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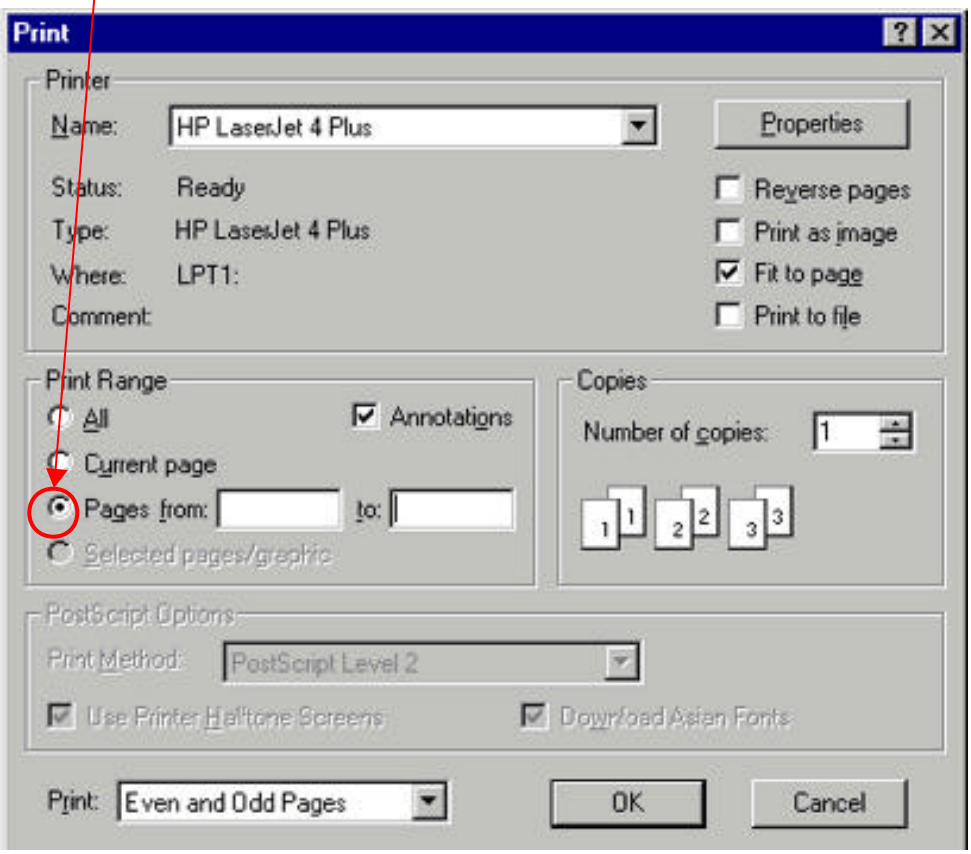

# OTAY WATER DISTRICT

# CODE OF ORDINANCES

ADOPTED BY

ORDINANCE NO. 310

EFFECTIVE OCTOBER 15, 1984

OTAY WATER DISTRICT

CODE OF ORDINANCES

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DIVISION I DISTRICT ADMINISTRATION

CHAPTER 1 GENERAL PROVISIONS

SECTION 0 DEFINITIONS AND MISCELLANEOUS PROVISIONS

## 0.01 TITLE - REFERENCE TO CODE

This Code shall be known as the "Otay Water District Code of Ordinances." References herein to the "Code" or the "Ordinances" shall be deemed to mean said Code of Ordinances.

## 0.02 DEFINITIONS

The following words as used in this Code shall have the meanings set forth below unless otherwise apparent in the context in which they are used:

"Board of Directors" or "Board" means the Board of Directors of the District.

"Board Member" or "Member of the Board" means a Director of the Board of Directors.

"Central Area Service Zone" means all land within the boundaries of the area identified as the Central Area Service Zone as shown on the map on file in the Office of the District Secretary.

"County" means the County of San Diego.

"Customer" means any person, firm, association, partnership, corporation or governmental agency supplied or entitled to be supplied with water or sewer service by the District for compensation.

"Developer" means any person, firm, association, partnership, joint venture or corporation who applies for acceptance by the District of an addition or change to its water distribution system or its sewer collection system.

‘‘Development’’ means the improvement of a parcel or a group of parcels that are owned by the same or affiliated parent entity, subsidiary, or Developer.

"District" means the Otay Water District (formerly Otay Municipal Water District).

"Equivalent Dwelling Unit" or "EDU" means a unit of measurement for water service or sewer service. For water service, one EDU shall be considered to be equivalent to a ¾-inch meter, and is also typically considered to be equivalent to 650 gallons per day (gpd) for planning purposes. For sewer service, one EDU shall be 250 gallons per day (gpd) of residential strength wastewater defined as having a maximum concentration of 280 milligrams per liter (mg/l) biochemical oxygen demand (BOD) and 234 milligrams per liter (mg/l) suspended solids.

"General Manager" means the General Manager of the District or the designated representative.

"Irrigated area" means the area of land (measured in square feet) which may require supplemental water (potable or recycled) from the District for the support of landscaping, but does not include decks, walkways, patios, tennis courts or any other permanently hard-surfaced areas maintained within or around landscaped areas. Trees shall have an irrigated area equal to the area within the circumference of the canopy (drip line) of the tree at maturity.

"Landscape or landscaping" means the living plant material and organic or inorganic ground covers (mulches) used for aesthetic, erosion control and/or fire control purposes as specified by city or county regulations.

"Line Extension" means a water or sewer main constructed from the termination point of an existing District main to provide service beyond the existing main.

"Non-permanent Irrigation Service" means temporary water service furnished to establish and maintain re-vegetated native plants.

‘‘Facilities’’ means structures, and water or sewer system elements that may be located above or below ground level including, but not limited to, pipelines, system appurtenances, pump stations and reservoirs.

"Off-Site Facilities" means facilities which must be constructed outside the boundaries of a development to bring utility service from the nearest District facility to the boundary of the land being developed.

"On-Site Facilities" means facilities which must be constructed within the boundaries of a development for utility service within the development or other land to be served.

"Parcel Map Development" or "Lot-Split" means a real estate development resulting in a division of land into four or less parcels for which no subdivision map is required but for which a parcel map is required to be filed and approved by the applicable local governmental agency.

"Person" means any individual, firm, co-partnership, joint venture association, corporation, county, city, municipal corporation or other political subdivision, or any other group or combination acting as a unit.

"Regional Facility’’ means those facilities that serve a regional need and are not required for a specific Development or Developments as defined in Section 0.02 of the District’s Code of Ordinances and as demonstrated by the Development’s Sub Area Master Plan(s). The District’s Water Facilities Master Plan defines which Regional Facilities are eligible for reimbursement.

"Sewer Lateral" means the portion of pipe between the District sewer main and the coupling at the property owner's point of connection.

The word "shall" means mandatory and the word "may" means permissive.

"Staff" means the General Manager and other administrative personnel of the District.

"Subdivision" means a real estate development resulting in a division of land into five or more lots or parcels for which a subdivision map is required to be filed and approved by the applicable local governmental agency.

"Utility" or "Utility System" means a water system and/or sewer system, as applicable.

"Water Lateral" means the portion of pipe between the District water main and the water meter location.

"Water Meter" means an instrument used for automatic recording of the quantity of water delivered to a customer and the term shall include the fittings, valves and equipment required for operation of the water meter.

"Water Service" means the furnishing of water to a customer through a District-owned water meter or meters.

## 0.03 EFFECT OF HEADING

The title, division or section headings contained in this Code shall not be deemed to govern, limit or modify in any manner the scope, meaning or intent of the provisions of any section or subsection of this Code.

## 0.04 NOTICES

A. Whenever a notice is required to be given under this Code, unless different provisions are specifically made herein, such notice may be made either by personal delivery thereof to the person to be notified or by deposit in the U.S. Mail in a sealed envelope, postage prepaid, addressed to such person at his last known business or residence address as the name appears in public records or other records pertaining to the matter to which the notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

B. Proof of giving any notice may be made by the certificate of any officer or employee of the District or by affidavit of any person over the age of eighteen years, which shows service in conformity with this Code or other provisions of law applicable to the subject matter concerned.

## 0.05 VALIDITY OF CODE

If any section, subsection, sentence, clause, phrase or portion of this Code is for any reason held to be invalid or unconstitutional by the decision of any court, such decision shall not affect the remaining portions of this Code. The Board of Directors hereby declares that it would have adopted this Code and each section, subsection, sentence, clause, phrase or portion thereof, irrespective that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

## 0.06 TIME LIMIT FOR SEEKING REVIEW OF ADMINISTRATIVE DECISIONS

Judicial review of any administrative decision of the District may be had pursuant to Code of Civil Procedure Section 1094.5 only if the petition for writ of mandate is filed not later than the ninetieth day following the date on which the decision become final.

# CHAPTER 2 ADMINISTRATION OF DISTRICT

## SECTION 1 BOARD OF DIRECTORS AND OFFICERS

### 1.01 GOVERNING BODY

A. Authority of Board. The Board of Directors, acting as a Board, is the governing body of the District. The Board shall act only at its regular, regularly adjourned or special meetings.

B. Authority of Individual Board Members. All powers of the District shall be exercised and performed by the Board as a body. Individual Board members, except as provided in this Code or otherwise authorized by the Board, shall have no power to act for the District, or the Board, or to direct the Staff of the District.

C. Compensation for District Directors. Each member of the District Board of Directors shall be compensated as per Board of Directors Policy 8, *Directors Compensation, Reimbursement of Expenses and Group Insurance Benefits,* under Item A, Directors Per Diem, for each day's attendance at meetings of the Board, or for each day's service rendered as a member of the Board at meetings or functions approved by the Board. A request for service made by the General Manager of the District or made or approved by the President of the Board shall be deemed approved by the Board. The number of days of authorized compensation for any calendar month shall be limited to ten, regardless of the number of meetings attended or days of service rendered.

D. Staff Direction. The Board shall work through the General Manager to obtain such information as may be necessary and appropriate to assist the Board in its deliberations, and may direct Staff to implement the policies and decisions of the Board. Individual Board members shall not act independently to direct Staff in the performance of their duties, or to provide or compile data, information or reports.

### 1.02 OFFICERS

A. Board Officers. The Board shall elect one of its members as President, and one of its members as Vice President.

B. District Officers. The Board shall appoint officers of the District as required by law, including a Secretary, Deputy or Assistant Secretary, Deputy or Assistant Treasurer, and such other assistants and employees as it may deem necessary to operate the District. The Secretary and Treasurer of the District may, but need not be, members of the Board.

1.03 ELECTION OF BOARD OFFICERS

A. Date of Election. In the month of December of each year, or at such time the Board deems necessary, the Board shall elect a President and Vice President. Their terms shall be for one year, or until their successors are elected. The Board may, however, at its sole discretion and without cause reorganize and select new officers at anytime prior to the expiration of the one-year term.

B. Procedure for Election. The procedure in this paragraph B shall govern the election of Board President and Vice President, unless changed by action of the Board by motion at the time of the election. The General Manager shall chair the proceedings for election of the President, which shall be the first order of business after any newly elected directors have been seated or at anytime as the Board deems necessary. The newly-elected President shall assume office immediately, and shall chair the proceedings for the election of the Vice President. The Chair shall call for nominations from members of the Board. No second shall be required for nominations, although one or more members may second a nomination to indicate endorsement. No member may nominate more than one person for the position. Once all nominations have been made, the Chair shall call for a roll call vote. Each Board member shall state the name of the candidate for whom he/she casts his/her vote. Three votes shall be required for election. If only one person should be nominated for an office, the Board may act by motion to elect such nominee.

1.04 BOARD VACANCIES

Procedure for Appointment. Vacancies in the office of Director shall be filled in accordance with the provisions of Section 1780 of the California Government Code. Such procedure permits the remaining members of the Board to fill the vacancy by appointment, provided the appointment is made within 60 days after the effective date of the vacancy, and provided further that notice of the vacancy is given as provided by law. In making such appointment, the Board shall follow the same procedure as provided for the election of its officers. In lieu of making an appointment, the remaining members of the Board may request an election to fill the vacancy.

## 1.05 DUTIES OF PRESIDENT

A. Meetings. The President shall preside over and conduct all meetings of the Board and hearings before the Board. In so doing, the President shall have the following powers and responsibilities:

1. To follow the prepared agenda unless the Board concurs in any change.

2. To determine all questions of order and parliamentary procedure, unless he/she chooses to submit any such question to the Board for decision.

3. To maintain order and to enforce reasonable rules of decorum.

4. To determine at meetings of the Board, other than public hearings, whether or not members of the public should be heard on particular issues or otherwise be permitted to address the Board.

5. To set reasonable limits upon the length of time and the number of occasions on which a person may speak at public hearings as well as other meetings of the Board.

6. To recognize Board members who may wish to be heard.

7. To restate, where necessary, and to put to a vote all questions properly before the Board, and to announce the result of each vote.

8. To terminate debate after there has been reasonable opportunity for full discussion of any issue and further debate would be needlessly repetitive or otherwise not useful, and where proper, to put the matter to a vote.

9. To rule out of order any comment by Board members, Staff or members of the public not germane to the issue then before the Board.

10. To respond to inquiries by Board members relating to procedures, or to factual information bearing upon the business before the Board.

11. To establish standing or ad hoc committees of the Board, and to appoint the members thereof, when requested by the General Manager.

12. To declare the meeting adjourned upon such vote by the Board, or when in his/her judgment any emergency or other cause requires adjournment.

13. To authenticate by his/her signature all acts, orders, and other proceedings of the Board.

Notwithstanding the delegation of such powers to the President, any action taken by a majority of the Board on any of the foregoing matters shall be determinative thereof.

B. Board Spokes Person. The President shall act as spokes person for the Board with respect to its actions and policies, and those of the District. This provision, however, shall not preclude any other officer or employee of the District from making appropriate comments within the scope of his/her position.

C. Public Appearances. The President, or any Board member or Staff person he/she designates, shall represent the Board, where it is appropriate or desirable for the District to appear, at meetings of other public agencies, before public groups, or on other public occasions. However, this provision shall not limit the attendance of any Director or authorized officer or employee of the District.

1.06 DUTIES OF VICE-PRESIDENT

A. Powers of Vice-President. The Vice-President shall act if the President is absent or unable to act, and shall exercise all of the powers of the President on such occasion.

1.07 DUTIES OF SECRETARY

A. Board Matters. With respect to the affairs of the Board of Directors, the Secretary shall have the following duties:

1. To take and prepare minutes of all Board meetings.

2. To keep in appropriate books the original copies of all final minutes, ordinances and resolutions of the Board.

3. To keep on file all Board committee reports.

4. To attest to the minutes, ordinances, resolutions and other documents of the Board.

5. To provide notice as required by law of any special meeting or regularly adjourned meeting.

6. To provide notice as required by law of any hearing before the Board.

7. In the absence of the President and Vice-President to call any meeting to order, and to preside until the election of a chair person pro tem, who shall then exercise the powers of the President at such meeting.

B. Other Duties. The responsibilities enumerated in Section 7A are not intended to limit any other duties of the Secretary imposed by law, or assigned from time to time by the Board, or by the General Manager if the Secretary is an employee of the District.

C. Assistant Secretary. The Assistant Secretary shall act if the Secretary is absent or unable to act, and shall exercise all the powers of the Secretary on such occasion.

1.08 MEETINGS OF THE BOARD

A. Time and Place of Meetings. Regular meetings of the Board shall be held at the office of the District at 2554 Sweetwater Springs Boulevard, Spring Valley, California, at such day and hour as may be specified from time to time by resolution of the Board.

B. Public Nature of Meetings. All meetings of the Board shall be open to the public, except when the Board is convened in Closed Session as authorized under provisions of law. Meetings of Board committees composed of not more than two members of the Board shall not be public meetings, unless the committee determines otherwise.

C. Quorum and Voting Requirements. A majority of the Board of Directors shall constitute a quorum for the transaction of business. However, no ordinance, resolution or motion shall be passed without three affirmative votes.

D. Agendas for Board Meetings

1. The General Manager shall prepare the agendas for meetings. Agendas shall be based upon items requested by any Board member or by others in the normal course of the District business, or as determined by the General Manager.

2. Each agenda for a regular meeting shall provide an opportunity for members of the public to address the Board of Directors on items of interest to the public that are within the subject matter of the Board of Directors. Action by the Board of Directors on any such matter shall be taken in accordance with Section 1.08E of this Code.

3. The agenda for a regular or adjourned regular meeting may provide for a Consent Calendar for items which the General Manager deems to be of a routine nature. Action by the Board of Directors on the Consent Calendar shall be taken in accordance with Section 1.08E of this Code.

4. At least 72 hours before a regular meeting of the Board an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting shall be posted at the entrance to the District business office in a location accessible to members of the public.

E. Board Action

1. The Board shall act only by ordinance, resolution or motion. The vote on ordinances shall be recorded in the minutes. An ordinance does not require two readings at separate meetings, and unless otherwise provided by its own terms, shall become effective upon adoption. Ordinances, resolutions and other motions may be adopted by a voice vote, but on demand of any member of the Board, the roll shall be called and the vote recorded. All motions, including a motion to adopt an ordinance or to approve a resolution, shall require a second. If a second is not received, the motion shall fail without the requirement of a vote. Any member of the Board, including the Chair, can make and second a motion, and the Chair shall vote on all motions unless disqualified or abstaining. If a motion is not in writing, and if it is necessary for

full understanding of the matter before the Board, the Chair shall restate the question prior to the vote. Common motions may be stated in abbreviated form, and will be put into complete form in the minutes. Until the Chair states the question, the maker with the approval of the second may modify his/her motion or withdraw it completely. However, after the question has been stated by the Chair, the motion may be changed only by motion to amend, which is seconded and carried.

2. All items on the Consent Calendar on a Board Meeting Agenda may be approved without discussion upon motion duly made, seconded and approved by at least three Directors. At the request of a Director or a member of the public, an item on the Consent Calendar shall be removed from the Consent Calendar and placed on the Agenda with other items for discussion and consideration by the Board of Directors.

3. The Board shall not take action on any item not appearing on the agenda previously posted for the meeting pursuant to Section 1.08D of this Code; excepting, however, the Board may consider items not appearing on the posted agenda if:

   (a) a majority of the Board determines that an emergency situation) as defined in Government Code Section 54956.5) exists;

   (b) two-thirds of the Board finds that the need to take action arose after the agenda was posted; or

   (c) the item was posted for a prior meeting occurring not more than five days prior to the current meeting and was continued to the current meeting.

F. Parliamentary Procedures Affecting Motions. After a motion has been made and seconded, any member of the Board may make any of the following motions:

1. To continue the motion to a specific time.

2. To table the motion, the effect of which defers further discussion and a vote until the majority of the Board again wishes to resume consideration of the motion.

3. To commit or refer the motion to a committee, the effect of which is to defer further consideration until the committee has reported its findings to the Board.

4. To amend the motion to modify its wording before adoption, provided the suggested amendment is germane to the original motion.

5. To propose a substitute motion, which has the effect of disposing of the motion before the Board and eliminating the necessity of a vote on the original motion.

6. To call for the question, which in fact is a motion to terminate further debate, and requires a second and an affirmative vote of the Board.

G. Routine Business. Matters of routine business such as approval of the minutes, and approval of minor matters, may be expedited by assuming unanimous consent of the members of the Board, and having the Chair state that without objection the matter will stand approved. If any member should object to such unanimous consent, the Chair shall then call for a vote.

H. Orderly Discussion. In order to promote orderly discussion of the issues before the Board, each member shall be recognized by the Chair before speaking. Each member shall have a right to speak subject to Section 1.05A, subnumber 8 and 9 of this Code. Each member of the Board may seek information or comment by the Staff on any question.

I. Rules of Procedure for Board Meetings. The following shall apply to persons desiring to address the Board of Directors:

1. Anyone who desires to speak to the Board of Directors on a specific subject at a particular meeting should contact the District Secretary and give their name and address, request that the subject be placed on the Agenda for that meeting and give the reason for such request.

2. Anyone in attendance at a Board meeting, who desires to speak to an item on the Agenda that is being considered, may request to be heard by stepping to the podium and stating his or her name and address for the record.

3. Anyone in attendance at a Board meeting who desires to speak on a subject that is not on the Agenda for that meeting may request to do so by stepping to the podium and stating his or her name, address and the subject they wish to discuss. The Board shall determine in accordance with Section 1.08E3 of this Code whether the subject will be taken as an "off-docket" item and discussed at that meeting or placed on the Agenda for the next Board meeting.

4. No one in the audience shall be permitted to pose questions or carry on any discussion on any matter being considered by the board unless they first step to the podium and give their name and address as required above. Anyone failing to comply may be deemed "out of order" by the Chair and statements or comments made by such person shall not be considered by the Board of Directors.

J. Closed Sessions. Except as required by law, all proceedings in Closed Sessions shall remain confidential.

## 1.09 PUBLIC HEARINGS

A. Order of Procedure. Public hearings shall be called to order by the Chair at or as soon as practical after the time for which the hearing has been noticed. The Chair shall interrupt at a reasonable point any business before the Board in order to proceed with such noticed public hearing. The procedure for public hearings shall generally be as follows:

1. The Secretary shall report upon the notice of the hearing which has been given.

2. The Secretary shall indicate or summarize all protests or correspondence which has been received on the issue to be heard.

3. The Staff shall present such information, exhibits and recommendations as may be appropriate.

4. The Chair shall call upon such members of the public as may wish to be heard.

5. Board members and Staff shall attempt to answer such questions from members of the public as may be germane to the issues of the hearing.

6. Board members and Staff, after recognition by the Chair, may ask questions of members of the public who speak.

7. Board members shall refrain from discussing the issues among themselves, or expressing their personal views, until all of the testimony has been heard and the hearing has been closed.

8. If the nature of the hearing appears to warrant sworn testimony, the Chair may require that all persons giving testimony do so under oath. The oath may be administered by the Chair, a Board member, or by the Secretary.

9. Any member of the public may, at his/her own expense, transcribe the proceedings of the hearing.

## 1.10 ROBERT'S RULES OF ORDER

A. Applicability. While many of the principles of Robert's Rules of Order have come to be generally accepted as the proper, fair and efficient way of conducting a meeting, such Rules were not designed for small governing boards of public agencies, and in some instances conflict with the law. Accordingly, while many of the fundamental concepts of Robert's Rules of Order have been included within the provisions of this Ordinance, such Rules shall not technically apply to the affairs of the Board of Directors of this District.

## 1.11 SEAL OF THE DISTRICT

The Seal, an impression of which is hereby affixed to this page and bearing the words "OTAY WATER DISTRICT founded January 27, 1956" is adopted as the official Seal of this District.

## CHAPTER 2 ADMINISTRATION OF THE DISTRICT

## SECTION 2 MANAGEMENT OF THE DISTRICT

### 2.01 AUTHORITY OF THE GENERAL MANAGER

Pursuant to Sections 71362 and 71363 of the California Water Code, and other applicable laws of the State of California, the General Manager shall, subject to the approval and direction of the Board of Directors, operate and manage the affairs of the District. The General Manager shall have the following specifically enumerated powers and authority:

A. To control the administration, maintenance, operation and construction of the water and sewer systems and facilities of the District in an efficient manner.

B. To employ and discharge all employees and assistants, other than those referred to in Section 71340 of the California Water Code, and to prescribe their duties and promulgate specific rules and regulations for such employees and assistants.

C. To promulgate policies and procedures necessary to enhance the security of the District and increase the transparency of District operations, including provisions for the disclosure of conflicts of interest by employees.

D. To establish the terms and conditions for collection of receivables, thereby facilitating the efficient administration of the District’s receivables. The General Manager or designee is given this authority as well as the authority to waive, adjust, or reduce any receivable for amounts up to $10,000.

E. To execute agreements, contracts, other documents, or commitments on behalf of the District where the amount involved does not exceed $50,000, provided that Public Works Contracts shall be awarded in compliance with applicable laws.

F. To approve change orders to agreements, contracts, or other commitments on behalf of the District. If the underlying contract is awarded by the General Manager pursuant to paragraph 2.01-E above, the cumulative value of the approved change orders and the underlying agreement, contract, or commitment shall not exceed the General Manager’s signatory authority established above. If the underlying contract is awarded by the Board, the General Manager may approve change orders thereto in an aggregate amount not exceeding the General Manager’s signatory authority established above.

G. To approve plans, specifications, maps and agreements, and any other documents involving land development projects within the District.

H. To authorize the use of District Real Property by third parties if all the following conditions are met: (a) the consideration is less than the General Manager's authority; and (b) the proposed use consists of an easement, license, access permit or other use of a portion of the District Real Property that will not interfere with the existing or anticipated uses of the District Real Property for District purposes; and (c) either (i) the term of the proposed use is 10 years or less, or (ii) the entity proposing to use the District Real Property is a regulated utility, governmental entity or not-for profit organization. All uses of District Real Property not contemplated herein or specifically authorized in other sections of this Code of Ordinance shall be presented to the Board of Directors for consideration.

1. The General Manager may establish terms and conditions for the use of and access to District Real Property contemplated herein, including administrative charges.

2. The use of any District Real Property shall require consideration satisfactory to the General Manager, which may be monetary compensation in an amount equal to the fair market value of the proposed use plus an administrative charge or may be in the form of a real property interest or other equivalent compensation or use.

3. "District real property" means and includes real property and interests thereon, such as fee interests, easements, licenses and other such interests acquired for various District purposes including but not limited to the construction, operation, access or maintenance of pipelines or other facilities necessary or convenient to the full exercise of the District's powers.

I. To declare an emergency and, in such event, to have the additional powers specified in the District's emergency management plan, referred to as the National Incident Management System (NIMS), and below, pursuant to California Contract Code Section 22050. An emergency is a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent and mitigate the loss or impairment of life, health, property, or essential public services.

1. In a declared emergency, the General Manager may direct employees, take action to continue or restore service

capability, and execute any contracts for necessary equipment, services, or supplies directly related and required by the emergency. Notwithstanding the limits imposed in the prior paragraphs of this Section 2.01, or by any other policy or guideline of the District, in an emergency, the General Manager may award and execute contracts for goods, services, work, facility or improvement, without bidding and without regard to said limits, provided that the goods, services, work, facilities or improvements acquired or contracted for are of an urgent nature, directly and immediately required by the emergency. Any contract for goods or services with a value of more than $250,000 shall be subject to ratification by the Board at its first regularly scheduled meeting following the declaration of the emergency to which the contract relates. Any contract for work, facilities or improvements with a value of more than $500,000 shall be subject to ratification by the Board at its first regularly scheduled meeting following the declaration of the emergency to which the contract relates.

2. The General Manager shall report to the Board not later than 48 hours after the emergency action or at the next regularly scheduled meeting, whichever is earlier. The report shall include the details of the emergency and reasons justifying the actions taken, and provide an accounting of the funds expended or yet to be expended in connection with the emergency.

3. If the emergency action continues for seven days and a regularly scheduled meeting will not occur within 14 days from the day the emergency action was taken, the General Manager shall request that the Board review the emergency action and determine by formal action if the need to take emergency action continues.

4. At each regularly scheduled meeting following the declaration of an emergency the Board may, by formal action and pursuant to a vote as required by Section 22050 of the Public Contract Code, determine if there is a need to continue the emergency action. If the Board does not determine that the emergency continues, the power to operate under emergency conditions will terminate and any new work, goods or services not yet procured shall be contracted or acquired in accordance with applicable provisions of this Code.

J. In addition to the authority for the use of District Real Property enumerated in subsection H above, to approve the following types of agreements and amendments to agreements for the lease of District Real Property and/or space on District facilities to cellular companies and related entities for telecommunications purposes, provided such agreements and amendments are substantially in compliance with the District’s standard contract terms and provisions and have been reviewed and approved by General Counsel:

1. A reduction of the lease rate of not more than 25%.

2. Any increase in the lease rate.

3. Allowance of new equipment on the leased space, provided proper land use permits are acquired by the lessee from the appropriate entities.

4. Administrative changes to the lease, including amending leases to the District’s most current form as approved by the Board.

5. Entering into a lease that contains the District’s most current form as approved by the Board with a new entity on a new site or a site that has been vacated.

## 2.02 ORDER OF SUCCESSION

When the General Manager is going to be absent from the District, the General Manager is authorized to designate an Asst. General Manager to act on his behalf and said person shall have the same authority as the General Manager. Any long-term vacancies (over 30 days) shall be filled by vote of the majority of the Board.

# CHAPTER 3 DISTRICT FINANCIAL MATTERS

## SECTION 3 DISTRICT BANKING AND OTHER FINANCIAL MATTERS

### 3.01 DESIGNATION OF DEPOSITORY

The Board of Directors shall designate a depository or depositories to have custody of District funds, which depositories shall give the District sufficient collateralization to secure the District against possible loss, as required by law. Only such person or persons authorized by the Board may sign checks to withdraw funds from any of such depositories.

The General Manager, Secretary, Treasurer, –Chief Financial Officer, and all other employees or assistants of the District who may be required to do so by the Board of Directors, shall give such fidelity or performance bonds to the District as the Board may from time to time require. The premium for such bonds shall be paid by the District.

### 3.02 DEPOSIT OF CASH

All funds received by the District from any source whatsoever shall be promptly deposited in one of the time or demand bank accounts established by resolution of the Board of Directors. It shall be the responsibility of the Chief Financial Officer of the District and of his/her deputies, who have been or may be appointed, to assure such prompt deposit of funds.

### 3.03 TYPES OF ACCOUNTS AND INVESTMENT ACCOUNTS

A. The following types of bank accounts and investment accounts shall be established and maintained for District funds as directed or approved by the Board of Directors:

1. Demand Deposit Account. All funds, when first received, shall be deposited in one of the demand deposit accounts established under Section 3.02. However, the– Chief Financial Officer, or his/her designee, shall cause those funds for which an early demand is not foreseen, to be transferred

to a time deposit account or to an investment account to produce an interest return as soon as practicable.

2. Time Deposit Account. Funds for which an early demand is not foreseen shall be transferred from a demand deposit account to a time deposit account or invested in an investment authorized under 3 of this Section 3.03.

3. Investments. As an alternative to placing funds in a time deposit account, funds may be invested in the form of securities authorized by Section 53601 of the California Government Code and District Policy No. 27.

## 3.04 CLASSES OF BANK ACCOUNTS

A. The following classes of accounts shall be established and maintained for the District:

1. General Accounts. All District funds shall be placed in one or more of the types of accounts or investments listed under Section 3.03. Such funds shall be designated "Otay Water District, General Account" except for funds which are to be placed in special accounts as may be directed by the Board of Directors or as otherwise authorized in this Section 3.04. Such special accounts may be any one of the types listed in Section 3.03.

2. Payroll Account. One special demand deposit account, designated "Otay Water District, Payroll Account," shall be maintained for the sole purpose of paying wages, salaries and taxes for District employees. No funds shall be deposited in this account except funds withdrawn by check or transfer from a General Account.

## 3.05 TRANSFER OF FUNDS FROM ONE ACCOUNT TO ANOTHER

A. The Chief Financial Officer of the District or his/her designee is authorized and is delegated the responsibility of directing banking institutions to transfer funds from one type of account to another type in

a financial institution which has been approved by the Board of Directors. For the purpose of such transfers the types of accounts designated "Demand Deposits," "Time Deposits," and "Investment Accounts" shall be interchangeable at the direction of the Chief Financial Officer or his/her designee with after-the-fact approval of the Board.

3.06 WITHDRAWAL OF FUNDS

A. Funds may be withdrawn from any class of demand deposit by issuance of a check or by means of a wire transfer which must be approved by two authorized signers.

B. All checks drawn against the General Accounts shall be listed in numerical order on a list of demands that shall be included in a report to the Board of Directors on a regular basis.

C. All checks drawn against the General Accounts or payroll account must be executed using a facsimile signature or require the signatures of two signers. Checks will not be released until approved by the General Manager and the Chief Financial Officer; or individuals designated by the General Manager or Chief Financial Officer, respectively.

3.07 DIRECTIONS PERTAINING TO DEMAND DEPOSITS

Each demand deposit account shall be established only by resolution which shall contain directions therein as to the persons who may sign checks on the account.

3.08 FISCAL YEAR

The fiscal year of the District shall be the period beginning July 1 of each calendar year through June 30 of the next calendar year.

3.09 CLOSING OF BOOKS OF ACCOUNT

Within 30 days after the last day of each fiscal year, the Chief Financial Officer shall cause all final entries for such fiscal year to be made in the District books of

account, prepare them for examination by the external Auditor, and notify the Auditor that the books of account are ready for audit.

3.10 APPOINTMENT OF AN AUDITOR FOR ANNUAL AUDIT OF BOOKS OF ACCOUNT

The Auditor for the District shall be appointed by the Board of Directors and shall serve thereafter until such time as the Auditor may resign, the appointment may be revoked by the Board, or a successor has been appointed by the Board.

Within 60 days after the books of account have been prepared for the Auditor's use, as provided in Section 3.09, the Auditor shall perform and submit the annual audit of said books of account to the District.

