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**MOJAVE AIR AND SPACE PORT
(formerly "EAST KERN AIRPORT DISTRICT")**

ADMINISTRATIVE CODE

PART 1. GENERAL

Section 1-1.01¹ Purpose

This Code governs the operations of the Mojave Air and Space Port, the Board, and staff. This Code may be referred to as the "Administrative Code."

Section 1-1.02 Amendments

The Board of Directors shall adopt amendments to this Code. Revised sections will be inserted in this Code and the superseded sections will be deleted.

Section 1-1.03^{2,3} Definitions

Unless otherwise apparent from context, the following terms have the meanings set forth below:

- (a) "CEO" means the Chief Executive Officer of the District.
- (b) "General Manager" or "Airport Manager" means the General Manager and CEO of the District.
- (c) "Board" means the Board of Directors of the District.
- (d) "Director" means a member of the board of directors of the District.
- (e) "District" means the Mojave Air and Space Port.
- (f) "President" means the President of the Board.
- (g) "Mojave Airport" or "Airport" means the area comprising the Mojave Air and Space Port located at: Latitude 35 4' North; Longitude 180 9' West; Elevation 2,787 feet NSL.
- (h) "Vice-President" means the Vice-President of the Board.
- (i) "Secretary" means the Secretary of the District.
- (j) "Treasurer" means the Treasurer of the District.

¹ Amended name of the District by Res. No. 13-04-714 on April 16, 2013.

² Amended name of the District by Res. No. 13-04-714 on April 16, 2013.

³ Amended Definitions by Res. No. 13-08-718 on August 20, 2013.

Section 1-1.04 Holidays

- (a) The following holidays are District holidays:
 - January 1;
 - Presidents' Day;
 - Memorial Day;
 - Independence Day;
 - Labor Day;
 - Thanksgiving Day;
 - The day after Thanksgiving Day;
 - December 25;
 - 2 Floating Holidays

(b) If any of the holidays fall on Saturday, the immediately preceding Friday will be observed. If a holiday falls on Sunday, the next succeeding Monday will be observed.

Section 1-1.05⁴ Ethical Behavior

Officers and employees shall disclose potential conflicts of interest, and shall not participate in decisions that could materially affect a financial interest.

Section 1-1.06 Definitions

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulation 18100, *et seq.*), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

Section 1-1.07 Disclosure Code

The Political Reform Act (Government Code section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission has adopted a regulation – 2 California Code of Regulations 18730 – that contains the terms of a standard conflict of interest code. After public notice and hearing, it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated into the conflict of interest code of the District by reference. This section, and those designating officials and employees, and establishing economic disclosure categories, shall constitute the conflict of interest code of the District.

Section 1-1.08 Designated Positions

(a) Designated employees. The persons holding positions listed below are designated employees. It has been determined these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests. These persons shall make the disclosures for the specified disclosure categories as defined below:

⁴ Sections 1-1.05 – 1-1.10 amended by Res. 13-04-715 on April 16, 2013; Sections 1-1.11 – 1-1.19 were added.

<u>Designated employees</u>	<u>Disclosure categories</u>
1. Members of Board of Directors	1, 2, 3
2. General Manager/CEO	1, 2, 3
3. Staff attorney	1, 2, 3
4. Chief Financial Officer	1, 2, 3
5. Chief Operating Officer	1, 2, 3
6. Director of Marketing and Business Development	1, 2, 3
7. Consultants – as determined by General Manager	

(b) Consultants. Consultants, within the meaning of the Political Reform Act, who participate in decisions or provide information, advice, recommendation, or counsel that could affect financial interests shall file Statements of Economic Interests for all categories. If the General Manager determines a consultant performs a range of services limited in scope and not requiring full disclosure, the General Manager shall prepare a written description of the consultant's duties and a statement of the extent of the disclosure requirements. The General Manager's determination shall be a public record.

Section 1-1.09 Disclosure Categories

(a) The following categories are established for the purpose of conflict of interest disclosure:

Category 1. Persons in this category shall disclose all interests in real property within the District's jurisdiction. The definition for "interests in real property," as used herein, is found in the Political Reform Act.

Category 2. Persons in this category shall disclose all income from (including gifts and loans) and investments in businesses that are doing business with the District, or have done business with the District within the preceding two years, that manufacture, provide or sell services and/or supplies of a type used by the District and associated with the job assignment of designated positions assigned this disclosure category. The definitions for "income" and "gift," as used herein, are found in the Political Reform Act.

Category 3. Persons in this category shall disclose all businesses in which the designated employee as an owner, director, trustee or designated employee holds a position of management.

(b) The disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

Section 1-1.10 Place of Filing

(a) Board; General Manager. The Board of Directors and General Manager shall submit a statement of economic interest with the General Manager, or his/her designee. The District shall make and retain a copy of all statements filed by its Board Members and General Manager, and forward the originals of such statements to the Clerk of the Board of Supervisors of Kern County.

(b) Others. Designated employees shall submit a statement of economic interest with the General Manager, or his/her designee. The District shall retain the originals of statements for all other designated positions, including consultants, named in the conflict of interest code. All retained statements, original or copied, shall be available for public inspection and reproduction pursuant to Government Code section 81008.

Section 1-1.11 Time of Filing

(a) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to Board confirmation, 30 days after being nominated or appointed.

(b) Annual Statements. All designated employees shall file statements no later than April 1. If a person reports for military service as defined in the Service Member's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

(c) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

Section 1-1.12 Periods Covered by Statements of Economic Interests

(a) Contents of Assuming Office Statements. Assuming office statements shall disclose any reportable interests for the specified disclosure categories in section 1-1.08 herein held on the date of assuming office or, if subject to Board appointment, income received during the 12 months prior to the date of assuming office or the date of being appointed.

(b) Contents of Annual Statements. Annual statements shall disclose any reportable interests for the specified disclosure categories in section 1-1.08 held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the Code or the date of assuming office, whichever is later.

(c) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable interests for the specified disclosure categories in section 1-1.08 held or received during the period between the closing date of the last statement filed and the date of leaving office.

Section 1-1.13 Manner of Reporting

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission (Form 700) and supplied by the District, and shall contain the information required therein.

Section 1-1.14 Honoraria; Gifts

(a) No designated employee of the District shall accept any honorarium from any source if the employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

(b) No designated employee of the District shall accept gifts with a total value of more than the limit set by the FPPC in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

Section 1-1.15 Loans

(a) No elected officer shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the District.

(b) No elected officer shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the District or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(c) This section shall not apply to the following:

(1) Loans made to the campaign committee of an elected officer or candidate for elective office;

(2) Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section;

(3) Loans from a person which, in the aggregate, do not exceed Five Hundred Dollars (\$500) at any given time; and

(4) Loans made, or offered in writing, before January 1, 1998.

(d) (1) Except as set forth in subdivision (b), no elected officer of the District shall, from the date of his or her election to office through the date he or she vacates office,

receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan, the amount of the payments, and the rate of interest paid on the loan.

(2) This section shall not apply to the following types of loans:

a. Loans made to the campaign committee of the elected officer;
b. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section; and

c. Loans made, or offered in writing, before January 1, 1998.

(3) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(e) Personal Loans.

(1) Except as set forth in subdivision 1-1.15(b), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

a. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired;

b. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

(i) The date the loan was made;

(ii) The date the last payment of \$100 or more was made on the loan; and

(iii) The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(2) This section shall not apply to the following types of loans:

a. A loan made to the campaign committee of an elected officer or a candidate for elective office;

b. A loan that would otherwise not be a gift as defined in this title;

c. A loan that would otherwise be a gift as set forth under subdivision 1, but on which the creditor has taken reasonable action to collect the balance due;

d. A loan that would otherwise be a gift as set forth under subdivision 1, but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations; and

e. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(3) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

Section 1-1.16 Disqualification

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she

knows or has reason to know will have a reasonably foreseeable, materially financial effect, distinguishable from its effect on the public generally, on the official, or a member of his or her immediate family or on:

(a) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(b) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made;

(d) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$440 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

Section 1-1.17 Disclosure of Disqualifying Interest

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

Section 1-1.18 Assistance of the Commission and Counsel

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code section 83114 and Regulations 18329 and 18329.5, or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

Section 1-1.19 Violations

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal, and civil sanctions provided in the Political Reform Act, Government Code sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code sections 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003 of the Government Code.

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PART 2. PERSONNEL

ARTICLE 1. DIRECTORS

Section 2-1.01 General

This Article describes the powers and duties of directors.

Section 2-1.02 Directors Authority

a) No director shall represent the District's policy unless the policy has been established by the Board.

(b) Employees are supervised by the General Manager. No employee shall take orders from a director. An employee who takes orders from a director shall be disciplined by the General Manager. Directors shall address the General Manager if services are needed. The General Manager shall provide Directors with the same services as provided to the public.

(c) Directors may occupy the board room to conduct District business when the board room is not used by the board. Directors may not use other offices without the written consent of the board, unless the director is using the facility as a member of the public on the same basis as the public.

Section 2-1.03⁵ Election and Appointment

(a) Directors shall be elected in accordance with the California Airport District Law, except that elections shall be in November of even-numbered years pursuant to the Uniform District Election Law. The dates of any notices, canvass of voters, certification of election and all other procedure requirements shall comply with those for the statewide general election.

(b) Each candidate for District office may prepare a candidate's statement of qualifications on appropriate form provided by the County Clerk. Such statements shall not exceed 200 words in length. The County Clerk shall prepare and distribute said statement of qualifications in accordance with the Elections Code Section 10012. The District shall bill each candidate the actual prorated costs of printing, handling and translating the candidate's statement incurred by the District as the result of this service. The candidate shall not be permitted to send other materials to voters in addition to the sample ballot and voter's pamphlet.

Section 2-1.04 Oath of Office

The Secretary shall administer the oath of Office to newly elected or appointed directors. The oath shall be filed with the Clerk of Kern County.

⁵ Amended by Res. 06-07-656 on 7/18/06.

Section 2-1.05⁶ Compensation and Benefits

(a) Directors shall be paid \$100 for each day's attendance at meetings of the Board, or for each day's service rendered as a Director by request of the Board, not to exceed four (4) days in any calendar month. A Director shall not be compensated for more than one (1) per diem per day even if more than one meeting is attended in one day.

(b) Except as provided herein, Directors shall only be compensated only for attendance at meetings previously approved by the Board. Meetings for which Directors are entitled to compensation for attending are:

- (1) A meeting of the district board within the meaning of Government Code section 54952.2(a);
- (2) A meeting of a district committee within the meaning of Government Code section 54952(b);
- (3) An advisory body meeting within the meaning of Government Code section 54952(b);
- (4) A conference or organized educational activity conducted in compliance with Government Code section 54952.2(c), including ethics training required by Government Code sections 53234 and following;
- (5) A meeting of any multi-jurisdictional governmental body on which the District director serves as the District's designated representative;
- (6) Any meeting attended or service provided on a given day at the formal request of the District board and for which the District board approves payment of a daily meeting stipend;
- (7) A meeting of the Kern Economic Development Corporation in which the Director is representing the District;
- (8) A meeting of the Antelope Valley Board of Trade in which the Director is representing the District; and
- (9) A meeting of the Society of Experimental Test Pilots.

(c) Directors are entitled to the following benefits on the same terms as other officers:

- (1) Group medical, vision and dental plan coverage at the District's cost for active directors and their dependents;
- (2) Group medical, vision and dental plan coverage at the District's cost for retired Directors and their dependents if the Director first assumed office before January 1, 1995, and has served at least twelve (12) consecutive years;
- (3) Group medical, vision and dental plan coverage at the Director's cost, for a retired Director and their dependents if the Director is not eligible for District payment and if permitted by the District's health plan; and
- (4) Travel accident insurance while on District business at the District's cost in amounts determined by the Board.

⁶ Amended by Res. 10-04-695 on 4/6/10.

Section 2-1.06 Expenses⁷

(a) If previously approved by the Board, a Director shall receive actual, reasonable and necessary reimbursement for travel, meals, lodging, registration and similar expenses incurred on District business. The rate for reimbursement shall not exceed the rate published by the IRS for deduction from taxes. However if the expenses are incurred in connection with a trade conference, the reimbursement rates shall not exceed the posted rates for the conference and if the posted rates are not available, the reimbursement rate shall be comparable to the posted rates.

(b) Directors shall be authorized in advance to incur expenses for District purposes and shall submit a written request for reimbursement within sixty days after incurred.

(c) During July of each year, the General Manager shall prepare a list of amounts paid during the prior fiscal year to reimburse a director or employee for individual expenses of \$100.00 or more. To determine the value of an item, the total charges for the item for the day shall be considered. For example, several transportation bills, each less than \$100.00, but totaling more than \$100, requires a report. During August of each year, the list shall be reviewed by each person receiving expense reimbursement. The General Manager shall consider suggested corrections and post the final list at the District by September.

Section 2-1.07 Board Officers

(a) The following board offices are established: President, Vice President, Treasurer, Secretary.

(b) Board officers shall be elected annually at the first regular meeting in each calendar year. Officers shall serve until a successor is appointed.

(c) President shall be the chair of meetings, shall execute resolutions and contracts adopted by the Board, and perform other acts required by law.

(d) Vice President shall serve as chair in the absence of the president.

(e) The Treasurer shall maintain accurate records of the financial condition of the District, shall review and recommend action on claims, and shall recommend investment of District money.

(f) The Secretary shall record accurate minutes of meetings, and attest to the signature of the president. The secretary may, but need not be a director.

Section 2-1.08 Board Action Required

The District shall act through the Board. No director shall represent the District's policy unless the policy has been approved by the Board.

⁷ Amended by Res. No. 06-05-651 on May 2, 2006.

Section 2-1.09 Meetings

(a) Meetings of the Board and any advisory body shall be open to the public and all persons shall be permitted to attend. No action shall be taken by secret ballot at such meetings.

(b) The following terms are defined for the purpose of this section:

"Advisory body" means a decision-making or advisory body created by formal action of the Board. An ad hoc committee composed solely of two or less uncompensated members is an advisory body only if the committee has continuing jurisdiction or meets pursuant to a schedule fixed by the Board.

"Meeting" includes any congregation of a quorum of the Board or advisory body at the same time and place to hear, discuss or deliberate on any ruling within the jurisdiction of the District; and any use of direct communication, personal intermediaries or technological devices by a quorum of the Board or an advisory body to develop a collective concurrence to action by the Board or advisory body.

"Meeting" does not include: individual contacts between members and any other person; attendance at a conference or similar gathering open to the public involving discussions of issues of interest to the public generally by public agencies specifically, if members do not discuss District business; attendance at open and publicized meetings addressing topics of community concern by someone not associated with the District, if members do not discuss District business; or attendance at social or ceremonial events, if members do not discuss District business.

"Member" means a director or a member of an advisory body.

(c) Meetings of the Board and meetings of advisory bodies shall be held within the District; except: to comply with State or Federal law or court order; to inspect real property or personal property which cannot be moved; to meet with another public agency at the other agency on multi-agency matters; to discuss legislative or regulatory matters with State or Federal officials; to discuss matters relating to a District facility; and to consult with legal counsel at counsel's office if so doing will result in a reduction in legal fees associated with the meeting.

(d) Secretary shall provide each member a copy of these regulations.

Section 2-1.10 Regular and Special Meetings

(a) The Board shall hold regular meetings on the first and third Tuesday of each month at the hour of 2:00 o'clock p.m. at the District's headquarters located at Tower Building 58, Mojave Airport, Mojave, California. A regular meeting may be adjourned by the Board or by less than a quorum to another time. An adjourned regular meeting is a regular meeting for all purposes if held within five days of the regular meeting. If the adjourned meeting is held more than five days after the regular meeting, a new agenda shall be posted.

(b) Special meetings may be called by the President, Vice President or Secretary upon twenty-four hour notice to each member.

(c) An emergency meeting may be called without twenty-four hour notice or agenda if necessary due to disruption or threatened disruption of District facilities by work stoppage or crippling disaster or other activity severely impairing public health or safety as determined by a majority of the members.

(d) Each advisory body may establish a time and place for regular meetings and may call special meetings in the same manner as the Board.

Section 2-1.11 Record of Proceedings

(a) The Secretary shall record minutes showing action taken by the Board in open session and by each advisory body. The minutes shall be available for public inspection when approved by the Board. If meetings are recorded on audio tape, the tape shall be available for public inspection for at least thirty days before the tape is erased on a tape player provided by District.

(b) Any person attending an open meeting of the Board may record the proceeding on audio or video media unless the Board finds the recording cannot continue without noise, illumination or obstruction of view constituting a persistent disruption of proceedings.

Section 2-1.12 Rules of Conduct

(a) The affirmative vote of at least three directors is necessary for the Board to take action. The Board shall take action by motion or resolution. Motions and resolutions may be adopted on voice vote; roll call shall be taken if requested by any director.

(b) The District may use video teleconferencing to receive public comment or testimony and for deliberations of the Board. If video teleconferencing is used, the agenda shall be posted at all video teleconference locations and reasonable rules shall be adopted to protect the statutory and constitutional rights of the parties and the public appearing before the Board.

(c) Except as otherwise required by law, and unless waived, proceedings of the Board shall be conducted in accordance with the latest edition of Robert's Rules of Order. Advisory bodies shall adopt rules of order appropriate to their work.

(d) If any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Board may order the meeting room cleared and continue in closed session. Only matters appearing on the agenda may be considered in such a session. The Board may establish a procedure for re-admitting individuals not responsible for willfully disturbing the orderly conduct of the meeting.

(e) The Board shall not prohibit public criticism of the policies, procedures, programs or services of the District or of the acts or decisions of the Board. However, no privilege or protection is hereby conferred for expression beyond that otherwise provided by law.

Section 2-1.13 Agenda

(a) At least seventy-two hours before a regular meeting, or at least twenty-four hours prior to a special meeting, the Secretary shall post an agenda containing a brief, general description of each item of business to be transacted or discussed at the meeting, including the items to be discussed in closed session.

The posting shall be freely accessible to the public.

(b) The agenda for meetings shall include the opportunity for the public to address the Board prior to taking action on any matter. The agenda for regular and adjourned regular meetings shall include the opportunity for the public to address the Board on matters within the jurisdiction of the District but not on the agenda.

(c) No action shall be taken on matters not shown on the posted agenda, except members may briefly respond to statements made or questions posed during public comment; request clarification; provide a reference to staff or other resources for factual information; request staff to report back to the Board at a subsequent meeting or direct staff to place a matter of business on a future agenda.

(d) Prior to discussion of any matter on the agenda, the Board may add matters to the agenda upon a majority finding an emergency exists or upon at least a two-thirds vote finding there is a need to take immediate action and the need for action came to the attention of the District subsequent to the posting of the agenda. If only three directors are present, the finding of the need for action shall be by unanimous vote.

(e) The agenda shall describe matters to be discussed in closed session in substantially the following form:

(1) For closed session under Government Code Section 54956.7: "License/Permit Determination;"

(2) For closed session under Government Code Section 54956.8: "Conference with Real Property Negotiator [property identity, negotiating partners, subject of negotiations];"

(3) For closed session under Government Code Section 54956.9: "Conference with Legal Counsel - Existing Litigation [name of case unless disclosure would jeopardize service or settlement];" or "Conference with Legal Counsel - Anticipated Litigation [potential case name]' _____'Liability Claims [name of claimant];"

(4) For closed session under Government Code Section 54956.94: "Liability Claims [name of claimant];"

(5) For closed session under Government Code Section 54957: "Threat to Public Services or Facilities {name of law enforcement agency and title of officer};" or "Public Employee [specify position];" or "Public Employee Performance Evaluation [specify position];" or "Public Employee Discipline/Dismissal/ Release;" and

(6) For closed session under Government Code Section 54957.6: "Conference with Labor Negotiator [name of agency representative and employee organization or unrepresented employee]."

