction contractor specifications. • Perform site inspections to ensure mitigation is being implemented during construction. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>
Agriculture and Forestry Resources			
<p>AGR-1: For all portions of the project area under a Williamson Act contract, the use of the property would be managed as applicable in accordance with Kern County's <i>Agricultural Preserve Standard Uniform Rules</i>, which identify land uses that are compatible within agricultural preserves established under the Williamson Act.</p>	<ul style="list-style-type: none"> • Include mitigation measure in project design specifications. • Perform site inspections as appropriate based on the Uniform Rules to ensure property is being managed as defined. 	<p>Authority</p>	<p>Before and After Construction</p>
Air Quality			
<p>AIR-1: The Authority shall require the construction contractor to implement construction equipment features for equipment operating at the project site. These features shall be included in applicable bid documents and successful contractor(s) must demonstrate the ability to supply such equipment. Construction features will include the following: The proposed project shall utilize off-road diesel-powered construction equipment that meet or exceed CARB and USEPA Tier 4 Interim or better off-road emissions standards for equipment rated at 50 horsepower (hp) or greater during project construction. Such equipment will be outfitted with BACT devices including a CARB certified Level 3 Diesel Particulate Filter or equivalent.</p> <p>Alternatively, instead of utilizing Tier 4 equipment, the construction contractor shall revise the project construction phasing and timing of equipment usage and demonstrate that implementation of the project construction schedule would not exceed the San Joaquin Valley Air Pollution Control District threshold for NOx emissions (currently 10 tons/year).</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • Perform site inspections to ensure mitigation is being implemented during construction. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>
Biological Resources			
<p>BIO-1: Prior to commencement of project vegetation or ground disturbing construction, a qualified biologist shall conduct a habitat assessment for blunt-nosed leopard lizard to determine if the project area or its immediate vicinity contains suitable habitat for the species.</p> <p>If suitable habitat is present, prior to initiating any vegetation or ground disturbing activity, surveys will be conducted in accordance with CDFW <i>Approved Survey Methodology for the Blunt-Nosed Leopard Lizard</i> (CDFW 2019). This survey protocol, designed to optimize blunt-nosed leopard lizard detection, reasonability assures CDFW that ground disturbance will not result in take of this fully protected species.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • Maintain documentation of the habitat assessment results in the project file. • If required, maintain documentation of the protocol-level survey results in the project file. • If required, maintain records of project design modifications to avoid species in the project file. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>Blunt-nosed leopard lizard surveys will be conducted within one year prior to initiation of ground disturbance. Protocol-level surveys must be conducted on multiple dates during late spring, summer, and fall of the same calendar year, and within these time periods, there are specific protocol-level date, temperature, and time parameters that must be adhered to. Blunt-nosed leopard lizard protocol specifies different survey effort requirements based on whether the disturbance results from maintenance activities or if the disturbance results in habitat removal (CDFW 2019).</p> <p>Blunt-nosed leopard lizard is a State fully protected species pursuant to Fish and Game Code Section 5050 and CDFW is unable to authorize take of this species for any reason. If blunt-nosed leopard lizard is detected during protocol-level surveys, then the Authority shall modify the project design to avoid this species. If the project design cannot be modified, then the Authority shall consult with CDFW to discuss whether take of blunt-nosed leopard lizard can be avoided during ground-disturbing Project activities and during operations and maintenance of Project facilities. The USFWS will also be consulted to ensure that avoidance measure meet their standard for the avoidance of take for this species.</p>	<ul style="list-style-type: none"> Retain copies of all correspondence and documentation with wildlife agencies in the project file. 		
<p>BIO-2: If the nesting bird season cannot be avoided and construction or vegetation removal occurs between February 1 – September 15 (January 1 to July 31 for raptors), the following measures would reduce potential impacts to nesting and migratory birds and raptors to less than significant levels:</p> <ul style="list-style-type: none"> Within 10 days of site clearing, a qualified biologist shall conduct a preconstruction, migratory bird and raptor nesting survey. The biologist must be qualified to determine the status and stage of nesting by migratory birds and all locally breeding raptor species without causing intrusive disturbance. This survey shall include species protected under the Migratory Bird Treaty Act including California horned lark, which was detected during the July 2020 reconnaissance and tri-colored blackbird, which has a medium potential to occur on-site. The survey shall cover all reasonably potential nesting locations for the relevant species on or closely adjacent to the proposed project site. The preconstruction survey shall cover all reasonably potential nesting locations on and within 300 feet of the proposed removal areas, and areas that would be occupied by ground-nesting species such as killdeer. A 500-foot radius shall be surveyed in areas containing suitable habitat for nesting raptors, such as trees, utility poles and buildings. Nesting habitat should be removed prior to the bird breeding season (February 1 – September 15). If an active nest is confirmed by the biologist, no construction activities shall occur within 250 feet of the nesting site for migratory birds, within 300 feet for tri-colored blackbird, and within 500 feet of the nesting site for raptors. The buffer zones 	<ul style="list-style-type: none"> Include mitigation measure in construction contractor specifications. Maintain documentation of the pre-construction survey results in the project file. If required, perform construction site inspections to ensure buffer/avoidance measures are implemented properly. An inspection log will be maintained to document results of site inspections. If required, retain copies of all correspondence and documentation with wildlife agencies in the project file. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>around any nest within which project-related construction activities would be avoided can be reduced as determined acceptable by a qualified biologist. Construction activities may resume once the breeding season ends (February 1 – September 15), or the nest has either failed or the birds have fledged.</p> <ul style="list-style-type: none"> • If buffer distances are reduced, nest monitoring shall be conducted by a qualified biologist until the birds have fledged and are no longer reliant upon the nest or parental care for survival. • If tri-colored blackbird take avoidance at a nesting colony is not feasible, acquisition of an ITP pursuant to Fish and Game Code Section 2081(b), prior to any Project activities, would be warranted to comply with CESA. 			
<p>BIO-3: If construction activities are scheduled to take place outside of the Swainson's hawk nesting season (which runs from March 1 – September 15), then no preconstruction clearance surveys or subsequent avoidance buffers are required.</p> <p>If construction activities are initiated within the nesting season then preconstruction nesting surveys shall be conducted by a qualified biologist prior to ground disturbance, in accordance with the guidance provided in the <i>Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley</i> (Swainson's Hawk Technical Advisory Committee 2000). The required windshield surveys shall cover the project area plus a one-half mile radius around the project sites.</p> <p>If an active nest site is found, a minimum ½-mile no-disturbance buffer will be maintained around each nest, until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival, to prevent nest abandonment, other forms of take, and other potentially significant impacts to Swainson's hawk as a result of Project activities.</p> <p>If a known Swainson's hawk nest tree requires removal, even outside the nesting season, it shall be replaced with an appropriate native tree species planting at a ratio of 3:1 near the Project area or in another area that will be protected in perpetuity. This mitigation would offset the local and temporal impacts of Swainson's hawk nesting habitat loss.</p> <p>If Swainson's hawk are detected and a ½-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If Swainson's hawk take cannot be avoided, issuance of an ITP prior to Project activities is warranted to comply with CESA.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • If required, maintain documentation of the pre-construction survey results in the project file. • If required, perform construction site inspections to ensure buffer/avoidance measures are implemented properly. An inspection log will be maintained to document results of site inspections. • If required, retain copies of all correspondence and documentation with wildlife agencies in the project file. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>
<p>BIO-4: A qualified biologist will conduct a habitat assessment in advance of project implementation to determine if the Project area or its vicinity contains suitable habitat for burrowing owl. If suitable habitat is present, a pre-construction survey shall be conducted for burrowing owls 14 to 30 days prior to clearing of the site by a qualified biologist in</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • Maintain documentation of the habitat assessment results in the project file. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>accordance with the most recent CDFW protocol, currently the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFW 2012). Surveys shall cover suitable burrowing owl habitat disturbed by construction including a 500-foot buffer. The survey would identify adult and juvenile burrowing owls and signs of burrowing owl occupation. This survey shall include two early morning surveys and two evening surveys to ensure that all owl pairs have been located. If occupied burrowing owl habitat is detected on the proposed project site, measures to avoid, minimize, or mitigate impacts shall be incorporated into the proposed project and shall include, but not be limited to, the following:</p> <ul style="list-style-type: none"> Construction exclusion areas shall be established around the occupied burrows in which no disturbance shall be allowed to occur while the burrows are occupied. Buffer areas shall be determined by a qualified biologist based on the recommendations outlined in the most recent <i>Staff Report on Burrowing Owl Mitigation</i> (CDFW 2012). If occupied burrows cannot be avoided, a qualified biologist shall develop and implement a Burrowing Owl Management Plan, consistent with <i>Staff Report on Burrowing Owl Mitigation</i> (CDFW 2012). Burrow exclusion shall be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. Occupied burrows shall be replaced with artificial burrows at a ratio of one burrow collapsed to one artificial burrow constructed (1:1) to mitigate for evicting burrowing owls and the loss of burrows. Periodic surveillance shall be conducted to ensure that burrowing owls do not return to the eviction site. 	<ul style="list-style-type: none"> If required, maintain documentation of the pre-construction survey results in the project file. If required, perform construction site inspections to ensure buffer, avoidance and minimization measures are implemented properly. An inspection log will be maintained to document results of site inspections. If required retain the Burrowing Owl Management Plan in the project file, as well as documentation related to implementation of the Plan. An inspection log will be maintained to document results of site inspections. 		
<p>BIO-5: Prior to commencement of project activities, a qualified biologist shall conduct a San Joaquin kit fox habitat assessment to determine if the Project area or its immediate vicinity contains suitable habitat for the species. The habitat assessment will be conducted in accordance with the most recent USFWS <i>San Joaquin Kit Fox Survey Protocol</i>. If it is determined that San Joaquin kit fox has the potential to utilize the project areas, then the following measures are required to avoid potential adverse effects to this species:</p> <ul style="list-style-type: none"> A qualified biologist will assess presence/absence of San Joaquin kit fox for all project phases and components within potentially suitable habitat. Transect surveys will be conducted of the project areas plus a 500-foot buffer to detect San Joaquin kit fox and their sign. These surveys will occur in all areas of potentially suitable habitat no less than 14 days and more than 30 days prior to beginning of ground disturbing activities. The USFWS (2011) <i>Standardized Recommendations for Protection of San Joaquin Kit Fox prior to or during Ground Disturbance</i> includes measures to be implemented if the species is detected. 	<ul style="list-style-type: none"> Include mitigation measure in construction contractor specifications. Maintain documentation of the habitat assessment results in the project file. If required, maintain documentation of the pre-construction presence/absence survey results in the project file. If required, perform construction site inspections to ensure avoidance and minimization measures are implemented properly. An inspection log will be maintained to document results of site inspections. If required, retain copies of all correspondence and documentation with wildlife agencies in the project file. 	<p align="center">Authority</p>	<p align="center">Before and During Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>If San Joaquin kit fox is detected (e.g., dens, individuals using the property), then the following measures are required to avoid potential adverse effects to this species:</p> <ul style="list-style-type: none"> The Authority will consult with CDFW and USFWS to discuss how to avoid take, or if avoidance is not feasible, to acquire a state Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081, and a federal ITP, pursuant to Section 10 of the U.S. Endangered Species Act (ESA) prior to ground disturbing activities. 			
<p>BIO-6: Prior to commencement of project activities, a qualified biologist shall conduct a habitat assessment to determine if the Project area or its immediate vicinity contains suitable habitat for Tipton kangaroo rat. If suitable habitat is present, a 50-foot minimum no-disturbance buffer around all small mammal burrow entrances of suitable size for Tipton kangaroo rat use, will be established and maintained during Project activity. If burrow avoidance is not feasible, focused protocol-level trapping surveys according to the USFWS (2013) protocol will be conducted by a qualified wildlife biologist that is permitted to do so by both CDFW and USFWS, to determine if Tipton kangaroo rat occurs in the Project area. If Tipton kangaroo rats are detected, CDFW will be consulted to discuss how to avoid take, or if avoidance is not feasible, to acquire an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code Section 2081 subdivision (b).</p>	<ul style="list-style-type: none"> Include mitigation measure in construction contractor specifications. Maintain documentation of the habitat assessment results in the project file. If required, perform construction site inspections to ensure buffer/avoidance measures are implemented properly. An inspection log will be maintained to document results of site inspections. If required, maintain documentation of the pre-construction protocol-level survey results in the project file. If required, retain copies of all correspondence and documentation with wildlife agencies in the project file. 	<p align="center">Authority</p>	<p align="center">Before and During Construction</p>
<p>BIO-7: Prior to commencement of project activities, a qualified biologist shall conduct a habitat assessment to determine if the Project area or its immediate vicinity contains suitable habitat for Nelson's antelope squirrel. If suitable habitat is present and surveys are feasible, a qualified biologist shall conduct focused daytime visual surveys for Nelson's antelope squirrel using line transects with 10- to 30-meter spacing within Project areas and a 50-foot buffer around those areas between April 1 and September 20, during daytime temperatures between 68° and 86° F (CDFG 1990), to maximize detectability. If suitable habitat is present and surveys are not feasible, a 50-foot minimum no-disturbance buffer around all small mammal burrow entrances will be established until the completion of Project activities. If Nelson's antelope squirrels are detected, consultation with CDFW will occur to discuss how to avoid take, or if avoidance is not feasible, to acquire a State ITP prior to ground-disturbing activities, pursuant to Fish and Game Code Section 2081 subdivision (b).</p>	<ul style="list-style-type: none"> Include mitigation measure in construction contractor specifications. Maintain documentation of the habitat assessment results in the project file. If required, maintain documentation of the pre-construction survey results in the project file. If required, perform construction site inspections to ensure buffer/avoidance measures are implemented properly. An inspection log will be maintained to document results of site inspections. If required, retain copies of all correspondence and documentation with wildlife agencies in the project file. 	<p align="center">Authority</p>	<p align="center">Before and During Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>BIO-8: Prior to commencement of project activities, a qualified biologist shall conduct a habitat assessment for American badger to determine if the Project area contains suitable habitat for this species. If suitable habitat is present, a qualified biologist will conduct focused surveys for this species. Though there isn't a specific survey protocol for this species, American badger share similar habitat as burrowing owl and San Joaquin kit fox. Surveys shall be conducted for American badger concurrently with either burrowing owl or San Joaquin kit fox. If it is determined that American badger are detected on the project areas, a 50-foot no disturbance buffer will be established around the den site. If a 50-foot buffer is not feasible, then the buffer distance may be reduced as informed by the qualified biologist.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • Maintain documentation of the habitat assessment results in the project file. • If required, maintain documentation of the pre-construction survey results in the project file. • If required, perform construction site inspections to ensure buffer/avoidance measures are implemented properly. An inspection log will be maintained to document results of site inspections. 	<p align="center">Authority</p>	<p align="center">Before and During Construction</p>
<p>BIO-9: Prior to the start of construction activities that could affect special-status plant species, a qualified botanist shall conduct a focused survey within the Conveyance Facilities project area for California jewelflower, Hoover's eriogonum, Kern mallow, recurved larkspur, San Joaquin woollythreads, slough thistle, and subtle orache. The survey shall be based on the survey protocols in <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> (CDFW 2018). Focused rare plant surveys shall occur during the typical blooming periods of special-status plants with the potential to occur. If a special-status plant species is found to be present, a no-disturbance buffer of at least 50 feet shall be implemented. Buffer distance may be adjusted by a qualified biologist for non-state listed species or in consultation with CDFW for state-listed species. If take of a state-listed plant species cannot be avoided, take authorization is warranted through acquisition of an ITP, pursuant to Fish and Game Code Section 2081 subdivision (b) and acquisition of a permit for rare plants pursuant to procedures set forth in the California Code of Regulations, title 14, section 783 et seq. (Cal. Code Regs., tit. 14 section 786.9). If avoidance measures are required for San Joaquin woolly threads, the USFWS will be notified of the species presence and avoidance measures that are sufficient to avoid species impacts.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • Maintain documentation of the focused plant survey results in the project file. • If required, perform construction site inspections to ensure buffer/avoidance measures are implemented properly. An inspection log will be maintained to document results of site inspections. • If required, retain copies of all correspondence and documentation with wildlife agencies in the project file. 	<p align="center">Authority</p>	<p align="center">Before and During Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>BIO-10: Prior to commencement of project operations and maintenance activities, the Authority shall develop an Operations and Maintenance Plan that details how special-status plant and wildlife species, nesting birds and sensitive natural communities will not be impacted by operations and maintenance activities. The operations and maintenance plan will be informed by habitat assessments, species surveys, and if applicable, CDFW consultations, completed prior to project construction. A map of special status species, sensitive natural communities, and habitat features (sensitive resource map) will be developed. Workers will be provided the map and trained on how to recognize and avoid impacts to these species, natural communities and habitat features. The Operations and Maintenance Plan will require periodic species surveys to ensure the project ecosystem benefits are realized. These surveys will be used to update the sensitive resource map and inform adjustment to required avoidance and minimization measures. The Operations and Maintenance Plan will include speed limits to avoid vehicle collisions or trampling of special status species.</p>	<ul style="list-style-type: none"> • Maintain copies of the Operations and Maintenance Plan with supporting maps, as defined, in the project file. • Maintain copies of periodic species surveys and updated maps as needed, in the project file. • Retain proof of worker training in the project file. 	<p align="center">Authority</p>	<p align="center">After Construction</p>
<p>BIO-11: If pesticides will be applied to any areas within the project areas, the Authority shall develop a Pesticide Use Plan that will detail how pesticides, rodenticides, and/or herbicides will be used and how application will not impact special-status plant and wildlife species, nesting birds, wetlands and jurisdictional features, and sensitive natural communities. The Pesticides Use Plan will be informed by the results of the species surveys and habitat assessments conducted prior to project construction. A map of special status species, sensitive natural communities, and habitat features (sensitive resource map) will be developed. Workers will be provided the map and trained on how to recognize and avoid impacts to these species, natural communities and habitat features. The Operations and Maintenance Plan will require periodic species surveys to ensure the project ecosystem benefits are realized. These surveys will be used to update the sensitive resource map and inform adjustment to required avoidance and minimization measures for the Pesticide Use Plan.</p>	<ul style="list-style-type: none"> • Maintain copies of the Pesticide Use Plan with supporting maps, as defined, in the project file. • Maintain copies of periodic species surveys and updated maps as needed, in the project file. • Retain proof of worker training in the project file. 	<p align="center">Authority</p>	<p align="center">After Construction</p>
<p>BIO-12: If sensitive natural communities will be impacted from construction activities, a focused survey by a qualified botanist shall be conducted to assess and delineate the potential impacts. If evidence of impacts to these sensitive natural communities are observed or anticipated, compensation for the habitat loss shall be provided.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • If required, maintain documentation of the pre-construction focused survey results in the project file. • If required, maintain documentation of compensation measures in the project file. 	<p align="center">Authority</p>	<p align="center">During Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>BIO-13: Prior to any disturbance of potential jurisdictional resources within the project areas, a jurisdictional delineation of water courses shall be conducted for the purposes of identifying features or habitats that would be impacted by project activities and subject to the jurisdiction of the USACE, RWQCB, and CDFW. The findings shall be included in a jurisdictional delineation report suitable for submittal to these agencies for obtaining a Section 404 permit and/or CDFW Streambed Alteration Agreement.</p> <p>Prior to project activities that would result in the discharge of fill or dredged material within waters of the U.S., a Section 404 CWA permit shall be obtained from the USACE and a Section 401 Water Quality Certification shall be obtained from the RWQCB. Prior to activities within streams, ponds, seeps or riparian habitat, or use of material from a streambed, the project applicant shall obtain Waste Discharge Requirements for impacts to waters not subject to the CWA, provide written notification to CDFW pursuant to Section 1602 of the Fish and Game Code, ensure the notification is complete as provided in Section 1602, and comply with the terms of conditions of any agreement CDFW may issue in response to the notification.</p>	<ul style="list-style-type: none"> • If required, maintain copies of the jurisdictional delineation in the project file. • If required, retain copies of all correspondence, consultation, and documentation with wildlife and/or regulatory agencies in the project file. 	Authority	Before Construction
<p>BIO-14: Should facilities be located on the Kern Water Bank, the Authority shall initiate discussions with the Kern Water Bank Authority to ensure Conveyance Facilities located in the Kern Water Bank HCP/NCCP avoid impacts to covered species within the HCP/NCCP area during construction, operations, and maintenance. If the project is located within the Kern Water Bank HCP/NCCP, Mitigation Measure BIO-1 through BIO-13 will be implemented in coordination with the KWBA, and if necessary, CDFW and USFWS to ensure the project is implemented in compliance with the HCP/NCCP. If any of the project activities will conflict with the implementation of the HCP/NCCP, the Authority will consult with CDFW, USFWS, and the KWBA in advance of project implementation to ensure compliance with CESA and ESA.</p>	<ul style="list-style-type: none"> • If required, retain copies of all correspondence and documentation with KWBA in the project file. • If required, retain documentation of implementation of Mitigation Measures BIO-1 through BIO-13. • If required, retain copies of all correspondence and documentation with wildlife agencies in the project file. 	Authority	Before, During and After Construction
Cultural Resources			
<p>CUL-1: The Authority shall retain a Qualified Architectural Historian (defined as an architectural historian, historic architect, or historic preservation professional who meets the Secretary of the Interior's Professional Qualification Standards for History, Architectural History, or Architecture, pursuant to 36 CFR 61) to carry out all mitigation related to historic built environment resources.</p>	<ul style="list-style-type: none"> • Save documentation related to retention of a Qualified Architectural Historian in the project file. 	Authority	Before Construction

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Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>CUL-2: Historic Resources Assessment. Once project elements have been sited, the Qualified Architectural Historian shall conduct a historic resources assessment including: a review of pertinent archives and sources to identify historic built environment resources within or adjacent to project components; a pedestrian field survey; recordation of all identified historic built environment resources on California Department of Parks and Recreation 523 forms; evaluation of historic built environment resources that may be affected by the project for listing in the National Register and California Register under Criteria A/1-D/4; impacts analysis; development of appropriate treatment; and preparation of a technical report documenting the methods and results of the assessment. The Historic Resources Assessment Report with recommendations and shall be submitted to the Authority for review and approval prior to the its approval of project plans.</p>	<ul style="list-style-type: none"> Retain copies of the final Historic Resources Assessment Report in the project file. 	<p>Authority</p>	<p>Before Construction</p>
<p>CUL-3: Retention of a Qualified Archaeologist. The Authority shall retain a Qualified Archaeologist (defined as an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for Archaeology, pursuant to 36 CFR 61) to carry out all mitigation related to archaeological resources.</p>	<ul style="list-style-type: none"> Save documentation related to retention of a Qualified Archeologist in the project file. 	<p>Authority</p>	<p>Before Construction</p>
<p>CUL-4: Archaeological Resources Assessment. Once project elements have been sited, the Qualified Archaeologist shall conduct an archaeological resources assessment of the project area(s). This shall include an archaeological resources survey, and Extended Phase I and/or Phase II testing as determined necessary by the Qualified Archaeologist to determine if any archaeological resources qualify as historical resources or unique archaeological under CEQA. The Qualified Archaeologist shall document the results of the assessment in a technical report that follows Archaeological Resource Management Reports (ARMR): Recommended Contents and Format (OHP 1990). If more than 2 years have passed since the previous records searches, then the Qualified Archaeologist shall conduct searches of the Southern San Joaquin Valley Information Center and Native American Heritage Commission Sacred Lands File prior to conducting the survey. The assessment report shall be completed and approved by the Authority prior to its approval of project plans.</p>	<ul style="list-style-type: none"> Retain copies of the final Archaeological Resources Assessment Report in the project file. 	<p>Authority</p>	<p>Before Construction</p>
<p>CUL-5: Avoidance and Preservation in Place of Archaeological Resources. The Authority shall make efforts to avoid and preserve in place potentially significant or significant archaeological resources. Avoidance and preservation in place is the preferred manner of mitigating impacts to archaeological resources. Preservation in place may be accomplished by, but is not limited to, avoidance, incorporating the resource into open space, capping, or deeding the site into a permanent conservation easement. In the event that avoidance and preservation in place of a resource is determined by the Authority, in consultation with the Qualified Archaeologist, to be infeasible in light of factors such as project design, costs, and other considerations, then Mitigation Measures CUL-6 shall be implemented for that resource. If avoidance and</p>	<ul style="list-style-type: none"> Include mitigation measure in construction contractor specifications. If required, retain documentation related to implementation of Mitigation Measures CUL-6, CUL-7, and CUL-8 in the project file. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
preservation in place of a resource is determined by the Authority to be feasible, then Mitigation Measures CUL-7 and CUL-8 shall be implemented for that resource.			
<p>CUL-6: Phase III Archaeological Resources Data Recovery and Treatment. The Qualified Archaeologist shall prepare a Phase III Archaeological Resources Data Recovery and Treatment Plan for all significant resources that will be impacted by the proposed project, including those that qualify as historical resources or unique archaeological resources. When determining if data recovery is necessary, the Qualified Archaeologist shall first consider if the data potential of the impacted portion of the resource has been exhausted through previous testing. The Phase III Archaeological Resources Data Recovery and Treatment Plan shall include: research design; field and laboratory methods; other applicable treatment measures; field security measures; reporting requirements and schedule; procedures for human remains discoveries; curation requirements; and protocols for Native American input, review of documents, and monitoring. For resources that are Native American in origin, treatment shall be developed by the Qualified Archaeologist in consultation with the Authority and one or more Native American representatives listed on the California Native American Heritage Commission's contact list for the project. The Qualified Archaeologist shall submit the final Phase III Archaeological Resources Data Recovery Report to the Southern San Joaquin Valley Information Center within 30 days of its acceptance by the Authority.</p>	<ul style="list-style-type: none"> • If required, retain copies of the Phase III Archaeological Resources Data Recovery and Treatment Plan as defined in the project file. • If required, retain copies of the Phase III Archaeological Resources Data Recovery Report submitted to the Southern San Joaquin Valley Information Center in the project file. 	Authority	Before Construction
<p>CUL-7: Cultural Resources Mitigation and Monitoring Program. The Qualified Archaeologist shall prepare a Cultural Resources Mitigation and Monitoring Program (CRMMP) based on the final approved project design plans. The CRMMP shall be submitted to the Authority at least 60 days prior to the start of any ground-disturbing activities. The CRMMP shall include: an outline of areas and maps where archaeological and Native American monitoring is required; roles and responsibilities of the monitors; procedures to follow in the event of the archaeological resources and human remains discoveries; notification and communication protocols; reporting requirements (e.g., weekly, monthly, final); curation requirements; and protocols for Native American input and review of documents. Upon completion, the Qualified Archaeologist shall submit a final Archaeological Resources Monitoring Report to the Southern San Joaquin Valley Information Center within 30 days of its acceptance by the Authority.</p>	<ul style="list-style-type: none"> • If required, retain copies of the Cultural Resources Mitigation and Monitoring Program as defined, in the project file. • If required, retain copies of the final Archaeological Resources Monitoring Report submitted to the Southern San Joaquin Valley Information Center in the project file. 	Authority	Before Construction
<p>CUL-8: Designation of Environmentally Sensitive Areas. Prior to the start of ground disturbance, any avoided archaeological resources on the project site and within 100 feet of project-related activities shall be marked as Environmentally Sensitive Areas (this includes archaeological resources that qualify as historical resources or unique archaeological resources, or those that have not been evaluated). These areas shall not be marked as archaeological resources, but shall be designated as "exclusion zones" on project plans. The Qualified Archaeologist, or their designee, shall periodically inspect these areas for the duration of project activities in the vicinity to ensure that the area remains intact and no incursions into the exclusion zones have occurred. Upon</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • If required, retain copies of exclusion areas and monitoring reports in the project file. 	Authority; Construction Contractor	Before and During Construction

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>completion of all project-related activities in the vicinity, all protective signage shall be removed.</p>			
<p>CUL-9: Construction Worker Cultural Resources Sensitivity Training. Prior to start of any ground-disturbing activities, the Qualified Archaeologist, or his/her designee, shall conduct cultural resources sensitivity training for all construction personnel. In the event construction crews are phased, additional trainings shall be conducted for new construction personnel. Construction personnel shall be informed of the types of archaeological resources that may be encountered, the proper procedures to be enacted in the event of an inadvertent discovery of archaeological resources or human remains, confidentiality of discoveries, and safety precautions to be taken when working with archaeological and Native American monitors. The Authority shall ensure construction personnel are made available for and attend the training and retain documentation demonstrating attendance.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • Retain copies of personnel attendance at the sensitivity training in the project file. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>
<p>CUL-10: Inadvertent Discovery of Archaeological Resources. In the event that archaeological resources are encountered during ground disturbance, all activity in the vicinity of the find shall cease (within 100 feet), and the protocols and procedures for discoveries outlined in the CRMMP shall be implemented. The discovery shall be evaluated for potential significance by the Qualified Archaeologist. If the Qualified Archaeologist determines that the resource may be significant, the Qualified Archaeologist shall develop an appropriate treatment plan for the resource. When assessing significance and developing treatment for resources that are Native American in origin, the Qualified Archaeologist and the Authority shall consult with one or more Native American representatives listed on the California Native American Heritage Commission's contact list for the project. The Qualified Archaeologist shall also determine if work may proceed in other parts of the project area(s) while treatment (e.g., data recovery) for cultural resources is being carried out.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications • If found, document and retain records regarding discovery of archaeological resources and implementation of the CRMMP in the project file. • Retain the construction monitoring report in project file. 	<p>Authority; Construction Contractor</p>	<p>During Construction</p>
<p>CUL-11: Curation. Disposition of Native American archaeological materials shall be determined through consultation between one or more Native American representatives listed on the California Native American Heritage Commission's contact list for the project, the Qualified Archaeologist, and the Authority. Disposition of artifacts associated with Native American human remains shall be determined through consultation between the Most Likely Descendant, landowner, and the Authority.</p> <p>Any significant historic-period archaeological materials that are not Native American in origin shall be curated at a repository accredited by the American Association of Museums that meets the standards outlined in 36 CFR 79.9. If no accredited repository accepts the collection, then it may be curated at a non-accredited repository as long as it meets the minimum standards set forth by 36 CFR 79.9. If neither an accredited nor a non-accredited repository accepts the collection, then it may be offered to a public, non-profit institution with a research interest in the materials, or donated to a local school or</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • If found, retain any correspondence or documentation related to disposition or curation of Native American archaeological materials and human remains in the project files. 	<p>Authority; Construction Contractor</p>	<p>During and After Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
historical society in the area for educational purposes, to be determined by the Qualified Archaeologist in consultation with the Authority.			
<p>CUL-12: Inadvertent Discovery of Human Remains. If human remains are encountered, then the Authority shall halt work in the vicinity (within 100 feet) of the discovery and contact the County Coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5. If the County Coroner determines the remains are Native American, then the Coroner shall notify the California Native American Heritage Commission in accordance with Health and Safety Code subdivision 7050.5(c), and Public Resources Code Section 5097.98. The California Native American Heritage Commission shall designate a Most Likely Descendant for the remains pursuant to Public Resources Code Section 5097.98. Until the landowner has conferred with the Most Likely Descendant, the contractor shall ensure the immediate vicinity where the discovery occurred is not disturbed by further activity, is adequately protected according to generally accepted cultural or archaeological standards or practices, and that further activities take into account the possibility of multiple burials. If human remains are encountered, the Qualified Archaeologist, in consultation with the Most Likely Descendant shall prepare a confidential report documenting all activities and it shall be submitted to the California Native American Heritage Commission within 90 days after completion of any treatment.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • If found, document and retain records regarding discovery of human remains as required in the project file. 	Authority; Construction Contractor	During Construction
Geology and Soils			
<p>PALEO-1: Paleontological Assessment and Mitigation Plan. Prior to the start of any ground-disturbing activities (e.g., demolition, pot-holing or auguring, boring, drilling, grubbing, construction-related vegetation removal, excavation, trenching, or any other activity that has potential to disturb soil), the Authority shall retain a Qualified Paleontologist who meets the professional criteria established by the Society of Vertebrate Paleontology (SVP) to implement the paleontological resources mitigation measures for the proposed project. Once the locations of the project components have been determined and prior to the initiation of ground disturbance, a paleontological literature, map, and museum locality review shall be conducted in order to assess the paleontological sensitivity of the project component. If the literature, map, and museum locality review identifies potentially sensitive paleontological resources, then the Qualified Paleontologist shall conduct a pedestrian survey and assessment of the project component. A report shall be prepared which summarizes the results of the survey and assessment and provides recommendations regarding implementation of mitigation, as needed. Mitigation may include preparation of a Paleontological Resources Mitigation Monitoring Plan (PRMMP), implementation of the PRMMP including construction monitoring if required, paleontological resources awareness training for construction personnel, and preparation of a paleontological monitoring report when construction is complete demonstrating compliance with the PRMMP.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • Save documentation related to retention of a Qualified Paleontologist in the project file. • Retain documentation and results of the paleontological literature, map, and museum locality review in the project file. • If required, retain documentation and results of the pedestrian survey and recommended mitigation in the project file. • If required, retain copies of the Paleontological Resources Mitigation Monitoring Plan, and monitoring reports related to its implementation, in the project file. 	Authority; Construction Contractor	Before and During Construction

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>PALEO-2: Inadvertent Discoveries of Paleontological Resources. In the event that paleontological resources are discovered, the Authority will notify the Qualified Paleontologist. The paleontologist will document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in <i>CEQA Guidelines</i> Section 15064.5. If fossil or fossil bearing deposits are discovered during construction, excavations within 50 feet of the find will be temporarily halted or diverted until the discovery is examined by the Qualified Paleontologist. The paleontologist will notify the appropriate agencies to determine procedures that shall be followed before construction is allowed to resume at the location of the find. If the Authority determines that avoidance is not feasible, the paleontologist will prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important. The plan will be submitted to the Authority for review and approval prior to implementation.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • If found, document and retain records regarding discovery of paleontological resources as required in the project file. 	<p>Authority; Construction Contractor</p>	<p>During Construction</p>
<p>Hazards and Hazardous Materials</p>			
<p>HAZ-1: Prior to initiating ground disturbance and construction activities, for project facilities located on lands previously used for active agriculture production, the Authority shall collect representative samples of soils to be analyzed for total petroleum hydrocarbons and pesticides. The Authority shall avoid if feasible or otherwise remove from the site soils identified as containing hazardous quantities of contaminants and dispose of such soils in accordance with applicable hazardous waste regulations.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • In the event of identification of hazardous site soils, documentation of the assessment and removal or avoidance shall be prepared and retained in the project file. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>
<p>HAZ-2: In the event that asbestos-containing materials are uncovered during project construction, work at the project sites shall immediately halt and a qualified hazardous materials professional shall be contacted and brought to the project sites to make a proper assessment of the suspect materials. All potentially friable asbestos-containing materials shall be removed in accordance with federal, State, and local laws and the National Emissions Standards for Hazardous Air Pollutants guidelines prior to ground disturbance that may disturb such materials. All demolition activities shall be undertaken in accordance with California Occupational Safety and Health Administration standards, as contained in Title 8 of the <i>CCR</i>, Section 1529, to protect workers from exposure to asbestos. Materials containing more than one percent asbestos shall also be subject to San Joaquin Valley Air Pollution Control District regulations. Demolition shall be performed in conformance with federal, State, and local laws and regulations so that construction workers and/or the public avoid significant exposure to asbestos-containing materials.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • In the event of identification of asbestos-containing materials on site, documentation of the assessment and removal shall be prepared and retained in the project file. 	<p>Authority; Construction Contractor</p>	<p>During Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<p>HAZ-3: A Phase I Environmental Site Assessment shall be prepared for the project sites to identify potential hazards and hazardous materials located within a one-mile radius. The construction contractor shall be informed of potential hazards and shall develop appropriate plans to avoid or remediate hazards.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • Results of the Phase I Environmental Site Assessment shall be documented and retained in the project file. • Construction site inspections shall be performed to ensure contractor compliance with identified plans to avoid or remediate hazards. • Retain copies of inspection logs in the project file. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>
<p>HAZ-4: Prior to construction of project facilities located within one-quarter mile of a school, the contractors shall coordinate the proposed construction haul route with the impacted school district and school facility to avoid school safety routes.</p>	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • Documentation of the agreed upon construction route shall be retained in the project file. • Construction site inspections shall be performed to ensure contractor compliance with identified construction route. • Retain copies of inspection logs in the project file. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>
<p>HAZ-5: The Authority shall coordinate with the Kern County Department of Public Health Services and the Kern Mosquito and Vector Control District prior to project operations to develop and implement, if necessary, appropriate insect abatement methods. Such methods shall not utilize any substances that may contaminate groundwater or be harmful to wildlife.</p>	<ul style="list-style-type: none"> • Include mitigation measure in project design specifications. • Coordinate with appropriate Kern County agencies and retain documentation of correspondence with such agencies in the project file. • Implementation of appropriate insect abatement methods shall be documented and retained in the project file. 	<p>Authority</p>	<p>Before and After Construction</p>
Noise and Vibration			
<p>NOI-1: The construction contractors shall consider recovery well locations prior to 24-hour drilling to ensure that no occupied residential dwelling is within 1,000 feet of any well location. In the event that recovery well drilling cannot be sited greater than 1,000 feet from any occupied residential dwelling, a Noise Control Plan shall be developed and implemented prior to construction that includes best management practices to minimize exposure to high levels of noise and ensure compliance with the Kern County Noise Ordinance. Best management practices may include, but not be limited to the following:</p> <ul style="list-style-type: none"> • Place all stationary construction equipment so that emitted noise is directed away from occupied residential dwellings. 	<ul style="list-style-type: none"> • Include mitigation measure in construction contractor specifications. • If required, retain copies of the Noise Control Plan in the project files. • If required, perform site inspections to ensure contractor is in compliance with noise mitigation measures. • Retain copies of inspection logs in the project file. 	<p>Authority; Construction Contractor</p>	<p>Before and During Construction</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
FOR THE KERN FAN GROUNDWATER STORAGE PROJECT**

Mitigation Measures	Implementation, Monitoring, and Reporting Action	Responsibility	Monitoring Schedule
<ul style="list-style-type: none"> Locate equipment staging in areas that will create the greatest possible distance between construction-related noise sources and noise-sensitive residential dwellings. Ensure proper maintenance and working order of equipment and vehicles, and that all construction equipment is equipped with manufacturer's approved mufflers and baffles. Install sound-control devices in all construction and impact equipment. Additional equipment muffling beyond standard mufflers may be implemented. Install portable acoustic panels between the construction zone and sensitive land uses. 			
Transportation			
<p>TRA-1: Traffic Control Plan. The construction contractor, in coordination with the Authority, shall prepare a Construction Traffic Control Plan that conforms to requirements of the Kern County Public Works Department and California Department of Transportation District 6, as applicable prior to the start of construction. The Construction Traffic Control Plan shall be prepared in accordance with both the California Department of Transportation Manual on Uniform Traffic Control Devices and Work Area Traffic Control Handbook and may include, but not be limited to, the following issues:</p> <ul style="list-style-type: none"> Haul routes and timing of deliveries of heavy equipment, building materials and oversize loads; Directing construction traffic with a flag person; Placement of temporary signage, lighting, and traffic control devices if required; Access for emergency vehicles to the project sites; Temporarily closing travel lanes or delaying traffic during materials delivery; Detours or alternative routes for bicyclists using on-street bicycle lanes as well as for pedestrians using adjacent sidewalks <p>The Authority shall also notify local emergency responders of any planned partial or full lane closures required for project construction. Emergency responders include fire departments, police departments, and ambulances that have jurisdiction within the project area. Written notification and disclosure of lane closure location must be provided at least 30 days prior to the planned closure to allow emergency response providers adequate time to prepare for lane closures.</p>	<ul style="list-style-type: none"> Include mitigation measure in construction contractor specifications. Retain copies of the Construction Traffic Control Plan that has been approved by the applicable local jurisdiction(s) in the project file. Perform site inspections to routinely verify proper implementation of the approved Plan. Retain copies of inspection logs in the project file. Retain copies of necessary permits obtained for any work within the road right-of-way. 	<p align="center">Authority; Construction Contractor</p>	<p align="center">Before and During Construction</p>

EXHIBIT "D"

RESOLUTION NO. 2021 - ____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE IRVINE RANCH WATER DISTRICT RELATIVE TO ITS CONSIDERATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE KERN FAN GROUNDWATER STORAGE PROJECT; ADOPTING WRITTEN FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING A MITIGATION, MONITORING AND REPORTING PROGRAM; APPROVING THE PROJECT; AND AUTHORIZING THE FILING OF A NOTICE OF DETERMINATION TO PROCEED WITH THE PROJECT

WHEREAS, the Groundwater Banking Joint Powers Authority (“Authority”) proposes to implement the Kern Fan Groundwater Storage Project (the “Project”), a project to develop and operate groundwater banking facilities in two phases on approximately 1,300 acres of agricultural or vacant land within or near the Rosedale-Rio Bravo Water Storage District’s service area; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines (14 CCR § 15000 et seq.), the Authority is the Lead Agency for the Project in consultation with Rosedale-Rio Bravo Water Storage District (“Rosedale”) and Irvine Ranch Water District (“IRWD”) as Responsible Agencies; and

WHEREAS, the Authority, as the lead agency for the Project, prepared a notice of preparation of an Environmental Impact Report (“EIR”) for the Project as required by CEQA and publicly circulated it for 30 days on April 8, 2020. In addition, a public scoping meeting was held on April 29, 2020; and

WHEREAS, taking into consideration the comments received during the public scoping process and other CEQA requirements relating to the contents of an EIR, a Draft Environmental Impact Report (DEIR) was prepared by the Authority; and

WHEREAS, the DEIR was circulated by the Authority from October 16, 2020 to November 30, 2020, and a notice of availability of the Draft EIR was posted on October 16, 2020, with the County Clerks in Kern County and Orange County. A public meeting was held on November 4, 2020 wherein Rosedale and IRWD provided an opportunity for attendees to submit written or verbal comments on the scope of the environmental analysis to be included in this Draft EIR facilitated using Zoom, a virtual communication program, in compliance with health-related orders of the State of California; and

WHEREAS, during the official public review period for the DEIR, nine comment letters were received by the Authority; and

WHEREAS, the Authority reviewed all of the comments on the DEIR received from interested persons, organizations and agencies and prepared detailed responses to the comments directed to any significant environmental issues all of which were provided to commenting agencies on December 18, 2020; such items which were set forth in separate chapters, along with the DEIR, revisions to the DEIR text and other information required by CEQA to be included in the Final EIR (“FEIR”); and

WHEREAS, CEQA provides that when an EIR identifies any significant environmental effects that would occur if the project is approved or carried out, the agency must make a specified finding or findings with respect to each of the identified significant effects, and must also adopt a mitigation monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant project-related impacts on the environment; and

WHEREAS, at its meeting held on December 28, 2020, the Authority certified that the FEIR was completed in accordance with CEQA requirements described in the foregoing recital and reflects the Authority’s independent judgment and analysis, and the certified FEIR, together with the findings and the Mitigation, Monitoring and Reporting Program (“MMRP”) adopted by the Authority, have been presented to this Board; and

WHEREAS, as a responsible agency, IRWD is required by CEQA to consider the FEIR prepared by the Authority and reach its own conclusions on whether and how to approve the Project; and

WHEREAS, this Board of Directors has reviewed and considered the information contained in the FEIR, the proposed findings presented at this meeting, the MMRP, and all oral and written evidence constituting the administrative record presented to this Board, which is on file with the Secretary of IRWD as the custodian thereof in the office of the District; and

WHEREAS, as contained herein, this Board of Directors has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, the findings and conclusions of this Board pursuant to this resolution are based upon the oral and written evidence presented to it as a whole and not solely on the information contained in this resolution; and

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

Section 1. All of the foregoing recitals are true and correct.

Section 2. The FEIR is adequate for use by IRWD as a responsible agency.

Section 3. The MMRP and the findings set forth in Attachment “A” to this resolution (the “Findings”) are hereby approved.

Section 4. The Board of Directors of IRWD has reviewed and considered the environmental effects of the Project as shown in the FEIR, as well as all the other information contained in the FEIR, prior to approving the Project.

Section 5. The Project is hereby approved.

Section 6. District Staff and designated persons are hereby authorized and directed to take all actions necessary to effectuate the intent of this resolution, and to cause a Notice of Determination reflecting the foregoing actions to be executed and filed with the Kern County Clerk, the Orange County Clerk and the State Clearinghouse.

ADOPTED, SIGNED AND APPROVED this _____ day of _____, 2021.

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:

Legal Counsel - IRWD

By Eric Robinson
KRONICK, MOSKOVITZ,
TIEDEMANN & GIRARD

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January 11, 2021
Prepared and
submitted by: C. Compton
Approved by: Paul A. Cook



ACTION CALENDAR

REVISED PERSONNEL POLICIES AND PROCEDURES: PERSONNEL POLICY NO. 44 AND NO. 46

SUMMARY:

IRWD has adopted Personnel Policies and Procedures to consistently address personnel-related issues at IRWD. Revisions to these policies are necessary from time to time to stay current with state and federal law, to maintain best practices in policy and procedure administration, and to accurately reflect processes adopted for the efficient and effective conduct of District business relative to personnel and other related matters. Proposed revisions include new personnel policies related to the use of computers systems and accounts, and public records on personal computers and accounts which are proposed to supersede existing and outdated policies related to electronic mail and use of the internet. Staff recommends the Board adopt a resolution superseding Resolution No. 2019-7 and establishing revised Personnel Policies and Procedures.

BACKGROUND:

The District has adopted Personnel Policies and Procedures to consistently address personnel-related issues at IRWD. In order to keep these policies current, staff regularly reviews the policies and recommends updates and revisions when appropriate.

Staff recently undertook an evaluation of IRWD Personnel Policies and Procedures related to the use of the District's computer systems, email, and public records to ensure compliance with current employment and labor laws and regulations. As a result of the review, it was determined that Policy No. 44 – Electronic Mail and Policy No. 46 – Access and Use of the Internet should be updated to reflect the District's current use of computer systems, electronic messaging platforms, and other technology.

Additionally, the review revealed that IRWD's Personnel Policies and Procedures currently do not address the use of personal computers and accounts for District business. The existing policies should be updated to address the use of personal computers and accounts, and to address Public Records Act requests related to public records on personal computer systems and accounts.

To update IRWD's Personnel Policies and Procedures to reflect current technology uses and caselaw related to public records, staff recommends that:

- Policy No. 44 – Electronic Mail be superseded with proposed Policy No. 44 – Use of Computer Systems and Accounts, which is provided as Exhibit “A”, and
- Policy No. 46 – Access and Use of the Internet be superseded by proposed Policy No. 46-Obligations Related to Public Records, which is provided as Exhibit “B”.

To adopt the proposed Policy No. 44 and No. 46, staff recommends the Board adopt the resolution provided in Exhibit “C” superseding Resolution 2019-7 and establishing revised policies.

FISCAL IMPACTS:

None.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

This item was reviewed by the Finance and Personnel Committee on January 5, 2021.

RECOMMENDATION:

That the Board adopt the following resolution by title:

RESOLUTION NO. 2021 -

RESOLUTION OF THE BOARD OF DIRECTORS OF
IRVINE RANCH WATER DISTRICT,
SUPERSEDING RESOLUTION NO. 2019-7 AND
ESTABLISHING REVISED PERSONNEL POLICIES AND PROCEDURES

LIST OF EXHIBITS:

Exhibit “A” – Proposed Policy No. 44 (Use of Computer Systems and Accounts)

Exhibit “B” – Proposed Policy No. 46 (Obligations Related to Public Records)

Exhibit “C” – Proposed Resolution Rescinding Resolution No. 2019-7 and Establishing Revised Personnel Policies and Procedures

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS

DRAFT

1. Purpose of Policy

The District recognizes the need to manage the use of its Computer Systems and Accounts to maintain a secure workplace, preserve cybersecurity and to create a work environment in which productivity is enhanced.

The purpose of this policy is to ensure that the District's Computer Systems, including internet access and usage, and District Accounts are properly used to perform tasks directly related to IRWD job duties.

2. Scope of Policy

This policy applies to all users of District Computer Systems or District Accounts. This policy also addresses the use of Personal Computer Systems and Personal Accounts for District business.

3. Definitions

- A. "Authorized User" means any employee, board member or other person authorized to use a District Computer System or Account. To be considered an Authorized User, an individual must be granted permission by the District to use the account, system or device they are using, must read and agree to comply with the terms of this policy, and agree to comply with other applicable IRWD personnel policies and all applicable state and federal laws.

Any employee, Board Member, or contractor who has been given an IRWD computer login, provided an IRWD email address, or has been provided with a wireless device by the District, including an iPad, shall be considered an Authorized User for the purposes of this policy.

The District may revoke or modify its authorization at any time; however, upon separation from the District, an employee's, Board Member's, contractor's or other user's authorization shall be deemed automatically revoked.

- B. "District Accounts" means any account owned, licensed to, opened by or held by the District, and any account linked to a District email address, through which an electronic communication or Public Record could be sent. This includes District email accounts, social media accounts such as Twitter, Facebook, and Instagram connected to a District email address, cloud-based messaging systems (e.g. Microsoft Teams), webinar/conference call platforms (e.g. WebEx), text messaging applications and voice messaging systems connected to a District email address or District cloud-storage accounts.

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS DRAFT

- C. “District Computer System(s)” means any computer, tablet, cell phone or any other similar electronic device owned, leased, or licensed to the District. All hardware, and District-owned or licensed software, applications, and programs associated with such devices are part of the District Computer System.
- D. “Personal Accounts” means any account owned, licensed to, opened by, used by or held by an Authorized User in their personal capacity and not linked to a District email address. This includes personal email accounts, social media accounts such as Twitter, Facebook, and Instagram, cloud-based messaging systems (e.g. Microsoft Teams), webinar/conference call platforms (e.g. WebEx), text messaging applications and voice messaging systems or personal cloud-storage accounts connected to a personal email address.
- E. “Personal Computer System(s)” means any computer, tablet, cell phone or any other similar electronic device owned, leased, or licensed to an Authorized User or a member of their household, as opposed to the District, in their personal or individual capacity. All hardware, and personally owned or licensed software, applications, and programs associated with such devices are part of the Personal Computer System. A personal cell, which an employee uses for work and receives a District cell reimbursement for, is considered a personal computer.
- F. “Public Record” means any Record containing information related to the conduct of the public’s business that is prepared, owned, used, or in the possession of the District regardless of physical form or characteristic. It does not include Records that are strictly personal and do not relate to the conduct of public business, as these are not Public Records.
- G. “Record” means all tangible (hard-copy) and electronically-prepared, electronically-stored or electronically-transmitted writings or recordings, including communications, handwritten notes, typed documents, emails, voicemails, text messages, spreadsheets, drawings, photographs, data sets, calendar and schedule entries, PDF documents, forms, notes and collections of texts or other data created or assembled by a user, presentations, diagrams, images, CAD files, databases and other electronic information.

4. Authorized Use of the District Accounts, Systems and Devices

A. Authorized Use

Authorized Users are only authorized to use the District Computer Systems and Accounts that their supervisor or Informational Services permits them to use.

District Computer Systems and Accounts are the property of the District and are designed to facilitate District business. Authorized Users are given access to these accounts, systems and devices to conduct business on behalf of the District and to perform tasks directly related to their job duties.

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS **DRAFT**

B. Unauthorized Use

The District takes measures to safeguard its Computer Systems and Accounts from misuse, corruption and illegal uses, and to protect the District from any possible liability due to unauthorized use. Uses that are illegal or inconsistent with the authorization granted to the user by the District are unauthorized. Such unauthorized uses include misuse, as defined in Section 6, and personal use inconsistent with the narrow personal use permitted by subsection (C) below.

Authorized Users found to have engaged in an unauthorized or improper use of a District Computer System or Account may have their use authorization revoked or modified. Employees found to have engaged in unauthorized or improper use will be subject to disciplinary action, up to and including termination.

Any users engaged in unauthorized, illegal or improper use may also be subject to civil or criminal liability. Any suspected criminal use or activity will be reported to the appropriate law enforcement agencies.

C. Limited Personal Use

Limited personal use of a District Computer System or Account is permitted if it is appropriate, has a minimal impact on the District, including a minimal impact on the District's network bandwidth and other District resources, and does not take place during work time. For example, an employee using a District iPad at home to read the news, or an employee's limited use of the Internet on a District computer for personal purposes during their lunch or before or after work hours are permissible if those uses comply with the terms of this policy and the District's other personnel policies.

5. **Limitation on User Privacy and Confidentiality**

The District reserves the right to monitor, access and disclose the use of District Computer Systems and Accounts at any time for any reason without notice to the user.

Users of District Computer Systems and Accounts should have **no expectation of privacy** with respect to their use of these accounts, systems and devices. Any communication, data, metadata or other information, including personal communications, data or information, that is transmitted through, stored on or created by these systems or accounts may be accessed, held, used, retained or disclosed at the sole discretion of the District and may be a Public Record requiring protection/retention in accordance with state and federal law and the District's Retention Policy.

Users are put on notice that any communication, Record, message or image accessed through or created, transmitted or stored on a District Computer System or Account may be publicly disclosed.

Security features (e.g. passwords, codes or deletion features) will not prevent the District from accessing a user's communications, Records, messages, or images which are

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS DRAFT

transmitted through, viewed on, stored in or created by a District Computer System or Account.

Additionally, the District may maintain records of the names, dates and times of users accessing services on District Computer Systems or Accounts, including use of and access to services on the Internet. Users should assume **no privacy or confidentiality exists** when using District Computer Systems or Accounts.

6. Misuse of District Accounts, Systems, and Devices

It is a violation of District policy for Authorized Users, including system administrators, to use District Computer Systems or Accounts for the purpose of satisfying idle curiosity about the affairs of others with no legitimate business purpose for obtaining access to the files or communications of others. Employees found to have engaged in such “snooping” or found to have misused the District’s accounts, systems or devices will be disciplined appropriately, up to and including termination.

Additional misuses of District Computer Systems and Accounts include, but are not limited to, the following:

- A. Use in any manner that violates any law, regulation, or ordinance, including for uses that violate copyrights laws, or government security laws or regulations.
- B. Use in any manner that violates any policy or procedure of the District, including unauthorized personal use.
- C. Use that is disruptive, unprofessional, offensive, harmful to morale or inappropriate for the workplace. The creation, display, storage and the use, viewing, or transmission of sexually explicit images, messages or cartoons; ethnic slurs, racial or religious epithets; or anything that may be construed as harassment, creating a hostile work environment, or disparagement of others is strictly prohibited.
- D. Use for any deliberate action in an attempt to gain unauthorized access to remote systems, or to damage or disrupt a computing system, alters its normal performance, or causes it to malfunction, regardless of system location or time duration.
- E. Receipt and “opening” of misaddressed communications when the user knows that the communication was misaddressed.
- F. Forwarding Records or communications without a legitimate business purpose, including intentionally sending chain letters and spam.
- G. Uses related to “moonlighting” or job searches.
- H. Revealing proprietary or confidential information, including official District information or intellectual property, without authorization.
- I. Uses related to political campaign-related activities.

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- J. Conducting or soliciting illegal activities.
- K. Uses that delete, destroy or dismantle any Public Record required to be retained pursuant to the District Records Retention Policy.

7. Authorized Users' Obligation to Preserve, Identify, and Produce Electronic Records

The District is committed to transparency and compliance with state and federal law. This includes compliance with the California Public Records Act (“PRA”), record retention laws, and its obligations to preserve and turn over Public Records and other Records related to certain legal matters.

A. Electronic Records on District Computer Systems and Accounts

All Authorized Users are required to comply with all laws and legal requirements related to the preservation, identification and production of electronic Records created, transmitted or stored on District Computer Systems and Accounts. In addition, all Authorized Users are required to comply with the District’s Records Retention Policy and any District-issued Litigation Hold Notices for Public Records located on District Computer Systems and Accounts.

All Authorized Users must identify and turn over electronic Public Records on District Computer Systems and Accounts in a timely manner when requested to do by the District.

B. Electronic Records on Personal Systems and Accounts

Pursuant to *City of San Jose, et al. v. The Superior Court of Santa Clara County*, communications and other Records about official District business may be Public Records and may be subject to public disclosure regardless of the type of account, computer, or device used in its preparation, storage or transmission.

This means that electronic Records on a Personal Computer System or Personal Account may be Public Records if they relate in some way to the conduct of public business. This includes Public Records that are created, stored or transmitted on Personal Accounts, including personal emails, text messages, messages sent via messaging applications, pictures and social media posts.

Electronic Records and communications that are strictly personal and do not relate to the conduct of public records are not Public Records and are not subject to this policy.

If an Authorized User has created, transmitted or stored a Public Record on a Personal Computer System or Account, they are required to comply with all laws and legal requirements related to the preservation, identification and production of Public Records. In addition, all Authorized Users are required to comply with the District’s Records Retention Policy and any District-issued Litigation Hold Notices for any Public Records located on a Personal Computer System or Account.

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS DRAFT

All Authorized Users must identify and turn over electronic Public Records on Personal Computer Systems and Accounts in a timely manner when requested to do so by the District.

8. Requirement to Transfer Electronic Public Records on Personal Computer Systems and Accounts to District Computer Systems and Accounts

A. Obligation to Transfer Electronic Public Records

Since Public Records on Personal Computer System and Accounts may be subject to production by the District under the PRA and other laws, Authorized Users, who know or have reason to know that a possible Public Record is located on a Personal Computer System or Account, or other non-District Computer System, are required to transfer the Public Record to the appropriate District Computer System or Account as soon as it is identified to be a possible Public Record.

After the possible Public Record is transferred, the Authorized User shall delete the original copy of the Public Record from their Personal Computer System and Personal Account.

For example, if an Authorized User takes a picture or records a video of an IRWD facility or equipment on their personal cellphone for District purposes, they should immediately transfer it to a District Computer System or Account, and then delete it from their phone. This could be done by emailing the picture to their IRWD email account.

Another example is if an Authorized User uses their home computer to create a Word document for work. They should save it to the District's network folders or email to their IRWD email address, and then delete the file from their home computer.

Transferring a possible Public Record located on a Personal Computer System, Personal Account, or other non-District Computer System to the appropriate District Computer System or District Account will allow for it to be preserved and retained, as appropriate, by the District, and to be destroyed consistent with the District's Records Retention Policy.

B. Exceptions to the Obligation to Transfer

An Authorized User is not required to comply with the transfer requirements of this section for Records that, pursuant to the District's Records Retention Policy, are:

1. Records not required to be retained, and the Authorized User deletes the Record from their Personal Computer Systems and Accounts or the used non-District Computer System.
2. Records for which the retention period has expired, in which case the Record may be destroyed pursuant to the District's policy, provided the Authorized User deletes the Public Record from their Personal Computer Systems and Accounts, or the used non-District Computer System.

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS DRAFT

9. Restrictions on the Use of Personal Computer Systems and Accounts for District Business

A. Use of Personal Computer Systems for Public Business

Authorized Users are only permitted to use a Personal Computer System or other non-District Computer System for the District's business if they comply with the transfer and deletion requirements of Section 8 and the prohibition on the use of Personal Accounts below.

If a Personal Computer System or other non-District Computer System is used for District business, the Authorized User should give strong preference to remotely accessing the District Computer Systems and Accounts they are authorized to access when creating, saving and transmitting Public Records related to the District's business. Public Records created, transmitted and stored through remote access to a District Computer System or District Account will be considered stored on the District Computer System or Account used, and not on the Personal Computer System or the other non-District Computer System used to remotely access the District system or account.