CHAPTER 4 PURCHASING

SECTION 4 PURCHASES AND PAYMENTS

4.01 PURCHASES OF PROPERTY OR SERVICES

With the exception of real property, all purchases shall be made in conformity with the District Purchasing Manual promulgated by the General Manager and approved by the Board.

4.02 PAYMENT OF INVOICES

Payments to suppliers shall be made only upon receipt of invoices satisfactory to the District staff with the proper purchase order numbers indicated thereon, when applicable. Invoices shall not be paid until the following documents are delivered to Accounts Payable for issuance of a check and payment is made in accordance with Chapter 3, Section 3.06 of the Code of Ordinance:

A. Supplier's invoice, which shall be checked for purchase order number, where applicable, accuracy, and an appropriate signature for receipt of the goods or services.

B. District purchase order, where applicable.

C. Receiving document, where applicable.

4.03 PETTY CASH PURCHASE

Purchase of supplies and services may be made from petty cash funds in accordance with District Policy 15 of the Code of Ordinance.

4.04 PUBLIC WORKS CONTRACTS

All public works contracts shall be let in accordance with applicable provisions of the California Water Code and the District Purchasing Manual.

4.05 DISPOSAL OF SURPLUS PROPERTY

All property, real or personal, which has been declared surplus to the District's needs, shall be disposed of in accordance with the District Purchasing Manual or applicable statutes and laws.

CHAPTER 5 PERSONNEL PRACTICES

SECTION 5 EMPLOYER-EMPLOYEE RELATIONS

## 5.01 PURPOSE

It is the purpose of this Chapter to promote full communication between the District and its employees by providing a reasonable method for meeting and conferring in good faith with Recognized Employee Organizations regarding matters that directly and significantly affect and primarily involve matters regarding wages, hours and other terms and conditions of employment, as well as to promote the improvement of personnel management and employee relations by providing a uniform basis for District employees to join or not to join any organization of their choice. It is also the purpose of this Chapter to fully comply with the provisions of the Meyers-Milias Brown Act and to provide orderly procedures for the administration of employer-employee relations.

## 5.02 DEFINITIONS

A. Employee Organization: Either (1) any organization that includes employees of the District and that has as one of its primary purposes representing those employees in their employment relations with the District; or (2) any organization that seeks to represent employees of the District in their relations with the District.

B. Registered Employee Organization: An employee organization that has registered with the District as provided in this Chapter.

C. Recognized Employee Organization: An employee organization that has been certified by the District as the majority representative of a representation unit in accordance with this Chapter.

D. Representation Unit: A group of District employee classifications that have a common community of interest, established pursuant to this Chapter.

E. Meet and Confer: The free exchange of information, opinions and proposals between representatives of the District and a recognized employee organization with the goal of reaching agreement on matters within the scope of representation.

F. Consult or Consultation: Verbal or written communication for the purpose of presenting and obtaining views or advising of intended actions in a good faith effort to reach a consensus, and as distinguished from meeting and conferring in good faith regarding matters within the scope of the meet and confer process as required by applicable law.

G. Proof of Employee Support: An unambiguous written statement that an employee wishes to designate an employee organization as the recognized employee organization for

his/her representation unit, or that an employee wishes to cease having an employee organization be the recognized employee organization for his/her representation unit. This statement must appear on the same page as and under which an employee's printed name, classification, and signature appear, and must have been signed within the year preceding its submission.

H. Terms not defined herein shall have the meanings as set forth in the MMBA.

## 5.03 DISTRICT AUTHORITY

A. The District has the sole right and exclusive authority to direct the affairs of, manage, and maintain the efficiency of the District, to set standards of services to be offered to the public, and to control the organization and operation of the District. The District also has the sole and exclusive authority to take any actions which the District deems desirable to conduct its affairs including, but not limited to, directing its work force (including scheduling and assigning work and overtime); hiring, firing, discharging, promoting, demoting, transferring, or disciplining employees, consistent with and pursuant to the authority of Water Code section 71362; determining the methods, means and personnel by which District operations are to be conducted; layoffs for budgetary considerations or lack of work; subcontracting work; maintaining efficiency of employees; taking all necessary actions to carry out its mission in emergencies; and exercising complete control and discretion over its organization and the technology of performing its work consistent with the provisions of this Chapter and the Meyers-Milias Brown Act. The foregoing authority of the District is descriptive, not exhaustive.

B. Except as otherwise stated, all powers and obligations described in this Chapter are hereby delegated to the General Manager. The General Manager may delegate these powers and obligations to other District managers as he/she deems necessary.

## 5.04 EMPLOYEE RIGHTS

Each employee has the following rights which he/she may exercise in accordance with the Meyers-Milias Brown Act:

1. The right to form, join and participate in the activities of employee organizations of the employee's own choosing for the purpose of representation on matters of the employee's relations with the District, or to refuse to join or participate in the activities of any employee organization.

2. The right to be free from interference, intimidation, restraint, coercion, discrimination or reprisal by the District, other employees, or employee organizations with respect to the employee's membership or non-membership in any employee organization, or with respect to any lawful activity associated therewith which is within the scope of representation.

3. The right to represent himself or herself individually in his or her employee relations with the District, to the extent allowed by law. Whenever a District employee desires to represent himself or herself in consulting with District management during regular hours of work, the employee shall first request and obtain permission to take time off to do so.

5.05 ESTABLISHMENT OF REPRESENTATION UNITS

A. The General Manager shall determine the appropriate composition of a representation unit by considering the following factors:

1. The effect of the proposed unit on the operations of the District.

2. The proposed unit's compatibility with the primary responsibility of the District and its employees to serve the public effectively and economically.

3. The ability to provide effective representation to employees based on a recognized community of interest, within the broadest feasible grouping of classifications sharing an identifiable community of interest.

B. In considering whether classifications share an identifiable community of interest, the following factors shall be considered:

1. Similarity of the work performed, required qualifications, level of responsibility, and general working conditions.

2. History of representation in the District, except that no representation unit shall be deemed appropriate solely on the basis of the extent to which employees in the proposed unit have organized.

3. Consistency with District administrative organization.

4. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and/or increase in number of representation units.

5. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing related classifications among two or more representation units.

6. Supervisory employees shall not be placed in a representation unit with non-supervisory employees.

7. Management employees shall not be placed in a representation unit with non-management employees.

8. Confidential employees shall not be placed in a representation unit with non-confidential employees.

9. Professional employees shall not be required to be included in the same unit with non-professional employees.

C. After notice to and consultation with affected employee organizations, the Human Resources Manager shall allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete classifications in accordance with this Section.

## 5.06 CERTIFICATION OF EMPLOYEE ORGANIZATIONS

A. Registered Employee Organizations: Any group of employees that wishes to create a registered employee organization shall file with the General Manager a written application for registration of the employee organization. The application shall include:

1. The name and address of the organization.

2. The names and titles of its officers and mailing address.

3. A designation of one person, including his/her address, to whom notice to the organization may be sent for any purpose.

4. The names of persons who are authorized to act as representatives of the organization in any communications with the District.

5. A statement that the employer organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the District.

6. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national, or international organization, and, if so, the name and address of each such other organization.

7. Certified copies of the employee organization's constitution and bylaws.

8. A statement that the organization does not restrict membership based on race, color, creed, national origin, political affiliation, sex, disability, age, or any other classification prohibited by state or federal law .

9. A list of all District employees who are represented by the organization and their job classifications or position titles.

10. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the District. Such written proof shall be submitted for confirmation to the General Manager or to a mutually agreed upon disinterested third party.

When an employee organization has complied with the requirements of this Section, the General Manager shall register the organization and notify it that it is a registered employee organization.

B. Recognized Employee Organizations: An employee organization or registered employee organization that wishes to become the recognized employee organization of a representation unit or proposed representation unit shall file with the General Manager a petition for certification as a recognized employee organization. The petition shall:

1. Name and provide an address for the representation unit or proposed representation unit which it purports to represent.

2. Be accompanied by proof of support by at least thirty percent (30%) of the employees within the representation unit or proposed representation unit.

Upon receipt of a petition that proposes a new representation unit, the General Manager shall determine whether:

1. There has been compliance with the requirements of the recognition petition, and
2. The proposed representation unit is an appropriate unit.

If the representation unit is appropriate and the proof of support is found to be valid, the General Manager shall accept the petition and give notice of the request for recognition filing thereof to all District employees and shall take no action on said request for thirty (30) days thereafter. Recognized employee organization status shall be granted if the proof of support shows that a majority of the employees in the representation unit or proposed representation unit desire the representation; however, if another labor organization has previously been lawfully recognized as a recognized employee organization of all or part of the same unit, or if more than one labor organization has been proposed as the recognized employee organization, determination of the recognized employee organization shall be made by the State Mediation and Conciliation Service, who shall review the proof of support to verify the status of the employee organization. The General Manager shall engage the State Mediation and Conciliation Service to conduct an election within 30 days of the foregoing notice, or as soon thereafter as the State Mediation and Conciliation Service can conduct it, among the eligible members of the representation unit.

If the General Manager does not accept the petition, it shall notify the petitioning registered employee organization of the reasons therefore in writing. No petition shall be

accepted affecting a representation unit or proposed representation unit for which, within the preceding 12 months, a certification or decertification election was conducted.

C. Election Procedure:

1. When an election is required pursuant to this Section, it shall be conducted by secret ballot in accordance with the procedures and regulations of this section. Eligible voters shall be those employees in the representation unit whose names appear on the payroll immediately prior to the date which ended at least fifteen (15) days before the date of the election, including those shown as on vacation or authorized leaves of absence, and who are employed by the District in the same unit on the date of the election. If the State Mediation and Conciliation Service declines to conduct the election, the Board of Directors will adopt rules for the conduct of election. There shall be no more than one valid election under this Section pursuant to any petition in a 12-month period affecting the same unit.

2. The General Manager shall declare the results of the election in accordance with the following:

a. When a majority of the eligible employees voting at the election vote to certify an organization, the General Manager shall certify the organization as the recognized employee organization of the representation unit.

b. When two organizations appear on the ballot and no organization receives a majority of the votes cast, the General Manager shall declare that no organization will be the recognized employee organization of the unit.

c. When three or more organizations appear on the ballot and no organization receives a majority of the votes cast, the General Manager shall order a runoff election between the two organizations receiving the greatest number of votes, the rules governing an initial election being applicable to a run-off election.

d. If less than a majority of eligible employees voted, the General Manager shall declare the election void and no further election shall be held based on the petition.

Half of the cost incurred in conducting a certification election shall be borne by the District and the other half shall be divided equally among and be paid by the employee organizations appearing on the ballot.

## 5.07 EMPLOYEE ORGANIZATIONS' RIGHTS

A. A registered employee organization may represent its members in disputes on wages, hours and any other terms or conditions of employment as allowed by law. A registered employee organization may not present a grievance or dispute in its own name or on behalf of itself. The District is not obliged to meet and confer or enter into a memorandum of understanding with a registered employee organization or with an individual employee.

B. A recognized employee organization may represent itself and/or its members in disputes and grievance matters. Should the recognized employee organization be dissatisfied with the results of such consultations, it has the further right to meet and confer with the General Manager. The scope of representation includes all matters relating to employment conditions and employee relations, including, but not limited to, wages, hours and other terms and conditions of employment. However, the scope of representation shall not include the merit, necessity, or organization of any service or activity provided by law or executive or Board order. If the General Manager and the recognized employee organization reach agreement, they shall jointly prepare a written memorandum of understanding which shall not be binding on the District until it is ratified by the Board of Directors.

C. Officers and/or representatives of recognized employee organizations may petition the General Manager, or designee, in writing for access to work facilities and work locations outside of regular working hours. The petition shall identify where they wish to have access and the purpose for which access is sought. The General Manager shall not unreasonably refuse such petition and will provide to persons granted access an appropriate escort and rules and regulations governing access to District property, consistent with Board of Directors Policy No. 13.

## 5.08 IMPASSE PROCEDURE

If, after a reasonable period of time of meeting and conferring, a recognized employee organization and the General Manager fail to reach agreement on matters within the scope of representation, either party may declare the existence of an impasse. Upon declaring impasse, a party may ask the California State Conciliation Service to assist the parties in reconciling differences through mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues. All mediation costs shall be borne equally by the District and the recognized employee organization.

If mediation does not resolve the impasse, the employee organization may request to the Public Employment Relations Board (PERB) to submit the impasse to factfinding, pursuant to Government Code sections 3505.4 through 3505.7, no sooner than 30 days, but no more than 45 days, following the appointment or selection of a mediator. Factfinding panel recommendations are only advisory, not binding. All mutually incurred costs for factfinding shall be borne equally by the District and the recognized employee organization (i.e. cost for the services of the panel chairperson).

After applicable mediation and factfinding procedures have been exhausted, the General Manager may take such action regarding the matters in dispute as he/she deems necessary to the public interest, but not earlier than 10 days after the factfinders' written findings of fact and recommended terms of settlement have been submitted to the parties pursuant to Government Code section 3505.5 and following a public hearing regarding the impasse. Any legislative action by the Board of Directors on the matters in dispute shall be final and binding.

## 5.09 DECERTIFICATION PROCEDURE

A. An employee may present to the General Manager a petition to decertify the recognized employee organization for his/her representation unit. No action may be taken on a petition that is submitted within 12 months of the date of initial certification of a recognized employee organization or of any election to certify or decertify such organization.

B. A decertification petition must be declared by the duly authorized signatory under penalty of perjury to be true, correct, and complete and include the following:

1. The name, address, and telephone number of the petitioning employee and a designated representative authorized to receive notices or requests for further information;

2. The title of the representation unit;

3. The name of the incumbent recognized employee organization for the representation unit sought to be decertified;

4. If another organization is proposed to become the recognized employee organization, the name of such organization and the name, address, and telephone number of its agent;

5. An allegation that the incumbent recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto;
6. Proof of support from at least 30 percent of the employees in the representation unit who:
   a. no longer wish to be represented by the incumbent recognized employee organization; and/or
   b. wish to be represented by a different employee organization.

C. Within five business days of receiving a decertification petition, the General Manager shall serve a copy of the petition on the recognized employee organization.

The General Manager shall verify that proof of support for decertification and/or certification of a new recognized employee organization contains the signatures of at least thirty percent (30%) of the employees in the representation unit. Verification shall consist of

confirming that each person identified in a proof of support is in the representation unit and that his/her signature is genuine. Upon verifying proof of support or lack thereof, the General Manager shall so notify the petitioner, the recognized employee organization, and, where applicable, the agent of the proposed new recognized employee organization in writing.

If the General Manager verifies proof of support of at least 30 percent (30%) of the representation unit for more than one proposed new recognized employee organization, each such organization shall be placed on the ballot.

D. Upon verifying appropriate proof of support, the General Manager shall schedule an election, to be conducted no earlier than 21 calendar days and no later than 42 calendar days after verification.

At least 15 calendar days before the scheduled date of the election, General Manager shall post in one or more conspicuous places frequented by members of the representation unit a copy of the decertification petition, notice of the date, time, and place of the election, and a brief statement of the purpose of the election. The notice shall remain posted until the day after the election.

E. If appropriate proof of support was verified for a proposed new recognized employee organization, the ballot shall state the following:

1. Shall the [recognized employee organization] continue to be the recognized employee organization for the [name of representation unit] unit?
   ____ Yes ([recognized employee organization] continues to be the recognized employee organization)
   ____ No ([recognized employee organization] ceases to be the recognized employee organization)

{use when there is only one proposed new representative}

2. If the [recognized employee organization] ceases to be the recognized employee organization, shall the [proposed new recognized employee organization] become the recognized employee organization for the [name of representation unit] unit?
   ____ Yes
   ____ No

{use when there is more than one proposed new representative}

2. If the [recognized employee organization] ceases to be the recognized employee organization, please choose one of the following options:
   ____ [proposed new recognized employee organization #1] becomes the recognized employee organization
   ____ [proposed new recognized employee organization #2] becomes the recognized employee organization

____ [proposed new recognized employee organization #3 (if applicable)] becomes the recognized employee organization
____ No representative

Where more than one proposed new representative appears on the ballot, the order in which each proposed new representative appears shall be determined by lot.

If the election is only to decertify the recognized employee organization, the ballot shall state the following:

Shall the [recognized employee organization] continue to be the recognized employee organization for the [name of representation unit] unit?
____ Yes ([recognized employee organization] continues to be the recognized employee organization)
____ No ([recognized employee organization] ceases to be the recognized employee organization)

F. Elections shall be conducted under the following guidelines:

1) The recognized employee organization may have a representative present at all polling places and during the counting of ballots. The representative shall only observe activities and may not advocate for a particular vote or comment on the tabulation of votes while tabulation is in progress.

2) The proposed new recognized employee organization(s), if any, may have a representative present at all polling places and during the counting of ballots. The representative shall only observe activities and may not advocate for a particular vote or comment on the tabulation of votes while tabulation is in progress.

3) Other than the actual act of voting, no activity shall be conducted within 100 feet of a polling place that advocates for a particular vote.

4) A recognized employee organization shall be decertified if a majority of the representation unit members voting vote to decertify.

5) The votes to certify a proposed new recognized employee organization shall be tabulated only if a majority of those voting vote to decertify the existing recognized employee organization. If the certification votes are tabulated, the proposed new recognized employee organization shall be certified if a majority of the representation unit members voting vote to certify or, if there is more than one new employee organization proposed, the organization receiving the most votes of the representation unit members voting shall be certified.

6) No later than 10:00 a.m. on the day following the election, the General Manager shall post the results of the tabulation of votes at the same location(s) at which notice of the election was posted.

7) A member of the representation unit, an agent of the recognized employee organization, or an agent of the proposed new recognized employee organization may protest the tabulation results within 24 hours of posting of the results. To protest the tabulation results, a person must deliver to the General Manager a letter setting forth all bases for protest. The only acceptable bases for protest are:
   a) Error or fraud in tabulating the ballots
   b) Prohibited advocacy at or within 100 feet of a polling place
   c) A ballot cast by a person who was ineligible to vote
   d) Multiple ballots cast by one person

8) The General Manager shall promptly investigate all protests, if any, before accepting the tabulation results. The General Manager may only reject the tabulation results if one of the bases for protest exists and he/she concludes that the outcome of the election was affected thereby. If the General Manager does not accept the tabulation results, he/she shall schedule a new election.

G. The election results shall be final upon acceptance of the tabulation results by the General Manager following a rejection of any protests or, if no protests are received, following the expiration of the 24 hour protest period. If the recognized employee organization is decertified, the District shall cease to recognize the organization as the representative for the representation unit as of the date the results are final. If a new organization has been certified as the recognized employee organization, the District shall thereafter recognize that organization as the representative of the representation unit. A new recognized employee organization shall be bound by any memoranda of understanding then in place for the representation unit.

## 5.10 INDIVIDUAL REPRESENTATION

A. Any individual may present a concern relating to working conditions to the General Manager pursuant to the administrative procedures of the District, if any, and have such concern fairly considered, without the participation of a recognized employee organization. The individual may be represented by any person of his/her choosing, including a registered employee organization. Any concerns brought pursuant to this Section is subject to the provisions of Section 5.07(A).

B. If an employee or group of employees who are members of a recognized employee organization present a concern to the General Manager, he/she shall notify an affected recognized employee organization of such concerns within three (3) days of receiving it.

C. The right to individual representation provided above is not intended to nor shall it confer a right to bargain or negotiate individual terms and conditions of employment.

## 5.11 EMPLOYER-EMPLOYEE COMMUNICATIONS

A. The General Manager shall make available space on a bulletin board or other reasonable means of communication to a recognized employee organization, so that it may communicate with its members. No employee organization literature may be distributed in work areas, nor may any person solicit employees during working time. The General Manager shall communicate to all employees and all registered or recognized employee organizations the contents of this Chapter.

B. Recognized employee organizations may use District facilities for meetings of District employees, provided such meetings are held outside of regularly scheduled working hours for the employees in attendance, space permitting. Recognized employee organizations must obtain permission from the General Manager or designee to use District facilities, as discussed in Section 5.07(C), above.

## 5.12 INFORMATION REQUESTS

A. A recognized employee organization or a registered employee organization may request that the General Manager provide documents or information that are necessary and relevant to their representation rights, such as the preparation or processing of a grievance, for consulting, or for meeting and conferring. The District shall not, however, be required to provide information in a particular form requested or desired by the requestor.

B. Requests that do not fall within the following parameters are presumed as requesting irrelevant document(s) and/or information, placing the burden on the requesting party to demonstrate its relevance :

1. The document or information was created within the two years preceding the request.
2. The document or information may be retrieved without resulting in an undue burden on the District i.e. retrieval does not require an extraordinary expense or use of staff time the documents or information may be compiled in the manner requested without extraordinary expense or use of staff time, etc.
3. The document or information does not invade the privacy rights of any person who has not consented to their disclosure in writing.

## 5.13 INTERPRETATION

This Chapter shall be administered and construed as follows:

A. Nothing in this Chapter shall be construed to deny to any person, employee, organization, the District, or any authorized officer, body or other representative of the District, the rights, powers and authority granted by federal or state law.

B. This Chapter shall be interpreted so as to carry out the purposes set forth in Section 5.01.

C. Nothing in this Chapter shall be construed as giving employees or employee organizations the right to participate in, support, cooperate with or encourage, directly or indirectly, a strike, sick-out, other total or partial stoppage or slowdown of work, or any unlawful concerted action. In consideration of and as a condition of employment by the District, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. District employees who engage in such actions shall be subject to disciplinary action, up to and including termination, and/or may be deemed to have abandoned their employment, and may be replaced, to the extent such actions are not prohibited by preemptive law. Employee organizations that engage in such acts may lose all rights accorded them under this Chapter for a period of up to one year from the last such act.

## 5.14 AMENDMENTS

After consulting with recognized and registered employee organizations, the Board may from time to time amend this Chapter.

## 5.15 SEVERABILITY

If any provision of this Chapter, or the application of such provision to any persons or circumstances, is held invalid, the remainder of this Chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

DIVISION I DISTRICT ADMINISTRATION

CHAPTER 5 PERSONNEL PRACTICES

SECTION 6 CONFLICT OF INTEREST CODE

## 6.01 DEFINITIONS

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Sections 18100, *et seq.*), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

## 6.02 DESIGNATED EMPLOYEES

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

## 6.03 DISCLOSURE CATEGORIES

This Code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interest pursuant to Article 2 of Chapter 2 of the Political Reform Act, Government Code Sections 87200, *et seq.*[1] In addition, this code does not establish any disclosure obligation for any designated public officials who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code Section 87200; and

(C) The filing officer is the same for both agencies.

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[1] Designated employees who are required to file statements of economic interest under any other agency's Conflict of Interest Code or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interest in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and district statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.

Such persons are covered by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interest are reportable. Such a designated employee shall disclose in his or her statement of economic interest those financial 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 financial interests set forth in a designated employee's disclosure categories are the kinds of financial interest which he or she foreseeably can affect materially through the conduct of his or her office.

## 6.04 STATEMENTS OF ECONOMIC INTERESTS: PLACE OF FILING

All officials and employees required to submit a statement of economic interest (employees in Designated Positions) shall file their statements with the General Manager, or his or her designee. The District shall make and retain a copy of all statements filed by Designated Positions and forward the originals of such statements to the Executive Office of the Board of Supervisors of San Diego County. All retained statements, originals or copies shall be available for public inspection and reproduction. (Cal. Gov't Code § 81008)[2]

## 6.05 STATEMENTS OF ECONOMIC INTERESTS: TIME OF FILING

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) 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 State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

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

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[2] See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

## 6.06 STATEMENTS FOR PERSONS WHO RESIGN PRIOR TO ASSUMING OFFICE

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or a leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

1. File a written resignation with the appointing power; and

2. File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

## 6.07 CONTENTS OF AND PERIOD COVERED BY STATEMENTS OF ECONOMIC INTERESTS

### (A) Contents of Initial Statements

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

### (B) Contents of Assuming Office Statements

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or on the date of appointment, and income received during the 12 months prior to the date of assuming office or the date of being appointed, respectively.

### (C) Contents of Annual Statements

Annual statements shall disclose any reportable investments, interests in real property, income and business positions 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.

(D) Contents of Leaving Office Statements

Leaving office statements shall disclose reportable investments, interest in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

6.08 MANNER OF REPORTING

Statements of economic interest shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investments and Real Property Disclosure

When an investment or an interest in real property[3] is required to be reported[4], the statement shall contain the following:

1. A statement of the nature of the investment or interest;

2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;

3. The address or other precise location of the real property;

4. A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars ($2,000), exceeds ten thousand dollars ($10,000), exceeds one hundred thousand dollars ($100,000), or exceeds one million dollars ($1,000,000).

(B) Personal Income Disclosure

When personal income is required to be reported[5], the statement shall contain:

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[3] For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

[4] Investments and interests in real property which have a fair market value of less than $2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

[5] A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

1. The name and address of each source of income aggregating $500 or more in value or $50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars ($1,000) or less, greater than one thousand dollars ($1,000), greater than ten thousand dollars ($10,000), or greater than one hundred thousand dollars ($100,000);

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. File In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure

When income of a business entity, including income of a sole proprietorship is required to be reported[6], the statement shall contain:

1. The name, address and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than $10,000.

(D) Business Position Disclosure

When business positions are required to be reported, a designated employee shall list the name and address of each business entity in

[6] Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

which he or she is a director, officer, partner, trustee, employee or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period

In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

## 6.09 PROHIBITION ON RECEIPT OF HONORARIA

A. No designated public official shall accept any honorarium from any 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.

Subdivisions (a), (b), and (c) of Government Code Section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

## 6.10 PROHIBITION ON RECEIPT OF GIFTS IN EXCESS OF AMOUNT ESTABLISHED BY LAW[7]

A. No designated public official shall accept gifts with a total value of more than the maximum amount established by law, in any 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.

Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

## 6.11 LOANS TO PUBLIC OFFICIALS

A. No elected officer of a state or local government agency 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 state or local government

[7] Designated Persons are prohibited from accepting gifts from any single source in a calendar year with a total value in excess of designated amounts. See Govt. Code § 89503, sub-divisions (e), (f) and (g). [Note: Pursuant to 2 CCR § 18940.2 (b), the FPPC adjusts the gift limit every odd-numbered year to reflect changes in the Consumer Price Index; therefore, the $390 limit adopted by the FPPC in January of 2007 will be updated in January 2009 and every odd year thereafter, until further notice.]

agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

B. No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

C. No elected officer of a state or local government agency 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 state or local government agency to which that elected officer has been elected 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.

D. No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected 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. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

E. 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.

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

6.12 LOAN TERMS

A. Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars ($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 and the amount of the payments, and the rate of interest paid on the loan.

B. This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.

2. 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 person, 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 made, or offered in writing, before January 1, 1998.

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

6.13 PERSONAL LOANS

A. Except as set forth in subdivision (B), a personal loan received by any designated public official shall become a gift to the designated public official for the purposes of this section in the following circumstances:

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

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

a. The date the loan was made.

b. The date the last payment of one hundred dollars ($100) or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars ($250) during the previous 12 months.

B. This section shall not apply to the following types of loans:

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

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

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

4. A loan that would otherwise be a gift as set forth under subdivision (A), 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.

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

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

6.14 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 material 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 to the maximum amount established by law, 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.

6.15 LEGALLY REQUIRED PARTICIPATION

No designated public official shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated public official who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

6.16 DISQUALIFICATION OF STATE OFFICERS AND EMPLOYEES

In addition to the general disqualification provisions of Section 6.14, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value $1000 or more.

6.17 DISCLOSURE OF DISQUALIFYING INTEREST

When a designated public official 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.

## 6.18 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 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.

## 6.19 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 - 91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

## 6.20 PROHIBITED TRANSACTIONS

Members of the Board of Directors and Designated Employees shall comply with the Prohibited Transactions policy, annexed hereto as Exhibit A, pursuant to California Government Code Sections 1090, *et seq.*

## 6.21 INCOMPATIBLE ACTIVITIES

Members of the Board of Directors, District officers, and all other District employees shall comply with the Incompatible Activities policy, annexed hereto as Exhibit B, pursuant to California Government Code Sections 1126, *et seq.*

**APPENDIX**

**OTAY WATER DISTRICT**
**CONFLICT OF INTEREST CODE**
**DESIGNATED POSITIONS**

The Treasurer and all District Officials who manage the investment of public funds are included in and governed by this Conflict of Interest Code only with respect to its disqualification provisions. For purposes of disclosure, the Treasurer and all District Officials who manage the investment of public funds are governed by the statutory conflict of interest provisions of Article 2 of Chapter 7 of the Political Reform Act of 1974. (Government Code Sections 87200, *et seq.*)

| DESIGNATED EMPLOYEES' TITLE OR FUNCTION | DISCLOSURE CATEGORIES ASSIGNED |
|---|---|
| Members of the Board of Directors | 1, 2, 3, 4, 5, 6 |
| General Manager | 1, 2, 3, 4, 5, 6 |
| District Secretary | 6 |
| Assistant Chief Administrative Services and Information Tech. | 1, 2, 3, 4, 5, 6 |
| Assistant Chief of Water Operations | 1, 2, 3, 4, 6, 7 |
| Assistant General Manager | 1, 2, 3, 4, 5, 6, 7 |
| Chief of Administrative Services | 1, 2, 3, 4, 5, 6, 7 |
| Chief Financial Officer | 1, 2, 5, 6, 7 |
| Chief Information Officer | 1, 2, 3, 6, 7 |
| Chief of Engineering | 1, 2, 3, 4, 6, 7 |
| Chief of Water Operations | 1, 2, 3, 4, 6, 7 |
| Associate Civil Engineer | 1, 2, 3, 4, 7 |
| Communications Officer | 6 |
| Customer Service Manager | 2, 5, 7 |
| Environmental Compliance Specialist | 1, 2, 3, 4, 7 |

| | |
|---|---|
| Engineering Manager | 1, 2, 3, 4, 7 |
| Field Services Manager | 1, 2, 3, 4, 7 |
| Finance Manager, Controller, and Budget | 2, 5, 7 |
| Finance Manager, Treasury, and Accounting | 2, 5, 7 |
| GIS Manager | 3, 6, 7 |
| Human Resources Manager | 3, 6 |
| IT Manager | 3, 6, 7 |
| Network Engineer | 3, 6, 7 |
| Purchasing and Facilities Manager | 2, 6 |
| Safety and Security Administrator | 1, 2, 3, 4, 6 |
| Senior Buyer | 6 |
| Senior Civil Engineer | 1, 2, 3, 4, 7 |
| System Operations Manager | 1, 2, 3, 4, 7 |
| Utility Services Manager | 1, 2, 3, 4, 7 |
| Water Conservation Manager | 2, 3, 4, 6 |
| Consultant[8] | 1, 2, 3, 4, 5, 6 |

[8] Consultants are required to file disclosure statements where they: (a) conduct research and arrive at conclusions with respect to rendition of information, advice, recommendation or counsel independent of control and direction of the agency or any agency official other than normal contract monitoring; and (b) possess no authority with respect to any agency decision beyond the rendition of information, advice, recommendation or counsel. The determination as to whether a consultant shall be required to file a disclosure statement shall be made by the General Manager or his or her designee.

**APPENDIX, CONTINUED**

**DISCLOSURE CATEGORIES**

The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property which the designated employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in, and sources of income from, all business entities that do business or own real property in the District, plan to do business or own real property in the District within the next year or have done business or owned real property in the District within the past two years.

Category 2: All interests in real property which are located in whole or in part within, or not more than two (2) miles outside the boundaries of the District.

Category 3: All investments and business positions in, and sources of income from, business entities subject to the regulatory, permit or licensing authority of the Designated Employee's Department, will be subject to such authority within the next year or have been subject to such authority within the past two years.

Category 4: All investments, business positions, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property in the District, plan to engage in such activities in the District within the next year or have engaged in such activities in the District within the past two years.

Category 5: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan or other financial institutions.

Category 6: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type purchased, leased, used, or administered by the District.

Category 7: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type purchased, leased, used, or administered by the Designated Employee's Department.

**EXHIBIT A**

**Prohibited Transactions for Specified Personnel**

Members of the Board of Directors ("Members") shall comply with this Prohibited Transactions policy pursuant to California Government Code §§ 1090, *et seq*.

Members shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Members shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity. Members shall not be deemed to be interested in a contract entered into by a body or board of which they are members if the Member has only a remote interest in the contract and if the fact of that interest is disclosed to the body or board of which the Member is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the Board of Directors member with the remote interest. "Remote interest" shall be defined as in California Government Code § 1091(b).