(f) Meetings to consider new or increased general tax or assessment shall be preceded by at least forty-five days notice as specified by law.

Section 2-1.14 **Closed Sessions**

- (a) The Board may conduct a closed session to:
- (1) Consider a license or permit application;
 - (2) Consider property acquisition or disposition by eminent domain or otherwise;
 - (3) Consider pending or potential claims or litigation;
 - (4) Consider threats to public services or facilities;
 - (5) Consider the appointment, promotion or job performance of employees;
 - (6) Consider charges levied against an employee;
 - (7) Establish the District's position concerning employee negotiations; or
 - (8) Conduct any District business when public session is not possible due to riot or other interruption.

(b) If possible, the Board shall avoid taking action in closed session. Action may be taken in closed session when necessary to avoid prejudice to the District. Action taken in closed session and the vote, abstention or absence of each member shall be publicly reported as follows:

(1) Approval of an agreement concluding real estate negotiations shall be reported after the agreement is final, as follows:

 If the Board's approval renders the agreement final, the Board shall report approval and the substance of the agreement in open session at the public meeting when the closed session is held.

 If the final approval rests with the other party to the negotiations, the District shall disclose the approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the District of its approval.

(2) Approval given to counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation shall be reported in open session at the public meeting when the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify the direction to initiate or intervene in an action has been given and the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the District's ability to effectuate service of process one or more unserved parties, or would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to counsel for a settlement of pending litigation, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

 If the Board accepts a settlement offer signed by the opposing party, the Board shall report acceptance and identify the substance of the agreement in open session at the public meeting when the closed session is held.

 If final approval rests with some other party to the litigation or with the court, the District shall disclose the approval, and identify the substance of the agreement upon inquiry by any person when the settlement becomes final.

(4) Disposition reached as to claims discussed in closed session shall be reported in the same manner as the settlement of pending litigation.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee shall be reported at the public meeting when the closed session is held. Such report shall identify the title of the position and specify any change in compensation. However, a report of dismissal or of non-renewal of an employment contract shall be deferred until the first public meeting following the exhaustion of the employees administrative remedies.

(6) Approval of an agreement concluding labor negotiations shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(c) Reports required by this section may be made orally or in writing. The Board shall provide to any person who has submitted a written request to the Board within twenty-four hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents finally approved or adopted in the closed session.

If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, if the President, or designee, orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information. The documentation shall be available to any person on the next business day following the meeting in which the action referred to is taken, or, in the case of substantial amendments, when any necessary retyping is complete.

(d) After completing a closed session, counsel shall prepare a confidential memorandum stating the purpose of the closed session and the action taken, if any. This memorandum is confidential and shall be filed in the office of the General Manager.

ARTICLE 2. OFFICERS

Section 2-2.01 General

This Article describes the powers and duties of officers.

Section 2-2.02 General Manager⁸

(a) The office of General Manager is established. The General Manager shall be appointed by the Board on the basis of administrative and executive ability and qualifications and shall hold office at the pleasure of the Board.

(b) The General Manager shall receive such annual compensation as the Board shall from time-to-time determine. In addition, the General Manager shall be reimbursed for actual and necessary expenses incurred in the performance of official duties. The performance of the General Manager shall be reviewed annually by the board.

(c) The General Manager shall be the administrative head of the District under the direction and control of the Board. The General Manager shall be responsible for the efficient administration of affairs of the District. The General Manager shall also have the authority to:

- (1) enforce rules and regulations and see that franchises, contracts, permits and privileges are faithfully observed;
- (2) control, order and give directions to subordinate officers and employees;
- (3) appoint, remove, promote and demote officers and employees, subject to all applicable personnel resolutions, rules and regulations except the Secretary, Treasurer, District Counsel and the Auditor;
- (4) appoint the Finance Director with the advice and consent of the Board;
- (5) recommend to the Board measures and resolutions;
- (6) attend board meetings unless excused by the President or the Board;
- (7) keep the Board fully advised as to the financial condition and needs of the District;
- (8) file monthly financial statements at the second regular meeting of each month;
- (9) exercise general supervision over buildings, and other property under the control and jurisdiction of the District; and
- (10) periodically report upon Federal Grant and Aid programs.

(d) The Board and its members shall deal with the administrative services of the District only through the General Manager. Except for the purpose of inquiry, the Board and directors shall not give orders or instructions to any subordinate of the General Manager. The General Manager shall take orders and instructions from the Board only when sitting in a duly convened meeting of the Board, and no individual Director shall give any orders or instructions to the General Manager.

⁸ Amended by Res. 02-09-607 on 9/3/02.

(e) Subordinate officers and the Secretary, Treasurer, District Counsel and the Auditor shall assist the General Manager in administering the affairs of the District efficiently and harmoniously.

Section 2-2.03⁹ Personnel System

The General Manager is the Personnel Officer and shall:

- (a) Prepare a position classification plan, including class specifications for Board approval;
- (b) Prepare a compensation plan for Board approval;
- (c) Provide for the publication or notice of employment openings, and conduct an examination of candidates;
- (d) Annually evaluate the performance of each employee; and
- (e) Recommend promotions.

Section 2-2.04¹⁰ General Manager's Authority to Execute Certain Documents

(a) The General Manager may execute the following documents without further action by the Board:

- (1) short-term leases;
- (2) T-hangar and Tie-down agreements; and
- (3) memoranda of a previously approved lease.

(b) The General Manager may execute a consent to assignment or sublease on behalf of the District with Board approval.

(c) The General Manager may sign an agreement retaining a real estate broker or agent to represent District, provided that any such contract shall not obligate District to pay any fees or commissions unless and until the Board approves the agreement for the transaction (e.g., lease, purchase and sale agreement) and, in the event it is leasing or selling property, the District receives payment.

(d) The General Manager shall present a written report to the Board describing documents executed under this section. The report shall be submitted at the next regular meeting following execution of a document.

⁹ Amended by Res. 02-09-607 on 9/3/02.

¹⁰ Amended by Res. 06-07-655 on 7/18/06.

Section 2-2.05 Auditor

(a) The Auditor shall draw warrants to pay demands on the District. The office of Auditor may be consolidated with any other office except Secretary-Treasurer.

(b) The District shall annually hire an independent auditor to audit the books and records of the District and to certify as to the accuracy of the same. The independent auditor shall not be a director or other officer or employee.

Section 2-2.06 Counsel

(a) The District's Counsel shall advise the District concerning legal matters and shall prepare resolutions, contracts and other documents. Counsel may also assist the District in any litigation to which the District is a party.

(b) Counsel shall be compensated at a rate as determined from time to time by the Board.

(c) Counsel shall serve at the pleasure of the Board.

Section 2-2.07 Miscellaneous

(a) Each District Officer shall have those deputies as may be appointed from time-to-time by the officer. The deputy shall be empowered to act in the absence of the principal officer

(b) Each officer or deputy who is empowered to handle District money shall be bonded for faithful performance at District expense in amounts to be determined by the Board.

Section 2-2.08 Direct Supervision¹¹

The General Manager and District Counsel shall be appointed by the board, report to the board, and serve at the pleasure of the board.

¹¹ Added by Res. 02-09-607 on 9/3/02.

ARTICLE 3. EMPLOYEES

Section 2-3.01 General

This Article describes terms and conditions of employment.

Section 2-3.02^{12,13} Positions Authorized

(a) The following full-time positions are authorized:

- Chief Executive Officer/General Manager
- Deputy General Manager
- Chief Financial Officer
- Chief Operations Officer
- Executive Secretary
- Director of Maintenance
- Business Manager
- Administrative Assistant II
- Administrative Assistant I
- Fire Chief
- Fire Fighter II
- Fire Fighter I
- Maintenance Lead Person
- Maintenance Man III
- Maintenance Man II
- Maintenance Man I
- Security Chief
- Security Chief Assistant
- Receptionist

(b) The following part-time positions are authorized:

- Fire Fighter
- Maintenance - Fueler
- Maintenance - Temporary
- Fire Fighter

Section 2-3.03^{14,15} Compensation

(a) Employees shall be paid in arrears on the 15th and last day of each month.

¹² Amended by Res. 13-02-713 on Feb 5, 2013.

¹³ Amended by Res. 13-08-718 on Aug 20, 2013.

¹⁴ Amended by Res. 13-02-713 on Feb 5, 2013.

¹⁵ Amended by Res. 13-08-718 on Aug 20, 2013.

(b) Starting monthly salaries for full-time authorized positions are:

<u>FULL TIME</u>	<u>RANGE</u>	<u>STARTING</u>
Chief Executive Officer/General Manager	17	\$ 12,890
Deputy General Manager	6	6,666
Chief Financial Officer	6	5,490
Chief Operations Officer	6	5,490
Executive Secretary	5	4,817
Director of Maintenance	5	4,817
Business Manager	4	4,144
Administrative Assistant II	4	4,144
Administrative Assistant I	2	2,799
Fire Chief	4	4,144
Fire Fighter II	4	4,144
Fire Fighter I	3	3,471
Maintenance Lead Person	5	4,817
Maintenance Man III	5	4,817
Maintenance Man II	3	3,471
Maintenance Man I	1	2,080
Security Chief	4	4,144
Security Chief Assistant	1	2,080
Receptionist	1	2,080

(c) Salaries for part-time employees are as follows:

<u>POSITION (Part-Time)</u>	<u>HOURLY RATE</u>
Fire Fighter	\$ 19.77
Maintenance – Fueler	12.00
Maintenance – Temporary	12.00

(d) The General Manager may hire a person at higher than the first step only with the approval of the board.

Section 2-3.04¹⁶ Change in Compensation

(a) The performance of each employee shall be evaluated annually by the employee's supervisor and reviewed by the General Manager. Each employee, other than a probationary employee, who receives a better than average annual performance evaluation shall receive an annual step raise consisting of a step increase for his or her position as set forth herein. The raise shall not be considered a promotion unless the work described for the class of service is also changed.

(b) The General Manager may recommend compensation changes based on merit. The General Manager may increase the salary of an employee by not more than 5% per month or \$100 per month, whichever is greater, as a reward for outstanding service. The General

¹⁶ Amended by Res. No. 05-08-642 on August 2, 2005.

Manager shall notify the Board within twenty days after granting such a merit raise.

- (c) The board may authorize changes in compensation based on cost-of-living.

Section 2-3.05 Vacation

(a) Persons employed by the District, other than temporary or part-time employees, are entitled to a paid vacation of five days per year after one year's service; ten days per year after two years' service and fifteen days per year after five to fifteen years of service and twenty days per year after fifteen years or more of service.

(b) Each employee shall utilize accrued vacation in the year immediately succeeding the year during which the vacation is earned. The General Manager may authorize up to 20 days of vacation to be deferred for one year. An employee may accrue no more than 40 (320 hours) days of vacation.

(c) Time off for vacation shall be scheduled with the General Manager so vacations will not conflict with the work schedule. An employee may use vacation benefits on consecutive or non-consecutive days with the General Manager's permission. An employee may use vacation benefits for a period as short as one day.

(d) An employee shall be entitled to a leaving vacation consisting of a lump sum payment equal to the number of earned but unused vacation days, accrued monthly, times the employee's wage immediately prior to termination.

Section 2-3.06 Sick Leave

(a) Persons employed by the District, other than part-time or temporary employees, are eligible for sick leave.

(b) Eligible employees shall accrue four hours of sick leave for each pay period of continuous service. As used herein, the term "continuous service" shall be deemed to begin on the first day of the month in the event the employee's actual service begins on or before the 15th day of the month and shall be deemed to begin on the 1st day of the following month in the event his service begins on or after the 16th day of the month.

(c) Sick leave may be used for any of the following purposes:

- (1) Emergency or non-emergency medical or dental care;
- (2) Sickness, provided, employees sick for more than three days must provide the General Manager with a doctor's certificate or other evidence indicating the fact of sickness and that the employee is fit to return to work;
- (3) Personal hardship, upon the prior approval of the General Manager.
- (4) Bereavement leave of not more than five days per calendar year.

(d) Upon retirement, each permanent full-time officer or employee with at least five (5) years but less than ten (10) years of service shall be paid for fifty percent (50%) of accumulated unused sick leave, and a permanent full-time officer or employee with ten (10) or more years of service shall be paid for one hundred percent (100%) of accumulated unused

sick leave. The accumulated sick leave shall be paid within thirty (30) days of termination and shall be based upon the officer or employee's salary as of the date of termination.

Section 2-3.07¹⁷ Continued Benefits

(a) Permanent, full-time officers and employees are eligible for participation in the retirement program through the Public Employees' Retirement System (P.E.R.S.). Eligibility for participation in the program shall be determined on the basis of the contract between P.E.R.S. and the District. The District shall pay both employer and employee contributions to the program.

(b) Disabled permanent full-time employees who have served the District for at least thirty (30) days shall be eligible for disability payments from the District equal to 66-2/3% of the employee's salary until rehabilitated or at age 65. The disability payments shall be funded entirely by payments from P.E.R.S., State Disability Insurance, Workers' Compensation Insurance (if appropriate) and a private plan obtained by the District. If an employee is not eligible under the private plan, benefits under this section will be reduced.

(c) Retired employees age 50 or older who have been an active member of P.E.R.S. for at least five (5) years; their dependents; and retired directors who are first elected before January 1, 1995, who have served the District for at least twelve years and their dependents, are eligible for continued participation in the District's group medical plan. The District shall pay the cost of such coverage. The District shall pay the cost of dental/optical benefits for retired officers and employees and their dependents in the same manner and to the same extent as active full-time employees.

Section 2-3.08^{18,19} Health, Dental and Optical Plan

(a) Permanent, full-time officers and employees, including directors, and their dependents shall be eligible for membership in the District's group health plan. Membership shall commence at the earliest date permitted by the plan. Except for benefits provided to former employees, health plan membership shall cease at termination of employment or office holding. The District will pay up to the following amounts monthly for the cost of group health plan membership:

- (1) \$605.00 for an employee only;
- (2) \$1,210.00 for an employee with one dependent; and
- (3) \$1,600.00 for an employee with more than one dependent.

The District shall reimburse each employee for the deductible portion of the employee's group health plan, not to exceed \$500.00 per individual or family group per year. The employee shall present written proof satisfactory to the General Manager that such costs have been incurred before such reimbursement is paid.

(b) Permanent full-time officers and employees, including directors, and their dependents shall be eligible for dental, optical and audiology plan reimbursement. The

¹⁷ Amended by Res. 01-12-602 on 12/18/01.

¹⁸ Amended by Res. No. 11-11-706 on Nov 15, 2011.

¹⁹ Amended by Res. No. 13-10-720 on Oct 1, 2013.

employee or director shall be reimbursed up to \$1,500.00 per Fiscal year for dental and or optical expenses incurred by the employee, director and each eligible dependent. Reimbursement will be prorated \$750.00 per employee and dependent for January 1, 2012, through June 30, 2012. Unused annual allowances may not be carried over to subsequent years.

(c) As used herein, the term "dependent" refers to an officer's or an employee's spouse and dependent unmarried children up to 18 years of age, dependents as defined by law for full-time students, and dependent children regardless of age who are physically or mentally incapacitated. Documentation is required from school to verify full-time status.

Section 2-3.09 Life Insurance

Permanent full-time employees receive the life insurance benefits of the District's health and accident insurance plan in an amount and form as from time to time established by the Board.

Section 2-3.10 Workmen's Compensation Insurance

All employees shall receive the benefit of Workers' Compensation Insurance as provided by law.

Section 2-3.11 Leave Without Pay

An employee may request the General Manager for time off without pay in lieu of receiving any benefits provided. Such time off without pay may also be requested even though benefits as herein provided would not otherwise accrue. The General Manager shall approve or disapprove the request in sole discretion.

Section 2-3.12²⁰ Expenses

(a) Officers or employees required to use personal vehicles on District business by action of the Board or the General Manager, shall be reimbursed at the rate permitted by the IRS for reimbursement without declaration of income. Officers or employees shall file a claim for such reimbursement on a form from time-to-time established by the General Manager, not later than 30 days after the accrual of the claim.

(b) When the General Manager determines it is feasible and appropriate, the General Manager may use his aircraft on District business and shall be reimbursed at the rate of \$0.60 per air mile plus fuel.

Section 2-3.13²¹ Overtime Pay

(a) Regular working hours for permanent employees consist of five consecutive days, forty hours per week, or eight hours per day. A split shift consists of work by permanent employees for five non-consecutive days, forty non-consecutive hours per week, or eight non-

²⁰ Amended by Res. 06-07-658 on 7/18/06.

²¹ Amended by Res. 03-02-613 on 2/4/03.

consecutive hours per day.

(b) Full time employees, other than employees exempt under FLSA, who work in excess of their assigned work week shall be paid at a rate of 1.5 times the regular rate of pay for such excess work. Full-time employees who work on holidays shall be paid at twice the normal rate of pay.

(c) Part-time employees shall be paid at the rate of 1.5 times the normal hourly rate for work in excess of forty hours per week. Part-time employees shall be paid at the rate of 1.5 times the normal hourly rate for work in excess of forty hours per week on a holiday.

(d) An employee required to return to work unscheduled after a normal shift has ended shall be compensated at the rate of 1.5 times the normal hourly rate and shall receive not less than two (2) hours and not more than four (4) hours worth of compensation regardless of the amount of time actually worked at the rate of 1.5 times the normal hourly rate.

(e) Overtime shall be approved in advance by the General Manager.

(f) At the option of the employee and with the approval of the General Manager, an employee may take time off in lieu of overtime pay. If such compensatory time off is taken, it shall be taken at the rate it would have otherwise been paid as overtime worked. Compensatory time off shall be taken within a reasonable period after accrual.

Section 2-3.14 Probationary Periods

(a) Regular appointments, including promotional appointments, shall be for a probationary period of six months. During the probationary period, the employee may be removed without cause, and without the right of an appeal or hearing.

(b) An employee removed during the probationary period from a position to which the employee has been promoted shall be entitled to a hearing before the Board to determine to which position the employee shall be reinstated.

Section 2-3.15 Discharge, Reduction and Suspension

(a) Whenever the General Manager believes that it may be in the best interest of the District to discharge, reduce or suspend an employee, the General Manager shall provide the employee with an unsigned written statement, setting forth the basis for such preliminary determination and invite the employee to present a statement contesting the facts alleged in the preliminary notice or the conclusions stated therein. The amount of time given to the employee to respond shall be determined on a case-by-case basis after giving due consideration to the length of the employee's service, the gravity of the charges, and the proposed action. No advance notice need be given to any employee when an emergency exists for such action.

(b) The General Manager may discharge, reduce or suspend an employee for good cause after having complied with subparagraph (a) of this section. Notice of such action shall be given in writing and shall be served personally on the employee. The notice shall state the nature of the action taken and a summary of the reasons for such action.

Section 2-3.16 Appeal

An employee who has been discharged, reduced in rank or suspended for longer than ten working days, may appeal the action to the Board by notifying the General Manager and the Board within fifteen day after receipt of the notice required above.