B. Use of Personal Accounts for Public Business is Prohibited

In the ordinary course of business, Authorized Users are prohibited from using Personal Accounts to discuss District matters, conduct District business or perform work for the District. If an Authorized User mistakenly uses a Personal Account for public business, they should copy or forward the message to their District Account and must comply with the transfer and deletion requirements of Section 8.

C. Exceptions to the Prohibition on the Use of Personal Accounts for Public Business

An Authorized User may only use a Personal Account in the following situations:

1. In extraordinary circumstances, an Authorized User may use a Personal Account to conduct District business if they comply with the transfer and deletion requirements of Section 8. Extraordinary circumstances include unusual situations when the Authorized User must use a Personal Account to address urgent District business that, if left unanswered, could seriously impact the District.
2. An Authorized User may use a Personal Account to respond to a communication sent by a third party to a Personal Account if the Authorized User complies with the transfer and deletion requirements of Section 8 for both the original communication and the response, and directs the third party to use a District Account for all future communications related to the District's business.
3. An Authorized User may copy a Personal Account on calendar invitations if the Public Record is sent using a District Account (e.g., copying a Personal Account on an Outlook calendar invite).

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS **DRAFT**

4. An Authorized User, who is designated to manage the District’s Facebook Account, may use their Personal Facebook Account to access the District Facebook Account for the sole purpose of managing the District’s Facebook Account. The Authorized User must not use their Personal Facebook Account for District business beyond using their account as a “key” to access the District’s Facebook Account.

Public Records created, transmitted, stored or posted on the District’s Facebook Account will be considered stored on the District’s Facebook Account, and not on the Personal Facebook Account that an Authorized User used to simply access the District’s account.

If an Authorized User uses their Personal Facebook Account to access the District Facebook Account, they may be required to search their Personal Facebook Account for Public Records pursuant to Section 10 and IRWD Personnel Policy No. 46.

10. Public Records Searches of Personal Computer Systems and Personal Accounts

Authorized Users may be required to search any Personal Computer System or Account on which a Public Record may be located. **Authorized Users are put on notice that their Personal Computer Systems and Accounts may be required to be searched for Public Records if they are used for District business.**

To ensure that the District meets its legal obligation to make government records available to the public while respecting an Authorized User’s right to privacy, and minimizing the personal liability of Authorized Users, Authorized Users should follow the protocols for the “Transfer of Electronic Public Records to District Computer Systems and Accounts” outlined above in Section 8. Additionally, Authorized Users may be asked to search their accounts, systems and devices pursuant to the procedure outlined in IRWD Personnel Policy No. 46.

11. District’s Exclusive Authority

The District reserves the right to change this policy at any time with such prior notice, if any, as may be reasonable under the circumstances.

12. Administration of Policy

The Director of Information Services and the Director of Human Resources will be responsible for administration and enforcement of this policy.

Adopted by IRWD Board of Directors on: X X, XXX

EXHIBIT “B”

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 46 –OBLIGATIONS RELATED TO PUBLIC RECORDS

DRAFT

The District is committed to transparency and compliance with state and federal law. This includes compliance with the California Public Records Act (“PRA”), record retention laws, and its obligations to preserve and turn over Records related to certain legal matters.

Pursuant to *City of San Jose, et al. v. The Superior Court of Santa Clara County*, Records about official District business are Public Records and may be subject to public disclosure regardless of the type of account, computer, or device used in its preparation, transmission or storage. This means that Records, including images and photographs, on a Personal Computer System may be Public Records if they relate in some substantive way to the conduct of public business. This includes Records created, stored or transmitted on Personal Accounts, including personal emails, text messages, and social media posts.

1. Purpose of Policy

The purpose of this policy is to ensure that the District’s legal obligation to identify, retain and produce Records is met while minimizing the personal liability of IRWD Personnel and respecting IRWD Personnel’s right to privacy on their Personal Computer Systems and Accounts.

2. Scope of Policy

This policy applies to all IRWD Personnel. To accomplish the purposes of this policy, this policy addresses IRWD Personnel’s obligations when the District receives a Record production request.

It also addresses IRWD Personnel’s obligations when a Record production request either explicitly seeks, or can reasonably be interpreted to seek, Public Records on a Personal Computer System or Account.

This policy should be read in connection with the District’s Record Retention Policy.

3. Definitions

- A. “IRWD Personnel” means any Board Member, officer or employee of the District.
- B. “District Accounts” means any account owned, licensed to, opened by or held by the District, and any account linked to a District email address, through which an electronic communication or Public Record could be sent. This includes District email accounts, social media accounts such as Twitter, Facebook, and Instagram connected to a District email address, cloud-based messaging systems (e.g. Microsoft Teams), webinar/conference call platforms (e.g. WebEx), text messaging applications

POLICY NO. 46 – OBLIGATIONS RELATED TO PUBLIC RECORDS **DRAFT**

and voice messaging systems connected to a District email address or District cloud-storage accounts.

- C. “District Computer System(s)” means any computer, tablet, cell phone or any other similar electronic device owned, leased, or licensed to the District. All hardware, and District-owned or licensed software, applications, and programs associated with such devices are part of the District Computer System.
- D. “Personal Accounts” means any account owned, licensed to, opened by, used by or held by IRWD Personnel in their personal capacity and not linked to a District email address. This includes personal email accounts, social media accounts such as Twitter, Facebook, and Instagram, cloud-based messaging systems (e.g. Microsoft Teams), webinar/conference call platforms (e.g. WebEx), text messaging applications and voice messaging systems or personal cloud-storage accounts connected to a personal email address.
- E. “Personal Computer System(s)” means any computer, tablet, cell phone or any other similar electronic device owned, leased, or licensed to an IRWD Personnel or a member of their household, as opposed to the District, in their personal or individual capacity. All hardware, and personally owned or licensed software, applications, and programs associated with such devices are part of the Personal Computer System. A personal cell, which an employee uses for work and receives a District cell reimbursement for, is considered a personal computer.
- F. “Public Record” means any Record containing information related to the conduct of the public’s business that is prepared, owned, used, or in the possession of the District regardless of physical form or characteristic. It does not include Records that are strictly personal and do not relate to the conduct of public business, as these are not Public Records.
- G. “Record” means all tangible (hard-copy) and electronically-prepared, electronically-stored or electronically-transmitted writings or recordings, including communications, handwritten notes, typed documents, emails, voicemails, text messages, spreadsheets, drawings, photographs, data sets, calendar and schedule entries, PDF documents, forms, notes and collections of texts or other data created or assembled by a user, presentations, diagrams, images, CAD files, databases and other electronic information.

4. IRWD Personnel’s Obligation to Preserve, Identify, and Produce Records

IRWD Personnel are required to comply with all laws and legal requirements related to the preservation, identification and production of Public Records including those created, transmitted or stored on District and/or Personal Computer Systems or Accounts.

In addition, IRWD Personnel are required to comply with the District’s Records Retention Policy and any District-issued Litigation Hold Notices for Records regardless of where the Records are located. IRWD Personnel should not retain any Record not

POLICY NO. 46 – OBLIGATIONS RELATED TO PUBLIC RECORDS DRAFT

required to be retained by either the District's Records Retention Policy or a Litigation Hold.

5. Personnel Policy No. 44 Requirements for Public Records on Personal Computer Systems and Accounts

Pursuant to Personnel Policy No. 44, IRWD Personnel have an obligation to preserve, identify and produce Public Records created, transmitted or stored on a Personal Computer System or a Personal Account.

A. Personnel Policy No. 44 Limits the Use of Personal Computer System for Public Business

IRWD Personnel are only permitted to use a Personal Computer System or other non-District Computer System, for public business if they comply with the transfer and deletion requirements of Section 8 of Policy No. 44.

B. Personnel Policy No. 44 Prohibits the Use of Personal Accounts for Public Business

In the ordinary course of business, IRWD Personnel are prohibited from using Personal Accounts to discuss District matters, conduct District business or perform work for the District. If IRWD Personnel mistakenly use a Personal Account for public business, they should copy or forward the message to their District Account and must comply with the transfer and deletion requirements of Section 8 of Personnel Policy No. 44.

6. Obligation to Identify and Produce Public Records

A. District Will Notify IRWD Personnel When to Identify and Produce Records

Upon receipt of a PRA request or other request for the production of Records, the District will communicate the request and any additional instructions to the IRWD Personnel believed to have possession of responsive Records.

When a Record production request either explicitly seeks, or can reasonably be interpreted to seek, Public Records on a Personal Computer System or Account, IRWD Personnel believed to have possession of responsive Records will be notified of the need to search any Personal Computer Systems or Accounts used to create, transmit or store a Public Record in order to identify and produce any relevant Public Records.

B. Required Action by IRWD Personnel Upon Notification of Any Production Request

When requested to search for, identify and produce Records, IRWD Personnel must conduct a thorough and reasonable search for responsive Public Records following any instructions provided for the search and identification of responsive Public Records.

POLICY NO. 46 – OBLIGATIONS RELATED TO PUBLIC RECORDS **DRAFT**

IRWD Personnel are required to search for and identify responsive Public Records in a timely manner, and must produce any responsive Public Records, consistent with the instructions provided to them, within the timeframes provided by the District.

At the direction of the District's General Counsel or Deputy General Counsel, all responsive Records will be reviewed and redacted, as appropriate. Public Records, or portions of Public Records, that are confidential or exempt from disclosure will not be made public.

It is illegal to destroy any Public Record responsive to a Record production request. If a responsive Public Record exists and is in IRWD Personnel's control, it must be produced regardless of the Record type or content, and regardless of whether it should have been destroyed pursuant to the District Records Retention Policy. Once notified of a Record production request, IRWD Personnel must not destroy any requested Record until it has been produced to the District consistent with the instructions provided.

C. Specific Actions Required Upon Notification of a Production Request Related to Personal Computer Systems and Accounts

When notified by the District of the need to search for, identify and produce Public Records on Personal Computer Systems and Accounts, IRWD Personnel, who have been trained to distinguish between Records that contain public business and Records that do not contain public business, should promptly follow the instructions provided to them related to the production request in order to identify and produce any potentially responsive Public Records. IRWD Personnel who have not yet received training or require additional assistance should seek assistance from the District's District Secretary or Deputy General Counsel prior to searching their Personal Computer Systems and Accounts for Public Records.

IRWD Personnel are responsible for conducting a timely and reasonable search on their own systems and accounts, and must identify and produce any responsive Public Records, consistent with the instructions provided to them, within the timeframes provided by the District.

The District **will not require** IRWD Personnel to search any Personal Computer Systems or Personal Accounts **not used** to create, transmit or store Records related to the District or its business.

7. **Training**

Training pursuant to this policy is only required when responding to a Record production request that either explicitly seeks, or can reasonably be interpreted to seek, Public Records on a Personal Computer System or Account. IRWD Personnel responding to this type of Record production request are required to complete training on the steps necessary to conduct a reasonable search for Public Records, and how to distinguish between Records that contain public business and Records that do not contain public business.

POLICY NO. 46 – OBLIGATIONS RELATED TO PUBLIC RECORDS **DRAFT**

8. Requirement to Transfer Public Records When Relationship with the District Terminates

IRWD Personnel whose relationship with the District is ending or ends shall identify, disclose and transfer any Public Records on Personal Computer Systems or Accounts to the District, if those Records have not already been transferred to the District pursuant to Personnel Policy No. 44. This identification, disclosure and transfer should ideally take place prior to the personnel's last day with the District. After the Record has been transferred to the District, IRWD Personnel shall ensure it is deleted from the Personal Computer System(s) or Account(s).

If a Record production request seeks records from IRWD Personnel who have left the District and have not searched for any non-transferred Public Records on Personal Computer Systems or Accounts, the District will undertake reasonable efforts to contact that individual and request that they search and produce any Public Records they may have.

9. Affidavits and Declarations

The District may require IRWD Personnel to complete an affidavit or declaration related to the search, identification and production of Records. In the event an affidavit or declaration is requested, IRWD Personnel should work with District Counsel to complete an adequate affidavit or declaration.

The affidavit or declaration should be signed under penalty of perjury.

10. Failure to Comply with a District Search Requests

Failure to comply with this policy may result in disciplinary action, up to and including termination of employment.

Failure to comply with this policy may also result in civil or criminal liability for IRWD Personnel. **The penalties for failing to search for, identify and produce Public Records can be severe, including court ordered sanctions or potential criminal liability for obstruction of justice.**

Additionally, failure to comply with a request related to Public Records on Personal Computer Systems and Accounts may result in a court ordering a third-party search of those accounts, systems, and devices, and may result in IRWD Personnel being personally named as a respondent in a PRA lawsuit or a court order compelling the personnel to produce the Public Records.

11. District's Exclusive Authority

The District reserves the right to change this policy at any time with such prior notice, if any, as may be reasonable under the circumstances.

POLICY NO. 46 – OBLIGATIONS RELATED TO PUBLIC RECORDS DRAFT

12. Administration of Policy

The Deputy General Counsel, District Secretary and the Director of Human Resources will be responsible for administration and enforcement of this policy.

Adopted by IRWD Board of Directors on: X X, XXX

EXHIBIT "C"

RESOLUTION NO. 2021 -

RESOLUTION OF THE BOARD OF DIRECTORS OF
IRVINE RANCH WATER DISTRICT,
SUPERSEDING RESOLUTION NO. 2019-7 AND
ESTABLISHING REVISED PERSONNEL POLICIES AND PROCEDURES

The Irvine Ranch Water District (IRWD) is a California Water District formed pursuant to Division 13 of the Water Code of the State of California; and

Section 34900 of said Code provides that the Board of Directors shall employ and appoint such agents, officers and employees as may be required and prescribe their duties and fix their salaries; and

By adoption of Resolution No. 2019-7-5 dated February 11, 2019, the Board established revised Personnel Policies and Procedures; and

The Board of Directors of Irvine Ranch Water District deem it advisable and in the best interest of said District to revise Personnel Policies and Procedures periodically to ensure compliance with current employment and labor laws and regulations.

The Board of Directors of Irvine Ranch Water District hereby resolve, determine and order as follows:

Section 1. That Resolution No. 2019-7 be and hereby is superseded.

Section 2. That the Personnel Policies and Procedures for Irvine Ranch Water District be, and hereby are, approved and adopted as more specifically set forth in Attachment I of this Resolution, attached hereto and by this reference made a part hereof.

ADOPTED, SIGNED AND APPROVED this 11th day of January, 2021.

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

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

APPROVED AS TO FORM:
HANSON BRIDGET LLP

By: _____
District Counsel

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 1 – GENERAL PROVISIONS

1. The objective of the Irvine Ranch Water District (District) Personnel Policies and Procedures is to act as a guideline to explain policies and rules for all applicants for employment and District employees. These Policies also explain certain benefits provided by the District and certain prohibitions or work rules established by the District. Nothing in these policies shall be construed to create a contractual right of employment between the District and any employee.
2. Consistent with Sections 3500 et seq. of the California Government Code, the District reserves the right to amend, supplement, revise, or rescind any provisions, policies or procedures described in District Personnel Policies and Procedures whenever the District determines that such action is warranted. Such changes shall become effective upon adoption by the District Board.
3. The Human Resources Department is responsible for administering the policies set forth in this manual. No individual, other than the General Manager, can make any written or verbal statements requiring the District to follow different personnel policies.
4. In the event of a clear conflict between these Policies and another District-wide or departmental policy, procedure, or practice, these Policies shall control, unless the General Manager has given advance authorization for the conflicting policy, procedure, or practice in writing. In the event of a clear conflict between these Policies and a valid Memorandum of Understanding, the Memorandum of Understanding shall control.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 2 – EQUAL EMPLOYMENT OPPORTUNITY

I. EQUAL EMPLOYMENT OPPORTUNITY COMMITMENT

- A. This policy is in accordance with the laws of the United States and the State of California and reaffirms the District's continuing commitment to provide equal opportunity to all employees and applicants for employment.
- B. It is the District's policy to recruit, screen, employ, retain, promote, train, compensate, evaluate, terminate, and otherwise treat all employees and job applicants on the basis of merit, qualifications, and competence. This policy shall be applied without regard to any individual's sex, sexual orientation, gender, gender identity, gender expression, race, color, religion, national origin, ancestry, pregnancy, age, marital status or registered domestic partner status, military or veteran status, genetic information, medical condition, physical or mental disability, or any other characteristic protected by applicable state or federal law or local ordinance. Further the District does not discriminate against applicants or employees who are perceived to have such characteristics or who associate with an individual having such characteristics.
- C. The Director of Human Resources of the District is responsible for administration of this policy under the law. To ensure compliance with this policy, the Director of Human Resources will be responsible for monitoring all employment practices, including job application procedures, hiring, firing, advancement, compensation, training and other terms, conditions and privileges of employment. (See index for specific policies on each issue).
- D. Nothing in this policy supersedes the at-will status of District employees, as set forth in Policy 6.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 3 - ORGANIZATION AND STRUCTURE

1. Locations

The District's Headquarters Building is located at 15600 Sand Canyon in the City of Irvine. Staff from the General Manager's Office, Customer Service, Human Resources, Public Affairs, Finance, Information Services, Engineering and Construction, and Water Resources and Planning departments are housed in this location.

The Michelson Operations Center is located at 3512 Michelson Drive in the City of Irvine. Purchasing, Information Services, Engineering, Water Operations, Wastewater Operations, and Water Quality personnel are based at this location.

2. Organization Hierarchy

The District is an independent Special District governed by a five-member, publicly elected Board of Directors. These five elected officials are responsible for the District's policies and decision making. The on-going operations of the District are supervised by the General Manager and his staff. As chief operating officer, the General Manager is responsible to the Board for the operation and management of the District.

The General Manager is responsible for organizing the functions and activities of the District into such order as to facilitate a smoothly working, efficient and effective team. From time to time, the General Manager shall submit to the Board, an organizational chart reflecting the current organization, for their review.

3. Human Resources Department

The Irvine Ranch Water District's Human Resources Department is responsible for planning, coordinating, implementing and administering a District-wide personnel program. Under the direction of the Director of Human Resources, this department is also responsible for the developmental programs to ensure that Human Resources meet District goals and objectives.

The Human Resources Department has been established to provide employees with information and necessary assistance to understand the District's personnel policies and to promote a best resource for employees to obtain current information on work rules, benefits, personnel policies, payroll data, personnel records, health insurance, job opportunities, and benefit conversion privileges on termination of employment.

Representatives of the Human Resources Department are eager to help employees with any problems or concerns.

Adopted by IRWD Board of Directors on: March 9, 2009

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 4 – WORKPLACE VIOLENCE PREVENTION

I. IN GENERAL

- A. The District is committed to providing a work environment free of fear, intimidation, violence or the threat of violence and ensuring the safety of all District employees and contractors. Consistent with this commitment, the District prohibits any acts or behaviors by or against a District employee, contractor, customer or visitor that may be intimidating, threatening, harassing, dangerous, or harmful. The District also prohibits any act or behavior by, or at the direction of, a District employee that is intended to scare, frighten, coerce, or intimidate another person, group, or organization.
- B. The purpose of this policy is to:
1. Establish District expectations relative to workplace behavior and help protect employees, contractors, and others from threats or acts of violence;
 2. Remind employees of the District's long-standing principle that all employees, applicants, and visitors should be able to enjoy a work environment that is free from the fear of violence and that all people are to be treated with respect and dignity;
 3. Ensure that all workplace threats and violent behavior are addressed promptly; and
 4. Ensure that the level of physical and facility security in District workplaces is sufficient to protect the health and safety of District employees;
- C. Consistent with this policy, acts or credible threats of violence that involve or affect District employees or contractors will not be tolerated and will be subject to appropriate disciplinary or corrective action up to and including termination. A credible threat of violence is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his/her safety, or the safety of his/her immediate family, and that serves no legitimate purpose.
- D. Examples of prohibited workplace violence include, but are not limited to the following:
1. Threatening to harm or harming an individual and/or his/her family, friends, associates, and/or their property.
 2. Fighting or challenging another individual to a fight.
 3. Engaging in intimidation through direct or veiled verbal threats, or through physical threats, such as grabbing, and pushing.

4. Directing obscene or abusive gestures or engaging in any other act or behavior towards another person, group or organization that is intended to scare, frighten, coerce or intimidate.
 5. Making abusive, harassing or threatening telephone calls; sending messages, letters, packages or electronic communications of any type that contain or may be perceived to contain abusive, harassing, or threatening language or materials of any sort or kind.
 6. Attempting to coerce an employee to do wrongful acts that would affect the business interests of the District.
 7. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for his/her safety, or the safety of his/her immediate family, as defined in Civil Code section 1708.7.
 8. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.
 9. Possession of firearms (loaded or unloaded), bullets, weapons, or any other dangerous devices on District property. This includes look-alike weapons, such as toy guns. Weapons and dangerous devices may include, but are not limited to the following, when their possession or use is not expressly authorized by a District supervisor or Department Head: blackjacks, slingshots, metal knuckles, explosive substances, dirks, daggers, gas- or spring-operated guns, knives, folding knives having a blade that locks into place, razor blades, clubs, explosives, accelerants, poisons, and acids.
 10. Use of a personal or District-issued tool or other equipment in a threatening manner toward another.
 11. Engaging in any other act or behavior toward any other employee, customer, visitor, or other person, group, or organization that is or may be or perceived to be abusive, intimidating, threatening, dangerous, or harmful.
- E. Items that are brought onto District premises in violation of this Policy are subject to confiscation and destruction.

II PROCEDURE

- A. Any employee or contractor who has been the victim of, or has witnessed behavior believed to have violated this Policy shall promptly report it to the Human Resources Department or to the General Manager. Customers and members of the public who have similar information or suspicion may also assist the District by reporting it to the Human Resources Department or to the General Manager.

1. If there is reason to believe that a violation of this Policy has placed the safety of an employee or anyone else in immediate danger, a supervisor or manager should be notified as quickly as practicable. In the event of a life threatening situation, the reporting party should provide for their own safety first, and then as soon as practicable dial 911 and request police assistance.
- B. Employees who have reason to believe that they or any other person may be the subject of a future violent act in the workplace or as a result of their District employment, should immediately notify their supervisor or manager, or Human Resources.
1. District employees or contractors who obtain protective orders against another person, whether they are an employee or not, which include or describe District premises or property must provide copies of that order to the Director of Human Resources or the General Manager within twenty four (24) hours of receipt of it. The failure to do so regardless of the reason may be considered a violation of this Policy and subject the offending employee to disciplinary action up to and including termination.
 2. As set forth in Policy 19.3, and in accordance with Section 230(f) of the Labor Code, an employee who has been the victim of domestic violence, sexual assault, or stalking may request an accommodation for his/her safety at work.
- C. Following notification of a suspected violation, or future violation, of this Policy, the Director of Human Resources will initiate an investigation. That investigation may include the use of resources or individuals external to the District. Regardless, all employees are required to cooperate with any District initiated investigation. The failure to do so may result in disciplinary action up to and including termination.
1. An investigation may also involve a search of District property including but not limited to, desks, files, computers, PDAs, cell phones, cabinets, lockers, equipment and vehicles. Employees do not have a reasonable expectation of privacy in such District property.
- D. Upon completion of the investigation, the Director of Human Resources and other decision-makers as designated by the District will determine what action, if any, is to be taken.
- E. Violations of this Policy by any individual may be followed by legal action as appropriate, which may include, seeking a temporary restraining order and/or injunction on behalf of District employees if the situation warrants such action. In addition to appropriate legal action, violations of this Policy by employees may lead to appropriate disciplinary action, up to and including termination.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 5 - JOB DESCRIPTIONS

1. The District believes that employees should know the purpose, scope and description of the functions and activities of the position to which they are assigned. Therefore, each job or position must be authorized in the department and District budget, and a job description prepared.
2. The Human Resources Department will generally take steps to ensure that there is a current job description for each position and job within the organization. Department Heads are responsible for providing the Human Resources Department with input on a timely basis to attempt to maintain accurate job descriptions.
3. All approved job descriptions are officially maintained by the Human Resources Department. A current list of job descriptions is available to all employees at s:\Human Resources\Job Descriptions.
4. District personnel must understand that the District operates in a changing and dynamic business environment which may result in changes in job duties not encompassed by the current job description on file in the Human Resources directory. All employees are expected to perform the duties assigned to them by their immediate supervisor or any manager or director above their supervisor.

Adopted by IRWD Board of Directors on: November 12, 2001

IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES
POLICY NO. 6 - HIRING AND PROBATION

I. IN GENERAL

A. Commitment to Compliance with Employment Laws Regarding Hiring

The District is committed to full compliance with state and federal laws affecting the hiring process. It is the District's policy to recruit, screen, employ, retain, promote, train, compensate, evaluate, terminate, and otherwise treat all job applicants on the basis of merit, qualifications, and competence. This policy shall be applied without regard to any individual's sex, sexual orientation, gender, gender identity, gender expression, race, color, religion, national origin, ancestry, pregnancy, age, marital status or registered domestic partner status, military or veteran status, genetic information, medical condition, physical or mental disability, or any other characteristic protected by applicable state or federal law. Further, the District does not discriminate against applicants or employees who are perceived to have such characteristics or who associate with an individual having such characteristics.

B. Position Categories

In an effort to determine eligibility for various benefits, the following position categories have been established:

- 1. Regular Full-Time Employee:** Hired to work on a regular basis for 40 hours/week. Eligible for all benefits.
- 2. Regular Part-Time Employee:** Hired to work on a regular basis for less than 40 hours/week. Eligible for all benefits on a pro-rated basis.
- 3. Temporary Employee:** Hired to work for a limited duration due to special projects, backlogs, or emergencies on either a full-time (40 hours/week) or part-time (less than 40 hours/week) basis. Only eligible for holiday pay, workers' compensation benefits, sick leave, and other benefits as required by law.
 - a. Student Intern:** A temporary employee who is actively enrolled as a student in an institution of higher learning at either the undergraduate or graduate level. Student Interns work less than 20 hours/week.

C. Posting

- 1.** The Human Resources Department of the District is responsible for posting employment opportunities available within the District. Employment opportunities ordinarily will be posted for a minimum of five days via electronic communication methods.

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2. Employees who are interested in posted positions are required to complete an electronic application form via the District’s on-line applicant tracking system prior to the posted closing date for the position.

D. Eligibility for Promotions and Transfers

1. The District encourages employees to apply for promotions to positions for which they are qualified. Promotional opportunities are posted via the District’s on-line applicant tracking system and announced via email and the District’s intranet system.
2. Employees who have been employed by the District for at least six months and are interested in consideration for posted positions are required to complete an electronic application form via the District’s on-line applicant tracking system prior to the posted closing date. Employees who have been employed with the District less than six months may not qualify for a transfer or promotion to another position if the change is not in the best interest of the District, as determined in the sole discretion of the Director of Human Resources.
3. Promotions and transfers shall be based on the ability, qualifications, and potential of the candidates for the positions. Employees are not automatically entitled to a promotion or transfer for which they apply.
4. The District is an Equal Employment Opportunity employer, as addressed in Policy 2.

E. Hire of Temporary Employee into Regular Status

1. A temporary employee who competes successfully for a regular position is not eligible for retroactive District benefits. Additionally, their anniversary date will not be adjusted to give the employee credit for the number of hours worked for the District as a temporary employee.

II. HIRING PROCESS

A. Minimum Qualification Review, Criminal Conviction History, and Salary History Information

1. Applications are reviewed by a Human Resources representative to determine those that meet the minimum qualifications of the job. The applications of all candidates who meet the minimum qualifications for an open position at the District will be forwarded to the appropriate Department by the Human Resources Department via the District’s electronic applicant tracking system. Each department is responsible to provide information to the Human Resources Department regarding, those applicants with whom the department wishes to invite for an interview.
2. The District will not ask any applicant for employment to disclose, through any written form or verbally, at any time, information concerning an arrest or

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detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or posttrial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including but not limited to, Sections 1203.4, 1203.4a, 1203.45, and 1201.1 of the Penal Code.

3. Unless otherwise required by law, the District will not ask an applicant for employment to disclose, orally or in writing, information concerning the conviction history of applicant, until the District has issued a conditional offer of employment. The job announcement for the position in question will advise whether a lawful exception to this Section and/or to Sections D.2.a.ii-iv applies.
4. The District will comply with applicable California law limiting the consideration and use of salary history information for applicants.

B. Hiring and Employment of Relatives, Individuals with a Residential Relationship, or Other Actual or Potential Conflicts of Interest

1. Applicants for employment who are relatives of employees or are individuals with whom employees reside are not eligible for employment with the District in any position or assignment where potential problems of supervision, safety, security or morale exist. Further, the District desires to avoid situations in which other actual or potential conflicts of interest may exist and may deny employment on that basis in accordance with applicable law.
 - a. For purposes of this policy, relatives include an employee's parent (including in-laws and stepparents), spouse, child (including stepchild), brother, and sister (including step siblings, brother-in-law and sister-in-law). Relatives also include an employee's registered domestic partner, and the parents, children, and siblings of a registered domestic partner
 - b. As noted above, these provisions are not limited to relatives and apply to other covered situations involving actual and potential conflicts of interest.
2. If two current employees become subject to the restrictions of this policy, the District reserves the right to determine whether or not an actual or potential conflict of interest or an effect on supervision, safety, security and/or morale exists. In any case where the District determines, in its sole discretion, that a relationship between two employees may create an actual or potential conflict of interest, or may affect supervision, safety, security or morale, the District may take whatever action it determines to be appropriate to avoid the actual or potential conflict of interest.
3. Any questions regarding this conflict of interest policy should be directed to the Director of Human Resources. If an employee becomes involved in any such actual or potential conflict of interest, he or she must notify his/her supervisor immediately.

C. Interview

An interview will be conducted with the selected applicants by a department representative, a representative of the Human Resources Department, and at least one other individual from within the District and/or from an external agency.

The department representative is responsible to work with Human Resources to prepare a list of job-related questions that will be asked during the interview. Each applicant will be asked the same general questions to ensure a fair and accurate evaluation of applicants interviewed.

D. Reference Checks and Verification of Education and Work History

1. Reference Checks

After obtaining any required authorization, the Human Resources Department or the hiring Department will contact any professional references identified by the applicant.

2. Work History Verification

A work history investigation will be conducted by the Human Resources Department or the investigative firm conducting the background check for all applicants being considered for employment. Information concerning the last three positions held or 10 years will generally be obtained. Falsification of work history will generally be grounds for immediate termination or withdrawal of an employment offer.

3. Educational History Verification

Educational history information based on the education requirements of the job will be verified for all candidates being considered for employment by the Human Resources Department or the investigative firm conducting the background checks. Falsification of school history will generally be grounds for immediate termination or withdrawal of the employment offer.

E. Offers of Employment and Related Procedures

Once a selection has been made from the applicants interviewed for an open position at the District, the process continues with the top candidate(s).

1. Conditional Offer of Employment

Offers of employment are made by an authorized representative of the Human Resources Department. Under no circumstances are offers of employment to be made by any other representative of the District without the consent and knowledge of the Director of Human Resources. Human Resources is responsible for approving all offers of employment.

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In some instances, the General Manager's approval may also be required. In the event such offers are made without the required consent or knowledge, they are not binding. After an offer of employment is made, employment is contingent upon successfully completing the following criteria.

a) **Background Screening and Conviction History**

An offer will be conditioned on a requirement that the applicant be undergo a background check (including a Consumer Credit Report and/or Investigative Consumer Report, where applicable) prior to beginning employment. Candidates may also be required to provide their driver's license number so that a Department of Motor Vehicle report can be obtained. The applicant will be notified of any applicable requirements, and will be required to provide background information and authorization to conduct an investigation. These investigations will be conducted for position categories where permitted by, and in accordance with, applicable state and federal laws.

- i) If the background screening discloses a previous criminal conviction, the Human Resources Director will conduct an individualized assessment, taking into account a number of factors in determining whether to disqualify the applicant and rescind the conditional offer of employment. Such factors may include the nature of the position, nature of the conviction, length of time since conviction and completion of any resulting incarceration or probation.
- ii) The Human Resources Director will then make a preliminary determination based on the results of the individualized assessment. If that preliminary determination is to disqualify an applicant based on conviction history, the Human Resources Director will issue a written notice of intent to the applicant, identifying the conviction at issue, including a copy of the conviction history report (if any), and advising of the applicant's right to respond within five business days to challenge the accuracy of the conviction history report and provide evidence of any mitigating circumstances. An applicant who notifies the Human Resources Director of efforts to obtain evidence disputing the conviction history information or report will receive an additional ten business days to respond.
- iii) After considering any information provided by the applicant, the Human Resources Director will make a final decision regarding disqualification. If the final decision is to disqualify the applicant based on conviction history, the Human Resources Director will provide written notice to the applicant of the decision and of the applicant's right to

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file a complaint with the California Department of Fair Employment and Housing.

b) Physical Examination

i) The final candidate(s) for the open position after completion of the background and conviction history screening process will be required to complete a physical examination to assess the candidate's ability to perform the essential functions of the job, with or without reasonable accommodation. The cost for the applicant's physical will be paid by the District. The candidates must successfully complete the physical examination to be considered for employment.

ii) Drug/Alcohol Screening – Safety Sensitive Positions

The District is committed to providing a safe, efficient and productive work place. To achieve this objective, the District desires to prevent drug or alcohol use from adversely affecting the work place. Accordingly, candidates for safety sensitive positions with the District are also required to satisfactorily take and pass a drug and alcohol screening examination prior to beginning employment. The screening will be performed at the District's expense in conjunction with the physical examination.

iii) Medical authorization for work will be kept confidential. Such documentation will be kept in the employee's confidential medical file.

c) Verification of Lawful Work Status Under Immigration Rules

The District is required by the federal immigration laws to verify the identity and legal ability to work of all individuals before they can be hired. In keeping with this obligation, documentation that shows each person's identity and legal authority to work must be inspected. Each employee must also attest to his/her legal authority to work by completing an I-9 Form (available in the Human Resources Department) provided by the federal government. This verification must be completed within three business days after an individual is hired. All offers of employment and continued employment for positions in the United States are contingent on furnishing satisfactory evidence of identity and legal authority to work in the United States.

F. Probationary Period

1. Conditions of Probation

POLICY NO. 6 – HIRING & PROBATION

- a) All new employees will be subject to a probationary period of 12 months. The probationary period is a period of time during which a new employee's work is closely monitored in order to determine if the employee is suited for the position for which he or she was hired. An employee may be released from District service at any time during the probationary period.
- b) Employees who are promoted after the completion of their initial probationary period will serve a 3 month probationary period in the new position.

2. Probationary Performance Evaluations

A Probationary Employee Review will be completed by the employee's direct supervisor and discussed with the employee after completion of 4 months of employment and again after 8 months of employment. A first annual evaluation will be completed at 12 months of employment. A rating of "3" (Meets Requirements) or better on the first annual review will indicate a satisfactory completion of the 12 month probationary review period and attainment of Regular employment status.

3. Extension of Probation

a) Leaves of Absence

The probationary period will be extended when a probationary employee is on a leave of absence of any kind for more than 14 consecutive calendar days during the probationary period. The probationary period will be extended for the length of time the probationary employee is on a leave of absence.

b) Extension for Performance Reasons

Probationary periods may be extended for up to 6 months for performance reasons. The reasons for the extension must be documented on a Probationary Employee Evaluation and approved by the General Manager or their designee and the Director of Human Resources. The total probationary period may not exceed 18 months, excluding periods of leave as described in Section E.3.a) of this policy.

c) Notice of Extension

Probationary employees must be notified in writing if their probationary period will be extended for performance reasons or due to a leave of absence. A probationary employee whose probation has been extended, and who has not since been rejected from probation, will be reviewed at the conclusion of the extended

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probationary period and will be notified whether they have successfully completed the probationary period.

4. Completion of Probation

Successful completion of the probationary period is not a guarantee of continued employment. Employment with the District is on an at-will basis. Both the employee and the District have the right to terminate the employment at any time, with or without cause or notice. This at-will basis may not be modified, abrogated or altered in any way, except: (a) in the case of a represented employee, in a memorandum of understanding, collective bargaining agreement, or other memorialization of agreement between the District and the exclusive representative of the employee; or (b) in the case of an employee without a collective bargaining representative, in a written agreement signed by the General Manager and ratified by the Board of Directors.

5. Change of Position During Probation

If a probationary employee changes positions during the initial probationary period, as provided for in Section I.D. of this policy, the probationary period for the new position shall be the greater of the remainder of the initial probationary period or the three month probationary period applied to all position changes.

F. Orientation Procedures

The District has established an orientation program to help new employees make a satisfactory adjustment to their new work environment. The Human Resources Department will arrange and conduct an orientation for all newly hired employees. The orientation presentation will include information on the District's policies and procedures, employee benefit information and enrollment, as well as general new employee information.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 7 – DISABLED APPLICANTS AND EMPLOYEES

I. IN GENERAL

The federal Americans with Disabilities Act (“ADA”) and the California Fair Employment and Housing Act (“FEHA”) prohibit discrimination against applicants and employees in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment on the bases of physical disability or mental disability.

II. MEDICAL EXAMINATIONS

- A. Depending on the essential functions of a position, a medical examination may be required for:
1. Applicants who have received a conditional offer of employment;
 2. Employees returning to work from a medical leave of absence, where permitted by applicable law or District policy.
 3. Any other employee, when a supervisor observes or receives a reliable report of an employee’s possible lack of fitness for duty. Observations and reports may be based on, but are not limited to, an employee’s dexterity, coordination, alertness, vision acuity, concentration, response to criticism, interactions with the public, co-workers, or supervisors, and an employee’s own report of potential unfitness.
 4. The results of all medical examinations will be kept confidential. Examination results will be kept in the employee’s confidential medical file.

III. REASONABLE ACCOMMODATION

- A. Reasonable accommodation is a modification or an adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to perform essential job functions. Reasonable accommodation also includes adjustments to ensure that a qualified individual with a disability has rights and privileges in employment equal to those of non-disabled employees.
- B. Examples of reasonable accommodation include making existing facilities used by employees readily accessible to and usable by an individual with a disability; restructuring a job; modifying work schedules; temporary leave(s) of absence, acquiring or modifying equipment; providing qualified readers or interpreters; or appropriately modifying examinations, training, or other programs.

Reasonable accommodation also may include reassigning a current employee to a vacant position for which the individual is qualified, if the person becomes disabled and is unable to perform the essential functions of the original job. However, there is no obligation to find a position for an applicant who is not qualified for the position sought.

- C. The District is not required to lower quality or quantity standards in order to make an accommodation, nor is it obligated to provide personal use items such as glasses or hearing aids. The District is also not required to create a new position or promote an employee as a reasonable accommodation.
- D. An applicant or employee who seeks a reasonable accommodation to perform one or more job functions must inform Human Resources, in person or in writing. The request must identify the job function(s) at issue, identify the limitation in question or the nature of the difficulty in performing the job function(s), identify the anticipated duration of the need for accommodation, and identify any suggested accommodations.
- E. An employee for whom a medical provider issues work restrictions or whom a medical provider places off work on a leave of absence must provide prompt written notice to Human Resources.
- F. Following receipt of a request for accommodation or medical notice of work restrictions, Human Resources may require additional information, such as documentation or clarification of work restrictions issued by a health care provider. The District will not require disclosure of medical diagnosis or genetic history.

IV. INTERACTIVE PROCESS

- A. The District will engage in the interactive process in accordance with the ADA/FEHA to determine whether a reasonable accommodation is available to permit a qualified applicant or employee with a disability to perform the essential functions of the position currently held or sought by that individual.
- B. The District will determine whether reasonable accommodation(s) can be made, and the type of accommodation to provide. In selecting the particular type of reasonable accommodation to provide, the principal test is that of effectiveness, i.e., whether the accommodation will enable the person with a disability to perform the essential function(s) of the job in question. The District will not provide an accommodation that would impose an undue hardship upon the District.
- C. The District will provide the employee with written notice of any decisions made regarding requested accommodation(s).

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 8 – COMPENSATION, HOURS OF WORK, AND OVERTIME

I. GENERAL POLICY

- A. The District is committed to maintaining compensation rates that are competitive in the community and our industry. The Schedule of Classifications and Salary Rate Ranges of the District, as adopted from time to time by Resolution of the Board of Directors, sets forth the range of compensation for each position.
- B. It is the intent of the District to comply with all applicable State and Federal wage and hour laws.
- C. The Human Resources Department will interpret policy and assure compliance with this policy.
- D. The Payroll Department performs the mechanics of payroll computation, which includes the calculation of benefits, standby pay, and overtime compensation.

II. WORK SCHEDULE, WORK WEEK, AND ATTENDANCE

A. Office Hours and Work Schedules

- 1. **Headquarters Facility:** Official office hours at the Headquarters facility are 8:00 a.m. to 5:00 p.m., Monday through Friday.
 - a. 9/80 Work Schedules
 - i. Most Headquarters employees are generally assigned to a 9/80 work schedule in which employees work four consecutive 9-hour shifts each week, with one additional 8-hour shift worked every other workweek (the “Flex Day.”)
 - ii. The workweek for employees assigned to a 9/80 schedule is defined as seven consecutive 24 hour periods beginning 4 hours into their Flex Day and ending 3 hours and 59 minutes into their usual scheduled day off. For example, for employees working a 9/80 schedule with a Friday Flex Day, the workweek will begin at noon on their normally scheduled Friday off, and end at 11:59 a.m. the following week on the Friday Flex Day.
 - iii. Department Heads are authorized to assign personnel between 6:30 a.m. and 5:30 p.m. with variable length lunch hours. At a minimum, a skeleton crew must be on duty to cover all office hours.

POLICY NO. 8. – COMPENSATION, HOURS OF WORK, AND OVERTIME

b. 5/40 Work Schedules

- i. Some employees are assigned to a work schedule in which employees work Monday through Friday from 8:00 a.m. to 4:00 p.m.
- ii. The workweek for employees assigned to a 5/40 schedule is defined as seven consecutive 24 hour periods beginning at midnight on Sunday and ending at 11:59 p.m. the following Sunday.

2. Michelson Facility and Los Alisos Reclamation Plant (LAWRP): Because of the unique requirements of the seven-day per week operations of the District's facilities, the workweek and work schedules of Operations staff will be established, and may be revised from time to time, by the General Manager in consultation with the management staff responsible for operations.

a. 4/10 Work Schedules

- i. Employees are generally assigned to a 4/10 work schedule in which employees work four consecutive 10-hour shifts each week.
- ii. The workweek for employees assigned to a 4/10 schedule is defined as seven consecutive 24 hour periods beginning at midnight on Sunday and ending at 11:59 p.m. the following Sunday.

b. 9/80 Work Schedules

- i. Some employees are assigned to a 9/80 work schedule in which employees work four consecutive 9-hour shifts each week, with one additional 8-hour Flex Day worked every other workweek.
- ii. The workweek for employees assigned to a 9/80 schedule is defined as seven consecutive 24 hour periods beginning 4 hours into their Flex Day and ending 3 hours and 59 minutes into their usual scheduled day off.

3. Changes to Work Schedules. Employees may request, or may be required, to work a different daily schedule or workweek, in keeping with their classifications and job responsibilities. Exceptions to the standard daily schedule of work hours are subject to advance, written approval, by the appropriate Department Head, in consultation with Human Resources.

B. Punctuality and Attendance

1. Employees must be in attendance on time at their workstation or location in accordance with District policies, Department policies, or labor agreements regarding hours of work, holidays, and leaves.
2. Employees must make every effort to schedule personal appointments outside their working hours.

POLICY NO. 8. – COMPENSATION, HOURS OF WORK, AND OVERTIME

3. Employee adherence to policies or other standards governing attendance, procedures governing use of leaves of absence, and tardiness will be reviewed and evaluated during the employee's annual performance evaluation.

C. Unauthorized Absence/Job Abandonment

1. When an employee, has been absent without authorization from work for more than three consecutive workdays, and in the opinion of the Department Head the employee has abandoned his/her position, the Department Head must notify Human Resources.
2. Human Resources will notify the employee that the District has determined he/she has abandoned his/her position and that the employee has five working days upon receipt of the notice to contact the District regarding his/her intent to return to work. The notice will also advise the employee that failure to contact the District within the five-day period will be deemed an automatic resignation effective on the sixth day. Such notice will be in writing and sent by certified mail or personal service to the last address listed in the employee's personnel records.
3. Job abandonment may include, but is not limited to:
 - a. An employee's failure to return to his/her employment upon conclusion of any authorized leave of absence without requesting, and submitting medical certification in support of, additional time off work;
 - b. An employee's failure to provide proper notice by telephone or in writing to his/her supervisor regarding absence due to sickness or injury, except as provided in Policy 19, regarding unforeseeable pregnancy disability or family care or medical leave;
 - c. An employee's failure to report for work without first obtaining approval to take a paid or unpaid leave of absence in accordance with these Policies or applicable Memorandum of Understanding;
 - d. An employee's failure to keep Human Resources reasonably apprised of disability status for which the employee is off work or failure to respond to inquiries from the District regarding disability status or intent to return to work, whether or not subject to medical restrictions.
4. If an employee fails to respond within five working days to the notice of abandonment of position, the employee may be considered to have abandoned his/her position of employment with the District. Abandonment of position constitutes an automatic resignation from District service.

III. SALARY AND OTHER COMPENSATION

- A. Salary Administration: The District has adopted a salary administration policy for the compensation of employees, and to specify the conditions for increasing employees' salaries.

POLICY NO. 8. – COMPENSATION, HOURS OF WORK, AND OVERTIME

1. The Human Resources Department is responsible for the maintenance of job classifications, salary ranges, salary surveys, and administration of the salary program.
2. All salary changes must be approved by the General Manager.

B. Salary Ranges

Each position is assigned a salary grade and each salary grade is assigned a minimum and a maximum salary range. An exceptional “Fifth Quartile” range has been created for employees rated as exceptional in connection with their most recent performance evaluation.

C. Hiring Rate

The normal hiring rate will be within the first quartile of the established position's salary range. Offers of employment above the second quartile require prior approval of the Director of Human Resources and the General Manager.

D. Merit Increases

1. Merit increases are granted in proportionate relation to an employee's demonstrated job performance. Supervisors shall establish expectations and communicate these expectations to each of their direct reports. In addition, Supervisors shall confer with each employee concerning performance according to District policy. (See Policy No. 10 - Employee Performance Review).
2. The Supervisor recommending a performance rating for an employee shall provide input to their Executive Director, who will provide the information to Human Resources. Human Resources will use the Merit Increase Table to determine the merit increase amount based on the employee's performance rating and quartile placement. Any recommended performance rating at the 5- or 5 level requires review and approval of the General Manager.

E. Salary upon Promotion

The increase to salary granted at the time of promotion shall be calculated using the Promotional Increase Guidelines established by the General Manager as a guide. The formula will generally be followed except in those instances where a higher increase is required to bring the employee's salary to at least the minimum of the new salary grade or an adjusted increase amount is appropriate to achieve internal equity within a department.

F. Salary upon Transfer

Generally, transfers will not be accompanied by a salary increase unless an employee had been scheduled to receive a merit increase at the time of transfer.

POLICY NO. 8. – COMPENSATION, HOURS OF WORK, AND OVERTIME

G. Salary upon Demotion

An employee who is demoted to a position in a class with a lower salary range will have his/her salary reduced as follows:

1. Following a disciplinary demotion, the employee's salary will be reduced to the same salary step in the range for the lower class.
2. Following a voluntary demotion, the General Manager has discretion whether to Y-rate the employee's salary or reduce the employee's salary to the same salary step in the range for the lower class.

H. Acting Pay

1. From time to time an employee may be requested by his/her Executive Director to act in the capacity of a higher level position for an extended period on a job assignment which is clearly outside the normal job responsibilities of his/her position. In these instances, the General Manager is authorized to approve temporary monthly salary adjustments or "acting pay" to compensate the employee during such assignments. Approval by the General Manager must be received prior to the pay period during which acting pay will be paid. Payment of the temporary acting pay, less withholdings as required by law, will be added to the employee's pay during the normal payroll processing.
 - a. Acting pay is a higher level assignment made necessary by a vacancy, extended leave of absence, or other significant needs of the District Service. Acting pay is not to be granted in the case of normal vacation or other short term leave circumstances. In accordance with CalPERS requirements (Government Code 20480), an acting assignment made to a vacant position in active recruitment will not exceed a total of 960 hours in each fiscal year.
 - b. The General Manager may approve retroactive acting pay in his/her sole discretion.
2. Acting pay of up to 10% above the employee's' base rate of pay will be the standard for compensating employees who take on acting assignments or job duties beyond and/or in addition to their normally assigned job responsibilities.
 - a. An exception may be considered for a higher amount of acting pay in situations where the employee's current rate of pay is more than 10% below the bottom of the range they are acting in or if they are taking on considerable extra assignments, as determined by their Department Director and/or Executive Director. In no case will acting pay exceed the Maximum of the pay range of the acting classification.
 - b. When determining the amount of acting pay to be granted, care should be given to not provide a rate of acting pay that would result in a *pay reduction* per the Promotional Increase Guidelines in the case of a promotion.

IV. HOURS WORKED AND OVERTIME

A. In General

1. Time taken as paid leave, including but not limited to, holidays, vacations, sick leave, and other similar periods when no work is performed will constitute “hours worked” for purposes of weekly overtime calculation.
2. Non-exempt employees will be compensated for travel time, attendance at training or meetings, and other similar time where required under applicable state and federal wage and hour laws.

B. Meal Periods

1. Standard

- a. Non-exempt employees are entitled to unpaid meal periods during which they will be entirely relieved of responsibilities and restrictions. Such time will not constitute hours worked.
- b. Supervisors will schedule meal periods to ensure appropriate coverage. Non-exempt employees who work during their meal periods will be paid for time worked. Working through meal periods without advance approval is grounds for employee discipline, up to and including termination.

2. Overtime Meals

- a. Employees working greater than 2 hours unplanned overtime immediately after their scheduled workday or working 4 hours unplanned overtime are provided a meal allowance. Unplanned overtime is overtime that is required with less than twenty-four hours advance notice. An additional meal allowance is granted at 6-hour intervals after the first allowance.
- b. Working conditions govern the actual time of eating the meal. Supervisors will make every attempt to provide an opportunity for employees working overtime to have time to eat a meal.
- c. Employees qualifying for a meal allowance under this Policy will be reimbursed for their expenses on the following business day upon presentation of an expense receipt accompanied by a completed petty cash receipt with the appropriate signatures.
- d. The amount of the meal allowance is established at the discretion of the General Manager. Reimbursement will be made only for meals actually purchased.

POLICY NO. 8. – COMPENSATION, HOURS OF WORK, AND OVERTIME

C. Rest Periods

1. Non-exempt employees are entitled to two, 10-minute, paid rest periods during each workday. Such time constitutes hours worked.
2. Non-exempt employees are not permitted to combine rest period time with meal period time.
3. Supervisors will schedule rest periods to ensure appropriate coverage.

D. Work Performed Outside Regular Shift or Schedule.

1. Non-exempt employees are not permitted to work outside of their regularly scheduled shifts except as authorized or directed by their supervisor, or in the event of an emergency.
2. Working outside the regularly scheduled shift without advance approval may result in employee discipline, up to and including termination.
3. This requirement applies to, but is not limited to, the following work by non-exempt employees:
 - a. Work performed before the start of the shift;
 - b. Work performed during meal periods;
 - c. Work performed after the end of the shift; and
 - d. Other work performed "off the clock" including work performed at home.
4. All employees must take reasonable measures wherever feasible to avoid the need for work to be performed outside of their regularly scheduled shifts. Where required, time spent on such work must be kept to a minimum.
5. Employees may occasionally be asked to work beyond their normally scheduled hours. When this occurs, supervisors should attempt to provide as much advance notice as possible, however, such advance notice is not always possible. Non-exempt employees who are required or permitted to work overtime will receive overtime pay in accordance with the requirements of the Fair Labor Standards Act, state laws, and the District's compensation policies.
 - a. When practicable, such opportunities will be made available on an equal basis to all full-time employees capable of performing the work.
 - b. All employees who are scheduled to work outside of their regularly scheduled shift are required to work the assigned hours, unless otherwise excused by their supervisor.

POLICY NO. 8. – COMPENSATION, HOURS OF WORK, AND OVERTIME

E. Compensation for Overtime Hours Worked

1. Non-exempt employees will be compensated at an overtime rate for hours worked in excess of 40 hours in their designated workweek, or for hours worked in one day in excess of a non-exempt employee's regular schedule.
2. Overtime will be computed at one and one-half (1-1/2) times the employee's regular rate of pay. Employees shall also be paid one and one-half (1-1/2) times their regular rate for time worked on a District-approved holiday in addition to their normally scheduled hours of holiday pay.
3. Under no circumstances will the District pay overtime to an employee on any day that the employee has used sick or vacation hours, except in the case of an after hours emergency response or callout.
4. The District will reimburse employees for mileage when they are required to drive their personal vehicle to work overtime on any scheduled day off. This overtime can be for an emergency callout or scheduled work.
5. The District does not permit employees the option to accrue or use compensatory time off in lieu of receiving pay overtime pay. Accordingly, employees should not request the opportunity to make up time for time missed if the make-up time will result in overtime work.

F. Standby and Call-Out Pay

1. Because of emergencies and nature of the services provided by the District, it is necessary to utilize "stand-by" or "call-out" personnel from time to time. Department managers are responsible for setting forth authority, regulations and procedures relative to this type of overtime.
2. Minimum paid time for call-out shall be two (2) hours. Standby compensation pay will be 1.86 hours of overtime pay for each day assigned to standby duty, not to exceed 13 hours of overtime pay for one work week
3. Under no circumstance will the District pay standby to an employee on any day in which the employee does not report to work due to his/her own illness or injury or leaves work early due to his/her own injury or illness.

G. Safety Hours

The District will provide paid Safety Hours in addition to overtime pay according to the details outlined in Administrative Work Procedure 6.

POLICY NO. 8. – COMPENSATION, HOURS OF WORK, AND OVERTIME

V. TIMEKEEPING AND TIME RECORDS

A. In General

1. Time records represent legal documents that are used to accurately record working time to compensate employees properly. As such, employees are required to record their work time for each day designate hours toward any leave time taken.
2. In submitting a timecard, employees are representing that the time and hours recorded accurately and fully reflect all the time worked within the pay period.

B. Supervisors' Duty to Monitor

Supervisors are responsible for monitoring employee time including the following:

1. Start time for each workday;
2. Start time for each meal period;
3. End time for each meal period;
4. End time for each workday;
5. Whether a meal period is taken (if no meal period is taken it must be recorded as time worked);
6. All actual time taken as paid leave; and
7. Any additional time during which work is performed, including work performed outside the regular shift.

C. Submission of Time Cards for Supervisor's Review

Employees responsible for completing time cards must ensure that the time cards are submitted to their supervisors on the day designated by the District. Supervisors will review and address potential issues in time cards as established in this Policy. Supervisors must approve each time card, thereby attesting to the completion of such review and confirmation that the time recorded reflects all work performed by the employee of which the supervisor was reasonably aware.

D. Changes or Corrections to Time Cards

Any changes or corrections to an employee's time card or time record must be initiated by the employee and the employee's supervisor.

POLICY NO. 8. – COMPENSATION, HOURS OF WORK, AND OVERTIME

E. Improper Deductions

1. The District prohibits improper deductions from the salaries of exempt employees. The District does not condone deductions that violate applicable state or federal wage and hour laws.
2. An exempt employee who believes that an improper deduction has been made to his/her salary should immediately report this information to Human Resources.
3. The District will promptly investigate reports of improper deductions. If the District determines that an improper deduction has occurred, the employee will be promptly reimbursed for the improperly deducted amount.
4. The District is committed to ensuring that any improper deductions that do occur are corrected immediately upon notice or report.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 9 – SEPARATION FROM EMPLOYMENT

I. IN GENERAL

- A. In the case of employees represented by an association or other exclusive collective bargaining representative, the grounds for discipline and termination, as well as grievance, appeal and dispute resolution rights relating to any such discipline or termination, may be set forth in a memorandum of understanding or other written agreement between the District and the collective bargaining representative. To the extent that such agreement adds to, modifies, or differs in any way from this policy, the agreement will govern.
- B. The relationship between the employee and the employer is for an unspecified term and is considered employment at will. Consequently, the employment relationship with any employee can be terminated at will, either by the employee or the District, with or without cause or advance notice. This at will policy is intended to be the final expression of the District's understanding regarding the terms under which employment may be terminated, and it may not be modified, limited, augmented or changed in any way except in writing signed by the General Manager of the District and the employee, or with respect to represented employees, as detailed in Section I.A., above.
- B. An employee may be placed on a paid administrative leave if necessary while a disciplinary investigation is being conducted. In such cases, the employee will be notified in writing of the reasons for and/or events leading to the District's decision for this action.
- D. Employees who are separating from employment are to return all District-furnished uniforms, tools, and equipment, such as I.D. cards, keys, vehicles, manuals, software, storage devices, credit/fuel cards, as well any other District property in their possession or control. Such items must be turned in to their immediate supervisor on or before the last day worked. Employees are reminded that any work (i.e., reports, correspondence, software, etc.) or work in progress created, modified, or completed while they were employed by the District is the property of the District and should be turned over to the employee's supervisor, along with any associated encryption or password information, upon separation.

II. VOLUNTARY SEPARATION

- A. When an employee leaves employment for any reason other than involuntary separation, a two-week advance notice to the employee's Supervisor is requested. Although such a notice is not required, an employee who is eligible to receive sick leave benefits upon voluntary separation will receive such benefits only if two weeks' notice is received.

POLICY NO. 9 – SEPARATION FROM EMPLOYMENT

- B. The Supervisor will immediately inform the Human Resources Department of a voluntary termination and will forward the employee's written notice. If no written notice is provided, the Supervisor will request that a Voluntary Resignation Form be completed by the employee and will forward the completed Form to Human Resources.
- C. The Human Resources Department may schedule an exit interview with each employee who leaves the District, and/or provide an exit interview survey form for the employee to complete.

III. INVOLUNTARY SEPARATION

- A. The District retains the right to discipline, demote, transfer, and separate employees, or take other employment action, in its sole discretion, with or without cause or notice. Although the District maintains a progressive discipline process for non-probationary employees that may be used to help improve inadequate work performance or to correct problems, the choice in any instance to utilize this progressive discipline process does not change the at-will nature of the employment relationship.
- B. The Human Resources Department must be notified and consulted in advance of all involuntary separations of employment.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 10 - PERFORMANCE REVIEW AND CAREER DEVELOPMENT PLANNING

1. **General Policy**

Performance evaluations and career development planning are an important part of the District's personnel policies. They provide an objective way to gauge each employee's on-the-job effectiveness as well as their career interests and development. The evaluation process should communicate expected standards of performance and inform employees of their standing relative to such standards. It is also used to discuss work standards, areas where improvement is needed, potential career development, and possible opportunities.

In order to perform efficiently and effectively, an employee generally will receive a certain amount of positive feedback from management regarding his/her activities, as well as a certain amount of constructive criticism or counseling. While they may take the form of a verbal pat on the back or calling attention to a minor incorrect procedure, each is very important to continued employee growth. Management is encouraged to be cognizant of the psychology of human behavior and learning, as well as the psychology of leadership and supervision.