Members shall <u>not</u> be considered to be financially interested in a contract if their interest is including, but not limited to, any of the following (Government Code § 1091.5):

1. That of an officer in being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty;

2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board;

3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or an public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091;

4. That of a spouse of an officer or employee of a public agency if his/her spouse's employment or office-holding has

existed for at least one year prior to his/her election or appointment;

5. That of a non-salaried member of a nonprofit corporation, provided that such interest is disclosed to the board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records;

6. That of a non-compensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the board or to which the board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records;

7. That of compensation for employment with a governmental agency, other than the governmental agency that employs the officer or employee, provided that the interest is disclosed to the board at the time of consideration of the contract, and provided further that the interest is noted in its official records;

8. That of an attorney of the contracting party of that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm.

In addition, Members shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if their sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor (Government Code § 1091.5).

**Authority:**

California Government Code §§ 1090, *et seq.*

**EXHIBIT B**

## Incompatible Activities Policy

District officers, members of the Board of Directors, and all other District employees (collectively, "district personnel") shall comply with this Incompatible Activities policy pursuant to California Government Code §§ 1126, *et seq.*

District personnel shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a member of the Board of Directors, or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed.

The outside employment, activity, or enterprise of district personnel is prohibited if it: (1) involves the use for private gain or advantage of his or her local District time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local District office or employment or, (2) involves receipt or acceptance by district personnel of any money or other consideration from anyone other than the District for the performance of an act which district personnel, if not performing such act, would be required or expected to render in the regular course or hours of their local District employment or as a part of their duties as a local District officer or employee or, (3) involves the time demands as would render performance of his or her duties as a local district personnel member less efficient.

Nothing in this policy shall be interpreted to prohibit any outside employment, activity, counsel, or enterprise on behalf of another governmental entity, subject to common law and professional conflict of interest rules.

Copies of this regulation shall be posted in prominent places at the District Office. District personnel who violate this regulation may be subject to discipline as set forth in the applicable Code of Ordinances and Policies. Board of Directors members who violate this section may be subject to censure. Disciplinary appeals by district personnel shall be handled pursuant to applicable Code of Ordinances and Policies.

**Authority:**

California Government Code §§ 1125, *et seq.*

CHAPTER 6 MISCELLANEOUS ADMINISTRATION PROCEDURES

## SECTION 9 ANNEXATIONS AND DETACHMENTS

### 9.01 REQUIREMENT OF ANNEXATION FOR SERVICE

Except as provided elsewhere in this Code, whenever utility service is requested for land outside the boundaries of an improvement district, the land to be serviced must first be annexed to an improvement district(s). If the land is located outside the boundaries of the District, the land must also be annexed to the District.

### 9.02 ANNEXATIONS TO OR DETACHMENTS FROM IMPROVEMENTS DISTRICTS

An owner or owners of land within the District desiring to annex to or detach land from an improvement district within the District must file a petition for such proceeding with the District. Annexation proceedings shall be conducted pursuant to Chapter I (commencing with Section 72670) of Part 11, Division 20 of the California Water Code. Detachment or exclusion proceedings shall be conducted pursuant to Part 8.5 (commencing with Section 72080) of Division 20 of the California Water Code.

If the land proposed to be annexed is outside the boundaries of the territory served by the Metropolitan Water District of Southern California and the territory served by the San Diego County Water Authority, and no local sources of water are available to serve such land, the District will require that the land be annexed to those entities as well.

### 9.03 ANNEXATIONS TO OR DETACHMENTS FROM THE DISTRICT THROUGH LAFCO

An owner or owners desiring to annex land to or to detach land from the District may either (i) file a petition directly with the Local Agency Formation Commission (LAFCO) for the annexation or detachment or (ii) request the District to file the petition with LAFCO for such annexation or detachment. Any such proceeding for annexation or detachment, which is deemed a change of organization or reorganization pursuant to the Cortese-Knox Local Government Reorganization Act of 1985, shall be initiated, conducted and completed pursuant to Title 6, Division 1 (commencing with Section 56000) of the California Government Code.

By annexing to the District the owners and representatives of the annexing land agree, on behalf of themselves and all future owners and occupants of the annexed lands, to comply with all laws, statutes, policies, plans, conditions and requirements applicable to the services provided by the District to such lands, including

without limitation any conservation or local supply use requirements.

9.04 FEES AND CHARGES FOR ANNEXATIONS OR DETACHMENTS

A petitioner requesting an annexation to or detachment from the District or within the District shall pay the following applicable fees and charges:

A. Administrative Processing Fees

1. District Processing Fee. A District processing fee (see Appendix A, Section 9 for fee) shall be paid to the District for each annexation or detachment proceeding, regardless of the number of parcels involved, provided all parcels are included in one proceeding. This fee shall constitute the "base rate" on March 3, 1997. The base rate shall be adjusted annually for fluctuations in the Consumer Price Index (Urban Wage Earners and Clerical Workers - Los Angeles) and subsequent cost-of-living adjustment (COLA).

2. Additional Processing Fees or Charges. The petitioner shall pay all processing fees and charges due LAFCO, the State Board of Equalization and any other applicable government agency.

3. Concurrent Annexations to or Detachments from the District and an Existing Improvement District. No additional processing costs or fees will be charged to a petitioner for an annexation to or detachment from an existing improvement district when the proceeding is part of an annexation to or detachment from the District.

4. Payment of Fees and Charges. The District processing fees and charges shall be paid to the District at the time the petition for such proceeding is filed. Where a petition is filed with LAFCO, the District shall notify LAFCO that payment of all required fees and charges to the District shall be a condition for District approval of the annexation or detachment.

B. Water Annexation Fees. The annexation fee (see Appendix A, Section 9) shall constitute the "base rate" on October 1, 2014). The base rate shall be adjusted quarterly for fluctuations in construction costs, as measured by the Engineering News Record Construction Cost Index for the Los Angeles Region. The ENR Construction Cost Index of 10,739.43 on June 1, 2014 shall be deemed the "base index." The adjustment shall be in an amount equal to the

percentage change in the ENR Construction Cost Index from the base index for the period from June 1, 2014 to the date of payment.

1. No water annexation fee shall be required for existing and future agricultural water service furnished by the District under the COMMERCIAL AGRICULTURAL category of Section 25 of the Code.

2. Non-permanent irrigation water service furnished by the District under Section 30 of the Code shall be available without payment of a water annexation fee.

3. Open Space to be Annexed. Open space lands shall not be excluded from annexations of land to a water improvement district.

4. Water Meter Type Exclusions. Annexation fees shall be collected on all water meters sold except for temporary water meters, water tank truck meters, nonpermanent irrigation water meters and outside user meters, all as defined elsewhere in this Code.

5. Effective Date. Annexation fees shall be collected on all lands annexing into the Otay Water District boundaries on or after March 5, 1997.

6. Basis for Determination. For annexations of land into the Otay Water District boundaries, the petitioner shall pay an annexation fee. The fee shall be paid at the time of petition to be annexed. There shall be no water annexation fee charged for parcels already within District boundaries that are applying to be annexed into a water ID.

   For permanent water meters, except for commercial agricultural meters, the annexation fee shall be determined on the basis of the demand to be placed on the District-wide water system. The fee will be determined on the basis of the size of the water meter required, as set forth in Section 27 of the Code. The fee shall be determined by multiplying the demand factor for the meter size, as set forth in Section 28 of the Code, by the annexation fee per EDU. See Appendix A, Section 9for fees.

C. Sewer Annexation Fees

1. Improvement District Annexation. All annexation for sewer service shall be into Improvement District No. 18 on or after December 16, 1998.

2. Open Space to be Annexed. Open space lands shall not be excluded from annexations of land to a sewer improvement district.

3. Effective Date. Annexation fees shall be collected on all lands annexing to a sewer improvement district on or after December 16, 1998.

4. Basis for Determination. For annexations of land to a sewer improvement district within the District, the petitioner shall pay an annexation fee. The fee shall be determined on the basis of the demand to be placed on the District sewer system. The fee shall be paid at the time of sewer service connection request or General Manager's approval of plans, whichever occurs earlier. The extent of the demand will be determined on the basis of each equivalent dwelling unit (EDU) of service which is to be connected to the District sewer system. The number of EDUs prescribed in Section 53 of the Code shall be the basis for computation of the amount of the annexation fee. The fee will be determined by multiplying the number of EDUs by the annexation fee per EDU. See Appendix A, Section 9 for fees.

   This annexation fee shall constitute the "base rate" on October 1, 2014. The base rate shall be adjusted quarterly for fluctuations in construction costs as measured by the Engineering News Record Construction Cost Index for the Los Angeles Region. The ENR Construction Cost Index of 10,739.43 (as of June 1, 2014) shall be deemed the "base index." The adjustment shall be in an amount equal to the percentage change in the ENR Construction Cost Index from the base index for the period from June 1, 2014 to the date of payment.

D. Detachment Fees

For each detachment of land from an improvement district, the petitioner shall pay such fees as the General Manager determines are appropriate for the detachment. Determinations shall be made by the General Manager on a case-by-case basis.

9.05 TAXATION OF PROPERTY AFTER ANNEXATION TO IMPROVEMENT DISTRICT

Where property is annexed by a petitioner, other than a tax-exempt agency, the property in the annexed area shall be subject to taxation after the annexation thereof for the purposes of the improvement district, including the payment of principal and interest on bonds and other obligations of the improvement district authorized and outstanding at the time of the annexation. The Board of Directors shall provide as a condition of the annexation that the annexed area shall be subject to taxation as if the property had always been a part of the improvement district.

9.06 OTHER CONDITIONS OF ANNEXATION

By annexing to the District the owners and representatives of the annexing land agree, on behalf of themselves and all future owners and occupants of the annexed lands, to comply with all laws, statutes, policies, plans, conditions and requirements applicable to the services provided by the District to such lands, including without limitation any conservation or local supply use requirements.

## SECTION 10 APPLICATION FOR WAIVER OR MODIFICATION OF ORDINANCE REQUIREMENTS

### 10.01 FILING OF PETITION

Any person may present a petition to the Board of Directors requesting that the Board consider a waiver or modification of requirements of a section of an ordinance set forth in this Code. The petition for waiver or modification shall be in writing on forms furnished by the District. A fee as set forth in Appendix A, 10.01 shall be paid at the time of submission of the petition requesting the waiver or modification.

### 10.02 REVIEW BY BOARD OF DIRECTORS

The grant or denial of such waiver or modification shall be determined solely by the Board of Directors. Any such waiver or modification shall be effective only upon such Board approval which shall set forth the terms and conditions thereof. Each waiver or modification shall be limited to the person and property involved in the application.

DIVISION II DISTRICT OPERATIONS

CHAPTER 1 WATER SERVICE

SECTION 21 RULES AND REGULATIONS FOR WATER SERVICE

Water service shall be furnished to customers only in accordance with the rules and regulations set froth in this Code of Ordinances or as otherwise authorized by the Board of Directors.

## SECTION 22 DISTRICT WATER SYSTEMS

### 22.01 CONTROL AND OPERATION OF SYSTEMS

All District water systems and appurtenances thereto shall be under the management and control of the General Manager. The District system shall include all piping components and appurtenances, up to and including the water meter. No person, other than an employee or agent of the District, shall have any right to operate any part of a District water distribution system or any other District facility. As provided in Division IV, any person who tampers or interferes with the Districts systems or facilities, or causes or permits any such act, shall be responsible for any injury or damage caused thereby or resulting therefrom.

### 22.02 INSTALLATION OR REMOVAL OF METERS

Installation or removal of water meters and connection to and disconnection from a District water system shall be made only by district employees.

### 22.03 TURN-ON OR TURN-OFF OF WATER SERVICE

Except as otherwise specifically authorized by the General Manager, only District employees shall be permitted to turn water on or off at any connection or valve of a District water system or to operate any device that will regulate the flow of water within the system. The customer owns and is solely responsible for the installation, inspection, replacement, maintenance and repair of any pipes or other facilities installed from the meter, including the ball valve, to and around the property.

### 22.04 INSPECTION OF CUSTOMER PREMISES

Authorized District personnel shall have unrestricted access at reasonable hours to all premises to which the District is furnishing water in order to inspect the supply system, meters, or measuring devices, and to determine whether the customer is complying with the rules, regulations and ordinances of the District concerning the taking, using or wasting water.

## SECTION 23 NON-RESPONSIBILITY OF DISTRICT

### 23.01 INTERRUPTIONS OF WATER SERVICE

District does not guarantee continuous delivery of water on demand. From time to time it may be necessary for the District to shut off the flow of water in any of its water systems. Except in emergencies, such stoppages will not be made without prior notice to the customers involved. District shall not assume any responsibility for loss or damages which may occur due to interruption of water service.

### 23.02 PRIVATELY-OWNED WATER LINES

The District assumes no responsibility for the delivery of water through privately-owned pipelines or systems, nor shall it assume any responsibility for damages resulting from the operation of any such system even though water may be received from a district water distribution system.

### 23.03 WATER PRESSURE REGULATION

A. Customer Responsibility. The District shall assume no responsibility for water pressure regulation within a customer's service area. The customer shall be responsible for providing adequate safeguard measures for the customer's water system wherever pressure regulation is necessary.

B. Requirement for Installation in New Construction. Customers making application for water service for new construction for residential, commercial or industrial use shall be required to install an appropriate pressure regulation device for such service.

### 23.04 CROSS-CONNECTIONS AND BACKFLOW DEVICES

State Regulations for Cross-Connections

The California Department of Public Health has issued Regulations Relating to Cross-Connections (California Administrative Code, Title 17 - Public Health) for the purpose of safeguarding drinking water supplies by preventing backflow into public water systems.

It is unlawful for any person, firm, or corporation at any time to make or maintain or cause to be made or maintained, temporarily or permanently, for any period of time whatsoever, any cross-connection between plumbing pipes or water fixtures being served with water by the District water department and any other source of water supply; or to main-

tain any sanitary fixtures or other appurtenances or fixtures which by reason of their construction may cause or allow back-flow of water or other substances into the water supply system of the District and/or the service of water pipes or fixtures of any consumer of the District.

A. Definitions: For a complete listing see California Administrative Code, Title 17, Public Health.

1. Air-Gap Separation (AG): The term "air-gap separation" means a physical break between a supply pipe and a receiving vessel. The air-gap shall be at least double the diameter of the supply pipe measured vertically above the top rim of the vessel, in no case less than one inch.

2. Approved Backflow Prevention Device: The term "approved backflow prevention device" shall mean devices which have passed laboratory and field evaluation tests performed by a recognized testing organization which has demonstrated their competency to perform such test to the California Department of Health Services and the Otay Water District.

3. AWWA Standard: The term "AWWA Standard" means an official standard developed and approved by the American Water Works Association (AWWA).

4. Backflow: The term "backflow" shall mean a flow condition, caused by a differential in pressure that causes the flow of water or other liquids, gases, mixtures or substances into the distributing pipes of a potable supply of water from any source or sources other than an approved water supply source. Back-siphonage is one cause of backflow. Back pressure is the other cause.

5. Cross-Connection: The term "cross-connection" as used in this Ordinance means any unprotected actual or potential connection between a potable water system used to supply water for drinking purposes and any source or system containing unapproved water or a substance that is not or cannot be approved as safe, wholesome, and potable. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, or other devices through which backflow could occur, shall be considered to be cross-connections.

6. Double Check Valve Assembly: The term "double check valve assembly" means an assembly of at least two independently acting check valves, including tightly closing shut-off valves, on each side of the check

valve assembly and test cocks available for testing the water tightness of each check valve.

7. Reduced Pressure Principle Backflow Prevention Device (RP): The term "reduced pressure principle backflow prevention device" means a device incorporating two or more check valves and an automatically operating differential relief valve located between the two check valves, a tightly closing shut-off valve on each side of the check valve assembly, and equipped with necessary test cocks for testing.

8. Reduced Pressure Detection Assembly (RPDA): Same as RP except as approved for fire services.

9. Service Connection: The term "service connection" refers to the point of connection of a user's piping to the Otay Water District facilities.

B. General Provisions

1. Unprotected cross-connections with the public water supply are prohibited.

2. Whenever backflow protection has been found necessary, the District will require the water user to install an approved backflow prevention device, by and at his/her expense, for continued services or before a new service will be granted.

3. Wherever backflow protection has been found necessary on a water supply line entering a water user's premises, then any and all water supply lines from the District's mains entering such premises, buildings, or structures shall be protected by an approved backflow prevention device. The type of device to be installed will be in accordance with the requirements of this Ordinance.

C. Where Protection is Required

1. Each service connection from the District water system for supplying water to premises having an auxiliary water supply shall be protected against backflow of water from the premises into the public water system.

2. Each service connection from the District water system for supplying water to any premises on which any substance is handled in such fashion as may allow its entry into the water system shall be protected against backflow of the water from the premises into the public system. This includes commercial accounts, irrigation accounts, multi-family dwellings, multi-story buildings, complex piping, and locations where the handling of process waters and waters originating from the District water system may be subjected to deterioration in sanitary quality.

D. Type of Protection Required

1. The type of protection that shall be provided to prevent backflow into the approved water supply shall be commensurate to the degree of hazard that exists on the consumer's premises. The type of protective device that may be required (listed in an increasing level of protection) includes: Reduced Pressure Principle Backflow Prevention Device (RP), and an Air-gap separation (AG). The water user may choose a higher level of protection than that required by the District. The minimum types of backflow protection required to protect the approved water supply at the user's water connection to premises with varying degrees of hazard, are given in Table 1 of the California Administrative Code, Title 17, Public Health. Situations which are not covered in Table 1 shall be evaluated on a case-by-case basis and the appropriate backflow protection shall be determined by the District.

E. Approved Backflow Prevention Devices

1. Only backflow prevention devices which have been approved by the District shall be acceptable for installation by a water user connected to the District's potable water system.

2. The District will provide to any affected customer, upon their request, a list of approved backflow prevention devices.

F. Backflow Prevention Device Installation

1. Backflow prevention devices shall be installed in a manner prescribed in Section 7603, Title 17 of the California Administrative Code. Location of the devices should be as close as practical to the user's connection. The District shall have the final authority in determining the required location of a backflow prevention device.

   a. Air-gap Separation (AG) - The air-gap separation shall be located on the user's side of and as close to the service connection as is practical. All piping from the service connection to the receiving tank shall be above grade and be entirely visible. No water use shall be provided from any point between the service connection and the air-gap separation. The water inlet piping shall terminate a distance of at least two (2) pipe diameters of the supply inlet, but in no case less than one inch above the overflow rim of the receiving tank.

   b. Reduced Pressure Principle Backflow Prevention Device (RP) - The approved reduced pressure principle backflow prevention device shall be installed on the user's side of the service connection at a distance consistent with the District's Standard Drawings and Specifications. The device shall be installed a minimum of twelve inches (12") but not more than eighteen inches (18") above grade measured from the bottom of the relief valve and with a minimum of twelve inches (12") side clearance. The device shall be installed so that it is readily accessible for maintenance and testing. Water supplied from any point between the service connection and the RP device shall be protected in a manner approved by the District. Additionally, materials and installation shall at all times conform to water agency standards which can be found at www.sdwas.com.

G. Backflow Prevention Device Testing and Maintenance

1. The owners of any premises on which, or on account of which backflow prevention devices are

installed, shall have the devices tested by a person who has demonstrated their competency in testing of these devices to the District and has been approved by the District. Backflow prevention devices must be tested at least annually and immediately after installation, relocation or repair. The District may require a more frequent testing schedule if it is determined to be necessary. No device shall be placed back in service unless it is functioning as required. A report in a form acceptable to the District shall be filed with the District each time a device is tested, relocated or repaired. These devices shall be serviced, overhauled, or replaced whenever they are found to be defective and all costs of testing, repair, and maintenance shall be borne by the water user.

2. Initial testing after installation and subsequent retesting shall at all times conform to water agency standards as outlined in www.sdwas.com.

3. The District will supply affected water users with a list of persons acceptable to the District to test backflow prevention devices. The District will notify affected customers by mail when annual testing of a device is needed and also supply users with the necessary forms which must be filled out each time a device is tested or repaired.

4. Existing double check valves and pressure vacuum breakers on median strip irrigation areas which function adequately may remain in place, however, as the District no longer recognizes such devices to be commensurate with the degree of potential hazard, failures of these devices will necessitate their replacement with a reduced pressure principal backflow prevention device (RP).

H. Backflow Prevention Device Removal

1. Written approval must be obtained from the District before a backflow prevention device is removed, relocated, repaired or replaced.

a. Removal: The use of a device may be discontinued and device removed from service upon presentation of sufficient evidence to the District to verify that a hazard no longer exists or is not likely to be created in the future.

b. Relocation: A device may be relocated following confirmation by the District that the relocation will continue to provide the required protection and satisfy installation requirements. A retest will be required following the relocation of the device.

c. Repair: A device may be removed for repair, provided the water use is either discontinued until repair is completed and the device is returned to service, or the service connection is equipped with other backflow protection approved by the District. A retest will be required following the repair of the device.

d. Replacement: A device may be removed and replaced provided the water use is discontinued until the replacement device is installed and tested. All replacement devices must be approved by the District and must be commensurate with the degree of hazard involved.

I. User Supervisor

1. At each premise where it is necessary, in the opinion of the District, a user supervisor shall be designated by and at the expense of the water user. This user supervisor shall be responsible for the monitoring of the backflow prevention devices and for avoidance of cross connections. In the event of contamination or pollution of the drinking water system due to a cross-connection on the premises, the District shall be promptly notified by the user supervisor so appropriate measures may be taken to overcome the contamination. The water user shall inform the District of the user supervisor's required information on an annual basis or whenever a change occurs.

J. Administrative Procedures

Water System Survey

1. The District shall review all requests for new services to determine if backflow protection is needed. Plans and specifications must be submitted to the District upon request for review of possible cross-connection hazards as a condition of service for new service connections. If it is determined that a backflow prevention device is necessary to protect the public water system, the required device must be installed before service will be activated.

2. The District may require an on premise inspection to evaluate cross-connection hazards. The District will transmit a written notice requesting an inspection appointment to each affected water user. Any customer who cannot or will not allow an on premise inspection of their piping system shall be required to install the backflow prevention device the District considers necessary.

3. The District may, at its discretion, require a reinspection for cross-connection hazards of any premise to which it serves water. The District will transmit a written notice requesting an inspection appointment to each affected water user. Any customer who cannot or will not allow an on premise inspection of their piping system shall be required to install the backflow prevention device the District considers necessary.

K. Customer Notification - Device Installation and/or Repair (Corrective Action)

1. The District will notify the water user of the survey findings, listing corrective action to be taken if required. A period of 30 days will be given to complete all corrective action required including installation of backflow prevention devices.

2. A second notice will be sent to each water user who does not take the required corrective action prescribed in the first notice within

the 30 day period allowed. The second notice will give the water user a 14 day period to take the required corrective action and will generate the assessment of a fee in accordance with Appendix A. If no action is taken within the 14 day period, the District may terminate water service to the affected water user until the required corrective actions are taken.

3. A third and final notice will be sent to each water user who fails to take the requisite corrective action detailed in the second notice within the 14 day period allowed. The third notice will indicate the date of service termination and will generate the assessment of a fee in accordance with Appendix A.

4. Only written verification from a certified and District-approved tester/installer received in the District office within the allotted time period will constitute compliance with the above requirements.

L. Customer Notification - Testing

1. The District will notify each affected water user when it is time for the backflow prevention device installed on their service connections to be tested. This written notice shall give the water user 30 days to have the device tested and supply the water user with the necessary form(s) to be completed and submitted to the District.

2. A second notice shall be sent to each water user who does not have their backflow prevention device tested as prescribed in the first notice within the 30 day period allowed. The second notice will give the water user a 14 day period to have their backflow prevention device tested and will generate the assessment of a fee in accordance with Appendix A of this Ordinance. If no action is taken within the 14 day period, the District may terminate water service to the affected water user until the subject device is tested.

3. A third and final notice will be sent to each water user who fails to have their backflow prevention device(s) tested as required in the

second notice within the 14 day period allowed. The third notice will indicate the date of service termination and will generate the assessment of a fee in accordance with Appendix A of this Ordinance.

4. Submittal of verification of testing by a District approved tester on the appropriate form(s) received in the District office within the allotted time period will constitute compliance with the above requirements.

M. Water Service Termination

A. General

When the District encounters water uses that represent a clear and immediate hazard to the potable water supply that cannot be immediately abated, the District shall institute the procedure for discontinuing the District water service. A reconnection fee will be assessed in accordance with Appendix A.

B. Basis for Termination

Conditions or water uses that create a basis for water service termination shall include, but are <u>not limited to</u> the following items:

1. Refusal to install a required backflow prevention device;

2. Refusal to test a backflow prevention device;

3. Refusal to repair a faulty backflow prevention device;

4. Refusal to replace a faulty backflow prevention device;

5. Direct or indirect connection between the public water system and a sewer line;

6. Unprotected direct or indirect connection between the public water system and a system or equipment containing contaminants;

7. Unprotected direct or indirect connection between the public water system and an auxiliary water system; and/or

8. Any situation which presents an immediate health hazard to the public water system.

Additional remedies for failure to comply with Cross-Connection requirements are referenced in Section 72 of the Code f Ordinances and may be prosecuted as set forth in Section 73.01 of this Code.

N. Water Service Termination Procedures
The District has absolute discretion to determine the corrective action required and referenced in Sections 72 and 73 of this Code.

1. For conditions 1, 2, 3, or 4, the District will terminate service to a customer's premise after 2 written notices have been sent specifying the corrective action needed and the time period in which it must be done. If no action is taken within the allowed time period water service may be terminated.

2. For conditions 4, 5, 6, 7, or 8, the District will take the following steps:

a. Make reasonable effort to advise the water user of intent to terminate water service;

b. Terminate water supply and lock service valve. The water service will remain inactive until correction of violations has been approved by the District.

O. Requirements for addition to or renewal on the Otay Water District list of approved backflow prevention device testers

A. Each applicant desiring initial addition to or annual renewal on the District’s List of Approved Backflow Prevention Device Testers shall submit a fee in accordance with Appendix A. Fees must be made in an acceptable form of payment to the District. Along with the fee, a current address and phone number must be furnished. Those applicants not meeting all

qualifications specified herein will have current fees returned.

B. Applicants shall hold a valid and current certification from the American Water Works Association (AWWA) California Nevada Section, American Backflow Prevention Association (ABPA), American Society of Sanitary Engineering (ASSE), University of Southern California Test Procedures (current edition) or from a certification program recognized by the San Diego County Health Department. Evidence of said certification shall be furnished to the District at the time of application, at the time of renewal, and at any time the District requests verification. Certification alone does not constitute District approval.

C. Each applicant shall furnish evidence to show the availability of the necessary tools and equipment to properly test and/or repair such devices. Test kits shall be recalibrated annually and evidence of this shall also be provided with both the initial application and subsequent renewals.

D. The tester shall be solely responsible for the competency and accuracy of all tests and reports prepared and submitted to the District.

The list of approved testers will be furnished upon request to any District customer requiring such service.

The testers listed will remain listed for a period of one year at which time they are subject to application for renewal. At the beginning of each year a grace period not to exceed ninety (90) days will be allowed for this process. Failure to renew within the grace period will constitute removal from the list. The District reserves the authority to revoke, suspend, or remove any tester from the list of authorized testers for improper conduct, testing, repairs, and/or reporting.

FEES

A. A second notice for required corrective action will result in a service fee, per backflow device as outlined in Appendix A.

B. A third notice (termination of service notice) will result in a service fee per backflow device followed by the assessment of a reconnection fee if such action is required as outlined in Appendix A.

C. A reconnection fee per service is required for service to be resumed as outlined in Appendix A.

D. Applicants for addition to the list of approved backflow prevention device testers in the Otay Water District will submit an initial filing fee and an annual renewal fee, as outlined in Appendix A.

## 23.05 WATER SERVICE FOR STEAM BOILERS

Customers using District water to supply steam boilers are required to provide adequate storage of water for boiler use for a minimum period of 12 hours.

## 23.06 ELECTRICAL GROUND CONNECTIONS

The connection of electrical ground wire to water pipes is prohibited. The District shall assume no responsibility for any loss or damage resulting from such a connection.

## SECTION 24 CERTAIN SERVICE LIMITATIONS

### 24.01 NON-SERVICE AREAS

A. Except as provided in Section 25 of this Code, no customer may use or permit the use of water:

1. for any property other than that described in the application for service;

2. for any property outside of the boundaries of an improvement district; or

3. for property outside the boundaries of the District.

B. Water service shall not be supplied to more than one parcel through one meter, except for master meters when approved by the General Manager. A "parcel" shall be deemed to mean land or property identified as a parcel by the County Tax Assessor.

### 24.02 (RESERVED)

### 24.03 (RESERVED)

### 24.04 FIRE HYDRANTS AND CERTAIN OTHER FACILITIES

A. No person may withdraw water from any fire hydrant, blow-off valve, or other connection to the facilities of this District, unless an agreement has been entered into with the District for such withdrawal. Such agreement shall provide that all withdrawals shall be made through a meter.

B. The provisions of paragraph A shall not apply to withdrawals of water made from fire hydrants or other facilities for fire department purposes or to withdrawals made by other governmental agencies with prior District approval.

SECTION 25 CONDITIONS FOR WATER SERVICE

25.01 SERVICE AREA

Water service shall be furnished by the District only to property within (annexed to) a water improvement district within the District's service area. Water service to property located outside an improvement district may be furnished only upon prior approval of the Board of Directors. Temporary water service to property located outside an improvement district may be furnished, in accordance with Section 25.03 E.12., upon the approval of the General Manager.

25.02 DEFINITION OF "HCF" AND "UNIT OF WATER"

As used in the Code the terms "HCF" and "unit of water" are interchangeable and each shall mean 100 cubic feet or 748 gallons of water.

25.03 DEFINITIONS OF WATER SERVICE CATAGORIES, WATER RATES, CHARGES AND FEES

Water service furnished by the District shall be under the categories of services and at the rates, charges and fees as set forth in Appendix A, Section 25.

All District water rates, charges and fees are subject to Board approval of rate increases beginning January 1, 2014 and periodically thereafter through December 31, 2018. The increases shall be the amount sufficient to cover cost increases related to operations and maintenance, but not to exceed 10% per year.

Five-year Periodic Pass-through Rate Increases or Decreases from District Wholesalers - All District water rates, charges and fees are subject to periodic rate changes from the District's public agency wholesalers for a five-year period beginning January 1, 2014 through December 31, 2018.

A. Set-up Fees for Accounts A set-up fee shall be charged for each account transferred to another customer. See Appendix A, 25.03 A. for charges. A deposit will be required of all customers who do not own the property to be served. See Appendix A, 25.04 A. for deposit amounts.

B. Monthly Fixed MWD & CWA Charges Each potable water service customer shall pay a monthly MWD and CWA fixed system charge, as set forth in Appendix A, 25.03 C. Proceeds of the charge will be used to pay for operating and maintenance costs, including the following: MWD Readiness-to-Serve Charge and Capacity Reservation Charge; CWA Infrastructure Access Charge, Customer Service Charge, Emergency Storage Charge, and Supply Reliability Charge.

The MWD & CWA charge is based on the size of the water meter(s) in service with the exception of upsizing the meter for individually metered residential fire service, as described in Section 38.03 of the Code. The MWD & CWA charge shall start upon installation of the meter.

C. Monthly Fixed System Charges Each water service customer shall pay a monthly fixed system charge, as set forth in Appendix A, 25.03 C. Proceeds of the charge will be used to pay for water system replacement, maintenance, and operation expenses. The system charge is based on the size of the water meter(s) in service. For individually metered residential fire service, as outlined in Section 38.03 of the Code, the size and fee would be set based on water use requirements without additional fire capacity. The system charge shall start upon installation of the meter

D. Water Conservation Drought Pricing To promote conservation, base tiered water rates for all water services are subject to percentage increases during drought stages, as shown in the table below:

**Drought Stage Pricing**

| | **Stage 2** | **Stage 3** | **Stage 4** |
|---|---|---|---|
| Tier 1* | 0% | 0% | 0% |
| Tier 2 | Up to 5% | Up to 10% | Up to 15% |
| Tier 3 | Up to 30% | Up to 60% | Up to 90% |

*Domestic residential water service has four tiered base rates as outlined in Appendix A, 25.03 E.1.(b). Tier 1 of the above table applies to the first two tiered base rates. Tier 2 of the above table applies to the third tiered base rate. Tier 3 of the above table applies to the fourth tiered base rate.

E. Categories of Water Service The definitions and rates and charges for water service furnished by the District shall be as follows:

1. DOMESTIC RESIDENTIAL WATER

(a) Defined as: Water service for single residential and individually metered attached households as well as other domestic uses (other than that provided for in Paragraph 2 below).

(b) Base Rate: The tiered base rates of water furnished under this category shall be set forth in Appendix A, 25.03 E.1.(b).

The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

2. MULTIPLE RESIDENTIAL WATER

(a) Defined as: Master metered water service for multiple residential households, for example, duplexes, townhomes, apartments and mobile homes.

(b) Base Rate: The tiered base rates of water furnished for each dwelling unit under each block of service in this category shall be as set forth in Appendix A, 25.03 E.2.(b).