Section 2-3.17 Hearing

Upon receipt of an appeal from an employee, the Board shall set a date for hearing. The Board may sit *en blanc* or assign the matter to one or more directors for hearing and recommendation. The Board, or the hearing officer, may compel the attendance of witnesses to testify under oath.

Section 2-3.18 Discrimination

No person employed or seeking employment with the District, shall be employed, promoted, discharged, reduced, suspended or in any way favored or discriminated against because of political opinions or affiliation, race, color, creed, sex, age, national origin or physical or medical disability or handicap.

Section 2-3.19 Nepotism

The District will not prohibit the employment of members of an immediate family in the same department or administrative unit, if the family member is not participating in making recommendations or decisions required by the job to affect the appointment, retention, work assignments, demotion, salary or working conditions of another family member. For the purposes of this section, the term "immediate family" shall mean mother, mother-in-law, father, father-in-law, spouse, son, daughter, brother, sister, grandparent, grandchild, son-in-law, daughter-in-law, uncle or aunt.

Section 2-3.20 Jury Duty

Permanent, full-time employees shall be given a leave of absence for service on a petite jury. The employee shall be paid regular district salary during such jury service if the employee endorses jury fee, but not expense reimbursement, to the district.

ARTICLE 4. ILLNESS AND INJURY PREVENTION PROGRAM POLICY

Section 2-4.01 General

(a) The goal of the District is to provide safe and healthful working conditions for employees. The District will maintain a safety and health program conforming to the best practices of agencies of this type. The District's safety and health program will include:

- (1) Providing mechanical and physical safeguards to the maximum extent possible.
- (2) Conducting a program of safety and health inspections to find and eliminate unsafe working conditions or practices, to control health hazards and to comply fully with the safety and health standards and law for every job.
- (3) Training all employees in good safety and health practices.
- (4) Providing necessary personal protective equipment, and instructions for use and care.
- (5) Developing and enforcing safety and health rules and requiring that employees cooperate with these rules as a condition of employment.
- (6) Investigating promptly and thoroughly, every accident to determine its cause and correct the problem so it will not happen again.
- (7) Developing a system of recognition and awards for outstanding safety service and/or performances.

Section 2-4.02 Program Responsibility

(a) Although the District recognizes the responsibility for safety and health is shared, the General Manager shall be responsible and have full authority for implementing this policy and the District's Injury and Illness Prevention Program.

(b) The District accepts responsibility for leadership of the safety and health program, for its effectiveness and improvements, and for providing the safeguards required to ensure safe conditions.

(c) Supervisory personnel are responsible for developing proper attitudes toward safety and health in themselves and in those they supervise, and for ensuring that all operations are performed with the utmost regard for the safety and health of all personnel involved, including themselves.

(d) An employee not practicing safety while performing duties of the job will be subject to appropriate discipline which may include termination.

Section 2-4.03 Injury and Illness Records

(a) The District's record keeping system for Injury and Illness Prevention Program shall conform to California Occupational Safety and Health Act of 1970 (ACal/OSHA@) standards. Records shall be used to measure and evaluate the success of the program.

(b) A report shall be obtained on every injury or illness requiring medical treatment.

(c) Each injury or illness shall be recorded on the Cal/OSHA log and Summary of Occupational Injuries and Illnesses, Cal/OSHA Form 200, according to its instructions.

(d) A supplementary record of the occupational injuries and illnesses shall be prepared on Cal/OSHA Form 5020, "Employees' Report of Injury or Illness," with the same information as herein.

(e) Annually the summary Cal/OSHA Form 200 shall be prepared and posted no later than February 1, in a place easily observable by employees. Said form shall remain posted until March 1.

(f) All records specified in this section shall be maintained in the District's files for a minimum of five (5) years after their preparation.

Section 2-4.04 Documentation of Activities

(a) Records shall be maintained of steps taken to establish and maintain the District's Injury and Illness Prevention Program including:

(1) Records of scheduled and periodic inspections as required by Cal/OSHA to identify unsafe conditions and work practices. The documentation must include the name of the person(s) conducting the inspection, the unsafe conditions and work practices identified, and the action taken to correct the unsafe conditions and work practices. The records are to be maintained for at least three (3) years.

(2) Documentation of safety and health training required by Cal/OSHA for each employee. The documentation must specifically include employee name or other identifier, training dates, type(s) of training and the name of the training provider. These records must also be kept for at least three (3) years.

Section 2-4.05 Program Communication System

(a) Readily understandable communication shall be maintained with affected employees on matters relating to occupational safety and health, including provision designed to encourage employees to inform the District of hazards at the worksite without fear of reprisal. Communications with employees shall include meetings, training programs, posted written information and a system of anonymous notification by employees about hazards.

(b) The District's Code of Safe Practices shall be posted at a conspicuous location in the District's maintenance office, and shall be provided to each supervisory employee who shall keep it readily available.

(c) Periodic meetings (at least one per quarter) of supervisory employees shall be held under the direction of the General Manager for the discussion of safety problems and accidents that have occurred. Documentation of these meetings shall be maintained for three (3) years.

(d) Supervisory employees shall conduct "toolbox" or "tailgate" safety meetings, or equivalent, with their crew(s) at least every ten (10) working days to emphasize safety. Documentation of these meetings shall be maintained for three (3) years.

(e) General meetings shall be conducted (at least one per quarter) at which safety is freely and openly discussed by those present. Such meetings should be regular, scheduled, and announced to all employees so that maximum employee attendance can be achieved. Documentation of these meetings shall be maintained for three (3) years. Discussions at these meetings should concentrate on:

- (1) Occupational accident and injury history within the District with possible comparisons to other similar agencies;
- (2) Feedback from employees; and
- (3) Guest speakers from the District's Worker's Compensation insurance carrier or other agencies concerned with safety.

(f) Training programs shall be conducted when new equipment, machinery or tools are purchased. Employees shall be instructed in the safe operation of said equipment, machinery or tools. Documentation of training programs shall be maintained for three (3) years.

(g) New employees shall be trained by their supervisor in the safe operation of the equipment, machinery and tools with which they will be working, prior to being allowed to work independently. Documentation of new employee training shall be maintained for three (3) years.

(h) Posters and bulletins relating to and encouraging safe and healthy practices shall be posted on a rotational basis at a conspicuous location in the maintenance office.

(i) News articles and publications devoted to safety shall be distributed to employees. This policy shall also be distributed to all employees upon its adoption, to all new employees at the time of their hiring, and annually thereafter.

(j) A safety suggestion box shall be maintained where employees, anonymously if desired, can communicate their concerns to the General Manager.

Section 2-4.06 Hazard Assessment and Control

(a) Periodic safety inspections shall be conducted to identify existing hazards in the workplace, or conditions, equipment and procedures which could be potentially hazardous. The inspections shall be conducted by personnel who, through experience or training, are able to identify actual and potential hazards and who understand safe work practices.

(b) Safety inspectors will observe if safe work practices are being followed and will ensure that unsafe conditions or procedures are identified and corrected properly.

(c) Safety inspections will be conducted at least annually. The frequency of the inspections will depend on the operations involved, the magnitude of the hazards, the proficiency of employees, changes in equipment or work processes, and the history of workplace injuries and illnesses.

(d) A written assessment shall be prepared after said inspections which will document identified hazards and prescribe procedures for the elimination of same, and measures that can be taken to prevent their recurrence.

(e) The General Manager will review written inspection reports and/or assessments and will assist in prioritizing actions and verify completion of previous corrective actions. The General Manager shall also review the overall inspection program to determine trends.

Section 2-4.07 Accident Investigation

(a) All accidents shall be thoroughly and properly investigated by the Maintenance Supervisor, with the primary focus of understanding why the accident or near-miss occurred and what actions can be taken to preclude recurrence. A written report of the investigation shall be prepared which adequately identifies the cause(s) of the accident or near-miss occurrence.

(b) The investigation must obtain the facts surrounding the occurrence; what caused the situation to occur; who was involved; was/were the employee(s) qualified to perform the functions involved in the accident or near-miss; were they properly trained; were proper operating procedures established for the task involved; were procedures followed, and if not, why not; where else this or a similar situation exists, and how it can be corrected.

(c) The accident investigator must determine which aspects of the operation or process require additional attention (what type of constructive action and eliminate the cause(s) of the accident or near-miss).

(d) Actions already taken to reduce or eliminate the exposures being investigated should be noted, along with those remaining to be addressed.

(e) Any interim or temporary precautions should also be noted. Any pending corrective action and reason for delaying its implementation should be identified.

(f) Corrective action should be identified in terms of not only how it will prevent a recurrence of the accident or near-miss, but also how it will improve the overall operation. The solution should be a means of achieving not only accident control, but also total operation control.

Section 2-4.08 Code of Safe Practices

(a) General:

(1) Employees shall follow these safe practices rules, render every possible aid to safe operations, and report all unsafe conditions or practices to the Maintenance Supervisor or General Manager.

(2) Supervising employees shall insist on employees observing and obeying

every rule, regulation, and order as is necessary to the safe conduct of the work, and shall take such action as necessary to obtain observance.

(3) Anyone known to be under the influence of drugs or intoxicating substances which impair the employee's ability to safely perform the assigned duties shall not be allowed on the job while in that condition, and will be subject to the discipline specified in the District's Controlled Substance Program.

(4) Horseplay, scuffling, and other acts which tend to have an adverse influence on the safety or well-being of the employees shall be prohibited.

(5) Work shall be well planned and supervised to prevent injuries in the handling of materials and in working together with equipment.

(6) No one shall knowingly be permitted or required to work while the employee's ability or alertness is so impaired by fatigue, illness, or other causes that it might unnecessarily expose the employee or others to injury.

(7) Employees shall not enter manholes, underground vaults, chambers or other similar places that receive little ventilation, unless it has been determined that it is safe to enter.

(8) Employees shall be instructed to ensure that all guards and other protective devices are in proper places and adjusted, and shall report deficiencies promptly to the Maintenance Supervisor.

(9) Crowding or pushing when boarding or leaving any vehicle or other conveyance shall be prohibited.

(10) Workers shall not handle or tamper with any electrical equipment, machinery, or air or water lines in a manner not within the scope of their duties, unless they have received instructions from the Maintenance Supervisor.

(11) Injuries shall be reported promptly to the Maintenance Supervisor so that arrangements can be made for medical or first aid treatment.

(12) When lifting heavy objects, the large muscles of the leg instead of the smaller muscles of the back shall be used.

(13) Materials, tools or other objects shall not be thrown from buildings or structures until proper precautions are taken to protect others from the falling objects.

(14) Employees shall cleanse thoroughly after handling hazardous or unhealthy substances, and follow special instructions from authorized sources.

(15) Work shall be so arranged that employees are able to face a ladder and use both hands while climbing.

(16) Gasoline shall not be used for cleaning purposes.

(17) No burning, welding or other source of ignition shall be applied to any enclosed tank or vessel, even if there are some openings, until it has first been determined that no possibility of explosion exists, and authority for the work is obtained from the Maintenance Supervisor.

(18) Damage to scaffolds, shoring or other supporting structures shall be immediately reported to the Maintenance Supervisor.

(b) Use of Tools and Equipment:

- (1) Tools and equipment shall be maintained in good condition.
- (2) Damaged tools or equipment shall be removed from service and tagged "DEFECTIVE".
- (3) Pipe or Stillson wrenches shall not be used as substitutes for other wrenches.

- (4) Only appropriate tools shall be used for the job.
- (5) Wrenches shall not be altered by the addition of handle-extensions or "cheaters".
- (6) Files shall be equipped with handles and not used to punch or pry.
- (7) Screwdrivers shall not be used as chisels.
- (8) Wheelbarrows shall not be used with handles in an upright position.
- (9) Portable electric tools shall not be lifted or lowered by means of the power cord. Ropes shall be used for this purpose.
- (10) In locations where the use of a power tool is difficult, the tool shall be supported by means of a rope or similar support of adequate strength.

(c) Machinery and Vehicles:

- (1) Only authorized persons shall operate machinery or equipment.
- (2) Loose or frayed clothing, or long hair, dangling ties, finger rings, etc., shall not be worn around moving machinery or other sources of entanglement.
- (3) Machinery shall not be serviced, repaired or adjusted while in operation, nor shall oiling of moving parts be attempted, except on equipment that is designed or fitted with safeguards to protect the person performing the work.
- (4) Employees shall not work under vehicles supported by jacks or chain hoists, without protective blocking that will prevent injury if jacks or hoists should fail.
- (5) Air hoses shall not be disconnected at compressors until hose line has been bled.
- (6) Excavations shall be visually inspected before backfilling, to ensure that it is safe to backfill.
- (7) Excavating equipment shall not be operated near tops of cuts, banks, and cliffs if employees are working below.
- (8) Tractors, backhoes and other similar equipment shall not operate where there is possibility of overturning in dangerous areas like edges of deep fills, cut banks, and steep slopes.

ARTICLE 5. CONTROLLED SUBSTANCE PROGRAM

Section 2-5.01²² Drug-Free Workplace Requirements

(a) The District has an interest in maintaining safe, healthful and efficient working conditions for all employees. Being under the influence of drugs or alcohol on the job poses serious safety and health risks to the user, to those who work with the user, and to the public. The possession, use, or sale of alcohol or drugs in the work place also poses unacceptable risks to safe, healthful and efficient operations. The District maintains a safe, healthful and efficient working environment for its employees and to protect District property, equipment and operations.

(b) The District subscribes to federal and state law goals for a "drug free" workplace. The District prohibits the manufacture, distribution, possession, sale, purchase, exchange, negotiation for sale or purchase, or use of controlled substances in the workplace. Employees will not report for work, stand-by, or call-out duty, when under the influence of alcohol, drugs, or controlled substances. As used in this policy, "controlled substances" does not include lawful use of prescription drugs which do not impair essential job functions.

(c) An employee shall not be at work, or at any site where District work is or will be performed, drive a vehicle on District business, or operate any District equipment, with any amount of controlled substances or alcohol in his or her system which, under the generally accepted standards applied by industrial safety consultants or hygienists, could be considered sufficient to impair the employee's ability to perform his or her job safely, efficiently, or productively. Impairment which could constitute a disciplinary offense need not reach the level of impairment required for a criminal conviction for use of controlled substances or driving under the influence. For example, in the case of alcohol consumption, the .04% standard stated in California Vehicle Code § 23153 for determining driving under the influence by commercial vehicle operators would constitute impairment. Similar standards applied to commercial vehicle operators for impairment by other substances will apply. Employees may not report to work under the influence of illegal drugs. An employee with a lesser amount of alcohol or an impairing legal controlled substance in his or her system may also be considered impaired if, in the opinion of an industrial safety consultant or hygienist, such amount was in fact impairing under the circumstances. Consumption of alcohol on the job, possession of open containers of alcohol on the job, or the ingestion or possession of impairing controlled substances or illegal substances while on the job shall constitute per se violations for which termination is authorized. Any conduct on the job that constitutes, or knowingly aids and abets in the manufacture, distribution, dispensing, transfer, or sale of controlled substances to any person, or that constitutes the provision of alcohol to a minor, shall constitute a per se violation of this policy for which termination is authorized.

(d) No employee should consider any vehicle, desk, locker, toolbox or other facility, equipment or property of the District to be his or her "private" property. The District may conduct unannounced searches of District vehicles, desks, lockers, toolboxes, facilities, equipment computers and District property for illegal drugs or alcohol, or other unlawful contraband or unlawful use of equipment. Employees who do not cooperate during such searches will be considered to be insubordinate.

²² Amended by Res. No. 12-05-707 on May 15, 2012.

(e) Searches of employees and their personal property may be conducted when there is reasonable suspicion that an employee is in violation of this policy. Any refusal to submit to a search could result in disciplinary action, up to and including termination.

(f) When an employee is placed on medication from a health care provider licensed by the State of California to prescribe medications, which may impair his or her ability to perform essential job functions, that employee must immediately notify his or her manager before returning to work. The District reserves the right to require employees to provide proof that any prescribed medication will not impair the employee in the performance of normal duties and will not create a unsafe environment for District employees or the public.

Section 2-5.02²³ Fitness for Duty Testing

An employee reasonably suspected of violating this policy, and who has not disclosed a substance abuse problem, will be requested to submit to a fitness for duty test which may include substance testing, which may require the employee to provide a sample of urine, saliva, or blood for chemical analysis. Any unreasonable refusal by the employee to submit to such testing may result in disciplinary action, up to and including termination. Reasonable suspicion exists when significant and observable changes in employee performance, appearance, behavior, speech, etc., provide reasonable suspicion of being under the influence of drugs and/or alcohol. A refusal to consent will not be deemed to be "reasonable" unless the employee had a right to refuse to give such consent under applicable state or federal law.

Section 2-5.03²⁴ Testing Requirements/Definitions

(a) Testing Requirements/Definitions:

(1) Pre-employment testing: As a pre-qualification to assuming any position, prospective employees who have received and accepted a conditional offer of employment are required to provide a body substance sample (saliva, blood, or urine) for drug testing. This occurs in conjunction with the pre-employment medical examination.

(2) Fitness-for-Duty or Reasonable Suspicion Testing: Testing may be required if significant and observable changes in employee performance, appearance, behavior, speech, etc., provide reasonable suspicion of being under the influence of drugs and/or alcohol. If reasonable suspicion exists, the employee will be referred to a medical professional for evaluation. The medical professional will evaluate the employee, and, based on the evaluation, determine whether a test for drugs and/or alcohol shall be administered.

(3) Accident or Incident: Testing may be required when an accident or incident occurs which creates reasonable suspicion of impairment of ability or judgment due to alcohol or drugs. Post-accident alcohol tests shall be administered within eight (8) hours following an accident. A post-accident drug test shall be administered within thirty-two (32) hours following an accident.

a. An "accident" is defined as an incident involving a vehicle where, as a result of damage:

i. a vehicle must be transported away from the site of the accident; or

²³ Amended by Res. No. 12-05-707 on May 15, 2012.

²⁴ Amended by Res. No. 12-05-707 on May 15, 2012.

- ii. a vehicle cannot depart from the site in its usual manner without some repair and/or maintenance; or
- iii. a vehicle can depart from the site in its usual manner but will later require some repair and/or maintenance for safe operation; and/or
- iv. bodily injury occurs to the driver and/or another

individual(s):

- a) which requires medical attention to said driver and/or another individual; and/or
- b) which results in death.

(4) "Legal drug" includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they are prescribed or manufactured.

(5) "Illegal substance" means any drug which is not legally obtainable, or which is legally obtainable but has not been legally obtained. The term includes prescribed drugs not being used for prescribed purposes.

(6) An employee is "under the Influence" of an illegal substance, alcohol, or legal substance that interferes with an employee's ability to perform their essential duties, if any measurable amount of a substance, or a metabolite of that substance, is detected in the employee's circulatory system through a blood analysis, urine screen, or saliva test.

(b) General Information / Process.

(1) District will make every effort to protect the confidentiality of drug and/or alcohol test results.

(2) Non-Compliance with a supervisor's request to submit to a fitness for duty test and/or drug or alcohol test under these policies, noncompliance with a supervisor's request that the employee leave the work area, or any other reasonable request designed to safeguard the quality of care, the working environment and/or safety of the workplace, the employees or the public, is viewed as insubordination and is subject to appropriate disciplinary action.

(3) Negative test results warrant re-instatement and pay for the time off work, unless other factors warrant termination or discipline, such as an admission of current illegal drug use or poor performance.

(4) Violation of any aspect of this policy may lead to corrective action, up to and including immediate termination of employment. Such violation may also have legal consequences.