2. **Procedure**

Although the evaluation and management of an employee's performance is an ongoing process, employees should understand and appreciate the purpose of the formal reports; they are not the occasion for an automatic pay raise. They are designed primarily to achieve the purposes stated above. The fact that outstanding performance is the best path to additional reward should not be confused with the primary purpose of the report, which is to evaluate and inform.

- A. The Human Resources Department is responsible for notifying Department Heads of due dates for upcoming performance evaluations. Members of the General Manager's staff, with the assistance of their staff members, are responsible for the timely preparation and presentation of their employees' performance reviews and potential career opportunities.
- B. A Probationary Employee Review will ordinarily be completed by the employee's direct supervisor and discussed with the employee after completion of 4 months of employment and again after 8 months of employment. An annual performance evaluation will ordinarily be conducted upon an employee's completion of one year of employment for the first year anniversary. Thereafter, performance evaluations ordinarily will be completed approximately every 6 months. Employees receiving a rating of "3" (Meets Requirements) or better on their first annual review will have satisfied the initial 12 month probationary period requirements and will be taken off probation. Employees receiving less than a "3" rating (a "3-" or lower) on their first annual review will be subject to disciplinary

POLICY NO. 10 - EMPLOYEE PERFORMANCE REVIEW

action including, but not limited to, extension of probation, demotion, suspension or termination. In addition, whenever an employee is promoted or transferred to a different position, there will again be a probationary review after the first 3 months in that position. Due to the requirements of business, the performance evaluations may be advanced or postponed.

- C. Performance reviews and career development discussions can be held and documented at any time, in addition to the regularly scheduled reviews.
- D. The annual written evaluation will indicate the employee's performance with regard to Communication Skills/Style, Work Style/People Skills, Customer Service, Teamwork, and Overall Performance. Managers and Supervisors will also be evaluated in the area of Managing/Leading Others. Performance goals, objectives, and career development plans for the upcoming review period will also be set for each employee during the annual review process. All written evaluations will be reviewed by the Director of Human Resources prior to discussing the evaluation with the employee. A private meeting should occur between supervisor/manager and employee at which time the supervisor/manager orally explains and discusses the written evaluation with the employee. Upon the recommendation of any member of the Management Staff, and with the General Manager's approval, any employee may be considered for a special performance review at any time.
- E. All original written reviews will remain in the employee's personnel folder in the Human Resources Department, however, a copy will be given to the employee during the oral review.

3. Confidentiality

No member of the management staff or other supervisor is permitted to discuss the report, classification change or salary rate change with an employee until it has been approved by the Director of Human Resources or General Manager of the District.

Adopted by IRWD Board of Directors on: January 11, 2010

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 11 - HEALTH, VISION, DENTAL, ACCIDENT AND LIFE INSURANCE

1. General Policy

It is the policy of the District to provide employees with a group health insurance program to enhance their job satisfaction.

2. Eligibility

Full-time regular employees are eligible for all group health insurance benefits. Some part-time regular and temporary employees may be eligible for medical benefits (See Policy No. 7 - Temporary Employees).

3. Benefits Available

Full-time regular employees are eligible for hospital, surgical, medical, and major medical insurance, dental, vision, and life insurance. Additionally, short term and long term disability benefits are provided.

4. Benefit Cost

- A. Hospital, surgical, medical and major medical benefit cost is borne in part by the employee. The employee's contribution towards these benefits shall be established from time to time by the Board of Directors and will be deducted from the employee's paycheck.
- B. Dental insurance coverage is provided by the District at no cost to employees.
- C. Life insurance coverage is provided by the District at minimal cost to employees. Employees will have income imputed based on the appropriate IRS Tax Table or schedule for life insurance amounts in excess of \$50,000 according to current federal and state tax schedules.
- D. Short Term Disability insurance coverage is fully paid for by employees of the District through an employee payroll tax. (see Policy No. 14 - Short Term Disability).
- E. Long Term Disability insurance coverage is provided by the District at no cost to employees. (see Policy No. 13 - Long Term Disability)

5. Additional Benefits Available

Full-time regular employees are also eligible for additional insurance coverage offered by various vendors. This insurance is optional and is completely paid for by employees desiring such coverage through an employee payroll deduction.

POLICY NO. 11 - HEALTH, VISION, DENTAL ACCIDENT AND LIFE INSURANCE

6. Effective Date of Coverage

All District provided benefits, including those specified in this policy, become effective for all eligible employees on the first day of the month following their hire date.

7. Administrative Responsibility

The Human Resources Department will administer all District benefit programs, and will furnish additional information to employees regarding available insurance programs.

Adopted by IRWD Board of Directors on: July 11, 2011

**IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES**

POLICY NO. 12

NOT IN USE

**IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES**

POLICY NO. 13

NOT IN USE

**IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES**

POLICY NO. 14

NOT IN USE

**IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES**

POLICY NO. 15

NOT IN USE

IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES
POLICY NO. 16 - SICK LEAVE

I. GENERAL POLICY

- A. To minimize the economic hardships that may result from an unexpected short-term illness or injury to an employee or legal dependent, and comply with applicable California law, the District provides regular full-time employees, regular part-time employees, and temporary part-time employees with sick leave in accordance with the terms set forth in this Policy.
- B. The District reserves the right to require a satisfactory statement of a licensed physician whenever an employee misses work due to an illness, injury or disability. The employee may be asked to provide a physician's statement that verifies the nature of an illness, injury or disability, its beginning and ending dates, and/or the employee's ability to return to work without endangering his/her own safety or the safety of others. Although a physician's statement normally will not be requested for absences of less than three working days, the District may request such a statement in situations where it determines it is warranted.
- C. All employees are eligible to accrue and use paid sick leave in accordance with the applicable terms of this Policy.

II. ACCRUAL

- A. **Regular Employees:** Each regular employee will accrue sick leave hours at the rate of 96 hours per year; 3.69 hours per pay period, pro-rated based on a 40-hour weekly schedule. This accrual begins with the first day of employment, and is available for use as soon as hours are accrued. An employee will be allowed to accrue an unlimited number of sick leave hours.
- B. **Temporary Employees:** Each temporary employee will accrue sick leave at the rate of 1 hour for every 30 hours worked, to a maximum of 48 hours (or the equivalent of six of the employee's usual work shifts, whichever is greater). This accrual begins with the first day of employment, and is available for use as soon as hours are accrued, following completion of a 30-day eligibility period for new hires. A temporary employee may use up to 24 hours of sick leave (or the equivalent of three of the employee's usual work shifts, whichever is greater) per year of employment, calendar year or 12-month period, as determined by the District. Accrued sick leave up to 48 hours (or the equivalent of six of the employees usual work shifts, whichever is greater) may carry over to the following year of employment, calendar year or 12-months period as determined by the District. In no circumstance may a temporary employees' total accrual of sick leave exceed 48 hours (or the equivalent of six of the employee's usual work shifts, whichever is greater).

C. Sick Leave Accrual during Leaves of Absence

1. **Accrual during Paid Leave:** A regular employee on authorized leave of absence will continue to accrue sick leave hours at the same rate set forth in Section II.A., as long as accrued sick leave and vacation hours have not been exhausted and provided the employee is utilizing some portion of accrued leave benefits. Once accrued sick leave and vacation hours have been exhausted, or if an employee elects not to coordinate benefits while on a leave of absence, the employee will cease to accrue sick leave hours until he/she returns to active employment status.
2. **Accrual during Consecutive Unpaid Leave:** An employee on an authorized leave of absence without pay, including extended military leave of absence, extended sick leave, or FMLA/CFRA/PDL leave, taken on a consecutive basis, will not accrue sick leave during such absences, unless otherwise required by law.
3. **Accrual during an Intermittent or Reduced Schedule Leave:** An employee on an authorized leave of absence taken on an intermittent or reduced schedule basis will accrue sick leave as provided in Section II.C.1.

D. Sick Leave Added Days

1. **Regular Employees:** The General Manager has the authority to loan, in writing, up to five (5) days of paid sick leave to an employee provided that all accrued sick leave and vacation hours have been exhausted. Unearned days of paid sick leave loaned to an employee must be repaid upon return to work. In the event the employee terminates employment prior to the complete repayment of loaned sick leave days, the employee is responsible for direct repayment to the District for the remaining number of hours.
2. **Temporary Employees:** The District will not loan or advance paid sick leave to temporary employees before it has been accrued.

III. USE OF SICK LEAVE

A. Permitted Reasons to Use Sick Leave: Upon oral or written request, employees may use sick leave for any of the following purposes:

1. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's family member.
 - a. For purposes of this Policy, "family member" includes a biological, adopted, or foster child, stepchild, legal ward, a child to whom the employee stands *in loco parentis*, or a child of a registered domestic partner, regardless of the child's age or dependency status; a biological, adoptive, or foster sibling, parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood *in loco parentis* when the Employee was a minor child; a spouse; a State of California registered domestic partner; a grandparent; or a grandchild.

POLICY NO. 16 – SICK LEAVE

- b. The use of unused accumulated sick leave hours is allowed for pregnancy-related illness or disability, just as it is for other illness or disability.
- 2. For employees who are victims of domestic violence, sexual assault, or stalking, taking time off to obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child.
- 3. For employees who are victims of domestic violence, sexual assault, or stalking, taking time off to seek medical attention for injuries caused by the domestic violence, sexual assault, or stalking; to obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking; to obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking; and to participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.
- 4. All employees are permitted to use up to five days of accrued sick leave per year for bereavement, upon the need for additional bereavement time off, as provided in Policy 17 - Bereavement.

B. Holidays during Sick Leave

In the event that any holiday occurs during a period when any employee is on paid sick leave, the holiday will not be charged against the employee's accumulated sick leave.

C. Coordination of Sick Leave with Disability Payments

When an employee becomes eligible for disability benefits from the State of California Employment Development Department's State Disability Insurance (SDI) program, or workers' compensation, the employee may use accumulated sick leave hours to supplement these payments. Accrued sick leave benefits will be used to supplement such disability payments only to the extent necessary to provide total compensation equal to the employee's straight time compensation immediately before the beginning of the illness, disability or injury.

IV. PAYMENT FOR UNUSED SICK LEAVE

A. Upon Separation from Employment

1. Regular Employees

a. Eligibility

- i. Regular employees who have worked for the District for at least 24 consecutive calendar months as a regular employee are eligible to receive payment for accrued and unused sick leave, as follows:

POLICY NO. 16 – SICK LEAVE

(A) An eligible employee who separates from employment voluntarily, through resignation, service retirement or disability retirement, must provide at least two weeks' notice prior to separation.

(I) Employees who provide notice prior to separating from District employment for any reason are not permitted to first exhaust accrued and unused sick leave unless used for a permitted reason in accordance with Section III of this Policy.

(B) Following the lay-off of an eligible District employee, payment will be issued in accordance with this Policy.

(C) Following the death of an eligible employee, payment will be made in accordance with applicable law and District policies and practices.

ii. Employees whose employment has been terminated by the District other than by lay-off are not eligible to be compensated for unused sick leave.

b. Amount: Eligible employees will receive the equivalent of fifty (50) percent of the employee's accrued sick leave to a maximum of 960 hours, times the employee's current hourly straight time pay rate.

2. Temporary Employees:

a. Temporary employees are not eligible to receive compensation at any time for accrued and unused sick leave.

B. Annual Payment for Unused Accrued Sick Leave

1. Eligibility

a. Regular employees may choose to receive payment for unused accrued sick leave, up to a maximum of 96 hours, once per year, in accordance with the terms in this Policy, as long as a minimum balance of 80 hours remains.

b. Temporary employees are not eligible for any payment for unused accrued sick leave.

2. Amount, Form, and Timing of Annual Payment

a. Amount: Payment will be made to the employee in accordance with the following percentage schedule times the employee's current wage rate:

Years of Regular District Service	Amount of Buy-Back
0-10 years (less than 11 years)	Up to 96 hours @ 50%

POLICY NO. 16 – SICK LEAVE

11-15 years (less than 16 years)	Up to 30 hours @ 100%; remainder (up to 66 additional hours) @ 50%
16-20 years (less than 21 years)	Up to 60 hours @ 100%; remainder (up to 36 additional hours) @ 50%
21 years or more	Up to 96 hours @ 100%

- b. Form: Employees may choose to receive either a cash payment or an equivalent contribution to their 457 deferred compensation account.
- c. Timing: Compensation for sick leave buy-back will be made to the employee in November of each year.

V. REINSTATEMENT OF UNUSED ACCRUED SICK LEAVE

If any employee who had a sick leave balance remaining at the time of separation from District employment, which balance was not paid out under the terms of Section IV. A. 1 above, is rehired by the District within one year from the date of separation, then that same balance will be reinstated to the employee. The rehired employee will be entitled to use the reinstated sick leave and to also accrue additional sick leave upon rehiring in accordance with this Policy.

VI. SICK LEAVE DONATION PROGRAM

A. In General

- 1. The Sick Leave Donation Program allows eligible employees who have accrued sick leave hours to voluntarily donate a portion of their accumulated hours to another employee who has exhausted his/her accrued sick and vacation leave due to a non-work-related catastrophic illness or injury of the employee or the catastrophic illness or injury of an employee's dependent parent, spouse or registered domestic partner, or child requiring the presence of the employee.
- 2. Catastrophic illness or injury is defined as a severe illness or injury which totally incapacitates a person for an extended period of time and is severely debilitating or life-threatening. Illnesses such as cancer, heart attack, or stroke would be considered catastrophic illnesses. Pregnancy without serious complications and routine illnesses, surgical procedures, and injuries, even those resulting in an extended leave of absence, do not qualify as catastrophic illness or injury. The Director of Human Resources will be responsible for reviewing the eligibility of an employee to receive donated sick leave and making a recommendation to the General Manager for approval. The approval process may require appropriate medical documentation regarding the illness or injury of the employee or family member.
- 3. The decision to make a donation of sick leave to another employee through the Sick Leave Donation Program is voluntary. No employee is to be coerced or intimidated into making a donation of sick leave or to coerce or intimidate another employee. Donations of sick leave may not involve any form of payment or compensation, financial or otherwise, between the donor and recipient. The

POLICY NO. 16 – SICK LEAVE

District will not solicit sick leave donations on behalf of any qualifying individual.

B. Eligibility

All regular, full-time employees who have completed their initial probationary period and meet other applicable qualifications set forth in this Policy are eligible to participate in the Sick Leave Donation Program as a donor or recipient.

C. Procedures for Utilizing Donated Sick Leave

1. In order to receive donated sick leave through the Sick Leave Donation Program, an employee must meet the following requirements:
 - a. The employee must have been on an approved Leave of Absence for a catastrophic illness or injury as defined above for at least 30 calendar days prior to the use of any donated sick time.
 - b. The employee must have exhausted all of his/her sick and vacation accruals prior to the use of any donated sick time.
 - c. The employee must be utilizing any applicable income replacement programs for which he/she qualifies (i.e. State Disability Insurance, Paid Family Leave, Long-Term Disability).
 - d. The employee must have notified the Human Resources department of his/her desire to receive and utilize donated sick time. In the event that the employee is physically or mentally unable to notify the Human Resources department, notification may be made by a member of the employee's immediate family (i.e., spouse, registered domestic partner, child or parent).
2. An employee utilizing donated sick leave will not earn or be eligible to accrue any sick or vacation leave. Once an employee ceases to receive any portion of his/her pay from the use of his/her own accrued sick and vacation leave, accrual of additional vacation and sick leave hours will cease. Holidays falling during the period following exhaustion of vacation and sick leave benefits will not be paid to an employee even if they are utilizing donated sick leave.
3. If an employee returns to work on a part-time basis, sick and vacation leave will begin accruing on a pro-rated basis and these accrued balances will be utilized for coordination of benefits before the utilization of any donated sick leave.
4. An employee utilizing donated sick leave will be taxed each pay period as with the use of regularly accrued sick and vacation leave.
5. The existence or use of donated sick time is not a guarantee of continued employment past the end of the approved leave of absence as detailed in applicable District policy.

D. Procedures for Donating Sick Leave

1. An employee may complete a “Donation of Sick Leave” form to donate accrued sick leave in one-hour increments for use by another eligible employee who has been determined to qualify for sick leave donations under the requirements listed above.
2. In no case shall a donation of sick leave reduce the donor’s accrued sick leave balance below eighty (80) hours.
3. An employee may donate a maximum of 25% of his/her sick balance or forty (40) hours of accrued sick leave to an eligible employee, whichever is less. No employee will be allowed to donate more than forty (40) hours of sick leave in any twelve month period.
4. The number of sick hours credited to the recipient will be calculated by multiplying the number of hours donated by the calculated hourly rate of the donor then dividing that amount by the calculated hourly rate of the recipient.
5. Donated sick leave hours will be used to pay the recipient on a first in- first out basis. Donated sick leave hours not used by the specified recipient will be returned to the donating employee(s) following the end of the pay period in which the recipient no longer qualifies for the use of donated sick leave.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 17 - BEREAVEMENT

1. General Policy

In the event of a death in the immediate family of a regular full-time employee, or critical illness of an immediate family member where death appears to be imminent, bereavement leave will be granted for three (3) work days per calendar year if traveling within five hundred (500) miles from the District for services, or five (5) work days per calendar year if traveling over five hundred (500) miles from the District.

If additional hours are required, the employee may elect to take these hours without pay or have the hours deducted from his or her accrued sick leave and/or vacation hours. Additional bereavement leave may be granted at the discretion of the Director of Human Resources.

2. Immediate Family Definition

“Immediate Family” is defined as any relation by blood, marriage, or adoption, who is a member of the employee's household, residing under the same roof, and any parent, parent-in-law, spouse (or ex-spouse, if children are involved), child, brother, sister, grandparent, grandparent-in-law, or grandchild of the employee, regardless of residence.

3. Procedure

Employees should notify their supervisors when a death occurs in their immediate family. Time cards should reflect the bereavement code for days of bereavement leave used. Supervisors should also notify the Human Resources Department of the death.

IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES
POLICY NO. 18 - VACATION

I. GENERAL POLICY

- A. The District believes it is important for employees to take vacation leave on an annual basis when practicable, to enable them to take time off away from their job responsibilities in order to relax and refresh themselves physically and mentally.

II. RATES OF ACCRUAL

- A. **Regular Full-Time Employees:** All regular full-time employees will accrue vacation leave according to the following monthly schedule, based upon years of service:

Less than 5 years' service	6.67 hours - (80 hours per year)
5 or more years of service but less than 10 years	10.00 hours - (120 hours per year)
10 or more years of service	13.33 hours - (160 hours per year)

- B. **Managers, Supervisors, Confidential, and Exempt Employees:** Managers, supervisors, confidential and exempt employees will accrue vacation according to the same monthly schedule set forth in Section II.A., until they have completed at least 15 years of service, at which time they will accrue vacation according to the following monthly schedule, based upon years of service:

15 or more years of service but less than 20 years	15.00 hours – (180 hours per year)
20 or more years of service	16.67 hours – (200 hours per year)

- C. **Regular Part-Time Employees:** All regular part-time employees are eligible for pro-rated vacation leave based upon a 40-hour weekly schedule and years of service.

- D. **Temporary Employees:** Temporary employees are not eligible to accrue vacation leave.

E. **Vacation Accrual During Leaves of Absence**

1. **Accrual during Paid Leave:** A regular employee on authorized leave of absence will continue to accrue vacation hours at the same rate set forth in Sections II.A. or II.B. (Full-time) and Section II.C. (Part-time) as long as accrued sick leave and vacation hours have not been exhausted and provided that the employee is utilizing some portion of accrued leave benefits. Once accrued sick leave and vacation hours have been

POLICY NO. 18 – VACATION

exhausted, or if an employee elects not to coordinate benefits while on a leave of absence, the employee will cease to accrue vacation hours until he/she returns to active employment status.

2. **Accrual during Consecutive Unpaid Leave:** An employee on an authorized leave of absence without pay, including extended military leave of absence, extended sick leave, or FMLA/CFRA/PDL leave, taken on a consecutive basis, will not accrue vacation leave during such absences, unless otherwise required by law.
3. **Accrual during an Intermittent or Reduced Schedule Leave:** An employee on an authorized unpaid leave of absence taken on an intermittent or reduced schedule basis will accrue vacation at the same rate as set forth in Section II.A. or II.B. (Full-time) or Section II.C. (Part-time).

III. REQUESTS FOR VACATION LEAVE

- A. Employees are not eligible to take time off for vacation leave during the first six (6) months of employment.
- B. Requests for vacation leave shall be made in advance by the employee to his/her immediate supervisor for appropriate approvals.
- C. Established District holidays occurring during scheduled vacation leave are not counted as vacation days.

IV. MAXIMUM ACCRUAL AND REDUCTION OF VACATION HOUR BALANCES

The maximum number of vacation hours accrued may not exceed the greater of 240 hours or two times an employee's annual accrual.

A. Voluntary Transfer of Vacation Hours

Once a year, generally in February, an employee who has taken at least 40 hours of vacation during the immediately preceding completed calendar year may elect to transfer into the employee's Deferred Compensation Plan account:

1. Any vacation hours accrued in excess of the employee's maximum accrual;
and/or
2. Any accrued vacation hours below the employee's maximum accrual, as long as the employee retains a balance of at least 80 vacation hours following the transfer.

Hours will be transferred at a rate of 100% of the employee's current pay rate at the time of transfer.

B. Voluntary Reduction of Vacation Hours by Managers, Supervisors, and Confidential Employees

1. Generally, in February of each year, employees identified in Section II. B. of this Policy, who have taken at least 40 hours of vacation during the immediately preceding calendar year may choose one or more of the following options, as long as they retain a balance of at least 80 vacation hours following any sell-back or transfer:
 - a. Elect to sell back to the District some or all of the vacation hours that exceed their maximum accrual.
 - b. Elect to sell back to the District some or all of the accrued vacation hours below the maximum accrual.
 - c. Elect to make a voluntary transfer of some or all of the accrued vacation hours under Section IV.A.
2. Employees who choose to sell back vacation hours will be compensated at 100% of the employee's pay rate in effect at the time compensation is provided. All cash payments are subject to state and federal withholdings.

C. Automatic Transfer of Vacation Hours in Excess of Maximum Accrual

1. By the end of January each year, employees who have accrued vacation hours in excess of the maximum, and who have not made a voluntary election under Section IV.A. or B. will be required to transfer all hours in excess of the allowed maximum accrual into their Deferred Compensation Plan account.
2. This transfer will be conducted once a year, generally in February, and hours will be transferred at a rate of 100% of the employee's current wage rate at the time of transfer. Employees are responsible for ensuring that their vacation accrual balance falls below the allowed maximum accrual if they do not wish to have vacation hours automatically transferred to the Deferred Compensation Plan account.
3. If an employee's scheduled vacation is canceled at the District's request, or if extenuating circumstances arise which require an employee to accrue vacation leave in excess of the allowed maximum accrual, written approval may be granted by the General Manager to carry over the excess hours for a specified period of time, without automatic transfer.

V. PAYMENT FOR UNUSED VACATION LEAVE UPON SEPARATION

Upon separation from the District, employees shall be paid for unused accrued vacation hours through the date of separation. These unused accrued vacation hours shall be paid at the employee's current pay rate at the time of separation, regardless of the length of service with the District.

POLICY NO. 18 – VACATION

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 19 – FAMILY AND MEDICAL CARE LEAVES OF ABSENCE (FMLA/CFRA/PDL)

I. GENERAL POLICY

- A. This Policy is intended to provide employees with information about and establish guidelines for the taking of family care and medical leave, in accordance with the federal Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), and the California Pregnancy Disability Leave Law (PDL).
- B. To the extent not already provided for under current leave policies and provisions, the District will provide family and medical care leave for eligible employees as required by State and federal Law. The leaves provided for in this Policy are granted under a variety of state and federal laws. Employees should be aware that leave under one Section of the Policy may also qualify for leave under another Section. For example, military caregiver leave is provided for under the FMLA, but in certain circumstances, might also qualify for CFRA leave. In addition, an employee is entitled to take CFRA leave to care for a registered domestic partner, but FMLA leave does not include registered domestic partners. In such cases, the District will advise affected employees in writing which of their statutorily protected leaves are being used and how much of that leave remains.
- C. Additional definitions and other provisions governing employees' rights and obligations under the FMLA, CFRA, and PDL that are not specifically set forth below are set forth in the Department of Labor's FMLA regulations (29 C.F.R. § 825.00 *et seq.*) and the California Department of Fair Employment and Housing's CFRA regulations (2 C.C.R. § 11087 *et seq.*) and PDL regulations (2 C.C.R. § 11035 *et seq.*) This Policy is deemed to include such regulatory provisions, including subsequent revisions to such regulatory provisions, except where expressly contradicted by the terms of this Policy.

II. FAMILY CARE AND MEDICAL LEAVE (FMLA/CFRA Leave)

- A. **Eligibility:** To be eligible for FMLA/CFRA leave, an employee must have been employed by the District for at least 12 months prior to the date on which the FMLA/CFRA leave is to commence, and have worked at least 1,250 hours over the 12-month period preceding the FMLA/CFRA leave. For employees performing covered military service under the federal Uniformed Service Employment and Reemployment Rights Act, periods of absence due to such service shall be counted for purposes of determining whether the employee meets these eligibility requirements.
- B. **Qualifying Reasons for FMLA/CFRA Leave:** Employees meeting the eligibility requirements under Section II.A. may take FMLA/CFRA leave for any of the following qualifying reasons:
 - 1. Birth of a child of the employee; or placement of a child with an employee in connection with the adoption or foster care of a child by the employee.

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2. Because of any qualifying exigency arising out of the fact that the spouse, child, or parent of the employee is on active military duty in the Armed Forces in support of a contingency operation. A “qualifying exigency” is defined, as a situation or pressing need calling for immediate attention.
3. For a serious health condition of the employee which makes him/her unable to perform his/her job.
4. For a serious health condition of a child of an employee.
5. To care for a parent or spouse who has a serious health condition.

The FMLA also provides for military exigency leave and military caregiver leave, and those types of leaves are addressed under Section IV of this Policy. The PDL also provides for leave for employees with a serious health condition is on account of her pregnancy, childbirth, or related medical conditions, and that leave is addressed under Section III.

C. Definitions

1. **Child:** Leave may be taken under Section B.1., B.2., or B.3. by an employee for a "child" who is:
 - a. A biological child, adopted child, foster child, stepchild, legal ward of the employee, or a child to whom the employee stands *in loco parentis*, and who, at the time leave is to commence is either:
 - i. under 18 years of age; or
 - ii. 18 years of age or older and incapable of caring for himself/herself because of a mental or physical disability.
2. ***In loco parentis:***
 - a. For purposes of this Policy an employee stands *in loco parentis* by providing day-to-day care or financial support with demonstrated intent of assuming the responsibilities typically held by a parent.
 - b. Whether an employee stands *in loco parentis* to a child for purposes of this Policy will be determined by the District on a case-by-case basis, and the District may require reasonable documentation to support an employee's claim of providing either day-to-day care or financial support for the child.
3. **Serious Health Condition:** A serious health condition is an illness, injury, impairment, or physical or mental condition of the employee or a child, parent, spouse, or registered domestic partner of the employee that makes the employee unable to work or unable

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to perform one or more of the essential functions of the employee's position, and which involves either inpatient care or continuing treatment or supervision by a health care provider, as follows:

- a. “Inpatient care” means an overnight stay in a hospital, hospice, or residential medical care facility, or any subsequent treatment in connection with such inpatient care, or any resulting period of incapacity.
 - i. A person is considered to have an “overnight stay” for purposes of this provision if a health care facility formally admits him/her to the facility with the expectation that he/she will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.
- b. “Continuing treatment or supervision by a health care provider” means and includes any one or more of the following:
 - i. In-person treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (*e.g.* physical therapist) under orders of, or on referral by, a health care provider, with the first visit being within seven days of the first day of incapacity; or
 - ii. In-person treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider, with the first visit being within seven days of the first day of incapacity.
 - iii. Any period of incapacity due to pregnancy, or for prenatal care, whether or not in-person treatment is received during that time, or whether the resulting absence lasts fewer than three days.
 - iv. Any period of incapacity, or treatment for such incapacity, due to a chronic serious health condition, whether or not in-person treatment is received during that time, or whether the resulting absence lasts fewer than three days. A chronic serious health condition is one which:

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- A. Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider; and
 - B. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - C. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, *etc.*).
- v. A period of incapacity, which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
- vi. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for either:
- A. Restorative surgery after an accident or other injury; or
 - B. A condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), or kidney disease (dialysis).
4. **“Incapacity”** means that a person is unable to work, attend school, or perform regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.
- D. Amount of Leave Entitlement:** Provided that all applicable conditions of Section II.B. are met, an employee may take a maximum of 12 workweeks of FMLA/CFRA leave in a rolling 12-month period measured backwards from the date the employee uses any FMLA/CFRA leave.
- 1. Employees taking FMLA/CFRA leave for the birth, adoption, or foster care of their child must initiate and complete any FMLA/CFRA leave within one year of the birth of the child or

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placement of the child with the employee for adoption or foster care.

2. Parents who are both employed by the District may be limited to taking a maximum-combined 12 workweeks of FMLA/CFRA leave in a 12-month period for the birth, adoption, or foster care of their child. Both parents or registered domestic partners (CFRA only in some circumstances) may be on leave simultaneously, provided the employees provide a certificate, from a health care provider, stating the need for both employees' participation in the care of the child.
3. An employee's FMLA/CFRA leave does not need to be consecutive, but can be cumulative within a 12-month period.
4. Industrial injury leaves and non-industrial injury leaves are FMLA/CFRA leaves if they are taken for serious health conditions.

E. Concurrent Use of Accrued Paid Leave Leave taken under this Policy is unpaid. Employees may elect or may be required to use their accrued leave balances concurrently with FMLA/CFRA leave, as provided below. When an employee elects or is required to use his/her accrued leave balances, the employee may specify in writing the order in which the employee would prefer to exhaust his/her leave balances. If the employee fails to designate the order of exhaustion, the District will determine the order, subject to the terms of applicable District policy. The paid leave shall run concurrently with the FMLA/CFRA leave, and shall not extend the employee's entitlement to FMLA/CFRA leave beyond 12 workweeks.

1. **Sick leave:** Employees are required to use all accumulated sick leave concurrently when FMLA/CFRA leave is taken for the employee's own serious health condition. Employees may choose to use their accumulated sick leave when FMLA/CFRA leave is taken for any other reason under Section II.B. of this Policy.
2. **Other paid leaves:** Employees are required to use all other accrued paid leaves of absence, including but not limited to, vacation and holiday leave, when taking FMLA/CFRA leave for any reason.

F. Coordination with Wage Replacement Plans

An employee requesting a family care leave of absence for his or her own serious health condition may coordinate any unused accumulated sick and vacation hours with short-term disability, long-term disability, worker's compensation and any other wage-replacement benefits for which the employee may be eligible, up to an amount equal to the employee's regular salary.

POLICY 19 – FAMILY AND MEDICAL CARE LEAVES OF ABSENCE

G. Intermittent or Reduced Schedule Leave: Intermittent FMLA/CFRA leave is leave taken on an as-needed basis in increments of minutes, hours, or days. A reduced schedule FMLA/CFRA leave involves a reduction in the number of hours per day or per week that an employee regularly works, with the employee substituting FMLA/CFRA time substitute for hours not worked. The minimum FMLA/CFRA leave increment that can be taken by an employee is 15 minutes.

1. Calculation of Intermittent or Reduced Schedule Leave: The maximum equivalent number of hours to which an employee is entitled during the 12-week period will be based on the employee's regularly scheduled workweek. For example, an employee who is regularly scheduled to work 40 hours per workweek will be entitled to a maximum of 480 hours of FMLA/CFRA leave, whereas, an employee who is regularly scheduled to work 32 hours per workweek will be entitled to a maximum of 384 hours of FMLA/CFRA leave. In calculating this amount for employees with a varying schedule, the District will use an average of the employee's workweeks within the 12-month period immediately preceding the intermittent or reduced schedule leave.

2. Impact on Salary: Where permitted by applicable state and federal wage and hour laws, the District may make deductions from an employee's salary for all hours of leave taken as intermittent leave, unless the employee is entitled or required to coordinate paid leave.

3. Inclusion of Scheduled Overtime: If an employee normally would be required to work overtime hours, but is unable to do so because of an FMLA/CFRA-qualifying reason that limits the employee's ability to work overtime, the hours that the employee would have been required to work may be counted against the employee's FMLA/CFRA entitlement, as the employee would be considered to be using intermittent or reduced schedule leave. For example, if an employee is normally required to work 50 hours in a particular workweek, but because of an FMLA/CFRA-qualifying reason, the employee works only 40 hours that week, the employee would use 10 hours of FMLA/CFRA-protected leave out of the 50-hour workweek.

4. Conditions for Taking Intermittent or Reduced Schedule Leave

a. FMLA/CFRA leave taken for the employee's own serious health condition, or the serious health condition of the employee's spouse, registered domestic partner, parent, or child, or for military caregiver leave under Section IV.B. of this policy, may be taken intermittently or on a reduced leave schedule when medically necessary (as distinguished from voluntary treatments and procedures).

POLICY 19 – FAMILY AND MEDICAL CARE LEAVES OF ABSENCE

b. Military exigency leave under Section IV.A. of this Policy (FMLA only) may be taken on an intermittent or reduced schedule basis without limitation.

c. Leave taken following the birth, adoption, or placement or foster care of a child may be taken on an intermittent or reduced schedule basis, subject to the conditions set forth in Section II.G.6., below.

5. Temporary Transfer:

a. **Required by the District** The District may require that the employee temporarily transfer to an available alternative position for which the employee is qualified and which provides equivalent pay and benefits and that better accommodates recurring leave periods than the employee's regular position.

b. **Requested by Employee:** An employee on intermittent or reduced schedule FMLA/CFRA leave for foreseeable and planned medical treatments may request a transfer to an open and available position for which the employee is qualified, if the duties of that position would better accommodate the employee's, intermittent or reduced schedule FMLA/CFRA leave. Transfers will not be considered under this Section when the intermittent or reduced schedule FMLA/CFRA leave is unscheduled, such as in the case of chronic conditions.

6. **Leave Taken for Baby Bonding:** The basic minimum duration of a leave taken for the birth, adoption, or foster care of a child shall be two weeks. However, the District will grant a minimum of two requests to take baby-bonding leave in increments shorter than two weeks in the applicable one-year period. The District may, in its discretion grant more than two requests for leave shorter than two weeks in duration. Any modification permitted under this sub-section shall not increase the employee's total leave entitlement beyond the amount provided in Section II.D.

H. **Employee Notice:** Employees requesting leave under the FMLA/CFRA must notify Human Resources in accordance with the rules set forth below. Employees must either use a Request for Leave of Absence Form or otherwise provide sufficient information to make the District aware that the employee needs FMLA/CFRA leave, which qualifying reason applies to the leave (by reference to Section II.B. of this Policy), and the anticipated timing and duration of that leave. Supervisors who receive employee requests for FMLA/CFRA leave (or leave that may be FMLA/CFRA-qualifying) must forward any such requests to Human Resources.

1. **Foreseeable Events:** An employee must provide the District with at least 30 days' advance notice before the date the leave is to begin, or must provide notice as soon as is practicable, normally the same business day or next business day if the employee is off work when he/she learns of

POLICY 19 – FAMILY AND MEDICAL CARE LEAVES OF ABSENCE

the need for leave. If the employee provides less than 30 days' advance notice, the District may require explanation of why 30 days' advance notice was not practicable.

a. In any case in which the need for FMLA/CFRA leave is foreseeable based on one of the circumstances listed below in subsection b., the employee shall make a reasonable effort to schedule any planned medical treatment or supervision so as not to unduly disrupt the operations of the District. However, any such scheduling shall be subject to the approval of the health care provider of the employer or the employee's child, parent, spouse, or registered domestic partner (CFRA only).

b. The need for leave is considered "foreseeable" when it is taken for any of the following reasons:

- i. Planned medical treatment for a serious health condition of the employee.
- ii. Planned medical treatment for a serious health condition of a family member.
- iii. An expected birth, or placement for adoption or foster care.

c. If an employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, the District reserves the right to delay the taking of the leave by up to 30 days after the date the employee provides notice of the need for FMLA/CFRA leave.

2. Unforeseeable Events: If an employee requires FMLA/CFRA leave for an unforeseeable event, the employee is required to provide notice to the District as soon as is practicable.

3. Notice of Intermittent/Reduced Schedule Leave: The notice requirements for foreseeable intermittent or reduced schedule leaves shall be the same as for other foreseeable leaves, and the notice requirements for unforeseeable intermittent or reduced schedule leave shall be the same as for other unforeseeable leaves.

4. Incomplete Notice: If the employee's notice does not contain sufficient information for the District to determine whether the employee's leave could be for an FMLA/CFRA-qualifying purpose, Human Resources may follow up with the employee for additional information and the employee is required to respond to the same. However, the employee shall not be required to provide the District with a diagnosis.

5. Changes to Dates of Leave: The employee must advise Human Resources as soon as practicable when he/she learns that the dates of the FMLA/CFRA leave may change.

POLICY 19 – FAMILY AND MEDICAL CARE LEAVES OF ABSENCE

6. Requests for Extension: Any requests for extensions of an FMLA/CFRA leave must be received at least five working days before the date on which the employee was originally scheduled to return to work, where practicable, and must include the revised anticipated date(s) and duration of the FMLA/CFRA leave. If the employee has exhausted his/her leave entitlement under Section II.D., the District will evaluate on a case-by-case basis whether additional leave may be available as a reasonable accommodation for the employee's own serious health condition; however, any such additional leave shall not be subject to the provisions of this Section II.

I. District Response to a Request for FMLA/CFRA Leave or Request for Extension - Eligibility Notice: Within five working days of an employee's request to take FMLA/CFRA leave, the District shall provide the employee with a written Eligibility Notice. The Eligibility Notice is not a designation of the employee being on FMLA/CFRA Leave. The Eligibility Notice shall include the following information:

1. Whether the employee is eligible to take FMLA/CFRA leave. If the employee is ineligible for FMLA/CFRA leave, the notice will include the reason(s) why the employee is ineligible.

2. Whether the employee has exhausted his/her 12-week FMLA/CFRA entitlement.

3. Whether additional information, such as a medical certification, is required from the employee in order to process the employee's request for FMLA/CFRA leave or request for extension.

4. The employee's rights and responsibilities under the FMLA/CFRA, which will include a statement of whether the employee is required to provide a medical certification or recertification. A statement requiring a medical certification will also advise the employee of the anticipated consequences of his/her failure to provide adequate notice.

5. If the employee has requested an extension of leave for his/her own serious health condition but has exhausted his/her leave entitlement under Section II.D., the District will advise whether additional leave will be granted as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section II.

J. Medical Certification and Recertification: Any request for FMLA/CFRA leave for an employee's own serious health care condition or for FMLA/CFRA leave to care for a family member with a serious health condition must be supported by medical certification from the treating health care provider. Employees are encouraged to use the District's medical certification form to ensure that all pertinent information is obtained. Any request for an extension of FMLA/CFRA leave also must be supported by a medical certification from the treating health care provider. Again, employees are encouraged to use the District's medical certification to ensure that all pertinent information is obtained.

POLICY 19 – FAMILY AND MEDICAL CARE LEAVES OF ABSENCE

1. Timing of Request for Medical Certification: The District will request medical certification:

- a. Within five business days after an employee requests foreseeable leave;
- b. Within five business days after an employee provides notice of an unforeseeable leave, or within five business days after an unforeseeable leave commences, whichever is later;
- c. At a later date if the District has a reason to question the appropriateness or duration of an employee's leave (FMLA only).

2. Timing for Employee's Return of the Medical Certification: All medical certifications and recertifications must be returned to the District within 15 days from the District request, regardless of whether the leave is foreseeable or unforeseeable. Exceptions to this may be granted by Human Resources when it is not practicable to provide the certification or recertification within 15 days, despite the employee's diligent, good faith efforts to do so.

3. Certification for Serious Health Condition of Spouse, Registered Domestic Partner, Parent, or Child: The employee must have the patient's treating health care physician complete a medical certification form when requesting family leave to care for a family member with a serious health condition. Employees are encouraged to use the District's medical certification form to ensure that all pertinent information is obtained.

- a. **Medical Recertification:** If the employee requests additional leave beyond the time period which the health care provider originally estimated that the employee needed to take care of the employee's child, parent, spouse, or registered domestic partner, the District may request a recertification from the employee.

4. Certification for the Employee's Own Serious Health Condition:

- a. **First Opinion:** The employee must have his/her health care physician complete a medical certification form when requesting FMLA/CFRA leave for his/her own serious health condition. Employees are encouraged to use the District's medical certification form to ensure that all pertinent information is obtained.

- b. **Second and Third Opinions:** If the District has reason to doubt the validity of the certification provided by the employee, the District may require the employee to obtain a second opinion from

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a doctor of the District's choosing at the District's expense. If the employee's health care provider and the doctor providing the second opinion do not agree, the District may require a third opinion, also at the District's expense, performed by a mutually agreeable doctor who will make a final determination that shall be binding on both the District and the employee.

c. Medical Recertification: The District may request recertification of a medical condition upon the expiration of the time period, which the health care provider originally estimated, if additional FMLA/CFRA leave is requested.

5. Certification for an Employee's Return to Work:

a. Returning from a Continuous Leave: As a condition of restoration to his/her former position, an employee taking continuous leave under the FMLA/CFRA is required to provide the District with certification from his/her health care provider stating that he/she is able to resume his/her essential work functions. An employee who fails to provide the certification may have his/her reinstatement delayed.

b. Returning from an Intermittent or Reduced Schedule Leave: In addition to the requirement in Section 5.a., above, if the employee is on intermittent or reduced schedule leave, the District may require a fitness for duty certification at fixed intervals not exceeding every 30 days if there are reasonable safety concerns. "Reasonable safety concerns" means a reasonable belief of significant risk of harm to the employee or others.

c. Contents of Certification: The District will provide the employee with a form and a copy of the employee's job description for his/her health care provider to review in completing the return to work certification, and employees are encouraged to use the District's form to ensure that all pertinent information is obtained. The employee must provide a complete and sufficient fitness for duty certification. If the employee's health care provider releases the employee back to work with restrictions, the District will engage in the interactive process to determine what reasonable accommodation, if any, will permit the employee to return to work in accordance with the ADA and the FEHA.

6. Employee's Failure to Provide a Medical Certification or Recertification: If the employee fails to timely provide a complete and sufficient medical certification when requested, the request for FMLA/CFRA leave may be denied, delayed until a sufficient certification is provided. Employees will be advised of these consequences in connection with any request by the District for medical certification or recertification.

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K. District’s Designation of Leave: Absent extenuating circumstances, within five working days after the District has acquired enough information to determine whether the employee’s request qualifies for FMLA/CFRA leave, the District will provide the employee with a written Designation Notice.

1. Designating Leave as FMLA/CFRA-Qualifying: If the leave is designated as being FMLA/CFRA-qualifying, the Designation Notice will contain, but is not limited to, the following information:

- a. A statement that the leave is being designated as FMLA and/or CFRA leave;
- b. The amount of leave being counted as FMLA and/or CFRA leave, if known;
- c. Whether accrued paid leave will be used during the leave, and that any paid leave used will count as FMLA/CFRA leave;
- d. Whether a medical certification will be required to release the employee to return to work; and
- e. Whether a job description or description of essential duties is attached to the Designation Notice for the health care provider to use in completing the medical certification to release the employee to return to work.

2. Unable to Designate: If the District is unable to determine whether the leave requested is FMLA/CFRA-qualifying because more information is needed, the employee will be informed that

- a. the medical certification is incomplete or insufficient, and the District will provide a list of deficiencies and explain the employee’s opportunity to cure said deficiencies; or
- b. a second or third medical opinion is being required.

3. Not Designating Leave as FMLA/CFRA-Qualifying: If the District has determined that the employee’s leave does not qualify as FMLA/CFRA leave, the District will notify the employee in writing that his/her leave is not being designated as FMLA/CFRA leave, and the reason for the denial.

L. Employment Benefits and Protection:

1. Previously Accrued Benefits:

- a. Leave under the FMLA/CFRA will not result in the loss of any employment benefits accrued before the date the leave commenced.

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b. Leave under the CFRA will not constitute a break in service or otherwise cause the employee to lose longevity, even if other paid or unpaid leave constitutes a break in service for purposes of establishing longevity, or for layoff, recall, promotion, job assignment, or longevity-related benefits.

2. No Accrual of Leave during Unpaid FMLA/CFRA Leave:

a. An employee on unpaid FMLA/CFRA leave shall not accrue any additional paid leave time. Thus, employees will not accrue vacation leave, sick leave, or other paid leave, nor will they be paid for holidays during the unpaid leave.

b. However, during the time that an employee supplements his/her unpaid FMLA/CFRA leave with paid leave, the employee will continue to accrue leaves and benefits in accordance with the provisions of the District's policy governing those leaves of absence (i.e., when coordinating with sick leave, the rules governing sick leave will apply with regard to the employee's benefits).

3. Maintenance of Health Insurance of the Employee: Employees will continue to receive the same medical benefits while on FMLA/CFRA leave for up to 12 workweeks in a 12-month period. The District shall be responsible for the continued payment of the District's share of the cost of the employee's health benefits during that 12-workweek period. Benefits for absences beyond the allotted period will be handled in the same manner as benefits for employees on any other type of unpaid leave of absence.

4. Maintenance of Benefits Requiring Employee Contributions:

a. During any period of unpaid leave, unless otherwise prohibited by applicable law, an employee may elect to discontinue monthly payments into the flexible benefits account, and any other benefits offered or sponsored by the District to which the employee is required to make monthly contributions, other than group medical benefits. Employees must notify the District in writing of such an election.

i. Employees returning from unpaid leave who have discontinued payments into their flexible benefits account have a right to elect to reinstate coverage at the same level of participation as before their leave.

ii. Employees that experience an event that qualifies as a Qualified Status Change under IRS regulations are allowed to change the amount of their monthly payments into either the miscellaneous medical or dependent care flexible spending accounts. If this option is chosen, employees have thirty (30) days

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from the date of the qualified status change or from the date, they return from FMLA leave to change their payments. (See Policy No. 41-Flexible Advantage Program for more specific information on the Flexible Benefits Program)..

- iii. Expenses that are incurred during the time that employees are not making monthly payments are not eligible for reimbursement.

b. An employee will continue to be responsible for making the payment of his/her share of premiums for group medical benefits and any other contributions for which the District has not received advanced notice of election to discontinue. If any premium amounts are increased or decreased for other employees similarly situated, the employee will be required to pay the new premium rates.

c. All monthly contributions are due and payable to the District at the same time as they would be if made through payroll deduction.

d. The District and employees who are CalPERS members will continue to make contributions in accordance with the terms of the plan during any period of FMLA/CFRA leave in which the employee uses paid leave time. The District will not make plan payments for employees during any leave period which is unpaid, and the unpaid leave period will not be counted for purposes of service credit under the plan.

e. If the District provides a new health plan or benefits or changes health plans or benefits while an employee is on CFRA leave, the District will give written notice to the employee to advise that he/she is subject to the new or changed plan/benefits in the same manner, and to the same extent, as if the employee were not on leave.

5. Failure to Return from Leave: The District may recover the entire premium it paid for maintaining health insurance benefits for an employee during any period of unpaid leave if the employee fails to return to work promptly upon the expiration of a leave for a reason other than the continuation, recurrence or onset of a serious health condition that entitles the employee to leave or other circumstances beyond his/her control.

M. Reinstatement:

1. Restoration to Position: When an employee returns from a leave under the FMLA/CFRA, he/she will be restored to the position held when the leave began, or to a comparable position, with equivalent (i.e. virtually identical) employment benefits, pay, and other conditions of employment.

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a. The duties of the position must be capable of being performed in the same or similar geographic location, and involve the same or substantially similar duties as the position held when leave began, with responsibilities that entail equivalent skill, effort, responsibility, and authority.

2. Denial of Restoration Rights: The District may refuse to reinstate an employee to his/her pre-leave position at the conclusion of an FMLA/CFRA leave when either of the following conditions exists:

a. Key Employee: The employee is a salaried eligible employee who is among the highest paid ten percent of the District's employees; and the following steps take place:

- i. The District notifies the employee at the time the employee gives notice of the need for leave, or when leave commences, if earlier, that he/she is a key employee, and also notifies the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the District should determine that reinstatement will result in substantial and grievous economic injury to its operations; and
- ii. As soon as the District makes a good faith determination that substantial and grievous economic injury will result if the District reinstates that key employee at the end of the requested FMLA/CFRA leave period, the District notifies the employee that it intends to deny reinstatement at the end of the requested leave period.
 - A. The notice from the District will include an explanation for the basis for the District's determination and provide the key employee with a reasonable time in which to return to work, taking into account the circumstances, such as the requested duration of the leave and the urgency of the need for the employee to return.
- iii. The key employee has already begun the FMLA/CFRA leave at the time of receiving the notice, and he/she does not return to work within the specified timeframe after receiving such notice from the District.
 - A. The key employee will remain entitled to the maintenance of health benefits under Section III.L.3. for the duration of the originally requested leave, but the District will not be

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entitled to recover its contributions to premiums under Section III.L.5.

B. The key employee’s rights will then continue under the CFRA unless and until the employee either gives notice that he/she will not seek to return to work or the employee requests to return to work at the conclusion of the leave and receives notice that the District has denied that request.

iv. If the key employee requests to return to work upon completion of the originally requested leave, the District again determines that substantial and grievous economic injury will result if the District reinstates the employee, based on the facts at hand, and the District provides written notice of the denial.

b. Position No Longer Exists: The employee’s position and any comparable position have ceased to exist because of legitimate business reasons unrelated to the employee’s FMLA/CFRA leave. In this case, the District shall reasonably accommodate the employee through alternative means that will not cause undue hardship to the District’s operation. The District may offer an employee any other position that is available and suitable. The District is not required to create new employment that would not otherwise be created, discharge or transfer another employee, or promote another employee who is not qualified to perform the job.

3. Opportunity to Fulfill Missed Requirements: If an employee is unable to attend a necessary course, renew a license, or is otherwise adversely affected in terms of fulfilling minimum requirements or qualifications for the position as a result of the FMLA/CFRA leave the employee will be given a reasonable opportunity to fulfill those requirements or qualifications upon returning to work from FMLA/CFRA leave.

III. PREGNANCY DISABILITY LEAVE OR TRANSFER.

A. Eligibility and Duration:

1. Eligibility

a. Any employee who is disabled on account of pregnancy, childbirth, or related medical conditions may take a pregnancy-related disability leave, regardless of the number of hours worked or her length of employment with the District. However, unless an employee has met the eligibility requirements under Section II.A. of this Policy, she shall not be subject to the additional terms and

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conditions that apply to an employee who is eligible for FMLA leave.

- b. An employee's pregnancy-related disability is not considered a serious health condition under the CFRA and is not counted against an employee's CFRA leave eligibility.

2. **Amount of Leave Entitlement:** An eligible employee may take a pregnancy-related disability leave for the period of disability, up to four months (an equivalent of 17 1/3 weeks). The pregnancy disability leave shall run concurrently with any family care or medical leave to which the employee may be entitled under the FMLA. An employee is entitled to take off the number of days or hours that the employee would normally work during 17 1/3 weeks of employment. For example, an employee, who regularly works 40 hours per week, is entitled to take 693 hours of leave, and an employee who regularly works 20 hours per week, would be entitled to 346.5 hours of leave.
3. **Temporary Transfer:** Any employee affected by conditions related to pregnancy, childbirth, or related medical conditions is entitled to transfer temporarily to a less strenuous or hazardous position or to less strenuous or hazardous duties upon the certification of the employee's health care provider that the transfer is medically advisable, if the transfer can be reasonably accommodated.
4. **Reasonable Accommodation:** The District will provide reasonable accommodation to an employee who is affected by pregnancy, childbirth or related medical conditions as required by law.

- B. Use of Accrued Leave:** An employee taking pregnancy-related disability leave must coordinate any available sick leave with her pregnancy-related disability leave. An employee taking pregnancy-related disability leave may, at her option, coordinate any other accumulated paid leaves, including, but not limited to, vacation time, holiday pay, or other paid leaves for which she is eligible, with her pregnancy-related disability leave. The paid leave shall run concurrently with the pregnancy-related disability leave, and shall not extend the employee's entitlement to pregnancy-related disability leave beyond the amount specified in Section III.A.2 of this Policy.

1. Coordination with Wage Replacement Plans:

- a. This provision only applies when the employee's pregnancy-related disability leave is also designated as a serious health condition under the FMLA.
- b. Pursuant to the provisions of the FMLA, if an employee is receiving a wage replacement payment from State Disability Insurance, Short-Term Disability, and/or Long-Term Disability, the employee and the District may mutually agree to coordinate the

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employee’s accrued paid leaves with the amount received from the wage replacement plan, up to an amount equal to the employee’s regular salary.

- c. If the employee is still receiving SDI benefits when her twelve workweeks of leave under the FMLA expire, the District will require that she begin coordinating any additional accrued sick leave with the wage replacement benefits. The employee may also elect to coordinate all other accrued paid leaves with the wage replacement benefits.

C. Notice: An employee should notify her supervisor of her need for pregnancy-related disability leave or transfer as soon as she is aware of the need for such leave.

- 1. **Foreseeable Events:** Where the need for pregnancy-related disability leave or transfer is foreseeable, the employee must provide at least 30 days’ advance notice to the District of the need for pregnancy-related disability leave or transfer. If the leave or transfer is required in connection with any planned, non-emergency medical treatment or supervision, the employee shall consult with the District and make a reasonable effort to schedule any such planned medical treatment or supervision to minimize disruption to the District’s operations, subject to the approval of the health care provider of the employee.
- 2. **Unforeseeable Events:** For non-emergency events that are not foreseeable 30 days in advance, or when 30 days’ advance notice is not practicable, the employee must notify the District as soon as practicable under the circumstances, ordinarily within two working days after the employee learns of the need for leave.
- 3. **Notice of Intermittent Leave:** In the event that an employee requires intermittent pregnancy-related disability leave, she shall notify the District of the anticipated dates for the absences as much in advance as possible.
- 4. **Failure to Provide Notice:** If the employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, the District reserves the right to delay the employee’s right to take the FMLA/CFRA leave for up to 30 days after the date the employee provides notice of the need for pregnancy-related disability leave or transfer.

D. Contents of Notice or Request for Extension:

- 1. Employees must either use a Request for Leave of Absence Form or otherwise submit a request to Human Resources for pregnancy-related disability leave or transfer that includes the anticipated timing and duration of the leave or transfer and be sufficient to make the District aware that the employee requires a pregnancy-related disability leave or transfer. Any

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requests for extensions of a pregnancy-related disability leave or transfer must be received at least five working days before the date on which the employee was originally scheduled to return to work, where practicable, and must include the revised anticipated date(s) and duration of the pregnancy-related disability leave or transfer.

2. If the employee has exhausted her leave entitlement under Section III.A.2., the District will evaluate on a case-by-case basis whether additional leave may be available as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section III.

E. Intermittent or Reduced Schedule Leave: Pregnancy-related disability leave can be taken on an intermittent or on a reduced schedule basis when medically advisable, as determined by the employee's health care provider. The minimum pregnancy-related disability leave increment that can be taken by an employee is fifteen minutes. If pregnancy-related disability is taken on an intermittent or reduced schedule basis and it is foreseeable based on planned medical treatment because of pregnancy, the District retains the discretion to temporarily transfer the employee to an alternative position, for which the employee is qualified, with equivalent pay and benefits, which better accommodates the employee's leave schedule, but need not have equivalent duties.

F. District Response to a Request for Pregnancy-Related Disability Leave or Transfer or Request for Extension: Within five working days of an employee's request for pregnancy-related disability leave or transfer, the District shall provide the employee with a written Eligibility Notice, which shall conform to the provisions of Section II.I. The Eligibility Notice shall also inform the employee of her additional rights under the California Pregnancy Disability Leave Law. If the employee has exhausted her leave entitlement under Section II.A.2., the District will advise whether additional leave will be granted as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section III.

G. Medical Certification:

1. **Timing of Certification:** Any request for pregnancy-related disability leave or transfer must be supported by a medical certification from a health care provider.
 - a. For foreseeable pregnancy-related disability leaves or transfers, employees must provide the required medical certification before the leave/transfer begins. When this is not possible, employees must provide the required certification within 15 days, unless it is not practicable under the circumstances to do so. Failure to provide the required medical certification may result in the denial or delay of foreseeable pregnancy-related disability leaves or transfers until such certification is provided.

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- b. In the case of unforeseeable leaves, failure to provide the required medical certification within 15 days of being requested to do so may result in a denial of the employee’s continued leave until certification is eventually provided. Any request for an extension of the leave/transfer must also be supported by an updated certification.

- 2. **Contents of the Certification for Pregnancy-Related Leave:** Employees are encouraged to use the District’s medical certification when requesting pregnancy-related disability leave to ensure that all pertinent information is obtained. The following information must be included: (1) date the employee became or will become disabled due to pregnancy; (2) the probable duration of the period or periods of disability; and (3) an explanatory statement that, due to the disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, to the successful completion of her pregnancy, or to other persons.

- 3. **Contents of the Certification for Pregnancy-Related Transfers:** Employees are encouraged to use the District’s medical certification when requesting pregnancy-related disability transfer to ensure that all pertinent information is obtained. The medical certification for pregnancy-related transfer shall include: (1) date the employee became or will become disabled due to pregnancy; (2) the probable duration of the period or periods of disability; and (3) an explanatory statement that, due to the disability, the transfer is medically advisable.

- 4. **No Second/Third Opinions Allowed:** There will not be a second or third opinion regarding pregnancy-related disability leave or transfer.

- 5. **Return to Work Certification:** As a condition of restoration to her former position, an employee taking leave under the FMLA/PDL is required to provide the District with certification from her health care provider stating that she is able to resume her original job duties.

- H. **District’s Designation of Leave:** Once an employee requests pregnancy-related disability leave or transfer, Human Resources shall notify the employee in writing whether the requested leave or transfer is approved and qualifies as pregnancy-related disability leave or transfer. This designation shall comply with the provisions of Section II.K., and shall inform the employee of any additional rights and obligations under the California Pregnancy Disability Leave Law.

- I. **Employment and Benefits Protection:** The provisions set forth in Section II.L. of this Policy regarding employment and benefits protection in connection with FMLA/CFRA leave also, apply to all pregnancy-related disability leaves.

- J. **Reinstatement:** Upon the completion of the employee’s pregnancy-related disability leave or transfer period, and upon submission of the return to work notice, the employee shall be returned to the same position she previously held, or

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to a comparable position as permitted by law. However, for pregnancy-related disabilities, there is no reinstatement exception for key employees.

IV. MILITARY FMLA LEAVE.

The FMLA provides for two types of military family leave: military exigency leave and military caregiver leave. Terms and conditions for military family leave are addressed in Section IV.B. of this Policy.