The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

3. BUSINESS AND PUBLICLY-OWNED WATER

(a) Defined as: Potable water service for commercial, industrial and publicly-owned establishments.

(b) Base Rate: The tiered base rate for water furnished under this category shall be determined by meter size and usage block as set forth in Appendix A, 25.03 E.3.(b).

The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

4. IRRIGATION AND COMMERCIAL AGRICULTURAL USING POTABLE WATER

(a) Irrigation is potable water service provided solely for irrigation of landscape or landscaping, as defined in Section 0.02 A.

(b) Commercial agricultural engaged in the growing or raising of live stock, in conformity with recognized practices of husbandry, for the purpose of commerce, trade or industry, or for the use by public educational or correctional institutions or agricultural horticultural or floricultural products and produced,

(i) for human consumption or for the market, or

(ii) for the feeding of fowl or livestock produced for human consumption or for the market, or

(iii) for feeding fowl or livestock for the purpose of obtaining their products for human consumption or for the market, such products to be grown or raised on a parcel of land having an area of not less than one acre utilized exclusively therefore.

(c) Base Rate: The tiered base rate for water furnished under this category shall be determined by meter size and usage block as set forth in Appendix A, 25.03 E.4.(c).

The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

5. RECYCLED WATER - LANDSCAPE IRRIGATION AND CERTAIN NON-IRRIGATION PURPOSES

(a) Defined as: Non-potable and recycled water service provided for irrigation of landscaping, as defined in Section 0.02 A. of the Code, and certain non-irrigation purposes, other than domestic use, in compliance with federal, state and local laws and regulations regarding use of recycled water.

(b) The provisions of this Code, relating to use of recycled water, set forth in Section 26 of the Code, including but not limited to cross-connections and backflow protective devices, shall be strictly enforced in connection with the use of recycled water.

(c) Base Rate: The tiered base rate for water furnished under this category shall be determined by meter size and usage block as set forth in Appendix A, 25.03 E.5.(c).

The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

(d) Monthly system charge: The monthly system charge for recycled water service is set forth in Appendix A, 25.03 C.

6. RECYCLED WATER - COMMERCIAL

(a) Defined as: Non-potable and recycled water service provided for commercial customers, as defined in Section 0.02 A. of the Code, and certain non-irrigation purposes, other than domestic use, in compliance with federal, state and local laws and regulations regarding use of recycled water.

(b) The provisions of this Code, relating to use of recycled water, set forth in Section 26 of the Code, including but not limited to cross-connections and backflow protective devices, shall be strictly enforced in connection with the use of recycled water.

(c) Base Rate: The tiered base rate for water furnished under this category shall be determined by meter size and usage block as set forth in Appendix A, 25.03 E.6.(c).

The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

(d) Monthly system charge: The monthly system charge for recycled commercial water service is set forth in Appendix A, 25.03 C.

7. POTABLE TEMPORARY AND CONSTRUCTION WATER SERVICE

(a) Defined as: Potable water service provided by the District on a temporary basis, pursuant to Section 31 of this Code.

(b) If capacity fees have not been paid by the customer, the rates for water furnished under this category is set forth in Appendix A, 25.03 E.7.(b).

(c) If the customer has paid capacity and annexation fees, the base rate for water furnished under this category shall be the base rate charged customers in the same category of service on a permanent meter basis.

(d) The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

(e) The applicable monthly system and MWD & CWA charge shall be the same rates charged to customers in the same category of service on a permanent meter basis per Appendix A, 25.03 C.

8. RECYCLED TEMPORARY AND CONSTRUCTION WATER SERVICE

(a) Defined as: Recycled water service provided by the District on a temporary basis, pursuant to Section 31 of this Code.

(b) If capacity fees have not been paid by the customer, the rates for water furnished under this category is set forth in Appendix A, 25.03 E.8(b).

(c) If the customer has paid capacity and annexation fees, the base rate for water furnished under this category shall be the base rate charged customers in the same category of service on a permanent meter basis.

(d) The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

(e) The applicable monthly system charge shall be the same rates charged to customers in the same category of service on a permanent meter basis per Appendix A, 25.03 C.

9. WATER SERVICE UNDER SPECIAL AGREEMENTS

(a) Defined as: Water service provided under express agreements approved by the Board of Directors for service to golf courses and other entities, which service may be curtailed or interrupted by the District under conditions provided in such agreements.

(b) For water service under this category the base rate shall be determined on a case-by-case basis.

Unless otherwise specified in the particular agreement, the tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

10. TANK TRUCKS

(a) Defined as: Water service provided for the filling of tanks on motor vehicles transporting water used for other than earth grading purposes, which service shall be made only through a portable meter issued by the District to a customer specifically for use in accordance with the provisions herein for such service.

(b) The rate for metered water furnished under this category is reflected in Appendix A, 25.03 E.10. (b), plus a monthly system charge at the rate set forth in Appendix A, 25.03 C.

The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

(c) Requirements for Use of Water Meter

(1) To receive such service, the customer must make a deposit for the use a water meter

furnished by the District. The fee is set forth in Appendix A, 31.03 A.1.

(2) Upon termination of the service, the District will refund the amount of deposit remaining after making the following deductions:

(i) Cost of repairing or replacing the meter, fire hydrant and/or any fittings damaged or lost while in use; and

(ii) Unpaid charges for water or other applicable charges.

(3) Prior to the end of each six month period following issuance of a meter under this section, or at the request of the District, whichever is earlier, the customer shall return the meter to the District for inspection, repair, or calibration as deemed necessary by the District.

(4) Payment for water service under this category shall be made as follows:

(i) The bill shall be based on the amount of water actually used, which shall be determined by the District's reading of the meter or by a report made by the customer to the District in the manner prescribed by the District.

(ii) Where the actual amount of water used cannot be determined as provided in (i), the District will issue a bill based on a District estimate of the amount of water used, as determined by the District. Such estimates shall be reconciled with actual amounts used when the customer returns the meter to the District as provided in paragraph 3 above.

(iii) Payments shall be made as specified on the bill.

11. <u>WATER SERVICE OUTSIDE DISTRICT</u>

(a) Defined as: Water service for real property outside the service area of the District.

(b) This service will be provided only upon prior approval of the General Manager when there is a surplus of water over and above the existing

needs for service in the District. This service is temporary and may be terminated upon written notice from the District. Customers for this service are sometimes referred to as "outside users."

(c) Customers applying for this category of service shall pay an application fee as set forth in Appendix A, 25.03 E.11.(c).

(d) The rate for metered water furnished under this category shall be charged the rate as described in Appendix A, 25.03 E.11.(d), plus a monthly system charge at the rate set forth in Appendix A, 25.03 C.

The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

(e) Customers requesting only fire service or a fire hydrant under this category shall be charged a capacity fee based on one (1) EDU for a permanent meter in the improvement district from which the fire service derives its flow, plus a monthly system charge at the rate set forth in Appendix A, 25.03 E.13.(c).

12. WATER SERVICE OUTSIDE AN IMPROVEMENT DISTRICT

(a) Defined as: Water service for property located within the boundaries of the District, but not within a water improvement district. Customers for this service are sometimes referred to as "outside users."

(b) Customers applying for this service shall pay an application fee as set forth in Appendix A, 25.03 E.12.(b). The District will review the application to determine whether the land to be served should be annexed to an improvement district. If it is determined that annexation is not practical, the Board of Directors may authorize service as an outside user. This service will be reviewed periodically until it is determined that the property must be annexed to an improvement district or that service must be terminated.

(c) The rate for metered water furnished under this category is as set forth in Appendix A, 25.03 E.12.(c), plus a monthly system charge as set forth in Appendix A, 25.03.C.

The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

(d) Upon approval of the Board of Directors, a customer, who has paid all construction costs for facilities necessary to serve the customer's property in lieu of annexation to a water improvement district, shall be exempt from the provision for this category of service.

13. SERVICE FOR FIRE PROTECTION

(a) Defined as: Water service provided by the District solely to feed fire hydrants or fire sprinkler systems from lines or laterals connected to District water mains.

(b) The District will not make a charge for the quantity of water used for fire protection purposes.

(c) The monthly system charge for this category of service is set forth in Appendix A, 25.03 E.13.(c) for each connection to a District water main made for fire protection service.

14. WATER SERVICE TO PROPERTY NOT SUBJECT TO DISTRICT TAXES

(a) Pursuant to Section 71613 of the California Water Code, the District may furnish water to property, not subject to District taxes, at special rates, terms and conditions as are determined by the Board of Directors for such service. Such rates, terms and conditions shall be uniformly applied to like classes and conditions of service in the same improvement district or geographical area.

(b) Customers in this category, such as publicly-owned establishments, shall pay an additional fee as outlined in Appendix A, 25.03 E.14.(b).

15. INTERIM WATER SERVICE IN IMPROVEMENT DISTRICT 7

(a) Definition of Interim Service. This is water Service furnished to a customer in Improvement District 7 (ID 7) for temporary use.

(b) Rates for Interim Service. Customers applying for interim service in ID 7 shall not be required to pay the ID 7 water capacity fee and San Diego

County Water Authority fee, as required under Section 2801 of this Code. The water rate is set forth in Appendix A, 25.03 E.15.(b).

(c) Conversion to Permanent Service. At such time as use expires, the customer shall be required to pay all fees in effect at the time the permanent use is implemented.

F. Energy Charges for Pumping Water

In addition to water rates and other charges provided for in this Section 25.03, customers shall be charged an energy pumping charge based on the quantity of water used and the elevation to which the water has been lifted to provide service. The energy pumping charge shall be made at the rate set forth in Appendix A, 25.03 F.

25.04 DEPOSITS BY LESSEES OR NON-OWNERS OF PROPERTY

8. RECYCLED TEMPORARY AND CONSTRUCTION WATER SERVICE

(a) Defined as: Recycled water service provided by the District on a temporary basis, pursuant to Section 31 of this Code.

(b) If capacity fees have not been paid by the customer, the rates for water furnished under this category is set forth in Appendix A, 25.03 E.8(b).

(c) If the customer has paid capacity and annexation fees, the base rate for water furnished under this category shall be the base rate charged customers in the same category of service on a permanent meter basis.

(d) The tiered base rates for this category of service are subject to the increased drought pricing outlined in Section 25.03 D.

(e) The applicable monthly system charge shall be the same rates charged to customers in the same category of service on a permanent meter basis per Appendix A, 25.03 C.

A. AMOUNT OF DEPOSIT

The customer's deposit shall be applied to reduce or satisfy any delinquent payment or other amount due the District at the time of termination of water service to the customer. Any portion of the deposit remaining, after

satisfaction of the amount due, shall be refunded to the customer that made the deposit.

The deposits listed above may be waived for a new residential applicant where the applicant demonstrates credit worthiness based upon prior utility payments or a non-delinquent water account for one year or other similar evidence of credit.

B. REFUND OF DEPOSIT

Where funds have been on deposit for twelve months in a domestic service account and there has been no more than one delinquent payment on that account during that period, the District will apply a credit to the water account in the amount of the deposit.

C. LETTER OF CREDIT

A letter of credit, in a form approved by the General Manager or Department Head of Finance, may be submitted to the District to satisfy the deposit requirements.

25.05 SERVICE TO SUBSEQUENT CUSTOMERS

After a water meter has been installed for a customer and all fees and charges have been paid, water service may be furnished to a subsequent customer through the water meter installed without payment of further charges, except for the set-up fee for transferred accounts, payment of delinquent charges for the applicant's service or other deposits that may be required by this Code.

## SECTION 26 WATER RECYCLING PLAN AND IMPLEMENTING PROCEDURES

### 26.01 FINDINGS

The state policies regarding use of recycled water are in the best interest of the Otay Water District. The majority of jurisdictions in San Diego County have adopted measures to promote water reclamation. This ordinance is necessary to protect the common water supply of the region which is vital to public health and safety, and to prevent endangerment of public and private property.

San Diego County is highly dependent on limited imported water for domestic, agricultural and industrial uses. The reliability of the supply of imported water is uncertain. By developing and utilizing recycled water, the need for additional imported water can be reduced. In light of these circumstances, certain uses of potable water may be considered unreasonable or to constitute a nuisance where recycled water is available.

### 26.02 USE OF RECYCLED WATER

A. District Policy: It is the policy of the District that recycled water shall be used within the jurisdiction wherever its use is financially and technically feasible, and consistent with legal requirements, preservation of public health, safety and welfare, and the environment.

A customer's recycled water service must at all time be in compliance with any requirements of service, including but not limited to the requirements established under this Section 26, the District's Rules and Regulations for Recycled Water Use, the California Water Code, commencing with Section 13520, the California Health and Safety Code, Section 116555, the California Code of Regulations, Titles 17 and 22, and Water Agency Standards.

B. Required Use for Greenbelt Purposes: Pursuant to Section 13550 of the California Water Code, no customer of the District shall make, cause, use or permit the use of potable water supplied by the District for greenbelt uses, including, but not limited to, cemeteries, golf courses, parks and highway landscaped areas, when, following notice and a hearing, the District finds that recycled water is available for such greenbelt uses and that the following conditions are met:

1. the recycled water is of adequate quality;

2. the recycled water may be furnished to such areas at a reasonable cost, comparable to or less than the cost of supplying potable domestic water;

3. the State Department of Health Services has determined that such use would not be detrimental to public health; and

4. the use of recycled water will not adversely affect downstream water rights, will not degrade water quality.

The findings may include terms and conditions under which recycled water shall be used. In addition, the District may assist the customer in obtaining any permits or approvals required for the use of recycled water.

26.03 DEFINITIONS

The following terms are defined for purposes of this ordinance:

A. Agricultural Purposes: Agricultural purposes include the growing of field and nursery crops, row crops, trees, and vines and the feeding of fowl and livestock.

B. Artificial Lake: A human-made lake, pond, lagoon, or other body of water that is used wholly or partly for landscape, scenic or noncontact recreational purposes.

C. Commercial Office Building: Any building for office or commercial uses with water requirements which include, but are not limited to, landscape irrigation, toilets, urinals and decorative fountains.

D. Recycled Water Distribution System: A piping system intended for the delivery of recycled water separate from and in addition to the potable water distribution system.

E. Greenbelt Areas: A greenbelt area includes, but is not limited to golf courses, cemeteries, parks and landscaping.

F. Industrial Process Water: Water used by any industrial facility with process water requirements which include, but are not limited to, rins-

ing, washing, cooling and circulation, or construction, including any facility regulated for industrial waste or other objectionable discharge under District Code of Ordinances Sections 52.04, 52.05 and 52.06.

G. Off-Site Facilities: Water facilities from the source of supply to the point of connection with the on-site facilities, normally up to and including the water meter.

H. On-Site Facilities: Water facilities under the control of the owner normally downstream from the water meter.

I. Potable Water: Water which conforms to the federal, state and local standards for human consumption.

J. Recycled Water: Recycled water means water which, as a result of treatment, is suitable for a direct beneficial use or controlled use that would not otherwise occur. (See Water Code Section 13050(n).)

K. Recycled Water Use Permit: A recycled water permit means a permit issued by the District approving and conditioning recycled water service for a particular site.

L. Recycled Water Site Supervisor: A person responsible for the safe and efficient installation, operation and maintenance of a recycled water use site, including but not limited to compliance with all applicable permits, enforcement of the recycled water producer's rules and regulations and the prevention of potential hazards, such as cross-connections. The Recycled Water Site Supervisor must be certified by an approved Recycled Water Site Supervisor Certification Training Class offered within the County of San Diego and must have evidence of valid certification at all times while acting as Recycled Water Site Supervisor.

M. Temporary Recycled Water Use Permit: Temporary recycled water use permit means a permit issued by the District, at its discretion, to allow temporary use of recycled water pending issuance of a recycled water use permit or pending renewal of such permit following suspension or termination due to a violation of the provisions of this Section.

N. Waste Discharge: Waste Discharge means water deposited, released or discharged into a sewer system from any commercial, industrial or residential source which contains levels of any substance or substances which may cause substantial harm to any water treatment or reclamation facility or which may prevent any use of reclaimed water authorized by law.

## 26.04 WATER RECLAMATION MASTER PLAN

A. General: The General Manager shall prepare and adopt a Water Recycling Master Plan to define, encourage, and develop the use of recycled water within the District's boundaries. The Master Plan shall be updated not less often than every five years.

B. Contents of the Water Recycling Master Plan: The Master Plan shall include, but not be limited to, the following:

1. Plants and Facilities. Evaluation of the location and size of present and future recycling treatment plants, distribution pipelines, pump stations, reservoirs, and other related facilities, including cost estimates and potential financing methods.

2. Recycled Water Service Areas. A designation, based on the criteria set forth in Section 26.02 and the information derived from Section 26.04B.1. and this Section 26.04B.2. of the areas within the District that can or may in the future use recycled water in lieu of potable water. Recycled water uses may include, but are not limited to, the irrigation of greenbelt and agricultural areas, filling of artificial lakes, and appropriate industrial and commercial uses.

3. Designate Tributary Areas. For each water reclamation facility identified in the Master Plan, designate proposed tributary areas. Within such areas, discharges to the sewage system shall be subject to permitting, monitoring and control measures to protect public health, safety and public and private property. Designation of tributary areas shall be adopted by ordinances, and may be included in the Master Plan. Prior to designation of tributary areas, appropriate notice shall be given to property owners and residents of the area.

4. Quality of Water to be Recycled. For each water reclamation treatment facility, evaluate water quality with respect to the effect on anticipated uses of recycled water to be served by each treatment facility. Evaluate sources of waste discharge and sewer inflow that may, directly or cumulatively, substantially contribute to adverse water quality conditions in recycled water.

5. Tributary Protection Measures. Develop recommended control measures and management practices for each designated tributary area to maintain or improve the quality of recycled water. Such control measures may include capital improvements to the sewer collection system and waste discharge restrictions for industrial, commercial and residential discharges.

6. Mandatory Recycled Water Use. For each recycled water service area, evaluate whether greenbelt irrigation, agricultural irrigation, commercial office buildings, filling of artificial lakes, or industrial processes shall be limited to the use of recycled water. As appropriate, mandate construction of recycled water distribution systems or other facilities in new and existing developments for current or future recycled water use as a condition of any development approval or continued water service if future reclamation facilities are proposed in the Master Plan that could adequately serve the development, in accordance with the procedures described in Section 26.05. Identify resources and adopt measures to assist water users in the financing of necessary conversions.

7. Rules and Regulations for Recycled Water Use. Establish general rules and regulations governing the use and distribution of recycled water.

8. Public Awareness Program. Establish a comprehensive water reclamation public awareness program.

9. Coordination Among Agencies. An examination of the potential for initiating a coordinated effort between the District and other

regional agencies to share in the production and utilization of recycled water.

26.05 PROCEDURES

A. Existing Potable Water Service.

1. Preliminary Determination. Based upon the Master Plan, upon the designation of each recycled water service area or the commencement of the design of new recycled water facilities, the General Manager shall make preliminary determinations as to which existing potable water customers shall be converted to the use of recycled water. Each water customer shall be notified of the basis for a determination that conversion to recycled water service will be required, as well as the proposed conditions and schedule for conversion.

2. Notice. The notice of the preliminary determination, including the proposed conditions and time schedule for compliance, and a recycled water permit application shall be sent to the water customer by certified mail.

3. Objections; Appeals. The water customer may file a notice of objection with the District within thirty (30) days after any notice of determination to comply is delivered or mailed to the customer, and may request reconsideration of the determination or modification of the proposed conditions or schedule for conversion. The objection must be in writing and specify the reasons for the objection. The preliminary determination shall be final if the customer does not file a timely objection. Staff (Engineering Department) shall review the objection and shall confirm, modify or abandon the preliminary determination. Upon issuance of a final determination in writing by Staff, customer may appeal the determination upon written application to the Board of Directors after the final determination made by the Staff (Engineering Department). The customer's written application to the Board of Directors to appeal the final determination must be received within thirty (30) days of the customer receiving the final determination.

B. Development and Water Service Approvals.

1. Conditions. Upon application by a developer, owner or water customer (herein referred to as "applicant") for a tentative map, subdivision map, land use permit or other development project as defined by Government Code Section 65928 or for new or altered water service, the District Staff shall review the Master Plan and make a preliminary determination whether the current or proposed use of the subject property is required to be served with recycled water or to include facilities designed to accommodate the use of recycled water in the future. Based upon such determination, use of recycled water and provision of recycled water distribution systems or other facilities for the use of recycled water, and application for a permit for such use may be required a condition of approval of any such application, in addition to any other conditions of approval for service.

2. Alterations and Remodeling. On a case-by-case basis, upon application for a permit for the alteration or remodeling of multifamily, commercial or industrial structures (including, for example, hotels), the District Staff shall review the Master Plan and make a preliminary determination whether the subject property shall be required to be served with recycled water or to include facilities designed to accommodate the use of recycled water in the future. Based upon such determination, use of recycled water and provision of recycled water distribution systems or other facilities for the use of recycled water, and application for a permit for such use, may be required as a condition of approval of the application.

3. Notice of Determination. A notice of the basis for the preliminary determination, proposed conditions of approval and schedule for compliance shall be provided to the applicant prior to approval of the development application or application for water service.

4. Requested Service. On a case-by-case basis, upon application for a permit to use recycled water on a property not covered by Sections 26.05.A.1, 26.05.B.1, or 26.05.B.2 above, the General Manager shall review the Master Plan and make a determination whether the subject property shall be served with recycled water.

Based upon such determination, the application for the permit shall be accepted and processed subject to Section 26.05.C.

C. Recycled Water Permit Process. Upon a final determination by the General Manager that a property shall be served with recycled water, or adoption of a condition of development approval or water service requiring use or accommodation of the use of recycled water, the water customer owner or applicant shall obtain a recycled water permit.

1. Permit Conditions. The permit shall specify the design and operational requirements for the applicant's water distribution facilities and schedule for compliance, based on the rules and regulations adopted pursuant to Section 26.04.B and shall require compliance with both the California Department of Health Services Wastewater Recycling Criteria (see California Code of Administrative Regulations, Title 22), and requirements of the Regional Water Quality Control Board.

2. Plan Approval. Plans for the recycled and non-recycled water distribution systems for the parcel shall be reviewed by the District Engineer and a field inspection conducted before the plans are approved.

3. Meter Permit Issuance. Upon completion of construction and approval by the District and the County Department of Environmental Health the meter permit shall be issued. Recycled water shall not be supplied to a property until inspection by the District determines that the applicant is in compliance with the permit conditions.

4. Recycled Water Use Permit Issuance. If the site has a certified Recycled Water Site Supervisor, a Recycled Water Use Permit will be issued by the District. If the site does not have a certified Recycled Water Site Supervisor identified, a Temporary Recycled Water Use Permit may be issued, for a maximum of 120 days, to allow the site to receive recycled water while a proposed Recycled Water Site Supervisor is being certified. Failure to secure a certified Recycled Water Site Supervisor for the site under a Temporary Recycled Water Use Permit may

result in discontinuation of recycled water service to the site.

D. Temporary Use of Potable Water. At the discretion of the General Manager, potable water may be made available on a temporary basis, until recycled water is available. Before the applicant receives temporary potable water, a water reclamation permit, as described in Section 26.05.C, must be obtained for new on-site distribution facilities. Prior to commencement of recycled water service, an inspection of the on-site facilities will be conducted to verify that the facilities have been maintained and are in compliance with the recycled water permit and current requirements for service. Upon verification of compliance, the applicant shall be notified of the corrective actions necessary and shall have at least thirty (30) days to take such actions prior to initiation of enforcement proceedings.

E. Recycled Water Rate. The rate charged for recycled water shall be established by Ordinance of the Board of Directors.

F. Certified Recycled Water Site Supervisor Requirements.

1. Each Approved Recycled Water Use Site is required to have a Certified Recycled Water Site Supervisor. It is the responsibility of the recycled water use site owner or property designee to assure a Certified Recycled Water Site Supervisor is assigned to the recycled water use site.

2. Each approved recycled water use site shall maintain and report annually proof of Recycled Water Site Supervisor certification, a current address, and a 24-hour emergency contact phone number for the assigned Recycled Water Site Supervisor on a form approved by the Otay Water District. Failure to report the prescribed Recycled Water Site Supervisor information annually may result in discontinuation of recycled water service to the site.

3. Recycled Water Site Supervisors shall hold a valid and current certification from a Recycled Water Site Supervisor Certification Training Course recognized by the San Diego

County Health Department and approved by Otay Water District. Evidence of said certification shall be available on site and upon request by the District. Certification alone does not constitute District approval. Recertification of the Recycled Water Site Supervisor is required every five years.

4. The Recycled Water Site Supervisor shall be solely responsible for communications with the property owner or property designee for all on site recycled water issues.

5. Periodic inspection of the Approved Recycled Water Use Site may be made by the District to verify conformance with the approved Recycled Water Use Permit. If at any time the Otay Water District conducts an inspection of a recycled water use site and the Recycled Water Site Supervisor's certification is expired or it has been determined that the recycled water use site has failed to meet the requirements of the permit, recycled water service to the site shall be discontinued until the recycled water site is brought back into compliance with the approved Recycled Water Use Permit.

6. The District reserves the right to recommend removal of a Recycled Water Site Supervisor if it has been determined upon inspection that the Recycled Water Site Supervisor's actions have placed the public at risk through improper conduct, testing, repairs, unapproved modifications, and/or reporting with respect to an Approved Recycled Water Use Site.

## 26.06 REGULATION OF WASTE DISCHARGE TO SEWERAGE SYSTEMS

A. Intent. The District recognizes that to maintain adequate wastewater quality for water reclamation treatment processes, and to protect public and private property, restrictions may be required on certain industrial, commercial and residential waste discharges to a sewerage system that is located within a designated tributary area of an existing or planned reclamation facility.

B. Adopted Tributary Protection Measures. Waste discharges to the sewerage system from any indus-

trial, commercial or residential source may be restricted or prohibited upon a finding, following a noticed public hearing, that the type or class of discharge involved is capable of causing or may cause substantial damage or harm to any sewage treatment or reclamation facility or to any significant user or users or potential user or users of recycled water within an area which has been planned for recycled water service. Prohibitions for certain discharges and guidelines for acceptability of wastes are set forth in District Code of Ordinances Sections 52.04, PROHIBITIONS AGAINST DISCHARGE OF OBJECTIONABLE WASTES, which prohibits discharge of certain items into the District sewer system, including, but not limited to, brine discharge from on-site self-regenerating water softener units; 52.05, GUIDELINES TO DETERMINE ACCEPTABILITY OF WASTES; and 52.06, DISCHARGE OF INDUSTRIAL WASTE.

26.07 SANCTIONS. In addition to the remedies established under Division IV of this Code, the following sanctions and remedies apply to violations of the provisions of this Section.

A. Public Nuisance. Discharge of wastes or the use of recycled water in any manner in violation of this ordinance or of any permit issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the General Manager. Any person creating such a public nuisance is guilty of a misdemeanor.

B. Injunction. Whenever a discharge of wastes or use of recycled water is in violation of this ordinance or otherwise causes or threatens to cause a public nuisance, the District may seek injunctive relief as may be appropriate to enjoin such discharge or use.

C. Permit Suspension or Revocation. In addition to any other provision of this Code or state statute or rule authorizing termination of water service, the General Manager may suspend or revoke a permit issued hereunder if a violation of any provision of this ordinance or the Rules and Regulations for Recycled Water Use is found to exist or if a discharge of wastes or use of recycled water causes or threatens to cause a nuisance. If a permit is revoked, the General Manager may, at its discretion, issue the recycled water user a temporary recycled water permit for up to 120 days to allow service to continue while corrective measures are completed.

D. Penalty. Any owner and/or operator who violates this ordinance shall, for each day of violation, or portion thereof, be subject to an administrative fine as described in Section 72.05.

26.08 VALIDITY

If any provision of this Section 26 or the application thereof to any person or circumstance is held invalid, the remainder of Section 26 and the application of such provisions to other persons or circumstances shall not be affected thereby.

## SECTION 27 REQUIREMENTS AND LIMITATIONS FOR OBTAINING WATER SERVICE

### 27.01 REQUIREMENT FOR WATER/SEWER PERMIT AND PAYMENT OF FEES, CHARGES, AND DEPOSITS

A. Requirement for Water/Sewer Permits. Water meters shall not be installed nor water service furnished until an application, in the form of a water/sewer permit, has been executed by the customer at the District office.

B. Requirement for Payment of Fees, Charges, and Deposits. Payment of all required fees, charges, and deposits shall be made by the customer at the time the water meter is purchased. A customer requesting water service shall pay the fees, charges, and deposits as set forth in Section 28 of this Code.

C. Requirement for a Building Permit. A customer requesting permanent water service shall be required to present a valid building permit for the property issued by the appropriate governmental agency, except that a building permit is not required by a customer requesting permanent water service to: 1) install and maintain landscaping prior to the construction of a building; 2) perform mass grading operations; or 3) to satisfy conditions imposed by other government agencies, including a single meter for grading four lots or less which are part of the same parcel map. Government agencies shall be exempt from the requirement of presenting a valid building permit.

D. Requirement for a Service Lateral. The customer requesting water service shall either have an existing service lateral or purchase a new lateral installation at the time of the meter purchase.

E. Commercial Parcels - 5,000 square feet or Larger Irrigated Landscape. When a customer requests water service on a parcel of land with irrigated landscape equal to 5,000 square feet or more, a separate meter will be required for irrigation purposes on the site.

F. Recycled Water Service Areas. In areas designated as recycled water service areas, the customer may be required to install a separate recycled water service lateral and meter to supply irrigation to the parcel.

G. Second Meter for Indoor Use. Any customer who obtained a single meter prior to October 17, 1990, a second meter for indoor use may be obtained, without paying water capacity fees, San Diego County Water Authority fees, and applicable zone charges on the second meter, if the following criteria are met:

1. The additional meter is solely for the purpose of isolating current domestic (indoor) water use from that used for outdoor landscaping. The additional meter shall be on a separate lateral.

2. All costs of on-site plumbing changes, including approved back-flow prevention devices, will be the responsibility of the customer.

3. The customer acknowledges that adding a second meter will result in a second water bill and associated monthly system fee.

4. The customer will be required to pay all fees and charges prior to meter installation.

H. Water Service Use Changes Resulting in Increased System Utilization. The use of a water service shall be limited to the type and size authorized by the original water meter permit. The property owner shall make a supplementary water permit application to the District before adding or subtracting any additional equivalent dwelling units; adding or subtracting buildings; modifying existing buildings; or changing occupancy type. The property owner shall be responsible for all additional fees, as may be applicable resulting from the changes included in the supplementary water permit application.

1. If the supplementary water permit application requires a larger meter, the property owner will be responsible for all costs associated with the upsize of the existing meter in the manner provided in Section 33.05 paragraph C.

2. Periodic inspections of the premises may be made by the District to verify conformance with the approved permit. The District may also perform periodic inspections if actual use is greater than estimated use as included in the original water meter permit. If it is determined by periodic inspections that the type and size authorized by the original water meter permit has been exceeded, the property owner will be responsible for all costs associated with

the upsize of the existing meter in the manner provided in Section 33.05 paragraph C.

27.02 SIZE OF WATER METER

A water meter shall be sized to ensure that the maximum demand (in gallons per minute) will not exceed 80% of the manufacturer's recommended maximum flow rate, as shown in Section 27.03. In no case shall the water meter size be less than ¾-inch. The size of the water meter and service lateral required for water service shall be determined by the General Manager as follows:

A. Detached Single-Family Residential Dwelling Unit. The customer may submit calculated maximum demand (in gallons per minute), provided that maximum demand must be no more than twenty four (24) gallons per minute for a ¾-inch meter.

B. Apartments, Condominiums, Mobile Home Parks, and other Multiple Family Residential Dwelling Units with Individual Meters. The calculated maximum demand shall be per Section 27.02A.

C. Business, Commercial, Industrial, Apartments, Condominiums, Mobile Home Parks, and other Multiple-Family Residential Dwelling Units. The customer shall submit building plans signed by a licensed building architect. The plans shall list the number of fixture units, the parcel size (in acres), and the calculated maximum demand (in gallons per minute) to be placed on each water meter.

D. Irrigation. The customer shall submit irrigation plans signed by a licensed landscape architect. The plans shall indicate the calculated maximum demand (in gallons per minute) to be placed on each water meter and the total area to be irrigated (in square feet). The plans must also be in compliance with the requirements of Section 27.05.

E. Other. In the case of other types of service not included above, the customer shall submit information as requested by the General Manager. Any customer may request and purchase a separate meter to isolate landscaping from indoor use.

F. Requirement for Multiple Meters. The General Manager may require multiple meters when it is in the best interest of the District.

G. Phased Projects. Should the developer choose to phase a multi-family project and determines the use of a smaller meter is practical within the initial phase, they must provide fixture unit calculations for review and

approval by the District for each phase of development, including the build-out of the project. The developer shall provide a letter to the District stating they acknowledge the initial meter is temporary and they understand that they must purchase a larger meter, paying all applicable meter upsize fees when they connect future phases to this system. At Plan Review and Submittal the developer shall show fixture count and meter size for each of the phases to final build-out.