(5) All test results will be reviewed by an appropriate licensed medical professional to ensure the positive results are not caused by legitimate use of prescription medication.

(6) Test results are not revealed to outside agencies or employees unless required by legal process including licensing agencies, unless the information is placed at issue in a formal dispute between the employer and employee, to the extent necessary to administer an employee benefit plan (such as a health insurance plan), or where the information is needed by medical personnel to treat an employee during an emergency when the employee is unable to authorize disclosure. (31 C.F.R. 56.20(c).)

(7) An employee suspecting another employee is under the influence, or smells of alcohol, is obligated to inform that employee's supervisor of his/her suspicion.

Section 2-5.04²⁵ Test Results

Any employee involved in the manufacture, distribution, or sale of a controlled substance, whether or not such action occurred at the workplace, or found to have provided a controlled substance to another employee, will be terminated. Employees who have been made a conditional offer of employment must submit to and pass a drug-screening test. Offers of employment are conditional and subject to the passing of a drug screen for prohibited substances. Failure of an applicant to pass or to submit to the drug screen will result in the applicant's disqualification for employment.

(a) Employees must provide, within twenty-four (24) hours of a request, verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the employee's name.

(b) Employees must notify their supervisor of any arrest or conviction under a criminal drug statute within five (5) working days of the arrest or conviction. (Disciplinary action shall not be taken based solely on the arrest, however, disciplinary action may be taken based upon the failure to notify).

(c) Failure of an employee to comply with this policy or failure to consent to "for cause" and/or pre-placement testing will result in termination or withdrawal of employment offer. Any attempt to adulterate, dilute, or substitute a test specimen is a "refusal-to-test."

(d) Employees shall be advised in writing of the District's Alcohol and Drug Abuse Policy and Program. Selected managers and supervisors shall attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substances misuse, to include the following issues:

- (1) Employee Assistance Programs ("EAP")
 - a. Alcohol and drug abuse recognition, symptoms and effects.
 - b. Methods of identifying and helping employees who might be suffering from personal problems that could signal possible alcohol or drug problems.
 - c. Methods of referring employees who may be subject to the effects of alcohol and/or drugs to the EAP.
- (2) District policies and procedures related to handling employees who appear to be under the influence.
- (3) Documentation of observations and impressions of persons who show effects of alcohol and/or illegal drugs and reasonable suspicion.
- (4) Alcohol and drug testing policy, rules, procedures, and safeguards.
- (5) Benefit programs and alternatives available.
- (6) Safety aspects of alcohol or drug problems in both work and social environment.
- (7) Training shall be at District expense.

²⁵ Amended by Res. No. 12-05-707 on May 15, 2012.

Section 2-5.05²⁶ Positive Test Consequences

(a) An employee found to be in violation of these rules will be disciplined by the General Manager. The discipline will be based on the seriousness of the offense and the nature of the employee's job.

(b) An employee may seek counseling or treatment for alcohol or substance abuse privately, or through a District health insurance provider. An employee who voluntarily discloses a substance abuse problem will not be disciplined solely based on the above-described drug or substance abuse, if the employee voluntarily agrees to a certified rehabilitation program and testing and remains in compliance with this policy.

(c) Violation of this policy may result in the following, depending on the severity of the violation:

(1) An employee testing positive for a controlled substance will be immediately placed on leave and may be required to complete a certified rehabilitation program approved by the District. The employee will be offered a "Last Chance Agreement" detailing terms under which the employee may be allowed to return to work following successful completion of a rehabilitation program. Failure of the employee to complete the program and required conditions (which may include follow-up testing) will result in immediate termination.

(2) Any employee testing positive for a controlled substance within one year following rehabilitation will be terminated immediately.

Section 2-5.06 Fitness for Duty Testing²⁷

(a) If the District has the reason to believe the employee is not fit for duty the employee may be required to submit to a test for drugs by a trained professional. If an employee refuses to submit to the rapid eye test, step (b) will become effective immediately.

(b) If the District has the reason to believe the employee is not fit for duty, the employee will be suspended pending investigation and asked to provide at the District's option, a blood or urine sample which will be tested for prohibited substances. If an employee refuses to sign a waiver form authorizing the test and the reporting of its results to the General Manager, the employee will be discharged.

Section 2-5.07 Test Results²⁸

The results of eye, blood, urine and breath tests will be disclosed by the tester or laboratory only to the employee and the General Manager. Management will limit disclosure to those employees who have a need to know.

²⁶ Amended by Res. 12-05-707 on 5/15/12.

²⁷ Repealed by Res. 12-05-707 on 5/15/12.

²⁸ Repealed by Res. 12-05-707 on 5/15/12.

ARTICLE 6. HARASSMENT POLICY

Section 2-6.01 General

(a) Harassment of an applicant or employee by a supervisor, management employee or co-worker on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex or age is against the law and will not be tolerated.

(b) Disciplinary action, including termination, will be instituted for behavior described in the following definition of harassment.

Section 2-6.02 Definitions

For purposes of this section, harassment includes, but is not limited to:

(a) Verbal Harassment - For example, epithets, derogatory comments or slurs on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex or age.

(b) Physical Harassment - For example, assault, impending or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical conditions, marital status, sex or age.

(c) Visual Forms of Harassment - For example, derogatory posters, notices, bulletins, cartoons or drawings on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical conditions, marital status, sex or age.

(d) Sexual Favors - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employment benefit, unreasonably interferes with an individual's work performance or creates an offensive work environment.

Section 2-6.03 Procedure

(a) To accommodate the unique nature of harassment complaints, a pre-grievance process is provided for the primary purpose of resolution of a complaint at the earliest possible date. Elements of this process are set forth below:

(1) An employee should inform the supervisor and at a minimum, the General Manager, of the grievance, preferably in writing.

(2) The District's General Manager will, at a minimum, perform the following:
(i) Counsel employees and outline available options; and
(ii) Obtain written statements of the alleged harassment for review by appropriate Department head; and

(c) Assist in follow up including investigation, interviewing accused party(ies), witnesses, and supervisors as appropriate, and recommending disposition of the complaint.

(d) Formal grievance procedures follow and are available for resolution of complaints alleging harassment if the complaint is not concluded to the satisfaction of the employee in the pre-grievance process. This formal process requires written notification be given the General Manager regarding the initial complaint and the reason(s) final resolution reached during the pre-grievance process is not satisfactory.

(1) A formal grievance complaint must be filed within 30 working days of the resolution which resulted from the pre-grievance procedure. The time limits for filing a formal grievance will begin as of the date of notification of the pre-grievance result.

(2) Every effort will be made to protect the privacy of parties involved in the complaint. Files pertaining to complaints will not be made available to the general public.

(3) The General Manager shall expedite and direct investigation of complaints filed with the Personnel Office including review of factual information collected to determine whether the alleged conduct constitutes harassment, giving consideration to the record as a whole and the totality of circumstances, including the nature of the verbal, physical, visual or sexual favor aspect of any complaint and the context in which the alleged incidents occurred and recommend, in writing, appropriate action as soon as administratively possible but no longer than 30 calendar days from receipt of a complaint in the Personnel Office.

(4) If the employee does not initiate formal grievance procedures within the time limits specified, the General Manager may recommend extension of the filing deadline for a formal complaint. It should be re-emphasized that the District wishes to know of any complaint alleging harassment as soon as possible after it occurs.

(c) Preliminary informal steps to resolve a grievance may, depending on circumstances of the complaint, be waived and formal grievance initiated at an appropriate higher step in the process.

Section 2-6.04 Notices

All employees, supervisors and managers shall be given copies of this policy and this policy shall be posted in appropriate places in the District.

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PART 3. FINANCIAL

ARTICLE 1. REPORTS AND BUDGETING

Section 3-1.01²⁹ Revenue

Revenue accruing to the District shall be used to improve and maintain the aeronautical facilities. Aeronautical revenue shall be used exclusively to improve and maintain aeronautical facilities. Non-aeronautical revenue may be used for any District purpose.

Section 3-1.02 Budget

(a) The General Manager shall prepare the proposed budget for the District's operations and present the same to the Board together with recommendations on or before the 1st regular meeting of the Board in each June of each fiscal year.

(b) The Board shall review the proposed budget for the District at its first regular meeting in June of each fiscal year. The meeting may be continued and shall be open to the public.

(c) On or before September 1 of each year, the Secretary shall file with the County Auditor of Kern County, a copy of the District's budget. If the District has not adopted a formal budget, the Secretary shall file a listing of anticipated revenues, together with the District's expenditures and expenses for the fiscal year in progress.

Section 3-1.03 System of Accounts

The Finance Director shall maintain sufficient books and records to accurately reflect the financial condition of the District and shall consult with the District's independent auditor to determine whether the books and records are adequate to meet the requirements of applicable law.

Section 3-1.04³⁰ Accounting Funds: Established

The following accounting funds are established for the purposes set forth herein:

(a) General (Enterprise) Fund: For purposes not set forth in the remaining funds, including the special crash, fire and rescue account for the acquisition and maintenance of crash fire and rescue vehicles and equipment;

(b) Petty cash account for miscellaneous purchases not to exceed \$100.00 each or \$400.00 per month in the aggregate;

(c) Special Aviation Fund(s): For State Grant monies;

(d) Capital Project Fund(s): To account for major grants (other than State Aviation

²⁹ Amended by Res. 02-07-605 on 7/2/02.

³⁰ Amended by Res. 12-06-709 on 6/19/12.

Fund grants) received for airport improvements which are required to be placed into a special accounting fund;

(e) Safety Fund: For safety purposes, including without limitation: the purchase of land to prevent encroachment of aviation activities; repair and maintenance of runway and taxiways; purchases of equipment that will be used to maintain runways and taxiways; and matching grant funds from FAA and others. Funds will be distributed upon the approval of the CFO, CEO, and Board. Two signatures will be required on all transactions; and

(f) Other: Such other accounts as may be necessary and appropriate.

Section 3-1.05 Accounting Fund: Transfers

(a) Monies received by the District shall be added to the General Fund (Enterprise) except grant funds received from State agencies shall be added either to the Special Aviation Fund or Capital Project Fund as appropriate.

(b) The Board shall authorize all transfers.

(c) Disbursed monies shall be debited from the appropriate fund when payment is authorized.

Section 3-1.06³¹ Checking Accounts

(a) The following checking accounts shall be established at financial institution(s) from time-to-time approved by the Board and money needed for current expenses shall be deposited in these checking accounts:

(1) General Checking Account: For general (enterprise) and Capital Project fund obligations; including for special crash, fire and rescue account purposes; and the general fuel account obligations;

(2) Payroll: For District payroll;

(3) Petty Cash: For petty cash account obligations;

(4) Special Aviation: For special aviation fund obligations.

(b) Monies shall be disbursed from the foregoing checking accounts, including by telephone transfer, upon signature of the following:

(1) General: two Directors or a Director and the General Manager;

(2) Payroll: one Director or the General Manager;

(3) Petty Cash: one Director, the General Manager, or the Executive Secretary; and

(4) Special Aviation: two Directors or a Director and the General Manager.

(c) Telephone transfer authorization may be used to transfer money between the general fund account and payroll account, upon signature of the General Manager, Finance Director or Administrative Assistant.

³¹ Amended by Res. 02-07-605 on 7/2/02.

Section 3-1.07 Investment Accounts

(a) The Treasurer may invest surplus monies of the District without first securing further Board approval in the following types of investments:

- (1) Local Agency Investment Fund of the State of California.
- (2) Time certificates of deposits issued by a nationally or state chartered bank or a state or federal association located within the State of California if secured by federal insurance or approved collateral at the required percentage of market value.
- (3) United States treasury notes, bonds, bills, or certificates of indebtedness or those for which the full faith and credit of the United States are pledged for payment of principal and interest.

(b) The Board may authorize the Treasurer to invest surplus monies of the District in the following additional types of investment:

- (1) Bonds issued by the District.
- (2) Registered state warrants or treasury notes of the State of California or by a department board, agency or authority of the State.
- (3) Bonds, notes, warrants for other evidences of indebtedness of any local agency within this state.
- (4) Obligations issued by banks or cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participation or other instruments of or issued by or fully guaranteed as to principal and interest by the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participation or other instruments of, or issued by a federal agency, or a United States Government sponsored enterprise.
- (5) Repurchase agreements of any securities authorized by this resolution.
- (6) Time certificates of deposit issued by a nationally or state chartered bank or a state or federal association located outside of the State of California if secured by federal insurance.

(c) No investment shall be purchased:

- (1) On margin;
- (2) "Forward" or "in the future;@
- (3) Which are based upon foreign currency;
- (4) Which are shares of a beneficial interest that are issued by diversified management companies as described in Government Code Section 53601(1).
- (5) Which are inverse floaters, range notes, interest only strips derived from a pool of mortgages or any security resulting in zero interest if held to maturity.

(d) Investments may be short-term or long-term in nature. Long-term investments are those which comply with the requirements of Government Code Sections 53601 *et seq.* and with a maturity date greater than five (5) years from the date of purchase. No long-term investment shall be made unless the Board has granted express authority to make that investment either specifically or as a part of an investment program no less than three months

prior to the investment purchase date.

Section 3-1.08 Investment Procedure

(a) In making the above investments the District shall observe the limitations contained in Government Code, including Section 53601, and stated in this code.

(b) The Treasurer is responsible for selection the proper mix of investments. The primary investment goal of the district is to safeguard the principal of the fund. The secondary investment goal is to meet liquidity needs of the District. The third investment goal is to achieve return on investment.

(c) When deposits or investments owned by the District mature or when other monies are available for investment or deposit, the monies may be deposited or invested in the Local Agency Investment Fund or other permitted investments.

(d) All investments shall be held in the name of the District. All investment documents shall be held for safekeeping in the District vault or in depository approved by the Board. The Board shall, from time to time, execute such documents as are necessary to provide evidence of the Treasurer's trading authority as set forth in this resolution.

Section 3-1.09 Reports

(a) The Treasurer shall present quarterly reports on investments to the General Manager and Board of Directors. The report shall show: the type of investment; date of investment; how title is held; institution; date of maturity; par value; amount of each investment; current market value for all securities with a maturity of more than 12 months; rate of interest; confirmation that each investment is consistent with this investment policy; information showing expenditure requirements can be met in the following quarter and specify which investments were made pursuant to Government Code Section 53601(i), 53601.1 and 53635(i). For money managed by LAIF, a county investment pool or placed in FDIC insured accounts, the Treasurer may use the statement from these institutions in lieu of separate report.

(b) The General Manager, Treasurer and District Counsel (hereinafter collectively "investment review committee") shall review all investments held by the District semi-annually on or about January 1 and July 1 of each year.

(c) This investment policy shall be reviewed annually or more often, as necessary. The Treasurer shall annually recommend a statement of investment policy. The Board shall consider the Treasurer's recommendation at a public meeting.

ARTICLE 2. CLAIMS

Section 3-2.01 Claims and Demands

(a) This section applies to claims filed against the District for money or damages not covered by Government Code Section 905 from Chapter 1 (commencing with 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of the Government Code and which are not governed by any other statutes or regulations, including but not limited to claims filed by local governmental agencies and employees.

(b) A claim, or amendment filed pursuant to this section, shall be presented to the District by delivering it to the Secretary or by mailing it to the Secretary or Board at its principal offices.

(c) A claim filed pursuant to this section shall be presented by the Claimant or by a person acting on behalf of the claimant and shall show:

- (1) The name and post office address of the claimant
- (2) Post office address to which the person presenting the claim desired notice to be sent;
- (3) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted;
- (4) The general description of the indebtedness, obligation, injury, damage or loss incurred so far as may be known at the time of presentation of the claim;
- (5) The name or names of the public employee or employees causing the injury, damage or loss if known;
- (6) The amount claimed as of the date of presentation of the claim, including the estimated amount of a prospective injury, damage or loss insofar as it may be known at the time of presentation of the claim, together with the basis of computation of the amount claimed; and
- (7) The signature of the claimant or some person on his behalf.

(d) A claim filed pursuant to this section relating to a cause of action for death or for injury to person or to personal property or growing crop shall be presented as provided herein not later than the 100th day after accrual of cause of action. A claim relating to any other cause of action shall be presented as provided herein not later than one year after the accrual of the cause of action.

(e) A claim filed pursuant to this section shall be presented within a period of less than one year after the accrual of the cause of action, is not presented within the required time, an application may be made to the District for leave to present such claim. Section 911.4(b), and Sections 911.6 through 912.2 inclusive, and Sections 946.4 and 946.6 of the Government Code are applicable to such claims, and the time specified in this section shall be the time specified in Section 911.2 of the Government Code within the meaning of Sections 911.6 and 946.6 of the Government Code.

(f) The Board shall act on the claim within 45 days after the claim has been presented to the District.

(h) Written notice of any action taken pursuant to this section rejecting a claim in whole or in part shall be given to the person who presented the claim.

Section 3-2.02 Limitations

The provisions of Code of Civil Procedure Section 1094.6 shall be applicable to the judicial review of the decisions of the Board.

ARTICLE 3. PROCUREMENT

Section 3-3.01 Contracts

(a) Public works contracts entered into by the District shall contain provisions required by state and federal law and regulation. Contract documents shall be prepared by District Counsel to ensure compliance with such laws and regulations. Reference is particularly made to the Davis-Bacon Act (40 USC SS 276(a) et seq.) and to the Energy Policy and Conservation Act (42 USC SS 6201 et seq.).

(b) The Secretary shall publish and post notices required by such laws and regulations.

(c) In the event of conflict between state and federal requirements, the federal requirement shall prevail unless both requirements can be followed.

(d) Board action is required prior to a disbursement affecting the General or Special Aviation Fund checking account. Board ratification may be obtained after disbursements from the Payroll or Petty Cash checking accounts.

Section 3-3.02 Procurement for Emergency Repairs

(a) Labor and material necessary for emergency repair or replacement of public facilities of the District damaged by unanticipated calamity may be taken without giving notice for competitive bids if provisions of this Section are followed.

(b) By 4/5's vote, the Board of Directors may authorize procurement of labor or material without bidding to make emergency repairs or replacements. Such authorization shall be based on substantial evidence set forth in the minutes of the meeting that the emergency will not permit delay and action is necessary to respond to the emergency. The need to continue or terminate the authorization shall be reviewed at each subsequent regular meeting until the emergency subsides or the work is complete.

(c) The General Manager may authorize the procurement of labor or material without bidding to make emergency repairs or replacements when a meeting of the Board of Directors cannot be commenced to authorize emergency action in a timely manner. The General Manager shall report to the Board of Directors within seven (7) days of the emergency or at the next regular meeting scheduled within fourteen (14) days after the action. At every regular meeting following the General Manager's action, the Board of Directors shall determine by 4/5's vote whether the need for emergency action continues.

Section 3-3.03³² General Manager Authority

The General Manager is authorized to enter into contracts of \$25,000.00 or less for the procurement of goods, services or works on behalf of the District. At the next regularly scheduled Board meeting, the General Manager shall report any contracts executed under this section. This provision shall be void, unless reauthorized by the Board, upon the hiring of a

³² Added by Reso. 08-04-672 on April 1, 2008.

new General Manager.

ARTICLE 4. SALES

Section 3-4.01 General

The board shall establish policy on the sale of goods and services.

Section 3-4.02 Leases

The board shall establish a standard rent for Tie-downs and T-hangars. The General Manager may enter into such leases. The board shall approve the rent for other leases.