A. Military Exigency Leave: The District permits employees who have a covered military family member in the Armed Forces (including the National Guard or Reserves) to take up to twelve workweeks of FMLA leave due to a qualifying exigency resulting from the covered military family member's active military duty (or call to active duty status) in support of a contingency operation. *Leave granted under this Section shall count against the FMLA leave granted under Section II.*

1. **Definitions:**

- a. **Armed Forces:** The Army, Navy, Air Force, Marine Corps, or Coast Guard, including the National Guard and Reserves.
- b. **Covered Active Duty or Call to Active Duty Status:** One of the following:
 - i. For a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; or
 - ii. For a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a federal call or order to active duty in support of a contingency operation under a provision of law referred to in section 101(a)(13) (B) of Title 10, United States Code.
- c. **Covered Military Family Member:** An employee's spouse, registered domestic partner, son, daughter, or parent who is a member of the Armed Forces and is on Covered Active Duty or Call to Active Duty Status.
 - i. For purposes of this definition only, "son" or "daughter" means the employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood *in loco parentis*, within the meaning of Section II.C.1. of this Policy, regardless of age.
- d. **Covered Military Family Member's Child:** The biological, adopted, or foster child, stepchild, legal ward, or child for whom

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the Military Family Member stands *in loco parentis*, within the meaning of Section III.C.2. of this Policy, who is either under the age of 18 or who is aged 18 or older but incapable of self-care because of a physical or mental disability at the time leave under this Section IV.A. is to commence.

- e. **Covered Military Family Member's Parent:** The biological, adoptive, step, or foster father or mother, or an individual who stood *in loco parentis*, within the meaning of Section II.C.2. of this Policy, to a Covered Military Family Member who was under 18 years of age.
2. **Qualifying Reasons for Military Exigency Leave:** Military exigency leave can be taken for the following non-medical, non-routine activities only:
- a. **Short-Notice Deployment Activities:** If a Covered Military Family Member receives seven or less calendar days' notice prior to the date of deployment, an employee may take FMLA leave to address any issue arising from an impending call or order to active duty in support of a contingency operation. The employee may take FMLA leave for up to seven days beginning on the date the Covered Military Family Member receives the notice of impending call or order to active duty.
 - b. **Military Events and Related Activities:** An employee may take FMLA leave to attend any official ceremony, program, or event sponsored by the military that is related to the active duty or call to active duty status of the Covered Military Family Member. An employee may also take FMLA leave to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or American Red Cross that are related to the active duty or call to active duty status of a Covered Military Family Member.
 - c. **Childcare and School Activities:** An employee may take FMLA leave for the following reasons, if the reason is necessitated by the Covered Military Family Member's active duty or call to active duty status, or circumstances arising from it:
 - i. To make alternative childcare arrangements of a Covered Military Family Member's Child;
 - ii. To provide childcare for a Covered Military Family Member's Child on an urgent, immediate need basis, but not on a regular, routine, or everyday basis;
 - iii. To enroll in or transfer a Covered Military Family Member's Child in a new school or day care facility; and/or

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- iv. To attend meetings with staff at a school or day care facility, such as regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, for a Covered Military Family Member's Child.
- d. **Financial and Legal Arrangements:** An employee may take FMLA leave in order to make or update financial or legal arrangements to address the Covered Military Family Member's absence while on active duty or call to active duty status; and/or to act as the Covered Military Family Member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the Covered Military Family Member is on active duty or call to active duty status (up to a period of 90 days following the termination of the Covered Military Family Member's active duty status).
- e. **Counseling Activities:** An employee may take FMLA leave to attend counseling, provided that:
 - i. The need for counseling arises from the Covered Military Family Member's active duty or call to active duty;
 - ii. Such counseling is provided by someone other than a health care provider; and
 - iii. The counseling is for the employee, the Covered Military Family Member, and/or the Covered Military Family Member's Child. (Note that if medical counseling is needed due to a serious health condition, the employee may be able to take FMLA/CFRA leave under Section II instead.)
- f. **Rest and Recuperation Activities:** If a military member is granted short-term, temporary, rest and recuperation leave during the period of deployment, an employee may take FMLA leave to spend time with the military member. An employee may take FMLA leave for this purpose for up to fifteen working days for each instance of rest and recuperation, beginning on the date the Covered Military Family Member commences each instance of rest and recuperation leave.
- g. **Post-Deployment Activities:** An employee may take FMLA leave to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following termination of the Covered Military Family Member's active duty status. An employee may also take FMLA leave to address issues that arise from the death of a Covered Military Family Member while on active duty status,

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such as meeting and recovering the body of the Covered Military Family Member.

- h. **Parental Care:** An employee may take FMLA leave for care of a Covered Military Family Member's Parent who is incapable of self-care.
 - i. "Incapable of self-care" means that the individual requires active assistance to provide daily self-care in three or more of the following activities: caring appropriately for one's grooming and hygiene; bathing; dressing; eating; cooking; cleaning; shopping; taking public transportation; paying bills; maintaining a residence; using telephones and directories; using a post office; or other activities or instrumental activities of daily living.
 - ii. An employee may take parental care leave for the following purposes when the need arises from the covered active duty or call to active duty of the Covered Military Family Member:
 - A. To arrange for alternative care of the Covered Military Family Member's Parent from the existing care arrangement;
 - B. To provide care for the Covered Military Family Member's Parent on an urgent, immediate need basis (as opposed to a routine, regular, or everyday basis);
 - C. To admit to or transfer to a care facility the Covered Military Family Member's Parent; or
 - D. To attend meetings with staff at a care facility, such as meetings with hospice or social service workers, that are not regular or routine.
- i. **Additional Activities:** An employee may take FMLA leave for another form of exigency, provided that:
 - i. The reason for the leave arises out of the Covered Military Family Member's active duty or call to active duty;
 - ii. The District and the employee mutually agree that such leave shall be considered taken for a qualifying exigency; and
 - iii. The District and employee mutually agree on the timing and duration of the leave.

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3. Employee Notice of Need for Military Exigency Leave.

- a. **Timing of Notice:** Employees are required to give notice of the need for military exigency leave as soon as practicable under the circumstances.
- b. **Content of Notice:** Employees are required to use a Request for Leave of Absence Form or otherwise provide the District with sufficient information, depending on the situation, to notify the District as to the anticipated timing and duration of the leave, that a Covered Military Family Member is on active duty or call to active duty status, and that one of the qualifying exigencies in Section IV.A.2. is present.
- c. **Updates from Employee:** The employee is required to advise the District as soon as is practicable when the dates of leave or other circumstances change.

4. District Response to Notice of Need for Military Exigency Leave: The District will request any additional, necessary information needed to process the employee's request and will also follow the procedures set forth under Section II of this Policy in responding to an employee's notice that he/she has a need for military exigency leave.

5. Certification of Need for Military Exigency Leave: The District will request certification of the employee's need for military exigency leave when it provides notice under Section II., and will provide the employee with a form to complete or an explanation of the information needed. Employees requesting military exigency leave for the first time for a particular active duty or call to active duty are also required to provide the District with a copy of the military member's active duty orders.

a. Required Information for Certification:

- i. A signed statement or description by the employee of the facts supporting the request for leave for one or more of the reasons set forth in Section IV.A.2 and any available supporting written documentation, including, but not limited to, meeting announcements, appointment confirmations, or a copy of a bill for services.
- ii. The approximate date on which the reason for the leave commenced, or will commence.
- iii. The applicable timeframe.
 - A. If for a single, continuous period, the beginning and end dates for the employee's absence from work;

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- B. If on an intermittent or reduced schedule basis, the estimated frequency and duration of the employee's absences.
 - iv. For leave involving a meeting with a third party, appropriate contact information for the individual or entity, such as name, title, organization, address, telephone number, fax number, and email address, as well as a brief description of the purpose of the meeting.
 - v. For leave involving rest and recuperation activities, a copy of the Covered Military Family Member's Rest and Recuperation orders, or other documentation issued by the military indicating that the Covered Military Family Member has been granted Rest and Recuperation leave and identifying the dates of that Rest and Recuperation leave.
- b. **Timing of District's Notice of Required Certification:** The District will request the certification in accordance with the timeframes set forth in Section II.J. of this Policy.
 - c. **Insufficient or Incomplete Certification:** Employees are required to provide a complete and sufficient certification. If an employee provides an incomplete or insufficient certification, the District will give the employee written notice of the deficiencies and seven calendar days to cure the deficiencies, unless seven days is not practicable, despite the employee's diligent, good faith efforts. The employee's leave may be denied if he/she fails to provide timely a required certification.
 - d. **Verification of Certification:** The District may verify the employee's certification by contacting the appropriate Department of Defense unit to verify the military member is on active duty or call to active duty status. If the exigency involves meeting with a third party, the District may contact the entity or individual with whom the employee is meeting to verify the meeting or appointment schedule and the nature of the meeting. The District will not request additional information. No permission from the employee is required for such verification.

POLICY 19 – FAMILY AND MEDICAL CARE LEAVES OF ABSENCE

B. Military Caregiver Leave: An employee who is the spouse, registered domestic partner, son, daughter, parent, or next of kin of a Covered Servicemember in the Regular Armed Forces, National Guard, or Reserves who has incurred a serious injury or illness in the line of duty while on active duty may take up to 26 workweeks in a single 12-month period per covered servicemember and per injury/illness of the servicemember. *Leave granted under this Section shall run concurrently with the FMLA and CFRA leave granted under Section II (unless the employee is caring for his/her “next of kin” who is not covered by the CFRA). Leave granted under this Section shall be included in computing the employee’s 12 weeks of leave granted under the FMLA, so that an employee may not, under any circumstances, exceed 26 total weeks of FMLA leave in a rolling 12-month period.*

1. Definitions:

- a. **Armed Forces:** The Army, Navy, Air Force, Marine Corps, or Coast Guard, including the National Guard and Reserves
- b. **Authorized Health Care Provider:** For purposes of completing, the certification required under Section IV.3.b., any one of the following:
 - i. United States Department of Defense ("DOD") health care provider;
 - ii. A United States Department of Veterans Affairs ("VA") health care provider;
 - iii. A DOD TRICARE network authorized private health care provider;
 - iv. A DOD non-network TRICARE authorized private health care provider; or
 - v. Any health care provider permitted to provide medical certification under Section II of this Policy.
- c. **Covered Servicemember:**
 - i. A current member of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a Serious Injury or Illness; or
 - ii. A veteran who is undergoing medical treatment, recuperation, or therapy, for a Serious Injury or Illness and who was a member of the Armed Forces, at any time during the period of five years preceding the date on which the employee commences FMLA leave to care for the veteran.

POLICY 19 – FAMILY AND MEDICAL CARE LEAVES OF ABSENCE

If the veteran was discharged or released under conditions other than dishonorable, the period from October 28, 2009 through February 8, 2013 shall not be counted in determining whether the veteran's last day of service falls within the five-year period.

- d. **Next of Kin:** The nearest blood relative of a Covered Servicemember (other than his/her spouse, registered domestic partner, parent, son, or daughter), in the following priority order:
- i. A blood relative designated in writing by the servicemember as his/her nearest blood relative for purposes of military caregiver leave under the FMLA, who, if so designated, shall be the only next of kin for purposes of this Policy;
 - ii. Blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions;
 - iii. Brothers or sisters;
 - iv. Grandparents;
 - v. Aunts or uncles; and
 - vi. First cousins.

If no blood relative has been designated under Section IV.B.1.d.i., all blood relatives at the next applicable level of priority shall be considered "next of kin" who may take FMLA leave to provide care for the Covered Servicemember, either simultaneously or not.

- e. **Outpatient Status:** The status of a Covered Servicemember who is assigned to a military medical treatment facility as an outpatient, or a unit established for the purpose of providing command and control of members of the military receiving medical care as outpatients.
- f. **Parent of a Covered Servicemember:** A Covered Servicemember's biological, adoptive, step or foster father or mother, or an individual who stood *in loco parentis* to a Covered Servicemember, within the meaning of Section II.C.2. of this Policy.
- g. **Son or Daughter of a Covered Servicemember:** A Covered Servicemember's biological, adopted, or foster child, step child, legal ward, or child for whom the Covered Servicemember stood *in loco parentis*, within the meaning of Section II.C.1. of this Policy, except that this definition shall apply regardless of the child's age.

POLICY 19 – FAMILY AND MEDICAL CARE LEAVES OF ABSENCE

h. Serious Injury or Illness:

- i. For a current member of the Armed Forces an injury or illness incurred by a Covered Servicemember in the line of duty on active duty (or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty or active duty), and that may render the servicemember medically unfit to perform the duties of his/her office, grade, rank, or rating.
- ii. For a veteran who is a Covered Servicemember:
 - A. an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty) and that manifested itself before or after the member became a veteran; and
 - B. is one of the following:
 1. a continuation of a Serious Injury or Illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered him/her unable to perform the duties of his/her office, grade, rank, or rating; or
 2. a physical or mental condition for which the veteran has received a U.S. Department of Veteran Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the VASRD rating is based, in whole or in part, on the condition precipitating the need for the military caregiver leave; or
 3. a physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
 4. an injury, including a psychological injury, on the basis of which the veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

POLICY 19 – FAMILY AND MEDICAL CARE LEAVES OF ABSENCE

- i. Veteran:** A person who served in the Armed Forces, and who was discharged or released therefrom under conditions other than dishonorable.
- 2. Terms of Military Caregiver Leave.** Except for the differences set forth in this Section IV.B., the District shall grant military caregiver leave under the same terms that FMLA/CFRA leave is granted under Section II to care for a parent, spouse, registered domestic partner, or child with a serious health condition.
- 3. Required Certifications:** The District will provide the employee with a form to complete that certify the service member’s family relationship, military status, and Serious Injury or Illness. The employee is required to ensure that this form, or an equivalent form containing the information set forth in this Section, is completely and sufficiently completed and returned within the same time periods set forth in Section II.J. of this Policy. If the employee fails to provide a complete and sufficient form, the District will inform him/her of the deficiencies, and grant the employee at least seven calendar days to cure them.

- a. Certification of Family Relationship and Military Status:**

The District will require proof of the servicemember’s family relationship to the employee and proof of the servicemember’s military status for the employee’s first request of military caregiver leave for a particular illness or injury for a particular servicemember.

- b. Certification of Serious Illness or Injury:** The District will require certification from an Authorized Health Care Provider that the servicemember is suffering from a Serious Illness or Injury. However, the employee will not be required to reveal the servicemember’s diagnosis.

- i.** The Authorized Health Care Provider may base the certification upon his/her personal determination and/or may certify his/her reliance upon determination(s) made by an authorized DOD representative or an authorized VA representative. The certification must also include:

- A.** The name, address, appropriate contact information (telephone number, fax number, and/or email address) of the health care provider, the type of medical practice, the medical specialty, and the basis on which he/she is an authorized health care provider, as set forth in Section IV.B.1.b, above;

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- B. The approximate date on which the injury or illness commenced, or was aggravated, and its probable duration; and
- C. Information sufficient to establish that the Covered Servicemember is in need of care and addressing the following matters:
 - 1. Whether the need for care is for a single continuous period, and if so, an estimate of the beginning and ending dates, including any time needed for treatment and recovery;
 - 2. Whether there is a medical necessity for periodic care, based on a schedule of planned medical treatment, and if so an estimate of the treatment schedule;
 - 3. Whether there is a medical necessity for periodic care for reasons other than planned medical treatment, such as episodic flare-ups, and if so, an estimate of the frequency and duration of the periodic care.

4. **Alternative Certifications:**

- a. **Special Automatic Certification:** The DOD may issue a special invitation to a member(s) of a servicemember's family when a DOD health care provider has determined that the injury or illness is serious enough to warrant the immediate presence of a family member at the servicemember's bedside. If the DOD issues an invitational travel order ("ITO") or invitational travel authorization ("ITA") for "medical purposes" to any member(s) of the servicemember's family (even if the employee's name is not on it), the ITO or ITA constitutes automatic certification of military status and Serious Injury or Illness for the period of time specified in the ITO or ITA for the employee to take leave on either a continuous or intermittent basis, and the District will not require further certification of those matters for the specified period of time. However, in this circumstance, the District may still require proof of the covered family relationship between the employee and the servicemember. The ITO or ITA is in effect for the duration specified on it. If the employee wishes to request leave to care for a Covered Service Member beyond the period of time specified in an ITO or ITA, he/she must submit additional certification in

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accordance with Section IV.B.3.b., above.

- b. **Documentation of Enrollment in Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers:** As another alternative to the certification required under Section IV.B.3.b., the District will accept as sufficient certification documentation of the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers, whether or not the employee is the named caregiver in the enrollment documentation. However, the District may still require proof of the covered family relationship between the employee and the servicemember. The District may also require proof of the servicemember's date of discharge and proof that the servicemember's discharge was other than dishonorable.
5. **Authentication and Clarification:** The District may seek authentication and clarification of a certification issued under Section IV.B.3.d., or of an ITO or ITA, or of documentation of enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
6. **Second and Third Opinions:** No second or third opinions of the servicemember's Serious Illness or Injury will be sought from an Authorized Health Care Provider who meets the criterion set forth in V.B.1(a)(i)-(iv); however, the District may request a second or third opinion by an Authorized Health Provider who meets the criterion in V.B.1(a)(v). No second or third opinions will be sought regarding an ITO or ITA for the period of time specified in the ITO or ITA.
7. **Recertification:** No recertifications of the servicemember's Serious Illness or Injury will be sought.
8. **Administrative Delays in Issuance of Military Documents:** When an employee is unable to submit required documentation within the timeframe required under Section II.J, despite his/her diligent, good faith efforts to obtain such documents, the District will not delay or deny leave on the grounds of such administrative delay.

V. EMPLOYEE RESPONSIBILITIES AND DUTY TO COOPERATE

Employees are expected to fully cooperate with the District in meeting the obligations and requirements set forth under this Policy, as well as those set forth in state and federal law. An employee's cooperation includes, but is not limited to, timely completion of all requested forms and responding to all inquiries for additional information. Cooperation also requires that an employee respond to the District's inquiries for information to determine whether the employee is requesting leave under the FMLA, CFRA, and/or PDL. Employees are also required to consult with the District and make a reasonable effort to schedule foreseeable treatments so as to not unduly disrupt the District's operations. Employees on family care or medical leave must respond to the District's reasonable inquiries and keep the District updated as to the status of the employee's family care or medical leave.

Failure to cooperate with the District or failure to meet the employee's responsibilities may result in a delay in granting the employee's leave, a denial of leave, and/or a denial of the protections and benefits afforded by the FMLA, CFRA, and/or PDL. Employees who have questions about their responsibilities under this Policy should direct their inquiries to Human Resources.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 19.1 – WORKER’S COMPENSATION AND TERMS FOR INDUSTRIAL DISABILITY LEAVE

I. GENERAL POLICY

- A. This policy sets forth terms and conditions that apply to the District’s administration of worker’s compensation and to all medical leaves for industrial injury or illness (“industrial disability.”)
- B. As set forth in Section II.D.4. of Policy 19, leaves of absence taken for industrial disabilities that are also “serious health conditions” as defined in Section II.C.3. of Policy 19, also qualify for designation as a leave of absence for up to 12 workweeks under that policy for employees who meet the eligibility criteria set forth in Section II.A. of Policy 19.
- C. The District will engage in an interactive process to identify and consider potential reasonable accommodation for employees who have an industrial disability, including but not limited to, available temporary modified duty, as well as the availability of an industrial disability leave. See Policy 7, Disabled Applicants and Employees.

II. WORKER’S COMPENSATION

- A. **In General:** The District provides each employee with workers' compensation insurance coverage as required by law to protect employees who are injured or become ill on the job. This insurance provides medical, surgical and hospital treatment in addition to payment for loss of earnings that result from work-related injuries. All classes of employees, with the exception of contract labor who are required by law to carry their own coverage, are eligible for workers' compensation insurance with the District.
- B. **Procedure** When an employee is injured or becomes ill while working, he/she is required to report the injury or illness to his/her supervisor immediately, regardless of how minor the injury or illness may be. The supervisor is responsible for notifying the Safety Department and the Human Resources Department as soon as possible after becoming aware of the injury.
- C. **Benefits**
 - 1. Workers' Compensation benefits are provided to employees who are injured on the job or suffer illness caused by the job.
 - 2. If an employee is directed by a worker’s compensation carrier approved physician to be absent from work as the result of injury or illness arising from District employment, the employee will be placed on workers' compensation leave of absence in accordance with Section III of this

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Policy. The employee will be required to provide the District with the doctor's written instructions regarding absence from work and return to work due to a work related injury.

3. While on workers' compensation leave of absence, the employee shall be compensated by the District for time absent from scheduled work for up to the first three days of absence. If the leave of absence extends beyond three calendar days, the employee becomes eligible for workers' compensation benefits from the District’s worker’s compensation carrier.
4. Compensation payments begin from the first day of an employee's hospitalization or after the third day following the injury if an employee is not hospitalized. The cost of this coverage is paid completely by the District.
5. If medical treatment following the employee's return from leave of absence is recommended by a worker’s compensation carrier approved physician, the District shall compensate the employee for time absent from scheduled work hours to receive such treatment.
6. Should the employee's workers' compensation leave of absence extend beyond ninety (90) days, the employee will be eligible for long term disability on the ninety first (91st) day of his/her absence (see Policy No. 13 - Long Term Disability).

III. MEDICAL LEAVES OF ABSENCE FOR INDUSTRIAL DISABILITIES

- A. Eligibility:** The District will grant a leave of absence to any employee who is unable to work due to an industrial disability.
- B. Amount of Leave Entitlement:** The period of leave shall continue, until the District determines that one of the following events has occurred:
 1. The employee is released to return to work by his/her doctor without restrictions.
 2. The employee is released to return to work by his/her doctor with restrictions for which the District determines that reasonable accommodation is available.
 3. The District receives satisfactory medical evidence that the employee is unable to return to work, with or without restrictions. Such medical evidence may include:
 - a. A doctor’s determination that an employee’s condition is permanent and stationary and the District’s determination that no reasonable accommodation is available; or
 - b. Where a doctor has not determined that an employee’s condition is permanent and stationary, evidence that the employee has been

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disabled for an uncertain and extended period of time based on which, the District determines that no reasonable accommodation is available.

4. The employee resigns or retires from District employment or informs the District that he/she does not intend to return to work.
5. The employee fails to cooperate in good faith in an interactive process with the District to identify potential reasonable accommodation or engages in other conduct signifying to the District that he/she does not intend to return to work.

C. Coordination of Paid Leaves with Worker’s Compensation Benefits

1. During leave time that is also designated as FMLA/CFRA time for their own serious health condition, employees may coordinate any unused accumulated sick and vacation hours with any worker’s compensation insurance, long-term disability, and any other wage-replacement benefits for which the employee may be eligible, up to an amount equal to the employee’s regular salary.
2. During leave time that is not also designated as FMLA/CFRA time for their own serious health condition, employees must coordinate unused accumulated sick hours with workers' compensation insurance, long-term disability, and any other benefits provided to the employee, in an effort to minimize the financial impact of the leave of absence for both the employee and the District. Once unused accumulated sick hours are exhausted, any unused accrued vacation hours shall also be coordinated with any workers' compensation insurance, long-term disability or other wage replacement benefits for which the employee may be eligible.

D. Notice Procedure

1. It is the employee's responsibility to notify his/her supervisor immediately regarding any work-related injury or illness.
2. The supervisor will immediately notify Human Resources, and refer the injured employee to the District's contracted occupational medical provider, or the employee’s designated treatment provider, if one is on file. The Supervisor will prepare a Supervisor's Report of Accident.
3. Human Resources will send to the injured employee an Employee's Claim for Workers' Compensation Benefits for his/her completion. The District will file a claim with the workers' compensation carrier, who will handle processing and payment of claims.
4. The employee must provide a copy of a completed Irvine Ranch Water District Physician’s Notice Form to Human Resources following his/her initial visit and must continue to do so following subsequent appointments. A sample form for employee’s use is included as an appendix to this Policy.

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E. Certification for an Employee’s Return to Work

1. Before returning to work following a leave of absence for a work-related disability, an employee must submit a completed IRWD Physician’s Notice Form, documenting the employee's ability to return to work, with or without restrictions, and the date that he/she is able to return.
2. The District will provide the employee with a Irvine Ranch Water District Physician’s Notice Form and a copy of the employee’s job description for his/her health care provider to review in completing the return to work certification. The employee must provide a complete and sufficient certification. If the employee’s health care provider releases the employee back to work with restrictions, the District will engage in the interactive process to determine what reasonable accommodation, if any, will permit the employee to return to work.

F. Employment Benefits and Protection

1. Previously Accrued Benefits:
 - a. Use of industrial disability leave will not result in the loss of any employment benefits accrued before the date the leave commenced.
 - b. Time on industrial disability leave will not constitute a break in service or otherwise cause the employee to lose longevity status.
2. No Accrual of Leave during Unpaid Industrial Disability Leave
 - a. An employee on unpaid industrial disability leave shall not accrue any additional paid leave time. Thus, employees will not accrue vacation leave, sick leave, or other paid leave, nor will they be paid for holidays during the unpaid leave.
 - b. However, during the time that an employee supplements his/her unpaid industrial disability leave with paid leave, the employee will continue to accrue leaves and benefits in accordance with the provisions of the District’s policy governing those leaves of absence (i.e., when using sick leave, the rules governing sick leave will apply with regard to the employee’s benefits).
 - c. Holidays falling during the period following exhaustion of paid leave benefits will not be paid to the employee on unpaid industrial disability leave of absence.
3. Maintenance of Health Insurance of the Employee
 - a. Group medical, dental and vision and life insurance coverage will remain in force, and the employee will continue to pay his/her normal monthly contribution to premiums for the employee,

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spouse and/or family, until one of the following occurs, whichever is **later**:

- i. The employee has exhausted FMLA/ CFRA leave taken under Policy 19 for the same serious health condition; or
 - ii. The employee has been off work on approved leave for more than four months (or 120 days, whichever is less) under Policy 19, or this Policy, or both combined **and** has exhausted all accrued, available paid leaves.
- b. The employee is then responsible for the full cost of group medical, dental, vision, and life insurance coverage for the employee, spouse and/or family. These payments must be made as directed by Human Resources on a timely basis each month.

4. Maintenance of Benefits Requiring Employee Contributions

- a. During any period of unpaid leave, unless otherwise prohibited by applicable law, an employee may elect to discontinue monthly payments into the flexible benefits account, and any other benefits offered or sponsored by the District to which the employee is required to make monthly contributions, other than group medical benefits. Employees must notify the District in writing of such an election.
- i. Employees returning from unpaid leave who have discontinued payments into their flexible benefits account have a right to elect to reinstate coverage at the same level of participation as before their leave.
 - ii. Employees that experience an event that qualifies as a Qualified Status Change under IRS regulations are allowed to change the amount of their monthly payments into either the miscellaneous medical or dependent care flexible spending accounts. If this option is chosen, employees have thirty (30) days from the date of the qualified status change or from the date, they return from industrial disability leave to change their payments. (See Policy No. 41-Flexible Advantage Program for more specific information on the Flexible Benefits Program).
 - iii. Expenses that are incurred during the time that employees are not making monthly payments are not eligible for reimbursement.
- b. An employee will continue to be responsible for making the payment of his/her share of premiums for group medical benefits and any other contributions for which the District has not received

POLICY 19.1 – WORKER’S COMPENSATION AND TERMS FOR INDUSTRIAL DISABILITY LEAVE

advanced notice of election to discontinue. If any premium amounts are increased or decreased for other employees similarly situated, the employee will be required to pay the new premium rates.

- c. All monthly contributions are due and payable to the District at the same time as they would be if made through payroll deduction.
- d. The District and employees who are CalPERS members will continue to make contributions in accordance with the terms of the plan during any period of industrial disability leave in which the employee uses paid leave time. However, the District will not make plan payments for employees during any leave period which is unpaid, and the unpaid leave period will not be counted for purposes of service credit under the plan.
- e. If the District provides a new health plan or benefits or changes health plans or benefits while an employee is on industrial disability leave that is also CFRA leave, the District will give written notice to the employee to advise that he/she is subject to the new or changed plan/benefits in the same manner, and to the same extent, as if the employee were not on leave.

IV. EMPLOYEE RESPONSIBILITIES AND DUTY TO COOPERATE

Employees are expected to fully cooperate with the District in meeting the obligations and requirements set forth under this Policy, as well as those set forth in state and federal law. An employee’s cooperation includes, but is not limited to, timely completion of all requested forms and responding to all inquiries for additional information. Cooperation also requires that an employee respond to the District’s inquiries for information to determine whether the employee may be entitled to leave under FMLA/CFRA in addition to this policy. Employees on leave must respond to the District’s reasonable inquiries and keep the District updated as to the status of the employee’s continued need for leave.

Failure to cooperate with the District or failure to meet the employee’s responsibilities may result in a delay in granting the employee’s leave, a denial of leave, and/or a denial of the protections and benefits afforded by this Policy. Employees who have questions about their responsibilities under this Policy should direct their inquiries to Human Resources.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 19.2 – PERSONAL LEAVES OF ABSENCE

I. GENERAL POLICY

This Policy is intended to provide employees with information about and establish guidelines for the taking of personal leaves of absence, whether for medical or non-medical reasons. It is the policy of the District to carefully review all requests for personal leave to ensure each is in the best interest of the District.

II. PERSONAL LEAVES OF ABSENCE

A. Eligibility:

1. **Medical:** Requests for a personal leave of absence due to medical reasons may be submitted by any employee who is temporarily disabled or otherwise unable to work due to serious injury or illness, or is needed to provide care for a child, registered domestic partner, or spouse (“Family Member.”)
2. **Non-medical:** Requests for a non-medical leave of absence may be submitted by regular part-time and regular full-time employees who have been continuously employed by the District for at least one year.

B. Qualifying Reasons for Personal Leave of Absence: Employees meeting the eligibility requirements under Section II.A. may take a personal leave of absence for one of the following reasons:

1. **Medical:** A personal leave due to medical reasons may be granted as a reasonable accommodation under state and federal disability law to:
 - a. An employee who is medically unable to work but does not meet, or does not yet meet, the requirements for a Family Care and Medical Leave of Absence under Policy 19;
 - b. An employee who is needed to provide care for a Family Member but does not meet, or does not yet meet, the requirements for a Family Care and Medical Leave of Absence under Policy 19.
 - c. An employee who has exhausted the maximum leave that he or she is eligible to take as a Family Care and Medical Leave of Absence but is unable to return to work for the same qualifying, medical reason or is still needed to provide care for a Family Member.

2. Non-medical: A personal leave may be granted for other, non-medical reasons on a discretionary basis. A personal leave will be considered non-medical if taken for a reason that would not otherwise entitle the employee to take sick leave under District Policy 16 or applicable MOU provision.

C. Amount of Personal Leave That May Be Requested

1. Medical: An eligible employee may request a leave of absence for a period of up to four months or 120 days, whichever is less.
2. Non-medical: An eligible employee may request a non-medical personal leave of absence for a reasonable period of time of up to 30 days.

D. Concurrent Use of Accrued Paid Leave

1. Medical: Employees taking a personal leave of absence for medical reasons are required to use any accrued sick, vacation, and Personal holiday time during the leave. Any time taken off in excess of accrued paid leave time will be unpaid time off.
2. Non-medical: Employees taking a personal leave of absence for non-medical reasons are required to use any accrued vacation time and other accrued paid leave time, other than sick time, during the leave. Any time taken off in excess of accrued paid leaves will be unpaid time off.

E. Coordination with Wage Replacement Plans

Employees taking a personal leave of absence will coordinate unused accrued sick hours with short-term disability, long-term disability, and any other wage-replacement benefits for which the employee may be eligible, in an effort to minimize the financial impact of a leave of absence for both the employee and the District.

F. Procedure for Requesting Personal Leave

1. Eligible employees must submit a written personal leave of absence request to their immediate supervisor and Human Resources as soon as they become aware of the need for leave. The request must state the reason for the personal leave, by reference to Section II.B.1. or II.B.2 of this Policy, identify the anticipated dates the leave will begin and end, and include any supporting documentation. Employees must also notify Human Resources and their immediate supervisor if there is any change in the anticipated start or end dates once a request has been made.

2. District response

- a. Medical leaves: Requests for medical personal leaves of absence will be considered in accordance with the principles governing other forms of requested reasonable accommodation.
- b. Non-Medical leaves: Requests for non-medical personal leaves of absence will be considered on the basis of the employee's length of service, performance, responsibility level, the reason for the request, whether other individuals are already out on leave, and the expected impact of the leave on the District.

3. Request for Extension of Personal Leave

- a. Medical leaves: Employees who are not medically released to return to work, or are still needed to provide care, at the end of the maximum leave period may request an extension of their leave as a further reasonable accommodation. Medical leaves may be extended at the District's discretion beyond four months with the written approval of the Director of Human Resources and the Department Head based on review of the documentation supporting the request and a determination that the employee's continued absence from work will not be an undue hardship for the District.
 - i. If the District does not grant the full extension requested by the employee, the District will fulfill any legal obligation to continue the interactive process to determine whether a reasonable accommodation may be available to permit the employee to return to work, with or without restrictions.
- b. Non-Medical leaves: Employees may request extension of a non-medical personal leave for a reasonable period of time beyond 30 days. Such requests will be reviewed and determined on a case-by-case basis by the Director of Human Resources and the General Manager.

G. Employment Benefits and Protection

1. Previously Accrued Benefits:

- a. Use of personal leave will not result in the loss of any employment benefits accrued before the date the leave commenced.
- b. Time on personal leave will not constitute a break in service or otherwise cause the employee to lose longevity status.

2. No Accrual of Leave during Unpaid Personal Leave:

- a. An employee on unpaid personal leave shall not accrue any additional paid leave time. Thus, employees will not accrue vacation leave, sick leave, or other paid leave, nor will they be paid for holidays during the unpaid leave.
- b. However, during the time that an employee supplements his/her unpaid personal leave with paid leave, the employee will continue to accrue leaves and benefits in accordance with the provisions of the District's policy governing those leaves of absence (i.e., when using sick leave, the rules governing sick leave will apply with regard to the employee's benefits).
- c. Holidays falling during the period following exhaustion of paid leave benefits will not be paid to the employee on unpaid personal leave of absence.

3. Maintenance of Health Insurance of the Employee

- a. Group medical, dental and vision and life insurance coverage will remain in force, and the employee will continue to pay his/her normal monthly contribution to premiums for the employee, spouse and/or family, until one of the following occurs, whichever is **later**:
 - i. The employee has exhausted FMLA, CFRA, or PDL leave taken under Policy 19; or
 - ii. The employee has been off work on approved leave for more than four months (or 120 days, whichever is less) under Policy 19, or this Policy, or both combined, **and** has exhausted all available, accrued, paid leaves under Section II.D. of this Policy.
 - iii. The employee has been off work on approved, non-FMLA/CFRA/PDL leave for fewer than four months (or 120 days, whichever is less) under this Policy and has exhausted all available, accrued, paid leaves under Section II.D. of this Policy.
- b. The employee is then responsible for the full cost of group medical, dental, vision, and life insurance coverage for the employee, spouse and/or family. These payments must be made to the Human Resources Department on a timely basis each month.

4. Maintenance of Benefits Requiring Employee Contributions

- a. During any period of unpaid leave, unless otherwise prohibited by applicable law, an employee may elect to discontinue monthly payments into the flexible benefits account, and any other benefits offered or sponsored by the District to which the employee is required to make monthly contributions, other than group medical benefits. Employees must notify the District in writing of such an election.
 - i. Employees returning from unpaid leave who have discontinued payments into their flexible benefits account have a right to elect to reinstate coverage at the same level of participation as before their leave.
 - ii. Employees that experience an event that qualifies as a Qualified Status Change under IRS regulations are allowed to change the amount of their monthly payments into either the miscellaneous medical or dependent care flexible spending accounts. If this option is chosen, employees have thirty (30) days from the date of the qualified status change or from the date they return from personal leave to change their payments. (See Policy No. 41-Flexible Advantage Program for more specific information on the Flexible Benefits Program).
 - iii. Expenses that are incurred during the time that employees are not making monthly payments are not eligible for reimbursement.
- b. Methods for Making Payments for Group Medical Benefits
 - i. An employee will continue to be responsible for making the payment of his/her share of premiums for group medical benefits and any other contributions for which the District has not received advanced notice of election to discontinue. If any premium amounts are increased or decreased for other employees similarly situated, the employee will be required to pay the new premium rates.
 - ii. All monthly contributions are due and payable to the District at the same time as they would be if made through payroll deduction.
- c. The District and employees who are CalPERS members will continue to make contributions in accordance with the terms of the plan during any period of personal leave in which the employee uses paid leave time. However, the District will not make plan payments for employees during any leave period which is unpaid, and the unpaid leave period will not be counted for purposes of service credit under the plan.

H. Reinstatement

Employees are required to return to work at the end of any period of leave approved under this Policy, unless the employee has requested and received approval to extend the period of leave. Failure to return to work within one business day after receiving a written order to return from the District will be considered a voluntary resignation.

III. EMPLOYEE RESPONSIBILITIES AND DUTY TO COOPERATE

Employees are expected to fully cooperate with the District in meeting the obligations and requirements set forth under this Policy, as well as those set forth in state and federal law. An employee's cooperation includes, but is not limited to, timely completion of all requested forms and responding to all inquiries for additional information. Cooperation also requires that an employee respond to the District's requests for information to support the employee's request to take, change, or extend a personal leave of absence. Employees are also required to consult with the District and make a reasonable effort to schedule foreseeable absences so as to not unduly disrupt the District's operations. Employees on leave must respond to the District's reasonable inquiries and keep the District updated as to the status of the employee's personal leave.

Failure to cooperate with the District or failure to meet the employee's responsibilities may result in a delay in granting the employee's leave, a denial of leave, and/or a denial of the protections and benefits afforded by this Policy. Employees who have questions about their responsibilities under this Policy should direct their inquiries to Human Resources.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 19.3. – OTHER LEAVES OF ABSENCE

I. GENERAL POLICY

- A. It is the policy of the District to enable its employees to take a leave of absence to fulfill their civic and other obligations in accordance with applicable state and federal law. Other District Policies address specific types of leave such as Policy 19 [Family and Medical Care Leaves of Absence]; 19.1 [Worker's Compensation and Terms for Industrial Disability Leave]; and 19.2 [Personal Leaves of Absence].
- B. This Policy addresses the terms under which employees may take a leave of absence for the remaining purposes for which an established legal right also exists but which are not otherwise addressed expressly in District Policies.
- C. Except as otherwise provided in this Policy or applicable law, none of these leaves of absence requires a minimum number of hours worked or months of District service as a condition for eligibility.
- D. For exempt employees, no deduction from salary will be made for leaves shorter than one full workweek. However, exempt employees may be required to use available, accrued paid leave in accordance with District policy.

II. LEAVE FOR JURY DUTY

- A. **Purpose:** The District will grant a leave of absence to employees who are called to serve on a trial jury or inquest jury, or who are subpoenaed or otherwise required under court order to provide testimony as witnesses. Because grand jury service is voluntary in California, such service is not covered by this Policy. However, interested employees may request a discretionary, non-medical, personal leave of absence in accordance with, and subject to Policy 19.2.
- B. **Amount of Leave:** Employees will be permitted to remain off work for the period of actual service.
- C. **Compensation during Leave:**
 - 1. Employees will receive their regular pay for up to 30 calendar days per year. This period of paid leave begins on the first day that the employee is required to report in person to court.
 - 2. Leave continuing after exhaustion of the 30-day period will be unpaid; however, employees may use available, accrued vacation or Personal holiday time.

POLICY 19.3 – OTHER LEAVES OF ABSENCE

3. If an employee receives a payment for jury duty that includes payment for service, other than mileage, the employee is required to submit their endorsed jury duty payment check to Payroll. Any monies included in the jury duty payment for mileage or for jury service performed on an employee's scheduled day off will be reimbursed to the employee.

D. Notice and Verification

1. Initial Notification

An employee who receives a "Summons or Subpoena to Appear" for jury duty, must provide reasonable advance notice to his or her Supervisor and Human Resources and provide a copy of the original summons to Human Resources.

2. Continuing Updates

Following the employee's initial appearance for jury duty, and following each subsequent day of leave, the employee must contact Human Resources by telephone or e-mail to advise whether he/she will be required to report for further service, or has been released from service. The employee should also communicate any information he/she has received regarding estimated total length of service, as well any changes to that estimated timeframe.

III. LEAVE FOR SUBPOENAED WITNESSES

A. Purpose: The District will grant a leave of absence to employees who are subpoenaed or otherwise required under court order to provide testimony as witnesses.

B. Amount of Leave: Employees will be permitted to remain off work for the period of actual service.

C. Compensation during Leave: Leave under this section is unpaid. However, an employee may choose to use any accrued vacation time when taking leave under this section.

D. Notice and Verification

1. Initial Notification

An employee who receives a "Summons or Subpoena to Appear" for witness duty, must provide reasonable advance notice to his or her Supervisor and Human Resources and provide a copy of the original summons to Human Resources.

2. Continuing Updates

Following the employee's initial appearance for witness duty, and following each subsequent day of leave, the employee must contact Human Resources by telephone or e-mail to advise whether he/she will be required to report for further service, or has been released from service. The employee should also

communicate any information he/she has received regarding estimated total length of service, as well any changes to that estimated timeframe.

IV. LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING

A. Purpose and Definitions:

1. The District will grant a leave of absence to employees who have been victims of the following crimes to address the matters set forth below:
 - a. Domestic Violence. Abuse against an employee that is committed by any of the following persons, as defined in Sections 6200 *et seq.* of the Family Code:
 - i Spouse or former spouse;
 - ii Registered domestic partner or former domestic partner;
 - iii Cohabitant or former cohabitant;
 - iv Person with whom the employee is having or has had a dating or engagement relationship;
 - v Person with whom the employee has had a child;
 - vi Employee's child; or
 - vii Any person related to the employee by consanguinity or affinity within the second degree.
 - b. Sexual Assault. Any of the crimes set forth in Section 230(j)(3) of the Labor Code, as defined in Title 9 of the California Penal Code:
 - c. Stalking. Any misconduct (as defined in Section 646.9 of the Penal Code or Section 1708.7 of the Civil Code, which usually involves a pattern of willfully, maliciously, and repeatedly following or harassing another person and making a credible threat with the intent of placing that person in reasonable fear of his or her own safety or in fear of the safety of of his or her immediate family.
2. Permitted Uses of Leave. An employee who has been the victim of sexual assault, domestic violence, or stalking may take a leave of absence for any of the following reasons:
 - a. To seek medical attention or psychological counseling for resulting injuries.
 - b. To obtain services from a domestic violence shelter, program, or rape crisis center.

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- c. To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.
- d. To obtain any legal relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his/her child.

B. Amount of Leave: Employees will be permitted to remain off work for the period of time necessary to address the reason for the leave of absence.

1. If an employee has been granted a leave of absence under Policy 19.1 or 19.2 for the same reason, both leaves will run concurrently.

C. Compensation during Leave: Leave under this section is unpaid. However, an employee may choose to use any accrued sick leave or vacation time when taking leave under this section.

D. Notice and Verification:

1. Advance notice: An employee wishing to take leave must notify Human Resources at least five working days before the intended absence. If such advance notice is not possible, the employee must notify Human Resources within a reasonable time in advance of the absence.
2. Unscheduled absence: If the employee is unable to provide advance notice before his/her absence from work, he/she may be required to provide Human Resources with documentation that the leave was for a permitted purpose under this Section. Such documentation may include, but is not limited to, a police report, a court order or other evidence that the employee appeared in court, or a record establishing that the employee was undergoing medical treatment or counseling during the employee's absence.

E. Reasonable Accommodation for Safety at Work

1. In accordance with Section 230(f) of the Labor Code, an employee who has been the victim of domestic violence, sexual assault, or stalking may request an accommodation for his/her safety at work.
2. Reasonable accommodation may include safety measures such as:
 - a. Transfer, reassignment, modified schedule, or other modifications to job structure or assignments
 - b. Changed work telephone, changed work station, installed lock or other changes to the workplace or work facility.
 - c. Implementation of additional safety procedures

- d. Assistance in documenting misconduct that occurs in the workplace
3. The District will engage in a timely, good faith interactive process with the employee to attempt to identify an effective reasonable accommodation in accordance with Section 230(f) of the Labor Code.

V. LEAVE FOR ATTENDANCE AT CRIMINAL PROCEEDINGS

A. Purpose and Definitions: The District will grant a leave of absence to an employee who has been, or whose family member has been, a victim of a violent felony, a serious felony, felonious theft or embezzlement, or other enumerated offenses, for the purpose of attending proceedings related to that crime.

1. The terms “violent felony,” “serious felony” and felonious theft or embezzlement shall be as defined in Section 230.2(a)(3) of the Labor Code.
2. The term “other enumerated offenses” shall refer to the list set forth in Section 230.5(a)(2) of the Labor Code.
3. Eligible proceedings include any proceeding in court, any proceeding involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.
4. The term “family member” means the employee’s spouse, registered domestic partner, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, or stepfather.

B. Amount of Leave: Employees will be permitted to remain off work for the period of time necessary to participate in the proceedings.

C. Compensation during Leave: Leave under this section is unpaid. However, an employee may choose to use any accrued vacation time when taking leave under this section.

D. Notice and Verification:

1. Advance notice: An employee wishing to take leave must notify Human Resources at least five working days before each intended absence. If such advance notice is not possible, the employee must notify Human Resources within a reasonable time in advance of each absence.
2. Unscheduled absence: If the employee is unable to provide advance notice before his/her absence from work, he/she may be required to provide Human Resources with documentation that the leave was for a permitted purpose under Section IV.A. Such documentation may be issued by the court of government agency setting the hearing, the district attorney or prosecuting attorney’s office, or a victim/witness office that is advocating on behalf of the victim

VI. VOTING LEAVE

- A. Purpose:** In accordance with Election Code Sections 14000 and 14001, the District will grant a leave of absence to permit an employee to vote in a local, state, or national election if the employee does not have sufficient time to vote outside normal working hours.
- B. Amount of Leave:** Employees may take up to two hours at the beginning or end of the regular working shift on Election Day, or at another time on Election Day, as mutually agreed with the employee's supervisor.
- C. Compensation during Leave:** Employees will receive time off with pay for a reasonable period, not to exceed two hours.
- D. Notice and Verification:**
 - 1. Employees who know, or have reason to believe, that they will not have sufficient time to vote outside normal working hours must notify their Department Head of the need for leave, and the reason for the request as soon as possible, and no later than two working days before election day.
 - 2. The Department Head will respond to the request within one working day. If granted, the Department Head will identify the authorized start time for the leave.
 - 3. Employees returning from voting leave must provide proof that the leave time was used for voting purposes.

VII. SCHOOL LEAVE.

- A. Purpose and Definitions:** The District will grant a leave of absence to an employee who is the parent, guardian, or grandparent of a child, for the following purposes:
 - 1. To participate in the activities of the child's primary or secondary school or licensed child care provider.
 - 2. To find, or to enroll, or reenroll the child in, a primary or secondary school or licensed child care provider.
 - 3. To address an emergency, such as:
 - a. A request from child care provider or school that the child be picked up.
 - b. A provision in the attendance policy for the child care provider or school, other than a planned holiday, that prohibits the child from attending.
 - c. Closure or unexpected unavailability of the child care provider or school, other than during planned holidays.

- d. A natural disaster, including, but not limited to, fire, earthquake, or flood.
4. To appear at the school of a suspended child pursuant to a request made by the child's school under California Education Code section 48900.1.

B. Amount of Leave:

1. An employee may take up to 40 hours of leave per calendar year, but no more than eight hours in one calendar month. However, no limit shall be placed on the amount of leave taken under Section VII.A.4 of this policy.
2. If more than one District employee requests leave in connection with the same child, only the first employee to provide notice is entitled to receive leave. The second employee may also be permitted to take a simultaneous leave of absence if he/she obtains written supervisory approval.
3. The amount of leave available is fixed at a maximum of 40 hours per calendar year, regardless of the number of children, grandchildren, or wards that an employee may have.

C. Notice and Verification.

1. An employee must provide reasonable advance notice of the need for leave and must make all reasonable efforts to schedule the leave so as not to unduly disrupt the operations of the District. If an emergency makes such notice impossible, the employee shall notify his/her Department Head as soon as possible.
2. Employees returning from leave are required to provide written verification from the school or child care provider of his/her need for leave at the specific time and date. If an employee fails to provide sufficient verification, the District may determine that the leave time was unauthorized.

- D. Compensation during Leave.** Leave under this section is unpaid. However, an employee may choose to use any accrued vacation time when taking leave under this section.

VIII. LEAVE FOR RESERVE PEACE OFFICERS, VOLUNTEER FIREFIGHTERS, AND EMERGENCY RESCUE PERSONNEL

- A. Purpose:** The District will grant a leave of absence to an employee who is a volunteer firefighter, reserve peace officer, or volunteer emergency rescue personnel for the purpose of performing emergency duty or participating in training.

B. Amount of Leave:

POLICY 19.3 – OTHER LEAVES OF ABSENCE

1. **Leave for Emergency:** Leave will be available for the full duration of the employee's need to perform emergency duty.
 2. **Leave for Training:** Employees may take up to a total maximum of 14 days of leave per calendar year to receive training.
- C. Notice and Verification:** Employees must provide reasonable advance notice of their need for leave. If advance notice is not feasible, the employee must provide reasonable verification of the emergency or need for training upon his/her return to work.
- D. Compensation during Leave:** Leave under this section is unpaid. However, an employee must use any accrued vacation time when taking leave under this section.

IX. LEAVE FOR CIVIL AIR PATROL DUTY

- A. Purpose:** In accordance with Sections 1500 *et seq.* of the Labor Code, the District will grant a leave of absence to an employee who is a volunteer member of the civilian auxiliary of the United States Air Force ("Civil Air Patrol") and is directed to respond to an emergency operational mission, either in-state or out-of-state.
- B. Amount of Leave:** Employees may take up to 3 days of leave per mission, up to a total maximum of 10 days of leave under this section.
- C. Notice and Verification:**
1. Employees must provide reasonable advance notice of the intended dates on which leave is anticipated to begin and end.
 2. The District may require certification from the proper Civil Air Patrol authority to verify the need for leave, or that leave was taken for the purpose of responding to an emergency operational mission.
- D. Compensation during Leave:** Leave under this section is unpaid. An employee may choose to use accrued vacation time when taking leave under this section.

X. MILITARY LEAVES

- A. Leave for Employees Who Are Service Members:**
1. The District will grant a leave of absence in accordance with applicable provisions of Section 395 of the Military and Veteran's Code and the federal Uniformed Services Employment and Reemployment Rights Act.
 2. Employees are required to provide evidence of their orders to report for active duty, upon providing notice of their need for leave of absence.

3. A request for military leave of absence shall be made in writing to the employee's supervisor by completing the Request for Leave of Absence Form (available in the Human Resources Department), and shall state specifically the reason for the request, the date the leave is to begin, and the probable date of return. Human Resources will communicate the need for leave to the employee's Department Head and the General Manager prior to the leave beginning.

B. Leave for Employees Who Are the Spouse or Registered Domestic Partners of Service Members

1. Purpose: In accordance with Section 395.10 of the Military and Veterans Code, the District will grant a leave of absence to an employee whose spouse or registered domestic partner is deployed for active military service during a period of military conflict, to spend time with the spouse or registered domestic partner while he/she is on leave from such deployment.
2. Eligibility: Eligibility for this leave is limited to employees who are regularly scheduled to work at least 20 hours per week.
3. Amount of Leave: An employee may take up to ten days of leave each time his/her spouse or registered domestic partner is on leave from military deployment.
4. Notice: Employees must provide notice of the need for leave no more than two working days after receiving official notice of their spouse or registered domestic partner's leave from deployment. Employees must provide a copy of the official notice in connection with their request.
5. Compensation during Leave: Leave under this section is unpaid. An employee may choose to use accrued vacation time when taking leave under this section.

XI. EMPLOYEE RESPONSIBILITIES AND DUTY TO COOPERATE

Employees are expected to fully cooperate with the District in meeting the obligations and requirements set forth under this Policy, as well as those set forth in state and federal law. An employee's cooperation includes, but is not limited to, timely completion of all requested forms and responding to all inquiries for additional information. Cooperation also requires that an employee respond to the District's requests for information to support the employee's request to take, change, or extend a leave of absence. Employees are also required to consult with the District and make a reasonable effort to schedule foreseeable absences so as to not unduly disrupt the District's operations. Employees on leave must respond to the District's reasonable inquiries and keep the District updated as to the status of the employee's leave.

Failure to cooperate with the District or failure to meet the employee's responsibilities may result in a delay in granting the employee's leave, a denial of leave, and/or a denial of the protections and benefits afforded by this Policy. Employees who have questions about

POLICY 19.3 – OTHER LEAVES OF ABSENCE

their responsibilities under this Policy should direct their inquiries to Human Resources.

Adopted by IRWD Board of Directors on: February 11, 2019

**IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES**

POLICY NO. 20

NOT IN USE

**IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES**

POLICY NO. 21

NOT IN USE

IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES
POLICY NO. 22 - HOLIDAYS

1. General Policy

The District recognizes the importance of leisure time in achieving greater productivity. Eligible employees will receive twelve paid holidays per year, two of which are considered floating holidays and one of which is considered a Personal Holiday. The two floating holidays are determined at the District's option, with approval of the General Manager. The personal holiday is determined by each eligible employee, subject to approval of the employee's supervisor.

2. Holiday Schedule

The District's twelve paid holidays are:

- New Year's Day
- President's Day (follow Federal schedule)
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Friday following Thanksgiving Day
- Day before Christmas holiday
- Christmas Day
- Two Floating Holidays
- One Personal Holiday

Floating holidays are designated annually. The selection of floating holidays is designed to spread out the holidays as evenly as possible over the year so that employees have time away from their jobs at regular intervals to refresh themselves and spend time with their families. Staff also takes into consideration which holidays are commonly observed by the various school systems. A holiday schedule for each calendar year will be published and distributed to employees before the beginning of each calendar year.

3. Eligibility

A. Designated Calendar and Floating Holidays

All Regular District employees of the District are eligible for holiday pay based on their individual work schedule (5/8, 9/80 or 4/10) at the time the holiday occurs. Regular District employees assigned to a part-time schedule (less than 40 hours in one week) are eligible for pro-rated holiday pay based on the average daily hours worked during the payroll period in which the holiday occurs. District Temporary employees, paid through the District payroll system, are eligible for holiday pay when a holiday falls on their regularly scheduled day to work.

POLICY NO. 22 – HOLIDAYS

Eligible employees must be actively at work, or using sick or vacation time, the work day immediately prior to *and* the work day immediately following the holiday, in order to receive holiday pay. Any unauthorized absence occurring the day preceding or following the holiday will result in holiday pay not being granted.

B. Personal Holiday

Following 6 months of employment, all Regular District employees are eligible to take one scheduled work day off as a personal holiday each calendar year. The personal holiday must be requested by an employee and approved by the employee's supervisor at least one week before the employee plans to use it. A personal holiday that is not used by December 31st of each calendar year in which is granted will be added to the employees vacation accrual balance.

4. Holidays Falling During Weekends and Vacations

When a holiday falls on a weekend, the General Manager will select an alternate day off as a District holiday. Holidays that occur during an employee's vacation will not be counted as a vacation day.

When a scheduled holiday falls on an employee's regularly scheduled day off, vacation hours equal to the amount of hours normally scheduled to work on the corresponding day of the following work week, will be credited to the employee's vacation accrual account.

5. Rate of Pay

Regular employees will be paid holiday pay in an amount equivalent to their base hourly pay rate times the number of hours the employee was normally scheduled to work if the day were not a holiday

6. Employees Required to Work on a District Observed Holiday

Should a non-exempt employee be required to work on a holiday, he or she will receive holiday pay in addition to compensation at one and one half (1-1/2) times his or her regular rate of pay for time worked.

7. Work Distribution on a District Observed Holiday

Supervisors are responsible to schedule distribution of holidays to be worked as evenly as practicable among the employees within their respective departments.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 23 - EDUCATION AND TRAINING

1. General Policy

The District encourages employees to seek further education and training in an effort to increase their competency and efficiency in their work, and to increase personal development. Knowledge in other work areas not directly related to an employee's job may also allow for organizational cross training.

2. Purpose of Policy

The purpose of this policy and procedure is to establish the guidelines and criteria for reimbursement for educational expenses and incentive pay for obtaining college and university degrees and other approved professional certificates after being hired by the District.

The District firmly believes that this policy will improve its ability to attract and retain outstanding employees, supervisors and managers.

3. Eligibility

All regular full-time employees of the District who have been employed by the District for six (6) consecutive months are eligible for education and training reimbursement. Incentive pay for obtaining college and university degrees and approved professional certificates is also available to these employees. Educational reimbursement and incentive pay for the General Manager requires approval of the Board of Directors.

Requests for tuition reimbursement for classes taken above the Bachelor's degree level require special approval by the General Manager. Such requests will be subject to a more extensive process, including a costs/benefits analysis to determine the value to the District of the proposed courses or degree program.

Only education and training completed on an employee's personal time is eligible for reimbursement and incentive pay under this policy. Certifications and/or degrees completed by attending classes or training during paid working hours are not eligible for reimbursement and/or incentive pay under this policy.

4. Responsibility

The Human Resources Department is responsible for administering this policy and ensuring compliance.

5. Education & Training Expenses

A. Education and Training Reimbursement

Employees are eligible for reimbursement for the expenses related to classes taken in pursuit of a university or college degree program, an Occupational Program

POLICY NO. 23 - EDUCATION AND TRAINING

Certificate, or for professional or personal growth provided the following criteria are met:

- 1) Classes must be taken at a college, university, or learning institution accredited by a commission approved by the Council on Higher Education Accreditation and/or the U.S. Department of Education or approved by the District.
- 2) Eligible employees must complete an Application for Educational Assistance Form (available in the Human Resources Department) at the time of enrollment in the classes. On this form, the employee will outline the curriculum and projected costs that will be involved. The application must be approved by the employee's Department Director, the Director of Human Resources and the General Manager. The original application will be kept in the employee's personnel file.
- 3) An employee is required to achieve an average grade point sufficient to enable completion of the curriculum in which he/she may be enrolled. Once an employee has completed the course with a passing grade of "C" or better, "Pass" or the equivalent, the District will reimburse up to seventy-five percent (75%) of the tuition and textbook costs. If an employee is eligible for Veteran's benefits, and such benefits are less than 75% of the total cost of tuition, books, and registration fees, the District will pay the difference required to bring the total reimbursement to 75%. Maximum reimbursement for tuition and registration costs will be based on state college fees and approved by the General Manager on an annual basis.
- 4) Supplies required for particular courses may be considered for reimbursement; however, parking fees are not reimbursable
- 5) Original grades and receipts must be submitted to the Human Resources Department. Upon verification that the courses and expenses were previously approved, Human Resources will submit a check request for reimbursement of eligible expenses, less applicable taxes, to the employee. If the employee has exceeded the IRS-approved non-taxable education reimbursement amount, the amount of the reimbursement and the tax deducted will be included on the W-2 form issued to the employee.

B. Contact Hours and Continuing Education Units for Certificate of Competence Renewals

- 1) Employees holding job-required Certificates of Competence are required to complete the contacts hours in order to renew their certifications. The following rules establish District and employee responsibility for obtaining job-required contact hours:
 - a. Employees are responsible for ensuring that all required contact hours are completed in a timely manner.
 - b. Because no more than 25% of required contact hour credit can be obtained from attendance at District meetings such as safety tailgates,

POLICY NO. 23 - EDUCATION AND TRAINING

employees must obtain contact hour Continuing Education Units (CEUs) for job-required certification renewals by attending seminars or other means approved by the employee's supervisor or manager.