27.03 MANUFACTURERS RECOMMENDED MAXIMUM FLOW RATE FOR DISTRICT METERS

Customers are cautioned to control the rates of flow of water through District meters. Operation of a meter at flows in excess of the manufacturer's recommendations will cause severe damage to operating parts. Rated capacities for meters used in this District are as follows:

ORDINARY METERS

| Meter Size Recommended in Inches | Manufacturer's Maximum Rate in U.S. Gallons per Minute |
|---|---|
| 3/4 | 30 |
| 1 | 50 |
| 1-1/2 | 100 |
| 2 | 160 |
| 3 | 500 |
| 4 | 1000 |
| 6 | 2000 |
| 8 | 3400 |
| 10 | 5000 |

27.04 RESALE OR DISTRIBUTION OF WATER

No customer may resell or redistribute any portion of the water furnished by the District except as provided below:

A. Use of Sub Meters for Resale or Redistribution of Water. Owners or operators of mobile home parks, apartments, condominium complexes, industrial complexes, and land used for agricultural purposes may resell water furnished by the District through the use of a sub metering system under the following conditions:

1. Owners and operators shall comply with State law (California Code of Regulations Section 4090) prohibiting any surcharge on the water rate;

2. The water system on the private property side of the master meter, including the sub meters, shall be solely the responsibility of the owner or operator; and

3. The owner or operator shall clearly delineate on the bill that any cost associated with the sub meters is a cost imposed by the property owner or operator and not by Otay Water District.

B. Ratio Utility Billing Systems. To the extent permitted under law, owners or operators of multi-unit structures where sub meters have not been installed may elect to implement a Ratio Utility Billing System (RUBS) or alternative billing system to determine proportionate shares of water charges and bill tenants accordingly.

## 27.05 CONSERVATION AND LOCAL SUPPLY USE REQUIREMENTS

The requirements below apply to all new residential and commercial developments or redevelopments. The landscape requirements also apply to any re-landscaping that is subject to review by the District, the County of San Diego, City of Chula Vista, or the City of San Diego.

A. Indoor Fixtures and Appliances. All water fixtures and appliances installed, including the ones in the following list, must be high-efficiency:

- Toilets and urinals
- Faucets
- Showerheads
- Clothes Washers
- Dishwashers

''High-efficiency'' means fixtures and appliances that comply with the most efficient specifications under the EPA WaterSense® or Energy Star programs,[1] as in effect at the time installation commences.

B. Landscape requirements. Only ''Smart'' irrigation controllers[2] may be installed and only low-water use plants

[1] Certified EPA WaterSense® products, and Energy Star products, are at least 20% more efficient than the applicable federal standards.
[2] Smart Irrigation Controller means a controller that uses real time, soil moisture or weather data to automatically adjust irrigation run-times. Furthermore, to qualify as a Smart Irrigation Controller, the

may be used in non-recreational landscapes. All landscapes must also be designed and managed consistent with requirements of the local agency within which the property is located, be it the County of San Diego, the City of Chula Vista, or the City of San Diego.

1. Installed smart irrigation controllers shall be properly programmed/scheduled according to the manufacturer's instructions and/or site specific conditions based on soil type, plant type, irrigation type, weather, and/or reference evapotranspiration data.

2. Two irrigation schedules shall be prepared, one for the initial establishment period of three months or until summer hardened, and one for the established landscape which incorporates the specific water needs of the plants and turf throughout the calendar year. The schedules shall be continuously available on site to those responsible for the landscape maintenance and posted at the smart controller.

3. Any Covenants, Conditions, and Restrictions (CC&Rs) pertaining to a new subdivision/development shall not limit or prohibit the use and maintenance of low water use plant materials and the use of artificial turf, and shall require property owners to design and maintain their landscapes consistent with applicable City and County regulations.

4. Dedicated irrigation meters shall be installed in:

   - All parks and common areas with 5,000 square feet or more of irrigated landscape; and
   - Commercial sites with 5,000 square feet or more of irrigated landscape

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device must be certified by the Irrigation Association and/or the EPA WaterSense® program.

5. In compliance with Section 23.03 of this Code of Ordinance, pressure regulators must be installed when and where appropriate to maximize the life expectancy and efficiency of the irrigation system.

C. New commercial developments must install separate, dual-distribution systems for potable and recycled water.

D. The requirements of this Section shall not be interpreted in any way to limit the owner’s obligation to comply with any other applicable federal, state, or local laws or regulations.

## SECTION 28 CONNECTION FEES AND CHARGES FOR POTABLE OR RECYCLED WATER SERVICE

### 28.01 COLLECTION OF FEES AND CHARGES

A. Fees and Charges to be paid by the Customer.

The following fees and charges shall be paid by the customer to connect to a District water system for potable water or recycled water service; these are in addition to the fees and charges in Section 9 and 25. Fees and charges shall include, but not be limited to, District fees, San Diego County Water Authority fees, and charges for work performed by District personnel on behalf of the customer. These charges may include the installation by District personnel of a water service lateral, and inspections required due to the requirement of a back flow device. These charges may also include a meter fee, installation fee (where laterals exist), lateral fee, meter box fee, and excavation permit fee.

B. Basis for Determination of Connection Fees and Charges.

The fees and charges shall be determined as follows:

For permanent water meters, including potable or recycled irrigation service, the total water connection fee shall be determined on the basis of the demand to be placed on the District water system. The extent of demand will be determined on the basis of the size of the water meter, as set forth in Section 27 of the Code. For individually metered residential fire service, as outlined in Section 38.03 of the Code, the size and fee would be set based on water use requirements without additional fire capacity. The water connection fee will be determined by multiplying the demand factor for the meter size, as set forth below, by the total of the District-wide capacity fee.

| Meter Size | Demand Factor |
|---|---|
| 3/4" | 1 |
| 1 | 2-1/2 |
| 1-1/2" | 5 |
| 2" | 8 |
| 3" | 16 |
| 4" | 25 |
| 6" | 50 |
| 8" | 80 |
| 10" | 115 |

1. The District-wide capacity fee shall constitute the "base rate." For fees or charges after October 1, 2014, the base rate shall be adjusted quarterly for fluctuations in construction costs, as measured by the *Engineering News Record Construction Cost Index for the Los Angeles Region*. The ENR Construction Cost Index of 10,739.43(as of June 1, 2014) shall be deemed the "base index." The adjustment shall be in an amount equal to the percentage change in the ENR Construction Cost Index from the base index for the period from June 1, 2014 to the date of payment. (See Appendix A, Section 28 for fees.)

2. The District-wide new water supply fee shall constitute the "base rate." For fees or charges after October 1, 2014, the base rate shall be adjusted quarterly for fluctuations in construction costs, as measured by the *Engineering News Record Construction Cost Index for the Los Angeles Region.* The ENR Construction Cost Index of 10,739.43 (as of June 1, 2014) shall be deemed the "base index." The adjustment shall be in an amount equal to the percentage change in the ENR Construction Cost Index from the base index for the period from June 1, 2014 to the date of payment. (See Appendix A, Section 28 for fees.)

28.02 INSTALLATION CHARGES FOR WATER METER AND WATER SERVICE LATERALS

The determination of the water meter or service lateral size shall be based upon the information provided by the customer as detailed in Section 27 of the Code. The meter fees and installation charges are set forth in Appendix A, Section 28.

Where a new water lateral is required, a customized, written estimate of the District's costs will be prepared.

The customer shall deposit the estimated costs with the District prior to commencement of the work. If actual costs incurred by the District are less than the amount deposited, the District shall refund the excess to the customer. If the actual costs incurred exceed the amount deposited, the customer shall reimburse the District for the additional costs.

A. The meter fees and installation charges shall be set effective September 1, 2012, and then adjusted in the same manner as capacity fees as described in Section 28.01 B.1 above (See Appendix A, Section 28 for fees).

28.03 METER FEE REFUND

A. If a water meter/service has been paid for but not installed, a customer may receive a refund of the District's capacity fee and charges. If San Diego County Water Authority capacity fees have been paid to San Diego County Water Authority, the customer shall request a refund from San Diego County Water Authority.

B. If the customer wants to change the meter/service size, they will be credited with the number of equivalent dwelling units they have previously purchased and will be refunded any balance per Section 28.03 A, above. If additional equivalent dwelling units are required, the customer will be charged based on 28.01 and 28.02.

C. If a water meter/service has been previously paid and installed, and the customer requests a different meter size, the customer shall pay for the new meter and installation fees, plus any differential in capacity and new water supply fees as described in Section 28.03 B above.

## SECTION 30 NON-PERMANENT IRRIGATION WATER SERVICE.

### 30.01 Definition of Non-Permanent Irrigation Water Service.

This is water service furnished to establish and maintain revegetated native plants for a period not to exceed five years. The service shall be an extension of a permanent irrigation system with the meter sized only for the permanent irrigation portion. Non-permanent irrigation water service shall be available without payment of capacity fees.

### 30.02 Conditions for Non-Permanent Irrigation Water Service.

Non-permanent irrigation water service shall be furnished under the following conditions:

1) Water used in the non-permanent irrigation water service area must be delivered through an extension of a permanent irrigation meter sized only for the permanent irrigation, a quick coupler device and must be applied with hoses and hand held devices.

2) The non-permanent irrigation area shall not be considered in the allocation calculation for irrigation water penalties.

3) The customer shall notify the District in writing to use water for non-permanent irrigation water service.

4) The customer shall request approval from the District, in writing, when the non-permanent irrigation water service has ceased.

5) Irrigation must cease after five years.

6) Requirement to irrigate must be from a governmental agency and proof of such presented to the District.

7) The non-permanent irrigation area shall be contiguous to the permanent irrigation meter service area.

## SECTION 31 TEMPORARY WATER SERVICE

### 31.01 DEFINITION OF TEMPORARY SERVICE

Temporary water service is water service provided for a limited period of time not to exceed 365 days, and used for temporary purposes such as construction, hydrotesting water systems, vegetation of slopes, and other uses noted in this section. Temporary water service shall not be provided to residential dwellings or commercial business enterprises which are covered under Section 60 of this Code.

### 31.02 REQUIREMENT OF TEMPORARY METER FOR SERVICE

Temporary service may be provided after installation of a temporary meter pursuant to a customer's written application for such service. Temporary service by means of a "jumper" or other unauthorized connection to the District water system is prohibited and subject to penalties as set forth in Section 72.

A. Size and Location.

1. The size and location of temporary meters will be determined solely by the District.

2. For temporary service from a fire hydrant, a meter of at least 4" in size will be required. Only one 2½" fire hydrant port per fire hydrant shall be occupied by a temporary meter at one time.

B. Temporary water service from a fire hydrant shall be limited to the following applications:

1. Filling of water trucks and drop tanks.

2. General construction requirements, such as backfill and compaction, guniting and stuccoing, and block wall building.

3. Flushing of storm drains and sewer lines.

4. Filling, hydrotesting, chlorination, and flushing of newly constructed potable and reclaimed water lines.

5. Filling, flushing, hydrotesting, and the initial operational coverage testing of reclaimed water irrigation systems. Temporary service provided for this application shall be limited to a maximum of 60 days.

6. Operation of landscape irrigation for the establishment of vegetation on slopes or other planted areas. Temporary service provided for this application shall be limited to a maximum of 180 days.

Item 5 and 6 above shall require the installation by the customer of a District approved and tested reduced pressure backflow device prior to the temporary service being established. The backflow device shall be installed in plain view and within 3 feet of the temporary hydrant meter.

C. Temporary service to construction trailers or other temporary construction buildings may be provided as follows:

1. Through a temporary meter connected to the 1 or 2 inch service lateral for the lot the trailer is placed on.

2. Where Item 1 above is not possible, through a temporary meter connected to appurtenances other than a fire hydrant, such as a blow off.

3. Where either Item 1 or 2 above is not possible, from a temporary 4 inch meter connected to a fire hydrant.

Service to construction trailers or other temporary construction buildings shall require the installation by the customer of a District approved and tested reduced pressure backflow device prior to the temporary service being established. The backflow device shall be installed in accordance with District requirements.

E. If any unauthorized connection, disconnection or relocation of a temporary meter, or other connection device is made by other than District employees, District may discontinue further water service to the entire project and impose penalties as set forth in Section 72.

F. Extensions to the time limits referenced in this section may be made by the General Manager. Requests for time extensions shall be made by the customer in writing.

31.03 FEES AND CHARGES FOR TEMPORARY METERS

A. Temporary Service. Temporary water service shall be furnished to the property owner or the owner's authorized agent only and shall be provided under the following conditions:

1. Requirement of Deposit. At the time application is made for temporary service, the customer shall deposit with the District the amount set forth in Appendix A, 31.03 A.1.

2. Delinquency. No temporary meters shall be furnished to any person with a delinquent account with the District.

3. Refund of Deposit or Additional Payment. Upon cancellation or termination of the temporary service, the District will refund the amount of deposit remaining after making the following deductions:

   a) cost of installing, moving, and removing the meter;

   b) cost of repairing or replacing the meter, fire hydrant, and/or any fittings damaged or lost while in use; and

   c) unpaid charges for water used or other applicable charges.

4. Temporary Meter Set-up & Removal. The charges to set-up and remove a temporary meter are set forth in Appendix A, 31.03 A.4.

5. Temporary Meter Move Fee. If a meter needs to be moved from one location to another see Appendix A., 31.03 A.5.

B. Rates for Temporary Service. The minimum category of service for Temporary Water Service from a hydrant shall be a meter size of 4 inches. Payment for temporary water service shall be in accordance with rates and charges set forth in Section 25.03

31.04 PAYMENT OF CAPACITY, NEW WATER SUPPLY, AND ANNEXATION FEES FOR TEMPORARY METERS

A. Customers, whose property has been annexed into an Improvement District, may elect to pay the capacity, new water supply and annexation fees in addition to the deposit amount shown in Appendix A, 31.03.A.1.

B. Capacity, new water supply and annexation fees for this type of temporary service shall be calculated in accordance with Sections 9 and 28.

C. Payment for this type of temporary service shall be in accordance with the rates and charges set forth in Section 25.03 and based on water use type.

D. Customers electing this type of temporary service shall be credited the number of equivalent dwelling units they have previously purchased when the meter(s) is returned to the District. The credit shall be applicable to permanent meters purchased within the same subdivision or development where the temporary meter was used.

## SECTION 33 GENERAL REGULATIONS FOR USE OF WATER METERS

### 33.01 FURNISHED AND INSTALLED ONLY BY DISTRICT

Water meters used for service from a District water distribution system shall be furnished and installed by the District. Meters will be furnished only for use for a specific parcel of land. Master meters and meters for irrigation purposes may be furnished for more than one specific parcel of land upon the approval by the District. The Fees and charges are set forth in Appendix A, 28.02.

### 33.02 OWNERSHIP OF METERS

The District shall retain title to all meters installed within the District. Payment by a customer of installation fees, capacity fees, meter charges, connection charges or any other fees or charges shall not transfer ownership of a meter from the District to the customer.

### 33.03 RELOCATION OF METERS

With prior District approval, water meters may be moved at the request of the owner from one location to another location on the same parcel or within the same tract owned by the customer upon payment of an amount determined by the District.

### 33.04 METER TURN-OFF REQUESTED BY CUSTOMER

At the request of the customer, a water meter may be turned off and locked without charge; provided, however, the system charge shall continue to apply.

### 33.05 REMOVAL OF METERS

A. Abandonment of Service. The District may remove any water meter where the customer has abandoned water service through that meter.

B. Permanent Removal of Meters for Agricultural or Irrigation Service. When service is no longer required, meters for agricultural and irrigation service may be removed upon the request of a lessee who paid the fees and charges (or upon request of the owner if the lease has expired), or upon the request of the owner if the fees were paid by the owner.

C. Request for Removal of a Water Meter After Installation. If, after installation of a water meter, a request is made by a customer for the removal of that water meter from service, the customer shall be credited with the number of Equivalent Dwelling Units ("EDU")

for that meter size. If thereafter a request is made for the installation of the same size water meter at the same location, no capacity fee shall be due. If the customer's request is for a larger meter, all capacity fees and charges per 28.01 and 28.02 shall be due and payable for all EDUs, less the EDU credit for the meter previously removed. No refund shall be due or payable for any portion of a capacity fee previously paid. The customer shall pay any expenses incurred by the District for removing and replacing the meters.

D. Removal of Meters for Delinquent Payment of Water System Charges. If an owner/customer remains delinquent in the payment of water charges or system charges after written notice of delinquency from the District, the District may remove the owner/customer's water meter. Refer to Section 72 for additional information regarding the procedure for removal of the meters. The fees and charges are set forth in Appendix A, 72.04 A.1.

If the request for such service is made more than six months after removal of the meter, the request shall be processed as a new order for service and all applicable fees and charges for a new service (except for capacity fees) shall be due and payable.

33.06 READING OF METERS

Meters shall be read once each calendar month.

Meters are read each time a meter is "turned-on" or "turned-off" and when water service is established as a new account.

33.07 ADJUSTMENT FOR METER INACCURACIES

A. Customer Request for Meter Test. A customer may request that the meter for the customer's service be tested for accuracy upon making a deposit with the District. The deposit is set forth in Appendix A, 33.07 A. per meter size.

B. Results of Meter Test. If upon testing, the meter does not register more than five percent (5%) in excess of the rated calibration for such meter size, the deposit shall be retained by the District. If the meter so tested registers more than five percent (5%) in excess of the rated calibration for such meter size, the meter will be replaced by the District and the deposit shall be returned to the customer. No adjustment in billing shall be made for excess registration during any period prior to 120 days before the request for the test.

C. Failure of Meter to Register During Service. Should any meter in service fail to register during a billing period, a bill will be issued by the District for the estimated amount of water used during the period of the meter failure, based on prior use under that account.

## SECTION 34 ISSUANCE AND PAYMENT OF WATER BILLS

### 34.01 ISSUANCE, DUE DATE AND FINAL PAYMENT DATE OF STATEMENT OF CHARGES FOR SERVICE

A. Issuance of Statements. Statements for water service or other charges will be mailed or presented as soon as practicable after the water meter has been read and the applicable charges have been determined.

B. Due Date. Each statement issued by the District for such charges shall be due and payable on the date of mailing or other presentation to the customer.

C. Final Payment Date. All charges in each statement must be paid on or before the final payment date shown on the statement, which shall be at least 20 calendar days following the date of mailing or presentation of the statement.

D. Payment of Charges.

1. Place of Payment. Payments shall not be credited to a customer's account until cash, check, credit card, draft, electronic funds transfer, money order, or any other acceptable form of payment that will be honored by the bank has been received by the District at the District business office during regular office hours. Deposit of payment in the mail or at a location other than the District business office shall not be credited to a customer's account until received at the business office.

2. Returned Check Charges. A returned payment charge (see Appendix A, 34.01 D.2. for charge) shall be added to a customer's account in each instance where payment has been made to the District with a check, draft, credit card or any other acceptable form of payment that has not been honored upon presentment to the bank upon which it is drawn.

### 34.02 DELINQUENT ACCOUNTS

A. For Non-Payment of Charges. If full payment of a statement for a water service account is not received at the District business office on or before the final payment date, the account shall become delinquent.

B. Late Payment Charge. A late payment charge (see Appendix A, 34.02 B. for charge) of the total amount

delinquent shall be added to each delinquent account at the time any amount becomes delinquent, provided that the charge shall not be made on any account which at that time has no delinquencies of record. When a late payment charge is made, such shall be added to the delinquent account as of the date the account becomes delinquent and such charges shall become an inseparable part of the amount due as of that time.

C. Notice of Delinquency. A delinquency notice shall be mailed to each customer whose account is delinquent, notifying the customer that service will be turned off unless payment is made. The notice shall indicate the amount due, including late payment charges, and that the total amount must be paid within fifteen (15) calendar days from the date of mailing or presentation of the notice to the customer, or service will be discontinued.

D. Record of Delinquent Accounts. The District maintains records of delinquent accounts. Each year one delinquency shall be removed from the record of each account that has one or more delinquencies.

E. Partial Payment on Delinquent Account. A partial payment on a delinquent account may be accepted and credited to a customer's account; however, the partial payment shall not cause removal of the account from a delinquent status and furthermore, the partial payment shall not preclude the meter from being turned off for delinquency.

F. Financial Arrangements for Delinquent Accounts.

1. Continuation of Service. The General Manager, Chief Financial Officer, or any person delegated by the General Manager, may authorize continuation of service to a delinquent account if financial arrangements, satisfactory to the District, have been established.

2. Requirement of Deposit Due to Repeated Delinquencies. If payments on a customer account have become delinquent five or more times, or if a meter has been turned off three or more times for non-payment of charges, the General Manager, Chief Financial Officer, or any person delegated by the General Manager, shall be authorized to require the customer to make a deposit with the District, in cash or any other form satisfactory to the General Manager. The deposit amount shall be established at the discretion of the General Manager and the Chief

Financial Officer, but shall not exceed two times the highest monthly bill during the twelve (12) months preceding the date of demand for a deposit.

(a) Handling of Deposit. A deposit shall not earn interest and shall only be applied to reduce or satisfy amounts due the District in the event of termination of service. A deposit does not constitute payment for service bills and the customer shall be required to comply with bill payment requirements to continue receiving service.

(b) Refund of Deposit. A deposit required under this Section shall be refunded to the customer as provided in Section 25.04.A.

G. Termination and Reinstatement of Water Service Under Delinquent Accounts

1. Termination of Service. The water meter or meters under delinquent accounts may be turned off and locked if payment has not been made in accordance with the Notice of Delinquency.

(a) Where an owner or manager is listed by the District as the customer of record of the service, the District shall make every good faith effort to inform the actual users of the services when the account is in arrears by means of a notice that service will be terminated in ten days. The notice shall further inform the actual users that they have the right to become customers of the District without being required to pay the amount due on the delinquent account.

(b) Residential water service shall not be terminated for non-payment in any of the following situations:

(1) During an investigation by the District of a customer dispute or complaint. Any residential customer who has initiated a complaint or requested an investigation within five days of receiving the disputed bill, or who has, within 13 days of the mailing of the notice that the customer's service will be terminated for non-payment, or made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full during the normal period for

payment, shall be given an opportunity for a review. The review shall include consideration of whether the customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time not to exceed 12 months. No termination of service shall be effected for any customer complying with an amortization agreement, if the customer also keeps the account current as charges accrue in each subsequent billing period.

Any customer, whose complaint or request for an investigation has resulted in an adverse determination by the District, may appeal the determination to the Board.

(2) When a customer has been granted an extension of the period for payment of a bill.

(3) On the certification of a licensed physician and surgeon that to do so will be life threatening to the customer and the customer is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement to pay the unpaid balance of any bill asserted to be beyond the means of the customer over a period not to exceed 12 months.

(c) The ten-day notice of proposed termination may not be sent to the customer until at least 19 days from the date of mailing of the bill for services. The ten-day period shall not commence until five days after the mailing of the notice.

(d) The District shall make a reasonable, good faith effort to contact an adult person residing at the premises of the customer by telephone or in person, at least 48 hours prior to any termination of service. A charge (see Appendix A, 34.02 G.1.(d) for charge) shall be added to the bill for a contact made in person.

(e) Every notice of termination of service pursuant to subdivisions (a) and (c) shall include all of the following information:

(1) The name and address of the customer whose account is delinquent.

(2) The amount of the delinquency.

(3) The date by which payment or arrangements for payment is required in order to avoid termination.

(4) The procedure by which the customer may initiate a complaint or request an investigation concerning service or charges, except that if the bill for service contains a description of that procedure, then the notice is not required to contain that information.

(5) The procedure by which the customer may request amortization of the unpaid charges.

(6) The procedure for the customer to obtain information on the availability of financial assistance including private, local, state or federal sources, if applicable.

(7) The telephone number of a representative of the District who can provide additional information or institute arrangements for payment.

(f) If a residential customer fails to comply with an amortization agreement, the District shall not terminate service without giving notice to the customer at least 48 hours prior to termination of the conditions the customer is required to meet to avoid termination, but the notice does not entitle the customer to further investigation by the District.

(g) Termination of service shall not occur on any Friday, Saturday, Sunday, legal holiday or at any time during which the business offices of the District are not open to the public.

(h) No termination of service may be effected without compliance with this section and any service wrongfully terminated shall be restored, without charge, for the restoration of service.

(See California Government Code Section 60373.)

2. Reinstatement of Service. Water service terminated for delinquency may not be reinstated until all amounts due and payable, including late payment charges and meter "turn-on" charges, have

been paid at the District business office, or unless credit arrangements satisfactory to the District have been made.

3. Meter "Turn-On" Charge. A "turn-on" charge shall be made for turning on any meter which has previously been turned off for a delinquent account. The charges for turn-on shall be as follows:

(a) For any account turned on during the District's regular business hours the turn-on charge is set forth in Appendix A, 34.02 G.3.(a).

(b) For any account turned on after the District's regular business hours, the turn-on charge is set forth in Appendix A, 34.02 G.3.(b).

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## SECTION 36 LOCATION OF WATER LINES AND EASEMENTS

### 36.01 LOCATION OF WATER LINES

A. In Public Right-of-Way or Easements. Water lines constructed by or for this District shall be constructed within public road or street right-of-ways, except where the District has expressly authorized the construction to be made within permanent right-of-way easements.

B. Physical Location.

1. A water line constructed within a public road or street right-of-way shall normally be located within the easterly or southerly half of the right-of-way.

2. A water line constructed within an easement shall normally lie along the centerline of said easement if the easement will not contain other utility lines. If other utility lines are allowed in the water pipeline easement, the water pipeline shall be located within the easterly or southerly half of the easement right-of-way.

### 36.02 DISTRICT WATER LINE EASEMENTS

A. Width of Easements. District minimum requirements for width of an easement for a water line shall be 20 feet; provided, however, in exceptional cases, the General Manager may accept a permanent easement less than 20 feet in width on condition that the landowner grants to the District an adequate temporary easement for construction purposes together with a right of access to the permanent easement for purposes of maintenance and repair of the water line to be installed.

B. Easements in Subdivisions. The centerline of an easement for a water line within a subdivision or "lot-split" shall be parallel to at least one of the sidelines of the lot or parcel in which the easement is located. The entire width of the easement, as measured at right angles to the said parallel sideline, shall be located within the said lot or parcel.

C. Easements in Unsubdivided Land. The centerline of an easement for a water line in unsubdivided lands shall, whenever practicable, be parallel to one of the sidelines of the parcel of land in which the easement is located. The entire width of the easement, as measured at right angles to the said parallel sideline, shall like within the said parcel.

## 36.03 ENCROACHMENT IN DISTRICT EASEMENTS

A. Enforcement Against Encroachments. The General Manager is authorized and directed to institute on behalf of the District any legal action necessary to prevent or remove encroachment by others in, over, or upon District easements and right-of-ways.

B. Allowance of Encroachments. The General Manager may allow encroachment in, over, or upon a District easement or right-of-way if he determines that the encroachment will not interfere with operation of the District's water or sewer systems and will not interfere with the maintenance, repair and replacement of such systems. However, such encroachment shall not be allowed until the property owner requesting the encroachment executes an encroachment agreement, approved by the District. The agreement shall provide, among other conditions, that (i) the cost of removing and replacing the encroachment shall be borne solely by the owner, and (ii) the District will not waive any rights as to its use of said easement or right-of-way, including, but not limited to, the right to enter upon said easement at any time for the purpose of making repairs, modifications, or replacement of any pipeline or road, and (iii) the encroachment will be removed upon 30-days written notice from the District to the owner. The General Manager may grant an extension of such period; however, the extension must be in writing and signed by the General Manager.

The Manager's authority to allow such encroachment shall extend to improvements that are removable and which do not exceed the Manager’s monetary authority as set forth in subsection (D) of Section 2.01. All other encroachments must be approved by the Board of Directors.

## 36.04 CONCURRENT USE OF DISTRICT EASEMENTS

A. By Governmental Agencies. The Manager is authorized to enter into agreements for concurrent use of District easements by other governmental agencies or public utilities, provided such use does not interfere with the District's utilization of the easement.

B. By Private Persons or Entities. Concurrent use of District easements by persons or entities other than governmental agencies or public utilities must be approved by the Board of Directors.

## SECTION 37 FIRE HYDRANTS

### 37.01 CHARGES FOR INSTALLATION

Upon application for installation of one or more fire hydrants the customer shall pay such charges as shall be determined on the basis of actual costs incurred by the District in performing the work. At the time of application for the installation, the District will estimate the total costs to be incurred in performing the work. The customer shall deposit the estimated amount with the District prior to commencement of the work. If actual costs incurred by the District are less than the amount deposited, the District shall refund the balance of the deposit to the customer. If the costs incurred exceed the amount deposited, the customer shall reimburse the District for the additional costs.

### 37.02 USE OF DISTRICT FIRE HYDRANTS

A. For Training and Fire Fighting

1. The District will allow municipalities and fire agencies to use District fire hydrants for training and fire fighting purposes; provided, however, the District reserves the right to revoke such authorization if the privilege has been abused by misuse or excessive use of water.

2. The District intends to provide water necessary for fire fighting, subject to limitations due to normal maintenance and operation of the water system; provided, however, the District makes no guarantee that it will supply an unlimited amount of water to any hydrant in the District or that it will, at all times, maintain such hydrants in an operating condition.

B. For Other Purposes. Unless otherwise authorized by the General Manager, the use of fire hydrants for other than training and fire fighting purposes is prohibited. Any person violating the provisions of this Section shall be subject to criminal and civil action as prescribed by the law.

## SECTION 38 SERVICE FOR FIRE PROTECTION SYSTEMS

### 38.01 SERVICE FOR COMMERCIAL OR INDUSTRIAL PURPOSES

The District will provide water service for fire protection systems for commercial or industrial developments within the District. Such service shall be available only in accordance with the rules and regulations provided in this Code.

### 38.02 RULES AND REGULATIONS FOR FIRE HYDRANT AND/OR FIRE SPRINKLER SERVICE FOR COMMERCIAL OR INDUSTRIAL PURPOSES ON PRIVATE PROPERTY

A. All fire hydrant and/or fire sprinkler service mains installed for commercial or industrial purposes on privately-owned land shall be owned and maintained by the land owner; except for fire hydrants installed for developments where the District has accepted an easement for such service mains.

B. Where service is provided for fire hydrant or fire sprinkler service on privately-owned land under Paragraph A above, the service shall be provided by the District at the property line of the land to be served. The property owner or developer shall be responsible to construct and maintain the remainder of the facilities to provide fire protection to the property. Each such facilities installation shall include a reduced pressure principle assembly backflow device installed in accordance with District specifications on the fire main on the customer side of the property line.

C. Water furnished for fire hydrant or fire sprinkler service shall be used only for fire protection purposes. Water service for domestic, business, commercial or irrigation purposes shall be furnished only after a meter or meters have been installed on laterals connected to the District main in the street pursuant to requirements of this Code.

D. Upon application for installation of one or more fire service connections to an existing District water main, the customer shall pay such charges as shall be determined on the basis of actual costs incurred by the District in performing the

work. At the time of application for the installation, the District will estimate the total costs to be incurred in performing the work. The customer shall deposit the estimated amount with the District prior to commencement of the work. The work shall be performed by the District under a District Water/Sewer Order. If actual costs incurred by the District are less than the amount deposited, the District shall refund the balance of the deposit to the customer. If the costs incurred exceed the amount deposited, the customer shall reimburse the District for the additional costs. Where the fire service connection is to be made to a water main to be constructed in a street by the owner or developer, the costs for such connection shall be covered under the standard developer's agreement with the District for installation of the water facilities for the development project.

E. Water for fire protection services shall be provided in accordance with District fees and charges set forth in Section 25.03 E.11 of this Code.

F. The District shall have no responsibility for the proper function of the fire service system nor for the availability of water from its mains for fire protection in the event of emergency. While the District undertakes at all times to have adequate supplies available in its system for ordinary uses, it is not a guarantor of continual service in quantities adequate for all purposes however, and each customer shall specifically agree that as a condition of the fire service connection contracted for that the District shall incur no liability nor be subject to any damages resulting from a failure or malfunctioning of the fire sprinkler lateral or fire sprinkler system or from a lack of water in adequate quantity or pressure to make it fully effective.

38.03 SERVICES FOR INDIVIDUALLY METERED RESIDENTIAL FIRE PROTECTION

When a single-family residential water meter is required to provide standby capacity for a fire sprinkler system, the capacity charge may be determined according to the size of the meter necessary to meet the water use requirements for

the property. Additional capacity fees for upsizing the single-family residential meter to meet fire flow requirements will be waived. Standby capacity to provide water for a fire sprinkler system is required when (1) the fire sprinkler system is required by law, including any requirement imposed as a condition of development, permit, or occupancy, and (2) the fire chief, fire marshal, or building official of the city, county, or special district responsible for fire protection service to the property has a requirement for additional meter size due to fire protection. The determination, under this section, shall be made at the time the meter is first obtained, or at the time a meter is replaced with one of greater size due to the later installation of a fire protection system.