Section 3-4.03 Fuel³³

The board shall establish a profit goal for fuel sales. The General Manager shall establish fuel sale rates within the board's policy. Jet A fuel may be discounted to volume or cash customers. The board shall establish the discount rate. The General Manager has the authority to negotiate the price per gallon of fuel sold for purchases of 10,000 gallons or more.

Section 3-4.04 Surplus Property

The board shall authorize the sale of surplus property and the terms of the sale.

Section 3-4.05 Delinquent Charges³⁴

(a) A charge shall be levied against delinquent credit accounts other than fuel accounts. The finance charges shall commence as set forth in the lease agreement. The finance charge shall be up to 1% per month, or part of month, and shall not to exceed twelve percent (12%) annually.

(b) Generally, fuel will be sold on a cash basis. However, fuel will be sold on credit to holders of Chevron credit cards, bank cards, or to tenants with the approval of the general manager based on the tenant's credit worthiness. For convenience, tenants approved for purchase of fuel on credit will be called "fuel credit accounts" in this section. The terms for fuel credit accounts are:

(1) A tenant desiring to open a fuel credit account shall make application to the finance officer on using forms, supplied by the District. The finance officer shall recommend action on the application and the general manager shall act on the recommendation.

(2) The finance officer shall render an invoice to each fuel credit within fifteen days after the fuel is delivered. Fuel credit accounts are due for payment thirty days after the invoice is tendered.

(3) Fuel credit accounts not paid in full on the due date are delinquent. Delinquent accounts shall have interest at the rate of 1% per annum from the first date of the month that the invoice is tendered until sixty days thereafter or until paid, whichever occurs first, and shall bear interest at the rate of 1½ % per annum from the 61st day of delinquency

³³ Amended by Reso. 13-06-716 on June 18, 2013.

³⁴ Amended by Reso. 08-05-673 on May 20, 20008.

until paid.

(4) Credit will not be extended to fuel credit accounts which have been delinquent for sixty days or more.

(c) Any account that appears on the financial "aging report" for two consecutive months may be turned over to a collection agency or, in the case of a lease, issued a notice to pay or quit, in the discretion of the General Manager. Any item that appears on the "aging report" for three or more consecutive months will be brought to the attention of the Board for appropriate action.

Section 3-4.06 Credit Checks

(a) No lease shall be approved unless the finance director shall have first obtained evidence of satisfactory credit history for the tenant.

(b) The finance director shall obtain evidence of satisfactory credit for existing tenants who are delinquent by 50 days, or more.³⁵

³⁵ Amended by Reso. 04-02-627 on 2/20/04.

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PART 4. PROPERTY

ARTICLE 1. REAL PROPERTY

Section 4-1.01 Development Leases

The Board may authorize leases for a term not to exceed fifty-five (55) years for the development of unimproved real property. Said leases shall be in a form established by the Board.

Section 4-1.02 Long Term Leases

The Board may authorize long term leases for a term in excess of two (2) years and not to exceed fifty-five (55) years for the use of improved property in a form established by the Board.

Section 4-1.03³⁶ Short Term Leases

The Board authorizes the General Manager to enter into month-to-month leases in a form established by the Board.

Section 4-1.04³⁷ T-Hangar Agreement

T-Hangars are to be used primarily for aeronautical purposes, and storage of aircraft and aircraft parts.

Section 4-1.05 Tie-down Agreement

The General Manager may enter into month-to-month Tie-down Agreements on behalf of the District in a form established by the Board.

Section 4-1.06 Special Use Agreement

The Board may authorize special use agreement for intermittent or occasional use of District property. The General Manager may authorize permits for the use of airport property when such use does not interfere with airport operations and when such use does not extend for a period of more than 2 days or involve consideration in excess of \$1,000.00.

Section 4-1.07 Insurance and Indemnification

Agreements entered into by the District for use of District property shall contain provisions for naming the District as an additional or co-insured on a policy or policies of liability insurance procured by the user of District property and indemnifying the District from costs, liability or damages resulting from the user's activities, provided, when the user of District property is a California public agency, such agency shall not be required to provide a certificate or certificates of insurance.

³⁶ Amended by Reso. 13-11-722 on Nov 5, 2013.

³⁷ Amended by Reso. 13-11-722 on Nov 5, 2013.

Section 4-1.08³⁸ Assignment of Leases

In the event a tenant desires to assign a lease, and such assignment requires Board approval, the Board shall review the lease to determine if it conforms to the most recent rules and regulations of the District and to adjust the rent, if necessary, to conform to current rental rates of the District.

³⁸ Added by Reso. No. 08-05-674 on May 20, 2008.

ARTICLE 2. AERONAUTICAL OPERATIONS

Section 4-2.01 General

Aeronautical activities at Mojave Airport shall be in conformance with applicable state and federal laws, rules and regulations and with District rules and regulations as set forth herein. Violation of District rules and regulations shall constitute cause for the levying of fines or termination of privilege to use or lease District property.

Section 4-2.02 Fees and Impounding³⁹

(a) An aircraft owner or agent failing to pay a fee duly charged for aircraft owned or controlled by the owner or agent shall have such aircraft subject to impoundment until such fees are paid or the aircraft sold for charges.

(b) The following fees, based upon aircraft weight, are established for the privilege of aircraft storage at the Mojave Airport:

<u>GROSS AIRCRAFT TAKE OFF WT.</u>	<u>MONTHLY RATE</u>
0 - 4,000	\$ 25 (single engine)
0 - 5,000	\$ 40 (multi-engine)
5,000 - 10,000	\$ 50
10,000 - 50,000	\$ 75
50,000 - 100,000	\$100
100,000 - 200,000	\$200
200,000 - 300,000	\$250
over 300,000	\$300

(c) Rates for T-hangars shall be \$0.12/square foot, effective immediately for new month-to-month leases and effective January 1, 2003, for existing month-to-month leases.

(d) In the absence of a month-to-month tie-down agreement, the aircraft parked at the airport overnight shall pay the following fees:

<u>TYPE OF AIRCRAFT</u>	<u>24-HOUR RATE</u>
Single engine land	\$ 5.00
Multiple engine land	\$ 10.00
Turbine less than 12,500 pounds gross weight	\$ 15.00
Turbine between 12,500 and 100,000 pounds gross weight	\$ 75.00
Turbine greater than 100,000 gross Weight	\$ 250.00

The General Manager may waive this tie-down fee if fuel is purchased.

³⁹ Amended by Res. 03-12-624 on 12/2/03.

Section 4-2.03 Categories of Use

For the purposes of this Code, use of the airport facilities is defined as follows:

- (a) Class I Use: Commercial aviation activities including all use of the airport by scheduled or non-scheduled certified or chartered air carriers.
- (b) Class II Use: Industrial aviation activities including the use of airport by operators of aircraft where such operation is for the purpose of testing, constructing, reconstructing or modifying said aircraft or appurtenants thereto.
- (c) Class III Use: Business aviation activities including all use of the airport by operators of aircraft where such operation is for the purpose of securing economic gain where such gain is incidental to the operation of the aircraft.
- (d) Class IV Use: Aircraft activities incidental to fixed base operations, including flight instruction and all other profit making activities not described in Classes I, II and III hereinabove.
- (e) Class V Use: General aviation activities including all use of the airport by operators of aircraft for recreational purposes provided, such operation does not involve uses described in Classes I through IV hereinabove.

Section 4-2.04 Operations Permit

(a) Persons engaging in Class IV operations other than long-term tenants, shall obtain an Operations Permit from the Manager on or before the first day of January each year. The permit shall contain the following information:

- (1) Permittee Name;
- (2) Permittee Address;
- (3) Permittee Telephone Number;
- (4) Nature of Activity;
- (5) Number of take-offs and landings expected per month;
- (6) Registration number of each aircraft owned or used by applicant; and
- (7) An insurance certificate indicating the District has been named an additional insured on the Permittee's insurance policy and showing that the District will receive 30-days prior written notice of a change in the certificate. Coverage is to be in the amount of at least \$300,000 per person and \$300,000 in the aggregate.

(b) Permits shall be issued by the General Manager on a non-discriminatory and non-exclusive basis provided, the permit may be denied or revoked by the Manager if the applicant has violated airport rules and regulations within the past 12 months and provided further if the Manager denies or revokes the application, the applicant may appeal the decision to the Board.

Section 4-2.05⁴⁰ General Regulations

- (a) Pilots shall become acquainted with the field rules and regulations.
- (b) Fixed base operators shall familiarize customers and employees with the airport rules and regulations.
- (c) Pilots and air crew shall be guided by the rules promulgated by the Federal Aviation Agency except as otherwise specified.
- (d) Aircraft shall not be operated on the ground or in flight in such a manner as to cause unnecessary noise.
- (e) Airport based aircraft must be covered by BI&PD in the amount of \$100,000/300,000-100,000, providing a certificate of insurance to the District and providing ten (10) days written notice to District of cancellation.
- (f) Witnesses and participants in aircraft accidents occurring on or within the airport shall make a full report to the General Manager, Deputy General Manager, or Chief Operations Officer, or person designated by the Chief Executive Officer, as soon after the accident as is practicable, together with names and addresses.
- (g) Aircraft shall not be left unattended unless properly secured or within hangar. Owners of such aircraft shall be held responsible for damage to other aircraft or property.
- (h) Aircraft shall be stored and repairs made only in areas designated for that purpose by the General Manager, Deputy General Manager, Chief Operations Officer, or person designated by the Chief Executive Officer.
- (i) Pilots, air crew, and persons attending or assisting in operations shall not be under the influence of intoxicating liquor or habit-forming drugs, nor shall such person obviously under the influence of intoxicating liquor or habit-forming drugs be permitted to board aircraft, except a medical patient under proper care or in case of emergency.
- (j) Persons shall not take or use any aircraft, aircraft parts, instruments or tools pertaining thereto owned, controlled or operated by any other person while such aircraft, aircraft parts, instruments or tools are stored, housed, or otherwise left on airport or within its hangars without the written consent of the operator thereof, except upon satisfactory evidence of the right to do so duly presented to the General Manager, Deputy General Manager, Chief Operations Officer, Security Manager, or person designated by the Chief Executive Officer.
- (k) Persons desiring to base aircraft at Airport must register the aircraft at the Airport Office prior to beginning operation and any time a change in ownership occurs.
- (l) Every aircraft owner, pilot and agents severally shall be responsible for the prompt removal, under the direction of the General Manager, Deputy General Manager, Chief Operations Officer, Security Manager or person designated by the Chief Executive Officer, of

⁴⁰ Amended by Reso. No. 13-11-722 on Nov 5, 2013.

wrecked or damaged aircraft.

(m) Persons shall not enter a restricted area posted or closed to the public except as authorized by the General Manager, Deputy General Manager, Chief Operations Officer, Security Manager or person designated by the Chief Executive Officer.

(n) Animals shall not be permitted on the airport unless leashed or restricted to be under control.

(o) Only minor preventive maintenance may be performed in Tie-down areas.

(p) No tools, tool boxes, cans, ladders or boxes of any description may be left on the airport.

(q) Persons shall not reside in hangars as a primary residence. Persons may occupy as necessary with written permission of the Chief Executive Officer, General Manager, Deputy General Manager, Chief Operations Officer or person so designated by the Chief Executive Officer.

(r) Areas between T-Hangars and Box Hangars in the west-end general aviation area shall remain clear of obstructions.

Section 4-2.06 Starting Engines

(a) Aircraft engines shall not be started or run unless a competent operator is at the controls and unless the aircraft is equipped with adequate brakes, fully applied, or the wheels are securely blocked with blocks that can be removed safely.

(b) Aircraft shall be started and warmed up only at such places as the Airport Manager shall designate for such purpose.

Section 4-2.07 Taxiing

(a) Aircraft shall not be taxied into or out of a hangar.

(b) Aircraft shall be taxied at a safe speed and in no case in excess of 15 miles per hour.

(c) Cockpit and engine checks shall be made at the run-up area.

Section 4-2.08 Pattern

The aircraft traffic pattern for the airport shall be the pattern on file with the Division of Aeronautics.

Section 4-2.09 Take-offs and Landings

Touch and Go landings shall be permitted only after the pilot of the aircraft has notified

the Unicom Operator.

Section 4-2.10 Parking of Aircraft

(a) Permanently based aircraft shall be parked in Tie-down areas or in a hangar under license or lease.

(b) Transient aircraft shall be parked in areas designated for transient parking.

(c) Flying school and rental aircraft shall be parked only in the Tie-down area assigned by the Airport Manager.

(d) When directed by the Airport Manager the owner, operator, or pilot shall move the aircraft from the place where it is parked or stored to another designated place. If the directions are not followed, airport personnel may tow the aircraft to the other place at the operator's expense and without liability for damages.

Section 4-2.11⁴¹ Fuel Handling

(a) Except as provided herein, the District shall be the only handler at Mojave Airport. The District shall coordinate or conduct all defueling operations at Mojave Airport and be responsible for the handling of salvage fuel. As used herein, "salvage fuel" means fuel removed from an aircraft, which is accompanied by a change of ownership of the fuel.

(b) The following shall be observed when aircraft are fueled or defueled:

(1) No aircraft shall be fueled or defueled while the aircraft engine is running or while such aircraft is in the hangar or enclosed place. Provisions for hot refueling will be approved by the General Manager on a case-by-case basis.

(2) NO SMOKING, radios or cell phones permitted within 50 feet of fuel tank of an aircraft being fueled or defueled. NO SMOKING is permitted within 50 feet of a truck or fuel carrier being used for fueling operations.

(3) During fuel handling, no passenger(s) is permitted in the aircraft unless a cabin attendant is stationed near the cabin door. Only personnel engaged in fuel handling, maintenance and operation of an aircraft are permitted within 50 feet of fuel tanks or such aircraft during fueling or defueling operation, except as provided above. Persons engaged in aircraft fuel handling shall exercise care to prevent overflow of fuel. Persons shall not start the engine of aircraft when there is gasoline on the ground or pavement. When gasoline is spilled or leaks around an aircraft, the aircraft pilot shall notify the Fire Department, Unicom or Tower.

(4) Hoses, funnels, and appurtenances used in fueling or draining operations shall be properly equipped with a grounding device to prevent possibility of static ignition of volatile liquids. During fuel handling, no person shall operate a radio transmitter or receiver or switch electrical appliances off or on. During fuel handling, no person shall use material likely to cause a static spark within 50 feet of such aircraft. Fueling hoses and draining equipment shall be maintained in a safe, sound and non-leaking condition.

(5) With a written permit issued by the General Manager, a tenant may store fuel for special needs such as extended night or weekend operations or for the purpose of

⁴¹ Amended by Res. 09-03-684 on Mar 17, 2009.

maintenance activities. Storage permits may be extended to tenants with special purpose fuels not stored or dispensed by the District, e.g., JP8, Hydrogen Peroxide, or Nitrous Oxide or other special use propellants used for the purpose of developing or testing special use propulsion systems or craft.

(6) Defueling of aircraft for maintenance or demolition or any other purpose shall be coordinated, and under the control of the District fuel division (661.824.2433) in accordance with Air Transport Association Specification 103 or other applicable guidelines contained in the District fueling handbook. Private operators may defuel jet fuel for the purpose of regular maintenance activities on a case-by-case basis if coordinated with the fuel division. Salvaged fuel shall be removed from aircraft in accordance with the highest standards for fuel handling and shall be immediately deposited in a designated container owned or approved by the District ("approved temporary container"). Salvaged fuel shall be permanently removed from the approved temporary container within 48 hours and deposited into: (1) a permanent container owned or approved by the District ("approved permanent container"); (2) permanently removed from District property; or (3) loaded into an aircraft owned by the owner of the aircraft from which the salvaged fuel was removed in accordance with ATA standards.

(7) Except as provided herein, containers shall not be used for storage of salvage fuel or fuel not purchased at the Mojave Airport ("off-airport fuel"). Fuel containers may be permitted at Mojave Airport on a case-by-case basis for the purpose of storage of fuel not stored or dispensed by the District or for the purpose of storing fuel during maintenance actions. Fuel containers, including auto fuel, must be kept in a designated area. A tenant shall make written application to the General Manager with specific justification to obtain a fuel container permit for commercial or private activities. Permits may be contained in a lease agreement or other written instrument approved by the District. If a permit is granted, private operators must keep the container in a location approved by local agencies and the General Manager so as to contain leaks or spills and not pose an undue hazard to life or property. The District shall be named as an insured on a general or specific liability insurance policy by the permittee. The General Manager, with the approval of the board of directors, may waive insurance requirements on a showing of good cause. Leaks or spills shall be the sole responsibility of the owner/operator to re-mediate at the direction of the General Manager.

(c) A flowage fee of \$0.25/gallon shall be assessed by the District for handling salvage fuel and a fee of \$25 per month will be assessed if a rental area is required. Spill kits are available at the District Officer for \$25 each.

(d) Violations of this fuel policy will result in lease review or termination.

(e) The District requires a valid form of payment at the time of sale of fuel from the District. If a credit card is rejected or denied, the aircraft will be subject to an administrative fee of \$300.00 per day will be assessed until the charge for the fuel is paid in full.

Section 4-2.12⁴² Fuel: Permits

(a) Aviation fuel to propel aircraft, including helicopters and aerospace vehicles, shall be stored at the Airport only by the District unless a permit is secured pursuant to this section. A permit to store fuel will be issued if:

⁴² Amended by Res. 06-09-660 on Sep 5, 2006.

- (1) the type of fuel is not sold by the District;
- (2) the fuel will be stored in a container and at a place satisfying applicable laws; and
- (3) a flowage fee of \$0.25/gallon is paid to the District.

(b) Fuel shall not be removed from aircraft and stored at the Airport, unless a permit is secured from District and all other necessary agencies pursuant to this section. A defueling permit will be issued if:

- (1) The fuel will be stored in a container and at a place satisfying applicable laws;
- (2) the operation conforms to applicable laws; and
- (3) a flowage fee of \$0.25/gallon is paid to the District.

Section 4-2.13 Fire Protection - General

(a) Persons shall not clean or degrease aircraft or engines unless such operations shall be done in a location properly equipped to handle such work or in a space designated by the Airport Manager.

(b) Persons shall not permit an open flame in any hangar, shop, building, room or other confined place unless authorized by the General Manager to do so.

(c) Persons shall not store or stock material in such a manner or of such nature as to constitute a fire hazard.

(d) Persons shall not keep, store, or discard inflammable liquid, gas, signal flare or other inflammable material in a hangar, shop, building, room or other place in such a manner as to constitute an unsafe condition as determined by the Airport Manager.

(e) Lessees of hangars or other airport areas shall provide suitable metal receptacles with hinged lids for the storage of oily waste rags and other rubbish. Such waste or rubbish shall be removed by lessee at frequent intervals. In garages, shops or other buildings operated or maintained by the airport, the above and other rules prescribed by the District Board of Directors shall be observed by the employees of the District engaged in operation or maintenance of such garages, shops or other buildings.

(f) Persons shall not smoke in a hangar, shop or other building where it is dangerous to do so or where it is specifically prohibited by the Airport Manager. NO SMOKING signs located in restricted areas are to be strictly observed.

(g) Persons shall not use volatile inflammable substances for cleaning purposes in the hangars, shops or other buildings in violation of Section (a) above.

(h) Lessees shall keep the floors of hangars, shops, aprons and areas adjacent thereto, leased by them, reasonably free and clean of oil, grease, weeds, waste and other inflammable materials.

(i) Adequate and readily accessible fire extinguishers shall be provided by lessees and maintained in proper working order. Each fire extinguisher shall carry a suitable tag showing date of most recent inspection.