- c. The District will pay for 100% of the cost of pre-approved seminars for the purpose of obtained contact hour CEUs needed for job-required Certificate of Competence renewals. These seminars should be scheduled during an employee's normally scheduled working hours.
 - d. Under no circumstances will the District compensate an employee for any penalties for late renewal or pay overtime for an employee to attend a seminar outside of the normally scheduled working hours.
- 2) Employees holding non-job-required Certificates of Competence which they desire to keep active are also required to complete the contacts hours in order to renew their certifications. The following rules establish District and employee responsibility for obtaining non-job-required contact hours:
- a. Employees must complete an Application for Educational Reimbursement Form (available in the Human Resources Department) requesting District approval of seminars to be taken and detailing the number of CEUs required for renewal of the non-job-required Certificate of Competence.
 - i. This form must be submitted to the Director of Human Resources for review and approval prior to the first seminar being attended.
 - ii. The Director of Human Resources may discuss the potential value to the District of the Certificate of Competence with the employee, the employee's supervisor or manager, and/or other department supervisors or managers to determine if the request will be approved.
 - iii. If the request for Educational Assistance is denied, the employee may pursue contact hour CEUs outside of District working hours and will not be reimbursed for any of the expenses related to obtaining CEUs or the renewal of the non-job-required Certificate of Competence.
 - iv. If the request for Educational Assistance is approved, then the points listed in B.1) a-d above apply.

6. Incentive Program

A. University and College Degrees

District employees obtaining a college degree through an accredited program shall receive an incentive payment, less applicable taxes, in the amount set forth below, provided the degree exceeds the minimum job requirements of the employee's position. The degree must be job related, and/or provide a direct benefit to the District.

POLICY NO. 23 - EDUCATION AND TRAINING

<u>Degree</u>	<u>Net Award</u>
AA*	\$ 1,000
BA/BS	\$ 1,000
Masters **	\$ 1,000
Others	\$ 1,000

* Sixty college level units from an accredited institution shall be equivalent to an Associates (AA) degree.

* The District shall not compensate an employee a total of more than \$1,000 for obtaining an Associates (AA) Degree and an Occupational Program Certificate if the college units for which the employee already received an Occupational Program Certificate incentive are used to obtain an Associates (AA) degree, unless the employee completes at least 30 additional units in obtaining the AA degree. If the employee completes at least 30 additional units, he/she will be eligible for the full AA incentive payment.

** Approved by General Manager

Employees are responsible for submitting proof of Degree to the Human Resources Department. The Director of Human Resources will review the Degree to ensure compliance with this policy. If the Degree does comply with this policy, an Educational Incentive Program Request for Incentive Disbursement form will be completed and routed for signatures by the appropriate parties, including the General Manager. The incentive check will be forwarded to the appropriate Department Director to be presented to the employee to recognize his/her accomplishment.

The cash incentive payment, less applicable taxes, will be made payable to the employee. The amount of the award and the tax deducted will be included on the W-2 form issued to the employee.

B. Job-Related or Required Certificates of Competence

District employees shall receive an incentive cash payment in the amount of \$750 for obtaining each Certificate of Competence listed below, provided the certificate meets the following criteria:

- 1) Certificate of Competence exceeds the minimum job requirements established for the employee's position. Under no circumstances shall an employee receive an incentive for obtaining a Grade I or entry level Certificate other than the Engineering in Training or Water Distribution Operator I Certificates, unless approved by the Director of Human Resources and the General Manager.
- 2) Certificate of Competence is job-related or required or provides employee with valuable skills or knowledge for current or potential positions employee may hold within the District. All requests for certification incentives must be approved by the Director of Human Resources, as well as the employee's supervisor, manager, or department director. Employees who plan on pursuing a Certificate of Competence that is not directly

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related to their current position should verify with the Director of Human Resources whether the certification will qualify for an incentive prior to beginning the certification process.

- 3) Certificate of Competence is issued by the certifying agency or organization listed below.

Certificates of Competence Covered Under This Policy Include:

- Collection System Maintenance issued by CWEA
- Industrial Waste Inspection issued by CWEA
- Laboratory Technology or Laboratory Analyst issued by CWEA or AWWA
- Mechanical Technology issued by CWEA
- Electrical/Instrumentation Technology issued by CWEA
- Wastewater Treatment Plant Operator issued by SWRCB
- Water Treatment Plant Operator issued CA DPH
- Water Distribution Operator issued by CA DPH
- Engineer in Training issued by the State of California
- Registered Professional Engineer issued by the State of California
- Certified Public Accountant (CPA) issued by the State of California
- Certified Purchasing Manager issued by National Assn. of Purchasing Management
- Accredited Purchasing Professional issued by National Assn. of Purchasing Management
- Certified Payroll Professional issued by American Payroll Assn.
- Fundamental Payroll Certification issued by American Payroll Assn.
- Concrete Field Test Technician by American Concrete Institute
- Concrete Construction Special Inspector by American Concrete Institute
- Other Certificates of Competence approved by the General Manager

The District shall compensate the employee for the initial fee for Certification and renewal but will not compensate the employee for any penalties for renewal or provide an incentive payment to employees required to pass an examination for Certification renewal.

Any employee who is permitted to and successfully passes a higher grade certification test by skipping a lower grade will be compensated for the grade(s) skipped, as well as the grade achieved.

Employees requesting incentive payment for any Certificate of Competence that has an expiration date and requires contact hours and/or CEU's for renewal must commit to keeping the certification active in order to receive the incentive payment. Employees are responsible for submitting proof of Certification of Competence and Request for Incentive/Commitment to Renew Form to the Human Resources department. The Director of Human Resources will review the Certification to ensure compliance with this policy. If the Certification does comply with this policy, an Educational Incentive Program Request for Incentive Disbursement form will be completed and routed for signatures to the appropriate parties, including the General Manager. The incentive check will be forwarded to

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the appropriate Department Director to be presented to the employee to recognize his/her accomplishment.

The cash incentive payment, less applicable taxes, will be made payable to the employee. The amount of the award and the tax deducted will be included on the W-2 form issued to the employee.

C. Occupational Program Certificates

District employees shall receive an incentive cash payment in the amount of \$750 for each of the Occupational Program Certificates listed below which meets the following criteria:

- 1) Occupational Program Certificate is job-related or provides employee with valuable skills or knowledge for current or potential positions employee may hold within the District. All requests for Occupational Certification incentives must be approved by the Director of Human Resources, as well as the employee's supervisor, manager, or department director. Employees who plan on pursuing an Occupational Program Certificate that is not directly related to their current position should verify with the Director of Human Resources whether the certification will qualify for an incentive prior to beginning the certification process.
- 2) Occupational Program Certification must be offered through an accredited college or university.
- 3) Occupational Program Certificate requires the completion of at least 15 units of college class work. Under no circumstances will the District provide an incentive payment for an Occupational Program Certificate which includes credit from classes for which the employee has already received an incentive payment unless the employee was required to take at least 15 additional units to receive the subsequent certification.

Occupational Program Certificates Covered Under This Policy

Include:

- Accounting
- Architecture
- Auto Mechanics/Technology
- Finance
- Business Management
- Human Resources Management
- Chemical Technology
- Computer and Information Science
- Construction Technology
- Building Construction
- Construction Inspection
- Construction Management
- Drafting Technology
- Electrical or Electronic Technology
- Engineering

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- Heavy Equipment Maintenance and Repair
- Chemistry
- Ornamental Horticulture
- Surveying Technology
- Welding Technology
- Business Applications & Technology
- Management
- Public Works
- Project Management
- Business Analyst
- Contract Management
- Environmental Management
- Occupational Safety & Health
- Facilities Management
- Water Distribution
- Water Treatment
- Wastewater Sanitation
- Water Utility Supervisor
- Other Occupational Program Certificates approved by the General Manager

Employees are responsible for submitting proof of having received an Occupational Program Certification to the Human Resources department. The Director of Human Resources will review the Certification to ensure compliance with this policy. If the Certification does comply with this policy, an Educational Incentive Program Request for Incentive Disbursement form will be completed and routed for signatures by the appropriate parties, including the General Manager. The incentive check will be forwarded to the appropriate Department Director to be presented to the employee to recognize his/her accomplishment.

The District shall not compensate an employee a total of more than \$1,000 for obtaining an Associates (AA) Degree and an Occupational Program Certificate if the college units for which the employee already received an Occupational Program Certificate incentive are used to obtain the Associates (AA) degree, unless the employee completes at least 30 additional units in obtaining the AA degree. If the employee completes at least 30 additional units, he/she will be eligible for the full AA incentive payment.

The cash incentive payment, less applicable taxes, will be made payable to the employee. The amount of the award and the tax deducted will be included on the W-2 form issued to the employee.

7. Special Conditions

- A. Registered Professional Engineers shall not be eligible for certification incentive for water treatment.
- B. Incentive Compensation shall be paid only to individuals where Certificates and/or Degrees exceed job level requirements (see position job description).

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- C. No more than two incentive payments shall be made for certificates and/or degrees earned in any one fiscal year.
- D. College or University Degrees and Occupational Program Certifications must be obtained through an accredited program from an accredited educational institution, successfully completed (passed) on the basis of school standards.
- E. In no case shall an employee receive an incentive payment for obtaining an Associate or Bachelors Degree unless the employee completes at least 24 college level semester units toward the degree while being employed at the District, unless approved in advance by the General Manager.
- F. In no case shall an employee receive an incentive payment for obtaining more than one Associate, Bachelors or Masters Degree unless the employee completes an additional 24 college level semester units toward the additional degree while being employed at the District.
- G. In no case shall an employee receive an incentive payment for obtaining an Occupational Program Certificate unless the employee completes at least 15 college level semester units toward the certificate while being employed at the District, unless approved in advance by the General Manager.
- H. The employee must be an employee of the District at the time that compensation is to be made.
- I. All Degrees, Occupational Program Certificates, and Certificates of Competence not covered in section 2 must receive prior approval from the General Manager.

Adopted by IRWD Board of Directors on: July 11, 2011

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 24 - EMPLOYEE RELOCATION ASSISTANCE

1. **General Policy**

The District has established this employee relocation assistance policy in an effort to compensate employees for specific expenses associated with relocation incurred as a benefit or convenience of the District, or as a condition of employment.

2. **Purpose of Policy**

The purpose of this policy is to define the allowable relocation expenses of employees whose move has been requested by the employee and approved by the General Manger of the District.

This policy will also establish the responsibility and procedure for reimbursement of relocation expenses.

3. **Eligibility**

The following criteria will outline employees who are eligible for reimbursement under this relocation assistance policy:

- A. Administrative employees who have community relation responsibilities, and are required to advise the Board of Directors and its Committees from time to time are eligible for reimbursement under this policy. These administrative employees are defined as those hired into positions in Salary Grade 21 and above, with the exception of the position of Senior Engineer.
- B. Employees other than those referenced in 3.A. above, may also be eligible for relocation assistance, as designated by the General Manager. This may be required to assure adequate, timely response in emergency situations effecting District responsibilities.

4. **Specific Policy**

The District may reimburse employees for specific expenses incurred in relocating their residence to the vicinity of Irvine, subject to the conditions of this policy and procedure. Eligible expenses include:

- Locating a Residence
- Final Move of Household Goods
- Property and Lease Settlements
- Resettlement Expenses
- Acquisition of Former Residence

POLICY NO. 24 - EMPLOYEE RELOCATION ASSISTANCE

- Financial Assistance for New Residence

The General Manager may limit approval to only portions of these categories when it serves the District's interests.

A. Conditions

All of the following conditions must be met to be eligible for relocation at District expense:

- 1) An employment agreement between the employee and the District must be executed for a period of at least two years. If resignation of employment occurs earlier, reimbursement of relocation expenses will be made to the District by the employee.
- 2) The distance between the District headquarters and the employee's former residence must exceed forty (40) miles.
- 3) Employees defined in Paragraph 3.A. must locate their new residence within eight (8) miles of the city limits of Irvine. Employees defined in Paragraph 3.B. must locate their new residence within seven (7) road miles of the Michelson Operations Center and Reclamation Plant. The distance limitations in this subsection are intended to serve the need of the District for designated employees to live close to their work stations.
- 4) District funds must be available for this purpose.

B. Allowable Expenses

1) Locating a Residence

a) Travel To and From New Area

Where the distance from the former residence to the District headquarters exceeds one hundred (100) miles, the District may authorize the reimbursement for one round trip by the employee and the spouse to the new location for the purpose of locating a residence. Prior approval of the Director of Human Resources must be obtained if other than a spouse is proposed to be authorized to be reimbursed for travel. If air transportation is used, coach rates may be reimbursed. Automobile travel may be reimbursed at the rate established by resolution of the Board of Directors for mileage reimbursement, but may not exceed the equivalent air fare for authorized travelers.

b) Transportation, Meals and Lodging During Location of Residence

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If authorized to travel for locating a residence, the District may pay expenses for local transportation, meals and lodging in the new area for a period not to exceed five (5) days for the purpose of locating a residence. Maximum allowable expense per day for two persons is \$125.00.

2) **Final Move**

a) **Household Goods**

Costs incurred for packing, unpacking and shipping of all personal household effects from the former residence to the new residence may be reimbursed with the exception of large home workshops, unusual household furnishings, or laboratory equipment. Reimbursement will be limited to household goods and personal items of the employee's immediate family, which normally would consist of spouse and dependent children. Prior approval of the Director of Human Resources should be obtained for any additional dependents proposed to be included in the move.

b) **Storage**

Storage costs may be reimbursed for a period of thirty (30) days.

c) **Insurance**

Insurance costs may be reimbursed for personal household effects to a maximum valuation of \$30,000.

d) **Recreational Vehicles, Additional Automobile, Etc.**

Items such as aircraft, boats, trailers, more than one automobile, and other unusual items are not authorized for movement at the District's expense.

e) **Employee Travel**

The District may pay travel costs for the final move from the former residence to the new residence for the employee, spouse, and dependent children. Travel costs include transportation, food and lodging where the distance from the former residence exceeds two hundred (200) miles, for a reasonable number of travel days.

Transportation costs will be based on travel by automobile reimbursed at a mileage rate of thirty-two (32%) percent of the mileage reimbursement rate established by resolution of the Board of Directors. Food and lodging costs, if incurred, will be limited to

POLICY NO. 24 - EMPLOYEE RELOCATION ASSISTANCE

\$75.00 per day for the driver and \$30.00 per day each for the spouse and eligible dependents. The General Manager is authorized to approve variances to the expense reimbursement in Paragraph 4.B.2)e) within the intent of the section to accommodate special circumstances.

3) Property and Lease Settlement

Reimbursement may be made at the District's sole discretion, for reasonable costs attendant to the sale of the employee's former residence at the time of relocation as follows:

- a) Revenue Stamps
- b) Mortgage Prepayment Penalty
- c) Real Estate Transfer Taxes and Recording Fees
- d) Escrow Fees

4) Resettlement Expenses

In recognition of costs incidental to moving, the following costs may be made at the District's sole discretion reimbursed after moving into the new residence, if substantiated by paid invoices.

- a) Plumbing or electrical work to reconnect washer, dryer, stove and/or refrigerator, not to exceed one hundred (\$100) dollars.
- b) Alterations to carpeting and draperies not to exceed three hundred (\$300) dollars.
- c) Telephone installation charges, excluding deposit, for one line, two station basic service.

C. Acquisition of Former Residence

At the District's sole discretion, the District may offer to purchase the relocating employee's former residence, for the appraised value, provided the residence has been listed for sale with a licensed real estate broker for a period of not less than ninety (90) days. The appraised value will be established by an independent firm selected and retained by the District. If the employee does not concur with the appraisal, he/she may obtain the services of another appraisal firm at the employee's own expense. In this type of situation, the District's purchase price for the former residence will be the average amount of the two appraisals, but not to exceed five (5%) percent more than the District's initial appraisal.

If the employee is unable to sell the former residence at the conclusion of the ninety (90) day period, the District may relieve the employee of further financial involvement by executing an agreement to purchase the former residence with completion of sale to occur when a buyer is located for the property. Following

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execution of the agreement, the District will pay mortgage, interest, pro-rated real estate taxes, utilities and insurance costs. The employee may continue to use the residence for thirty (30) days following execution of the agreement.

1) **Sale of Former Residence**

Sale will be completed when a purchaser is located.

The District will pay the employee the amount of his/her equity, reduced by any advances made under provisions under Paragraph 4.D. of this policy, within three (3) days following the close of the sale escrow. The amount of the equity will be established as the difference between ninety-four (94%) percent of the appraised value and any outstanding debt as of the date of the agreement to purchase is executed as outlined in Paragraph 4.C. above. The six (6%) percent reduction of the appraised value represents the standard sales commission.

The District will pay seller fees and absorb any decrease or increase in value at the time of the final sale.

D. **New Housing Assistance (Purchase)**

Prior to payment of equity as provided in Paragraph 4.C.1) above, the District will advance portions of the equity to the employee, if requested, to reimburse the cost of rental or lease payments on a temporary residence in the vicinity of Irvine; and will advance to the employee, if requested, the balance of the equity at the time of the purchase of a new residence.

The District may assist the employee in the purchase of the new residence by becoming a co-owner of the new residence. Suitable documentation will be arranged to protect the District's interest.

The District's portion of the purchase price will be limited to ten (10%) percent of the purchase price or fifty (50%) percent of the employee's annual salary, whichever is the lesser amount.

1) **Sale of the New Residence**

Upon termination of employment with the District, under the co-owner option, the District co-owns the percentage of the new residence that the District's investment bears to the total purchase price of the residence. Suitable documentation will be arranged to provide that upon termination of employment for whatever cause, the employee has ninety (90) days to purchase the District's share, or sell the residence.

2) **Sale of the Co-Owned Residence**

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- a) Upon the sale of the co-owned residence, the District will receive its share of the net sale price, in direct proportion to the percentage it owns or the District's initial investment increased by ten (10%) percent per year, compounded annually, whichever is greater.
- b) In the event the terminated employee desires to keep the residence, it would be appraised and the terminated employee would pay to the District its share as defined in 4.D.2)a) above. The date of value will be thirty (30) days following termination and the payment to the District will be due ninety (90) days following termination.
- c) The employee may choose as an alternative to co-ownership, to receive a loan from the District.
- d) The District loan may not exceed ten (10%) percent of the purchase price, or fifty (50%) percent of the employee's annual salary, whichever is the lesser amount.
- e) The interest rate shall be established as an average of the District's return on investment during the period of the loan plus two (2%) percent per year.
- f) Principal and interest payments on the loan will be deferred until termination of employment.
- g) Ninety (90) days following termination of employment, the loan and accrued interest, compounded annually, will be due and payable.
- h) At any time during employment, the employee may arrange a schedule for purchase of the District's portion of the ownership or arrange a repayment schedule for the loan. Such purchase or repayment schedule will be submitted to the Board of Directors for approval.
- i) Action taken by the District pursuant to the provisions of Paragraph 4.D. of this policy is subject to approval of the Finance and Personnel Committee of the Board of Directors, prior to approval of the Board of Directors.

5. Reimbursement Procedure

A. Approval Process

POLICY NO. 24 - EMPLOYEE RELOCATION ASSISTANCE

The employee must obtain written approval to incur relocation costs from the Director of Human Resources and the General Manager before incurring such costs.

Upon receiving notice of approval for relocation, the employee will contact the Director of Human Resources to secure instructions for moving household goods and personal effects. The Director of Human Resources will approve the carrier, review all bills submitted on carrier charges, and submit them to the General Manager for approval. The Finance Department will audit for approval and process the request for payment.

B. Documentation

The relocating employee must document all allowable relocation expenses incurred and submit them along with receipts for reimbursement. This includes locating a residence costs. These expenses must be approved by the immediate supervisor, the Director of Human Resources, and the General Manager before submission to the Finance Department for final approval and payment.

6. Compliance with Policy

The Director of Human Resources is responsible for administration of this policy and procedure. The General Manager of the District will assure compliance with this policy and procedure.

Adopted by IRWD Board of Directors on: May 26, 1990

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 25 - STAFF REORGANIZATION AND/OR REDUCTION

1. Purpose of Policy

The purpose of this policy is to provide for the orderly change of status of employees should it become necessary for reasons of reorganization or economy.

2. Staff Reduction

A. Definition

The term "Staff Reduction", when the action taken is attributable to lack of work and/or funds or other reorganization, is defined to include: reassignment in the same job series to an equivalent or lower position; reassignment to another job classification where qualified; or layoffs from the District.

B. Order of Staff Reduction

1) Temporary and/or Probationary Employees

Staff reduction will apply first to all temporary and/or probationary employees provided they do not have skills deemed necessary by the District for the efficient operation of the system within the job classification and/or department affected.

2) Employees Within Same Job Classification

Staff reduction within the same job classification will be based on the District's determination of job performance/qualifications based on the most recent performance review rating. Subsequent documentation pertaining to job preference/qualifications, work record, disciplinary and attendance record and ability to perform the work remaining will also be taken into consideration. Where employees have been given identical ratings, a more detailed evaluation of the review may be made to determine the more highly qualified individuals.

3) Employees Outside of Same Job Classification

An employee who is displaced from his or her classification pursuant to 2.B.2) above, may request assignment to a lower level position in the job series or to a different job series in a job previously held by the employee. The employee may also be considered for vacancies anywhere in the District for which the employee is qualified to perform the work required. However, the District is not obligated to reassign the displaced employee or to displace any other employee to accommodate such a request.

POLICY NO. 25 - STAFF REORGANIZATION AND/OR REDUCTION

The employee's performance review at the higher level position will be considered when applying for the lower level position(s) with the criteria set forth in 2.B.1) and 2) determining who will be retained and who will be displaced.

4) **Employees Not Retained Inside or Outside of Their Same Job Classification**

If an employee is not retained or awarded a position under 2.B.3) above, the employee will be laid-off from District employment with re-employment rights listed in paragraph 2.C.2) below.

C. Displaced Employees

1) **Salary**

The salary for a displaced employee in a new position shall be the employee's current salary or the top of the range of the new position, whichever is less.

2) **Reinstatement Priority**

A displaced employee, while employed by the District, has reinstatement priority for one (1) year to the position previously held, or any intermediate position for which the employee is qualified. The order of priority shall be as described in Paragraph 2.B.2) above.

An employee severed from District employment under 2.B.4) above shall be placed on a re-employment list for the employee's job series for a period of one (1) year. Re-employment will be subject to the factors set forth in 2.B.2) and 2.C.1) above when filling a vacancy under this policy. A re-employed employee shall have vacation status based upon the employee's original hire date.

3) **Voluntary Resignation of Employee Scheduled to be Displaced**

An employee who is scheduled to be displaced under the conditions of this policy, and who voluntarily resigns employment prior to, or at the time of displacement, will receive two (2) weeks severance pay, and accumulated pro-rated sick leave at fifty (50%) percent regardless of length of service. This employee will also be placed on the re-employment list for a period of one (1) year.

However, an employee who is reassigned, and then voluntarily terminates, will not be eligible for these benefits, and will receive benefits according to established District policy.

POLICY NO. 25 - STAFF REORGANIZATION AND/OR REDUCTION

D. Termination Due to Staff Reduction

An employee who is severed from District employment under this policy will receive two (2) weeks severance pay, accumulated pro-rated vacation at full rate, and accumulated pro-rated sick leave at fifty (50%) percent, regardless of length of service.

E. Employees on Leave of Absence at Time of Staff Reduction

An employee on authorized leave of absence at the time of a staff reduction will be evaluated as though at work according to the above criteria in this policy. If reassigned or severed from District employment, the employee on leave of absence will have the same rights as any other employee affected by the staff reduction, to either hold a position or to obtain severance benefits.

F. Temporary and Probationary Employee Terminated Due to Reduction in Staff

Temporary and probationary employees are not eligible for benefits outlined in 2.C.3) or 2.D. above.

3. Responsibility and Compliance

The Director of Human Resources is responsible for establishment and compliance of this Staff Reduction Policy.

All staff reductions are subject to approval by the General Manager and the Board of Directors of the District.

Adopted by IRWD Board of Directors on: November 12, 2001

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 26 - SMOKE-FREE WORKPLACE POLICY

I. IN GENERAL

- A. In accordance with state and federal law, the District has adopted this Smoke-Free Workplace policy in an effort to protect the health and well-being of District employees and all other individuals who visit facilities that are owned or controlled by the District.
- B. The provisions of this Policy do not apply to recreational and medical marijuana, which the District treats the same as any other drug that is subject to regulation under Policy 27 and Policy 27.1. Although the use of marijuana is legally permissible in the State of California, it remains a prohibited and controlled substance under federal law and DOT Regulations.

II. DEFINITIONS

- A. **Smoking:** inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for circumventing the prohibition of smoking.
- B. **Enclosed:** Surrounded by a ceiling, floor, and solid walls, which, except for doors, passageways and/or windows, extend from floor to ceiling on all sides. If an enclosed area is divided by internal partial walls or other office landscaping, it is still, in its entirety, considered enclosed. A retractable roof, whether open or closed, shall be considered a ceiling for the purpose of this definition.
- C. **Entrance or Exit:** An opening into a building from a contiguous street, sidewalk, walkway, parking area or patio.

III. RESTRICTIONS ON SMOKING

- A. All District employees and volunteers are prohibited from smoking or disposing of smoking waste in any enclosed facilities owned or controlled by the District, including all work areas inside the Sand Canyon headquarters building and all Michelson Operations Center buildings. Employees and volunteers are also prohibited from smoking within 20 feet of any entrance, exit, or operable windows of any building in which smoking is prohibited.
- B. Smoking is prohibited in all District owned or leased vehicles. Employees may smoke in their personal vehicles.
- C. While in any unenclosed areas in which smoking is permitted, employees are required to use good judgment and extreme care with smoking devices, matches, lighters and any smoking equipment or waste that might start a fire. Employees who smoke must dispose of the remains in the proper containers.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 27 - SUBSTANCE ABUSE POLICY

I. IN GENERAL

A. The District is committed to providing a healthy and safe work environment free of the harmful effects of substance abuse in order to provide optimal and efficient service to its customers and the public. Consistent with this commitment, the District, among other things, prohibits District employees from possessing, using, providing, marketing, manufacturing, selling, offering and distributing drugs and alcohol and other intoxicants on District premises or while on duty, on-call, or on stand-by. Furthermore the District prohibits employees from possessing paraphernalia, equipment or substances on District premises which could be used for the manufacture, storage, distribution or use of drugs or alcohol unless otherwise permitted to do so. This Policy is intended to establish the framework for District compliance with applicable state and federal regulations relative to substance abuse prevention and drug and alcohol testing in the workplace, including, but not limited to, the California Drug-Free Workplace Act of 1990.

B. Substance abuse has been found to be a contributing factor to absenteeism, substandard performance, increased potential for accidents, poor morale, and impaired public relations. Accordingly, the purpose of this Policy is to prevent drug and alcohol abuse in the workplace by clearly identifying employee responsibilities relative to drug and alcohol abuse and by providing managers and supervisors with guidelines and procedures for the detection of such abuse and the enforcement of related rules. Employees must take all reasonable steps to comply and cooperate with the District's efforts to enforce the provisions of this Policy.

C. It is the responsibility of all District employees to cooperate in efforts to protect the life, personal safety, and property of co-workers, District customers, and members of the public. Any employee who knows of a violation of this policy or has reasonable suspicion that the policy has been violated shall report it to the Human Resources Department or to the General Manager. Customers and members of the public who have similar information or suspicion may also assist the District by reporting to the Human Resources Department or to the General Manager.

D. Additionally, the District reserves the right to use drug and alcohol testing and detection technologies to identify individuals who may have these substances or their metabolites in their bodies while working or applying for employment. The District also reserves the right to test employees it has reason to believe may be impaired or have otherwise violated this policy, or any at other time when required by law.

E. In the spirit of creating a drug and alcohol-free work environment, nothing in the policy shall be construed to restrict the District's ability to use common sense, prudence, technology, or external resources to protect the safety of its employees, its customers, or the public.

F. The District encourages employees who believe that they may have a drug or

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alcohol problem to voluntarily seek counseling, assistance, and/or rehabilitation, and will be supportive of those employees who voluntarily seek help before the District discovers that the employee has a drug or alcohol problem. However, the District will be equally firm in identifying and disciplining those employees who are substance abusers and do not seek help.

II. APPLICABILITY

A. This policy applies to all applicants and employees of the District. Certain District employees are also subject to the Omnibus Transportation Employee Testing Act of 1991 (Pub. L. No. 102-143, 105 Stat. 952, as amended), which requires alcohol and drug testing of safety-sensitive transportation employees who are required to have a commercial driver's license (49 CFR Parts 40, 382, 391, 392, and 395, as amended). In order to comply with the Department of Transportation regulations, the District has developed specific guidelines regarding when and how drug-alcohol testing will occur, as well as provisions on rehabilitative services available to all covered District employees. The specific guidelines for District employees who are required to have a commercial driver's license are set forth in Policy 27.1.

B. District employees who are "Covered Employees" as defined in Policy 27.1 are covered by this Policy except to the extent that it conflicts with Policy 27.1 or with the Omnibus Transportation Employee Testing Act of 1991, as amended, the Federal Highway Administration Regulations, as amended, Federal Motor Carrier Safety Administration, as amended, or any other applicable Department of Transportation Agency regulations governing drug testing of Covered Employees. In the event of such conflict, the applicable provisions of Policy 27.1 and/or regulatory and/or statutory provisions will control.

III. DEFINITIONS

The following definitions will be applicable to this policy:

- A. Alcohol or Alcoholic Beverage:** Any beverage that has alcoholic content in excess of .5% by volume.
- B. Applicant:** Any person applying for employment with the District who has been extended a conditional offer of employment. Current employees who have applied for a new position at the District are applicants for purposes of provisions of this Policy regarding pre-placement testing.
- C. Controlled Substance:** Any drug that is classified by the federal Drug Enforcement Administration into the five schedules or classes on the basis of their potential for abuse, accepted use, and accepted safety under medical supervision. Examples of controlled substances include, but are not limited to, marijuana metabolites, cocaine metabolites, opiate metabolites, amphetamines, and phencyclidine (PCP).

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- D. Drug:** Any substance (other than alcohol) or metabolite capable of altering the mood, sensory perception, cognitive abilities, motor skills, reaction time, rationality or judgment of the individual in whose body it is present. The term “drug” refers to both Legal Drugs and Illegal Drugs, as defined herein.
- E. Drug Paraphernalia:** Any device or instrument used for injecting, smoking, consuming, or otherwise administering a controlled substance or legal and/or illegal drug, which includes, but is not limited to the items set forth in California *Health and Safety Code* section 11364.
- F. Illegal Drug:** A controlled substance, a legal drug, which has not been legally obtained, or a legal drug which was legally obtained, but that is being sold or distributed unlawfully.
- G. Impaired:** Diminished capacity, ability, mental acuity, or performance.
- H. Intoxicant:** Any substance (including alcohol or alcoholic beverages) or metabolite capable of altering the mood, sensory perception, cognitive abilities, motor skills, reaction time, rationality or judgment of the individual in whose body it is present.
- I. Legal Drug:** Any drug, including any prescription drug or over the counter drug, that has been legally obtained and that is not unlawfully sold or distributed.
- J. Prescription Drug:** Any substance lawfully prescribed by a licensed or regulated professional for consumption or use.
- K. Reasonable Suspicion:** A belief based upon objective facts, evidence or other indicators that would lead a reasonable person to suspect that an employee is under the influence of drugs or alcohol and that employee’s ability to perform the functions of the job is impaired or so that the employee’s ability to perform his/her job safely is reduced.
 - 1. Grounds for Reasonable Suspicion include, but are not limited to factors such as:
 - a. Slurred speech;
 - b. Alcohol odor on breath;
 - c. Unsteady walking and movement;
 - d. Physical impairment (e.g., glassy eyes, eye dilation, shaking, or erratic movement);
 - e. An accident involving District property under circumstances that provide reasonable basis to believe that accident was likely to have been caused by impairment from drugs or alcohol;
 - f. Physical altercation;
 - g. Verbal altercation;
 - h. Unusual behavior;
 - i. Job impairment;

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- j. Possession of alcohol or drugs; or
- k. Information obtained from a reliable source with personal knowledge.

2. Any of the above factors, alone or in combination, may constitute Reasonable Suspicion. Managers and supervisors who have reasonable suspicion to believe that an employee is in violation of this Policy shall document the basis for this reasonable suspicion using the Observed Behavior - Reasonable Suspicion Record (included as Attachment B) and report promptly to the Human Resources Department.

L. Under the Influence of Drugs or Alcohol. The use or misuse of any of the following in a manner and to a degree that impairs the employee's work performance or ability to use District property or equipment safely:

- 1. Any alcoholic beverage;
- 2. Any illegal drug or substance, or
- 3. Any legal drug.

IV. POLICY

A. No Right of Privacy. The District respects the individual privacy of its employees. However, employee privacy does not extend to the employee's use of District-provided equipment, supplies, or property. Employees should be aware that the terms of this Policy limit their privacy in the workplace and that employees have no reasonable expectation of privacy with respect to District property, which may be searched at any time.

B. Employee Responsibilities

1. District employees must sign and submit to Human Resources the Acknowledgement of Receipt of this Policy (attached to this Policy), noting specifically that the employee has read, understood, and agreed to abide by the provisions of this Policy as a condition of continued employment.

2. District employees shall not consume or possess alcoholic beverages or be under the influence of alcoholic beverages on District premises, property, or in District vehicles or at any time while on duty, during meal or rest periods, while on-call, while on stand-by, or while wearing a District uniform.

3. District employees shall not possess, use, or be under the influence of drugs or other intoxicants while on District premises, on District property, or in District vehicles, or at any time while on duty, during meal or rest periods, while on-call, while on stand-by, or while wearing a District uniform.

4. District employees shall not use prescription drugs or any other legal drugs in a manner that impairs their ability to perform their job properly and safely. Furthermore, prescription and other legal drugs shall be used only in the manner, combination, and quantity prescribed or otherwise indicated by the manufacturer.

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No prescription drug shall be brought upon District premises by any person other than the person for whom the drug is prescribed.

a. **Recreational and Medical Marijuana:** The District recognizes that the State of California has legalized the use of marijuana for recreational and certain medical uses. However, in accordance with state and federal law, the District treats recreational and medical marijuana the same as any other drug that is subject to regulation under this Policy. Moreover, although the use of marijuana is legally permissible in the State of California, it remains a prohibited and controlled substance under federal law. The District reserves the right to take any action under this policy when marijuana is involved, whether it is used for medical or non-medical purposes.

b. The District reserves the right to prohibit on-the-job use of any prescription or other legal drug for safety reasons. An employee, who is unsure if a drug might impair his or her ability to perform their job properly and safely, must advise his or her supervisor of the potential concern before the start of work. In doing so, employees are not required to disclose the name of a medication or the medical reason for taking the drug, but may instead focus on the potential for impairment in relation to assigned job duties.

5. Whether done directly by a District employee or through use of a third party, providing, storing, marketing, manufacturing, selling, offering to sell, trading, and distributing alcohol, drugs, or other intoxicants is strictly prohibited on District premises, on District property, or in District vehicles, and during any on-duty time, during meal or rest periods, while on-call, while on stand-by, or while wearing a District uniform.

6. Whether done directly by a District employee or through use of a third party, providing, storing, marketing, manufacturing, selling, offering to sell, trading, and distributing of drug paraphernalia, equipment, or substances that can be used for the manufacture, storage, distribution, or use of drugs or alcohol is strictly prohibited on District premises, on District property, or in District vehicles, and during any on-duty time, during meal or rest periods, while on-call, while on stand-by, or while wearing a District uniform.

a. The possession and use of such items by District employees is also prohibited unless expressly permitted by a supervisor or manager for legitimate business reasons.

7. Employees must submit to alcohol and drug testing, and comply with any required follow-up procedures, when directed to do so in accordance with this Policy.

8. Employees must notify Human Resources in writing within five (5) days of any conviction based on violation of any state or federal drug statute relating to conduct in the workplace or while on District business. Employees must provide

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this notice to Human Resources whether or not the conviction has been or will be appealed.

9. Failing to comply with any aspect of the District's drug or alcohol testing procedures as set forth in this Policy, or otherwise in violation of District policy, is grounds for discipline, up to and including termination.

C. District Responsibilities

1. Supervisors and managers shall notify Human Resources when they have reasonable suspicion to believe that an employee may have violated the provisions of this Policy and shall document in writing the facts constituting the basis for reasonable suspicion. Where feasible, supervisors and managers shall use the District's Observed Behavior – Reasonable Suspicion Record (included as Attachment B to this Policy).

a. Where feasible, the employee's behavior should also be separately observed and documented by another manager or supervisor.

b. Additionally, where criminal activity is suspected, the appropriate law enforcement agencies or authorities and the Safety and Security Office shall be notified.

2. The Director of Human Resources, the General Manager, or either's designee may then direct an employee to submit to a drug and/or alcohol test in accordance with the guidelines set forth in this Policy. The employee will be detained for a reasonable time until he or she can be safely transported for testing, or to the employee's home at the employee's own cost.

3. Whenever an employee refuses an order to submit to a drug or alcohol test upon appropriate direction, the employee shall be reminded of the requirements of this Policy and the disciplinary consequences for his/her refusal. Such refusal may be considered insubordination and is grounds for disciplinary action up to and including termination.

4. The Director of Human Resources may also initiate an investigation at any time when he or she has reason to believe that any violation of this Policy has occurred. That investigation may include resources or individuals external to the organization. Regardless, all employees are required to cooperate with any District initiated investigation. The failure to do so may result in disciplinary action up to and including termination.

a. Upon completion of the investigation, the Director of Human Resources and other decision-makers as designated by the District will determine what action, if any, is to be taken, and will be administered in accordance with applicable District policy.

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5. Neither the employee nor the personal property of any employee covered by this policy shall be physically searched without that employee's consent, for which the Director of Human Resources or his or her designee shall be present.

6. The District will pay the full cost of the first test that it has requested of an applicant or employee, including the reasonable cost of any transportation to and from the designated testing facility.

D. Alcohol and Drug Testing Procedures

1. The District will use drug and alcohol testing and detection technologies to identify individuals who have drugs, alcohol, intoxicants or metabolites in their bodies in violation of this Policy. Testing will be administered by the medical facility designated by the District, according to its testing protocol.

2. Pre-Placement Testing

a. Applicants for positions that present a "special need" shall submit to drug and alcohol testing following receipt of a conditional offer of employment. The District shall designate whether the position presents a "special need" in the job description and the job announcement.

b. For purposes of pre-employment drug/alcohol testing, "special need" shall be defined to include the following categories of positions:

(1) **Safety-Sensitive:** Safety-sensitive positions include those positions with duties that are fraught with such risks to others that even a momentary lapse of attention can have disastrous consequences.

(2) **Responsibility for Children:** Positions that involve responsibility for children are those in which employees are directly responsible for protecting children or have continuous interaction or supervisory duties that put them in a position of influence over children.

(3) **History of Drug/Alcohol Use:** Positions that have a history of drug or alcohol use include those where the District has established the existence of documented problems with drug or alcohol use by employees in a particular position or particular department.

(4) **Otherwise Required or Permitted by Applicable Law:** Positions such as "Covered Employees" under Policy 27.1 (Commercial Drivers) for which applicable state or federal law requires pre-placement testing, or for which the District

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reasonably determines a special need for testing exists in accordance with applicable state or federal law.

c. Results: A positive result for a drug or alcohol analysis may result in the applicant not being hired. If a drug screen is positive at the pre-employment physical, the applicant may be requested to provide, within 24 hours of the request, bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name, if the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

3. Alcohol/Drug Testing for Current Employees

a. Current employees may be directed to submit to drug and/or alcohol tests in the following circumstances:

(1) Following a determination that reasonable suspicion exists in accordance with this Policy.

(2) When the employee is subjected to Return to Duty and/or Follow-Up Testing following the employee's return from rehabilitation and/or treatment.

b. Prior to the administration of any drug and/or alcohol testing, the District's testing provider shall attempt to obtain from the employee a completed and signed consent form. This form will document the employee's consent in writing to examination and testing and will authorize the release of such information to the District. Refusal by the employee to sign a consent form is considered insubordination and may be independent grounds for disciplinary action, up to and including termination.

c. Interference With a Required Test or Refusal to Cooperate: An employee will be subject to the same consequences as a positive test if he or she:

(1) Refuses the screening or test, by engaging in behavior such as refusal to provide a urine specimen, body fluid specimen, hair, or breath sample without a valid medical explanation; a verbal declaration of refusal; or physical absence;

(2) Adulterates, dilutes, contaminates, or tampers with the specimen, or attempts to do so;

(3) Substitutes the specimen with that of another person, or sends an imposter to provide a specimen, or attempts to do either act;

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- (4) Refuses to sign the required forms or documentation;
- (5) Otherwise refuses to cooperate in the testing process in such a way that prevents conducting or completion of the test.

d. Results: If the drug screen is positive, the employee may be requested to provide, within 24 hours of the test results, bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name.

E. Voluntary Assistance or Rehabilitation

1. In General. The District encourages those employees who think that they may have a problem with drugs and/or alcohol to seek voluntary assistance and rehabilitation at an early date. Accordingly, an eligible employee who decides to seek treatment or rehabilitation will not be subject to discipline solely because of seeking such treatment. However, the District also reserves the right to discipline employees, up to and including termination, who are found to have engaged in activity prohibited by this Policy, in accordance with Section 4.F, below.

2. Employee Assistance: The Employee Assistance Program (EAP) is available to assist employees in these efforts to overcome problems with drugs and/or alcohol. Information pertaining to such programs may be obtained by direct contact with the EAP agency or by contacting Human Resources.

3. Leave of Absence for Voluntary Receipt of Assistance and Rehabilitation:

- a. The District may grant a leave of absence without pay in order to receive voluntary assistance and rehabilitation. Such a leave of absence shall be unpaid and subject to the requirements of applicable District, policies regarding unpaid leaves of absences and available concurrent use of accrued paid leaves. The District reserves the right to deny such leave in accordance with applicable state or federal law if granting the leave would impose an undue hardship on the District.

F. Consequences for Violation of Policy

- 1. Discipline. Employees who receive a confirmed positive drug and/or alcohol result, or otherwise engage in conduct in violation of this Policy will be subject to discipline, up to and including termination of employment.
- 2. Discretionary Referral by District Following First Positive Test
 - a. In addition to being subject to discipline, an employee who tests positive for drugs and/or alcohol for the first time may also be referred to a Substance Abuse Professional (SAP) selected by the

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District. The SAP will evaluate the individual and determine whether any rehabilitation or assistance is recommended.

b. Employees who fail a second test will be subject to discipline, up to and including termination, and will not be eligible for rehabilitation and assistance under this Policy.

c. When recommended by the SAP, and authorized by the District, participation and completion of the rehabilitation or assistance program is mandatory. Failure of an employee to attend and/or complete a prescribed program will result in termination of rehabilitation and may subject the employee to additional discipline, up to and including termination.

(1) The employee may be granted a leave of absence without pay in order to participate in treatment and rehabilitation that has been authorized by the District. Such a leave of absence shall be unpaid and subject to the requirements of applicable District policies regarding leaves of absence and permissible concurrent use of accrued paid leaves.

G. Return to Duty

Following successful rehabilitation or receipt of assistance under either Section IV.E. or F. of this Policy and before returning to duty, an employee must agree to, sign a Return-to-Duty Agreement, and pass a return-to-duty drug and alcohol test as a condition of continued employment with the District. By signing the Return-to-Duty Agreement, the employee promises to complete any specified treatment or rehabilitation program(s) and to comply with any follow-up testing and any other requirements stated therein. If the employee violates the Return-to-Duty Agreement, he/she will be subject to additional disciplinary action up to and including termination.

H. Confidentiality

1. Laboratory reports and/or test results shall not be included in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of Human Resources. The reports or test results may be disclosed to supervisors on a strictly need-to-know basis and to the tested employee upon request.
2. Disclosures, without employee consent, may also occur when:
 - a. The information is compelled by law or by judicial or administrative process;
 - b. The information has been placed at issue in a formal dispute between the District and the employee;

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- c. The information is to be used in administering an employee benefit plan; or
- d. The information is needed by medical personnel for the diagnosis or treatment of the employee, when he/she is unable to authorize the disclosure.

I. Constitutionality

This Policy is intended to comply with applicable state and federal laws, including applicable state and federal constitutional guarantees. Should any provision of this Policy not conform to statutory, constitutional, or court restrictions, such non-conforming provision(s) shall no longer be enforced, but the remaining provisions shall remain in effect.

Adopted by IRWD Board of Directors on: February 11, 2019

**ATTACHMENT A
IRVINE RANCH WATER DISTRICT
SUBSTANCE ABUSE POLICY**

ACKNOWLEDGEMENT FORM

By signing this acknowledgement, I understand that I am subject to the requirements and procedures described in this Substance Abuse Policy, which implements and is intended to comply with applicable state and federal laws regarding substance abuse prevention and drug and alcohol testing in the workplace.

I further hereby certify that the District has provided me with a copy of this Policy.

I understand that the District will maintain a copy of this signed acknowledgment and I will be provided with a copy.

I HAVE READ AND UNDERSTAND THE ABOVE ACKNOWLEDGEMENT AND THE DISTRICT'S SUBSTANCE ABUSE POLICY.

Employee's Name (PLEASE PRINT)

Employee's Signature

Date

IRVINE RANCH WATER DISTRICT

OBSERVED BEHAVIOR-REASONABLE SUSPICION RECORD

Employee:	Name: _____	Job Title: _____
	Department: _____	Supervisor's Name: _____
Observation:	Date: _____	Time: (from _____ am/pm: to _____ am/pm)
Location/Building: _____		

CAUSE FOR SUSPICION (*Answer all that apply*)

1. Presence of Drugs, Alcohol, and/or Paraphernalia (*specify*): _____

2. Appearance:
- | | | |
|---|---|--|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Flushed | <input type="checkbox"/> Puncture Marks |
| <input type="checkbox"/> Disheveled | <input type="checkbox"/> Bloodshot Eyes | <input type="checkbox"/> Inappropriate wearing of sunglasses |
| <input type="checkbox"/> Dilated/Constricted Pupils | <input type="checkbox"/> Profuse Sweating | <input type="checkbox"/> Tremors |
| <input type="checkbox"/> Dry-mouth Symptoms | <input type="checkbox"/> Runny Nose/Sores | <input type="checkbox"/> Body Odor |
| <input type="checkbox"/> Other _____ | | |

3. Behavior

- Speech:
- | | | | |
|--------------------------------------|-------------------------------------|-------------------------------------|---------------------------------|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Incoherent | <input type="checkbox"/> Slurred | <input type="checkbox"/> Silent |
| <input type="checkbox"/> Confused | <input type="checkbox"/> Slowed | <input type="checkbox"/> Whispering | |
| <input type="checkbox"/> Other _____ | | | |

- Awareness:
- | | | | |
|--------------------------------------|---|--------------------------------------|--------------------------------------|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Confused | <input type="checkbox"/> Mood Swings | <input type="checkbox"/> Euphoria |
| <input type="checkbox"/> Lethargic | <input type="checkbox"/> Lack of Coordination | <input type="checkbox"/> Paranoid | <input type="checkbox"/> Disoriented |
| <input type="checkbox"/> Other _____ | | | |

4. Motor Skills

- Balance:
- | | | | |
|--------------------------------------|----------------------------------|----------------------------------|-------------------------------------|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Swaying | <input type="checkbox"/> Falling | <input type="checkbox"/> Staggering |
| <input type="checkbox"/> Other _____ | | | |

- Walking & Turning
- | | | |
|--------------------------------------|----------------------------------|--|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Swaying | <input type="checkbox"/> Arms Raised for Balance |
| <input type="checkbox"/> Stumbling | <input type="checkbox"/> Falling | <input type="checkbox"/> Reaching for Support |
| <input type="checkbox"/> Other _____ | | |

5. Other Observed Action or Behavior (*specify, add other sheets as needed*) _____

Observed by: (*must be a supervisor or manager trained in reasonable suspicion observation techniques including physical, behavioral, speech, and performance indicators of impairment due to probable alcohol misuse and/or use of controlled substances.*)

Observer #1 Signature	Title	Date	Time _____am/pm
-----------------------	-------	------	-----------------

Observer #2 Signature	Title	Date	Time _____am/pm
-----------------------	-------	------	-----------------

This document must be prepared and signed by both observers within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier (49 CFR 382.307(f)).

Irvine Ranch Water District
PERSONNEL POLICIES AND PROCEDURES
POLICY 27.1 SUBSTANCE ABUSE POLICY – COMMERCIAL DRIVERS

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I. PURPOSE

A. The purpose of this document is to establish Irvine Ranch Water District's ("District") Substance Abuse Policy ("Policy") applicable to commercial drivers and other covered District employees and job applicants performing safety-sensitive positions. This Policy outlines the District's expectations relative to the use and abuse of drugs and alcohol as well as other intoxicating substances.

B. This Policy is intended to establish the framework for District compliance with applicable state and federal regulations relative to substance abuse prevention, requirements for drug and alcohol testing, and consequences for employees found in violation of this Policy. This Policy is intended to adopt and comply with the U.S. Department of Transportation's ("DOT") Omnibus Transportation Employee Testing Act ("DOT Regulations"). The DOT Regulations are found in Title 49, Code of Federal Regulations ("C.F.R.") Parts 382, *et. al.*, which mandate drug and alcohol testing for all safety-sensitive positions, and in Title 49 C.F.R. Part 40, as amended, which sets forth the requirements for the collection and testing of urine and breath specimens and samples.

C. Employees covered by this Policy are also covered by the District's Substance Abuse Policy No. 27. In the event of conflicting provisions, this Policy will control.

II. APPLICABILITY

A. This Policy applies to all District employees and job applicants who hold a Commercial Driver's License ("CDL") and operate a Commercial Motor Vehicle ("CMV") (collectively referred to as "Covered Employees") when on District property or in relation to any District-related business.

B. Managers and supervisors of Covered Employees are also subject to the provisions of this Policy and shall be responsible for administering this Policy according to its procedures.

III. DEFINITIONS

A. "Alcohol" means any beverage or food that has an alcoholic content in excess of 0.5% by volume. The definition of alcohol includes beverage alcohol, ethyl alcohol or other low molecular weight alcohols such as methyl or isopropyl alcohol.

B. "Alcohol concentration or content" refers to the level of alcohol concentration present in person's blood or breath. The alcohol concentration level in a person's blood is expressed in terms of grams of alcohol per 100 milliliters of blood. The alcohol concentration level in a person's breath is expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath testing ("EBT") device or test.

C. "Alcohol Testing" includes tests for alcohol concentration conducted by either National Highway Traffic Safety Administration ("NHTSA") approved saliva tests or evidential breath testing ("EBT") device tests operated by a trained breath alcohol technician ("BAT"). When an

initial test indicates an alcohol concentration of 0.02 or greater, a second confirmation test will be performed pursuant to DOT Regulations.

D. “Collection Agencies” means any state licensed service providers designated by the District to collect urine specimens or samples for delivery to a laboratory certified by the Department of Health and Human Services (“HHS”) for testing pursuant to DOT Regulations.

E. “Commercial Driver’s License” or “CDL” means a license issued by the State of California or other jurisdiction pursuant to 49 C.F.R. Part 383 which authorizes the license holder to operate a class of Commercial Motor Vehicle.

F. “Commercial Motor Vehicle” or “CMV” means a motor vehicle or combination of motor vehicles, as follows:

1. A vehicle with a gross combined weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
2. A vehicle with a gross vehicle weight of at least 26,001 pounds;
3. A vehicle designed to transport 16 or more passengers, including the driver; or
4. A vehicle used to transport those hazardous materials found in the federal Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101-5127.

G. “Controlled Substance / Illegal Drug” means any substance (other than alcohol) or metabolite that is a controlled substance as defined in 49 C.F.R. Part 40, including, but not limited to, marijuana metabolites, cocaine metabolites, opiate metabolites, amphetamines, and phencyclidine (PCP). Controlled Substance and Illegal Drug also means any substance classified by the federal Drug Enforcement Administration as a controlled substance.

H. “Covered Employee” means any District employee or applicant whose job duties, as assigned by the District, require her/him to maintain a Commercial Driver License and operate a Commercial Motor Vehicle, as defined by this Policy. This includes, but is not limited to, full-time, part-time, temporary, and probationary employees. For purposes of pre-placement testing, the term “Covered Employee” also includes a person who is applying to work as a “Covered Employee.”

I. “Designated Service Agent or Provider” means the entity or third-party individual designated by the District to conduct drug and alcohol testing pursuant to DOT Regulations. This includes, but is not limited to, Collection Agencies, Urine Collectors, Screening Test Technicians (“STT”), Breath Alcohol Technicians (“BAT”), certified collection agencies, certified laboratories, medical review officers (“MRO”), Substance Abuse Professionals (“SAP”), and other Consortium or Third Party Administrators (“C/TPA”) retained by the District to perform or conduct drug and alcohol testing services.

1. The District has designated ProCare Injury Center as its Designated Service Agent or Provider, in accordance with applicable DOT regulations.

(a) Address: 17232 Red Hill Ave., Irvine, CA 92614
Phone: (949) 752-1111 Fax: (949) 752-1133
www.procareworkinjurycenter.com

(b) The District will provide written notice of any changes to the above contact information to Covered Employees.

2. The District reserves the right to change the Designated Service Agent or Provider at any time, in accordance with applicable DOT regulations. The District will provide written notice of any change to the Designated Service Agent or Provider and associated contact information to Covered Employees.

J. “Drug Testing” means using a “split specimen” procedure to collect and analyze urine specimens or samples to test for marijuana metabolites, cocaine metabolites, opiate metabolites, amphetamines, and phencyclidine (PCP). Urine specimens will be taken and divided into primary and secondary specimens. If the primary specimen tests positive, the Covered Employee shall be notified of her/his right to request a secondary specimen test.

K. “Legal Drug” means any drug, including any prescription drug or over the counter drug, that has been obtained legally and that is not unlawfully sold or obtained.

L. “Negative Test” means that the District’s designated service agent or provider has confirmed and ascertained that the results of a drug or alcohol test indicates that there are insufficient amounts of controlled substances and/or alcohol present in a specimen or sample sufficient to generate a positive result pursuant to DOT Regulations.

M. “On Duty” means any time or period a Covered Employee is actually performing, ready to perform, or immediately available to perform any Safety-Sensitive Function.

N. “Positive Test” means that the District’s designated service agent or provider has confirmed and ascertained that the results of a drug or alcohol test indicates that there are sufficient amounts of controlled substances and/or alcohol present in a specimen or sample sufficient to generate a positive result pursuant to DOT Regulations.

O. “Prescription Drug” means any substance lawfully prescribed by a licensed or regulated professional for consumption or use in the course of medical treatment. Prescriptions must include the patient’s name, the name of the substance, quantity/amount to be taken and the period of authorization.

P. “Random Testing” means computerized random selection and testing for drugs and alcohol of Covered Employees in which each employee has an equal chance for selection each time a selection occurs pursuant to DOT Regulations.

Q. “Reasonable Suspicion” means a belief based upon objective facts sufficient to lead a reasonably prudent person to suspect that a Covered Employee is under the influence of drugs or alcohol so that the employee’s ability to perform the functions of the job is impaired or so that the employee’s ability to perform her/his job safely is reduced.

1. Grounds for Reasonable Suspicion include, but are not limited to factors included on the District’s Reasonable Suspicion Report form, such as:

- (a) Slurred speech;
- (b) Alcohol odor on breath;
- (c) Unsteady walking and movement;
- (d) Physical impairment (*e.g.*, glassy eyes, eye dilation, shaking, or erratic movement);
- (e) An accident involving District property under circumstances that provide reasonable basis to believe that accident was likely to have been caused by impairment from drugs or alcohol;
- (f) Physical altercation;
- (g) Verbal altercation;
- (h) Unusual behavior;
- (i) Job impairment;
- (j) Possession of alcohol or drugs; or
- (k) Information obtained from a reliable source with personal knowledge and corroborated by personal observation.

2. Any of the above factors, alone or in combination, may constitute Reasonable Suspicion. Managers and supervisors who have reasonable suspicion to believe that a Covered Employee is in violation of this Policy shall report the Covered Employee to the Human Resources Department.

R. “Refusal” or “Refusal to Submit” means any Covered Employee’s failure to appear or submit to directed drug or alcohol testing as defined by Section IV.C. of this Policy,

“Compliance with Testing.” Any Covered Employee who refuses a drug or alcohol test will be deemed to have failed the test and will be treated as receiving a positive test result.

S. “Safety-Sensitive Function(s)” include, but are not limited to, the following when performed On Duty:

1. All time spent at the driving controls of a Commercial Motor Vehicle (as defined by this Policy) in operation.
2. All time loading or unloading a vehicle; supervising or assisting in the loading or unloading; attending a vehicle being loaded or unloaded; remaining in readiness to operate the vehicle; or in giving or receiving receipts for shipments loaded or unloaded.
3. All time spent performing the requirements for Covered Employees who are involved in an accident, described in Section VIII, “Post-Accident/Injury Testing” of this Policy.
4. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
5. All time inspecting, servicing, or conditioning any Commercial Motor Vehicle (as defined by this Policy) at any time.
6. Any and all other functions, duties, or responsibilities determined by a court of law to be Safety-Sensitive.

T. “Substance Abuse Professional” means a certified or licensed professional who evaluates Covered Employees who have violated this Policy and DOT Regulations by receiving a positive test result and makes recommendations, treatment plans, and schedules and directs return-to-duty and follow-up testing and rehabilitation.

U. “Test Standards” means standards for all drug and alcohol testing conducted under this Policy, including, but not limited to, the collection and testing of urine and breath specimens and samples, as required pursuant to DOT Regulations and procedures.

V. “Under the Influence of Drugs or Alcohol” means the use of:

1. Any alcoholic beverage;
2. Any illegal drug or substance, or
3. The use or misuse of any prescribed drug, in a manner and to a degree that impairs, alters an employee’s mood, sensory perception, cognitive abilities, motor skills, reaction time, rationality or judgment regardless of the user’s alcohol or drug concentration amounts.

IV. POLICY

A. PROHIBITED SUBSTANCES

1. Controlled Substances and Illegal Drugs

Pursuant to this Policy and DOT Regulations, the “Controlled Substances” and “Illegal Drugs” for which testing will be conducted are marijuana metabolites, cocaine metabolites, opiate metabolites, amphetamines, and phencyclidine (PCP). A drug test is considered positive if the amounts of the controlled substances listed below are above the minimum thresholds established by 49 C.F.R. Part 40, as amended. The District reserves the right to amend these minimum thresholds, listed below, without prior notice, in compliance with federal law.

Initial test analyte	Initial test cutoff concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites	50 ng/mL	THCA ¹	15 ng/mL
Cocaine metabolites	150 ng/mL	Benzoyllecgonine	100 ng/mL
Opiate metabolites			
Codeine/Morphine ²	2000 ng/mL	Codeine	2000 ng/mL
		Morphine	2000 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines ³			

AMP/MAMP ⁴	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine ⁵	250 ng/mL
MDMA⁶			
	500 ng/mL	MDMA	250 ng/mL
		MDA ⁷	250 ng/mL
		MDEA ⁸	250 ng/mL

¹Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

²Morphine is the target analyte for codeine/morphine testing.

³Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.

⁴Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

⁵To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

⁶Methylenedioxymethamphetamine (MDMA).

⁷Methylenedioxyamphetamine (MDA).

⁸Methylenedioxyethylamphetamine (MDEA).

2. Legal Drugs

(a) Pursuant to this Policy and DOT Regulations, the appropriate use of legally prescribed drugs or medications and over the counter drugs or medications is not prohibited. Appropriate use of a legally prescribed drug means that the Covered Employee has a prescription from a licensed or regulated professional for consumption or use in the course of medical treatment. The misuse of a legal drug while performing District business is strictly prohibited.

(b) District employees shall not use prescription drugs or any other substance in a manner which impairs their ability to perform their job properly and safely. Furthermore, prescription drugs shall be used only in the manner, combination and quantity prescribed. No prescription drug shall be brought upon District premises by any person other than the person for whom the drug is prescribed.

(c) The District reserves the right to prohibit on-the-job use of any prescription drug for safety reasons. Any District employee who is unsure if a legal drug might impair their ability to perform their job properly and safely must advise their supervisor before the start of work. However, employees are not required to provide the name of the legal drug or provide the reasons for use. This applies to any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected upon use.

3. Medical and Recreational Marijuana

The District recognizes that the State of California has legalized the use of marijuana for recreational and medicinal uses. However, in accordance with state and federal law, the District treats recreational and medical marijuana the same as any other drug that is subject to regulation under this Policy. Moreover, although the use of marijuana is legally permissible in the State of California, it remains a prohibited and controlled substance under federal law and DOT Regulations. The District reserves the right to take any action under this Policy when marijuana is involved, whether it is used for medical or non-medical purposes.

4. Alcohol

Pursuant to this Policy and DOT Regulations, the use of alcohol while performing District business is strictly prohibited. The consumption of beverages or food containing alcohol such that alcohol is present in the body at a breath alcohol concentration of 0.02 or greater is prohibited. Further, the District's Substance Abuse Policy No. 27 prohibits intoxication, impairment and/or being under the influence of alcohol, possession and/or use of alcoholic beverages while on duty on District property or while in a District vehicle.

B. PROHIBITED CONDUCT

1. Possession, Manufacture, or Trafficking of Drugs and Alcohol

Pursuant to this Policy and DOT Regulations, no District employee shall engage in the manufacture, distribution, dispensing, possession and/or use of any controlled substances or illegal drugs, as defined in this Policy, while on District property, in a District vehicle, in uniform, while On Duty (as defined in this Policy), or on official District business. Any District employee found in violation of these provisions will be subject to disciplinary action, up to and including termination. Additionally, where criminal activity is suspected, the appropriate law enforcement authorities shall be notified.

2. Controlled Substances and Illegal Drugs

- (a)** Pursuant to this Policy and DOT Regulations, all Covered Employees are subject to controlled substances testing and must remain readily available to submit to testing if directed by the District.
- (b)** No Covered Employee shall report for duty or remain On Duty requiring the performance of a Safety-Sensitive Function after the use of any drugs or controlled substances in concentrations greater than those described in this Policy. This prohibition does not apply to the use of legal or prescription drugs pursuant to the instructions of a licensed professional who informs the Covered Employee that the drugs will not adversely affect their ability to safely and properly perform any Safety-Sensitive Functions. The District reserves the right to make the final determination as to whether the Covered Employee can safely perform Safety-Sensitive Functions while using a legal or prescription drug.
- (c)** Any manager or supervisor with actual knowledge that a Covered Employee has used a controlled substance shall prohibit the Covered Employee from performing or continuing to perform any Safety-Sensitive Functions. Any manager or supervisor with Reasonable Suspicion to believe that a Covered Employee has used a controlled substance or is under the influence of a controlled substance must follow the requirements of Section VI, "Reasonable Suspicion Testing" of this Policy.
- (d)** No Covered Employee shall perform any Safety-Sensitive Functions after testing positive for a controlled substance, until such time that the Covered Employee is authorized to return to full duty as set forth in Section IX, "Return to Duty/Follow Up Testing" of this Policy. This includes all Covered Employees who have refused to submit to any of the testing procedures in this Policy.
- (e)** Any District employee who violates any of these provisions will be subject to disciplinary action, up to and including termination.

3. Alcohol

- (a)** Pursuant to this Policy and DOT Regulations, all Covered Employees are subject to alcohol testing and must remain readily available to submit to testing if directed by the District.
- (b)** No Covered Employee shall report to duty or remain on duty requiring the performance of a Safety-Sensitive Function while using alcohol, within four (4) hours of using alcohol, or while having a breath

alcohol concentration level of 0.04 or greater. No Covered Employee shall possess alcohol while on duty or performing a Safety-Sensitive Function.

(c) Any manager or supervisor with actual knowledge that a Covered Employee is using alcohol or has used alcohol within four (4) hours, shall prohibit the Covered Employee from performing or continuing to perform any Safety-Sensitive Functions. Any manager or supervisor with Reasonable Suspicion to believe that a Covered Employee has used alcohol or is under the influence of alcohol must follow the requirements of Section VI, "Reasonable Suspicion Testing" of this Policy.

(d) No Covered Employee shall perform any Safety-Sensitive Functions after testing positive for alcohol, until such time that the Covered Employee is authorized to return to full duty as set forth in Section IX, "Return to Duty/Follow Up Testing" of this Policy and has a breath alcohol test value less than 0.02. This includes all Covered Employees who have refused to submit to any of the testing procedures in this Policy.

(e) Any District employee held in violation of these provisions will be subject to disciplinary action, up to and including termination.

V. PRE-PLACEMENT TESTING

Pursuant to this Policy and DOT Regulations, all current Covered Employees and applicants for positions as Covered Employees (collectively "Covered Employees") must undergo testing for drugs or alcohol before beginning employment in which any Safety-Sensitive Functions are performed for the District. The District shall not allow a Covered Employee to perform Safety-Sensitive Functions until the administration of a drug and alcohol test returns a negative result. Any Covered Employee who refuses a drug or alcohol test, as discussed further in Section X, "Compliance with Testing," will be deemed to have failed the test and will be treated as receiving a positive test result.

A. TESTING PROCEDURE

1. All Covered Employees, as defined in Section III.H. of this Policy, are subject to pre-placement testing. These provisions also apply to current District employees who are transferred, promoted, or reclassified into Safety-Sensitive positions that require a Commercial Driver License and operation of a Commercial Motor Vehicle.
2. All Covered Employees must provide their testing history as a condition of employment. Failure to consent to the release of this information to the District or the District's designated service agent or provider will bar the employee or applicant from performing any Safety-Sensitive Functions or holding such positions.

3. All Covered Employees who transfer into a Safety-Sensitive position or a position that performs Safety-Sensitive Functions must submit their drug and alcohol testing history to the District or the District's designated service agent or provider.
4. All pre-placement drug and alcohol testing will be conducted by the District's designated service agent or provider which is currently:
5. All pre-placement drug and alcohol testing will be conducted at the District's expense in conjunction with the pre-placement physical examination.
6. All offers of employment with the District for Covered Employees are made contingent upon completing and successfully passing a drug and alcohol screening test.
7. All applicants for positions covered by this Policy, as set forth in Section II.A., who test positive for prohibited drugs or alcohol will have their offer of employment rescinded, and will not be employed by the District. All other Covered Employees will be subject to provisions of this Policy for positive test results.

VI. REASONABLE SUSPICION TESTING

Pursuant to this Policy and DOT Regulations, all Covered Employees must submit to drug and alcohol testing when the District has Reasonable Suspicion to believe that an employee is under the influence of drugs or alcohol. Any Covered Employee who refuses a drug or alcohol test will be deemed to have failed the test and will be treated as receiving a positive test result.

A. DETERMINATION

1. The District's decision to conduct Reasonable Suspicion testing for drugs or alcohol must be based on a manager's or supervisor's determination that Reasonable Suspicion exists that a Covered Employee is in violation of this Policy, as defined in Section III of this Policy. Such a determination can be made under this Policy at one of the following times only:
 - a) While the Covered Employee is performing a Safety-Sensitive Function;
 - b) Just before the Covered Employee is set to perform a Safety-Sensitive Function; or
 - c) Just after the Covered Employee has stopped performing a Safety-Sensitive Function.
2. District managers, supervisors, and other Covered Employees who have reasonable suspicion to believe that a Covered Employee is in violation of this Policy must immediately inform the Human Resources Department of that suspicion.

Managers and supervisors shall complete and submit the Observed Behavior – Reasonable Suspicion Report (Attachment B to this Policy) to the Human Resources Department for all observations or incidents involving Covered Employees.

3. Following notification, should the Director of Human Resources reasonably believe that a policy violation has occurred, the Director may initiate an investigation. That investigation may include resources or individuals external to the organization. Regardless, all employees are required to cooperate with any District initiated investigation. The failure to do so may result in disciplinary action, up to and including termination.

4. Upon completion of the investigation, the Director of Human Resources and other decision-makers as designated by the District will determine what action, if any, is to be taken. The Director of Human Resources, Safety and Security Manager representative, or the General Manager shall be the only District employees who may order alcohol and/or drug testing for reasonable suspicion. Disciplinary action resulting from an investigation will follow the guidelines as established by applicable District policy.

B. TIMING

1. Alcohol: An alcohol test required under this section shall be administered within two (2) hours following the District's Reasonable Suspicion determination under section VI.A. of this Policy. If an alcohol test required by this section is not administered within eight (8) hours following the District's determination under section VI.A., the District will cease attempts to administer further alcohol tests but shall record and maintain documentation stating the reasons the alcohol test was not promptly administered.

2. Controlled Substances: Covered Employees may be tested for controlled substances at any time during District hours following a Reasonable Suspicion determination under Section VI.A. of this Policy.

C. TESTING PROCEDURE

1. Managers and supervisors shall complete the District's Reasonable Suspicion Report within one (1) hour of any observations or incidents raising Reasonable Suspicion of any violation of this Policy.

2. Managers and supervisors must inform the suspected employee of the facts upon which Reasonable Suspicion is based. If Reasonable Suspicion exists and the suspected employee is using a prescription drug, it is the suspected employee's responsibility to disclose that fact.

3. Managers and supervisors shall not physically search a suspected employee or their property based on Reasonable Suspicion of drug or alcohol use. However, District employees have no reasonable expectation of privacy with respect to District property.
4. After completion of the Reasonable Suspicion Report, managers and supervisors must notify the Human Resources Department and submit their reports.
5. The Director of Human Resources, Safety and Security Manager, or General Manager shall be the only District employees who may order drug or alcohol testing for Reasonable Suspicion.
6. Affected employees will be directed by their manager or supervisor to report for testing.
7. All Reasonable Suspicion drug and alcohol testing will be conducted by the District's Designated Service Agent, as set forth in Section III.I. of this Policy.
8. Each selected employee must report immediately to the District's designated service agent or provider within two (2) hours after being notified of their selection.
9. Each selected employee who fails or declines to report or appear at the designated testing location during the designated time will be deemed to have refused to test and will be considered to have received a positive test result.
10. After completion of testing, the Covered Employee will report back to duty/work unless a refusal to test occurred or a positive result is received.
11. Employees who receive a positive test result will be subject to the Return-to-duty and follow-up testing requirements and procedures in Section IX, "Return to Duty/Follow Up Testing" of this Policy, and are subject to disciplinary action, up to and including termination.

D. SUPERVISOR TRAINING REQUIREMENTS

1. Pursuant to this Policy and DOT Regulations, all District managers and supervisors of Covered Employees will receive at least one (1) hour of training on indicators of probable drug use and at least one (1) hour of training on indicators of probable alcohol use. This training will cover the physical, behavioral, speech, and performance indicators of drug and alcohol abuse. Any manager or supervisor who makes the determination that reasonable suspicion exists to test a Covered Employee for drugs or alcohol is prohibited from administering the drug or alcohol test, even if qualified to do so.

VII. RANDOM TESTING

A. SELECTION

1. Pursuant to this Policy and DOT Regulations, all Covered Employees must submit to testing for controlled substances and alcohol on a random basis every year. A minimum of ten (10%) percent of the average number of Covered Employee positions will be subject to random alcohol testing in each calendar year. A minimum of twenty five (25%) percent of the average number of Covered Employee positions will be subject to random drug testing in each calendar year. The required minimum percentage of testing rates of Covered Employees is governed and set annually by the Federal Motor Carrier Safety Administration ("FMCSA"). The District reserves the right to modify the requisite minimum testing rate percentages, without prior notice, in compliance with federal law.
2. All Covered Employees may be randomly selected for drug or alcohol testing only or may be randomly selected for both drug and alcohol testing. When a Covered Employee is randomly selected for both drug and alcohol testing, these tests will be administered during a single visit to the collection facility to minimize the number of work disruptions. Any Covered Employee who refuses a drug or alcohol test will be deemed to have failed the test and will be treated as receiving a positive test result.

B. TESTING PROCEDURE

1. The District will prepare a list of all Covered Employees to the District's designated service agent or provider for random selection.
2. The District will maintain a database or pool of Covered Employees that will randomly select individuals for testing using a scientifically valid method in compliance with DOT Regulations.
3. Testing dates and times will be unannounced and will be with unpredictable frequency throughout the calendar year.
4. Pursuant to DOT Regulations, each Covered Employee has an equal chance of being selected during each selection period.
5. Each selected employee will be notified by their manager or supervisor of their selection for testing.
6. All random drug and alcohol testing will be conducted by the District's Designated Service Agent, as set forth in Section III.I. of this Policy.
7. Each selected employee must report immediately to the District's designated service agent or provider after being notified of their selection. For purposes of this

provision, "immediately" means that after notification of their selection, all of the selected employee's subsequent actions must lead to an immediate specimen collection. If a selected employee is performing a Safety-Sensitive function at the time of notification, he or she must cease performing the Safety-Sensitive Function and proceed to the designated testing site as soon as possible.

8. Each selected employee who fails or declines to report or appear at the designated testing location during the designated time will be deemed to have refused to test and will be considered to have received a positive test result.
9. Selected employees shall only be tested for alcohol at the following times:
 - a) While the Covered Employee is performing a Safety-Sensitive Function;
 - b) Just before the Covered Employee is set to perform a Safety-Sensitive Function; or
 - c) Just after the Covered Employee has stopped performing a Safety-Sensitive Function.
10. Selected employees may be tested for controlled substances at any time during District hours.
11. Covered Employees are not required to submit to random testing while off work. If a Covered Employee is selected but is not present at work, the District will document the employee's absence during the selection period.
12. After completion of testing, the Covered Employee will report back to duty/work unless a refusal to test occurred or a positive result is received.
13. Employees who receive a positive test result will be subject to the Return-to-duty and follow-up testing requirements and procedures in Section IX, "Return to Duty/Follow Up Testing" of this Policy, and will be subject to disciplinary action, up to and including termination.

VIII. POST-ACCIDENT/INJURY TESTING

Pursuant to this Policy and DOT Regulations, all Covered Employees must submit to drug and alcohol testing after certain accidents or injuries occur. Any Covered Employee who refuses a drug or alcohol test will be deemed to have failed the test and will be treated as receiving a positive test result.

A. DETERMINATION

1. Pursuant to this Policy and DOT Regulations, any surviving Covered Employees must submit to drug and alcohol testing after an incident or accident resulting in either:

- a) The death of a human being; or
- b) Receipt of a citation for a moving traffic violation and either of the following:
 - (i) the vehicle being towed from the scene; or
 - (ii) any individuals requiring immediate medical treatment away from the scene.

2. For incidents or accidents that do not match the above criteria, Covered Employees may still be required to provide a testing specimen or sample, which will only be tested upon confirmation that post-accident testing is required. This includes, but is not limited to incidents or accidents where the manager or supervisor responding to the scene reasonably suspects drugs or alcohol use were involved or related.

B. TESTING PROCEDURE

1. Covered Employees must be tested as soon as practicable, within two (2) hours and not to exceed eight (8) hours of the accident or incident for alcohol.

2. Covered Employees must be tested as soon as practicable, within thirty two (32) hours of the accident or incident for drugs.

3. All post-accident drug and alcohol testing will be conducted by the District's Designated Service Agent, as set forth in Section III.I. of this Policy.

4. Covered Employees must notify their managers or supervisors as soon as practicable following an accident or incident.

5. Covered Employees are prohibited from using alcohol for eight (8) hours following any accident or incident or until post-accident alcohol testing is completed.

6. Covered Employees are prohibited from leaving the scene of the accident or incident without authorization from their managers or supervisors. Any Covered Employee who leaves the scene of an accident or incident will be considered by the District to have refused to test.

7. Any manager or supervisor dispatched to the scene of an accident or incident must do the following:

- a) Attend to any medical or emergency needs of any individuals involved in the accident or incident by requesting proper assistance from medical, police, or fire services.
- b) Verbally instruct the Covered Employee involved in the accident or incident to refrain from using alcohol for eight (8) hours or until alcohol testing is completed, and to refrain from using drugs for thirty two (32) hours or until drug testing is completed.
- c) Verbally instruct the Covered Employee involved in the accident or incident to remain at the scene until the manager or supervisor has determined whether the accident or incident requires post-accident drug and alcohol testing.
- d) Evaluate the accident or incident and complete the Post-Accident Report by making a determination of whether the Covered Employee must submit to post-accident alcohol and drug testing pursuant to this Policy and DOT Regulations.

8. Any manager or supervisor that determines that post-accident testing is required must do the following:

- a) Verbally inform the Covered Employee involved in the accident or incident that the drug and alcohol testing is required by the Omnibus Transportation Employee Testing Act ("OTETA") of 1991 and applicable DOT Regulations. The manager or supervisor must also explain to the Covered Employee that any refusal to submit to testing will be considered a positive test.
- b) Any refusal to submit to post-accident testing may result in disciplinary action, up to and including termination.
- c) Any Covered Employee who refuses to submit to post-accident testing must be provided with the opportunity to be safely transported home from the scene of the accident or incident.
- d) If the Covered Employee agrees to submit to post-accident testing, the manager or supervisor shall transport the employee to and from the District's designated service agent or provider responsible for administering post-accident drug and alcohol testing.
- e) If the Covered Employee is injured during the accident or incident and requires off-site treatment, the manager or supervisor shall accompany the Covered Employee to the hospital or treatment facility. In accordance with DOT regulations, the manager or supervisor shall ensure that the necessary specimens

are collected from the Covered Employee in the hospital or treatment facility if a determination is made that post-accident testing is required.

f) All Covered Employees must be immediately removed from any Safety-Sensitive positions and prohibited from performing any Safety-Sensitive Functions until cleared by the post-accident testing results.

9. Any manager or supervisor that determines that post-accident testing is not required will authorize any Covered Employee to leave the scene of the accident or incident and resume full duty, including performance of Safety-Sensitive Functions.

10. If the Covered Employee is arrested or taken into police custody at the scene of an accident or incident, the responding manager or supervisor shall, in accordance with DOT regulations, ensure that the necessary specimens are collected from the Covered Employee in police custody if a determination is made that post-accident testing is required.

11. If post-accident alcohol testing is required but not administered within two (2) hours following the accident or incident, the District must document the reasons for failure to test the Covered Employee within the allotted time. If the alcohol test is not administered within eight (8) hours of the accident or incident, the District will not administer further testing.

12. If post-accident drug testing is required but not administered within thirty two (32) hours following the accident or incident, the District must document the reasons for failure to test the Covered Employee within the allotted time.

IX. CONSEQUENCES FOR POSITIVE TESTS

A. IN GENERAL

Pursuant to this Policy and DOT Regulations, a drug test will be considered positive if the amounts of the controlled substances present are above the minimum thresholds listed in Section IV.A, "Prohibited Substances" of this Policy as established by 49 C.F.R. Part 40, as amended. The District reserves the right to amend the minimum thresholds listed in this Policy, without prior notice, in compliance with federal law. An alcohol test will be considered positive if the alcohol concentration present in the body is in an amount of 0.02 or greater.

B. REMOVAL AND DISCIPLINE

Any Covered Employee who receives a confirmed positive drug or alcohol test result is in violation of this Policy and will be:

1. Immediately removed from their assigned Safety-Sensitive Functions; and

2. Subject to discipline, up to and including termination of employment.

C. REHABILITATION

1. Rehabilitation and assistance is also available, in the District's discretion, based on the totality of the circumstances, for Covered Employees who have tested positive for the first time.
 - (a) The Covered Employee will be informed of available drug and alcohol educational and rehabilitation programs and referred to a Substance Abuse Professional ("SAP") for evaluation, and directed to return-to-duty and follow-up testing under Section IX.D., "Return-to-Duty Testing and Follow Up Testing" of this Policy.
 - (b) The SAP will evaluate the Covered Employee and determine the need, if any, for rehabilitation or assistance. When recommended by the SAP, participation and completion of the rehabilitation or assistance program is mandatory. Failure of a Covered Employee to attend or complete a prescribed program may result in termination.
 - (c) The District may require that rehabilitation and assistance costs (including subsequent testing costs) be paid by the Covered Employee.
2. Employees who are terminated from employment will not be referred to an SAP and will not be eligible to return to duty.

D. RETURN-TO-DUTY TESTING AND FOLLOW-UP TESTING

1. Pursuant to this Policy and DOT Regulations, before returning to duty, all Covered Employees must:
 - (a) Successfully complete rehabilitation or other assistance, as determined by the SAP;
 - (b) Sign a Return-to-Duty Agreement in which the employee agrees to submit to return-to-duty testing and unannounced follow-up testing.
 - (1) The duration and frequency of follow-up testing will be determined by the Covered Employee's assigned SAP. The SAP will direct the Covered Employee to submit to follow-up testing a minimum of six (6) times within the first twelve (12) months after returning to duty for Safety-Sensitive positions or functions. However, the SAP can direct the Covered Employee to submit to additional tests for up to five (5) years after the initial return to duty.

(2) The follow-up testing dates and times will be unannounced and will be with unpredictable frequency throughout the permitted time.

(c)

(d) Submit to and receive a negative result from return-to-duty testing

2. Return-to-duty testing and follow-up testing will be conducted by a directly observed collection test.

3. Covered Employees who receive a positive test result from, or while subject to, any return-to-duty or follow-up testing will be immediately removed from any Safety-Sensitive functions and will be subject to termination.

X. CONSEQUENCES FOR REFUSAL TO SUBMIT TO TESTING

A. Pursuant to this Policy and DOT Regulations, no Covered Employee shall refuse to submit to pre-placement, reasonable suspicion, random, post-accident, return-to-duty, or follow-up testing for drugs and alcohol. Any Covered Employee who refuses to submit to such testing is subject to the provisions of Section IX, "Consequences for Positive Tests" of this Policy, including being subject to disciplinary action, up to and including termination. Pursuant to this Policy and DOT Regulations, the refusal to submit to testing will be considered presumptive evidence that the Covered Employee is intoxicated, under the influence and/or impaired by substances prohibited by this Policy.

B. REFUSAL TO SUBMIT TO DRUG TESTING

A Covered Employee has refused to submit to a drug test if:

1. The Covered Employee fails to appear for any test within a reasonable time, as determined by the District, after being notified by the District to report to testing Covered Employee;

2. The Covered Employee fails to remain at the testing site until the testing process is complete. Any Covered Employee who leaves the testing site prior to the commencement of the testing process will be deemed to have refused to test;

3. In the case of a directly observed or monitored collection test, the Covered Employee fails to permit the observation or monitoring of the collection of a specimen or sample;

4. The Covered Employee fails to provide a sufficient amount of urine when directed and it is later determined through a medical evaluation that there was no adequate medical explanation for the failure to provide a sufficient amount of urine;

5. The Covered Employee fails or declines to take a second test as directed or required by the District or the District's designated service agent or provider;
6. The Covered Employee fails or declines to undergo a medical examination or evaluation, as directed or required by the District or the District's designated service agent or provider; or
7. The Covered Employee fails to cooperate with any part of the testing process, including, but not limited to the following:
 - (a) Refusing to empty pockets when directed;
 - (b) Behaving in a confrontational manner that disrupts the collection process;
 - (c) Refusing to remove hats, coats, gloves, or other clothing when directed;
 - (d) Using a prosthetic or other device designed to carry clean urine or a urine substitute; or
 - (e) Providing false information in connection with a test, or attempting to falsify test results through tampering, contamination, adulteration, or substitution.

C. REFUSAL TO SUBMIT TO ALCOHOL TESTING

A Covered Employee has refused to take an alcohol test if:

1. The Covered Employee fails to appear for any test within a reasonable time, as determined by the District, after being notified by the District to report to testing;
2. The Covered Employee fails to remain at the testing site until the testing process is complete. Any Covered Employee who leaves the testing site prior to the commencement of the testing process will be deemed to have refused to test;
3. The Covered Employee fails to provide a sufficient amount of breath when directed and it is later determined through a medical evaluation that there was no adequate medical explanation for the failure to provide a sufficient amount of breath;
4. The Covered Employee fails to provide a sufficient amount of saliva when directed and it is later determined through a medical evaluation that there was no adequate medical explanation for the failure to provide a sufficient amount of saliva;
5. The Covered Employee fails or declines to take a second test as directed or required by the District or the District's designated service agent or provider;

6. The Covered Employee fails or declines to sign documentation required by the District or the District's designated service agent or provider, including, but not limited to the certification at Step 2 of the alcohol testing form; or

7. The Covered Employee fails to cooperate with any part of the testing process, including, but not limited to the following:

- (a) Behaving in a confrontational manner that disrupts the collection process; or
- (b) Providing false information in connection with a test, or attempting to falsify test results through tampering, contamination, adulteration, or substitution.

XI. EMPLOYEE ASSISTANCE PROGRAM

The District encourages employees who feel that they have a problem with alcohol or drugs to seek assistance and request voluntary admission to a rehabilitation or assistance program. Employees who take the initiative to disclose to the District a suspected or known drug or alcohol problem and who demonstrate a commitment to obtain help will be eligible for assistance under the District's Employee Assistance Program. Employees doing so will not be subject to disciplinary action for that reason. However, this does not apply to employees who have already tested positive, have been directed to submit to testing, or are waiting to receive results of testing for drug or alcohol testing. Moreover, employees who are terminated from employment in violation of this Policy for receiving a positive drug or alcohol test will not be eligible to participate in the District's Employee Assistance Program.

Employees may also contact the Director of Human Resources or the independent Employee Assistance Program Coordinator. (Please see Policy No. 26 - Employee Assistance Program, for further details). Program costs and subsequent drug and alcohol testing costs will be paid by the employee.

XII. POLICY CONTACT

A. The Director of Human Resources or his/her designee will be available to answer any questions related to this Policy. Jenny L. Roney, (949) 453-5360. Employees will be notified of any changes to this contact information.

XIII. DOCUMENT DISTRIBUTION AND TRAINING

A. ALCOHOL AND DRUG TESTING POLICY

All Covered Employees will be provided with a copy of this Policy prior to the start of any drug or alcohol testing in compliance with DOT Regulations. Each Covered Employee is required to complete and sign the Acknowledgement certifying their receipt of this Policy.

B. REQUIRED TRAINING FOR COVERED EMPLOYEES

All Covered Employees will receive 60 minutes of training regarding this Policy. Each Covered Employee will sign an attendance sheet and acknowledgement certifying their completion of this training. .

C. SUPERVISOR TRAINING

All managers and supervisors of Covered Employees will receive a minimum of 60 minutes of training regarding indicators of alcohol use and 60 minutes of training regarding indicators of drug use, as well as general training regarding this Policy. Each manager and supervisor will sign an attendance sheet and acknowledgement certifying their completion of this training.

XIV. RECORD KEEPING PROVISIONS

A. RECORD RETENTION

Pursuant to this Policy and DOT Regulations, records of negative and cancelled drug tests results and alcohol test results with alcohol concentration levels of less than 0.02 will be kept for at least one (1) year. Records of positive test results for drug and alcohol tests will be kept for at least five (5) years. Documentation of Covered Employees who refuse to take required drug and alcohol tests and SAP reports will also be kept for at least five (5) years. Information concerning drug and alcohol tests results obtained from previous employers of Covered Employees will be kept for at least three (3) years. Records related to the drug and alcohol collection process, including, but not limited to documents for random selections, reasonable suspicion determinations, post-accident determinations, medical evaluations for insufficient amounts of urine, breath, or saliva, and supervisor and employee education and training records, will be kept for at least two (2) years.

B. ACCESS TO RECORDS

Pursuant to DOT regulations, potential employers of former or current District employees applying for Safety-Sensitive positions may submit a written request for information to the District. As required by DOT Regulations, the District will provide information about the employee's participation in drug and alcohol testing and the results of such testing for the preceding two-year period.

C. CONFIDENTIALITY

Pursuant to this Policy and DOT Regulations, all records pertaining to drug and alcohol testing will remain confidential. Drug and Alcohol test results and related documentation will not be placed in a Covered Employee's general personnel file, but will be placed in a separate folder. Additionally, any information related to drug and alcohol test results may only be disclosed to managers and supervisors on a strictly need-to-know basis and to the tested employee upon request. The District will seek a Covered Employee's consent prior to disclosure of test results to any other individual, unless one of the following exceptions applies:

1. The information is required by DOT agencies or Clearinghouse;
2. The information is required by the employee's assigned SAP;
3. The information is requested by a subsequent employer when potential employment requires an employee to hold a Commercial Driver's License;
4. The information is compelled by law or by judicial or administrative process;
5. The information has been placed at issue in a formal dispute between the District and the employee;
6. The information is to be used in administering an employee benefit plan; or
7. The information is needed by medical personnel for the diagnosis or treatment of the employee, when the employee is unable to authorize the disclosure.

Adopted by IRWD Board of Directors on: February 11, 2019

**ATTACHMENT A
IRVINE RANCH WATER DISTRICT
SUBSTANCE ABUSE POLICY – COMMERCIAL DRIVERS**

**DRUG AND ALCOHOL TESTING POLICY AND PROCEDURES
ACKNOWLEDGEMENT FORM**

By signing this acknowledgement I understand that I am employed by the District in a position that is covered by the federal drug and alcohol testing regulations and I am subject to the requirements and procedures described in this Policy, which implements and complies with required federal drug and alcohol testing regulations. I also understand that federal law requires the District to ensure that I have been provided with a copy of this Policy and requires me to sign this acknowledgment certifying my receipt of a copy of the District's drug and alcohol testing policy. I hereby certify that the District has provided me with a copy of this Policy. The District will maintain a copy of this signed acknowledgment and I will be provided with a copy.

I HAVE READ THE ABOVE AND UNDERSTAND THE DISTRICT'S SUBSTANCE ABUSE POLICY – COMMERCIAL DRIVERS REGARDING FEDERAL DRUG AND ALCOHOL TESTING REQUIREMENTS.

Employee's Name (PLEASE PRINT)

Employee's Signature

Date

I hereby certify that I requested and received a copy of my signed acknowledgement.

Employee's Signature

Date

IRVINE RANCH WATER DISTRICT

OBSERVED BEHAVIOR-REASONABLE SUSPICION RECORD

Employee:	Name: _____	Job Title: _____
	Department: _____	Supervisor's Name: _____
Observation:	Date: _____	Time: (from _____ am/pm: to _____ am/pm)
Location/Building: _____		

CAUSE FOR SUSPICION (*Answer all that apply*)

1. Presence of Drugs, Alcohol, and/or Paraphernalia (*specify*): _____

2. Appearance:
- | | | |
|---|---|--|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Flushed | <input type="checkbox"/> Puncture Marks |
| <input type="checkbox"/> Disheveled | <input type="checkbox"/> Bloodshot Eyes | <input type="checkbox"/> Inappropriate wearing of sunglasses |
| <input type="checkbox"/> Dilated/Constricted Pupils | <input type="checkbox"/> Profuse Sweating | <input type="checkbox"/> Tremors |
| <input type="checkbox"/> Dry-mouth Symptoms | <input type="checkbox"/> Runny Nose/Sores | <input type="checkbox"/> Body Odor |
| <input type="checkbox"/> Other _____ | | |

3. Behavior

- Speech:
- | | | | |
|--------------------------------------|-------------------------------------|-------------------------------------|---------------------------------|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Incoherent | <input type="checkbox"/> Slurred | <input type="checkbox"/> Silent |
| <input type="checkbox"/> Confused | <input type="checkbox"/> Slowed | <input type="checkbox"/> Whispering | |
| <input type="checkbox"/> Other _____ | | | |

- Awareness:
- | | | | |
|--------------------------------------|---|--------------------------------------|--------------------------------------|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Confused | <input type="checkbox"/> Mood Swings | <input type="checkbox"/> Euphoria |
| <input type="checkbox"/> Lethargic | <input type="checkbox"/> Lack of Coordination | <input type="checkbox"/> Paranoid | <input type="checkbox"/> Disoriented |
| <input type="checkbox"/> Other _____ | | | |

4. Motor Skills

- Balance:
- | | | | |
|--------------------------------------|----------------------------------|----------------------------------|-------------------------------------|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Swaying | <input type="checkbox"/> Falling | <input type="checkbox"/> Staggering |
| <input type="checkbox"/> Other _____ | | | |

- Walking & Turning
- | | | |
|--------------------------------------|----------------------------------|--|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Swaying | <input type="checkbox"/> Arms Raised for Balance |
| <input type="checkbox"/> Stumbling | <input type="checkbox"/> Falling | <input type="checkbox"/> Reaching for Support |
| <input type="checkbox"/> Other _____ | | |

5. Other Observed Action or Behavior (*specify, add other sheets as needed*) _____

Observed by: (*must be a supervisor or manager trained in reasonable suspicion observation techniques including physical, behavioral, speech, and performance indicators of impairment due to probable alcohol misuse and/or use of controlled substances.*)

_____ Observer #1 Signature	_____ Title	_____ Date	_____ Time _____am/pm
--------------------------------	----------------	---------------	--------------------------

_____ Observer #2 Signature	_____ Title	_____ Date	_____ Time _____am/pm
--------------------------------	----------------	---------------	--------------------------

This document must be prepared and signed by both observers within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier (49 CFR 382.307(f)).

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 28 - HONESTY AND INTEGRITY POLICY

1. **General Policy**

The District is committed to providing a work environment where theft, fraud and dishonesty are prohibited and integrity, honesty and mutual respect are celebrated. Consistent with this commitment, the District prohibits District employees from engaging or encouraging any acts or behaviors which are or may be considered dishonest, improper, or unlawful. Additionally, the District requires that employees who become aware of employees or individuals who have a relationship with the District that engage in acts or behaviors which are or may be considered dishonest, improper, or unlawful promptly report them to the Director of Human Resources or the General Manager.

2. **Purpose of Policy**

The purpose of this policy is to establish District expectations relative to employee behavior and prohibit them from engaging in activities which are or may be considered dishonest, improper, or lawful. Additionally, this policy is intended to remind employees of the District's long-standing principle that all employees should enjoy a work environment in which all people and their property are to be treated with respect and dignity.

3. **Procedure**

Any employee who knows of a violation of this policy or has reasonable suspicion that the policy has been violated shall report it immediately to one of the following people:

Your Supervisor;
Your Department Manager;
Your Department Director;
The Director of Human Resources; or
The General Manager of the District

In the event that the individual wishes to remain anonymous, a "Speak Up" form may be used.

A. First Point of Contact

The Director of Human Resources or General Manager will act as the first point of contact for suspected or known violations of this policy. In the event that it is reasonably believed that a violation of this policy has placed the safety of an employee or anyone else in immediate danger, a supervisor or manager should be notified as quickly as practicable.

B. Investigation

Following notification, should the Director of Human Resources reasonably believe that a policy violation has occurred, the Director may initiate an investigation. That investigation may include resources or individuals external to the organization. Regardless, all employees are required to cooperate with any District initiated investigation. The failure to do so may result in disciplinary action, up to and including termination.

C. Appropriate Action

Upon completion of the investigation, the Director of Human Resources and other decision-makers as designated by the District will determine what action, if any, is to be taken. Disciplinary or corrective action resulting from an investigation will follow the guidelines as established by the Human Resources Department.

4. Implementation

The District will take disciplinary action up to and including termination, for a violation of this policy. Specifically:

- 1) District employees shall not engage in any dishonest, improper, or lawful behavior while on duty, on-call, or on stand-by or while on District premises, property, or in District vehicles. Similarly, employees shall not engage in any behavior that is perceived to be dishonest, improper, or unlawful while on duty, on-call, or on stand-by or while on District premises, property, or in District vehicles.
- 2) District employees that become aware of violations of this policy or have reasonable suspicion that it has been violated are to immediately report it to the Director of Human Resources or the General Manager.

5. Employee Responsibility

Any employee, supervisor, or manager who becomes aware of conduct or suspects conduct which violates this policy shall immediately advise the Human Resources Department or the General Manager.

6. Administrative Responsibility

The Director of Human Resources is responsible for ensuring compliance with this policy.

Adopted by IRWD Board of Directors on: May 14, 2007

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 29 – PREVENTION AND CORRECTION OF HARASSMENT, DISCRIMINATION, RETALIATION, AND ABUSIVE CONDUCT

1. **General Policy**

The District is committed to providing a work environment that is free of discrimination, harassment, and retaliation. In keeping with this commitment, the District maintains a strict policy prohibiting harassment, including sexual harassment and takes reasonable steps to promptly correct discriminatory, harassing, and retaliatory conduct. This policy prohibits harassment in any form, including verbal, physical and visual harassment by or against any employee, intern, volunteer, applicant for employment, or vendor, or guest. This policy applies to all of the District's activities, wages, reviews, leaves, training, benefits, and all other conditions and terms of employment.

As a general guideline, harassment can be avoided if employees act professionally and treat each other with respect.

2. **Purpose of Policy**

Federal and state law expressly prohibit discrimination and harassment of employees or applicants based upon race, color, national origin, religious creed, ancestry, physical or mental disability, medical condition, pregnancy, childbirth or related medical condition, age (40 and over), sexual orientation, sex, gender identity, gender expression, genetic information, military or veteran status, marital status, or any other basis protected by applicable state or federal law, including association with individuals with these protected characteristics or perception that an individual has one or more of these protected characteristics.

The purpose of this policy is to establish a means to protect employees, applicants for employment, or guests from harassment. Additionally, this policy enforces the District's long-standing policy that all employees, applicants for employment, and guests should be able to enjoy a work environment that is free from all forms of unlawful discrimination or harassment. Discrimination, harassment, and retaliation constitute misconduct that can decrease work productivity, decrease morale and cause emotional and physical damage. Incidents of discrimination, harassment, or retaliation can result in serious economic implications such as high turnover, ineffective use of time during working hours, costly salaries paid for nonproductive work hours, and employee absences due to hearings and meetings related to discrimination, harassment, and retaliation complaints.

The further purpose of this Policy is to define and forbid discriminatory, harassing, and retaliatory conduct, to prohibit the condoning or perpetuating of such conduct, and to provide an efficient means for reporting and resolving complaints of discrimination, harassment, or retaliation against any individual who reports discrimination, harassment, or retaliation or who participates in an investigation of such reports.

POLICY NO. 29 – PREVENTION AND CORRECTION OF HARASSMENT, DISCRIMINATION, RETALIATION, AND ABUSIVE CONDUCT

3. Definition of Terms

A. Employee

Any individual under the direction and control of the District under any appointment or contract of hire or apprenticeship, express or implied, oral or written. For purposes of this Policy, the term “employee” includes any individual who is an unpaid intern or volunteer of the District. The inclusion of any individual, including but not limited to unpaid interns and volunteers, in the definition of “employee” for purposes of this policy should not be interpreted to affect the applicability of any other policy or procedure of the District.

B. Legally Protected Category/Legally Protected Characteristic

Race, color, national origin, ancestry, religious creed, sex, sexual orientation, gender identity, gender expression, marital status, religion, age (over 40), physical or mental disability, medical condition, pregnancy, childbirth or related medical condition, physical or mental disability, medical condition, age (40 and over), genetic characteristics or information, military or veteran status, or any other protected basis under state or federal law, including association with individuals with these protected characteristics or perception that an individual has one or more of these protected characteristics.

C. Discrimination

Discrimination is any action or conduct by which an employee is treated differently or less favorably than other employees similarly because the employee is a member of a Legally Protected Category.

D. Harassment

Harassment is any verbal, visual, or physical conduct based on an employee’s membership in a Legally Protected Category that creates an intimidating, hostile or otherwise offensive working environment. Such conduct constitutes harassment when:

1. Submission to the conduct is made either an explicit or implicit condition of employment;
2. Submission to or rejection of the conduct is used as the basis for an employment decision; or
3. The conduct unreasonably interferes with an employee’s work performance by altering the work conditions so that a reasonable person may find it more difficult to do the job, or creates an intimidating, hostile or offensive work environment.

Harassing conduct can take many forms and includes, but is not limited to, slurs, jokes, statements, gestures, pictures, computer images, or cartoons regarding an employee’s Legally Protected Characteristic.

POLICY NO. 29 – PREVENTION AND CORRECTION OF HARASSMENT, DISCRIMINATION, RETALIATION, AND ABUSIVE CONDUCT

Harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, or harassment by third parties doing business with or for the District.

E. Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature all may constitute sexual harassment when: (1) submission to such conduct is made a term or condition of employment; or (2) submission to or rejection of such conduct is used as basis for employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance by altering the work conditions so that a reasonable person may find it more difficult to do the job, or creating an intimidating, hostile or offensive working environment.

This definition includes potential forms of offensive behavior, such as the following:

1. Unwanted sexual advances.
2. Visual conduct, such as leering, making sexual gestures, displaying of sexually explicit jokes, derogatory images, and comments about an employee's body or dress.
3. Verbal sexual advances or propositions.
4. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes, or invitations.
5. Physical conduct, such as touching, assault, impeding, or blocking movements.
6. Retaliation for reporting harassment or threatening to report harassment.

Sexual harassment includes many forms of offensive behavior and may include harassment of a person of the same or opposite sex as the harasser.

Sexual harassment need not be motivated by sexual desire. Sexual harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, harassment by a subordinate, or harassment by third parties doing business with or for the District.

F. Abusive Conduct

Conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests, even when not due to an employee's Legally Protected Characteristic. It may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. Workplace bullying, including off-duty cyber-bullying of employees, is strictly

POLICY NO. 29 – PREVENTION AND CORRECTION OF HARASSMENT, DISCRIMINATION, RETALIATION, AND ABUSIVE CONDUCT

prohibited. While abusive conduct and bullying are not per se unlawful, such conduct does violate District policy and will not be tolerated.

G. Retaliation

Taking adverse action against any employee because of (1) the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination, harassment, retaliation, or abusive conduct or (2) because of the employee's participation in an employment discrimination, harassment, or retaliation investigation, proceeding, or hearing. or (3) because of such opposition or participation by a family member or close associate of the employee.

1. Protected Opposition

Protected opposition to perceived discrimination, harassment, retaliation, or abusive conduct includes, but is not limited to, threatening to file a discrimination, harassment, or retaliation complaint with any federal or state agency, or court, or complaining or protesting about alleged discrimination, harassment, retaliation, or abusive conduct to a supervisor, manager, co-worker, or other official. Protected opposition also includes a complaint or protest made on behalf of another employee or made by the employee's representative. The District also prohibits retaliation against somebody closely related to or associated with the employee exercising such rights. Opposition not made in good faith, or made in a manner which disrupts the workplace, or which constitutes an unlawful activity, or which includes badgering or threatening of employees or supervisors is not protected.

2. Protected Participation

Protected participation includes, but is not limited to, filing a charge, testifying, assisting, or participating in any manner in an investigation under this Policy, or in a proceeding, hearing or litigation under federal or state discrimination, harassment, or retaliation statutes, at other hearings regarding protected employee rights, such as unemployment compensation proceedings, and making requests for reasonable accommodation of a Legally Protected Characteristic.

3. Adverse Action

Adverse actions include, but are not limited to, the following acts: disciplinary actions, negative performance evaluations, undesirable transfer, undesirable assignments, negative comments, unwarranted criticism, actions that harm the employee outside the workplace, undesirable change in benefits, undesirable change in work schedule, unwarranted exclusion from meetings or events, or undesirable change in work duties.

H. Supervisor

Any individual having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct other employees, or to adjust their grievances, or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

POLICY NO. 29 – PREVENTION AND CORRECTION OF HARASSMENT, DISCRIMINATION, RETALIATION, AND ABUSIVE CONDUCT

Employees who have questions regarding these definitions or are uncertain what constitutes discrimination, harassment, sexual harassment, retaliation, or other prohibited conduct under the District's policy should contact a supervisor or Human Resources.

4. Making Discrimination, Harassment, Retaliation, or Abusive Conduct Complaints

A. In General

The District's complaint procedure provides for an immediate, thorough, impartial, and objective investigation of every discrimination, harassment, retaliation, and abusive conduct claim, appropriate disciplinary action against one found to have engaged in prohibited discrimination, harassment, retaliation, or abusive conduct, and appropriate remedies to any victim of discrimination, harassment, retaliation, or abusive conduct. The District encourages reporting of all perceived incidents of discrimination, harassment, retaliation, and abusive conduct.

B. Complaint Procedure

1. The District cannot resolve discrimination, harassment, retaliation, or abusive conduct unless the District is aware of the situation. The District relies upon its employees to bring those concerns to the attention of the District so that the necessary steps can be taken to correct the situation, and all employees are encouraged to do so. Accordingly, any employee, applicant, or guest who believes he or she has been harassed, discriminated or retaliated against or subjected to abusive conduct should promptly report the facts of the incident/incidents and the name(s) of the individual(s) involved to his/her immediate supervisor, any supervisor, Human Resources or to the General Manager.

2. Complaints can be made verbally or in writing and should include the following information:

- a. The employee's name and position title.
- b. The name of the person or persons committing the discrimination, harassment, or retaliation, including their title(s).
- c. The specific nature of the discrimination, harassment, retaliation, or abusive conduct, how long it has been going on, and any adverse employment action, demotion, failure to promote, dismissal, refusal to hire, transfer, etc., taken against the victim as a result of the harassment, if applicable, or any other threats made against the victim as a result of the harassment.
- d. Witnesses to the discrimination, harassment, retaliation, or abusive conduct, if any.
- e. Whether the victim previously has reported such discrimination, harassment, retaliation, or abusive conduct and, if so, when and to whom.
- f. Notification to the District is essential. Employees may be assured that they will not be penalized in any way for filing a good faith complaint of potential discrimination, harassment, retaliation, or abusive conduct.

POLICY NO. 29 – PREVENTION AND CORRECTION OF HARASSMENT, DISCRIMINATION, RETALIATION, AND ABUSIVE CONDUCT

ALL EMPLOYEES SHOULD NOTE THAT THE FAILURE TO USE THE DISTRICT'S COMPLAINT PROCEDURE MAY HAVE AN ADVERSE EFFECT ON ANY CLAIM UNDER THIS POLICY IF SUCH CLAIMS ARE LITIGATED.

C. Reporting Obligations

1. Any supervisor who receives a complaint of discrimination, harassment, retaliation, or abusive conduct; witnesses discrimination, harassment, retaliation, or abusive conduct; or has any reason to believe that discrimination, harassment, retaliation, or abusive conduct may have occurred in the workplace is required to report the conduct immediately to Human Resources.
2. A supervisor will be subject to discipline for failing to report offensive conduct that potentially constitutes discrimination, harassment, retaliation, or abusive conduct if the supervisor knew or should have known of the offensive conduct in the normal course and scope of his/her supervisory duties.
3. All other employees who observe or are advised about the discrimination, harassment, retaliation, or abusive conduct involving another employee are encouraged to report the conduct to a supervisor or to Human Resources.

D. The District's Response to Reports or Complaints

1. Investigation of Complaints

- a. All incidents of discrimination, harassment, retaliation, and abusive conduct that are reported must be investigated appropriately by the District so that corrective and preventive actions can be promptly taken if warranted. The District will promptly undertake or direct an effective, thorough, impartial, and objective investigation of the allegations, which will be conducted by qualified personnel.
- b. The investigation will include obtaining information from the accused and anyone who may have been a witness to the alleged misconduct. Statements made in the course of the investigation will be kept as confidential as practicable.
- c. The District will document each complaint and track each investigation to ensure reasonable progress, timely closure, and reasonable findings based on the evidence collected.

2. Intermediary Measures

Employees may be placed on a leave of absence, or subject to other intermediary measures, until the conclusion of the investigation.

3. Cooperation with the Investigation

- a. It is important for the complaining party, the accused party, and all persons interviewed as witnesses during the investigation to understand that it is a violation of this policy to discuss any confidential investigation

POLICY NO. 29 – PREVENTION AND CORRECTION OF HARASSMENT, DISCRIMINATION, RETALIATION, AND ABUSIVE CONDUCT

matters with other employees, or to conduct separate investigations at any time. The District will not tolerate any employees who interfere with its own internal investigations, or internal complaint procedures.

- b. All employees involved in a workplace investigation into alleged discrimination, harassment, retaliation, or abusive conduct are required to fully and truthfully cooperate with the investigation. Failure to fully and truthfully cooperate with the investigation is grounds for disciplinary action, up to and including termination.
- c. All employees are prohibited from engaging in retaliation, as defined in Section 3.G., above.

4. District Determination and Corrective Action

- a. The District will make its determination based on the findings of the investigation and communicate that determination to the complaining employee, and to the accused. Parties are not entitled to copies of any notes or other written materials regarding the investigation, as these are considered to be confidential documents.
- b. If it is determined that the accused, or any other employee has violated District policies, appropriate corrective action will be taken. In addition, as part of the District's efforts to remedy the complaining employee's concerns, the complaining employee will be informed in general terms regarding any remedial measures and disciplinary actions imposed against the violator.
- c. The information and definitions set forth in Section 3, above, are based on the legal definitions of discrimination, harassment, and retaliation. In light of the District's duty to prevent the unlawful conduct defined in Section 3, and in light of the District's desire to have a professional and productive work environment, the District reserves the right to take appropriate corrective action when an employee engages in inappropriate conduct that does not fully rise to the legal standards or definitions set forth in Section 3 of this Policy. For example, the District may take appropriate corrective action for inappropriate conduct, even if such conduct was not subjectively unwelcome or offensive to another employee of the District, or did not involve a legally protected characteristic.

5 Intentionally False Complaints

While the District vigorously defends its employees' right to work in an environment free of discrimination, harassment, and retaliation, it also recognizes that false accusations of discrimination, harassment, or retaliation can have serious consequences. Accordingly, any employee who is found, through the District's investigation, to have deliberately and falsely accused another person of discrimination, harassment, or retaliation will be subject to appropriate disciplinary action, up to and including termination.

6. Anonymity and Confidentiality

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- a. While the District will investigate anonymous complaints, the District strongly discourages anonymous complaints.
- b. **EMPLOYEES CHOOSING TO FILE A COMPLAINT ANONYMOUSLY MUST BE AWARE THAT ANONYMITY IN THE COMPLAINT PROCEDURE MAY COMPROMISE THE DISTRICT’S ABILITY TO COMPLETE A THOROUGH INVESTIGATION.**
- c. Employees should also be aware that should the District learn of the identity of an anonymous complainant, the District cannot guarantee that his/her identity will remain confidential, if the District determines in its discretion that disclosure is necessary to complete the investigation.
- d. The District will take all reasonable steps available to maintain the confidentiality of all complaints of discrimination, harassment, retaliation, and abusive conduct, as well as all information gathered during an investigation. However, the District retains sole discretion to determine whether disclosure of information is necessary to complete the investigation.
- e. All employees involved in the investigation of discrimination, harassment, retaliation, or abusive conduct complaints as either investigator(s), complainant(s), witness(es), or accused are required to keep all information related to the investigation confidential. Revealing such information is grounds for disciplinary action, except as expressly permitted by law, such as in discussion with a legal or employee representative.

5. Employee’s Duty to Disclose Benefits Received

A. Employees are hereby informed that no supervisor, manager, or officer of the District, or other person or entity doing business with the District, is authorized to expressly or impliedly condition the receipt or denial of any benefit, compensation, or other term or condition of employment on an employee’s acquiescence to any sexual demand.

B. To the contrary, all employees are instructed that they must refuse such demands and report them promptly either to their immediate supervisor or to Human Resources. Any employee who is found to have accepted any benefit from the District because he/she submitted to an unreported sexual demand will be disciplined appropriately, including but not limited to, reimbursement for the value of any benefits received. Any employee making such a demand will be similarly disciplined.

6. Additional Enforcement Information

In addition to the District’s internal complaint procedure, employees should also be aware that the Equal Employment Opportunity Commission (“EEOC”) and the Department of Fair Employment and Housing (“DFEH”) investigate and prosecute complaints of discrimination, harassment, and/or retaliation in employment.

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Employees can contact the EEOC as follows:

Los Angeles District Office
255 East Temple, 4th Floor
Los Angeles, California 90012
800-669-4000 | 800-669-6820 (TTY)
www.eeoc.gov

Employees can contact the DFEH as follows:

Los Angeles Office
320 West 4th Street, 10th Floor
Los Angeles, CA 90013
800-884-1684 | 800-700-2320 (TTY)
www.dfeh.ca.gov

7. Training and Policy Dissemination

All employees who are hired by the District will be given a copy of this Policy, and will receive guidance from the District on its provisions and the District's commitment to provide a workplace free from discrimination, harassment, and retaliation. In addition, all supervisory, nonsupervisory and temporary employees will be trained in accordance with applicable requirements of the Fair Employment and Housing Act (Government Code § 12950.1) and implementing regulations. As a course of best risk management practices the District will provide such training to all other employees periodically.

Adopted by IRWD Board of Directors on: February 11, 2019

**IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES**

POLICY NO. 30

NOT IN USE

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 31 – UNIFORMS, SAFETY FOOTWEAR, SAFETY EYEWEAR AND TOOLS POLICY

I. UNIFORMS

A. General Policy and Eligibility

The District provides uniforms to all employees who are required by their supervisor to wear uniforms as a condition of employment. These uniforms are provided as a ready substitute for the personal attire the employee would otherwise have to acquire and maintain. Uniforms are laundered, and maintained by the District at no cost to the employee, except as provided in this Policy. Employees are responsible for the safekeeping of all uniforms they are furnished. Violations of this Policy may subject employees to discipline, up to and including termination.

B. Standard Uniform Issue

1. Each employee required to wear a uniform as a condition of employment will be issued the following items, which shall comprise a standard uniform:
 - a. Eleven (11) shirts and/or t-shirts (short or long sleeve, or a combination totaling eleven (11)). Standby personnel will be issued 14 shirts (short or long sleeve, or a combination totaling fourteen (14)).
 - b. Eleven (11) pants and/or shorts, or a combination totaling eleven (11). Standby personnel will be issued fourteen (14) pants and/or shorts, or a combination totaling fourteen (14).
 - c. Up to five (5) pairs of coveralls.
2. Employees may be issued other accessory items such as jackets, windbreakers, hats and belts as determined by the District.
3. Employees may wear District issued t-shirts in lieu of uniform shirts as long as they are in good condition (i.e. no holes, stains, rips, tears, or fading). Non-District-issued shirts, t-shirts, IRWD Safety t-shirts, hats, pants or shorts are not permitted.
4. The items listed above are the only apparel authorized to be worn on-duty by District employees who are required to wear uniforms.
5. All uniform items shall be fitted by the uniform supply company and must be the appropriate size for the employee; i.e. no sagging or tight pants will be allowed due to potential safety hazards. Employees are responsible for reporting any sizing or fit issues to their supervisors.

6. Employees must report to work wearing the standard District-issued uniform as defined in this policy. Employees who are not dressed in a standard District-uniform may be required to change clothes before being allowed to commence work; in such case, the employee's compensable time will not start running until work commences, Repeat offenses may result in disciplinary action.
7. The Department Director, in consultation with Human Resources, may approve variations to this Policy, including, but not limited to reasonable accommodation of an employee's protected characteristic.
8. The District shall report to CalPERS as Special Compensation per 2 CCR 571, the following values for each issued article of uniform clothing for classic members:

Button Shirt: \$0.64/pay period per button shirt issued
 T-Shirt: \$0.25/pay period per T-shirt issued
 Pants: \$0.64/pay period per pants issued
 Shorts: \$0.64/pay period per shorts issued
 Coverall: \$1.32/pay period per coverall issued

C. Maintenance and Safekeeping of Uniforms

1. The District provides maintenance (laundry) service for employees required to wear uniforms as a condition of employment. Laundry service instructions will be provided by the supervisor. District issued t-shirts must be laundered by the employee.
2. In the event that a District issued jacket, sweatshirt or t-shirt is damaged or worn out, a replacement will be issued upon the return of the old item. Employees can replace all other worn out or damaged uniform items through the Purchasing Department warehouse. Normal wear and tear is expected; however, abuse or loss of a garment may result in replacement cost to the employee and/or may subject the employee to discipline.

D. Surrender of Uniforms

There may be occasions when an employee separates from District employment or is otherwise no longer required to wear a District uniform as a condition of employment (i.e., promotion, department transfer, etc.). Such employees are required to surrender all uniform items to the Purchasing Department in a timely manner, or comply with any other instruction from their supervisor for surrender of uniform items, on or before their last date of employment.

II. SAFETY FOOTWEAR AND EYEWEAR

A. General Policy

The District is committed to ensuring that District employees are equipped with proper foot and eye protection for personal safety while performing their assigned job duties.

Employees are responsible for wearing safety shoes and eyewear on the job when required, and will not be allowed to work without the appropriate footwear or eyewear.

B. Safety Footwear

1. Shoe Specifications

a. General

Employees are responsible for purchasing safety shoes with safety toes that meet the American Society for Testing and Materials (“ASTM”) F2412-05 and F2413-05 standards.

b. Laboratory

The laboratory environment is more at risk for spills and slipping hazards. Accordingly, Laboratory personnel must wear shoes with non-slip soles. Shoes for this area will be evaluated for this purpose.

c. Rubber Boots

Supervisors should encourage employees to use District-provided rubber boots when working in extremely wet situations to lengthen the useful life of safety shoes and boots.

2. Eligibility and Reimbursement Amounts

The amounts specified below represent the reimbursement amounts that eligible employees in each category will receive for purchases of safety footwear. Employees will not be reimbursed for more than one pair of shoes of each type in a calendar year. If employees spend less than the amount eligible for reimbursement, the remaining amount will not be carried forward or accumulated for reimbursement toward future purchases. Employees in any Category who require prescription shoes will be reimbursed up to a maximum of \$200.

a. Employees who spend the majority of the workday in the field performing construction, maintenance, or operations functions including mechanical work, shop work, and other functions which are predominantly performed outdoors (“Category 1”) are required to wear approved foot protection. Such employees will be reimbursed up to \$200.00 per calendar year for safety footwear purchases.

i. Employees responsible for leak detection services (“Category 4”) will also be reimbursed up to \$125.00 per calendar year for the purchase of walking shoes.

b. Employees who perform laboratory functions or eligible purchasing functions (“Category 2”) are required to wear safety footwear when performing those functions. Such employees will be reimbursed up to \$125.00 per calendar year for safety footwear purchases.

c. Employees who spend 50% or more of the workday indoors, such as support personnel or other administrative personnel, (“Category 3”) are required to wear safety footwear when visiting areas where there is a heightened danger of foot injury. Such employees will be reimbursed up to \$125.00 every third calendar year for safety footwear purchases, or as required when a need is demonstrated.

d. Employees in other classifications, departments and/or sub-departments may be required to wear foot protection in some instances. This requirement and any ensuing reimbursement will be made at the discretion of the District’s Safety Office.

e. The cost of shoe sprays for waterproofing and the cost of insoles, when requested, may be reimbursed at the discretion of the Safety Office.