Water for fire protection services shall be provided in accordance with District fees and charges set forth in Section 25.03 E.1 of this Code.

## SECTION 39. WATER SHORTAGE RESPONSE PROGRAM

### 39.01 DECLARATION OF NECESSITY AND INTENT

(a) This Section establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the District in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of a water shortage, but at all times.

(b) This Section establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes four levels of actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening water shortage conditions and decreasing available supplies.

(c) The Level 1 water shortage response condition practices are voluntary and will be reinforced through local and regional public education and awareness measures that may be funded in part by the District. Beginning at the level 2 Water Shortage Response Condition, the District may implement water shortage pricing. When a water shortage response Level 2 condition is declared, all conservation practices and water-use restrictions may become mandatory and increasingly restrictive in order to attain escalating conservation goals.

(d) During a Water Shortage Response Level 3 condition or higher, the water conservation practices and water use restrictions established by this ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies specified in Section 72 of this ordinance.

## 39.02 DEFINITIONS APPLICABLE TO THE PROGRAM

(a) The following words and phrases whenever used in this Section shall have the meaning defined in this sub-section:

1. “Grower” refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. “Grower” does not refer to customers who purchase water subject to the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs.

2. “Water Authority” means the San Diego County Water Authority.

3. “DMP” means the Water Authority’s Drought Management Plan in existence on the effective date of this Section and as readopted or amended from time to time, or an equivalent plan of the Water Authority to manage or allocate supplies during shortages.

4. “Metropolitan” means the Metropolitan Water District of Southern California.

5. “Person” means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the District.

39.03 APPLICATION

(a) The provisions of this Section apply to any person in the use of any water provided by the District.

(b) This Section is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any storm water ordinances and storm water management plans.

(c) Nothing in this Section is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.

(d) The provisions of this Section do not apply to use of water from private wells or to recycled water.

(e) Nothing in this Section shall apply to use of water that is subject to a special supply program, such as the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A person using water subject to a special supply program and other water provided by the District is subject to this Section in the use of the other water.

At all times, the following practices shall be in effect:

1. Prevent water waste resulting from inefficient irrigation, such as runoff or overspray. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.

2. Serve and refill water in restaurants and other food service establishments only upon request.

3. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.

4. Use only re-circulated water in fountains or other decorative water features.

5. Wash automobiles with a hose equipped only with a positive shut-off nozzle.

6. Irrigating ornamental turf on public street medians only with recycled water.

7. Repair all water leaks within forty-eight (48) hours of notification by the District unless other arrangements are made with the General Manager or designee.

8. Irrigation is not allowed during a rainstorm or for forty-eight (48) hours after one-quarter inch or more of rainfall is measured at Lindbergh Field.

9. No washing down of paved surfaces, including but not limited to sidewalks, drive ways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.

39.04 WATER SHORTAGE RESPONSE LEVEL 1 – SUPPLY WATCH CONDITION

(a) A Water Shortage Response Level 1 condition is also referred to as a “Supply Watch” condition. A Level 1 condition applies when the Water Authority notifies its member agencies that due to water shortage or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager shall declare the existence of a Level 1 and take action to implement the Level 1 conservation practices identified in this Section.

(b) During a Level 1 condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices. The same water conservation practices may become mandatory if the District declares a Level 2 condition:

1. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only. Customers are to water no more than three days a week using the suggested watering schedule as found on the District's web page. New plantings and newly seeded areas are exempt for 30 days.

2. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.

3. Irrigate nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.

5. Wash vehicles, including but not limited to motorcycles, farm equipment, trailers, boats and boat engines and motorhomes using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Vehicle washing is limited to once per week.

6. Use recycled or non-potable water for construction purposes when available.

## 39.05 WATER SHORTAGE RESPONSE LEVEL 2 – SUPPLY ALERT CONDITION

(a) A Water Shortage Response Level 2 condition is also referred to as a “Supply Alert” condition. A Level 2 condition applies when the Water Authority notifies its member agencies that due to cutbacks caused by water shortage or other reduction in supplies, a consumer demand reduction of 11 to 20 percent is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors may declare the existence of a Level 2 condition and implement the Level 2 conservation practices identified in this section of the ordinance. The District may decide to implement some or all of the Level 1 practices.

(b) All persons using District water shall make every effort to comply with Level 1 water conservation practices during a Level 2, and also to comply with the following additional conservation measures:

1. Limit residential and commercial landscape irrigation to no more than three (3) days per week. This section shall not apply to homeowner’s vegetable gardens, fruit trees, commercial growers, or nurseries.

2. Limit lawn watering and landscape irrigation using sprinklers to no more than fifteen (15) minutes per watering station per day. During the months of November through April, landscape irrigation shall not exceed seven (7) minutes per water watering station per assigned day. Watering times may need to be shortened to avoid run-off. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems, rotating sprinkler nozzles and stream rotor sprinklers.

3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

## 39.06 WATER SHORTAGE RESPONSE LEVEL 3 – SUPPLY CRITICAL CONDITION

(a) A Water Shortage Response Level 3 condition is also referred to as a “Supply Critical” condition. A Level 3 condition applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by water shortage or other reduction of supplies, a consumer demand reduction of between 21 and 40 percent is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors may declare the existence of a Level 3 condition and implement the Level 3 conservation practices identified in this Section.

(b) All persons using District water shall comply with Level 1 and Level 2 water conservation practices during a Level 3 condition and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than two (2) assigned days per week on a schedule established by the General Manager or designee and posted by the District. During the months of November through April, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager or designee and posted by the District. This section shall not apply to commercial growers or nurseries.

2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.

3. Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a water shortage response level under this Section.

4. Stop operating non-residential ornamental fountains or similar decorative water features unless recycled water is used.

5. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems. If a commercial car wash cannot accommodate the vehicle because of the vehicle size or type, such as RVs, horse trailers, boats and commercial vehicles, customers will be allowed to wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system.

(c) Upon the declaration of a Level 3 condition, the District may suspend new potable water service and statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) except under the following circumstances:

1. A valid, unexpired building permit has been issued for the project; or

2. The project is necessary to protect the public’s health, safety, and welfare; or

3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted.

(d) Upon the declaration of a Level 3 condition, the District will suspend consideration of annexations to its service area.

(e) The District may establish a water allocation for property served by the District using a method that takes into consideration the implementation of conservation methods or the installation of water saving devices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District

customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Section.

39.07 WATER SHORTAGE RESPONSE LEVEL 4 – SUPPLY EMERGENCY CONDITION

(a) A Water Shortage Response Level 4 condition is also referred to as a "Supply Emergency" condition. A Level 4 condition applies when the Water Authority Board of Directors declares a water shortage emergency pursuant to California Water Code section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than 40 percent in order for the District to have maximum supplies available to meet anticipated demands. The District shall declare a Level 4 in the manner and on the grounds provided in California Water Code section 350.

(b) All persons using District water shall comply with conservation measures required during Level 1, Level 2, and Level 3 conditions and shall also comply with the following additional mandatory conservation measures:

1. Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. *This restriction shall not apply to the following categories of use unless the District has determined that recycled water is available and may be lawfully applied to the use.*

A. Maintenance of trees and shrubs that are watered on the same schedule as noted in the Level 3 Condition, by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;

B. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;

C. Maintenance of existing landscaping for erosion control;

D. Maintenance of plant materials identified to be rare or essential to the well being of rare animals;

E. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under the District's Level 3 Condition;

F. Watering of livestock; and

G. Public works projects and actively irrigated environmental mitigation projects.

2. Repair all water leaks within twenty-four (24) hours of notification by the District unless other arrangements are made with the District.

(c) The District may establish a water allocation for property served by the District. If the District establishes water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of any provision of this Section.

39.08 CORRELATION BETWEEN DROUGHT MANAGEMENT PLAN (DMP) AND WATER SHORTAGE RESPONSE LEVELS

(a) The correlation between the Water Authority's DMP stages and the District's water shortage response levels identified in this Section of the Code of Ordinance is described herein. Under DMP Stage 1, the District would

implement Water Shortage Response Level 1 actions. Under DMP Stage 2, the District would implement Water Shortage Response Level 1 or Level 2 actions. Under DMP Stage 3, the District would implement Water Shortage Response Level 2, Level 3, or Level 4 actions.

(b) The water shortage response levels identified in this Section correspond with the Water Authority DMP as identified in the following table:

| **Water Shortage Response Levels** | **Use Restrictions** | **Conservation Target** | **DMP Stage** |
|---|---|---|---|
| 1 - Supply Watch | Voluntary | Up to 10% | Stage 1 or 2 |
| 2 - Supply Alert | Mandatory | 11 to 20% | Stage 2 or 3 |
| 3 - Supply Critical | Mandatory | 21 to 40% | Stage 3 |
| 4 - Supply Emergency | Mandatory | Above 40% | Stage 3 |

39.09 PROCEDURES FOR DETERMINATION AND NOTIFICATION OF WATER SHORTAGE RESPONSE LEVEL

(a) The existence of a Water Shortage Response Level 1 condition may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the Clerk or Secretary of the District and provided to the District Board of Directors. The General Manager may publish a notice of the determination of existence of Water Shortage Response Level 1 condition in one or more newspapers, including a newspaper of general circulation within the District. The District will also post notice of the condition on their website.

(b) The existence of Water Shortage Response Level 2 or Level 3 conditions may be declared by resolution of the District Board of Directors adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation measures applicable to Water Shortage Response Level 2 or Level 3 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices.

(c) The existence of a Water Shortage Response Level 4 condition may be declared in accordance with the procedures specified in California Water Code sections 350 to 352 as note below:

> ***350***. *The governing body of a distributor of a public* ***water*** *supply, whether publicly or privately owned and including a mutual* ***water*** *company, may declare a* ***water*** *shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of* ***water*** *consumers cannot be satisfied without depleting the* ***water*** *supply of the distributor to the extent that there would be insufficient* ***water*** *for human consumption, sanitation, and fire protection.*
>
> ***351***. *Except in event of a breakage or failure of a dam, pump, Pipe line or conduit causing an immediate emergency, the declaration shall be made only after a public hearing at which consumers of such* ***water*** *supply shall have an opportunity to be heard to protest against the declaration and to present their respective needs to said governing board.*
>
> ***352***. *Notice of the time and place of hearing shall be published pursuant to Section 6061 of the Government* ***Code*** *at least seven days prior to the date of hearing in a newspaper printed, published, and circulated within the area in which the* ***water*** *supply is distributed, or if there is no such newspaper, in any newspaper printed, published, and circulated in the county in which the area is located.*

The mandatory conservation measures applicable to Water Shortage Response Level 4 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Water allocation shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice.

(d) The District Board of Directors may declare an end to a Water Shortage Response Level by the adoption of a resolution at any regular or special meeting held in accordance with State law.

## SECTION 40. STATE DROUGHT RESPONSE

### 40.01 DECLARATION OF NECESSITY AND INTENT

This Section establishes water management requirements in response to and in an effort to comply with State mandates related to ongoing drought conditions throughout the State. In particular, because of variations in conservation efforts and water supply levels and sources throughout the State, restrictions necessary for a concerted statewide effort may not correlate with the water shortage conditions and prerequisites for restrictions under the District's Water Shortage Response Program set forth in Section 39, above. The District nonetheless recognizes the benefits of widespread conservation efforts for the good of the State as a whole and intends to exercise its best efforts to comply with applicable regulations and mandates.

### 40.02 CONSERVATION REGULATIONS RELATED TO EXECUTIVE ORDER B-29-15

a) In addition to the requirements of any Water Shortage Response Level declaration by the District, the District hereby incorporates by reference as if fully set forth herein the emergency regulation for statewide urban water conservation adopted by the State Water Resources Control Board (the "Water Board") on May 5, 2015 via Resolution No. 2015-0032 in response to Executive Order B-29-15 issued by the Governor on April 1, 2015 (the "Emergency Regulation"), including, but not limited to, the requirements of section 864 of title 23 of the California Code of Regulations and the required potable water production reduction mandated for the District pursuant to section 865 of title 23 of the California Code of Regulations.

b) To the extent there are any inconsistencies between the restrictions and mandates of the Emergency Regulation and any requirements of the District's Water Shortage Response Level due, for example, to the District not experiencing water shortage conditions justifying further restrictions required by the Emergency Regulation, the more stringent requirement shall apply.

c) Pursuant to Water Code section 1058.5, the Emergency Regulation shall remain in effect for up to 270 days unless the Water Board determines that it is no longer necessary due to changed conditions, or unless the Water Board renews the regulation due to continued drought conditions as described in Water Code section 1058.5. The District Board of Directors may declare an end to the application of the Emergency Regulation by the adoption of a resolution at any regular or special meeting held in accordance with State law provided, however, that the Emergency Regulation will automatically cease to apply upon expiration of the Emergency Regulations as set forth above.

d) To the extent the San Diego County Water Authority requires restrictions in addition to and as a result of the Emergency Regulation and/or Executive Order B-29-15, the General Manager is authorized to take action to implement the restrictions and conservations practices required.

CHAPTER 2 SEWER SERVICE

SECTION 50 RULES AND REGULATIONS FOR SEWER SERVICE

Sewer service shall be furnished to customers only in accordance with the rules and regulations set forth in this Code of Ordinances or as otherwise authorized by the Board of Directors.

## SECTION 51 DISTRICT SEWER SYSTEM

### 51.01 CONTROL AND OPERATION OF SYSTEM

The District sewer system and appurtenances thereto shall be under the management and control of the General Manager. No person, other than an employee or agent of the District, shall have any right to operate any part of a District sewer system. As provided in Division IV, any person who tampers or interferes with the Districts systems or facilities, or causes or permits any such act, shall be responsible for any injury or damage caused thereby or resulting therefrom.

### 51.02 CONNECTIONS AND DISCONNECTIONS TO SEWER SYSTEM

Connection to and disconnection from a District sewer main shall be made only by District employees. Connection to and disconnection from a District sewer lateral shall be made by the customer subject to inspection and approval of the District.

### 51.03 INSPECTION OF CUSTOMER PREMISES

Authorized District personnel shall have unrestricted access at reasonable hours to all premises served by District sewers for inspection and testing purposes, and to determine whether the customer is complying with the rules, regulations and ordinances of the District concerning sewer services.

### 51.04 (RESERVED)

### 51.05 PERMIT REVOCATED OR SUSPENDED

The General Manager will give at least five (5) days notice prior to suspending or revoke a permit, stating the reason for the proposed action and, if determined to be reasonable by the General Manager, providing a reasonable time to correct the violation. Notice shall be given to the holder of the permit, at the address for such person on file with the District.

# SECTION 52 WASTE DISPOSAL

## 52.01 DEFINITIONS OF "SEWER SYSTEM," "SEWAGE" AND "INDUSTRIAL WASTES"

A. As used in this Section 52, the following words shall have the meanings set forth below:

1. "sewer system" means all land, facilities and equipment utilized by the District in the collection, transportation, pumping, treatment and final disposal of sewage.

2. "sewage" means the spent water of a community, which may be a combination of liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions.

3. "industrial wastes" means liquid wastes from industrial processes, as contrasted to domestic or sanitary wastes.

## 52.02 FEDERAL AND STATE STATUTES AND REGULATIONS APPLICABLE TO DISTRICT SEWER SERVICE

The Federal Water Pollution Control acts and the California Porter-Cologne water Quality Control Act of 1969 provide for the protection of the quality of water in the nation and the State of California. These laws set guidelines for the quality of domestic and industrial waste discharges to a public sewer. Local public agencies are required to establish local ordinances to prohibit certain substances and limitations on acceptable constituents.

## 52.03 ENFORCEMENT OF DISTRICT RULES AND REGULATIONS

The General Manager shall enforce rules and regulations set forth in this Code relating to District sewer service. The General Manager shall be authorized to take such action as he deems necessary for preservation of public health or safety, or for the protection of public or private property. The General Manager may suspend sewer service to any customer using the District sewer system in a manner that would endanger the public health or safety, or public or private property. In suspending such service, the Customer's connection to the District sewer system may be severed. If danger is imminent, the General Manager may act immediately to suspend sewer service coincident with giving notice or warning to the customer.

## 52.04 PROHIBITIONS AGAINST DISCHARGE OF OBJECTIONABLE WASTES

It shall be unlawful for any person to discharge or permit the discharge of any substance into the District sewer system that could cause a public nuisance or hazard to life, or that could be harmful to the District sewer system or its wastewater reclamation facilities or processes. Discharge of the following into the District sewer system is expressly prohibited:

- gasoline, cleaning solvent, fuel, oil;
- ashes, sand, cinders, rocks;
- tar, plastics, other water insoluble viscous materials;
- mineral oils, lubricating oils;
- feathers, hair;
- rags, sanitary napkins, disposable diapers;
- broken glass, metal, wood and plastic shavings;
- unground garbage;
- swimming pool drainwater;
- wastes which contain or result in the production of toxic, corrosive and explosive gases;
- animal or dairy waste;
- cesspool and septic tank wastes;
- or any other substance, material or liquid that could be harmful to the District sewer system.

## 52.05 GUIDELINES TO DETERMINE ACCEPTABILITY OF WASTES

The following provisions and the values set forth herein are not to be regarded or construed as regulating or limiting the quantity or characteristics of any specific wastes which may be received into the sewer system, but such shall serve as a guide in implementing this Section for regulation of the use of the District sewer system and for determination of acceptability of waste into the sewer system. In considering the following sewage characteristics, the dilution effect of the sewage at the point of discharge or any affected part of the system, and whether or not unusual attention or expenses would be required to handle such material in the sewer system, shall be taken into consideration:

A. The discharge into the District sewer system of any water or waste having an average daily flow greater than one percent (1%) of the average daily flow at the sewage treatment plan shall be subject to review.

B. The temperature of industrial waste discharged into the sewer system should not exceed 140 degrees Fahrenheit.

C. Industrial wastes having a grease and oil concentration in excess of 200 ppm will be considered on a case-by-case basis to determine if the sewer system can safely receive said wastes.

D. Industrial discharge of toxic or radioactive wastes into the sewer system will be considered on a case-by-case basis.

E. Industrial discharge of wastes having a biochemical oxygen demand (BOD) in excess of 300 ppm will be considered on a case-by-case basis to determine if the sewer system can safely receive said wastes.

F. Industrial discharge of wastes having suspended solids in excess of 300 ppm will be considered on a case-by-case basis to determine if the sewer system can safely receive said wastes. To make such determination, the following procedures shall apply:

1. Where warranted, installation of an appropriate manhole for purposes of sampling the final industrial waste discharge may be required.

2. The source to be used for the chemical and bacteriological analysis shall be the "Standard Methods for the Examination of Water and Sewage," latest edition, approved by the Joint Committee of the Public Health Association, Federation of Sewage and Industrial waste Association and American Water Works Association.

52.06 DISCHARGE OF INDUSTRIAL WASTE

Any person or governmental agency desiring to discharge industrial wastes into the District sewer system shall obtain a permit from the District for the discharge of said wastes. The District may require installation of on-site facilities by the discharger for purposes of pretreatment of sewage before industrial waste can be discharged into the District sewer system.

## SECTION 53 CONDITIONS FOR SEWER SERVICE

### 53.01 CONDITIONS FOR ACQUISITION OF SEWER SERVICE CAPACITY

Sewer service capacity may be acquired only for service to a specific address, parcel of land, or a land development project covered by an approved map. An approved map shall mean a recorded final map, a recorded parcel map or a tentative subdivision map that has been approved by the County or by a City, as applicable.

A. District Acceptance of Sewer Facilities for Russell Square Area - Under an Agreement with Cal Dorado Development, Inc., dated June 28, 1981, the District accepted title to a sewer pump station, force main and appurtenances for a sewage system to provide sewer service to the residential dwelling units to be constructed within the parcels of land in San Diego County Tentative Parcel Map 17150. Under an Agreement with Cal Dorado Development, Inc., dated June 18, 1981, the District agreed to provide service to such parcels on the terms and conditions contained therein. On October 1, 1984, pursuant to Resolution No. 2139, the District Board of Directors accepted title to the facilities.

### 53.02 SERVICE AREAS

Sewer service shall be furnished by the District only to property located in Improvement District No. 18 (ID 18) and the Russell Square Sewer Service Area. Sewer service to property located outside such areas may be furnished only upon annexation to ID 18 and payment of all applicable annexation fees. (Appendix A, Section 9)

A. Designation of Russell Square Sewer Area - The geographical area described on the District Map entitled "Russell Square Sewer Service Area," dated October 11, 1988, on file with the District Secretary, constitutes the Russell Square Sewer Service Area.

### 53.03 ACQUISITION OF SEWER CONNECTIONS FOR SERVICE

Effective October 1, 2014 two separate sewer capacity fees have been established to ensure sewer customers do not pay for facilities twice. The first capacity fee applies to parcels within an ID that paid prior tax debt. The second capacity fee applies parcels outside an ID that have not paid the tax debt. The sewer capacity fees shall constitute the "base rate." For fees or charges after October 1, 2014, the base rate shall be adjusted quarterly for fluctuations in construction costs, as measured by the *Engineering News Record Construction Cost Index for the Los*

*Angeles Region*. The ENR Construction Cost Index of 10,739.43(as of June 1, 2014) shall be deemed the "base index." The adjustment shall be in an amount equal to the percentage change in the ENR Construction Cost Index from the base index for the period from June 1, 2014 to the date of payment.

1. Sewer Capacity Fee within an ID

All new sewer connections for parcels within a sewer ID shall pay a capacity fee for each Equivalent Dwelling Unit (EDU) of sewer service provided. The capacity fee is due at the time an application for sewer service is requested. The number of EDUs for the connection shall be as set forth in Section 53.08 of the Code. (See Appendix A, Section 53 for fees)

2. Sewer Capacity Fee outside an ID

All new sewer connections for parcels not within a sewer ID (requiring to be annexed into a sewer ID18 per code Section 9.04 C.) shall pay a capacity fee for each Equivalent Dwelling Unit (EDU) of sewer service provided. The capacity fee is due at the time an application for sewer service is requested. The number of EDUs for the connection shall be as set forth in Section 53.08 of the Code. (See Appendix A, Section 53 for fees)

B. Russell Square Pump Station

1. Sewer Connection Fee

A connection fee (see Appendix A, section 53 for fee) for each Equivalent Dwelling Unit (EDU) of sewer service provided through Russell Square Pump Station shall be collected. The connection fee is due at the time an application for sewer service is submitted. The number of EDUs for the connection shall be as set forth in Section 53.08 of the Code.

(a) Exempt Parcels - The connection fee shall not apply to connections for sewer service to the parcels within the Tentative Parcel Map 17150. Such exempt parcels are currently identified as Assessor Parcel Nos. 497-011-41, 497-011-42, 497-011-44, 497-011-46 and 497-011-47.

2. Monthly Sewer Service Charge

A monthly sewer service charge (see Appendix A, Section 53 for charge) to cover normal operational costs of the Russell Square Pump Station and force

mains shall be collected. This charge shall be reviewed by the Board of Directors from time to time to assure that such charges cover the costs for operation of the sewer facilities.

The proceeds of the fees and charges received by the District under 53.03 B.1 and 53.03 B.2 shall be used by the District solely for maintenance, replacement or repair under 53.03 B.1 and for the operation of the facilities under 53.03 B.2.

In addition, the customer for such service shall pay the monthly service charge for sewer service set forth in Section 53.10 A and B.

53.04 CHARGES FOR INSTALLATION OF SEWER LATERALS

Upon application for construction of one or more sewer laterals, the customer shall deposit with the District the estimated costs to be incurred by the District in connection with the installation of the facilities required, as determined by the District. Upon completion of the work, the District shall calculate the actual costs incurred by the District in performing the work. If actual costs are less than the amount deposited, the District shall refund the balance of the deposit to the customer. If actual costs exceed the amount deposited, the customer shall reimburse the District for the additional costs.

53.05 PAYMENT OF FEES

All fees prescribed in the Code shall become owing, due and payable at the time application is made to connect a premise to the sewer system of the District. The fees shall be paid to the District prior to the issuance of any permit authorizing the connection of such premise to the District sewer system. If the proposed connection cannot be made, the fee may be refunded when approved by the General Manager.

53.06 SEWER SERVICE USE CHANGES RESULTING IN INCREASED SYSTEM UTILIZATION

The use of a sewer connection shall be limited to the type and number of EDUs authorized by the original wastewater discharge permit. Before adding any additional equivalent dwelling units, buildings, modifying existing buildings, or change of occupancy type, the property owner shall make a supplementary wastewater permit application to the District for such change in use and pay additional sewer annexation fees per EDU, if necessary, as may be applicable. Periodic inspection of the premises may be made by the District and if actual use is greater than estimated use, an assessment for additional annexation fees shall be assessed in accordance with the fee schedule in the then current Code of Ordinances.

## 53.07 WASTEWATER DISCHARGE PERMIT ISSUANCE AND LIMITATION

A. A wastewater discharge permit shall be required for any property for which a request is made to discharge into the District sewage system.

B. Every wastewater discharge permit shall expire by limitations and shall become null and void, if the construction or work authorized by such permit is not commenced within 120 days from date of issuance of such wastewater discharge permit or if the construction or work authorized by such wastewater discharge permit is suspended or abandoned for a period of 120 days at any time after the work is commenced.

C. Before such work can be recommenced, a new wastewater discharge permit application must be filed with the District. The District may reactivate the previous wastewater discharge permit provided that wastewater quantity and type is the same as the wastewater discharge allowed under the original permit, and provided further that such suspension and abandonment has not exceeded one year. Fees paid for the previous wastewater discharge permit may be credited toward the total permit fees required on the new permit application. Reactivation of the previous wastewater discharge permit shall be subject to District sewer capacity being available at the time of new application and subject to any additional costs or charges imposed during the period of such suspension or abandonment.

## 53.08 BASIS FOR DETERMINATION OF EQUIVALENT DWELLING UNITS (EDUs)

The number of EDUs for sewer service shall be determined on the following basis:

A. Residential Facilities

| EDUs | Description |
|---|---|
| 1 | ▪ Single-family residence (Includes manufactured homes and mobile homes which are on private lots.)<br>▪ A secondary structure with a kitchen is considered an additional EDU<br>▪ Each individual living unit in apartments, multiple family housing and residential condominiums<br>▪ Each individual space in mobile homes and trailer parks |

B. Commercial/Industrial Facilities

1. Food Service Establishments

| EDUs | Description |
|---|---|
| 3 | ▪ Take-out restaurants with disposable utensils, no dishwasher and no public restrooms<br>▪ Take-out restaurants with disposable utensils, no dishwasher and no public restrooms<br>▪ Miscellaneous food establishments – ice cream shops, yogurt shops, bakeries (sales on premise only)<br>▪ Take-out/eat-in restaurants with disposable utensils, but with seating and public restrooms<br>▪ Restaurants with reusable utensils, seating and public restrooms (0-18 seats)<br>o Add 1.0 EDU for each additional 6 seat unit, or portion thereof |

2. Hotels and Motels

| EDUs | Description |
|---|---|
| .38 | Per living unit without kitchen |
| .60 | Per living unit with kitchen |

3. Commercial, Professional, Industrial Buildings and Establishments not specifically listed herein

| EDUs | Description |
|---|---|
| 1.2<br>+0.7 | For first 1,000 square feet AND<br>For each additional 1,000 square feet or portion thereof<br><br>Applies to any office, store or industrial condominium or establishments |
| 1.2<br>+0.7 | For first 1,000 square feet AND<br>For each additional 1,000 square feet of gross building floor area. Portions less than 1,000 sq. ft. will be prorated.<br><br>Applies to situations where the occupancy type or usage is unknown at the time of application for service. This shall include, but not be limited to, shopping centers, industrial parks and professional office buildings. |
| 1.0 | Self-service laundry per washer |

4. Convalescent Homes

| EDUs | Description |
|---|---|
| 0.7/bed | Skilled nursing care facilities, psychological hospitals, convalescent hospitals; licensed by the applicable Governmental Agency. |
| 0.5/bed | Community Care Facilities with 16 or more beds licensed by the applicable Governmental Agency. |
| 1.0 | Community Care Homes with six or fewer total residents, including resident staff and housekeepers (to be the same EDU as a single family residence). |

C. Other commercial, industrial and other types of business establishments not included in 53.08 B.1 through 53.08 B.4

If the establishment is not included in 53.08 B.1 through 53.08 B.4 or if the EDUs specified in 53.08 B.1 through 53.08 B.4 are not representative of actual flow due to the number of employees or type of operation, the number of EDUs shall be determined in each case by the list of commercial strengths as defined by the State Water Resources Control Board (SWRCB) or by the General Manager and shall be based upon the estimated volume and type of wastewater discharge into the sewer.

Examples of commercial, industrial and other business establishments include, but are not limited to, bottling works, supermarkets, markets, deli/markets, convenience stores, hospitals, laundries (other than self-service laundries), automobile service stations, mortuaries, day-care centers, bars and pool halls.

53.09 TRANSFER, ASSIGNMENT, OR RESALE OF SEWER CONNECTION RIGHTS

EDU sewer connection rights obtained by a customer may not be sold, transferred, or assigned separately from ownership of the real property for which they were obtained, unless otherwise stated in an agreement with the District.

53.10 DEFINITIONS OF RESIDENTIAL AND MULTI-RESIDENTIAL SEWER SERVICE RATES, CHARGES AND FEES

All District sewer rates, charges, and fees are subject to Board approval of rate increases to residential and multi-residential sewer services billed on or after January 1, 2014 and may apply to sewer services as early as the beginning of December 2013 and periodically thereafter through December 31, 2018. The increases shall be the amount sufficient to cover cost increases

related to operation and maintenance, but not to exceed 10% per year.

Five-year Periodic Pass-through Rate Increases or Decreases from District Wholesalers - All District sewer rates, charges, and fees are subject to periodic rate changes from the District's public agency wholesalers for a five-year period beginning January 1, 2014 through December 31, 2018.

Set-up Fees for Accounts - A set-up fee (see Appendix A, Section 53 for fee) shall be charged for each account transferred to another customer.

Winter Average Determination - Sewer service usage fee shall be based on the "Winter Average" water consumption, measured in units of hundred cubic feet (HCF). The winter average period is January through April. The winter average is calculated by adding the four months of water consumption for the preceding winter and dividing the resulting amount by four. This average is then reduced by a 15% usage discount, recognizing that not all water used flows into the sewer system, to determine the "Winter Average" for billing purposes see Appendix A, Section 53.

Usage Fee - The usage fee rate (see Appendix A, Section 53) is multiplied by the "Winter Average" calculation for each customer (after the above noted 15% discount) and the resulting amount is added to the System Fee applicable to the size of meter. The resulting fixed fee shall be charged on a monthly basis for an entire calendar year, until a new "Winter Average" is determined for the following year.

Residential Sewer System Fee - The monthly system fee is set forth in Appendix A, Section 53.

A. Residential Rate Charges

1. Defined as: Sewer service for individually metered residential households.

2. The monthly sewer bill is calculated by adding the system fee plus the usage fee as described in 53.10 above.

3. The maximum "Winter Average" for individually metered residential customers is 30 units (after the 15% discount).

4. Monthly Residential Sewer Rate without Consumption History: The average residential sewer rate shall be determined by calculating the total usage fee for all

residential customers and dividing by the number of residential customers. Then the monthly average usage fee is added to the system fee and this shall be used to determine the total monthly fee to be used for residential customers with no prior winter consumption, customers using well water or other unmetered water. See Appendix A, Section 53.

B. Multi-Residential Rate Charges

1. Defined as: Sewer service for master metered water service for multiple-residential households including for example; duplex, townhomes, apartments, and mobile homes.

2. The monthly sewer bill for the complex is calculated by adding a system fee based on meter size (as set forth in Appendix A, Section 53) plus the usage fee (as set forth in Appendix A, Section 53) multiplied by the winter average, for the entire complex. Note: There is no cap on consumption for the multi-residential customers.

3. Monthly Multi-Residential Sewer Rate without Consumption History: The multi-residential sewer rate shall be determined by calculating the total usage fee for all multi-residential customers and dividing by the number of multi-residential dwelling units. The usage fee per dwelling unit is multiplied by the new customer's number of dwelling units and this shall be added to the monthly system fee, based on meter size, to determine the monthly rate. This is applicable to new complexes that do not have a prior winter consumption history. See Appendix A, Section 53.

53.11 DEFINITIONS OF COMMERCIAL AND INDUSTRIAL SEWER SERVICE RATES, CHARGES AND FEES

All District sewer rates, charges, and fees are subject to Board approval of rate increases to commercial and industrial sewer services billed on or after January 1, 2014 and may apply to sewer services as early as the beginning of December 2013 and periodically thereafter through December 31, 2018. The increases shall be the amount sufficient to cover cost increases related to operation and maintenance, but not to exceed 10% per year.