(j) Hangar entrances shall be kept sufficiently clear at all times to permit ready access to the buildings to combat fires.

(k) All doping shall be performed in a recognized and approved maintenance station.

Section 4-2.14 Motor Vehicle Regulations

(a) Persons shall not travel on any portion of the airport except upon roads, walks or places provided for the particular class of traffic nor occupy the roads or walks in such a manner as to hinder or obstruct their proper use.

The Airport Manager shall designate areas to which vehicle access is restricted. No person, other than a peace officer or other governmental officer in the performance of their official duties, shall operate or park a vehicle within a restricted area without a permit from the Airport Manager to do so. The Airport Manager may revoke, suspend or refuse to issue a permit for a person or vehicle to enter a restricted area if the permittee or applicant does not have lawful business in such area and cannot otherwise justify the necessity for having such a permit; if the permittee or applicant has violated airport rules or regulations; or if such activities threaten airport safety or security.

(b) Vehicles used in daily operation on the flight operations area shall be painted as set forth in Civil Aeronautics Technical Standard Order TSO-N4 dated July 2, 1947.

(c) Motor vehicles operating within the landing area of the airport shall be painted a bright red or yellow or display an orange and white checkered flag of not less than three (3) feet square.

(d) Any accident involving a motor vehicle which results in personal injury or property damage shall be reported to the Airport Manager.

(e) No vehicles, other than aircraft or bicycles, shall be driven over or across any portion of a runway or taxi-way on the Airport unless the Airport Manager determines the person using the vehicle must drive over or across the runway or taxi-way in order to conduct business at the Airport. A vehicle which is regularly used on the Airport shall also be equipped with an operating two-way radio capable of communicating with Airport Unicom.

(f) Motor vehicle traffic shall yield the right-of-way to aircraft.

(g) Persons shall not operate any motor vehicle on the Airport at a speed in excess of 20 miles per hour. On passenger loading ramps and in areas immediately adjacent to hangars, authorized motor vehicles shall not operate at a speed in excess of 10 miles per hour. All persons operating motor vehicles on District property shall obey all traffic signs and directives.

(h) Vehicles shall not be parked on the Airport other than in the manner and locations indicated by posted traffic signs and markings.

(i) Vehicles, coaches, motor homes, trailers or other portable structures may be left unattended only in designated parking areas and only during normal Airport business hours, provided, however, overnight parking may be permitted by the Airport Manager for a period not to exceed 30 days and, provided further, overnight parking may be permitted by action of the Board for longer periods.

(j) If a vehicle is moved by District personnel, a towing charge will be levied. Liability for damage while moving the vehicle will not be assumed by the District.

Section 4-2.15 Parachute Activities

Part 105 of the Federal Aviation Regulations is hereby adopted by this reference and made a part hereof for the purpose of regulating parachute activities at the Airport.

Section 4-2.16 Other Activities

All non-aeronautical activities at the Airport shall be in conformance with applicable county, state and federal laws, ordinances, rules and regulations and with District rules and regulations set forth herein. Violation of District rules and regulations shall constitute cause for the levy of fines or termination of the privilege to lease or use District property.

Section 4-2.17 Aircraft Washing

(a) Persons who desire to use the aircraft washing facilities at the Airport shall obtain permission of the Airport Manager.

(b) The following fees shall be paid to the District for the use of the Airport washing facilities:

<u>TYPE OF AIRCRAFT</u>	<u>RINSE</u>	<u>WASH</u>
(1) Aircraft weighing less than 5,000 lbs.	free	free
(2) Narrow Body (C-130, DC-8, DC-9, 727, 737, 757, etc.)	\$ 75.00	\$150.00
(3) Wide Body (DC-10, MD-11, L-1011, 747, etc.)	\$125.00	\$250.00

ARTICLE 3. HAZARD COMMUNICATION PROGRAM

Section 4-3.01 General

This article describes a hazard communication program designed to protect employees.

Section 4-3.02 Container Labeling

(a) No container of hazardous substances will be released for use by the employees until the following label information is verified by the General Manager:

- (1) Containers are clearly labeled as to the contents.
- (2) Appropriate hazard warnings are noted.
- (3) The name and address of the manufacturer are

listed.

(b) The Maintenance Supervisor will ensure secondary containers are labeled with either an extra copy of the original manufacturer's label or with generic labels which have a block for identity and blocks for the hazard warning.

Section 4-3.03 Material Safety Data Sheets (MSDS)

(a) Copies of MSDS for all hazardous substances to which employees may be exposed are kept in Terminal Building 58 and Shop Building #25. The General Manager will be responsible for obtaining and maintaining the data sheet system for the company.

(b) The General Manager will review incoming data sheets for new and significant health or safety information and ensure new information is passed on to the affected employees.

(c) MSDS will be reviewed for completeness by the Hazardous Materials Officer. If an MSDS is missing or obviously incomplete, a new MSDS will be requested from the manufacturer. Cal/OSHA will be notified if a complete MSDS is not received.

(d) MSDS are available to all employees in their work area for review during each work shift. If MSDS are not available or new hazardous substance(s) in use do not have MSDS, the employee shall contact the General Manager.

Section 4-3.04 Employee Information and Training

(a) Employees shall attend a health and safety orientation by the General Manager prior to starting work for information and training on the following:

- (1) An overview of the requirements contained in the Hazard Communication Regulation, including their rights under the regulation.
- (2) Inform employees of any operations in their work area where hazardous substances are present.
- (3) Location and availability of the written hazard communication program.

- (4) Physical and health effects of the hazardous substances.
- (5) Methods and observation techniques used to determine the presence or release of hazardous substances in the work area.
- (6) How to lessen or prevent exposure to these hazardous substances through usage of engineering controls, work practices, and/or the use of personal protective equipment.
- (7) Steps taken to lessen or prevent exposure to these substances.
- (8) Emergency and first aid procedures to follow if employees are exposed to hazardous substance(s).
- (9) How to read labels and review MSDS to obtain appropriate hazard information.

(b) When new hazardous substances are introduced, the Maintenance Supervisor will review the above items as they are related to the new material in the work area safety meeting.

Section 4-3.05 List of Hazardous Substances

The following hazardous substances are handled by employees. Specific information on each noted hazardous substance can be obtained by reviewing the Material Safety Data Sheets:

INVENTORY LIST OF HAZARDOUS MATERIALS

<u>HAZARDOUS SUBSTANCE</u>	<u>OPERATION / AREA</u>
Unleaded Gasoline	Shop Unit 25
Diesel	Shop Unit 25
Acetylene	Shop Unit 25
Oxygen	Shop Unit 25
Paint	Shop Unit 25
Waste Oil	Shop Unit 25
Jet-A Aircraft Fuel	Fuel Farm
100LL Avgas	Fuel Farm
Scrap Jet Fuel	Fuel Farm
Motor Oil	Storage Yard Unit #2
Motor Oil	Storage Shed-Shop Unit 25
Gear Lubricant	Storage Shed-Shop Unit 25
Hydraulic Oil	Storage Shed-Shop Unit 25
Tractor Hydraulic Fluid	Storage Shed-Shop Unit 25

Section 4-3.06 Hazardous Non-Routine Tasks

Periodically employees are required to perform hazardous non-routine tasks. Prior to starting work on such projects, each affected employee will be given information by their supervisor about hazards to which they may be exposed during such an activity. This information will include:

- (a) Specific hazards;
- (b) Protective/safety measures which must be utilized; and

(c) Measures the District has taken to lessen the hazards including ventilation, respirators, presence of another employee and emergency procedures.

Section 4-3.07 Informing Contractors

(a) The Maintenance Supervisor shall provide contractors the following information:

(1) Hazardous substances to which they may be exposed while on the job-site.

(2) Precautions the employees may take to lessen the possibility of exposure by usage of appropriate protective measures.

(b) Questions about this plan shall be directed to the Maintenance Supervisor. The Director of Finance shall ensure the policies are carried out and the plan is effective.

ARTICLE 4. DOCUMENTS AND NOTICES

Section 4-4.01 Documents

Persons shall not remove papers or documents of the District from the District's files without express written permission of the General Manager.

Section 4-4.02 Notices

Notices required to be posted shall be posted at the following places:

- (a) The bulletin board in the lobby of the Administration Building of the Mojave Airport.
- (b) The bulletin board inside the United States Post Office building, located within the town of Mojave.
- (c) The bulletin board inside the United States Post Office building, located within the City of California City.

Section 4-4.03 Public Records

District records shall be made available to the public in accordance with applicable law. Persons desiring to inspect said records may do so, provided, arrangements are made with the General Manager. Persons desiring to secure copies of said records may do so by making arrangements with the General Manager to do so by depositing the appropriate fees.

ARTICLE 5. VEHICULAR TRAFFIC⁴³

Section 4-5.01 General

This article describes vehicular traffic regulations for the Mojave Airport. These regulations are adopted pursuant to Vehicle Code section 21108.

Section 4-5.02 Speed Limits

(a) The following speed limits are established for vehicular traffic on roads at the Mojave Airport.

<u>Street</u>	<u>Maximum Speed</u>
Airport Blvd. south of Sabovich St.	40 mph
Sabovich St. east of Airport Blvd.	35 mph
Sabovich St. west of Airport Blvd.	35 mph
Riccomini Rd. east of Airport Blvd.	40 mph
Poole St. east of Airport Blvd.	40 mph

(b) The basic speed law of the State of California applies to vehicular traffic on roads at the Mojave Airport not designated above.

Section 4-5.03 Intersection Stops

Full stop is required at the following intersections:

- Barnes St. east approach to Airport Drive
- Flight Research Building Dr. to Sabovich St.
- Mobley St. east and west approach to Poole St.
- Kennicut St. south approach to Poole St.
- Kennicut St. east approach to Airport Blvd.
- Poole St. east approach to Airport Blvd.
- Unnamed street west of Building 14 north approach to Sabovich St.

Section 4-5.04 Signals

The general Manager shall cause stop signs and speed limit signs to be installed as appropriate.

⁴³ Entire Article 5 added by Res. 01-01-595, §2, 1/16/01.

ARTICLE 6. WORKS OF ART⁴⁴

Section 4-6.01 **Purpose**

This section shall govern the application for and placement of works or art at Mojave Airport.

Section 4-6.02 **Definitions**

"Applicant" means the person who submits an Application to place art work at Mojave Airport.

"Application" means that form prescribed by the District to be completed and submitted by the Applicant for the placement of works of art at Mojave Airport.

"Art work" and "work of art" have the same meaning, and are used interchangeably herein.

Section 4-6.03 **Application**

(a) A person interested in placing a work of art at Mojave Airport shall submit an Application to the District. The Application shall include, in addition to the information required by the form, an accurate depiction of the art work to be installed and a site plan showing the location of the art work, complete with necessary and appropriate accessories to complement and protect the art work.

(b) If the Application is approved, the Applicant shall deposit with the District a fee, in an amount set by the District, sufficient to ensure the art work, once commenced, is completed. Upon completion of the art work, the deposit shall be returned to the Applicant, less any reasonable costs incurred by District to ensure completion of the art work.

(c) If the work of art is to be placed on a building or structure owned by a person other than the District, the Applicant shall submit written proof that the owner of the building or structure has agreed to and approved the placement of the work of art on the building or structure.

Section 4-6.04 **Guidelines**

Guidelines for the approval and maintenance of works of art shall include, but are not limited to, the following criteria:

(a) The art work shall be clearly visible and accessible to the public.

(b) The composition of the art work shall be of permanent type materials in order to be durable against vandalism, theft and weather.

(c) The art work shall be composed such that it requires a low level of maintenance.

(d) The art work shall be related in terms of scale, material, form and content to

⁴⁴ Entire Article 6 added by Res. 03-08-620.

immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment.

(e) The art work shall be designed and constructed by persons experienced in the production of such art work.

(f) The art work shall be a permanent, fixed asset to the property.

(g) The art work shall be maintained by the Applicant in a neat and orderly manner acceptable to the District.

Section 4-6.05 Maintenance

(a) The Applicant shall be responsible for maintaining the art work in a neat and orderly manner acceptable to the District. If the Applicant fails to maintain the art work in a manner acceptable to the District, the District may either maintain or remove the art work.

(b) The Applicant shall place a deposit with the District, in an amount set by the District, to be used for maintenance of the art work if the Applicant fails to maintain the art work in a manner acceptable by District. The District shall keep the deposit unless and until the art work is permanently removed from Mojave Airport, after which it shall refund the deposit less any reasonable costs incurred by the District in maintaining the art work.

(c) If the deposit made by the Applicant is not sufficient to cover the costs of maintaining and/or removing the art work, the Applicant shall reimburse to the District the costs it incurs in excess of the deposit.

Section 4-6.06 District's Rights

(a) The Board shall, in its sole discretion, approve or reject Applications to place works of art at Mojave Airport.

(b) The District has the right to have a work of art maintained or removed if, in its sole discretion, the work of art is not being maintained in a manner acceptable to the District.

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PART 5. ENVIRONMENTAL REVIEW OF DISTRICT PROJECTS

ARTICLE 1. GENERAL

Section 5-1.01 General

District projects shall be undertaken with due regard for the environmental consequences thereof as required by this Part.

Section 5-1.02 Purpose

(a) The Regulations contained in this Title implement the regulations prescribed by the Secretary of Resources (hereinafter "State Guidelines") for local agencies to implement the California Environmental Quality Act (CEQA).

(b) This Title applies if the District has discretion over an activity and:

- (1) The activity is directly undertaken by the District,
- (2) The activity is financed in whole or in part by the District, or
- (3) A private activity requires approval from the District.

Section 5-1.03 Scope

(a) Environmental documents shall be prepared by a lead agency and considered by responsible agencies before a decision is made to proceed with a project covered by this Title. The District will sometimes act as the lead agency and sometimes act as a responsible agency.

(b) These guidelines set forth the process for determining:

- (1) Whether the District is a lead agency or responsible agency;
- (2) The District's duties as a responsible agency;
- (3) The District's duties as a lead agency;
- (4) Whether measures mitigating adverse environmental impacts are feasible and can be implemented.

Section 5-1.04 Delegation of Responsibilities

(a) The General Manager or designee shall:

- (1) Determine whether the District is a lead agency or responsible agency;
- (2) Determine whether an activity is exempt or a project subject to review under this Title;
- (3) Conduct an initial study;
- (4) Prepare or cause a negative declaration or environmental impacts reports (EIR) to be prepared;
- (5) Respond to public comments;
- (6) Provide required notices; and
- (7) Respond to requests for consultation by the lead agencies.

(b) The Board shall:

- (1) Approve, certify, review and consider the negative declaration, or draft an environmental impact report prior to approving a project; and
- (2) Make findings as required by this Title.

ARTICLE 2. ROLE OF DISTRICT AS RESPONSIBLE AGENCY

Section 5-2.01 Lead Agency Concept

The lead agency shall prepare the negative declaration or EIR for a project carried out or approved by more than one public agency. The determination of which agency is the lead agency shall be made after consultation in accordance with criteria set forth in the State Guidelines.

Section 5-2.02 Consultation with Lead Agency

(a) When the District is a responsible agency, the General Manager shall respond to request for consultation by assisting the lead agency in preparing adequate environmental documents.

(b) As soon as possible, but no longer than 45 days after receiving a notice of preparation from the lead agency, the General Manager shall send a written reply by certified mail. The reply shall specify the scope and content of the environmental information relevant to the District's statutory responsibilities in connection with the proposed project.

(c) Prior to the close of the public review period for a draft EIR or mitigated negative declaration, the General Manager shall either submit complete and detailed objectives for mitigation measures which would address the significant environmental effects identified by the General Manager, or refer the lead agency to appropriate readily available guidelines or reference documents.

Section 5-2.03 Challenge to Lead Agency

(a) When the District is a responsible agency, it shall assume the role of the lead agency only when the conditions set forth in the State Guidelines are found to exist.

(b) If the General Manager believes the final EIR or negative declaration prepared by the lead agency is not adequate for use by the District, the District must:

- (1) Take the issue to court within 30 days after the lead agency files a notice of determination;
- (2) Be deemed to have waived any objection to the adequacy of the EIR or negative declaration; or
- (3) Prepare a subsequent EIR of permissible under the State Guidelines.

Section 5-2.04 Use of Environmental Documents

(a) Prior to reaching a decision on the project, the Board must consider the environmental effects of the project as shown in the lead agency's EIR or negative declaration.

(b) When an EIR has been prepared for a project, the District shall not approve the project as proposed if the District finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen any significant impact the project would have

on the environment. When considering alternatives and mitigation measures, the District is more limited than a lead agency. The District has responsibility for mitigating or avoiding only the environmental effects of those activities which it decides to carry out, finance or approve.

(c) The District shall make the findings required for each significant effect of the project.

(d) The District should file a notice of determination in the same manner as a lead agency except the District does not need to state the EIR or negative declaration complies with CEQA. The District should state it considered the EIR or negative declaration as prepared by a lead agency.

ARTICLE 3. ROLES OF DISTRICT AS LEAD AGENCY

DIVISION 1 - EXEMPTIONS

Section 5-3-1.01 General

The District is a lead agency when a project is only approved or carried out by the District or when the District has been designated the lead agency. This Chapter describes the process used by the District when acting as a lead agency.

Section 5-3-1.02 Review for Exemption

(a) The General Manager shall first determine whether the activity is exempt from environmental review under CEQA.

(b) Possible exemptions from CEQA include:

- (1) The activity is not a "project";
- (2) The project is "ministerial", that is: The District has no discretion with respect to the activity other than to determine whether facts exist requiring action;
- (3) The project is an emergency;
- (4) The project is exempt by statute;
- (5) The project is a "categorical exemption"; and
- (6) There is no possibility the activity may have a significant effect on the environment.

(c) The District shall prepare a list of exempt projects often handled by the District. This listing shall be used in preliminary review.

Section 5-3-1.03 Ministerial Project

(a) The following are presumed ministerial:

- (1) Issuance of building permits;
- (2) Issuance of business licenses;
- (3) Approval of final subdivision maps;
- (4) Approval of individual utility service connections and disconnections;
- (5) Leasing of District property where the use of the premises is not significantly changed; and
- (6) Any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal or demolition of an existing pipeline. For the purposes of this subsection, "pipeline" includes subsurface facilities but does not include any surface facility related to the operation of the underground facility.

(b) When a project involves an approval containing elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be

subject to the requirements of CEQA.

Section 5-3-1.04 Emergency Projects

(a) The following are emergency projects:

- (1) Projects to maintain, repair, restore, demolish or replace property or facilities damaged or destroyed as a result of disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Government code Section 8550;
- (2) Emergency repairs to public service facilities necessary to maintain service; and
- (3) Specific actions necessary to prevent or mitigate an emergency.

Section 5-3-1.05 Rates, Tolls, Fares and Charges

(a) CEQA does not apply to the establishment, modification, structuring, restructuring or approval of rates, tolls, fares or other charges by the District which the District finds are for the purpose of:

- (1) Meeting operating expenses, including employee wage rates and fringe benefits;
- (2) Purchasing or leasing supplies, equipment or materials;
- (3) Meeting financial resource need and requirements; or
- (4) Obtaining funds for capital projects, necessary to maintain service within existing service areas.

(b) Rate increases to fund capital projects for the expansion of a system are subject to CEQA.

(c) The District shall incorporate written findings in the record of any proceeding in which an exemption under this section is claimed setting forth with specificity the basis for the claim of exemption.