3. Purchase and Reimbursement Procedure

a. Selection from Mobile Store

Periodically, a mobile safety shoe unit will be at the District to sell safety shoes for the employees’ convenience. Only shoes meeting the ASTM F2412-05 and F2413-05 standards will be sold on the mobile safety shoe units that come to the District for the sale of safety shoes. Payment for shoes selected from an authorized mobile unit will be processed directly by the District, up to the maximum eligibility amount for the employee’s Category under sub-section 3, above.

b. Independent Purchase from Retail Store

Employees may purchase safety shoes from retail stores as long as the shoes meet the ASTM F2412-05 and F2413-05 standards. To be eligible for reimbursement, the employee must first submit the shoes to the District’s Safety Office for inspection and approval. After obtaining approval, the employee must then submit the receipt to the District’s Safety Office for reimbursement of actual cost, up to the maximum permitted for the employee’s Category under sub-section 3, above.

c. Prescription Items

To be eligible for the additional reimbursement for prescription items, such as orthopedic safety shoes, the employee must include a valid physician-provided prescription with the reimbursement request.

4. Replacement

Safety shoes that are worn out or unserviceable due to working conditions before the employee’s next annual shoe allowance may be replaced on an exception basis. In such cases, the employee shall provide the worn shoes to the District Safety Office for inspection. If the shoes are determined to be unserviceable, the employee will be

authorized to replace the shoes with one additional pair of shoes up to the allowance described in sub-section 3, above.

C. Safety Eyewear

1. Eyewear Specifications

- a. All safety eyewear must meet the ANSI Z87 standard.
- b. Prescription safety eyewear must also have permanently attached side shields.

2. Eligibility and Reimbursement for Prescription Safety Eyeglasses

- a. Non-prescription safety glasses are provided by the District for all job tasks that require safety glasses. Employees are not eligible for reimbursement for purchases of non-prescription safety eyeglasses.
- b. District employees who need prescription glasses and who are required to wear safety glasses as part of their normal job duties are eligible for reimbursement for purchase of prescription safety glasses. Such employees will be reimbursed for the cost of prescription single vision, bifocal, and trifocal safety eyewear, as set by the annual agreement with the District's authorized optical provider(s), not to exceed a maximum of \$225.00. Employees may choose to pay for options in excess of the approved allowance.

3. Reimbursement Procedure for Prescription Safety Eyeglasses

- a. The amount specified above represents the maximum possible reimbursement that eligible employees will receive for purchases of prescription safety glasses. Employees will not be reimbursed for more than one pair of glasses of each type in a calendar year. If employees spend less than the amount eligible for reimbursement, the remaining amount will not be carried forward or accumulated for reimbursement toward future purchases. Any amount exceeding the allowance is the responsibility of the employee.
- b. To be eligible for reimbursement under this policy, employees are required to follow this procedure:
 - i. The employee must request a referral form from the Safety Office with the name and address of an approved optical provider.
 - ii. The employee must use a current prescription (obtained within the last 12 months).

- iii. The referral form and prescription are then taken to the District's designated optical provider for the employee to select his/her eyewear and for initial measurement.

4. Replacement

Prescription eyeglasses that are broken or scratched, or that become ineffective due to significant change in an employee's prescription or that otherwise become unusable due to working conditions before the employee's next annual allowance may be replaced on an exception basis. In such cases, the employee shall provide the prescription eyeglasses to the District Safety Office for inspection. If the eyeglasses are determined to be unserviceable, the employee will be authorized to replace the prescription eyeglasses with one additional pair of prescription eyeglasses up to the allowance described in subsection 2, above.

III. VEHICLE/EQUIPMENT MAINTENANCE TOOL REIMBURSEMENT

Vehicle/Equipment Maintenance employees may submit a request for reimbursement of expenses incurred for the purchase of tools necessary to perform the essential functions of the job duties as approved by the Department Director, up to a maximum reimbursement amount of \$750 per Fiscal Year subject to approval by the Fleet/Facilities Manager.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 32 - SERVICE AWARD PROGRAM

1. General Policy

The District has established an award program to recognize an employee's service to the District

2. Service Recognition Awards

Employees of the District will be awarded service pins at intervals of five years of service. Additionally, service award certificates are presented to employees at the same service pin award ceremony. In addition, a gift not to exceed \$250 in value will be presented to each employee achieving the milestone of 25 years of service and each 5 years milestone thereafter.

4. Administrative Responsibility

The Human Resources Department will be responsible for administering the Service Recognition Award Program.

Adopted by IRWD Board of Directors on: July 11, 2011

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 33 - INJURY AND ILLNESS PREVENTION PROGRAM

1. **General Policy**

The District, in addition to complying with all provisions of the Cal-OSHA section 3203 of the California Occupational Safety and Health Act, will do all within its resources to provide a safe and healthful work environment for every employee.

2. **Purpose of the Policy**

The purpose of the Injury and Illness Prevention Program is to:

- A. State District policy on the issue of Injury and Illness Prevention.
- B. Assign responsibility for the implementation and continuation of the Program.
- C. Establish Safety Committees.
- D. Establish procedures for reporting workplace hazards and accidents.
- E. Set guidelines and procedures for non-compliance with the Injury and Illness Prevention Program.

3. **District Responsibility**

The District will not require any employee to work in an unsafe area or in an unsafe manner. The necessary training, tools, and equipment will be provided by the District to do a job safely. The District will establish rules and regulations and the necessary medical testing to ensure compliance with safety regulations. The District will discipline any employee who has been found in violation of District safe work practices or Cal-OSHA regulations. (See Policy No. 6 - Hiring and Termination).

4. **Safety & Security Office Responsibility**

The Safety & Security Manager is responsible for implementation of this program and for promoting a safe and healthful work environment for all employees. In accordance with SWP-12, the Safety & Security Office is responsible for investigating and documenting occupational incidents (occupational incidents include personal injuries and illnesses, property damage, vehicle accidents and near misses), maintaining records of corrective actions taken and providing and documenting safety and health training. Detailed records will be maintained as required by regulations and will include names, dates, and actions taken. Documentation regarding disciplinary action will be maintained by Human Resources.

POLICY NO. 33 - INJURY AND ILLNESS PREVENTION PROGRAM

5. Managers and Supervisors Responsibility

Safe working conditions and a safe work environment are the responsibility of every employee; however, final responsibility for an accident free and hazard free environment rests with the managers and supervisors of the District. Each manager and supervisor has the responsibility to promote accident prevention through continuous surveys of work areas, setting a good example, educating, training and retraining employees regarding safety rules and regulations and safe work habits. This will be achieved by recognizing employees who follow safe and healthful work practices and by properly disciplining employees working in an unsafe manner. Each manager and supervisor is responsible for insuring that inspections are conducted and corrective actions are implemented. Safety is a very important aspect of every Manager's and Supervisor's job.

6. Employee Responsibility

All employees of the District shall be required, as a condition of their employment, to follow all Injury and Illness Prevention practices that are established for the protection of themselves, their fellow employees and the public. This includes, but is not limited to wearing of protective equipment and operating only that machinery or power equipment that he/she has been authorized to operate. Any employee who willfully violates safe and healthful work practices is subject to disciplinary action up to and including immediate termination (See Policy No. 6 - Hiring and Termination).

It is the responsibility of every employee to report unsafe working conditions or an employee working in an unsafe manner to his/her supervisor immediately for corrective action. An employee who chooses not to report unsafe working conditions or employees may be considered in violation of the Injury and Illness Prevention Policy of the District.

7. Communications

The District has established a system for communication between management and employees on occupational safety and health matters, including meetings, training programs, postings, written procedures, a system of anonymous notification and safety committees. Several of these include:

A. Reporting Unsafe Conditions

Employees are required to report unsafe or unhealthful conditions to their supervisor. Such reporting will be made without fear of reprisal. Supervisory personnel will investigate and take necessary actions to remedy the situation in a timely manner. These actions, regardless of the level of severity, will be reported to the Safety & Security Office as soon as possible. (See Safe Work Practice (SWP) - 12 Accident, Injury, Illness and Near-Miss Investigation Procedure).

B. Employee Safety "Hotline"

The Employee Health and Safety Telephone Notification Hotline ("Hotline") provides a confidential mechanism for employees to report concerns regarding possible unsafe conditions or practices. This method of reporting unsafe

POLICY NO. 33 - INJURY AND ILLNESS PREVENTION PROGRAM

conditions is confidential and provides anonymity for callers (See SWP-7 - Employee Health and Safety Telephone Notification “Hotline” Procedure).

C. Accident/Incident Notification

Incidents that involve employee accidents, incidents or near misses shall be reported to the appropriate supervisor. Reports will then be forwarded to the Safety & Security Office prior to leaving work at the end of the shift. (See SWP - 12- Accident, Injury, Illness and Near-Miss Investigation Procedure).

D. General Safety Committee

The General Safety Committee provides assistance in monitoring and reviewing incidents. The committee also assists the Safety & Security Office in the initial development of safety-related procedures as required. Minutes of the General Safety Committee are posted on the S-Drive. Members of the committee will include employees from all major departments and/or members of the Safety & Security Office. (See SWP-6 - Safety Committees Procedure).

8. Training and Information

The Safety & Security Office shall administer this Program, including:

- A. Instructing employees, including supervisors, in safe work practices and providing specific instruction as to hazards for particular positions;
- B. Assisting supervisors in providing training and preparing job safety analysis (JSA) for all employees.
 - 1) When employees are given new job assignments for which training has not previously been received (See SWP-11- Employee Health and Safety Orientation Procedure),
 - 2) Whenever new hazardous substances, processes, procedures or equipment are introduced into the workplace, and
 - 3) Whenever the District is made aware of a new or previously unrecognized hazard.

C. Initial and Refresher Training

New employees will attend a New Hire Orientation which will provide initial instruction and training based on their job assignment. Supervisors are required to provide specific training for job tasks. Supervisors are required to train employees when a new substance is introduced or a new hazard is recognized within the employees work area or assignment.

Employees must attend annual and refresher training for certain job duties as described in applicable safety programs and procedures. (See SWP – 10

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Training). As appropriate, a written test will be administered to evaluate comprehension.

9. Process Safety Management (PSM)

- A.. Each employee involved in PSM process must receive overview training of the PSM processes as well as training in operating procedures. The training must include an emphasis on specific safety and health hazards, procedures and applicable safe practices. Refresher training must be conducted at least every three years or more frequent if necessary. Ref. 8CCR 5189 (g).

- B. A Process Hazard Analysis (PHA) must be conducted of the PSM processes as well as California Accidental Release Programs (Cal/ARP) to identify, predict, evaluate and control hazards within the processes. The PHA must be conducted every five years. The PHA must identify specific hazards and controls such as administrative, engineering controls or other acceptable controls. The PHA must be conducted by a team with expertise in engineering, operations and safety pertinent to the specific process.

10. Injury or Hazard Reporting

A. Vehicle Accidents

Any employee involved in a vehicle accident while operating a District vehicle will report such accident by radio or telephone to the Facilities/Fleet Manager before leaving the scene of the accident. (See HR Policy 50 Vehicle and Equipment Usage and SWP-19 Use of District Vehicles) The IRWD Incident Report will be completed by the employee involved in the accident prior to leaving work at the end of the shift. The employee's supervisor or manager will submit the completed Incident Report to the Safety & Security Office prior to the end of the shift.

B. Reporting Injuries/Illnesses

Any employee who sustains an illness or injury while performing his/her job at the District will report that illness or injury immediately to his/her direct supervisor. The Supervisor of the injured employee will complete the IRWD Incident Report on the day the illness or injury occurs before the employee leaves District facilities, except in cases of emergency. Any employee who is aware of any workplace hazard must immediately report the hazard to his/her supervisor, who is responsible for reporting the hazard to the Safety & Security Office.

The IRWD Incident Report will be forwarded to the Safety & Security Office by the Supervisor before the end of the workday on the day of the accident. The Safety & Security Office will forward a copy of the IRWD Incident Report to the Human Resources department prior to leaving work at the end of the shift.

POLICY NO. 33 - INJURY AND ILLNESS PREVENTION PROGRAM

11. Safety Inspections

Supervisors are responsible for indentifying unsafe or unhealthful conditions in accordance with SWP-13 Physical Conditions Inspections.

12. Correction of Unsafe or Unhealthful Conditions

Supervisors are responsible for correcting safety and health hazards in a timely manner. If such corrective action is beyond the supervisor's authority, then he/she must promptly notify management, or designee, with the authority to correct the hazard.

When an imminent hazard exists that cannot be immediately abated without endangering employees and/or property, all personnel must be immediately evacuated from the area except for personnel necessary to correct the hazardous condition. No employees may enter such an area without appropriate protective equipment and training. The Safety & Security Office will be notified as soon as possible.

13. Injury/Illness and Hazard Investigation

Occupational injury and illness, as well as hazards, will be investigated by the immediate supervisor and a representative from the Safety & Security Office. (See SWP 12 - Accident, Injury, Illness and Near-Miss Investigation Procedure).

14. Safety Warnings/Discipline Policy

Safety warnings and the disciplinary process guidelines are designed to give direction and guidelines to be followed when an employee is determined to have been working in an unsafe manner or has violated a safety regulation. This policy is designed to impress upon all employees the need to exercise utmost caution in preventing injuries to themselves or others and/or in causing property damage. (See s:\Human Resources\Procedures\Disciplinary Process.doc)

When an on-the-job accident/incident occurs, it shall be reviewed by the Safety & Security Office. If the Safety & Security Office determines that an unsafe act, failure to follow prescribed safety procedures, a safety violation, or gross negligence caused the accident, the employee involved shall be subject to disciplinary action. (See Policy No. 6 - Hiring and Termination and Policy No. 27 - Alcohol and Drug Policy).

15. Administrative Responsibility

The Safety Officer, the Director of Human Resources and the General Manager will be responsible for implementing and administering the Injury and Illness Prevention Program of the District.

Adopted by IRWD Board of Directors on: February 10, 2014

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 34 - EMPLOYEE PERSONAL COMPUTER PURCHASE PLAN

1. **Purpose of Policy**

The primary purpose of the Employee Personal Computer Purchase Plan is to develop the computer literacy of full-time District employees by encouraging the purchase and use of home computers and software.

2. **Eligibility**

Any full-time employee who has completed one year of service with the District is eligible for a loan under this program. Participants must agree, in writing, to comply with the requirements and provisions of the plan.

3. **Loan Criteria**

Each loan is interest free with repayment calculated over twenty-four (24) month period.

A maximum of \$3,000 will be loaned to eligible employees for initial purchase and/or upgrades for personal computer systems determined to be compatible with current District systems.

At no time shall an employee have more than two active computer loans in repayment status for a combination of more than one laptop computer, one desktop computer system, and/or one tablet.

Loan payments will be made through payroll deductions. Personal computer loan payments for loans over \$500 will be determined by spreading the amount financed over a period of 24 months. Computer loan payments for loans of \$500 or less will be determined by spreading the amount financed over a period of 12 months. Loans are due and payable in full upon termination of employment for any reason. Balance due at termination will be automatically deducted from the employee's final paycheck and/or payment of accrued sick and vacation hours. Loans may be paid earlier at the employee's request.

A written loan agreement between the District and the participant is required. The loan agreement will outline the responsibilities of the participant, terms of the agreement, payroll deduction arrangements and other conditions of the loan.

4. **Computer System Criteria**

The following are minimum requirements of computer systems eligible under this program:

- A. Processor and memory (RAM) that meets the requirements of the Operating System and selected Applications..
- B. Most current version of Microsoft Windows Operating System.

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- C. One (1) CD- ROM or DVD drive.
- D. One (1) printer
- E. One (1) business application software package, i.e. Microsoft Office, Word, Excel, Power Point, or current District application software. To be eligible for this program, system components must be manufactured by established companies and must be compatible to run current District software. No off brands, discontinued models or used components will be considered. No game or entertainment software or digital cameras will qualify under this plan.

5. Plan Limitations

Computer loans will be made to employees on a first-come, first-serve basis, until the \$150,000 loan fund is depleted. As funds become available through loan repayment, additional loans will be processed.

6. Procedure to Apply for Loan

Employees who wish to participate in the computer purchase plan will:

- A. Obtain and complete a Computer Purchase Plan loan application from Human Resources. Sign the Loan Agreement sheet (forms available in the Human Resources Department).
- B. Submit a receipt with system specifications for a system purchased directly from a vendor. If the system does not meet the minimum requirements established by this policy, it will not qualify for loan funds. Employees may also obtain a quotation(s) from vendor(s) for the hardware and software to be covered by the program. Participants may choose any vendor. Comparative shopping is encouraged.
- C. Human Resources will forward the loan agreement to the Finance Department, where warrant(s) will be prepared. Warrant(s) will be delivered to the Human Resources Department. If the employee has already purchased the system, warrant(s) will be issued for 90% of the purchase price in the name of the employee. If a quotation was submitted, warrant(s) will be issued in the name of the employee and vendor(s) for the full purchase price and the employee will pay 10% of the purchase price to IRWD when warrant(s) are delivered.

7. Restrictions on Transfer or Assignment

Each participant in the plan agrees that usage of the equipment and software made available under this plan will be restricted to the participant's own use and that of his/her immediate family. Any re-assignment or transfer of the equipment violates the agreement and cancels the right to participate in the plan.

8. Protection Against Damage and Theft

Participants in the plan should ensure that their home insurance policy provides adequate protection of their equipment from theft, fire, flood and lightning. The District does not assume any liability for damage or theft of equipment.

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9. Loan Agreement Approval

The General Manager or his/her designee shall approve all loan agreements.

10. Administrative Responsibility

The Human Resources Department will be responsible for administering the Employee Personal Computer Purchase Plan.

Adopted by IRWD Board of Directors on: September 10, 2012

IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 35 TEMPORARY MODIFIED DUTY/LIGHT DUTY ASSIGNMENTS

I. IN GENERAL

- A. This policy establishes procedures regarding the District policy and procedures regarding the temporary assignment of an employee to a modified or light duty assignment when he/she is temporarily unable to fully perform the duties of his/her regular assignment or position.
- B. The District recognizes that there are times when an employee is unable to perform regular duties due to work-related or non-work-related illnesses or injuries. The District also recognizes that an employee in such a situation may be able to perform other duties that would benefit the District on a temporary basis. If possible, based on the work restrictions imposed on the employee and the needs of the District, it is the policy of the District that such employees may be provided with temporary modified or light duty assignments on a case-by-case basis. However, this policy does not guarantee any employee a temporary modified or light duty work assignment.
1. A modified duty assignment involves changes to the manner in which an employee performs his/her current job, without removing any of the essential functions of the position. An effective temporary modified duty assignment may become the employee's regular assignment in the discretion of the District.
 2. A temporary light duty assignment involves significant changes to the manner in which an employee works and may involve temporary removal of one or more essential functions from the employee's current job, or temporary assignment of the employee to perform work outside of the employee's usual job duties. The District will not transform a temporary light duty assignment into a regular assignment.
- C. The District also recognizes that there are times when an employee's illness or injury will qualify as a disability, as defined by the Americans with Disabilities Act ("ADA") and/or the California Fair Employment and Housing Act ("FEHA"). The District is committed to fully complying with the requirements of the ADA/FEHA and engaging in a good faith interactive process with an employee who has a mental or physical disability and, if possible, to reasonably accommodate that employee so that he/she can perform the essential functions of his/her position. However, this policy is not intended to act as a substitute for the interactive process under the ADA/FEHA.

- D. The District further recognizes that there may be additional or different obligations to an employee who has sustained an industrial illness or injury, and that those obligations are set forth in the workers' compensation laws under the State of California. It is the intent of the District that this policy be extended to employees with work-related and non-work-related injuries. However, to the extent that this policy conflicts with workers' compensation laws and/or regulations, those laws and/or regulations shall supersede this policy.

II. ELIGIBILITY

- A. All District employees are eligible to be considered for temporary modified or light duty assignments. Employees must meet the following requirements in order to be eligible for consideration for a temporary modified or light duty assignment:
 - 1. The employee's illness or injury temporarily prevents him/her from performing his/her full regular duties;
 - 2. The employee's treating health care provider has issued a written certification that:
 - a. Certifies that the employee is subject to temporary work restrictions and identifies the estimated duration;
 - b. Clearly identifies the nature and scope of the employee's work restrictions;
 - c. Releases the employee to return to modified or light duty work within the specified restrictions;
 - 3. The employee has fully complied with his/her obligations under this policy.

III. PROCEDURE

- A. When an employee's treating health care provider identifies or issues temporary work restrictions:
 - 1. The employee must contact Human Resources and provide a copy of a written medical certification from the employee's health care provider that clearly states the employee's work restrictions and requested accommodations. If the health care provider's certification does not clearly explain the employee's work restrictions and requested accommodations, Human Resources may request that the employee provide a more detailed explanation of the restrictions and/or requested accommodations. No employee shall be required to disclose his/her underlying condition or medical diagnosis.
 - 2. Human Resources, in consultation with the employee's Department, will determine the availability of potential temporary modified or light duty

assignment in the employee's current position. If no appropriate temporary modified or light duty assignment is available in the employee's current position, the District may, at its discretion, assign the employee to perform a temporary modified or light duty assignment in another position or department. However, in the event that no appropriate position or assignment is or remains available, the District is not obligated to create a new position or maintain a temporary modified or light duty assignment.

3. The District will determine whether any temporary modified or light duty assignment will be offered to the employee. If the employee is offered a temporary modified or light duty assignment, the District will provide information and instruction regarding the temporary assignment, including, but not limited to temporary job duties, duration of assignment, wage and working hours, and location of assignment.
4. Before an employee will be permitted to begin a temporary modified or light duty assignment, the employee may be required to provide written confirmation to Human Resources that the health care provider issuing the restrictions has determined that the assignment may be performed within the employee's restrictions.
5. The District may require an employee to undergo a fitness-for-duty examination after being assigned to a temporary modified or light duty assignment if safety concerns exist regarding the employee's ability to perform his/her assigned duties.
6. The District will have sole discretion in determining the availability of potential temporary modified or light duty assignments. Such determinations are final and are not subject to any District complaint, grievance, or appeal procedures.

B. Duration of Temporary Modified or Light Duty Assignments

1. When available, temporary modified or light duty assignments may be approved for up to 30 calendar days at a time.
2. If the treating health care provider extends the work restrictions beyond 30 calendar days, or otherwise changes the restrictions, the temporary modified or light duty assignment will be reviewed by Human Resources, in consultation with the affected Department(s). Following this review, Human Resources will advise the employee whether the temporary modified or light duty assignment has been extended, modified, or discontinued.
3. No employee shall be guaranteed that a temporary modified or light duty assignment will continue.
4. Temporary modified or light duty assignments are generally expected to last no more than a total of six months per each separate and unrelated illness or injury. However, Human Resources, in consultation with the affected Department(s), may approve additional time on a case-by-case basis, taking into account the availability

of productive and meaningful work and the anticipated remaining duration of the employee's temporary work restrictions.

C. Compensation and Benefits during Temporary Modified or Light Duty Assignments

1. An employee assigned to perform a temporary modified or light duty assignment outside of his/her current position shall still receive his/her current base rate of pay (although the employee's compensation may be reduced if the employee works less than his/her regularly scheduled workweek).
2. If the employee's temporary modified or light duty assignment requires that the employee work less than his/her regularly scheduled hours, the effect on the employee's benefits will be addressed as provided for in the District's policies and procedures.

D. Employees assigned to temporary modified or light duty assignments must:

1. Work within the restrictions and limitations that their treating health care provider has imposed and only perform those duties that he/she is assigned;
2. Immediately notify their supervisors or Human Resources if they believe that they cannot perform all or part of an assignment or otherwise have any concerns about working within their restrictions;
3. Immediately notify their supervisors or Human Resources if they suffer an injury or exacerbate an existing injury or condition while on the assignment;
4. Communicate and coordinate any foreseeable medical or physical therapy treatments or appointments, or similar, in advance with their supervisors, where feasible;
5. Immediately notify their supervisors and Human Resources of any change in restrictions after each medical appointment and submit updated written certifications; and
6. Continue to engage in the interactive process in good faith and provide Human Resources with medical documentation as requested.

E. Supervisors of employees assigned to temporary modified or light duty assignments must:

1. Monitor and manage the work schedule of employees assigned to temporary modified or light duty assignments and periodically inform Human Resources of their status and performance;
2. Immediately notify Human Resources if they believe that an employee has suffered an injury or exacerbated an existing injury or condition, or cannot perform all or part of an assignment, and/or if there are otherwise any concerns about an employee working within their restrictions; and

3. Immediately notify Human Resources of any changes or updates communicated by an employee regarding his/her work restrictions or temporary modified or light duty assignment.
4. Provide input to Human Resources regarding the employee's ability to perform the assigned duties effectively and continued availability of meaningful and productive work in connection with a temporary modified or light duty assignment.

F. End of Temporary Modified or Light Duty Assignments

1. The District will discontinue temporary modified or light duty assignments:
 - a. If an employee's work restrictions are lessened and the District determines the employee may resume his/her normal and usual duties, with or without reasonable accommodations.
 - b. If an employee's work restrictions become permanent and stationary or reach Maximum Medical Improvement. However, the District will continue to engage in the interactive process to determine if any reasonable accommodations are available.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 36 - PERFORMANCE RECOGNITION PROGRAM

1. **Purpose of Policy**

The purpose of the Performance Recognition Program is to recognize those employees of the District who exhibit outstanding performance which depicts initiative, creativity, and enthusiasm above and beyond the performance requirements of their position with the District.

2. **Procedure for Recommending Performance Recognition Awards**

Department Heads will accept recommendations from their department employees for possible recipients of a performance recognition award. These recommendations will then be presented by the Department Head to the Director of Human Resources for review and determination of their appropriateness and monetary value of the award consistent with previous awards given. The General Manager will make the final determination regarding monetary value and appropriateness of each of the performance recognition awards.

3. **Performance Recognition District Budget**

Performance Recognition Awards will be made from a pool of dollars determined by the Board of Directors each year during the budgetary process. The approved pool may or may not be exhausted during the fiscal year, but awards will never exceed the total pool approved by the Board of Directors for the current fiscal year. Dollars remaining in the pool at the end of each fiscal year will not be carried forward to the next fiscal year. A summary of the awards given during the fiscal year will be discussed with the Finance and Personnel Committee of the Board of Directors each quarter.

4. **Presentation of Performance Recognition Awards**

Performance Recognition Awards can be made, when possible, in an unscheduled and spontaneous manner in order to reward the employee for his/her exemplary performance in a timely manner following an event or activity which justified the recognition. The timely and spontaneous recognition of these employees will maximize and enhance the benefit of this program to the District. Awards may also be made to recognize employees for their overall performance throughout the year.

5. **District's Exclusive Authority**

The Board of Directors of the District has provided the District Management Team an excellent management tool to further motivate and recognize our exemplary employees. The Board of Directors and the General Manager reserve the right to revise or discontinue this program at any time.

POLICY NO. 36 - PERFORMANCE RECOGNITION PROGRAM

6. Administrative Responsibility

The General Manager and the Director of Human Resources of the District will be responsible for administering this program.

Adopted by IRWD Board of Directors on: September 10, 2012

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 36 - PERFORMANCE RECOGNITION PROGRAM

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POLICY NO. 36 - PERFORMANCE RECOGNITION PROGRAM

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Adopted by IRWD Board of Directors on: September 10, 2012

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 37 - COMMUTER TRIP REDUCTION (RIDESHARING) PLAN

1. **Purpose of Policy**

The purpose of the Commuter Trip Reduction Plan of the District is threefold:

- A. To fulfill any requirements of the City of Irvine, the South Coast Air Quality Management District or any other regulatory agency.
- B. To reduce energy consumption, air and noise pollution, and traffic congestion.
- C. To provide an incentive to the employee for participation in the District's Commuter Trip Reduction Plan.

2. **Qualifying Carpools**

The categories of eligible car and vanpools are as follows:

A. **Vanpools – Contracted Commuter Vanpool**

1) **District Agreement**

The District will contract with a provider to furnish appropriately equipped vehicles to be used for the development and operation of transportation pools and will provide fuel, toll road transponders and washing access for the vehicles. Oil and maintenance of the vehicles will be the responsibility of the provider.

2) **Vanpool Participant Agreement**

Vanpool drivers are required to sign an agreement provided by the contracted provider. Alternate drivers are also required to complete an agreement provided by the contracted provider.

The District will cost share with participating employees in the commuter vanpool program.

The District participates in the Orange County Transportation Authority (OCTA) commuter van subsidy program. All vanpool participants are also required to complete an OCTA commuter agreement form.

B. **Car pools - Employee Owned Vehicles**

1) **District Agreement**

The District will provide a monetary incentive to employees who organize and operate car pools using their own vehicles, as well as to employees who ride in organized car pools. The travel route must be between work and home. Participants in this program will be required to enter into either

POLICY NO. 37 - COMMUTER TRIP REDUCTION (RIDESHARING) PLAN

a Private Vehicle Passenger Agreement or a Private Vehicle Driver Agreement, as applicable.

C. Additional Commuter Pools

1) Cycle Commuters

The District will provide a monetary incentive to employees who use a bicycle to commute to and from work. Participants in this program are required to enter into a Bicycle Commuter Agreement with the District. The travel route must be between work and home.

2) Walking Commuters

The District will provide a monetary incentive to employees who walk to and from work. Participants in this program are required to enter into a Commuter Agreement with the District.

3) Public Transportation/Outside Transportation Pools

The District will provide a monetary incentive to employees who use public transportation or who participate in an outside car or van pool to commute to and from work. Participants who use public transportation are required to enter into a Public Transportation Agreement with the District. Participants who participate in an outside car or vanpool are required to complete a Drop-Off at Work Car/Van Pool Participant Agreement with the District. With the approval of the General Manager, employees who ride the Metrolink may park a District vehicle at the Metrolink Train Station provided there is twenty-four hour security at the station.

3. Emergency and Non-Emergency Transportation

Employees participating any of the programs described in this policy are encouraged to plan for non-emergency transportation needs that may arise in the course of a regular scheduled workday in accordance with Personnel Policy No. 50 – Vehicle and Equipment Usage. Contract commuter vans and District-owned pool vehicles will not be available to employees to attend medical appointments, purchase and/or attend lunch, or attend to other personal business.

In the event of a family or other emergency arising during the course of a regular scheduled workday, the District will provide emergency transportation to any employee participating in the programs described in this policy.

4. Payment of Incentives

Monetary incentives will be paid on a monthly basis to employees who participate in the programs described in this policy. Drivers, passengers, and riders are responsible for accurate and timely reporting. No incentive payment will be made for any day in which driver and passenger reporting does not agree. No retroactive adjustments will be made to incentive payments.

POLICY NO. 37 - COMMUTER TRIP REDUCTION (RIDESHARING) PLAN

Employees receiving incentive payments under this plan are ineligible for incentive payments for the same activity under any other District program.

Incentives, including monetary incentives, will be reviewed from time to time and may be changed upon approval by the General Manager. The incentive schedule is distributed by the Safety Office and will be updated and distributed to participants upon any changes made by the General Manager.

Additional incentives, such as prize drawings may also be included in this program.

5. Tax Implications for Commuter Incentives Received

Monetary incentives received by employees of the District will be taxed at the time the incentive payment is received.

Additionally, federal and state governments may also consider the use of District owned vehicles for transportation to and from work as a taxable benefit to the driver.

6. Liability Responsibility

All participants in the Rideshare Program must sign an agreement releasing the District, its directors, officers, employees and agents, from any and all claims, suits, actions, investigations, and proceedings, and related costs and expenses (including attorney's fees), arising out of or in connection with their participation in the Commuter Trip Reduction (Ridesharing) Program.

8. Wireless Vehicle Management

Vehicles owned by the District, leased by the District, or otherwise controlled by the District are subject to remote monitoring. Remote monitoring is intended to provide the district with the ability to account for the vehicles at all times. Remote monitoring includes, but is not limited to, the ability to monitor vehicle location, vehicle starts and stops, and vehicle speed.

9. Employee Driving Standards

Participants in The Commuter Trip Reduction (Ridesharing) Plan must adhere to the Irvine Ranch Water District Personnel Policy No. 43- Employee Driving Standards and agree to the terms of employee responsibilities as outlined.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 38

NOT IN USE

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 39 - DEFERRED COMPENSATION PLAN POLICY

1. Purpose of Policy

The primary purpose of the District's deferred compensation program is to enable employees to defer portions of their compensation as a supplement to the PERS retirement plan. The District has established a deferred compensation program available through two plans:

- IRS Section 457 Deferred Compensation Plan ("457 Plan")
- IRS Section 401(a) Money Purchase Pension Plan ("401(a) Plan")

2. Eligibility and Enrollment

Upon employment with the District, all regular, full-time employees of the District are eligible to defer compensation to the 457 Plan. Employees are responsible for initiating the dollar amount or percentage to be deferred, selecting investment allocation of amounts deferred, and designating primary and contingent beneficiaries. If an employee fails to allocate deferrals, the funds will be automatically deposited into the Conservative Profile fund.

Additionally, in accordance with Personnel Policy and Procedure No. 6, Section B.3., pertaining to the OBRA Act of 1986, some temporary employees are required to contribute to the 457 Plan. Temporary employees are limited to the Conservative Profile fund or stable value investment option. (See "Personnel Policy and Procedure No. 6 – Hiring and Probation").

Employees may defer compensation for any calendar month, providing the deferral election is made no later than the last business day of the month prior to the desired pay period in which the deferral election is to begin.

3. Available Plans and Deferral Limitations

A. The 457 Deferred Compensation Plan – Employee Contributions

The 457 plan is available for employee contributions only.

The minimum amount of contributions is ten dollars (\$10.00) per pay period.

The maximum amount employees may contribute to the 457 Plan is the lesser of 100% of Includible Compensation or the maximum allowed by law. Includible Compensation is generally defined as base compensation, but may include overtime, stand-by, and paid vacation and/or sick hours during absences such as medical leave.

POLICY NO. 39 - DEFERRED COMPENSATION PROGRAM POLICY

Once a year, the District will provide employees the option to transfer a specified amount of accrued vacation time into the 457 Plan (See “Policy No. 18 – Vacation”).

Once a year, the District will provide employees the option to transfer a specified amount of accrued sick time into the 457 Plan (See “Policy No. 16 – Sick Leave”).

B. The 401 (a) Money Purchase Pension Plan – District Contributions

The 401 (a) Plan is for District contributions only.

Matching Contributions

An employee who has completed one year of regular full-time service with the District is eligible for a District matching contribution. Beginning with the first month following an employee’s one year anniversary date, the District will deposit to the employee’s 401(a) Plan account an amount equal to 100% of the amount deferred by the employee during each pay period up to a maximum of 3% of the employee’s base salary for each pay period. Once an employee has deferred an amount equal to 3% of his/her annual salary during the calendar year, the matching deposits to the employee’s Deferred Comp Plan account will continue each pay period in an amount equal to 3% of the employee’s base salary even if the employee is no longer making contributions. The District does not match deferrals in excess of 3% of the employee’s base salary.

Direct Contributions

Managers, Supervisors, and Confidential employees who have completed two years of regular, full-time service with the District, are eligible for an additional District contribution. Beginning with the first month following an employee’s second anniversary date, the District will deposit to the employee’s 401 (a) Plan account on a per-pay period basis an amount equal to 1% of the employee’s base salary. When an employee’s base salary changes, contributions made by the District will be adjusted accordingly.

4. Participant Options

A. Changes to Deferral Amount

Employees may change the amount of compensation to be deferred in future pay periods, including the option to change the deferral amount to zero (\$0). Deferral changes must be made no later than the last business day of the month prior to the desired pay period in which the deferral election change is to begin.

B. Catch-Up Contributions

“Age 50 Catch-up” Contributions: At any time during the year in which an employee will attain age 50, they are eligible to make additional elective deferrals, up to the maximum amount set by law for that year. Employees may not participate in the “Age 50 Catch-up” during the same time they are making additional contributions under the “Last-three-years” provision below.

POLICY NO. 39 - DEFERRED COMPENSATION PROGRAM POLICY

“Last-Three-Years” Catch-up Contributions: Under this provision, an employee who underutilized the applicable deferral limitations after December 31, 1978, may make additional deferrals in an amount not to exceed the lesser of—

- (i) Twice the otherwise regular dollar limit. For example, if the regular annual deferred contribution limit is \$16,500, an eligible employee may be able to defer up to an additional \$16,500.
- (ii) The amount that was underutilized in previous years after December 31, 1978.

The catch-up provision applies to any one or more of an employee’s last three (3) calendar years ending before such employee attains normal retirement age. Normal retirement age shall be considered the range of ages beginning no earlier than age 50 and ending no later than age 70-1/2. The normal retirement age chosen upon election of this catch-up provision is irrevocable for determining the three year period.

5. Administration of the Program

The District may contract with one or more investment providers to provide investments, education, and record-keeping services for the Plans. The District's Plan Administrator shall administer the Deferred Compensation Program and shall submit action or informational items to the District’s Finance and Personnel Committee and/or Board of Directors as necessary.

A. Ownership of Funds

All amounts deferred under the Plans are held in trust for the exclusive benefit of the participants and their beneficiaries.

B. Claims or Liens Against Assets

Neither the existence of the deferred compensation Program nor the individual deferred compensation accounts shall entitle any participant, beneficiary of any participant, or a creditor of any participant to a claim or lien against the assets of the individual deferred compensation accounts. The participants and their beneficiaries shall only have the right to receive benefits pursuant to the Plans.

C. Statement of Accounts

The deferred compensation investment provider will be responsible for providing account statements no less frequently than quarterly.

POLICY NO. 39 - DEFERRED COMPENSATION PROGRAM POLICY

7. Distributions

A. Termination of Employment

Employees are eligible to take distributions from the Plans upon separation of service from the District. The individual plan documents will provide the specific plan requirements and modes of distribution.

B. Emergency Distributions

An employee may request an emergency distribution from his/her 457 Plan account due to extraordinary and unforeseeable circumstances arising as a result of events beyond his/her control. Emergency distributions are not available under the 401 (a) Plan. Circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but distributions will only be made in accordance with IRS regulations and the 457 Plan document.

The District may use an investment provider or other third party to make a determination for an emergency distribution request.

8. Plan to Plan Transfers, Purchase of Service Credits and Rollovers

The District's deferred compensation program allows plan to plan transfers, purchase of service credits, and rollovers in and out of the Plans. The individual plan documents will provide the specific plan requirements related to transfers of assets in or out of the Plans.

9. Amendment or Termination of Plan

The District, at its sole discretion, may terminate one or both of the Plans at any time. Upon such termination, each participant in the affected plan will be deemed to have revoked his/her participation as of the date of such termination.

The District may also amend the provisions of its Plans at any time, provided that no amendment or termination shall affect the rights of the participants or their beneficiaries to payment of benefits.

Adopted by IRWD Board of Directors on: September 28, 2015

**IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES**

POLICY NO. 40

NOT IN USE

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 41 - FLEXIBLE ADVANTAGE PLAN POLICY

1. **Purpose of Policy**

The District realizes that benefits are a very important part of an employee's compensation. Effective July 1, 1989, The Flexible Advantage Plan (herein referred to as Flex Spending) was implemented at the District. The flex spending program is a tax-favored "Cafeteria" type plan that is allowed under Section 125 of the Internal Revenue code. Section 125 allows you the opportunity to pay for certain expenses with Before-tax dollars instead of After-tax dollars.

2. **Eligibility**

All regular, full-time employees, including members of the Board of Directors, are eligible to participate in the flex spending plan. The Plan will be offered each year during open enrollment insurance meetings for enrollment in the plan for the following calendar year.

3. **How the Flex Spending Program Works**

Section 125 of the Internal Revenue Code allows an employer to set up a plan for employees whereby they can use pre-tax earnings to pay for certain everyday expenses related to miscellaneous medical expenses and dependent care expenses.

Eligible employees may allocate part of their gross earnings each pay period to fund certain defined accounts by indicating their annual election amount during the annual open enrollment period. The amounts are then deposited into the appropriate account(s) in the name of each participating employee. The benefit to the employee is that withholding taxes are applied only to the remaining gross salary.

When an employee incurs an expense covered by one of the accounts he/she has elected to fund, the employee can use their Flex Advantage debit card or submit a claim form along with the appropriate documentation for the expense to the District's third party administrator. The plan administrator will then authorize a reimbursement check or direct deposit to the employee. This check is received entirely tax-free. It never has to be reported as income.

4. **Description of Accounts**

The Flex Advantage Plan has five accounts (three premium accounts and two reimbursement accounts). Premium accounts eligible for pre-tax funding include specific voluntary benefits programs available under Hartford, Aflac, and Colonial insurance. Reimbursement accounts include the Miscellaneous Medical Expense Account and the Dependent Care Reimbursement Account. Details of the covered

POLICY NO. 41 - FLEXIBLE ADVANTAGE PLAN POLICY

expenses for the reimbursement accounts can be found in the Flex Spending Information Guide under s:\Human Resources\Benefits Information.

A. Miscellaneous Medical Expense Account

Miscellaneous medical expenses are expenses incurred by the employee, which are not covered by the employee's health insurance plan. Under the Flex Advantage Plan, eligible employees can pay for these types of expenses with "before-tax" dollars, which will result in a tax savings to them. It does, however, require considerable thought and planning on the employee's part to ensure that they do not over-fund this account.

B. Dependent Care Reimbursement Account (DCRA)

Dependent care expenses are expenses incurred by the employee for the care of eligible dependents . Under the Flex Advantage Plan, eligible employees can pay for these types of expenses with "before-tax" dollars, which will result in a tax savings to them. This account is designed to help employees pay for eligible expenses incurred for dependent care services which allow them to be gainfully employed.

6. Other Employee Concerns

Flex Spending allows the participant to receive immediate tax savings on Federal, State, and Social Security taxes. If employees decide to take advantage of the immediate tax savings, they must remember that they are not permitted to count anything that was reimbursed to them through the pre-tax plan in their calculation to determine any tax deduction they might be due for "excess medical expenses" or dependent care expenses.

Employees are encouraged to seek the advice of a tax adviser to avoid any misunderstandings regarding the tax ramifications due to the elections made under the Flexible Advantage Plan.

7. Benefits Cafeteria Plan

A. Effective January, 2000, the Irvine Ranch Water District implemented a benefits cafeteria plan. This Plan will consist of discretionary allocations that may be applied toward District sponsored programs. An amount equal to the PERS-required minimum employer contribution constitutes the District payment toward employee medical insurance. Employees may allocate the remaining amount among the following District sponsored benefit programs:

- 1) Medical Insurance
- 2) Dental Insurance
- 3) Vision Insurance

B. District benefit contributions are based on medical plan and level of coverage. The District will contribute an amount equal to the total cost of the employees selected PERS medical, dental and vision coverage for all full-time regular

POLICY NO. 41 - FLEXIBLE ADVANTAGE PLAN POLICY

employees, less the required employee contribution established by the Board of Directors for each plan year.

- C. Employees are required to pay any premium amounts in excess of the District contribution for the benefits selected. Such amounts will be deducted from the employee's payroll check each payday.
- D. Employees who waive health insurance or who select coverage with total premiums less than the District contribution cannot cash out any portion of the District contribution. The District shall retain the entire employer contribution designated for health insurance for such employees.
- E. CalPERS requires that all agencies choosing to participate in its health program provide coverage for retirees. The District shall provide a medical contribution of the PERS-required minimum employer contribution per month for each retiree that elects to participate in the CalPERS Health Benefits plan.
- F. CalPERS also requires that all agencies choosing to participate in its health program provide coverage for PERS-eligible part-time and temporary employees. In accordance with the CalPERS requirement, effective January 1, 2000, the District shall provide a medical contribution of the PERS-required minimum employer contribution per month for all such employees. PERS-eligible part-time and temporary employees who choose to enroll in a health insurance program shall pay the difference between the PERS-required minimum employer contribution and the cost of the selected plan.
- G. The District's willingness to participate in the CalPERS health program has been based, in part, on:
 - 1. The availability of the "Unequal Contribution Method" for retirees,
 - 2. The initial one dollar (\$1.00) per month minimum employer contribution for retirees; and
 - 3. The minimum employer contribution for PERS-eligible part-time and temporary employees.

In the event of a change in State law or CalPERS rules, regulations or policies which may increase the employer contribution for retirees or part-time and temporary employees, or alter or eliminate the Unequal Contribution Method, the District reserves the right to withdraw from the CalPERS health program and provide alternative insurance coverage to District employees.

8. Administrative Responsibility

The Director of Human Resources of the District will be responsible for administration of the Flexible Advantage Plan.

POLICY NO. 41 - FLEXIBLE ADVANTAGE PLAN POLICY

Adopted by IRWD Board of Director on: September 10, 2012

**IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES**

POLICY NO. 42

NOT IN USE

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 43 - EMPLOYEE DRIVING STANDARDS

1. **Purpose of Policy**

The purpose of the Employee Driving Standard Policy is to ensure the safety of the public and District employees and equipment in the course of conducting business operations on behalf of the District. District employees are required to operate a variety of vehicles and equipment to fulfill their job responsibilities and must comply with all applicable legal and insurance guidelines to do so. To verify that these guidelines are met and that each employee qualifies for coverage under the District's insurance policies, the District will review employee driving records and will periodically review these records with the District's insurance carrier.

2. **Pre-Placement Driver's License Verification**

The District reserves the right to access and review driving records and to verify that an employee's California Drivers License is valid. This information will be considered in the employment selection process and throughout the employee's service with the District.

3. **Class A Driver's License Requirements**

Many field operations employees are required to maintain a Class A driver's license as part of their job duties. The District's Class A Program is administered by the Facilities/Fleet Manager. Medical examinations are required every two years to renew this class of license. The District's designated clinic will conduct drug and alcohol testing as part of this medical examination, since these employees will be driving multi-axle vehicles on public streets.

4. **California Department of Vehicles Pull Reports**

The District subscribes to the California DMV Pull Reports. An updated DMV Report is provided by the DMV on any employee whenever there is activity on a driver's license. A report is generated semi-annually on all employees regardless of the activity on the license.

5. **Insurance Standards**

The District Guidelines indicate that the following violations on a driver's license are unacceptable:

- A. Driving Under the Influence (DUI), or hit and run within the past four (4) years.

POLICY NO. 43 - EMPLOYEE DRIVING STANDARDS POLICY

- B. More than two (2) chargeable tickets in the previous twelve (12) months.
- C. Three (3) moving violations in three (3) years.
- D. More than one (1) chargeable accident in the previous three (3) years.

The District reserves the right to remove employees from the District's insurance coverage based on the above criteria. The District will write an endorsement to the policy to exclude these individuals unless justification is provided by the employee. Disciplinary action resulting from unacceptable violations listed above, up to and including termination may also result.

6. Employee's Reporting Responsibility

Each employee of the District is responsible for immediately reporting to their immediate supervisor any activity on their driving record which may suspend or revoke their driver's license to their immediate supervisor. If an employee's driver's license is suspended or revoked, the employee will not be allowed to operate a District vehicle (except electric carts on District premises). If driving a District vehicle is an essential job function of the employee's position and similar work which does not require the employee to drive is available, the Supervisor may make arrangements to temporarily transfer the employee.

Driving without a valid license places the District in a position of risk and liability. Employees found driving without a valid license may be subject to disciplinary action, up to and including termination of employment.

7. Administrative Responsibility

The Director of Human Resources and the Facilities/Fleet Manager will work in conjunction with the Director of Finance to coordinate and administer this policy.

Adopted by IRWD Board of Directors on: March 9, 2009

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS

1. Purpose of Policy

The District recognizes the need to manage the use of its Computer Systems and Accounts to maintain a secure workplace, preserve cybersecurity and to create a work environment in which productivity is enhanced.

The purpose of this policy is to ensure that the District's Computer Systems, including internet access and usage, and District Accounts are properly used to perform tasks directly related to IRWD job duties.

2. Scope of Policy

This policy applies to all users of District Computer Systems or District Accounts. This policy also addresses the use of Personal Computer Systems and Personal Accounts for District business.

3. Definitions

- A. "Authorized User" means any employee, board member or other person authorized to use a District Computer System or Account. To be considered an Authorized User, an individual must be granted permission by the District to use the account, system or device they are using, must read and agree to comply with the terms of this policy, and agree to comply with other applicable IRWD personnel policies and all applicable state and federal laws.

Any employee, Board Member, or contractor who has been given an IRWD computer login, provided an IRWD email address, or has been provided with a wireless device by the District, including an iPad, shall be considered an Authorized User for the purposes of this policy.

The District may revoke or modify its authorization at any time; however, upon separation from the District, an employee's, Board Member's, contractor's or other user's authorization shall be deemed automatically revoked.

- B. "District Accounts" means any account owned, licensed to, opened by or held by the District, and any account linked to a District email address, through which an electronic communication or Public Record could be sent. This includes District email accounts, social media accounts such as Twitter, Facebook, and Instagram connected to a District email address, cloud-based messaging systems (e.g. Microsoft Teams), webinar/conference call platforms (e.g. WebEx), text messaging applications and voice messaging systems connected to a District email address or District cloud-storage accounts.

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS

- C. “District Computer System(s)” means any computer, tablet, cell phone or any other similar electronic device owned, leased, or licensed to the District. All hardware, and District-owned or licensed software, applications, and programs associated with such devices are part of the District Computer System.
- D. “Personal Accounts” means any account owned, licensed to, opened by, used by or held by an Authorized User in their personal capacity and not linked to a District email address. This includes personal email accounts, social media accounts such as Twitter, Facebook, and Instagram, cloud-based messaging systems (e.g. Microsoft Teams), webinar/conference call platforms (e.g. WebEx), text messaging applications and voice messaging systems or personal cloud-storage accounts connected to a personal email address.
- E. “Personal Computer System(s)” means any computer, tablet, cell phone or any other similar electronic device owned, leased, or licensed to an Authorized User or a member of their household, as opposed to the District, in their personal or individual capacity. All hardware, and personally owned or licensed software, applications, and programs associated with such devices are part of the Personal Computer System. A personal cell, which an employee uses for work and receives a District cell reimbursement for, is considered a personal computer.
- F. “Public Record” means any Record containing information related to the conduct of the public’s business that is prepared, owned, used, or in the possession of the District regardless of physical form or characteristic. It does not include Records that are strictly personal and do not relate to the conduct of public business, as these are not Public Records.
- G. “Record” means all tangible (hard-copy) and electronically-prepared, electronically-stored or electronically-transmitted writings or recordings, including communications, handwritten notes, typed documents, emails, voicemails, text messages, spreadsheets, drawings, photographs, data sets, calendar and schedule entries, PDF documents, forms, notes and collections of texts or other data created or assembled by a user, presentations, diagrams, images, CAD files, databases and other electronic information.

4. Authorized Use of the District Accounts, Systems and Devices

A. Authorized Use

Authorized Users are only authorized to use the District Computer Systems and Accounts that their supervisor or Informational Services permits them to use.

District Computer Systems and Accounts are the property of the District and are designed to facilitate District business. Authorized Users are given access to these accounts, systems and devices to conduct business on behalf of the District and to perform tasks directly related to their job duties.

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS

B. Unauthorized Use

The District takes measures to safeguard its Computer Systems and Accounts from misuse, corruption and illegal uses, and to protect the District from any possible liability due to unauthorized use. Uses that are illegal or inconsistent with the authorization granted to the user by the District are unauthorized. Such unauthorized uses include misuse, as defined in Section 6, and personal use inconsistent with the narrow personal use permitted by subsection (C) below.

Authorized Users found to have engaged in an unauthorized or improper use of a District Computer System or Account may have their use authorization revoked or modified. Employees found to have engaged in unauthorized or improper use will be subject to disciplinary action, up to and including termination.

Any users engaged in unauthorized, illegal or improper use may also be subject to civil or criminal liability. Any suspected criminal use or activity will be reported to the appropriate law enforcement agencies.

C. Limited Personal Use

Limited personal use of a District Computer System or Account is permitted if it is appropriate, has a minimal impact on the District, including a minimal impact on the District's network bandwidth and other District resources, and does not take place during work time. For example, an employee using a District iPad at home to read the news, or an employee's limited use of the Internet on a District computer for personal purposes during their lunch or before or after work hours are permissible if those uses comply with the terms of this policy and the District's other personnel policies.

5. **Limitation on User Privacy and Confidentiality**

The District reserves the right to monitor, access and disclose the use of District Computer Systems and Accounts at any time for any reason without notice to the user.

Users of District Computer Systems and Accounts should have **no expectation of privacy** with respect to their use of these accounts, systems and devices. Any communication, data, metadata or other information, including personal communications, data or information, that is transmitted through, stored on or created by these systems or accounts may be accessed, held, used, retained or disclosed at the sole discretion of the District and may be a Public Record requiring protection/retention in accordance with state and federal law and the District's Retention Policy.

Users are put on notice that any communication, Record, message or image accessed through or created, transmitted or stored on a District Computer System or Account may be publicly disclosed.

Security features (e.g. passwords, codes or deletion features) will not prevent the District from accessing a user's communications, Records, messages, or images which are

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS

transmitted through, viewed on, stored in or created by a District Computer System or Account.

Additionally, the District may maintain records of the names, dates and times of users accessing services on District Computer Systems or Accounts, including use of and access to services on the Internet. Users should assume **no privacy or confidentiality exists** when using District Computer Systems or Accounts.

6. Misuse of District Accounts, Systems, and Devices

It is a violation of District policy for Authorized Users, including system administrators, to use District Computer Systems or Accounts for the purpose of satisfying idle curiosity about the affairs of others with no legitimate business purpose for obtaining access to the files or communications of others. Employees found to have engaged in such “snooping” or found to have misused the District’s accounts, systems or devices will be disciplined appropriately, up to and including termination.

Additional misuses of District Computer Systems and Accounts include, but are not limited to, the following:

- A. Use in any manner that violates any law, regulation, or ordinance, including for uses that violate copyrights laws, or government security laws or regulations.
- B. Use in any manner that violates any policy or procedure of the District, including unauthorized personal use.
- C. Use that is disruptive, unprofessional, offensive, harmful to morale or inappropriate for the workplace. The creation, display, storage and the use, viewing, or transmission of sexually explicit images, messages or cartoons; ethnic slurs, racial or religious epithets; or anything that may be construed as harassment, creating a hostile work environment, or disparagement of others is strictly prohibited.
- D. Use for any deliberate action in an attempt to gain unauthorized access to remote systems, or to damage or disrupt a computing system, alters its normal performance, or causes it to malfunction, regardless of system location or time duration.
- E. Receipt and “opening” of misaddressed communications when the user knows that the communication was misaddressed.
- F. Forwarding Records or communications without a legitimate business purpose, including intentionally sending chain letters and spam.
- G. Uses related to “moonlighting” or job searches.
- H. Revealing proprietary or confidential information, including official District information or intellectual property, without authorization.
- I. Uses related to political campaign-related activities.

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- J. Conducting or soliciting illegal activities.
- K. Uses that delete, destroy or dismantle any Public Record required to be retained pursuant to the District Records Retention Policy.

7. Authorized Users' Obligation to Preserve, Identify, and Produce Electronic Records

The District is committed to transparency and compliance with state and federal law. This includes compliance with the California Public Records Act (“PRA”), record retention laws, and its obligations to preserve and turn over Public Records and other Records related to certain legal matters.

A. Electronic Records on District Computer Systems and Accounts

All Authorized Users are required to comply with all laws and legal requirements related to the preservation, identification and production of electronic Records created, transmitted or stored on District Computer Systems and Accounts. In addition, all Authorized Users are required to comply with the District’s Records Retention Policy and any District-issued Litigation Hold Notices for Public Records located on District Computer Systems and Accounts.

All Authorized Users must identify and turn over electronic Public Records on District Computer Systems and Accounts in a timely manner when requested to do by the District.

B. Electronic Records on Personal Systems and Accounts

Pursuant to *City of San Jose, et al. v. The Superior Court of Santa Clara County*, communications and other Records about official District business may be Public Records and may be subject to public disclosure regardless of the type of account, computer, or device used in its preparation, storage or transmission.

This means that electronic Records on a Personal Computer System or Personal Account may be Public Records if they relate in some way to the conduct of public business. This includes Public Records that are created, stored or transmitted on Personal Accounts, including personal emails, text messages, messages sent via messaging applications, pictures and social media posts.

Electronic Records and communications that are strictly personal and do not relate to the conduct of public records are not Public Records and are not subject to this policy.

If an Authorized User has created, transmitted or stored a Public Record on a Personal Computer System or Account, they are required to comply with all laws and legal requirements related to the preservation, identification and production of Public Records. In addition, all Authorized Users are required to comply with the District’s Records Retention Policy and any District-issued Litigation Hold Notices for any Public Records located on a Personal Computer System or Account.

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All Authorized Users must identify and turn over electronic Public Records on Personal Computer Systems and Accounts in a timely manner when requested to do so by the District.

8. Requirement to Transfer Electronic Public Records on Personal Computer Systems and Accounts to District Computer Systems and Accounts

A. Obligation to Transfer Electronic Public Records

Since Public Records on Personal Computer System and Accounts may be subject to production by the District under the PRA and other laws, Authorized Users, who know or have reason to know that a possible Public Record is located on a Personal Computer System or Account, or other non-District Computer System, are required to transfer the Public Record to the appropriate District Computer System or Account as soon as it is identified to be a possible Public Record.

After the possible Public Record is transferred, the Authorized User shall delete the original copy of the Public Record from their Personal Computer System and Personal Account.

For example, if an Authorized User takes a picture or records a video of an IRWD facility or equipment on their personal cellphone for District purposes, they should immediately transfer it to a District Computer System or Account, and then delete it from their phone. This could be done by emailing the picture to their IRWD email account.

Another example is if an Authorized User uses their home computer to create a Word document for work. They should save it to the District's network folders or email to their IRWD email address, and then delete the file from their home computer.

Transferring a possible Public Record located on a Personal Computer System, Personal Account, or other non-District Computer System to the appropriate District Computer System or District Account will allow for it to be preserved and retained, as appropriate, by the District, and to be destroyed consistent with the District's Records Retention Policy.

B. Exceptions to the Obligation to Transfer

An Authorized User is not required to comply with the transfer requirements of this section for Records that, pursuant to the District's Records Retention Policy, are:

1. Records not required to be retained, and the Authorized User deletes the Record from their Personal Computer Systems and Accounts or the used non-District Computer System.
2. Records for which the retention period has expired, in which case the Record may be destroyed pursuant to the District's policy, provided the Authorized User deletes the Public Record from their Personal Computer Systems and Accounts, or the used non-District Computer System.

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS

9. Restrictions on the Use of Personal Computer Systems and Accounts for District Business

A. Use of Personal Computer Systems for Public Business

Authorized Users are only permitted to use a Personal Computer System or other non-District Computer System for the District's business if they comply with the transfer and deletion requirements of Section 8 and the prohibition on the use of Personal Accounts below.

If a Personal Computer System or other non-District Computer System is used for District business, the Authorized User should give strong preference to remotely accessing the District Computer Systems and Accounts they are authorized to access when creating, saving and transmitting Public Records related to the District's business. Public Records created, transmitted and stored through remote access to a District Computer System or District Account will be considered stored on the District Computer System or Account used, and not on the Personal Computer System or the other non-District Computer System used to remotely access the District system or account.