Five-year Periodic Pass-through Rate Increases or Decreases from District Wholesalers - All District sewer rates, charges, and fees are subject to periodic rate changes from the District's public agency wholesalers for a five-year period beginning January 1, 2014 through December 31, 2018.

Set-up Fees for Accounts - A set-up fee (see Appendix A, Section 53 for fee) shall be charged for each account transferred to another customer.

Average Annual Consumption - The Average Annual Consumption, measured in units of hundred cubic feet (HCF). The annual consumption period is January through December of the preceding year divided by the number of months of consumption. This average is reduced by a 15% usage discount which recognizes that not all water used flows into the sewer system.

Usage Fee - The usage fee rate (see Appendix A, Section 53 for rate) is determined by the commercial customer's sewer strength category in which they are assigned (low strength, medium strength or high strength).

System Fee - The monthly system fee is determined by the commercial customer's water meter size (as set forth in Appendix A, Section 53).

Strength Factor - The State Water Resources Control Board (SWRCB) has grouped commercial customers into various categories and has identified Strength Factors for each of these business categories. The standard of measure for Strength Factors is the typical sewer strength of a single-family residence (SFR). A SFR has strength factor of 1. (As set forth in Appendix A, Section 53)

A. Commercial Rate Charges

1. The monthly sewer bill for commercial sewer customers is calculated by multiplying the average annual consumption, reduced by 15%, by the usage fee based on strength (as set forth in Appendix A, Section 53) plus the monthly system fee based on the customer's water meter size.

2. For new commercial sewer customers without consumption history, staff shall make a determination of the average annual consumption to be used until a year's consumption data can be collected. The determination shall be based on the prior owner or tenant of the sewer connection, or based on the most similar type of current business operation. If the customer does not agree with staff's recommendation, the customer may request an adjustment, in writing, and direct it to the General Manager.

B. Industrial and Other Users

1. Charges determined by the Board of Directors on a case-by-case basis.

Monthly sewer service charges shall commence upon installation of the water meter to serve the premises receiving the sewer service, upon connection to the District sewer system, upon start of occupancy of the premises to be served, or one year after the date the application for sewer service is filed. If a sewer service connection has been obtained and if sewer service will not be used until sometime after installation of the water meter, commencement of the sewer service charge may be deferred until the later date only upon prior approval of the General Manager.

C. Commercial User Classifications

Commercial sewer service customers are subject to periodic inspection of the premises by the District for verification of proper sewer strength classification. In addition to such periodic inspections, strength classifications will be reviewed periodically, at the discretion of the District. If warranted following a periodic inspection, periodic classification review, or a change in the nature of a customer's business and/or use of the property, customers may be reclassified to reflect their current business operations and proper sewer strength, at the discretion of the District and consistent with the standards set forth herein and in the State Water Resources Control Board (SWRCB) listing for sewer strength.

1. Low-Strength Commercial = 1.0 Strength Factor

Car wash
General office and buildings
Barber and beauty shops
Department, retail stores and general commercial
Hospitals and convalescent homes
Public Laundromats and dry cleaners
Professional office or office building
Warehouse
Bars without dining facilities
Churches
Schools (Elementary, junior & High Schools, Colleges)
Other uses having a similar strength as determined by the District

2. Medium-Strength Commercial = 2.0 Strength Factor

Hotels without dining facilities or cooking facilities
Auto repair/sales shop and service station
Shopping centers
Other uses having a similar strength as determined by the District

3. High-Strength Commercial = 4.0 Strength Factor

Bakery or bakery with deli
Hotel with dining facilities
Restaurants and bars with food
Grocery stores with onsite butcher and/or bakery
Other uses having a similar strength as determined by the District

53.12 ISSUANCE AND PAYMENT OF SEWER BILLS

A. Issuance of Statements: Statements for sewer service or other charges will be mailed monthly or as soon as practical, after the applicable charges have been determined.

B. Due Date: Each statement issued by the District for such charges shall be due and payable on the date of mailing or other presentation to the customer.

C. Final Payment Date: All charges in each statement must be paid on or before the final payment date shown on the statement, which shall be at least 20 calendar days following the date of mailing or presentation of the statement.

D. Place of Payment: Payments shall not be credited to a customer's account until cash, check, credit card, draft, electronic funds transfer, money order or any other acceptable form of payment that will be honored by the bank has been received by the District at the District business office during regular office hours. Deposit of payment in the mail or at a location other than the District business office shall not be credited to a customer's account until received at the business office.

E. Returned Check Charges: A returned payment charge (see Appendix A, Section 34 for charge) shall be added to a customer's account in each instance where payment has been made to the District with a check, draft, credit card or any other acceptable form of payment that has not been honored upon presentment to the bank upon which it is drawn.

53.13 DELINQUENT ACCOUNTS

A. Requirement of Deposit Due to Repeated Delinquencies: If payments on a customer account have become delinquent five or more times, the General Manager, Chief Financial Officer, or any person delegated by the General Manager, shall be authorized to require the customer to make a deposit with the District, in cash or any other form satisfactory to the General Manager. The deposit amount shall be established at

the discretion of the General Manager and the Chief Financial Officer, but shall not exceed two times the highest bill during the twelve (12) months preceding the date of demand for a deposit.

B. Handling of Deposit: A deposit shall not earn interest and shall only be applied to reduce or satisfy amounts due the District in the event of termination of service. A deposit does not constitute payment for service bills and the customer shall be required to comply with bill payment requirements to continue receiving service.

C. Refund of Deposit: A deposit required under this Section shall be refunded to the customer as provided in Section 25.04 B.

## SECTION 54 DEPOSIT BY LESSEES OR NON-OWNERS OF PROPERTY

### 54.01 AMOUNT OF DEPOSIT

When an application is made by a customer who does not own the land to be served, the customer must have payment of sewer service bills guaranteed in advance in writing by the owner of the property or the customer must make a cash deposit amounting to three times the monthly rate for the category of sewer service being requested. The customer's deposit shall be applied to reduce or satisfy any delinquent payment or other amount due the District at the time of termination of sewer service to the customer. Any portion of the deposit remaining after satisfaction of the amount due shall be refunded to the customer that made the deposit.

### 54.02 REFUND OF DEPOSIT

Where funds have been on deposit for twelve months and there has bee no more than one delinquent payment on the account during that period, the District will refund the deposit to the customer.

### 54.03 LETTER OF CREDIT

A letter of credit, in a form approved by the General Manager or Controller, may be submitted to the District to satisfy the deposit requirements of this Section 54.

## SECTION 55 ISSUANCE AND PAYMENT OF SEWER BILLS

### 55.01 ISSUANCE, DUE DATE AND FINAL PAYMENT DATE OF STATEMENT OF CHARGES FOR SERVICE

A. Charges Combined in Statement for Water Services.
The monthly sewer service charges shall be added to the customer's monthly statement for water service charges, where applicable, and said charge shall be an inseparable part of the statement for water service. The period of sewer service for each month will coincide with the period for which the statement for water services is issued. Sewer service provided for a period of less than one month shall be prorated on the basis of a 30-day month.

B. Statements for Sewer Services Only. Where a customer receiving sewer service does not receive water service from this District, the statement for sewer services shall be issued monthly to the customer.

C. Terms and Conditions for Issuance of Statements, Payments of Charges and Delinquent Accounts.
The provisions of Section 34 of this Code pertaining to water service shall also apply to the issuance of statements for sewer service charges, payment of sewer service charges and delinquent sewer accounts.

## SECTION 56 LOCATION OF SEWER LINES AND EASEMENTS

### 56.01 LOCATION OF SEWER LINES

A. In Public Right-of-Way or Easements. Sewer lines constructed by or for this District shall be constructed within public road or street right-of-ways, except where the District has expressly authorized the construction to be made within permanent right-of-way easements.

B. Physical Location.

1. A sewer line constructed within a public road or street right-of-way shall normally be located along the centerline of the right-of-way.

2. A sewer line constructed within an easement shall normally lie along the centerline of said easement if the easement will not contain other utility lines. If other utility lines are allowed in the sewer easement, the location of the sewer line must have prior District approval.

### 56.02 DISTRICT SEWER LINE EASEMENTS

A. Width of Easements. District minimum requirements for width of an easement for a sewer line shall be 20 feet; provided, however, in exceptional cases, the General Manager may accept a permanent easement less than 20 feet in width on condition that the landowner grants to the District an adequate temporary easement for construction purposes together with a right of access to the permanent easement for purposes of maintenance and repair of the sewer line to be installed.

B. Easements in Subdivisions. The centerline of an easement for a sewer line within a subdivision or "lot-split" shall be parallel to at least one of the sidelines of the lot or parcel in which the easement is located. The entire width of the easement, as measured at right angles to the said parallel sideline, shall be located within the said lot or parcel.

C. Easements in Unsubdivided Land. The centerline of an easement for a sewer line in unsubdivided lands shall, whenever practicable, be parallel to one of the sidelines of the parcel of land in which the easement is located. The entire width of the easement, as measured

at right angles to the said parallel sideline, shall lie within the said parcel.

## 56.03 ENCROACHMENT IN DISTRICT EASEMENTS

A. Enforcement Against Encroachments. The General Manager is authorized and directed to institute, on behalf of the District, any legal action necessary to prevent or remove encroachment by others in, over, or upon District sewer easements and right-of-ways.

B. Allowance of Encroachments. The General Manager may allow encroachment in, over, or upon a District easement or right-of-way if he determines that the encroachment will not interfere with operation of the District's water or sewer systems and will not interfere with the maintenance, repair and replacement of such systems. However, such encroachment shall not be allowed until the property owner requesting the encroachment executes an encroachment agreement, approved by the District. The agreement shall provide, among other conditions, that (i) the cost of removing and replacing the encroachment shall be borne solely by the owner, (ii) the District will not waive any rights as to its use of said easement or right-of-way, including, but not limited to, the right to enter upon said easement at any time for the purpose of making repairs, modifications, or replacement of any pipeline or road, and (iii) the encroachment will be removed upon 30-days written notice from the District to the owner. The General Manager may grant the extension of such period; however, the extension must be in writing and signed by the General Manager.

The Manager's authority to allow such encroachment shall extend to improvements that are removable and which do not exceed $2,500 in value. All other encroachments must be approved by the Board of Directors.

## 56.04 CONCURRENT USE OF DISTRICT EASEMENTS

A. By Governmental Agencies. The Manager is authorized to enter into agreements for concurrent use of District easements by other governmental agencies or public utilities, provided such use does not interfere with the District's utilization of the easement.

B. By Private Persons or Entities. Concurrent use of District easements by persons or entities other than governmental agencies or public utilities must be approved by the Board of Directors.

## SECTION 60 UTILITY FACILITIES FOR SUBDIVISIONS AND PARCEL MAP DEVELOPMENTS

### 60.01 INSTALLATION BY THE DISTRICT

The District will not construct facilities to provide utility service to land being divided for a subdivision or parcel map development, except where facilities are constructed as part of the Capital Improvement Program for the utility system of an improvement district.

### 60.02 INSTALLATION BY DEVELOPERS

Developers of land shall provide, at their own expense, all facilities required for utility service within the area to be developed. In order to obtain required services it may be necessary for a Developer, in some instances, to also provide certain off-site facilities or to provide for oversizing of the facilities which are to become part of the District system. In such event, the Developer may be entitled to reimbursement of certain costs for such off-site or oversizing facilities as provided in Policy 26 of this Code.

### 60.03 ISSUANCE OF AVAILABILITY LETTERS FOR WATER AND/OR SEWER SERVICE

Upon request, the General Manager will provide a written statement (sometimes referred to as "availability" or "will-serve" letters) advising whether water and/or sewer service is available and, if not, whether such service could be made available, for a proposed development project within the District. A charge (see Appendix A, 60.03) will be made for each statement furnished by the District.

### 60.04 REQUIREMENT FOR A SUBAREA MASTER PLAN (SAMP)

In some instances, a Subarea Master Plan (SAMP) may be necessary to establish the water, recycled water and sewer system facilities for adequate District service within and to a proposed subdivision project. A SAMP shall be required when any of the following situations have occurred:

A. No previous SAMP was prepared and the complexity of the proposed subdivision requires integration into the District Water Resources Master Plan.

B. The Developer is seeking to modify the requirements of the District’s Water Resources Master Plan.

C. The previously submitted SAMP for the proposed subdivision is no longer representative of the current development proposal.

D. The previously submitted Developer SAMP for the proposed subdivision project is over two years old.

E. The General Manager has determined a SAMP is required.

The Developer may elect to have the SAMP performed by a private Engineering firm and submitted to the District for approval by the General Manager. The Developer may request the District to prepare the SAMP and deposit with the District the estimated cost of the SAMP. Prior to implementation, the SAMP shall be reviewed and approved by the General Manager. Approval of the SAMP shall occur prior to approval of any Construction Agreement for a Developer's improvement plans by the General Manager.

60.05 REQUIREMENT FOR A TENTATIVE MAP

A. The Developer shall file with the District a tentative map of the proposed subdivision or parcel map project.

B. The Developer shall deposit with the District a sum determined by the General Manager to cover the estimated cost of plan checking and engineering services.

C. The General Manager will review the tentative map and return it to the Developer indicating thereon the water and/or sewer system that will be required for the development.

60.06 REQUIREMENT OF EASEMENT OR RIGHT-OF-WAY FOR UTILITY FACILITIES

Whenever the plans, as approved, provide for any portion of the utility facilities to be constructed in other than a dedicated public street or road, the Developer shall grant or cause to be granted an easement or right-of-way to the District in the form specified by the General Manager. Whenever facilities are terminated at a point short of the boundary of the parcel owned by the Developer, a permanent easement, in accordance with Section 36.02, shall be granted to District in order to provide for future extension of the facility to adjoining parcels of land. This requirement shall also apply to those cases where the County or a city requires the Developer to provide a one foot buffer between the subdivision or lot-split boundary and the adjoining property.

60.07 REQUIREMENT FOR ANNEXATION

A. The Developer desiring service to properties which lie outside the District or outside an Improvement

District shall request annexation. The Developer shall request such annexation in writing to the General Manager.

B. The Engineering Department shall provide an annexation packet outlining the required information and charges as detailed in Chapter 6, Section 9 of this Code.

C. Annexation shall occur prior to approval of any Construction Agreement for the Developer's improvement plans by the General Manager.

60.08 REQUIREMENT FOR APPROVED PLANS AND CONSTRUCTION AGREEMENT

A. Developer shall prepare detailed engineering drawings for construction of the proposed system shown on the tentative map and submit such drawings to the District for review and approval. Each system shall provide for water service and/or sewer service, where applicable, to each lot in a subdivision and to each parcel in a parcel map development. The utility system proposed shall not be detrimental in any way to operation of the District utility system and shall conform to the requirements of the approved SAMP.

B. The General Manager shall review the construction drawings and either accept, reject, or revise them for compliance with District standards and specifications. Upon approval of the drawings, the General Manager shall return them to the Developer with the following: (i) District estimates for construction costs and the amount of additional District deposit; (ii) the required standard District agreement for installation of water or sewer facilities; and (iii) the amount of security required to guarantee performance of the agreement.

C. Developer shall return to the District the revised drawings, if required, the executed subdivision construction agreement, together with the required deposits and security, either cash, surety bond, or letter of credit, acceptable to the General Manager, and the grant of easements or rights-of-way that may be required. If such are complete, and the proposed subdivision has been annexed into an Improvement District, the Construction Agreement for the project will be authorized by the General Manager.

D. Upon approval of the construction agreement by the General Manager, the Developer shall submit the

mylar construction plans for signature by the General Manager.

60.09 REQUIREMENT FOR DISTRICT INSPECTION

A. Upon receipt by the General Manager of the approved plans, and prior to beginning construction of the facilities, the Developer shall schedule a pre-construction meeting with the General Manager.

B. Upon completion of the pre-construction meeting, the Developer shall commence construction of the facilities and complete the same in accordance with the standard construction agreement, the approved plans, and the District's Standard Specifications for Water, Sewer, and Reclaimed Water Facilities and the instructions given at the pre-construction meeting.

C. During the construction of the facilities, they shall be subject, at all times, to inspection by the District's Quality Control Division.

60.10 REQUIREMENTS FOR USE OF UTILITIES FOR OCCUPANCY PRIOR TO DISTRICT ACCEPTANCE

The Developer may purchase and obtain permanent water meters and sewer services for occupancy in the project prior to acceptance of the project by the General Manager, subject to the conditions stated below:

A. Water Meter

1. The purchase of permanent meter(s) shall be in accordance with Sections 27 and 28 of this Code, and:

a. There shall be sufficient funds in the Developer's District account to cover District expenses.

b. Per Section 60.06 above, the Developer shall have in effect a valid construction agreement with the District.

2. Prior to installation of any meter(s) the Developer shall meet the following conditions:

a. The water system shall be hydrostatically tested, disinfected, pass a District bacteriological examination, be connected to the District's existing system with a permanent connection(s), and be installed in accordance with the District specifica-

tions and requirements prior to the use of the system.

b. The meter box(es) shall be set to final grade and the installation shall be complete per the District's standard specifications.

B. Sewer Connection

1. For acquisition of each sewer service connec tion, the Developer shall meet the following conditions:

a. There shall be sufficient funds in the Developer's District account to cover District expenses.

b. Pay all fees and charges for each connection requested, and identify the parcel for which the sewer service is being provided.

2. Prior to connection(s) of any sewer services, the sewer system shall be constructed and complete in accordance with District specifications and requirements.

C. Prior to the installation of the last purchased meter or connection of the last sewer service, the project shall be referred to the General Manager for acceptance. In order to be accepted, all aspects of a project shall be complete per Section 60.11 below.

60.11 REQUIREMENT FOR FINAL ACCEPTANCE BY THE GENERAL MANAGER

A. Upon completion of the facilities, with only minor outstanding construction items remaining, a preliminary walk-through inspection and punch list of any outstanding items will be prepared. It shall be the responsibility of the Developer to assure any outstanding items are completed in a timely manner.

B. Upon completion of construction of the facilities in accordance with District specifications and requirements, a final inspection, completion of all outstanding punch list items, submittal and acceptance of the mylar record drawings, submittal and acceptance of the soils compaction report, and when all Developer accounts with the District have been made current, the facilities shall be referred to the General Manager for acceptance.

60.12 REQUIREMENT FOR ONE YEAR WARRANTY PERIOD

A. Upon acceptance by the General Manager, the District shall own and operate the facilities.

B. The Developer shall guarantee the facilities against defects in materials or workmanship for a minimum period of one (1) year from the date of acceptance by the Board of Directors. The method of guarantee shall be a warranty bond, or other means acceptable to the General Manager, in the amount of twenty-five (25) per cent of the District’s estimated value of the project.

C. Defects in materials or workmanship discovered during the one (1) year warranty period shall be repaired by the Developer and at the sole expense of the Developer. Any collateral damage caused by a defect in materials or workmanship during the warranty period, including District expenses, shall be borne solely by the Developer. This section does not limit the developer's liability for latent or patent defects.

## SECTION 62 EXTENT OF SYSTEMS FOR SUBDIVISIONS AND PARCEL MAPS

### 62.01 LOCATION AND SCOPE OF SYSTEM

Water and/or sewer systems for subdivision and parcel map developments shall be installed in all public streets so that each lot of the subdivision or parcel of the parcel map can be served with a water lateral and, where applicable, a sewer lateral. To provide for future line extensions, pipelines installed within public streets must be constructed to the subdivision boundary and pipelines not installed within a public street must be installed in a District easement or right-of-way and must extend across the frontage of the parcel or parcels to be served.

### 62.02 REQUEST FOR VARIANCE

Each request for a variance of any requirement of Section 62.01 must be submitted to the Board of Directors in accordance with Section 10 of this Code. In approving any request for variance the Board of Directors may impose any condition it deems necessary to protect existing systems and to assure adequate service to present or future property owners or customers.

# ARTICLE IV PROHIBITED ACTIVITIES; REMEDIES AND ENFORCEMENT

Statement of purpose; Findings. Under existing law, state and local agencies engage in water resource planning, protection and conservation. This Article condenses and clarifies the enforcement mechanisms for violations of this Code of Ordinance and the activities that are prohibited in connection with the District's services, property, facilities and systems.

The Board of Directors finds that the enforcement of this Code and the protection of the District's property and facilities is an important public service and is vital to the protection of the public's health, safety and quality of life. The procedures herein are in addition to any other procedures or legal remedies available to the District.

No limitation on Authority. The Board of Directors has determined that there is a need to use a combination of administrative and other remedies to gain compliance. This Article is not intended, nor shall it be interpreted, to limit or amend any discretionary power or right of the District under any other provision of this Code, federal, state or local law, policy or practice.

## CHAPTER 1 GENERAL PROVISIONS

### SECTION 70. DEFINITIONS

#### 70.01 REFERENCE TO ARTICLE

This Article of the Code of Ordinances shall be known as the "Prohibited Activities, Remedies and Enforcement Article" and is sometimes referred to as the "prohibited activities" or "enforcement" provisions.

#### 70.02 DEFINITIONS

As used in this Article, the following words have the meaning set forth below:

"Assessor's office" means the office of the San Diego County Assessor/Recorder/County Clerk or any successor office established by the County of San Diego to maintain records of parcel ownership.

"Benefiting" means to receive or use a service on a parcel owned, used, leased, developed or occupied by or for the person to whom the benefit is imputed.

"Damages" or "actual damages" means any cost or expense (including staff time, inspection, testing, permitting, attorneys fees and other consultant fees and costs) incurred by the District in connection with a violation, including without limitation costs or expenses relating to: investigating the violation; redesigning, removing, repairing or replacing any facilities or systems; removing, destroying and disposing of any equipment or material used for the violation; cleaning-up any resulting pollution or contamination; completing and filing appropriate reports and notices; payment of penalties, fees, damages, fines or other amounts charged by any governmental or regulatory agency, and any related costs including litigation or settlement of any action against the District.

"District facilities" or "District systems" or "system" means and refers to any and all pipelines, reservoirs and appurtenant facilities comprising the District's potable water system, sewer system, recycled water system, laboratories, offices, pumps, equipment and engines.

"District property" means rights-of-way, easements, real property owned in fee simple, occupied or leased by the District, licenses, fixed and mobile equipment owned, occupied or operated by the District, and all District facilities.

"District service" or "service" means the furnishing of water, sewer, fire protection, recycled water or any other service the District provides to its customers.

"Divert" means to change, alter, or affect the course or path of any District service.

"Parcel" means any real property located within the District.

"Re-connection" means the commencement of service to a customer or other person after such service has been reduced, suspended or terminated.

"Reduction of service" means installing a device that limits the flow of water or availability of service to a parcel, person or location to a minimum amount required by law or determined by the District.

"Recycled water system" means the recycled water system operated by the District under applicable law, including applicable provisions of this Code, the California Water Code, commencing with Section 13520, the California Code of Regulations, Title 17, Division 1 and Title 22, and Water Agency Standards.

"Responsible party" means a person receiving or benefiting from service or any person who violates any provision of this Code or engages in a prohibited activity. Responsible party also means the owner or manager of a parcel, business or property benefiting from any service.

"Suspension of service" means installing a lock temporarily on the meter.

"Tamper" or "tampering" means to activate, injure, damage, block, interfere with, rearrange, contaminate, pollute, or in any form altering any District service, property or system without express consent of the District.

"Tenant" means a person or business lawfully occupying, controlling or using a parcel owned by another person.

"Termination of service" means removing the meter or disconnecting service facilities.

"Unauthorized connections" means connecting or reconnecting to, diverting, using or benefiting from, any District service without the prior written consent of the District or without compliance with the conditions of any such consent.

"Vandalizing" means to deface, discolor, graffiti, paint, trash, invade, damage, disable, shut off or destroy any portion of any District service, facilities or property.

"Violation" means any failure to comply with any provision of this Code; or engaging in any prohibited activity with respect to District services, facilities, property, or rights-of-way. Each day during which a violation commences or continues shall constitute a separate violation.

"Willful violation" means repeating or continuing a violation after notice; or any first time violation relating to a voluntary, knowing and purposeful act or omission.

## SECTION 71. VIOLATIONS; PROHIBITED ACTIVITIES

In addition to the prohibited practices described in any other sections of this Code or by law, all persons and entities are specifically prohibited from doing, or aiding or abetting any person in, any of the following:

A. Installing or benefiting from any unauthorized connection to any District system;

B. Refusing or failing to pay for services, in full, when bills are due;

C. Entering, improving, purchasing, trading, selling, borrowing, using or otherwise benefiting from any District property or service without authorization from the District or without following authorized procedure;

D. Vandalizing, tampering with, or threatening any portion of the District systems, services, facilities or property, including but not limited to taking any action to prevent any meter or other equipment device from accurately performing its function;

E. Failing or refusing to install, maintain in good repair and working condition, or test any portion of any facilities required by the District in connection with a service, including any safety or prevention device or any measuring device;

F. Knowingly permitting leaks or other wastes of water or recycled water or leaks or spills of sewage or other discharge;

G. Preventing District staff from accessing any facilities connected to a service, including but not limited to meters located on private property, or in any manner threatening or interfering with any District staff performing his or her duties;

H. Using or allowing the use of service for more than one parcel through one meter (except for master meters approved by the General Manager under Section 24.01) or supplying, reselling, using or permitting the use of any service by any other parcel, except as permitted under Section 27.04 of this Code or in writing by the District;

I. Using or permitting the use of any District service for property outside the boundaries of an improvement district or not subject to District taxes, without prior written consent of the District;

J. Using or attempting to use or connect to any fire hydrant within the District without proper authorization as required by Section 24.04 of this Code; or

K. Violating or refusing to comply with any condition of service under this Code or with any law or regulation applicable to the use of any such service; including violating any conditions of any permit required for service or to regulate waste, such as a waste discharge permit under Sections 26 or 52 of the Code, or failing or refusing to obtain, maintain or comply with any required permit.

## SECTION 72 PENALTIES AND DAMAGES

### 72.01 GENERAL

A. User and Owner Responsibility. Each person receiving service, or that owns a property that receives service, agrees to pay the District any applicable fees and charges. Such persons are also responsible for all costs and damages in connection with any violation of this Code relating to their service.

B. District Not Liable. The District shall bear no liability for any cost, damage, claim or expense incurred by District or any responsible party or third party on behalf of the District arising from or related to any violation, including, but not limited to, costs, damages, claims or expenses arising from any corrective action of the District. Such corrective actions include, but are not limited to, the removal, confiscation, disposition or use of any device, equipment, improvement or material encroaching on any District property or used in connection with any other violation.

C. District Obligation to Collect Damages. Pursuant to Government Code Section 53069.6, the District shall take all practical and reasonable steps, including appropriate legal action, if necessary, to recover civil damages for the negligent, willful, or unlawful damaging or taking of property of the District.

D. Assessment of Damages. Actual damages resulting from any violation, including late payment or failure or refusal to pay for service and any interest thereon, may be assessed and collected as part of a customer's monthly bill to the extent allowed by law. The District will separately invoice any actual damages not assessed on a monthly bill, including any damages assessed against any responsible person who is not a customer.

E. Unpaid or Partially Paid Bills. Bills issued by the District are due in full as provided in such bills. Failure to timely pay bills in full may lead to a reduction, suspension, or termination of service, as provided in Section 72.02(B), below, in Section 34 of this Code, or pursuant to other provisions of this Code or applicable law. In addition, if bills remain unpaid, in full or in part, the District may lien the delinquent real property and may assess damages and penalties established by District or otherwise authorized by law.

### 72.02 VIOLATIONS AND GENERAL PENALTIES FOR VIOLATIONS

A. Notice of Violation. Notice and a reasonable period of time to correct a violation will be given prior to the termination, reduction or suspension of service or the imposition of any administrative fine. However, the District may, without notice, correct any condition or violation that endangers the health or safety or impairs any District service, facility or property or is otherwise determined by the District to require immediate action.

1. Investigative Procedures. If a possible violation is identified, observed or reported, the District will contact the allegedly responsible party to investigate. If the violation is in fact occurring, District staff will issue a notice of violation or otherwise inform the responsible party that corrective actions must be taken within a period of time deemed reasonable by the District, taking into consideration the nature of the violation and the potential damage that can arise if the violation continues.

2. Content of Notice of Violation. The notice will describe the violation, indicate the actions that must be taken, and indicate the date by which those actions must be taken. Unless immediate action is required, the notice will provide a reasonable time for the violation to be corrected. The notice will also specify the amount of any delinquency, actual damages or other amounts due the District, if any, and the telephone number of a representative of the District who can provide additional information.

3. No Notice Required; District Action. If the District determines that immediate or prompt correction of the violation is necessary to prevent waste or to maintain the integrity of the water supply, systems or facilities of the District, or for the immediate protection of the health, safety or welfare of persons or property, or for any other compelling reason, the District will take any action deemed necessary (including suspension, reduction or termination of service; locking or removal of meters; or repairs of any improvements) and a notice will be left at the affected parcel specifying any further corrective actions required. Any costs incurred by District and any applicable fines will be the responsibility of the responsible party.

4. Notice; Failure to Comply. The responsible party will be given an opportunity to correct the violation and to provide verbal, written and pictorial exculpatory evidence. If such evidence does not exonerate the responsible parties and if the violation(s) are not corrected to the satisfaction of the District within the time provided, the District may assess cost and penalties, administrative fines and may take any other action or pursue any other remedy available. Furthermore, if the violation concerns any service requirement or facility, or to prevent waste or protect the integrity of the system or the health and safety of the public, the District may suspend, reduce or terminate service to the extent permitted by law.

B. Service Termination, Suspension or Reduction; Removing or Locking Meters. Service may be reduced, suspended or terminated for failure to pay for service or in connection with a violation of this Code or applicable law. Termination, suspension or reduction of service will proceed as follows:

1. Notice Prior to Termination, Suspension or Reduction of Service. Except as provided in Paragraph A, above, or in other provisions of this Code or applicable law, not less than ten (10) days notice will be given prior to the date service is reduced, suspended or terminated; provided that, where service is terminated due to failure to comply with the terms of an amortization agreement, under Section 34 of this Code, only forty-eight (48) hours prior notice is required. The notice will be delivered to

the affected parcel and, if the owner of record does not reside in the affected parcel, a copy of the notice will be forwarded to the owner's address on record with the assessor's office via any available means, such as personal delivery, certified mail return receipt requested, email, fax or fed-ex.

2. Termination for failure to pay for service. The District may discontinue any or all service due to failure to pay the whole or any part of a bill issued by the District. In connection with termination of water service, the provisions of Section 60373 of the Government Code, or any other appropriate provision of law, or as set forth in Section 34 of this Code of Ordinance, will be followed. In connection with sewer, Section 71672 of the California Water Code or other applicable requirements will be followed.

C. Reconnection or Reinstatement of Service, Unlocking or Reinstalling Meters. If service is reduced, suspended or terminated for any reason, each of the following conditions applicable to the situation must be satisfied or arrangements satisfactory to the General Manager or a designee must be made ***before*** service is reinstated:

1. Outstanding amounts for service bills, including any service charges for benefits derived from the violation, must be paid;

2. All required deposits (including any security deposits), actual damages, fines, costs, charges and penalties must be paid;

3. Any amounts due for the removal, locking, servicing, repair or replacement of meters or other facilities required for service must be paid at the rates in effect at the time of reinstatement, as set forth on **Appendix A** to this Code or other schedule of fees then in effect;

4. All violations and related damages or conditions must have been corrected and/or repaired and evidence satisfactory to the District to that effect and demonstrating that it is safe to reinstate service, must have been provided to and approved by the District; and

5. If the service was originally in the name of a tenant, the District may require the owner of the parcel to request the service account under his or her name and responsibility.

D. Owner Responsibility for Account. In addition to owners' obligations under subsection (A) of section 72.01 and subsection (C)(5) of Section 72.02, above, and any other remedies provided by this Code or by applicable law, Owners may be required to deliver to the District a form of acknowledgement or authorization for service to a tenant. In addition, if (i) a tenant engages in any violation, (ii) if the District has reduced, suspended or terminated any service to a tenant three (3) times within any twenty-four (24) month period or (iii) the tenant has failed or refuses to comply with the terms of payment arrangements with the District four (4) times, the District reserves the right to demand that the property owner take responsibility for services to the tenant-

occupied parcel. The General Manager or a designee shall develop procedures to implement these requirements.

E. Right of Access to Customer's Premises; Interference. If any person refuses to consent to an investigation of a possible violation, or prevents or refuses to allow access to District staff or authorized representatives to any premises or facility during an investigation or in connection with any termination, reduction or suspension of service, the District may seek an injunction or a warrant, as provided in Section 71601 of the Water Code.

F. Other Remedies. In addition to the actions contemplated in this Section, the District may seek other remedies authorized or required by any applicable law, including imposing an administrative fine, pursuant to Section 72.06, or pursuing other available civil or criminal remedies.