Section 5-3-1.06 Categorical Exemption

(a) The following categorical exemptions are as set forth in the State Guidelines:

- (1) Class 1: Operation, repair, maintenance or minor alteration of existing facilities involving negligible or no expansion of use.
- (2) Class 2: Replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.
- (3) Class 3: Construction and location of limited numbers of new, small facilities, structures, equipment and facilities: and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.
- (4) Class 4: Minor alterations in the condition of land, water and/or

vegetation not involving removal of mature, scenic trees except for forestry and agricultural purposes.

(5) Class 5: Minor alterations in land use limitations in areas with an average slope of less than 20%, not resulting in any changes in land use or density.

(6) Class 6: Basic data collection, research, experimental management and resource evaluation activities not resulting in a serious or major disturbance to an environmental resource.

(7) Class 9: Activities limited entirely to inspection, to check for performance of an operation or quality, health or safety of a project.

(8) Class 11: Construction or placement of minor structures accessory to (appurtenant to) existing commercial, industrial or institutional facilities.

(9) Class 12: Sales of surplus government property except for parcels of land located in an area of statewide, regional or area wide concern.

(10) Class 13: Acquisition of lands for fish and wildlife conservation purposes and preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition.

(11) Class 15: Division of property in urbanized areas zoned for residential, commercial or industrial use into four or fewer parcels when: the division is in conformance with the General Plan and zoning; no variances or exceptions are required; all services and access to the proposed parcels to local standards are available; the parcel was not involved in a division of a larger parcel within the previous 2 years; and the parcel does not have an average slope greater than 20 percent.

(12) Class 19: Annexations to the District of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the annexing or detaching governmental agency, whichever is more restrictive. However, the extension of utility services to the existing facilities must have a capacity to serve only the existing facilities, or annexations of individual small parcels of the size for facilities exempted by State Guidelines.

(13) Class 20: Changes in the organization or reorganization of local agencies where the changes do not change the geographical area in which previously existing powers are exercised.

(14) Class 23: Normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose.

(15) Class 25: Transfers of ownership of interests in land to preserve open space.

(16) Class 27: Leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency where the governing authority determines the building was exempt from CEQA.

(b) Classes 3,4,5,6 and 11 set forth (b) are qualified by consideration of where the project is to be located. A project ordinarily insignificant in its impact on the environment may be significant in a sensitive environment. These classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law by federal, state or local agencies. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) A categorical exemption shall not be used for an activity where there is a reasonable possibility the activity will have a significant effect on the environment due to unusual circumstances.

Section 5-3-1.07 Notice of Exemption

(a) When the General Manager decides a project is exempt from CEQA and the General Manager approves or determines to carry out the project, the General Manager or the applicant may file a notice of exemption with the County Clerk.

(b) The notice shall be filed, if at all, after approval of the project. Such a notice shall include:

- (1) A brief description of the project;
- (2) A finding that the project is exempt, including a citation to the State Guidelines section under which it is found to be exempt; and
- (3) A brief statement of reasons to support the finding.

DIVISION 2 - NONEXEMPT PROJECTS

Section 5-3-2.01 General

This Article describes the procedures for preparing and processing a negative declaration or EIR when the District is a lead agency.

Section 5-3-2.02 Review of Application for Completeness

The General Manager shall determine whether an application for a permit or other entitlement for use is complete within 30 days from the receipt of the application. If no written determination of the completeness of the application is made within that period, the application will be deemed complete on the 30th day.

Section 5-3-2.03 Initial Study

(a) Unless an exemption applies or unless the General Manager determines an EIR is required for the project, the General Manager shall conduct an "initial study" to determine whether the project may have a significant effect on the environment.

(b) If any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, the District shall either:

- (1) Prepare an EIR; or
- (2) Use a previously prepared EIR which the District determines would adequately analyze the project.

(c) The initial study shall be used to:

- impacts;
- (1) Determine whether a project may have any potential environmental impacts;
- (2) Enable the lead agency to decide whether to prepare an EIR or negative declaration;
- (3) Allow the project proponent to modify a project, mitigating adverse impacts before an EIR is written; and
- (4) Assist in the preparation of an EIR.

(d) An initial study shall contain in brief form:

- (1) A description of the project including the location of the project;
- (2) An identification of the environmental setting;
- (3) An identification of environmental effects by use of a checklist, matrix or other method;
- (4) A discussion of ways to mitigate the significant effects identified, if any;
- (5) An examination of whether the project would be consistent with existing zoning, plans and other applicable land use controls;
- (6) The name of the person or persons who prepared or participated in the initial study.

(e) If the project is to be carried out by a private person or private organization, the person or organization carrying out the project shall submit information to enable the General Manager to prepare the initial study.

(f) As soon as the General Manager determines an initial study will be required for the project, the General Manager shall consult informally with all responsible agencies and all trustee agencies responsible for resources affected by the project to obtain the recommendations of those agencies as to whether an EIR or a negative declaration should be prepared.

(g) When the District acts as the lead agency, the District shall determine within 45 days after accepting an application as complete, whether it intends to prepare an EIR or a negative declaration.

Section 5-3-2.04 Decision to Consider a Negative Declaration

(a) A proposed negative declaration shall be prepared for a nonexempt project when:

(1) The initial study shows there is no substantial evidence the project may have a significant effect on the environment, or

(2) The initial study identifies potentially significant effects but the project has been revised by changes in project plans or an enforcement commitment to mitigation measures which avoid the effects or to mitigate the effects to a point where clearly no significant effects would occur and the Board finds the project as approved will not have a significant effect on the environment.

(b) Before approving a negative declaration as a lead agency, the General Manager

shall consult with all responsible agencies and trustee agencies concerned with the project. This consultation may take place during the public review period for the proposed negative declaration.

Section 5-3-2.05 Processing the Proposed Negative Declaration

(a) The General Manager shall process the proposed negative declaration as set forth in this Section.

(b) The draft negative declaration shall include:

- (1) A brief description of the project; including a commonly used name for the project, if any;
- (2) The location of the project and the name of the project proponent;
- (3) A finding that the project will not have a significant effect on the environment;
- (4) An attached copy of the Initial Study documenting reasons to support the finding;
- (5) Mitigation measures, if any, included in the project to avoid potentially significant effects.

(c) Notice of the preparation of a proposed negative declaration shall be provided to the public at least 20 days prior to submission to the Board. The review period on the notice shall be only enough to provide the public with sufficient time to respond to the proposed finding before the negative declaration is approved. Notice shall be given to all organizations and individuals who have previously requested such notice and shall be given in one or more of the ways as determined by the General Manager:

- (1) Publication once in a newspaper of general circulation in the area affected by the proposed project.
- (2) Posting by the Agency on and off site where the project is to be located.
- (3) Direct mail notice to property owners contiguous to the project as shown on the latest equalized assessment roll.

(d) At the time and place stated in the notice and prior to approving the project, the Board shall consider the negative declaration and comments received during the public review process. The Board may approve the negative declaration if it finds on the basis of the initial study and any comments received there is no substantial evidence the project will have a significant effect on the environment.

(e) With a private project, the negative declaration must be completed and ready for approval within 105 days from the date when the lead agency accepted the application as complete.

Section 5-3-2.06 Notice of Determination

(a) The General Manager shall file a notice after the Board decides to carry out or approve a project for which a negative declaration has been approved.

(b) The notice of determination shall include:

- (1) An identification of the project including its common name where possible and its location;
- (2) A brief description of the project;
- (3) The date the Board approved the project;
- (4) The determination of the Board the project will not have a significant effect on the environment;
- (5) A statement that a negative declaration has been prepared pursuant to CEQA; and
- (6) The address where a copy of the negative declaration may be examined.

(c) The notice of determination shall be filed with the county clerk of the county or counties in which the project will be located. If the project requires a discretionary approval from any state agency, the notice of determination also shall be filed with the Secretary for Resources.

Section 5-3-2.07 Decision to Consider An EIR

If the General Manager determines there is substantial evidence the project may have a significant effect on the environment, the General Manager shall prepare or cause an environmental impact report (EIR) to be prepared.

Section 5-3-2.08 Notice of Preparation

(a) Immediately after deciding an EIR is required for a project, the District shall send each responsible agency a "notice of preparation" stating an EIR will be prepared. This notice shall also be sent to every federal agency involved in approving or funding the project and to each trustee agency responsible for natural resources affected by the project.

(b) The notice of preparation shall provide responsible agencies with sufficient information describing the project and the environmental effects to enable the responsible agencies to make a meaningful response. At a minimum, the information shall include:

- (1) Description of the project;
- (2) Location of the project indicated either on an attached map (preferably a copy of a U.S.G.S. 15' or 7-1/2' topographical map identified by quadrangle name or by a street address in an urbanized area); and
- (3) Probable environmental effects of the project.

(c) The notice of preparation shall be sent by the General Manager by certified mail or any other method of transmittal which provides it with a record the notice was received.

(d) The General Manager may begin work on the draft EIR immediately without awaiting responses to the notice of preparation. A draft EIR in preparation may be revised and/or expanded to conform to responses to the notice of preparation. A General Manager shall not circulate a draft EIR for public review before the time period for responses to the notice of preparation has expired.

(e) If a responsible agency fails by the end of the 45-day period to provide the District with either a response to the notice or a well justified request for additional time, the District may presume the responsible agency has no response to make.

(f) To expedite the consultation, the General Manager, a responsible agency, a trustee agency or a project applicant may request one or more meetings before representatives of the agencies involved to assist the General Manager in determining the scope and content of the environmental information which the responsible agency may require. Such meetings shall be convened by the General Manager as soon as possible, but no later than 30 days, after the meetings were requested. On request, the Office of Planning and Research will assist in convening meetings which involve state agencies.

(g) When one or more state agencies is a responsible agency or a trustee agency, the General Manager shall send a notice of preparation to each state responsible agency and each trustee agency with a copy to the State Clearinghouse in the Office of Planning and Research. The State Clearinghouse will ensure that the state responsible agencies and trustees reply to the lead agency within the required time.

(h) When the notice of preparation is submitted to the State Clearinghouse, the state identification number issued by the Clearinghouse shall be the identification number for all subsequent environmental documents on the project. The identification number should be referenced on all subsequent correspondence regarding the project, specifically on the title page of the draft and final EIR and on the notice of determination.

Section 5-3-2.09 Scoping

(a) Prior to completing the draft EIR, the General Manager may consult directly with any person or organization concerned with the environmental effects of the project. This early consultation is called "scoping". Scoping is mandatory when preparing an EIR/EIS jointly with a federal agency.

(b) The General Manager shall convene a meeting with responsible agency representatives to discuss the scope and content of the environmental information a responsible agency will need in the EIR within 30 days after receiving a request for the meeting.

Section 5-3-2.10 Draft EIR

(a) The draft EIR shall be prepared directly by or under contract to the District. The required contents of a draft EIR are discussed below.

(b) The General Manager may require the project applicant to supply data and information both to determine whether the project may have a significant effect on the environment and to assist the General Manager in preparing the draft EIR. The requested information should include an identification of other public agencies which will have jurisdiction by law over the project.

(c) Any person, including the applicant, may submit information or comments to the General Manager to assist in the preparation of the draft EIR. The submittal may be presented

in any format, including the form of a draft EIR. The General Manager must consider all information and comments received. The information or comments may be included in the draft EIR in whole or in part.

(d) The General Manager may choose one of the following arrangements or a combination of them for preparing a draft EIR:

- (1) Preparing draft EIR directly with District staff;
- (2) Contracting with another entity, public or private, to prepare the draft EIR;
- (3) Accepting a draft prepared by another entity, either the applicant, a consultant retained by the applicant, or any other person=s independent review and analysis;
- (4) Using a previously prepared EIR.

(e) A draft EIR sent out for public review must reflect the independent judgment of the General Manager. The General Manager is responsible for the adequacy and objectivity of the draft EIR.

Section 5-3-2.11 Draft EIR: Contents

(a) Each draft EIR shall contain the following:

- (1) Table of contents or index;
- (2) Summary;
- (3) Project description;
- (4) Description of environmental setting;
- (5) Environmental impact, including: any significant environmental effect of the proposed project; any significant environmental effects which cannot be avoided if the proposal is implemented; mitigation measures proposed to minimize the significant effects; alternatives to the proposed action; the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; any significant irreversible environmental changes which would be involved in the proposed action should it be implemented; and the growth inducing impact of the proposed action;
- (6) Effects not found to be significant;
- (7) Organizations and persons consulted;
- (8) Air and water quality aspects; and
- (9) Significant cumulative impacts.

(b) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity and any significant irreversible environmental changes which would be involved in the proposed action should it be implemented need be included only in EIRs prepared in connection with any of the following activities:

- (1) The adoption, amendment or enactment of a plan, policy or ordinance of a public agency.
- (2) The adoption by a local agency formation commission of a resolution making determinations.

(3) A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969.

Section 5-3-2.12 Notice of Completion

(a) When the draft EIR is completed, a "notice of completion" must be filed with the Secretary for Resources.

(b) The notice of completion shall include:

- (1) A brief description of the project;
- (2) The proposed location of the project;
- (3) An address where copies of the draft EIR are available; and
- (4) The period during which comments will be received on the draft EIR.

(c) If the EIR is reviewed through the review process handled by the State Clearinghouse, the cover form required by the State Clearinghouse will serve as the notice of completion, and no notice of completion need be sent to the Resources Agency.

(d) With a private project, the lead agency shall complete and certify the final EIR within one year after the date when the lead agency accepts the application as complete. An unreasonable delay by an applicant in providing information requested by the lead agency for the preparation of a negative declaration or an EIR shall suspend the running of the time periods described herein for the period of the unreasonable delay. At the request of an applicant, the lead agency may waive the one year time limit for completing and certifying a final EIR or the 105 day period for completing a negative declaration if:

- (1) The project will be subject to CEQA and to the National Environmental Policy Act;
- (2) Additional time will be required to prepare a combined EIR-EIS or combined negative declaration-finding of no significant impact as provided herein; and
- (3) The time required to prepare the combined document will be shorter than the time required to prepare the documents separately.

(e) The time limits for taking final action on a permit for a development project may also be waived where a combined EIR-EIS will be prepared. The time limits for processing permits for development projects under Government Code Section 65950-65960 shall not apply if federal statutes or regulations requires time schedules which exceed the state time limits.

Section 5-3-2.13 Comments on Draft EIR

(a) The District shall consult with and request comments on the draft EIR from:

- (1) Responsible agencies;
- (2) Trustee agencies with resources affected by the project; and
- (3) Other state, federal and local agencies which exercise authority over resources which may be affected by the project.

(b) The District may consult directly with any person who has special expertise with respect to any environmental impact involved.

Section 5-3-2.14 Public Review of Draft EIR

(a) The District shall provide public notice of the availability of a draft EIR at the same time as it sends a notice of completion to the Resources Agency. Notice shall be given to all organizations and individuals who have previously requested such notice and shall also be given by at least one of the following procedures:

- (1) Publication at least one time by the District in a newspaper of general circulation in the area affected by the proposed project;
- (2) Posting of notice by the District on and off the site in the area where the project is to be located; and
- (3) Direct mailing to owners of property contiguous to the project as those owners are shown on the latest equalized assessment roll.

(b) Review periods for draft EIRs should not be less than 30 days nor longer than 90 days except in unusual situations.

The review period for draft EIRs for which a state agency is a responsible agency shall be at least 45 days unless a shorter period is approved by the State Clearinghouse.

(c) The District shall use the State Clearinghouse to distribute draft EIRs for review and should use area wide clearinghouses to distribute the documents to regional and local agencies.

(d) The District should furnish copies of draft EIRs to appropriate public library systems and in offices of the District.

(e) The District should compile listings of other agencies, particularly local agencies, which have jurisdiction by law and special expertise with respect to various projects and project locations to be used as a guide in determining which agencies should be consulted with regard to a particular project.

(f) Public hearings may be conducted on the draft EIR, either in separate proceedings or in conjunction with other proceedings of the public agency.

Section 5-3-2.15 Evaluation of Comments

(a) The District shall evaluate comments on the draft EIR and prepare a written response.

(b) The written response shall describe the disposition of significant environmental issues. In particular, when the District's position is at variance with recommendations and objections, the comments must give the reasons why the recommendations and objective suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusionary statements unsupported by factual information will not suffice.

(c) The response to comments may take the form of a revision to the draft EIR or may be a separate section in the final EIR.

Section 5-3-2.16 Final EIR

- (a) The final EIR shall include:
- (1) The Draft EIR or a revision of the draft;
 - (2) Comments and recommendations received on the Draft EIR either verbatim or in summary;
 - (3) A list of persons, organizations and public agencies commenting on the Draft EIR;
 - (4) The responses of the Lead Agency to significant environmental points raised in the review and consultation process; and
 - (5) The Board shall certify the final EIR has been completed in compliance with CEQA and that the Board has reviewed and considered the information contained in the EIR prior to approving the project.

Section 5-3-2.17 Notice of Determination

- (a) The General Manager shall file a notice of determination following each project approval for which an EIR was considered. The notice shall include:
- (1) As identification of the project including its common name where possible and its location;
 - (2) A brief description of the project;
 - (3) The date when the District approved the project;
 - (4) The determination of the District whether the project in its approved form will have a significant effect on the environment.
 - (5) A statement that an EIR was prepared and certified pursuant to the provisions of CEQA;
 - (6) A description of the mitigation measures and method of monitoring the mitigation measures;
 - (7) Whether a statement of overriding considerations was adopted for the project; and
 - (8) The address where a copy of the EIR and the record of the project approval may be examined.

ARTICLE 4. USE OF ENVIRONMENTAL DOCUMENTS

Section 5-4.01 General

The District shall not approve or carry out a project as proposed unless significant effects have been reduced to an acceptable level. The Board shall make one or more written findings for each significant effect, accompanied by a statement of the facts supporting each finding.

Section 5-4.02 Findings

(a) The possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects as identified in the final EIR;

(2) Such changes or alterations are within the responsibility and exclusive jurisdiction of another public agency and not the District. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or

(3) Specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

(b) "Acceptable level" means all significant effects that can feasibly be avoided, have been eliminated or substantially lessened as described in the findings and any remaining, unavoidable significant effects are acceptable due to overriding considerations.

Section 5-4.03 Overriding Consideration

Where the decision allows the occurrence of significant unmitigated effects, the District must state in writing the overriding reasons to act based on the final EIR and/or other information in the record. If the District makes a statement of overriding considerations, the statement shall be included in the record of the project approval and should be mentioned in the notice of determination.

Section 5-4.04 Mitigation

Project approval shall be conditioned upon implementation of the mitigation measures. Mitigation measures and a program to monitor the mitigation measures shall be described in the findings.

Section 5-4.05 Use of EIR for Later Projects

(a) Where an EIR has been prepared, the EIR may be incorporated in the EIR by using a tiered EIR. The tiered EIR need not examine effects which were mitigated or avoided or which were examined in sufficient detail in the prior EIR to enable mitigation or avoidance by the site specific revisions or conditions in connection with the approval of the later project.

(b) An initial study shall be prepared to determine whether the later project may

cause significant effects not examined in the prior EIR.

Section 5-4.06 Use of Subsequent EIR for Same Project

A revised EIR shall be prepared if the project is revised in such a way as to produce new significant adverse environmental impacts or new significant adverse environmental impacts are discovered.

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PART 6. EQUAL OPPORTUNITY ADMINISTRATION

ARTICLE 1. PURPOSE AND SCOPE

Section 6-1.01⁴⁵ General

The District shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin. Nothing in this Part prohibits action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the District.