B. Use of Personal Accounts for Public Business is Prohibited

In the ordinary course of business, Authorized Users are prohibited from using Personal Accounts to discuss District matters, conduct District business or perform work for the District. If an Authorized User mistakenly uses a Personal Account for public business, they should copy or forward the message to their District Account and must comply with the transfer and deletion requirements of Section 8.

C. Exceptions to the Prohibition on the Use of Personal Accounts for Public Business

An Authorized User may only use a Personal Account in the following situations:

1. In extraordinary circumstances, an Authorized User may use a Personal Account to conduct District business if they comply with the transfer and deletion requirements of Section 8. Extraordinary circumstances include unusual situations when the Authorized User must use a Personal Account to address urgent District business that, if left unanswered, could seriously impact the District.
2. An Authorized User may use a Personal Account to respond to a communication sent by a third party to a Personal Account if the Authorized User complies with the transfer and deletion requirements of Section 8 for both the original communication and the response, and directs the third party to use a District Account for all future communications related to the District's business.
3. An Authorized User may copy a Personal Account on calendar invitations if the Public Record is sent using a District Account (e.g., copying a Personal Account on an Outlook calendar invite).

POLICY NO. 44 – USE OF COMPUTER SYSTEMS AND ACCOUNTS

4. An Authorized User, who is designated to manage the District’s Facebook Account, may use their Personal Facebook Account to access the District Facebook Account for the sole purpose of managing the District’s Facebook Account. The Authorized User must not use their Personal Facebook Account for District business beyond using their account as a “key” to access the District’s Facebook Account.

Public Records created, transmitted, stored or posted on the District’s Facebook Account will be considered stored on the District’s Facebook Account, and not on the Personal Facebook Account that an Authorized User used to simply access the District’s account.

If an Authorized User uses their Personal Facebook Account to access the District Facebook Account, they may be required to search their Personal Facebook Account for Public Records pursuant to Section 10 and IRWD Personnel Policy No. 46.

10. Public Records Searches of Personal Computer Systems and Personal Accounts

Authorized Users may be required to search any Personal Computer System or Account on which a Public Record may be located. **Authorized Users are put on notice that their Personal Computer Systems and Accounts may be required to be searched for Public Records if they are used for District business.**

To ensure that the District meets its legal obligation to make government records available to the public while respecting an Authorized User’s right to privacy, and minimizing the personal liability of Authorized Users, Authorized Users should follow the protocols for the “Transfer of Electronic Public Records to District Computer Systems and Accounts” outlined above in Section 8. Additionally, Authorized Users may be asked to search their accounts, systems and devices pursuant to the procedure outlined in IRWD Personnel Policy No. 46.

11. District’s Exclusive Authority

The District reserves the right to change this policy at any time with such prior notice, if any, as may be reasonable under the circumstances.

12. Administration of Policy

The Director of Information Services and the Director of Human Resources will be responsible for administration and enforcement of this policy.

Adopted by IRWD Board of Directors on: X X, XXX

IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES
POLICY NO. 45 - CONFLICT OF INTEREST

1. Purpose of Policy

- A. The purpose of this Conflict of Interest Policy (“Policy”) is to ensure that all District personnel (members of the Board of Directors and employees) comply with all applicable statutory and administrative requirements pertaining to conflicts of interest and their actions, duties and responsibilities on behalf of or in relation to the District. These matters include, but are not limited to, “conflicts of interest,” “potential conflicts of interest,” “incompatible activities” and other activities, which might reflect unfavorably on the District or District personnel.
- B. District personnel shall conduct themselves in a manner so as not to give rise to improprieties or situations inconsistent with this Policy. Procedures, policies and records will be established and maintained to verify that the Policy has been adhered to by all District personnel.
- C. District personnel must recognize that this Policy, and applicable laws and regulations are concerned with not only actual conflict or wrongdoing, but also with the potential or appearance of conflict. District personnel shall not use the prestige or influence of their positions for personal gain or advantage.
- D. Unless otherwise expressly defined, the terms used in this Policy have the same meanings as in the California Political Reform Act (California Government Code Section 81000, et seq.) and the regulations issued by the Fair Political Practices Commission (“FPPC”) pursuant to the Political Reform Act.

2. Employee Responsibility

- A. Compliance with Applicable Laws and Regulations. District personnel shall comply with all applicable provisions of the Political Reform Act, FPPC Regulations issued under the Political Reform Act, Section 1090 et seq. of the California Government Code (prohibitions on self-interest in contracts), and all other laws and regulations pertaining to conflicts of interest, incompatible public offices or incompatible activities. These include, but are not limited to, the following requirements for:
 - (1) **Reporting** of required economic interests annually, and upon assuming office and leaving office, by personnel who are “Designated Persons” (as defined in the District’s Conflict of Interest Code, which can be obtained from the District Secretary) on FPPC Form 700;

- (2) Compliance with **prohibitions on the acceptance of gifts and honoraria**, including the acceptance of gifts by Designated Persons above the dollar limit per source set by state law;
- (3) **Disqualification** from participation in District decisions in which the individual knows or has reason to know that he or she has a financial interest;
- (4) Completion of **ethics training** by employees holding positions designated by the General Manager to receive such training. Unless the General Manager specifies other training requirements, intervals or employees/positions:
 - (a) The training content will be consistent with Assembly Bill No. 1234, California Government Code Section 53234 et seq.;
 - (b) The training must be initially completed on or before one year after an employee is designated to receive the training (or for an employee who initially becomes designated to receive training either through hiring or change of position to a position that the General Manager has designated, on or before one year after assuming that position), and after the initial training, at least once every two years; and
 - (c) The training must be completed by all personnel who are Designated Persons.

NOTE: The following requirements established by the District in this Policy are in addition to the requirements of state laws and regulations:

- B. Gifts to the District/Gifts to the District Personnel. Unless a gift qualifies as a gift to the District under this section, it will be treated as a gift to District personnel.
 - (1) A gift of tickets or passes (not including travel or lodging) may be considered a gift to the District and not to an individual member of the Board of Directors or employee only under the following circumstances:
 - (a) The General Manager or his/her designee receives and distributes the tickets or passes to District personnel, spouses and immediate families;
 - (b) The donor does not earmark the tickets or passes for any specific District personnel;
 - (c) The General Manager retains a record of the terms under which the tickets or passes were accepted by the District, a record of the terms under which they were distributed, and a record to whom they were distributed; and

- (d) The tickets or passes were distributed in accordance with the written policy adopted by the District setting forth the District purpose in distributing tickets and passes, and prohibiting the subsequent transfer except to the District personnel's immediate family, or not more than one guest, for their personal use (see Appendix "A").
- (2) A payment (other than tickets, passes or travel expenses,) including a monetary payment, loan, gift, and a payment for or provision of goods or services, may be considered a gift to the District and not to an individual member of the Board of Directors or employee only under the following circumstances, as allowed in the FPPC regulations:
 - (a) The General Manager or his/her designee receives and controls the payment;
 - (b) The payment is used only for official District business;
 - (c) The General Manager determines which District personnel may use the payment; and
 - (d) A record of all of the foregoing is filed and maintained with the District Secretary on the forms prescribed by the FPPC and, if required, the forms are posted by the District Secretary on the District's website.
- (3) A payment to the District for travel, as long as it is not in excess of an applicable District reimbursement rate for travel, meals, lodging or other expenses, can be considered a payment made for the purpose of facilitating the District's official business and not a gift to or income to District personnel, under the following circumstances, as allowed in the FPPC regulations:
 - (a) The payment is made directly to the District or coordinated with the District to be paid to providers;
 - (b) The General Manager or his designee determines which District personnel may use the payment;
 - (c) The payment does not provide a personal benefit;
 - (d) The travel does not exceed the duration necessary to accomplish the District purposes; and
 - (e) A record of all of the foregoing is filed and maintained with the District Secretary on the forms prescribed by the FPPC and, if required, the forms are posted by the District Secretary on the District's website.

The foregoing gift exception does not include any travel expenses for travel that the General Manager or his/her designee has not preapproved in writing prior to the date(s) of travel, and does not include any payment for travel expenses for an elected official or any official who manages public investments unless the travel is directly related to the official's public duties, is for a purpose that would otherwise be paid for with the District's funds, is authorized in the same manner as transportation, lodging, and food using the District's own funds, and otherwise meets the requirements of this paragraph.

- (4) For a gift to be a gift to the District under the foregoing gift exceptions either the "Gift of Tickets or Passes to Irvine Ranch Water District" or "Gift to Irvine Ranch Water District (Other Than Tickets or Passes)" form must be submitted to the General Manager's Office for approval and distribution. These forms can be obtained from the District Secretary and are complete until approved by the General Manager or his/her designee.

C. Entertaining. District personnel who entertain vendors, contractors or consultants will do so at their own expense. Reimbursement of other appropriate business expenses is subject to approval and will be limited by the District's policy with respect to allowance of expenses.

D. Outside Consulting, Business Activity or Employment

- (1) District personnel shall not engage in any employment, activity, or enterprise, which is inconsistent, incompatible, or in conflict with their duties at the District, or with the duties, functions, or responsibilities of the District. District personnel shall not perform or engage in any business, enterprise, work, service, or consulting outside of their District employment where any part of their efforts will be subject to approval by any other officer, employee or board of the District, unless otherwise approved in the manner prescribed by this Policy.

(2) Outside Consulting, Business Activity or Employment By Employees

- (a) All outside business, enterprise, consulting work or employment engaged in by employees must be pre-approved by the General Manager or, in the case of the General Manager, by the President of the Board of Directors.
- (b) Employees are prohibited from performing consulting work for or providing any other services or goods to any persons or firms doing business with the District.
- (c) An employee's outside employment, activity, business or enterprise may be prohibited if it:
 - (1) Involves the use, for private gain or advantage, of his or her District time, District facilities, District

equipment and supplies, or the badge, uniform, prestige, or influence of his or her District office or employment; or

- (2) Involves receipt or acceptance by the employee of any money or other consideration from anyone other than the District for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her District employment or as a part of his or her duties as a District employee; or
- (3) Involves the performance of an act in other than his or her capacity as a District employee which may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other District employee or the District; or
- (4) Involves efforts or time demands as would render performance of his or her duties as a District employee less efficient.

(d) The General Manager (or the President, in the case of the General Manager) will notify the employee whether any outside employment, consulting work, activity, business or enterprise is approved or disapproved. Appeal from such determination may be made to the Board of Directors.

- (3) Nothing in this Section shall relieve District personnel from the requirement to report, and other requirements applicable, to outside employment, consulting work, activity, business or enterprise under Section 2A of this Policy.

3. Disciplinary Actions for Non-Compliance

Non-compliance with this Policy will subject the employee to disciplinary actions commensurate with the violation, up to and including termination.

4. Administration

The District Secretary is responsible for administration of this Policy, under the direction of the Board of Directors, the General Manager and, if necessary, the Director of Human Resources.

Adopted by IRWD Board of Directors on: February 11, 2019

APPENDIX “A”

Policy for Distribution of Tickets or Passes in accordance with Fair Political Practices Commission (FPPC) Regulation 18944.1 of Title 2 of the California Code of Regulations

1. Purpose of Policy

To ensure that tickets provided to and distributed by the Irvine Ranch Water District (“IRWD”) are in furtherance of a governmental and/or public purpose as required under FPPC Regulation 18944.1 and this policy.

To ensure that tickets distributed by IRWD under FPPC Regulation 18944.1 and this policy are disclosed on FPPC Form 802, which can be requested from the District Secretary, and forwarded to the FPPC for posting on its website as required by Regulation 18944.1.

2. Application of Policy

A. Types of Tickets

This policy applies to tickets that provide admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose and are either:

- (1) Gratuitously provided to IRWD by an outside source;
- (2) Acquired by IRWD by purchase at fair market value;
- (3) Acquired by IRWD as consideration pursuant to the terms of a contract for the use of an IRWD venue; or
- (4) Acquired and distributed by IRWD in any other manner.

B. Policy Applicable to Tickets Only

This policy only applies to IRWD’s distribution of tickets to, or at the behest of, a District Official. This policy does not apply to other items of value provided to the District or any District Official, regardless of whether received gratuitously or for which consideration is provided. This includes food, beverage, or a gift provided to a District Official at an event that is not included in the fair market value of the ticket.

3. Definitions

Unless otherwise expressly provided herein, words and terms used in this policy have the same meaning as that ascribed to such words and terms in the California Political Reform Act of 1974 (Government Code Section 81000 et seq., as the same may from time to time be amended) and the FPPC Regulations (California Government Code Section 18110 et seq., as the same may from time to time be amended).

- A. “IRWD” or “District” means and includes the Irvine Ranch Water District and any other affiliated agency created or activated by the District, and any departments, boards, and commissions thereof.
- B. “District Official” means and refers to every member, officer, employee, or consultant of the Irvine Ranch Water District, as defined by Government Code Section 82048 and

FPPC Regulation 18701. Such terms include, without limitation, any District board or committee member or other appointed official or employee required to file an annual Statement of Economic Interest (FPPC Form 700).

- C. “Immediate family” means and refers to a spouse and/or dependent children.
- D. “Policy” means and refers to this Policy for Distribution of Tickets and/or Passes.
- E. “Ticket” means and refers to a “ticket or pass” for admission privilege to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

4. General Provisions

A. No Right to Tickets

The use of tickets is a privilege extended by the District and not the right of any person to which the privilege may from time to time be extended.

B. Limitation on Transfer of Tickets

Tickets distributed to a District Official pursuant to this policy shall not be transferred to any other person except to members of such District Official’s immediate family, or no more than one guest, solely for their personal use.

C. Prohibition Against Sale of or Receiving Reimbursement for Tickets

No person who receives a ticket pursuant to this policy may sell or receive reimbursement for the value of the ticket.

D. No Earmarking of Ticket Given to District

No ticket gratuitously provided to the District by an outside source and distributed by the District to, or at the behest of, a District Official pursuant to this policy may be earmarked by the original source for provision to a particular District Official. The District will determine, in its sole discretion, who uses the ticket.

5. Ticket Administrator

- A. The General Manager or his/her designee is the ticket administrator for purposes of implementing the provisions of this policy.
- B. The General Manager or his/her designee has the authority, in his or her discretion, to establish procedures for the purchase and/or distribution of tickets in accordance with this policy. All requests for tickets that fall within the scope of this policy must be made in accordance with the procedures established by the General Manager or his/her designee.
- C. The General Manager or his/her designee shall determine the face value of tickets distributed by the District for the purposes of sections 6.A., 6.B., and 8.D.(1) of this policy.

D. The General Manager or his/her designee, in his or her discretion, may revoke or suspend the ticket privileges of any person who violates any provision of this policy.

6. Conditions Under Which Tickets May be Purchased and/or Distributed

Subject to the provisions of this policy, complimentary tickets may be distributed to District Officials under the following conditions:

A. The District Official reimburses the District for the face value of the ticket(s).

1. Reimbursement must be made at the time the ticket(s) is/are distributed to the District Official.
2. The General Manager or his/her designee may, in his or her discretion, determine which event tickets, if any, will be available under this section.

B. The District Official treats the ticket(s) as income consistent with applicable federal and state income tax laws, and the District reports the distribution of the ticket(s) as income to the District Official in compliance with the reporting provisions of Section 8 below.

C. The District Official uses, or behests, such ticket(s) for one or more of the following governmental and/or public purposes:

- (1) Facilitating the attendance of a District Official at an event where the job duties of the District Official require his or her attendance at the event.
- (2) Promotion of intergovernmental relations and/or cooperation and coordination of resources with other governmental agencies, including, but not limited to, attendance at an event with or by elected or appointed public officials from other jurisdictions, their staff members and their guests.
- (3) Promotion of District resources and/or facilities available to the public.
- (4) Promotion of District-run, sponsored, or supported community programs or events.
- (5) Promoting, supporting, and/or showing appreciation for programs or services rendered by charitable and non-profit organization benefiting District customers.
- (6) Promotion of business or economic activity, development, and/or redevelopment within the District's service area.
- (7) Exchange programs with foreign officials and dignitaries.
- (8) Promotion of District recognition, visibility, and/or profile on a local, state, national, or international level.
- (9) Promotion of open government by District Official appearances, participation, and/or availability at business and/or community events.
- (10) Increasing public exposure to, and awareness of, the various educational venues and facilities available to the public through the District.
- (11) Attracting or rewarding volunteer service.
- (12) Encouraging or rewarding significant academic, athletic, or public service achievements by students, residents, or businesses within the District service area.
- (13) Attracting and retaining highly qualified employees in District service; recognizing or rewarding meritorious service by a District employee; and/or promoting enhanced District employee performance or morale.
- (14) Recognizing contributions made to the District by former District Board Members, District Employees, or other District Officials.

7. Tickets Distributed at the Behest of a District Officials

- A. Only the following District Officials have the authority to behest tickets: Elected or Appointed Board of Directors Members, the General Manager, and his/her designee.
- B. Tickets may be distributed at the behest of a District Official only for one or more public purposes set forth in section 6.C.

8. Disclosure Requirements

- A. This policy shall be posted on the District website in a prominent manner.
- B. Tickets provided to District Officials as part of their official duties, or tickets provided so that the District Official may perform a ceremonial role or function on behalf of the District are not to be subject to this policy and are exempt from any disclosure requirements under section 8. A ceremonial role or function includes, but is not limited to, making a speech, participating in a panel or seminar, presenting an award or proclamation, or cutting a ribbon.
- C. Tickets distributed by the District for which the District receives reimbursement from the District Official as provided under Section 6.A. are not be subject to the disclosure provisions of Section 8.
- D. Tickets distributed by the District to any District Official either 1) which the District Official treats as income pursuant to Section 6.B. or 2) for one or more public purposes described in section 6.C., must be disclosed on Form 802 provided by the FPPC and forwarded to the FPPC for posting on its website. Such posting must include the following information:
 - (1) The name of the recipient, except that if the recipient is an organization, the District may post the name, address, description of the organization, and number of tickets provided to the organization in lieu of posting the names of each recipient, or if tickets are distributed to a department or other unit of the District in accordance with this policy, the District may post the name of the department or other unit in lieu of posting the names of each recipient;
 - (2) a description of the event;
 - (3) the date of the event;
 - (4) the face value of the ticket;
 - (5) the number of tickets provided to each person;
 - (6) if the ticket is distributed at the behest of a District Official, the name of the District Official who made such behest; and
 - (7) a description of the public purpose(s) under which the distribution was made, or, alternatively, the District Official is treating the ticket as income.

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 46 –OBLIGATIONS RELATED TO PUBLIC RECORDS

The District is committed to transparency and compliance with state and federal law. This includes compliance with the California Public Records Act ("PRA"), record retention laws, and its obligations to preserve and turn over Records related to certain legal matters.

Pursuant to *City of San Jose, et al. v. The Superior Court of Santa Clara County*, Records about official District business are Public Records and may be subject to public disclosure regardless of the type of account, computer, or device used in its preparation, transmission or storage. This means that Records, including images and photographs, on a Personal Computer System may be Public Records if they relate in some substantive way to the conduct of public business. This includes Records created, stored or transmitted on Personal Accounts, including personal emails, text messages, and social media posts.

1. Purpose of Policy

The purpose of this policy is to ensure that the District's legal obligation to identify, retain and produce Records is met while minimizing the personal liability of IRWD Personnel and respecting IRWD Personnel's right to privacy on their Personal Computer Systems and Accounts.

2. Scope of Policy

This policy applies to all IRWD Personnel. To accomplish the purposes of this policy, this policy addresses IRWD Personnel's obligations when the District receives a Record production request.

It also addresses IRWD Personnel's obligations when a Record production request either explicitly seeks, or can reasonably be interpreted to seek, Public Records on a Personal Computer System or Account.

This policy should be read in connection with the District's Record Retention Policy.

3. Definitions

- A. "IRWD Personnel" means any Board Member, officer or employee of the District.
- B. "District Accounts" means any account owned, licensed to, opened by or held by the District, and any account linked to a District email address, through which an electronic communication or Public Record could be sent. This includes District email accounts, social media accounts such as Twitter, Facebook, and Instagram connected to a District email address, cloud-based messaging systems (e.g. Microsoft Teams), webinar/conference call platforms (e.g. WebEx), text messaging applications and voice messaging systems connected to a District email address or District cloud-storage accounts.

POLICY NO. 46 – OBLIGATIONS RELATED TO PUBLIC RECORDS

- C. “District Computer System(s)” means any computer, tablet, cell phone or any other similar electronic device owned, leased, or licensed to the District. All hardware, and District-owned or licensed software, applications, and programs associated with such devices are part of the District Computer System.
- D. “Personal Accounts” means any account owned, licensed to, opened by, used by or held by IRWD Personnel in their personal capacity and not linked to a District email address. This includes personal email accounts, social media accounts such as Twitter, Facebook, and Instagram, cloud-based messaging systems (e.g. Microsoft Teams), webinar/conference call platforms (e.g. WebEx), text messaging applications and voice messaging systems or personal cloud-storage accounts connected to a personal email address.
- E. “Personal Computer System(s)” means any computer, tablet, cell phone or any other similar electronic device owned, leased, or licensed to an IRWD Personnel or a member of their household, as opposed to the District, in their personal or individual capacity. All hardware, and personally owned or licensed software, applications, and programs associated with such devices are part of the Personal Computer System. A personal cell, which an employee uses for work and receives a District cell reimbursement for, is considered a personal computer.
- F. “Public Record” means any Record containing information related to the conduct of the public’s business that is prepared, owned, used, or in the possession of the District regardless of physical form or characteristic. It does not include Records that are strictly personal and do not relate to the conduct of public business, as these are not Public Records.
- G. “Record” means all tangible (hard-copy) and electronically-prepared, electronically-stored or electronically-transmitted writings or recordings, including communications, handwritten notes, typed documents, emails, voicemails, text messages, spreadsheets, drawings, photographs, data sets, calendar and schedule entries, PDF documents, forms, notes and collections of texts or other data created or assembled by a user, presentations, diagrams, images, CAD files, databases and other electronic information.

4. IRWD Personnel’s Obligation to Preserve, Identify, and Produce Records

IRWD Personnel are required to comply with all laws and legal requirements related to the preservation, identification and production of Public Records including those created, transmitted or stored on District and/or Personal Computer Systems or Accounts.

In addition, IRWD Personnel are required to comply with the District’s Records Retention Policy and any District-issued Litigation Hold Notices for Records regardless of where the Records are located. IRWD Personnel should not retain any Record not required to be retained by either the District’s Records Retention Policy or a Litigation Hold.

POLICY NO. 46 – OBLIGATIONS RELATED TO PUBLIC RECORDS

5. Personnel Policy No. 44 Requirements for Public Records on Personal Computer Systems and Accounts

Pursuant to Personnel Policy No. 44, IRWD Personnel have an obligation to preserve, identify and produce Public Records created, transmitted or stored on a Personal Computer System or a Personal Account.

A. Personnel Policy No. 44 Limits the Use of Personal Computer System for Public Business

IRWD Personnel are only permitted to use a Personal Computer System or other non-District Computer System, for public business if they comply with the transfer and deletion requirements of Section 8 of Policy No. 44.

B. Personnel Policy No. 44 Prohibits the Use of Personal Accounts for Public Business

In the ordinary course of business, IRWD Personnel are prohibited from using Personal Accounts to discuss District matters, conduct District business or perform work for the District. If IRWD Personnel mistakenly use a Personal Account for public business, they should copy or forward the message to their District Account and must comply with the transfer and deletion requirements of Section 8 of Personnel Policy No. 44.

6. Obligation to Identify and Produce Public Records

A. District Will Notify IRWD Personnel When to Identify and Produce Records

Upon receipt of a PRA request or other request for the production of Records, the District will communicate the request and any additional instructions to the IRWD Personnel believed to have possession of responsive Records.

When a Record production request either explicitly seeks, or can reasonably be interpreted to seek, Public Records on a Personal Computer System or Account, IRWD Personnel believed to have possession of responsive Records will be notified of the need to search any Personal Computer Systems or Accounts used to create, transmit or store a Public Record in order to identify and produce any relevant Public Records.

B. Required Action by IRWD Personnel Upon Notification of Any Production Request

When requested to search for, identify and produce Records, IRWD Personnel must conduct a thorough and reasonable search for responsive Public Records following any instructions provided for the search and identification of responsive Public Records.

IRWD Personnel are required to search for and identify responsive Public Records in a timely manner, and must produce any responsive Public Records, consistent with the instructions provided to them, within the timeframes provided by the District.

POLICY NO. 46 – OBLIGATIONS RELATED TO PUBLIC RECORDS

At the direction of the District's General Counsel or Deputy General Counsel, all responsive Records will be reviewed and redacted, as appropriate. Public Records, or portions of Public Records, that are confidential or exempt from disclosure will not be made public.

It is illegal to destroy any Public Record responsive to a Record production request. If a responsive Public Record exists and is in IRWD Personnel's control, it must be produced regardless of the Record type or content, and regardless of whether it should have been destroyed pursuant to the District Records Retention Policy. Once notified of a Record production request, IRWD Personnel must not destroy any requested Record until it has been produced to the District consistent with the instructions provided.

C. Specific Actions Required Upon Notification of a Production Request Related to Personal Computer Systems and Accounts

When notified by the District of the need to search for, identify and produce Public Records on Personal Computer Systems and Accounts, IRWD Personnel, who have been trained to distinguish between Records that contain public business and Records that do not contain public business, should promptly follow the instructions provided to them related to the production request in order to identify and produce any potentially responsive Public Records. IRWD Personnel who have not yet received training or require additional assistance should seek assistance from the District's District Secretary or Deputy General Counsel prior to searching their Personal Computer Systems and Accounts for Public Records.

IRWD Personnel are responsible for conducting a timely and reasonable search on their own systems and accounts, and must identify and produce any responsive Public Records, consistent with the instructions provided to them, within the timeframes provided by the District.

The District **will not require** IRWD Personnel to search any Personal Computer Systems or Personal Accounts **not used** to create, transmit or store Records related to the District or its business.

7. **Training**

Training pursuant to this policy is only required when responding to a Record production request that either explicitly seeks, or can reasonably be interpreted to seek, Public Records on a Personal Computer System or Account. IRWD Personnel responding to this type of Record production request are required to complete training on the steps necessary to conduct a reasonable search for Public Records, and how to distinguish between Records that contain public business and Records that do not contain public business.

8. **Requirement to Transfer Public Records When Relationship with the District Terminates**

POLICY NO. 46 – OBLIGATIONS RELATED TO PUBLIC RECORDS

IRWD Personnel whose relationship with the District is ending or ends shall identify, disclose and transfer any Public Records on Personal Computer Systems or Accounts to the District, if those Records have not already been transferred to the District pursuant to Personnel Policy No. 44. This identification, disclosure and transfer should ideally take place prior to the personnel's last day with the District. After the Record has been transferred to the District, IRWD Personnel shall ensure it is deleted from the Personal Computer System(s) or Account(s).

If a Record production request seeks records from IRWD Personnel who have left the District and have not searched for any non-transferred Public Records on Personal Computer Systems or Accounts, the District will undertake reasonable efforts to contact that individual and request that they search and produce any Public Records they may have.

9. Affidavits and Declarations

The District may require IRWD Personnel to complete an affidavit or declaration related to the search, identification and production of Records. In the event an affidavit or declaration is requested, IRWD Personnel should work with District Counsel to complete an adequate affidavit or declaration.

The affidavit or declaration should be signed under penalty of perjury.

10. Failure to Comply with a District Search Requests

Failure to comply with this policy may result in disciplinary action, up to and including termination of employment.

Failure to comply with this policy may also result in civil or criminal liability for IRWD Personnel. **The penalties for failing to search for, identify and produce Public Records can be severe, including court ordered sanctions or potential criminal liability for obstruction of justice.**

Additionally, failure to comply with a request related to Public Records on Personal Computer Systems and Accounts may result in a court ordering a third-party search of those accounts, systems, and devices, and may result in IRWD Personnel being personally named as a respondent in a PRA lawsuit or a court order compelling the personnel to produce the Public Records.

11. District's Exclusive Authority

The District reserves the right to change this policy at any time with such prior notice, if any, as may be reasonable under the circumstances.

POLICY NO. 46 – OBLIGATIONS RELATED TO PUBLIC RECORDS

12. Administration of Policy

The Deputy General Counsel, District Secretary and the Director of Human Resources will be responsible for administration and enforcement of this policy.

Adopted by IRWD Board of Directors on: X X, XXX

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 47 - SENSITIVE AND NON-PUBLIC INFORMATION POLICY

1. Purpose of the Policy

The purpose of this policy is to protect employees, customers, contractors, and the District from damages related to the loss or misuse of sensitive or non-public information.

2. Definition of Sensitive Information

Sensitive information includes, but is not limited to, the following items, whether stored in electronic or printed format:

A. Personal Information

1. Credit or debit card information including but not limited to the card number, expiration date, cardholder name and cardholder address.
2. Bank account numbers.
3. Identification numbers including drivers' license numbers, social security numbers, social insurance numbers, business identification numbers, and employer identification numbers.
4. Payroll information including but not limited to paychecks, pay stubs, and pay rates.
5. Cafeteria plan check requests and associated paperwork.
6. Medical information of employees or customers including but not limited to doctor names, insurance claims, prescriptions, and any related personal medical information.

B. Corporate Information

1. Company, employee, customer, vendor, and supplier confidential or proprietary information or trade secrets.
2. Any document marked "Confidential," "Sensitive," "Proprietary," or any document similarly labeled.

3. Procedure

- A. District employees are sometimes required to obtain or utilize sensitive and non-public information, as defined above. District employees who come into possession of such information must safeguard and keep it on an official business/need to know basis only. Good faith acquisition of sensitive and non-public information by an employee for business purposes is not a breach of the security of the system provided that the personal information is not used or subject to further unauthorized disclosure.

POLICY NO. 47 – SENSITIVE AND NON-PUBLIC INFORMATION

- B. Employees and contractors performing work for the District must comply with the following procedures:
1. File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive or non-public information will be locked when not in use.
 2. Storage rooms containing documents with sensitive or non-public information and record retention areas will be locked at the end of each workday.
 3. Desks, workstations, work areas, printers and fax machines, and common shared work areas will be cleared of all documents containing sensitive or non-public information when not in use.
 4. Whiteboards, writing tablets, flipcharts, etc. containing sensitive or non-public information and located in common shared work areas will be erased, removed, or shredded when not in use.
 5. When documents containing sensitive or non-public information are discarded, they will be placed inside a locked shred bin or immediately shredded using a mechanical cross cut or Department of Defense approved shredding device. If you need assistance locating a locked shred bin, please contact a supervisor or manager.
 6. Electronic storage of files containing sensitive and non-public information should be on the District's network drives only, properly secured, and not on local drives of District personal computers or other hardware. Files containing sensitive and non-public information may not be loaded or stored on laptop computers, mobile phones, personal digital assistant devices (PDAs), flash or thumb drives, external disk drives, personal home computers, or other similar devices.
 7. Electronic or hard copy distribution of files containing sensitive and non-public information should be performed only when for a valid business reason. Employees must verify the need to release sensitive information to the recipient of any electronic or hard copy distribution and should release as little identifying information as possible when such a release is required.
- C. In the event that an individual's confidential personal information is requested by law enforcement officials, the District will verify the validity of the request and will cooperate to the extent required by law. The Director of Human Resources will be responsible for coordinating the release of information to law enforcement officials.

4. Notification

- A. In order to help the public understand how we protect sensitive and non-public information, a notification regarding our commitment to privacy is continuously posted on the IRWD Website. This exceeds the requirement to notify customers of our privacy policy and practices at least annually.

POLICY NO. 47 – SENSITIVE AND NON-PUBLIC INFORMATION

- B. In the event the security of sensitive and non-public information is breached, the District will disclose the breach. Such disclosure will be made to anyone whose unencrypted sensitive or non-public information was, or is reasonably believed to have been, acquired by an unauthorized person.

5. Violations

- A. Unauthorized acquisition, use, or disclosure of sensitive or non-public information or of data that compromises the security, confidentiality, or integrity of sensitive or non-public information may be considered a breach of the security of the system and may constitute a direct violation not only of District policy, but also, in some circumstances, of California or Federal law. Violations may be investigated by federal investigative agencies such as the U.S. Secret Service, FBI and U.S. Postal Inspection Service, and prosecuted by the Department of Justice.
- B. In the event that an employee suspects any person of compromising sensitive or non-public information, the employee must immediately report the incident to one of the following people:
- The employee’s Supervisor
 - The Department Manager
 - The Department Director
 - The Director of Human Resources, or
 - The General Manager of the District

Information furnished should be as factual, complete and relevant as possible. In the event that the individual wishes to remain anonymous, “Speak Up” forms are available from the Human Resources Department.

A. First Point of Contact

The General Manager and/or Director of Human Resources will act as the first contact for suspected acts, and will use his/her discretion regarding the “need to know” of any other individuals. This will restrict the number of persons involved during the investigation process.

B. Investigation

The Director of Human Resources will conduct a thorough investigation. This investigation may include other officials and outside sources as deemed necessary.

C. Appropriate Action

Upon completion of the investigation, the Director of Human Resources and General Manager will determine what action, if any, is to be taken. Disciplinary action resulting from any investigation will follow the guidelines set forth by the District Human Resources Department. This procedure is found in the Disciplinary Process – Guidelines for Managers and Supervisors (available in the Human Resources Department).

POLICY NO. 47 – SENSITIVE AND NON-PUBLIC INFORMATION

6. Administrative Responsibility

The Director of Administrative Services is responsible for ensuring compliance with this policy.

Adopted by IRWD Board of Directors on: May 14, 2007

IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 48 – BUSINESS CONDUCT STANDARDS

1. **General Policy**

The Irvine Ranch Water District is committed to upholding the highest ethical standards in all business and professional operations and relationships. All employees and public officials must carry out the mission of the District with the highest level of business ethics and integrity in order to create and maintain credibility and ensure the public trust.

2. **Purpose of Policy**

This policy sets forth the minimum ethical standards to be followed by the District's employees and public officials. The objective of this policy is to heighten awareness of ethics and values, provide guidance for dealing with ethical issues, and improve ethical decision-making.

For the purposes of this policy, "Employee" means any full-time, part-time, regular, temporary or contracted staff employed by the District. "Public official" means any publicly elected Board of Director or Board-appointed Committee Member or any other non-employee who acts as a representative of the District.

3. **Standards of Behavior**

A. **General Employee and Public Official Responsibilities**

The proper operation of the District requires that decisions and policies be made in the proper channels of governmental structure, that the employment relationship or holding of a public office not be used for personal gain, and that all individuals associated with the District remain impartial and act responsibly toward the public. It is the policy of the District that employees and public officials maintain the highest standard of personal honesty and fairness in carrying out their duties and abide by all applicable laws and District policies regulating their conduct. District employees and public officials have a special relationship of trust with the public. In the arena of public trust, perception is reality.

Employees and public officials must work to avoid any appearance of impropriety that will erode the public trust.

B. **Employee Responsibilities**

It is the District's goal that employees, customers, and the public in general, be treated fairly and with respect. Individually, every District employee is responsible for using good judgement and discretion in his or her business and personal conduct while at work or representing the District outside of the work environment. Employees are expected to treat each other, District customers, and

POLICY NO. 48 – BUSINESS STANDARDS

the public with courtesy and professionalism at all times. Employees are required to abide by all District policies.

C. Public Officials Responsibilities

1. Proper Use and Safeguarding of District Property and Resources

Except as specifically authorized, a public official will not use or permit the use of District-owned vehicles, equipment, telephones, materials or property for personal convenience or profit or require a District employee to perform services for personal convenience or profit.

2. Use of Confidential Information

A public official may not disclose confidential information that has been received for or during a closed session meeting or that is protected by attorney/client privilege unless authorized by the Board of Directors or required under the California Public Records Act.

3. Soliciting Political Contributions

Public officials are prohibited from soliciting political funds or contributions at District facilities or from District employees. A public official will not accept, solicit or direct a political contribution from District vendors or consultants who have a material financial interest in a contract or other matter while that contract or other matter is pending before the District. A public official will not use the District's identity in any solicitation for political contributions contrary to state or federal law.

4. Board-General Manager Relationship

The Board of Directors sets the policy for the District. The General Manager has full charge and control of the construction, maintenance and operation of the operating and other systems of the District, including the power and authority to employ and discharge employees, to prescribe the duties of employees, and to fix and alter the compensation of employees, consistent with Board-approved District policies and the provisions of law.

The General Manager serves at the pleasure of the Board. The Board provides policy direction and instructions to the General Manager on matters within the authority of the Board during duly-convened Board and Committee meetings. Board members will deal with matters within the authority of the General Manager through the General Manager and not through other employees. Board members may request non-confidential, factual information regarding District operations from District employees. Board members shall not make requests directly to District employees to undertake analyses, perform other work assignments or change the priority of work assignments.

POLICY NO. 48 – BUSINESS STANDARDS

5. Incompatible Offices

Public officials appointed, elected, or employed in a public office or by another public entity or organization, the duties of which may require action contradictory or inconsistent with the Board action, will recuse themselves from participating in any discussion and/or actions related to a specific item or will resign from the conflicting position or the IRWD Board of Directors.

6. Public Officials Compensation and Expense Reimbursement

a. Public officials will be compensated at the rate determined by the Board consistent with applicable statutes and approval by the Board for attendance at Board meetings, Committee meetings and for travel days to and from any conference, meeting or other event where service is rendered as a public official. Such compensation will not be paid for more than a total of ten days in any calendar month. Such compensation will be provided in addition to any reimbursement for meals, lodging and travel expenses incurred in attending any conference, meeting or approved event.

b. All travel and conference expenses must comply with the Business Expense Reimbursement, Travel, Meeting Compensation and Representation policy, which can be found at s:\District Policies\Finance\Expense Policy.doc.

4. Reporting Suspected Improper Activities

A. Violation of the Business Conduct Standards Policy

A perceived violation of this policy by an employee should be reported to the General Manager for investigation. A perceived violation of this policy by a public official should be referred to the President of the Board or to the full Board for investigation.

No employee or public official will use or attempt to use any position or official authority or influence for the purpose of preventing any person from acting in good faith to report any suspected violation of any District policy.

B. Protection of “Whistle-Blowers”

No employee or public official will use or threaten to use any position or official authority or influence to effect any action as a reprisal against an employee or public official who reports any information regarding suspected violations of the District’s Business Conduct Standards or other related policies.

POLICY NO. 48 – BUSINESS STANDARDS

5. Related Policies

The District has several policies that address various subjects involving business ethics and conduct. Employees and elected officials should make sure they are familiar with and comply with the ethical components of all District policies including but not limited to:

- A. General Policies/EEO Commitment (Policy 2)
- B. Violence in the Workplace Policy (Policy 4)
- C. Hiring Policy (Policy 6)
- D. Honesty and Integrity Policy (Policy 28)
- E. Harassment Policy (Policy 29)
- F. Americans with Disabilities Act Policy (Policy 40)
- G. Conflict of Interest Policy (Policy 45)
- H. Sensitive and Non-Public Information Policy (Policy 47)
- I. Business Expense Reimbursement, Travel, Meeting Compensation and Representation Policy (Finance Policy)

Adopted by IRWD Board of Directors on: December 15, 2003

IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES
POLICY NO. 49 – SECURITY PROGRAM

1. General Policy

This document establishes the policy and responsibility for the IRWD Security Program. The provisions of this policy are applicable to all District facilities, operations, and employees unless exempted or modified by the General Manager.

2. Purpose of Policy

The Security Program will safeguard the District's ability to operate and maintain safe and secure facilities, provide a secure environment for employees, customers and visitors, and protect assets and information essential to maintaining the integrity of operations. The degree of protection imposed for District facilities will be commensurate with the criticality of the facility and operations, and the risk to personnel. Safeguards will be structured to minimize the risk to people, facilities, property, and information.

3. Program Administration And Content

The development and overall management of the Security Program is the responsibility of the District Safety and Security Manager. The District will develop and maintain a set of security procedures establishing standards and safeguards based on the principles of risk management to permit the District to operate securely. The objectives of this program are to define a system of procedures to control access, to protect people and property, and to prevent or minimize the interruption of operations. The elements of the Security Program will include, but may not be limited to the following:

A. Facility, Perimeter, and Barrier Standards

1. Define fencing, walls and other physical barriers needed to protect facilities and assets and to channel people and vehicles through designated access points.
2. Define perimeter barriers, signs and protective lighting to discourage trespassing and other undesirable conduct.
3. Define use of landscape to screen and protect property and assets while limiting the potential for vandalism and theft.

B. Perimeter Entry Controls

Define methods to screen people, materials and vehicles and exercise entry control.

C. Internal Control Areas

1. Define three levels of control for District facilities:

- a) Public Access Areas - Public access areas are those areas where no access control will be established and the public will be free to come and go during established hours of normal business.
 - b) General Employee Access Areas - General Employee Access Areas are those areas where access is restricted to District personnel and authorized visitors.
 - c) Limited Access Areas - Limited Access Areas will be established, when necessary, to safeguard certain critical District operations or assets (e.g., Water Operations, Wastewater Operations, Purchasing and Warehouse, Laboratory, Legal, Security, Human Resources, Information Services, customer assets, customer information, etc.). Access to these areas will be restricted to those personnel who require access in the performance of their duties.
- D. Alert and Warning Systems and Procedures
Define method to monitor security and operational status and provide warning of failures or attempts to circumvent security procedures using closed circuit TV, security guards, spot or area alarm systems, and communications and control systems.
- E. Response Capabilities
Prescribe the method for responding to incidents and taking appropriate action utilizing human and system responses.
- F. Security Education, Training and Awareness Program
Establish and provide security training to inform employees of procedures applicable to them.
- G. Crime Prevention Program
In cooperation with local police, create and facilitate a program to reduce, eliminate or neutralize opportunities and conditions that are conducive to the commission of a crime.
- H. Security Inspection Program
 1. Establish and maintain a program for the reasonable search of people, vehicles, containers, and equipment as a condition of admission to or continued presence on or in District controlled facilities.
 2. Conduct security reviews for all new and existing facilities and modifications as needed.
 3. Incorporate security, as appropriate, into the design or modification of systems and facilities.
 4. Ensure that the Vulnerability Assessment as required by the Bioterrorism Act of 2002 is updated as needed.
- I. Information Security
Define methods for controlling access to digital information.

4. Responsibility

The District Safety and Security Manager under the direction of the Director of Human Resources is responsible for the administration of and compliance with the District Security Program; however, ensuring optimum levels of security in all aspects of the District's operations is the responsibility of every employee. The Security Committee will define the parameters of working levels procedures consistent with this policy. This committee is comprised of all department Directors or their designees. The Safety and Security Steering Committee will review and approve all procedures.

Specific implementation of the following key elements of the District's Security Program will be described in greater detail and assigned specific responsibility as needed in separate security guidelines, practices and procedures.

A. Physical Security of Facilities, Property and Systems

1. Methods of access control of District personnel to facilities and systems
 - a) Employee I.D. badges
 - b) Video surveillance
 - c) Access to all District property
 - d) Electronic access code control
 - e) Security patrols (outside patrol services)
2. Access control of non-District personnel to District facilities and systems
 - a) Consultants
 - b) Vendors
 - c) Contractors
 - d) Visitors
 - e) Tenants on District property
 - f) Service personnel
 - g) Delivery services

B. Key Control/Access Control

1. Issuance/Retrieval of master keys
2. Employee ID cards, badges, key fobs, etc.
3. Control of keys for potable reservoirs, pump stations, treatment facilities, etc.
4. Issuance of electronic codes
5. Access to all other District properties

C. Information Security

1. SCADA systems
2. Internet access
3. Enterprise network systems
4. Engineering drawings containing specific technical information
5. Personnel information
6. Workers compensation and medical information
7. Legal records and information
8. Accident investigation records

- D. Response to Potential Terrorism and Changes in Terrorism Threat Levels
1. The District Safety and Security Manager will be responsible for coordinating the:
 - a) Tracking of communications relative to the security of water and sewer systems by maintaining communication with other industry officials and various law enforcement, regulatory and security agencies.
 - b) Screening of information from employees, public, law enforcement, regulatory agencies, or other sources.
 - c) Tracking of threat levels as defined by U. S. Department of Homeland Security.
 - d) Activating District procedures in response to changing threat levels.

E. Training

1. The Safety and Security Office will ensure that an appropriate level of security training and awareness is provided to employees.
2. The Safety and Security Office will ensure that all new hires are appropriately trained regarding the District Security Program.

5. **Employee Responsibility**

Any employee who becomes aware of a condition or action which violates this policy or any security procedure should immediately advise the District Safety and Security Manager, Director of Human Resources or the General Manager. Any employee who reports a problem will not be retaliated or discriminated against in any way.

All employees shall be required, as a condition of their employment, to follow the District security policy. Any employee who willfully violates this policy or any procedure established under this policy is subject to disciplinary action, up to and including immediate termination (See Policy No. 6 - Hiring and Termination).

6. **Related Policies**

The District has several policies that address various subjects involving District security. Employees should make sure they are familiar with and comply with the security components of all District policies including but not limited to:

- A. Violence in the Workplace Policy (Policy 4)
- B. Alcohol and Drug Policy (Policy 27)
- C. Security and Theft Policy (Policy 28)
- D. Harassment Policy (Policy 29)
- E. Electronic Mail (E-Mail) Policy (Policy 44)
- F. Access and Usage of the Internet (Policy 46)
- G. Customer Personal Information Protection Policy (Policy 47)
- H. Business Conduct Standards (Policy 48)

Adopted by IRWD Board of Directors on: April 11, 2005



IRVINE RANCH WATER DISTRICT

PERSONNEL POLICIES AND PROCEDURES

POLICY NO. 50 - VEHICLE AND EQUIPMENT USAGE, VEHICLE ACCIDENT REPORTING, AUTO ALLOWANCE AND MILEAGE REIMBURSEMENT & REMOTE VEHICLE MONITORING

1. General Policy

This document establishes the policy and responsibility for the assignment and usage of District vehicles for conducting official District business. Any employee operating a District vehicle must be licensed to operate that vehicle in accordance with California State law the California Department of Motor Vehicles regulations. This includes but is not limited to the use of passenger restraint systems, traffic laws and financial responsibility laws (when appropriate). In addition to vehicle usage, this policy also addresses the use of District owned or controlled equipment. This policy is administered by the General Manager and any deviation to this policy must be approved by the General Manager.

2. Purpose of the Policy

The purpose of this policy is to communicate requirements relative to the assignment, utilization and control of District-owned vehicles and/or equipment or equipment controlled by the District; to establish mileage reimbursement procedures for privately-owned vehicles used to conduct District business; to establish insurance requirements for employees who drive personal vehicles on official District business; guaranteed ride home procedures for participants in the Commuter Trip Reduction (Rideshare) Plan (Policy No. 37. Rideshare Policy) and employees receiving Automobile Allowance.

3. Responsibility

A. General Manager

The General Manager is responsible for administering this policy and ensuring compliance.

B. Managers and Supervisors Responsibility

Managers and supervisors are required to ensure that employees under their control strictly adhere to the requirements of this policy.

C. Employee Responsibility

Employees are required to comply with the requirements of this policy and other established procedures regarding the assignment and use of vehicles and equipment.

4. Assignment of Vehicles for Overnight Retention

Employees assigned as Primary Standby Emergency Responders/Emergency Response Personnel duties are permitted overnight retention of a District vehicle. The vehicle is to be used for transportation directly to and from work or to and from the location where the employee is required to respond.

POLICY NO. 50 – VEHICLE & EQUIPMENT USAGE POLICY

Designated Primary Standby Emergency Responders/Emergency Response Personnel may use the Toll Road Transponders installed in their assigned vehicle for traveling to and from work for the period of their designated standby rotation or when otherwise responding to an emergency call-out.

Assignment of vehicles for overnight retention will be made only for employees in the following categories:

**A. Primary Standby Emergency Responders/Emergency Response Personnel
Temporary At-Home Retention**

Employees designated by their department to be on a standby or other emergency response assignment and who are able to respond to their normally assigned work location within 45 minutes from the time of request to respond, for the duration of their standby or other emergency response assignment.

**B. Designated Management Personnel
On-Going At-Home Retention**

Management employees who are reasonably required to respond to after hour emergencies as determined by their supervisor and/or department director based on their job assignments, who are able to respond to their normally assigned work location with 45 minutes from the time of request to respond and who are incumbent in one of the following job classifications:

- Operations Manager (Water Operations)
- Operations Manager (Recycling Operations)
- Construction Services Manager
- Field Services Manager
- Mechanical Services Manager
- Electrical & Instrumentation Manager
- Automation Manager
- Collections Systems Manager
- Facilities/Fleet Manager
- Safety Manager
- Other (when approved by the General Manager)

Employees in the above stated classifications who are assigned On-Going Overnight Vehicle Retention must complete a Vehicle Request Form, which will be kept on file in the Facilities and Fleet Services department.

5. Pool Vehicles

Pool vehicles will be available from individual departments and Fleet Services for use by employees requiring transportation in the performance of their duties.

6. Commuter Trip Reduction (Rideshare) Plan (Reference Policy No. 37)

Participants in the Rideshare Program are provided a guaranteed-ride-home in the event a participant is required to work unplanned overtime or in the event of an emergency. The guaranteed-ride-home program is authorized and coordinated by the Safety Office of the Human Resources Department.

Employees participating in the Rideshare Program are encouraged to plan for non-emergency transportation needs that may arise in the course of a regular scheduled workday. Commuter vans and pool vehicles are not available to employees for medical appointments, meal breaks or other personal matters.

7. Vehicles Involved In an Accident

Employees involved in a vehicle accident while operating a District vehicle will report such accident to their immediate supervisor and the Facilities/Fleet Manager before leaving the scene of the accident. The Safety and Security Office must be contacted as soon as possible. If damage is caused to non-District vehicles and/or property, Risk Management must also be contacted as soon as possible. The District employee-driver is required to provide pertinent information to other non-District drivers involved in the accident. No discussion of fault or responsibility is permitted by any District employees other than Risk Management Staff. Refer to Safe Work Practice (SWP) 19 – Use of District Vehicles.

8. Automobile Allowance

The General Manager may authorize an automobile allowance for Executive Directors, Department Directors and Managers. Employees receiving an automobile allowance must maintain automobile insurance with limits no less than that required by the State of California. Increases or decreases to auto allowance benefits will be made based on the percentage change in the mileage reimbursement rate set by the Internal Revenue Service.

9. Mileage Reimbursement

Department Directors may authorize the use of personal vehicles for conducting official District business. Mileage reimbursement rates will be set equal to the Internal Revenue Service mileage reimbursement rates.

Personal automobiles used on District business shall have no less than the minimum automobile insurance required by the State of California. The employee driver agrees to indemnify the District for any liability associated with passengers who are not employees or those being transported who are not on District business, to the extent that such liability does not arise as a result of acts in the direct furtherance of the employee driver's job duties.

10. District-Owned or Controlled Equipment

District-owned or controlled equipment is defined as equipment that is owned by the district, leased by the district or otherwise controlled by the district for the official use and established purposes of conducting district business.

Employees are forbidden to use District-owned or controlled equipment for personal use. Exceptions to this must be specifically approved by the General Manager.

Contractors are not authorized to use District owned or controlled equipment for conducting contracted work. The definition of “contractor” as outlined in Administrative Work Practice (AWP) 7 – Contractor Safety Program, is: A person or firm retained by IRWD under a contract for construction, maintenance or repair, major renovation or specialty work on any IRWD system or property. Contractual agreements must include specific language stating that the contractor must provide all necessary equipment to conduct their work. Special attention must be given to ensure that required safety equipment is provided by the contractor for the specific purpose of performing contractual work. Examples of this include but are not limited to vehicles; cranes/hoists/forklifts; lifting equipment such as: slings and material handling equipment. Additionally, contractors must provide all equipment necessary for confined space entry. This includes equipment such as gas detection equipment; rescue equipment; fall protection equipment; personal protective equipment. Contractors are not be permitted to use district ladders, scaffolds, or fall protection equipment.

12. Remote Vehicle Monitoring

Vehicles owned by the District, leased by the District, or otherwise controlled by the District are subject to remote monitoring. Remote monitoring is intended to provide the District with the ability to account for the vehicles at all times. Remote monitoring includes, but is not limited to, the ability to monitor vehicle location, vehicle starts and stops, and vehicle speed.

Adopted by IRWD Board of Directors on: February 11, 2019

IRVINE RANCH WATER DISTRICT
PERSONNEL POLICIES AND PROCEDURES
POLICY NO. 51 – MEDIA POLICY

1. General Policy

The Irvine Ranch Water District is committed to effective communications utilizing all media platforms including print, radio and television mediums and through the many social media outlets. Effective communications with the media best serves the District by:

- creating and maintaining credibility and ensuring public trust
- informing the public of what we can do for them and the services we provide
- promoting the District’s achievements, activities and events of significance
- expanding the general visibility of the District
- ensuring that accurate information is conveyed to the public regarding incidents and issues of a controversial and/or sensitive nature

This policy is intended as a supplement to other relevant policies of Irvine Ranch Water District and is applicable to all employees and those who do business with the District.

2. Purpose of the Policy

The purpose of the Irvine Ranch Water District (“District”) Media Policy is to provide communication guidance to District employees and the various agencies and companies that work or act on behalf of Irvine Ranch Water District.

3. IRWD Media Policy

It is the policy of the District to respond to all types of media questions/inquiries effectively, accurately and on a timely basis to help promote public understanding of District services, activities and issues. Effective communications with the media shall be accomplished both responsively and pro-actively utilizing the following principles:

1. Honesty: we will always be open and honest and will never knowingly mislead the public, media or staff on an issue or news story.
2. Transparency: we promote openness and accessibility in our dealings with the media, whilst complying with the law and maintaining confidentiality when appropriate.
3. Balance: information provided to the media will be objective, balanced, accurate, informative and timely.

4. General Media Guidelines

Only those officially designated by the General Manager or designee have the authorization to speak on behalf of the District.

All contact by the media (newspaper, radio, television, publications) regarding activities/projects of IRWD should be directed to the IRWD Public Affairs Director or designee.

Issues will be researched and talking points developed by IRWD Public Affairs staff in consultation with the General Manager and appropriate staff. Media issue background/technical expertise will be provided to media by designated staff. A summary of the media contact and, if appropriate, talking points will be emailed to IRWD Board members.

6. Social Media Guidelines

Social network sites are generally defined as web- or mobile-based services that allow individuals to construct a profile, form and share connections with others and/or where content can be uploaded, shared, created, published, or disseminated. Social media is the activity or technology that enables and/or integrates technology, social interaction and the construction and publishing of words, images, video, audio or other digital content.

The District endorses the use of these tools, realizing the positive effect they have on employees, the public it serves, and the business of the District.

The District regards blogs and other forms of online discourse as primarily a form of communication. Only those officially designated by the General Manager or designee have the authorization to speak on behalf of the District.

We believe in transparency and honesty. Some bloggers work anonymously, using pseudonyms or false screen names. IRWD discourages anonymity in blogs, wikis or other forms of online participation that relate to IRWD, District business or issues with which the District is engaged.

7. Employee Responsibility Guidelines

Online social media enables individuals to share their insights, express their opinions and share information within the context of a globally distributed conversation. Each tool and medium has proper and improper uses. The purpose of these guidelines are to let employees who choose to participate in social media understand what is recommended, expected and required if they discuss IRWD-related topics, whether at work or on their own time.

Outside the workplace, your rights to privacy and free speech protect online activity conducted on your personal social networks with your personal email address. However, what you publish on such personal online sites should never be attributed to the District and should not appear to be endorsed by or originated from the District. If you choose to list your work affiliation on a social network, then you should regard all communication on that network as you would in a professional network. Online lives are ultimately linked, whether or not you choose to mention the District in your personal online networking activity. The following guidelines are provided to clarify what is expected of District employees, however, they do not include every possible incidence.

1. Employees are personally responsible for the content they publish on blogs, wikis or any other form of user-generated media. Be mindful that what you publish will be public for a long time.
2. If you publish content to any website outside of IRWD and it has something to do with work you do or subjects associated with IRWD, use a disclaimer such as this: "The postings on this site are my own and don't necessarily represent the positions, strategies or opinions of the District."
3. The public has a right to trust in and engage credibly with the content posted on any District related page, group, site, media or writing in social media spaces. Never post a disclaimer of content on a District-related social media site or social network site.
4. Respect copyright, fair use and financial disclosure laws.
5. Do not provide IRWD's or another's confidential or other proprietary information. Ask permission to publish or report on conversations that are meant to be private or internal to IRWD.
6. Do not cite or reference employees, clients, partners or suppliers without their approval.
7. Respect your audience. Don't use ethnic slurs, personal insults, obscenity, or engage in any conduct that would not be acceptable in an IRWD workplace.
8. You should also show proper consideration for others' privacy and for topics that may be considered objectionable or inflammatory—such as politics and religion.
9. Be aware of your association with IRWD in online social networks. If you identify yourself as an IRWD employee, ensure your profile and related content is consistent with how you wish to present yourself with colleagues and clients.
10. Never misrepresent yourself by using a false name when acting on behalf of the District. Do not recruit friends, colleagues or relatives to promote or defend your work or on any matter concerning the District.
11. Writing or posting of media which does not mention District-related topics does not need to mention your employment or relationship with the District.
12. Always comply with all laws, regulations, and the social media service or social network site Terms of Use regarding the disclosure of identity.
13. The boundaries between professional and personal identities often blur in online social networks. Be mindful that identifying yourself as an employee or official of Irvine Ranch Water District in any social network coupled with the openness of the Web means that the public can and will connect you with your employment or relationship with The District in any and all activity in which you participate online. Ensure that the content associated with you and your activities are consistent with your work at Irvine Ranch Water District.

Remember that there are always consequences to what you publish. If you're about to publish something that makes you even the slightest bit uncomfortable, review the suggestions above and think about why that is. If you're still unsure, and it is related to IRWD business, feel free to discuss it with your manager. Ultimately, however, you have sole responsibility for what you post to your blog or publish in any form of online social media.

8. **Policy Violations**

In the event that an employee suspects any person of violating the guidelines presented in this policy, the employee must immediately report the incident to one of the following people:

- The employee’s Supervisor
- The Department Manager
- The Department Director
- The Director of Human Resources, or
- The General Manager of the District

Information furnished should be as factual, complete and relevant as possible. In the event that the individual wishes to remain anonymous, “Speak Up” forms are available from the Human Resources Department.

A. First Point of Contact

The General Manager and/or Director of Human Resources will act as the first contact for suspected acts, and will use his/her discretion regarding the “need to know” of any other individuals. This will restrict the number of persons involved during the investigation process.

B. Investigation

The Director of Human Resources will conduct a thorough investigation. This investigation may include other officials and outside sources as deemed necessary.

C. Appropriate Action

Upon completion of the investigation, the Director of Human Resources and General Manager will determine what action, if any, is to be taken. Disciplinary action resulting from any investigation will follow the guidelines set forth by the District Human Resources Department. This procedure is found in the Disciplinary Process – Guidelines for Managers and Supervisors (available in the Human Resources Department).

9. Administrative Responsibility

The Director of Public Affairs is responsible for ensuring compliance with this policy.

Adopted by IRWD Board of Directors on: January 11, 2010

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