Section 6-1.02 Definitions

As used in this Part:

(a) "Disadvantaged Business Enterprise" or "DBE" means a small business concern, as defined by the regulations of the Small Business Administration, which is:

(1) At least fifty-one (51%) percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

(b) "Socially and economically disadvantaged individual" is presumed to mean a person who is a citizen and lawful permanent resident of the United States and who is:

(1) A person who has a current certification from the SBA under Section 8(a) of the Small Business Act;

(2) Women;

(3) Black American persons having origins in any of the black racial groups of Africa;

(4) Hispanic American persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Portuguese culture or origin, regardless of race;

(5) North American persons who are American Indians, Eskimos, Aleutians or Native Hawaiians;

(6) Asian-Pacific Americans, which includes persons whose origins are from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Cambodia (Kampuchea), Laos, Vietnam, Korea, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Papua), Republic of the Marshall Islands, Federated States of Micronesia, or the Commonwealth of the Northern Mariana Islands, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru; and

(7) Asian-American persons whose origins are from India, Pakistan, Bangladesh and Sri Lanka.

(c) Persons who are not members of any of the above "presumptive groups" may

⁴⁵ New §§6-1.01 – 6-1.03; §§6-2.01 – 6-2.18 by Res. 00-09-594, §2, 6/19/00.

nonetheless be found to be socially and economically disadvantaged on a case-by-case basis.

Section 6-1.03 Records and Reports

(a) The District shall keep on file for a period of three years or for the period during which the Federal Financial Assistance is made available, whichever is longer, reports, records and affirmative action plans, if applicable, that will enable the Federal Aviation Administration (FAA) Office of Civil Rights to ascertain if there has been and is compliance with this Part and with the requirements of federal law.

(b) If the District employs 15 or more persons, it shall annually submit to the FAA, a compliance report on a form provided by the FAA and a statistical report on form EEO-1 of the Equal Employment Opportunity Commission or any superseding EEOC form. The District shall require each of its aviation-related activities (except construction contractors), employing 15 or more persons, to annually submit to the District, the reports required by the aforementioned FAA compliance report or EEOC form EEO-1 and shall cause each aviation-related activity to require its covered sub-organizations, with 15 or more employees, to annually submit such reports to the District through the prime organization for transmittal by the District to the FAA. If the District employs less than 15 employees, it shall prepare and transmit to the FAA an aggregate employment report. The District shall also submit such a report for all aviation-related activities employing less than 15 employees.

(c) The District shall require each construction contractor on the airport with a contract of \$10,000 or more, which is not subject to Executive Order 11245 and the regulations of the Department of Labor, to submit to the District at the conclusion of the project a compliance report on a form provided by the FAA and the statistical report on Department of Labor form 257 or any superseding Department of Labor form. The District shall also cause each construction contractor on its airport to require each subcontractor with a subcontract of \$10,000 or more, which are not subject to Executive Order 11246 and the regulations of the Department of Labor, to submit such reports as are required of the prime contractor. The District shall transmit such reports to the FAA.

ARTICLE 2. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Section 6-2.01 General

The purpose of this article is to provide for the implementation of the Disadvantaged Business Enterprise (DBE) Program of the FAA in order to maintain airport grant-in-aid eligibility.

Section 6-2.02 Definitions of Terms

The terms used in this Article have the meanings defined in 49 CFR §26.5.

Section 6-2.03 Policy

(a) The District has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26 (Part 26). The District has received Federal financial assistance from the FAA, and as a condition of receiving this assistance, the District will sign an assurance as part of the program supplement agreement that it will comply with Part 26 for each project.

(b) It is the policy of the District to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in FAA-assisted contracts. It is also the District's policy:

- (1) To ensure nondiscrimination in the award and administration of FAA-assisted contracts;
- (2) To create a level playing field on which DBEs can compete fairly for FAA-assisted contracts;
- (3) To ensure the DBE Program is narrowly tailored in accordance with applicable law;
- (4) To ensure that only firms that fully meet Part 26 eligibility standards are permitted to participate as DBEs;
- (5) To help remove barriers to the participation of DBEs in FAA-assisted contracts; and
- (6) To assist the development of firms that can compete successfully in the market place outside the DBE Program.

(c) The Director of Finance has been delegated as the DBE Liaison Officer. In that capacity, the Director of Finance is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the District in its financial assistance agreements with the FAA.

(d) The District has disseminated this policy statement to the Board of Directors and all the components of its organization. The District will distribute this statement to DBE and non-DBE business communities that perform work for it on FAA-assisted contracts by publishing this statement in general circulation, minority-focused and trade association publications.

Section 6-2.04 Nondiscrimination

(a) The District will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by Part 26 on the basis of race, color, sex, or national origin.

(b) In administering its DBE program, the District will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 6-2.05 DBE Program Updates

The District will continue to carry out this program until it has established a new goal setting methodology or until significant changes to this DBE Program are adopted.

Section 6-2.06 Quotas

The District does not use quotas in any way in the administration of this DBE program.

Section 6-2.07 DBE Liaison Officer (DBELO)

(a) The DBELO is responsible for implementing all aspects of the DBE program and ensuring the District complies with all provisions of Part 26. The DBELO has direct, independent access to the District's general manager concerning DBE program matters.

(b) The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

- (1) Gathers and reports statistical data and other information, as required;
- (2) Reviews third party contracts and purchase requisitions for compliance with this program;
- (3) Works with all departments to set overall annual goals;
- (4) Ensures that bid notices and requests for proposals are available to DBEs in a timely manner;
- (5) Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results;
- (6) Analyzes District progress toward goal attainment and identifies ways to improve progress;
- (7) Participates in pre-bid meetings;
- (8) Advises the Board of Directors on DBE matters and achievement;
- (9) Chairs the DBE Advisory Committee;
- (10) Participates with the legal counsel and project director to determine contractor compliance with good faith efforts;
- (11) Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance;

- (12) Plans and participates in DBE training seminars; and
- (13) Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 6-2.08 Federal Financial Assistance Agreement Assurance

The District will sign the following assurance, applicable to FAA-assisted contracts and their administration as part of the program supplement agreement for each project:

East Kern Airport District (District) shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FAA-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The District shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of FAA assisted contracts. The District's DBE Program, as required by 49 CFR Part 26 and as approved by FAA, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the District of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Section 6-2.09 DBE Financial Institutions

The District shall investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on FAA-assisted contracts to make use of these institutions.

Section 6-2.10 Directory

The District will refer interested persons to the DBE directory available from Cal Trans' Business Enterprise Program website at www.dot.ca.gov/hq/bep.

Section 6-2.11 Required Contract Clauses

(a) Contract Assurance. The District will ensure that the following clause is placed in every FAA-assisted contract and subcontract:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FAA-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the local agency recipient deems appropriate.

(b) Prompt Payment. The District will include the following clause or equivalent in each FAA-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from the District. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the District. This clause applies to both DBE and non-DBE subcontractors.

Section 6-2.12 Monitoring and Enforcement Mechanisms

(a) The District will assign a Resident Engineer or Contract Manager (RE/CM) to monitor and track actual DBE participation through contractor and subcontractor reports of payments in accordance with the following:

(1) After Contract Award

After the contract award the District will review the award documents for the portion of items each DBE and first tier subcontractors will be doing and the dollar value of that work. With these documents the RE/CM will be able to determine the work to be performed by the DBEs or subcontractors listed.

(2) Pre-construction Conference

a. A pre-construction conference will be scheduled between the RE/CM and the contractor or their representative to discuss the work each DBE subcontractor will perform.

b. Before work can be started on a subcontract, the District will require the contractor to submit a completed "Subcontracting Request." When the RE/CM receives the completed form it will be checked for agreement of the first tier subcontractor and DBEs. The RE/CM will not approve the request when it identifies someone other than the DBE or first tier subcontractor listed in the previously completed "Local Agency Bidder DBE Information." The "Subcontracting Request" will not be approved until any discrepancies are resolved. If an issue cannot be resolved at that time, or there is some other concern, the RE/CM will require the contractor to eliminate the subcontractor in question before signing the subcontracting request. A change in the DBE or first tier subcontractor may be addressed during a substitution process at a later date.

(i) Suppliers, vendors, or manufacturers listed on the "Local Agency Bidder DBE Information" will be compared to those listed in the completed Exhibit 16-I of the LAPM. Differences must be resolved by either making corrections or requesting a substitution.

(ii) Substitutions will be subject to the Subletting and Subcontracting Fair Practices Act (FPA). The District will require contractors to adhere to the provisions within Subletting and Subcontracting Fair Practices Act (State Law) Sections 4100-4144.

c. The RE/CM will give the contractor a "Final Report Utilization of Disadvantaged Business Enterprises," and will explain to them that the document will be required at the end of the project, for which payment can be withheld, in conformance with the contract.

(3) Construction Contract Monitoring

a. The RE/CM will ensure the RE/CM's staff (inspectors) know what items of work each DBE is responsible for. Inspectors will notify the RE/CM immediately of

apparent violations.

b. When someone other than the listed DBE subcontractor is found performing the work (i.e., employees noted earlier as contractor's or non-DBE subcontractor's), the RE/CM will notify the contractor of the apparent violation and potential loss of payment. Based on the contractor's response, the RE/CM will take appropriate action: (1) If the contractor's response is that the employees will be on the listed DBE subcontractor payroll, payrolls will be checked when received, and if the employees in question are not on the listed DBE subcontractor payroll, payment for the work will be withheld. If the employee is on the payroll the DEBLO will perform a preliminary investigation to identify any potential issues related to the DBE subcontractor performing a commercially useful function. (2) If the contractor's response to the RE/CM is anything other than "(1)" above, payment for the work will be withheld and a letter will be sent to the contractor referencing the applicable specification violation and the required withhold of payment.

c. If the contract requires the submittal of a monthly truck document, the contractor will be required to submit documentation to the RE/CM showing the owner's name; California Highway Patrol CA number; and the DBE certification number of the owner of the truck for each truck used during that month for which DBE participation will be claimed. The trucks will be listed by California Highway Patrol CA number in the daily diary or on a separate piece of paper for documentation. The numbers will be checked by inspectors regularly to confirm compliance.

d. The burden of proof of DBE payment is the responsibility of the contractor.

(4) Substitution

When a DBE substitution is requested, the RE/CM will request a letter from the contractor explaining why substitution is needed. The RE/CM will obtain a written concurrence from the DBE regarding this change. If the contractor is not meeting the contract goal with this substitution, the contractor must provide the required good faith effort to the RE/CM for consideration.

(5) Record Keeping and Final Report Utilization of Disadvantaged Business Enterprises

a. The contractor shall maintain records showing the name and address of each first-tier subcontractor. The records shall also show:

(i) The name and business address, regardless of tier, of every DBE subcontractor, DBE vendor of materials and DBE trucking company.

(ii) The date of payment and the total dollar figure paid to each of the firms.

(iii) The DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work claimed toward DBE goals.

b. When a construction contract has been completed the contractor will provide a summary of the records stated above. The RE/CM will compare the original list of DBE's to ensure they match the summary of records, unless an authorized substitution was allowed. The RE/CM will also check the dollar amounts. The contractor will be required to explain in writing why the names of the subcontractors, the work items or dollar figures, if any, are different from what was originally submitted when:

(i) There have been no changes made by the RE/CM;

(ii) The contractor has not previously provided a sufficient explanation in writing explaining the difference. The RE/CM will file this in the project records.

(b) The District will bring to the attention of the FAA any false, fraudulent, or dishonest conduct in connection with the program, so that FAA can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the FAA Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109. The District also will consider similar action under its own legal authorities, including responsibility determinations in future contracts.

Section 6-2.13 Overall and Contract Goals

(a) The District's overall goals for each Federal fiscal year will be as determined in the final pre-approved DBE program.

(b) The District will use the results of a Cal Trans' survey of contractors to assist in the development of a bidders list. This bidders list will be used to determine the overall goal for the next fiscal year.

(c) The District will establish contract goals only on those FAA-assisted contracts that have subcontracting possibilities. The District need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). The District will compare the contract work items with eligible DBE contractors willing to work on the project. A determination will also be made to decide which items are likely to be performed by the prime contractor and which ones are likely to be performed by the subcontractor(s). The goal will then be incorporated into the contract documents. The District will express its contract goals as a percentage of the total amount of a FAA-assisted contract.

Section 6-2.14 Good Faith Efforts

(a) Information to be submitted.

The District treats bidder/offerors' compliance with good faith effort requirements as a matter of responsiveness. A responsive bid is one meeting all the requirements of the advertisement and proposal. Each solicitation for which a construction contract goal has been established will require the bidders/offerors to submit the following information to the District no later than 4:00 p.m. on or before the fourth day, not including Saturdays, Sundays and legal holidays, following bid opening:

- (1) The names and addresses of DBE firms that will participate in the contract;
- (2) A description of the work that each DBE will perform;
- (3) The dollar amount of the participation of each DBE firm participation;
- (4) Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- (5) Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
- (6) If the contract goal is not met, evidence of good faith efforts.

(b) Demonstration of good faith efforts.

(1) The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts.

(2) The DBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

(3) The District will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before it commits to the performance of the contract by the bidder/offeror.

(c) Administrative reconsideration.

Within 10 days of being informed by the District that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the reconsideration official. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts. As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The reconsideration official will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the FAA.

(d) Good Faith Efforts when a DBE is replaced on a contract.

(1) The District will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The District will require the prime contractor to notify the RE/CM immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

(2) In this situation, the District will require the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, the District will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the District may issue a termination for default proceeding.

Section 6-2.15 Counting DBE Participation

The District will count DBE participation toward overall and contract goals as provided in the contract specifications for the prime contractor, subcontractor, joint venture partner with prime or subcontractor, or vendor of material or supplies.

Section 6-2.16 Certification

The District ensures that only DBE firms currently certified on the California Department of Transportation's (Cal Trans) directory will participate as DBEs in its program.

Section 6-2.17 Information Collection and Reporting

(a) Bidders List.

The District will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on FAA-assisted contracts. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms. Initially, the results from a Cal Trans' contractor survey will be used to start a bidders list.

(b) Monitoring Payments to DBEs.

The District will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the District or FAA. This reporting requirement also extends to any certified DBE subcontractor. The District will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

(c) Confidentiality.

The District will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local laws.

Section 6-2.18 Incorporation by Reference

In all other respects, the District's DBE program shall satisfy the requirements, criteria and procedure set forth in 49 CFR Part 26. (Res. 00-09-594 – September 19, 2000.)

ARTICLE 3. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Section 6-3.01 General

The purpose of this article is to provide for the implementation of the Disadvantaged Business Enterprise (DBE) Program of the Federal Aviation Administration in order to maintain airport grant-in-aid eligibility.

Section 6-3.02 Policy

(a) The District has established a DBE program in accordance with the requirements of the United States Department of Transportation (DOT). When receiving funding from DOT, the District shall sign assurances to comply with the provisions of 49 Code of Federal Register Part 23, "Participation by Disadvantaged Business Enterprise in DOT Programs."

(b) It is the policy of the District that DBEs, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts assisted in whole or in part by funds granted by the DOT. The District's policies prohibit discrimination against any person because of race, color, sex or national origin in the award or performance of any contract subject to the requirements of 49 CFR Part 23. The District will require its employees, agents and contractors to adhere to the provisions of this program.

(c) The District shall use affirmative action techniques set forth herein to facilitate DBE participation in contracting activities:

(1) Arranging solicitations or requests for proposals, time for presenting bids or proposals, quantities, specifications, and delivery schedules so as to facilitate DBE participation;

(2) Providing assistance to DBEs in overcoming barriers in the procurement process such as the inability to obtain bonding, financing, or technical assistance; and

(3) Carrying out information and communication programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

(d) This policy statement is disseminated to the directors and all employees of the District, to organizations of minority and disadvantaged businesses and to non-minority business and community organizations of the District.

Section 6-3.03 DBE Directory

(a) The District has compiled and will maintain an updated DBE directory, which is located at the District offices. The California Department of Transportation (Cal Trans) directory will be used to supplement the District directory. Directories of other agencies may also be used when a project requires a search of DBEs beyond the normal recruiting areas.

(b) The District's directory lists firms that are capable of performing general contracting and particular solicitations. The directory is organized by type of work the contractor desires to perform. The directory indicates which firms have passed the District's

own certification process, those certified by the Small Business Administration (SBA) under the Section 8(a) program, those certified by the Cal Trans and some firms which do not have current certification.

(c) The District will update the directory annually. The update will include any addition of DBE certified during that period. If a bidder names other DBEs it desires to use, these firms will be included in the directory if they can be certified. Other DBEs that desire to be listed will also be included upon request.

(d) The directory is made available to bidders and proposers in their efforts to meet the DBE goals established by the District and made a part of bid specifications. The directory is a primary source for locating potential DBE contractors.

Section 6-3.04 Eligibility Procedures

(a) The District will certify the eligibility of DBEs and joint ventures involving DBEs that are named by competitors for FAA assisted contracts to be let by the District. The District may also accept the certifications made by other DOT recipients.

(b) The District requires prime contractors to make good faith efforts to replace a DBE subcontractor that is unable to perform the contract successfully with another DBE. Substitutions of DBE subcontractors before bid opening and during contract performance must be approved by the District. In these instances, the District verifies eligibility of a substitute firm. The business that desires to participate as a DBE will be required to complete and submit Schedule A (Appendix 1) to the District. Any business that desires to participate as a joint venture DBE will, in addition, be required to complete Schedule B (Appendix 2). The schedules must be signed and notarized by the authorized representative of the business. The required schedule must accompany the DBE participation information submitted to the District by competitors.

(c) The District will certify DBEs on the basis of the criteria from time-to-time established by FAA.

Section 6-3.05 Percentage Goals

(a) The District's overall goals for entire DBE program is to achieve 10% of participation by socially and economically disadvantaged individuals in covered projects annually. The District shall establish contract goals on each specific prime contract for subcontracting possibilities which the bidder must meet or exceed or demonstrate that it cannot meet or exceed despite its good faith efforts.

(b) Contract goals should be set to achieve the overall goal as illustrated in Appendix 4. (Appendix 4 in the DBE Kit). The District shall submit their overall goals and a description of the methodology used in establishing them with their DBE program. Contract goals need not be submitted in the applicant's DBE program, but the program shall contain a description of the methodology to be used in establishing them. At the time the District submits its overall goals to the Department for approval the District shall publish a notice announcing these goals, informing the public that the goals and a description of how they were selected are available for

inspection during normal business hours at the principal office of the recipient for 30 days following the date of the notice, and informing the public that the Department and the District will accept comments on the goals for 45 days from the date of the notice. The notice shall include addresses to which comments may be sent, and shall be published in general circulation media and available minority-focus media and trade association publications and shall state that the comments are for informational purposes only.

Section 6-3.06 Evaluation of Good Faith Efforts

(a) For all contracts for which a contract goal has been established, the bidding documents shall inform the competitors that the apparent successful competitor will be required to submit DBE participation information to the District and that the award of the contract will be conditioned upon satisfaction of the requirements established by the District.

(b) If the DBE participation information submitted by the apparent low bidder does not meet DBE contract goals, the apparent successful competitor shall satisfy the District that the competitor has made a good faith effort to meet the goals. The District will determine whether good faith effort has been made by using the criteria set forth in 49 CFR Part 23.

Section 6-3.07 Incorporation by Reference

In all other respects, the District's DBE program shall satisfy the requirements, criteria and procedure set forth in 49 CFR Part 23.