72.03 CERTAIN SPECIFIC OPERATIONAL VIOLATIONS

A. Unauthorized Connections. The District shall bear no cost or liability for any unauthorized connection. In addition to other remedies, any unauthorized connection is subject to a Type II fine, pursuant to Section 72.06 depending upon the severity, duration and reoccurrence of the violation and any other factors the District may reasonably take into consideration.., Further, the District may demand that the unauthorized connection be immediately disconnected. In the alternative, if the customer refuses to take immediate action, or if immediate actions is necessary as set forth in Section 72.02(A)(3), above, the District may immediately disconnect, remove, confiscate, destroy or dispose of any parts installed or used for the unauthorized connection, all at the expense of the customer and any other responsible party. To the extent allowed by law, the District may also, immediately or as otherwise deemed advisable by the District, terminate service to any parcel and any person that allows, uses or benefits from such unauthorized connection.

B. Water waste. No customer shall knowingly permit leaks or other wastes of water, including, but not limited to, allowing runoff on any portion of his or her property, engaging in non-permitted uses of water, or failing to take corrective action after notice of any leaks or water waste is given. If the District determines that water waste is occurring, the District will:

1. Notify the customer that they are in violation of the District's Code of Ordinances.

2. Notwithstanding the foregoing, the District may, without prior notice, repair or replace any District controlled facilities at the cost of the person identified as the responsible party, if any.

3. If the water waste is due to a condition within the customer's property or facilities, the District may (i) require the customer to repair or replace the affected facilities, immediately or within a reasonable time, depending on the situation; or (ii) if necessary to prevent further waste, adjust, lock or remove the meter. If any repair

or replacement required is not completed in a timely manner, the District may perform the repair or replacement at the cost of the customer or may terminate service without further notice.

C. Meter Tampering. In addition to other remedies, tampering is subject to a Type II fine pursuant to Section 72.06 depending upon the severity, duration and reoccurrence of the violation and any other factors the District may reasonably take into consideration. Additionally, tampering may be prosecuted as a crime under Section 498 of the California Penal Code, as set forth in Section 73.01 of this Code.

D. Fire Service Violation. Fire service is subject to compliance with all provisions of this Code and the law concerning water service, and failure to comply with such provisions may result in the reduction, suspension, termination or disconnection of water service for fire protection, without any liability to District. Furthermore, illegal connections or other violations relating to fire service are subject to either a Type I or Type II fine, at the option of the District, and may be prosecuted as crimes.

E. Backflow prevention, screens and other safety devices. If service requirements include the installation, testing and maintenance of backflow prevention devices (Section 23.04 of this Code), screens or other safety operational items, in addition to, or in lieu of, other remedies provided herein, the District may apply any of the remedies under Section VI and VII of the District's Ordinance No. 386, as amended or renumbered. Furthermore, violations relating to backflow testing may be prosecuted as set forth in Section 73.01 of this Code. Violations of backflow requirements or knowingly filing a false statement or report required by a local health officer are subject to either a Type I or Type II fine, at the option of the District, pursuant to Section 72.06, below.

F. Violation Concerning Recycled Water Service. In addition to any fine, revocation, suspension or penalty imposed under Section 26 in connection with any violation of said Section, including permit suspension or revocation under Section 26.07.C, the District may (i) suspend or terminate water and or sewer service to the property, the owner and/or the operator; (ii) require payment by the owner for any damage to the District facilities, reimbursement to District of costs and expenses, or fines imposed on the District in connection with such violation; or (iii) prosecute the responsible party under any applicable provision of this Code, the Water Code or the Penal Code. Additionally, any violation concerning recycled water service is subject to either a Type I or Type II fine, at the option of the District, pursuant to Section 72.06, below.

G. Violation Concerning Sewer Service. In addition to any other remedy, fine or penalty provided by this Code or applicable law, failure to comply with any requirements of sewer service, including requirements for the preservation of public health, safety and welfare and including, but not limited to, the requirements established under Article II, Chapter 2, Sections 50 to 56.04 of this Code, as hereafter amended or as supplemented by other District Rules and Regulations for Sewer Service, the California Health and Safety Code, the California Code of Regulations, Titles 17 and 22, and Water

Agency Standards. Furthermore, may be prosecuted as set forth in
Section 73.01 of this Code. Additionally, any violation concerning sewer service is subject to a Type I or Type II fine, at the option of the District, pursuant to Section 72.06, below.

H. Theft, Fraud, or Misappropriation. In addition to any other remedy, fine or penalty provided by this Code or applicable law, any violation involving theft, fraud or misappropriation of District water, services, or property is subject to a Type I or Type II fine, at the option of the District, pursuant to Section 72.06, below.

72.04 VIOLATIONS OF CONSERVATION OR OTHER WATER USE RESTRICTION PROVISIONS

The District has established and published conservation measures set forth in Section 39 of the Code. Commencing with declared Level 2 conditions, the District may assess water shortage rates and charges previously adopted. In addition, after notice of the declared water shortage level is given as required by law, any person who uses, causes to be used, or permits the use of water in violation of such requirements (other than a person who qualifies for an applicable exemption, if any) may be assessed damages, penalties and fines.

A. Additional provisions concerning use restriction violations. In addition to payment of actual damages, the following may apply to a violation of any water conservation or water use restriction measure:

1. A change on the account holder shall not cause the account to revert to pre-violation status unless the new account holder provides evidence that it is not related to the violator and had no responsibility for the prior account.

2. The District may reduce, suspend or terminate service to any parcel immediately and without further notice if the violation involves or results in water waste, as set for in Section 72.03(B), above.

3. Willful violations of mandatory conservation measures described in Section 39 of this Code may be enforced by terminating service to the property at which the violation occurs, as provided by Section 356 of the California Water Code.

B. Prosecution for violations of conservation measures. Pursuant to Section 377 and 71644 of the California Water Code, each violation of the District's Conservation Ordinance, set fort in Section 39 of this Code, may be prosecuted as a misdemeanor, punishable by imprisonment in the County jail for no more than thirty (30) days or by a fine, as set forth in subsection (C), below.

C. Assessment of fines for violations of conservation or water use restriction provisions. Any responsible party who fails to comply with any conservation or use restriction measure is subject to the assessment of an administrative Type I fine, added to account, pursuant to Section 72.06, below.

72.05 VIOLATIONS INVOLVING DISTRICT REAL PROPERTY

A. Removal, Disposition and Costs. The District has absolute discretion to determine the corrective action required in connection with any violation involving District real property, including requiring the owner of any unauthorized encroachment or improvement to remove it or taking action to remove it immediately and without notice. Any improvements or uses placed within or on any District property or right of way are subject to the following:

1. Costs and Damages. All costs and damages shall be the responsibility of the customer and any other responsible party. Furthermore, the District shall not be liable for costs to repair or replace any unauthorized encroachment or improvement, or any property, improvement or thing used in connection with, supported by or attached thereto.

2. Burden of proof. The burden shall be on the user to prove to the District's satisfaction, the authority, scope and extent of any right to access, improve or use the District's property. Only written evidence in the form of an agreement, deed, statute, recorded or official map or plat, governmental regulation or other right may be used to establish such claim of right.

B. Notice. In connection with any improvement or use that does not constitute a health hazard and does not interfere with the District's use of its property, the District will give written notice of up to sixty (60) days, at the discretion of the General Manager, to cease, terminate, eliminate or remove the offending improvement, structure or use. Any written notice will be given to the responsible party or posted at the property where the trespass or encroachment occurs. If the responsible party is not the owner of any real property affected by the violation, the District will also give notice to the owner of record at the address on record with the assessor's office via personal delivery, certified mail return receipt requested or via Fed-Ex.

C. Immediate action. In connection with any improvement that constitutes a health hazard or interferes with the District's use of any District property, the District will take any immediate action deemed necessary by the General Manager.

D. Fines. In addition to all other remedies provided under this Article or under applicable law, the District may impose a fine as provided in Section 72.06. Additionally, the District may impose a fine up to either the amount specified on any sign, or a Type I or Type II fine, at the option of the District, in connection with any trespass on District property in violation of a sign prohibiting trespassing, pursuant to Section 72.06, below.

E. Separate violation. A separate violation will accrue for each day after the deadline to cease, terminate, eliminate or remove the trespass or encroachment, as set forth in the notice.

72.06 ADMINISTRATIVE FINES

Any administrative fines established herein shall be in the nature of civil penalties and shall be additional and cumulative to any other fines, damages or any other charges established by the District and are also separate from and cumulative to any other civil or criminal penalty, fine or remedy. In connection with each violation, the District may assess a fine up to the amount specified in the schedule of fines for the type of fine being imposed.

Each day during which a violation is in effect constitutes a separate violation and violations are cumulative while the account is in the name of the original violator or any person that participated in or benefited from the violation. Except where the violation creates an immediate danger to health or safety, the person responsible for the continuing violation will be provided a reasonable period of time to correct or otherwise remedy the violation(s) prior to the imposition of administrative fines.

A. Assessment of Fines for Technical Violations of Other Code Provisions. Any person who engages in a violation of any provision of this Code is subject to the assessment of a separate administrative Type I Fine, unless subject to a more severe fine as set forth in this Code.

B. Assessment of Separate Fines.

Nothing in this code or the limits specified per violation shall prevent the imposition of separate fines for each separate violation committed during a single act. For example, in connection with a violation concerning sewer service that involves a trespass on any portion of the District's real property, separate fines may be assessed for the trespass, the damage to District personal property, the damage to District real property; the damage to the sewer system and the activity resulting on all the damages.

C. Types of Fines. The amount for each type of fine specified below may increase automatically to reflect any higher amount authorized by law or regulation. The District has determined to establish two types of fines based on the nature of the violation, as follows:

1. Type I Fine. Any violation that does not have the potential to endanger the health or safety of the public. The fine will not exceed the amount specified in the Section 36900(b) of the California Government Code or Appendix A for a first, second, third or each additional violation of that same ordinance or requirement within a twelve-month period.

2. Type II Fine. Any violation that has the potential to endanger the health or safety, including, but not limited to, unauthorized or illegal connections, meter tampering, water theft, , or knowingly filing a false statement or report required by a local health officer . The fine will not exceed the amount specified on Appendix A per each day the violation is identified or continues.

D. Collection of Fines. Any fines assessed by the District are payable directly to the District, are due upon issuance or as otherwise indicated on the notice or bill, and are delinquent 30 calendar days from the due date.

E. Notice of Administrative Fine; Content. Notice of an administrative fine pursuant to this section will contain the following information: (i) a brief description of the violation(s); (ii) the date and location of the violation(s); (iii) a brief description of corrective action(s) required, as appropriate; (iv) a statement explaining that each day the violation continues constitutes a new violation; (v) in the case of violations creating an immediate danger to health or safety, the amount of civil penalty assessed or, in all other cases, the amount of civil penalty to be assessed if the violation(s) are not corrected within the time provided by the notice; (vi) a statement of the procedure for payment and the consequences of failure to pay; (vii) contact information for the District employee that should be contacted to discuss the notice and provide evidence of compliance; and (viii) a brief statement describing the responsible party's right to request further review, pursuant to subsection (F), below.

F. Option for Board Review . Persons receiving a Notice of Administrative Fine may request Board review. The request for Board consideration must be in writing, must be received by the District Secretary within ten (10) calendar days from the date of the notice and must include contact information, an explanation of the basis for the request, and any supporting documentation said person(s) wish to provide to the Board for review and consideration. District staff will review the petitioner's request and will make a recommendation to the Board in light of its investigation. The District will provide notice of the date, time and place for Board consideration by electronic means, facsimile or first class mail sent to the return addressee indicated on the written request.

*G. Any fines assessed pursuant to the Notice of Administrative Fines must be timely paid notwithstanding the filing of a request for Board review.*

*At the time of Board review*, the petitioner may, address the Board and respond to the charges to show good cause why the fine should not be imposed; however, the customer is not entitled to a full judicial-type hearing with cross examination, sworn testimony, etc. In accordance with the provisions of Government Code Section 53069.4, the Board's determination shall be final and conclusive, and shall be deemed confirmed, if not appealed within 20 calendar days to the Superior Court of the County of San Diego.

## SECTION 73. ADDITIONAL DISTRICT REMEDIES

Each day during which a violation commences or continues shall constitute a separate violation which may be so prosecuted. In addition to, or on lieu of any damages, fines or other remedies provided in any other section of this Code, at the District's sole and absolute discretion, the District may enforce any other remedies available to it in law or equity.

### 73.01 OTHER REMEDIES OF DISTRICT

A. Collection of Unpaid Bills on Tax Roll. Pursuant to the provisions of the Health and Safety Code, commencing with Section 5470, the District may cause delinquent charges for services to be collected on the tax roll in the same manner as its general taxes.

B. Costs of Suit. Any person who violates any provision of this Code of Ordinance shall be liable for costs of any civil suit required to enforce the District's rights, including but not limited to reasonable attorney's fees in accordance with Civil Code Section 1882.2. The provisions of Civil Code Section 1882 *et seq.* are incorporated herein by reference. This Article shall be interpreted so as to be consistent with Civil Code Sections 1882 *et seq*.

C. Reward. In accordance with Government Code Section 53069.5, the District may offer and pay a reward, in an amount determined by the District, for information leading to the determination of the identity of, and the apprehension of, any person whose willful misconduct results in injury or death to any person or who willfully damages or destroys any property of the District or any property of any other local agency or state or federal agency located within the boundaries of the District. The person who has willfully damaged or destroyed such property shall be liable for the amount of any reward paid pursuant to this section.

D. Parental liability for Acts of Minors. If a violation is due to the acts of a minor child, the minor and his or her parents or guardians, as applicable, shall be jointly and severally liable to the maximum extent allowed by law, including parental liability pursuant to Section 1714.1 of the California Code of Civil Procedure, as hereafter amended or renumbered.

E. Backflow testing; Prosecution. A person is guilty of a misdemeanor in connection with the violation of any provision of the California Code of Regulations concerning backflow testing, including non-compliance with any order to test, knowingly filing a false statement or report concerning any information required by the District or failure to use a person qualified to conduct the testing. Such misdemeanor is punishable by a fine of up to $500 or by imprisonment not exceeding 30 days. Each day of a violation is a separate offense.

F. Sewer Service Violation; Prosecution. Pursuant to Section 71689.27 of the Water Code of the State of California, upon conviction of a violation of any ordinance or provision of this Code concerning the sewer system the person shall be punished by being imprisoned in the county jail.

G. Theft of Utility Services, Water or Waterworks; Prosecution. Pursuant to Sections 498, 624 and 625 of the Penal Code of the State of California, theft of District facilities or theft of water or other utility services, including theft through unauthorized connections, may be prosecuted as a crime.

H. Prosecution of Code Violations. The District may, at its option, prosecute or cause to be prosecuted any violation of this Code of Ordinance or any other Ordinance of the District as a misdemeanor, pursuant to Section 71600 of the California Water Code.

I. Receipt or Purchase of Stolen Property; Prosecution. Pursuant to Section 496a of the Penal Code of the State of California, purchase or receipt of stolen property belonging to the water system, may be prosecuted as a crime.

J. Junk Dealers and Recyclers; Remedies. To the extent provided by law, including the provisions of AB844, approved by the Governor and chaptered in September of 2008, the District will pursue remedies available through or against any junk dealer or recycler that purchases any District property without prior written authorization from District.

## 73.02 NOTICE TO DISTRICT CONCERNING VIOLATIONS

Any person noticing or discovering an unauthorized connection to the District's sewer, water or recycled water system from a parcel owned or occupied by such person must notify the District immediately. If the unauthorized connection affects a parcel owned by the person, he or she must remove the unauthorized connection immediately and must notify the District. If the person rents or leases the affected parcel, the person shall provide the District the name and contact information of the owner of the parcel.

## 73.03 SEVERABILITY

If any portion of any chapter, section, subsection, paragraph, sentence, clause, or phrase of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent and severable provision and such holding shall not affect the validity of the remaining portions hereof.

Otay Water District
Appendix A

| Section # | Code # | Fee Description | Meter Size | | Charges | | |
|---|---|---|---|---|---|---|---|
| 9 | 9.04 A.1. | District Annexation Processing Fee | | | $776.20 | | |
| | 9.04 B. | Annexation Fees for Water Annexations into Otay Water District Boundaries | | | District-wide Annexation Fee | | |
| | | | 3/4" | | $1,849.57 | | |
| | | | 1" | | $4,623.93 | | |
| | | | 1-1/2" | | $9,247.85 | | |
| | | | 2" | | $14,796.56 | | |
| | | | 3" | | $29,593.12 | | |
| | | | 4 | | $46,239.25 | | |
| | | | 6" | | $92,478.50 | | |
| | | | 8" | | $147,965.60 | | |
| | | | 10" | | $212,700.55 | | |
| | | | | | | | |
| | 9.04 C.4. | Annexation Fees for Annexations to Sewer Improvement Districts per EDU | | | $1,059.57 | | |
| | | | | | | | |
| 10 | 10.01 | Waiver Request | | | $50.00 | | |
| | | | | | | | |
| 23 | 23.04 | Backflow Certification | | | | | |
| | | - Second Notification | | | $10.00 | | |
| | | - Third Notification | | | $25.00 | | |
| | | - Reconnection (service resumed) | | | $50.00 | | |
| | | - Initial Filing Fee (New applicants for addition to the list of approved backflow prevention device testers) | | | $25.00 | | |
| | | - Renewal Filing Fee (to remain on list of approved backflow prevention device testers) | | Annually | $10.00 | | |
| | | | | | | | |
| 25 | 25.03 A. | Set-up Fees for Accounts | | | $10.00 | | |
| | | | | | | | |
| 25 | 25.03 C. | Monthly Fixed System Charges, MWD & CWA Charges [1] | Meter Size | System Charge | MWD & CWA Fixed Charge | Total Fixed Charge | |
| | | | 3/4" | $18.91 | $16.84 | $35.75 | |
| | | | 1" | $26.71 | $31.24 | $57.95 | |
| [1] All Water used in February and billed in March 2016. | | | | | | | |

| Section # | Code # | Fee Description | Meter Size | | Charges | | |
|---|---|---|---|---|---|---|---|
| 25 | 25.03 C. | Monthly Fixed System Charges, MWD & CWA Charges (continued)[1] | 1-1/2" | $46.22 | $70.66 | $116.88 | |
| | | | 2" | $69.61 | $120.17 | $189.78 | |
| | | | 3" | $132.02 | $255.60 | $387.62 | |
| | | | 4" | $202.24 | $409.32 | $611.56 | |
| | | | 6" | $397.31 | $837.89 | $1,235.20 | |
| | | | 8" | $631.37 | $1,353.09 | $1,984.46 | |
| | | | 10" | $904.44 | $1,947.62 | $2,852.06 | |
| | | | | | | | |
| 25 | 25.03 E.1.(b) | Domestic Residential Water Rates [1] | | Unit | Charge | | |
| | | (The Conservation Tier discount applies | Conservation Tier | 0 - 5 | $2.13 | | |
| | | toward the first five units of water when | | 6-10 | $3.32 | | |
| | | overall consumption is ten units or less.) | | 11-22 | $4.32 | | |
| | | | | 23 or more | $6.65 | | |
| | | | | | | | |
| 25 | 25.03 E.2.(b) | Multiple Residential Water Rates - Per Dwelling Unit [1] | | 0-4 | $3.28 | | |
| | | | | 5-9 | $4.25 | | |
| | | | | 10 or more | $6.56 | | |
| | | | | | | | |
| 25 | 25.03 E.3.(b) | Business and Publicly-Owned Water Rates [1] | under 10" | 0-185 | $3.51 | | |
| | | | | 186-1,400 | $3.56 | | |
| | | | | 1,401 or more | $3.62 | | |
| | | | | | | | |
| | | | 10" & larger | 0-7,426 | $3.51 | | |
| | | | | 7,427-14,616 | $3.56 | | |
| | | | | 14,617 or more | $3.62 | | |
| | | | | | | | |
| 25 | 25.03 E.4.(c) | Irrigation and Commercial Agricultural Using Potable Water Rates [1] | 1" & smaller | 0-54 | $4.78 | | |
| | | | | 55-199 | $4.83 | | |
| | | | | 200 or more | $4.89 | | |
| | | | | | | | |
| | | | 1.5" & 2" | 0-144 | $4.78 | | |
| | | | | 145-355 | $4.83 | | |
| | | | | 356 or more | $4.89 | | |
| | | | | | | | |
| | | | 3" & larger | 0-550 | $4.78 | | |
| | | | | 551-1,200 | $4.83 | | |
| | | | | 1,201 or more | $4.89 | | |
| [1] All Water used in February and billed in March 2016. | | | | | | | |

| Section # | Code # | Fee Description | Meter Size | | Charges | | |
|---|---|---|---|---|---|---|---|
| 25 | 25.03 E.5.(c) | Recycled Water [1] | 3/4" - 1" | 0-32 | $4.08 | | |
| | | (Landscape Irrigation and Certain | | 33-75 | $4.14 | | |
| | | Non-Irrigation Purposes Rates) | | 76 or more | $4.20 | | |
| | | | | | | | |
| | | | 1.5" & 2" | 0-130 | $4.08 | | |
| | | | | 131-325 | $4.14 | | |
| | | | | 326 or more | $4.20 | | |
| | | | | | | | |
| | | | 3" & 4" | 0-440 | $4.08 | | |
| | | | | 441-1,050 | $4.14 | | |
| | | | | 1,051 or more | $4.20 | | |
| | | | | | | | |
| | | | 6" & larger | 0-4,000 | $4.08 | | |
| | | | | 4,001-10,000 | $4.14 | | |
| | | | | 10,001 or more | $4.20 | | |
| | | | | | | | |
| 25 | 25.03 E.6.(c) | Recycled Commercial [1] | under 10" | 0-173 | $2.97 | | |
| | | | | 174-831 | $3.03 | | |
| | | | | 832 or more | $3.07 | | |
| | | | | | | | |
| | | | 10" & larger | 0-7,426 | $2.97 | | |
| | | | | 7,427-14,616 | $3.03 | | |
| | | | | 14,617 or more | $3.07 | | |
| | | | | | | | |
| 25 | 25.03 E.7.(b) | Potable Temporary and Construction Water Service Rates [1] | 1" & smaller | 0-54 | $9.56 | | |
| | | | | 55-199 | $9.66 | | |
| | | | | 200 or more | $9.78 | | |
| | | | | | | | |
| | | | 1.5" & 2" | 0-144 | $9.56 | | |
| | | | | 145-355 | $9.66 | | |
| | | | | 356 or more | $9.78 | | |
| | | | | | | | |
| | | | 3" & larger | 0-550 | $9.56 | | |
| | | | | 551-1,200 | $9.66 | | |
| | | | | 1,201 or more | $9.78 | | |
| | | | | | | | |
| 25 | 25.03 E.8.(b) | Recycled Temporary and Construction Water Service Rates [1] | 3/4" - 1" | 0-32 | $8.16 | | |
| | | | | 33-75 | $8.28 | | |
| | | | | 76 or more | $8.40 | | |

[1] All Water used in February and billed in March 2016.

| Section # | Code # | Fee Description | Meter Size | | Charges | | |
|---|---|---|---|---|---|---|---|
| 25 | 25.03 E.8.(b) | Recycled Temporary and Construction Water Service Rates (continued) [1] | 1.5" & 2" | 0-130 | $8.16 | | |
| | | | | 131-325 | $8.28 | | |
| | | | | 326 or more | $8.40 | | |
| | | | | | | | |
| | | | 3" & 4" | 0-440 | $8.16 | | |
| | | | | 441-1,050 | $8.28 | | |
| | | | | 1,051 or more | $8.40 | | |
| | | | | | | | |
| | | | 6" & larger | 0-4,000 | $8.16 | | |
| | | | | 4,001-10,000 | $8.28 | | |
| | | | | 10,001 or more | $8.40 | | |
| | | | | | | | |
| 25 | 25.03 E.10.(b) | Tank Trucks Water Rates [1] | 1" & smaller | 0-54 | $9.56 | | |
| | | | | 55-199 | $9.66 | | |
| | | | | 200 or more | $9.78 | | |
| | | | | | | | |
| | | | 1.5" & 2" | 0-144 | $9.56 | | |
| | | | | 145-355 | $9.66 | | |
| | | | | 356 or more | $9.78 | | |
| | | | | | | | |
| | | | 3" & larger | 0-550 | $9.56 | | |
| | | | | 551-1,200 | $9.66 | | |
| | | | | 1,201 or more | $9.78 | | |
| | | | | | | | |
| 25 | 25.03 E.11.(c) | Application Fee for Water Service Outside District Boundaries | | | $500.00 | | |
| | | | | | | | |
| 25 | 25.03 E.11.(d) | Water Rate for Service Outside District Boundaries [1] | 1" & smaller | 0-54 | $9.56 | | |
| | | | | 55-199 | $9.66 | | |
| | | | | 200 or more | $9.78 | | |
| | | | | | | | |
| | | | 1.5" & 2" | 0-144 | $9.56 | | |
| | | | | 145-355 | $9.66 | | |
| | | | | 356 or more | $9.78 | | |
| | | | | | | | |
| | | | 3" & larger | 0-550 | $9.56 | | |
| | | | | 551-1,200 | $9.66 | | |
| | | | | 1,201 or more | $9.78 | | |
| | | | | | | | |
| 25 | 25.03 E.12.(b) | Application Fee for Water Service Outside an Improvement District | | | $275.00 | | |

[1] All Water used in February and billed in March 2016.

| Section # | Code # | Fee Description | Meter Size | | Charges | | |
|---|---|---|---|---|---|---|---|
| 25 | 25.03 E.12.(c) | Water Rate for Service Outside Improvement District [1] | 1" & smaller | 0-54 | $9.56 | | |
| | | | | 55-199 | $9.66 | | |
| | | | | 200 or more | $9.78 | | |
| | | | | | | | |
| | | | 1.5" & 2" | 0-144 | $9.56 | | |
| | | | | 145-355 | $9.66 | | |
| | | | | 356 or more | $9.78 | | |
| | | | | | | | |
| | | | 3" & larger | 0-550 | $9.56 | | |
| | | | | 551-1,200 | $9.66 | | |
| | | | | 1,201 or more | $9.78 | | |
| | | | | | | | |
| 25 | 25.03 E.13.(c) | Fire Service Monthly Charge | 3" or less | | $24.69 | | |
| | | | more than 4" | | $33.27 | | |
| | | | | | | | |
| 25 | 25.03 E.14.(b) | Additional Water Service for Property Not Subject to District Taxes | | per unit | $0.37 | | |
| | | | | | | | |
| 25 | 25.03 E.15.(b) | Interim Service Water Rate in Improvement District 7 [1] | 1" & smaller | 0-54 | $9.56 | | |
| | | | | 55-199 | $9.66 | | |
| | | | | 200 or more | $9.78 | | |
| | | | | | | | |
| | | | 1.5" & 2" | 0-144 | $9.56 | | |
| | | | | 145-355 | $9.66 | | |
| | | | | 356 or more | $9.78 | | |
| | | | | | | | |
| | | | 3" & larger | 0-550 | $9.56 | | |
| | | | | 551-1,200 | $9.66 | | |
| | | | | 1,201 or more | $9.78 | | |
| | | | | | | | |
| 25 | 25.03 F. | Energy Charges for Pumping Water [1] | | Per 100 ft of lift over 450 ft per unit | $0.072 | | |
| | | | | | | | |
| 25 | 25.04 A. | Deposits for Non-Property Owners | 3/4" | | $75.00 | | |
| | | | 1" | | $150.00 | | |
| | | | 1-1/2" | | $200.00 | | |

[1] All Water used in February and billed in March 2016.

| Section # | Code # | Fee Description | Meter Size | Charges | | |
|---|---|---|---|---|---|---|
| 25 | 25.04 A. | Deposits for Non-Property Owner (continued) | 2" | $360.00 | | |
| | | | 3" | $800.00 | | |
| | | | 4" | $1,350.00 | | |
| | | | 6" | $3,300.00 | | |
| | | | 8" | $4,400.00 | | |
| | | | 10" | $5,500.00 | | |
| | | | | | | |
| 28 | 28.01 B.1. | Capacity Fees and Zone Charge | | District-wide Capacity Fee | | |
| | | - All IDs excluding Triad | 3/4" | $8,310.06 | | |
| | | | 1" | $20,775.15 | | |
| | | | 1-1/2" | $41,550.30 | | |
| | | | 2" | $66,480.48 | | |
| | | | 3" | $132,960.96 | | |
| | | | 4 | $207,751.50 | | |
| | | | 6" | $415,503.00 | | |
| | | | 8" | $664,804.80 | | |
| | | | 10" | $955,656.90 | | |
| | | | | | | |
| | | - TRIAD | 3/4" | $6,234.63 | | |
| | | | 1" | $15,586.58 | | |
| | | | 1 -1/2" | $31,173.15 | | |
| | | | 2" | $49,877.04 | | |
| | | | 3" | $99,754.08 | | |
| | | | 4 | $155,865.75 | | |
| | | | 6" | $311,731.50 | | |
| | | | 8" | $498,770.40 | | |
| | | | 10" | $716,982.45 | | |
| 28 | 28.01 B.2. | New Water Supply Fee | | | | |
| | | - All IDs including Triad | 3/4" | $1,029.39 | | |
| | | | 1" | $2,573.48 | | |
| | | | 1-1/2" | $5,146.95 | | |
| | | | 2" | $8,235.12 | | |
| | | | 3" | $16,470.24 | | |
| | | | 4" | $25,734.75 | | |
| | | | 6" | $51,469.50 | | |
| | | | 8" | $82,351.20 | | |
| | | | 10" | $118,379.85 | | |
| | | | | | | |

| Section # | Code # | Fee Description | Meter Size | Charges | | | |
|---|---|---|---|---|---|---|---|
| 28 | 28.02 | Installation and Water Meter Charges | Meter Size | Meter Cost | Installation | Total | Meter Box/Vault (if Needed) |
| | | - Potable (Non-Irrigation) | 3/4" x 7.5" | $219.55 | $104.19 | $323.74 | $88.45 |
| | | | 3/4" x 9" | $233.76 | $104.19 | $337.95 | $88.45 |
| | | | 1" | $283.32 | $104.19 | $387.51 | $88.45 |
| | | | 1.5" | $460.50 | $104.19 | $564.69 | $200.52 |
| | | | 2" | $659.85 | $104.19 | $764.04 | $200.52 |
| | | | 3" | $2,056.35 | $627.30 | $2,683.65 | $3,576.92 |
| | | | 4" | $3,571.54 | $627.30 | $4,198.84 | $3,576.92 |
| | | | 6" | $6,169.03 | $990.87 | $7,159.90 | $3,576.92 |
| | | | 8" | $7,707.74 | $1,519.41 | $9,227.15 | $5,131.34 |
| | | | 10" | $11,085.17 | $1,519.41 | $12,604.58 | $5,131.34 |
| | | | | | | | |
| | | - Potable/Recycled Irrigation | 3/4" x 7.5" | $219.55 | $104.19 | $323.74 | $225.42 |
| | | | 3/4" x 9" | $233.76 | $104.19 | $337.95 | $225.42 |
| | | | 1" | $283.32 | $104.19 | $387.51 | $225.42 |
| | | | 1.5" | $460.50 | $104.19 | $564.69 | $225.42 |
| | | | 2" | $659.85 | $104.19 | $764.04 | $225.42 |
| | | | 3" | $1,423.20 | $627.30 | $2,050.50 | $3,576.92 |
| | | | 4" | $2,770.75 | $627.30 | $3,398.05 | $3,576.92 |
| | | | 6" | $4,988.25 | $990.87 | $5,979.12 | $3,576.92 |
| | | | 8" | $6,645.24 | $1,519.41 | $8,164.65 | $5,131.34 |
| | | | 10" | $9,430.10 | $1,519.41 | $10,949.51 | $5,131.34 |
| | | | | | | | |
| | | - Combined Fire and Domestic | 4" | $8,497.02 | $627.30 | $9,124.32 | $3,576.92 |
| | | | 6" | $11,308.80 | $990.87 | $12,299.67 | $3,576.92 |
| | | | 8" | $16,442.17 | $1,519.41 | $17,961.58 | $5,131.34 |
| | | | 10" | $22,438.13 | $1,519.41 | $23,957.54 | $5,131.34 |
| | | | | | | | |
| 31 | 31.02 D.1. | Requirement of Temporary Meter for Service | | minimum/per day | $25.00 | | |
| | | | | | | | |
| 31 | 31.03 A.1. | Requirement of Deposit for Temporary Meters | | | | | |
| | | | 3/4" | | $156.85 | | |
| | | | 1" | | $184.78 | | |
| | | | 1-1/2" | | $379.62 | | |
| | | | 2" | | $2,046.00 | | |
| | | | 4" | | $1,986.00 | | |
| | | | 6" | | $2,465.00 | | |

| Section # | Code # | Fee Description | Meter Size | | Charges | | |
|---|---|---|---|---|---|---|---|
| 31 | 31.03 A.1. | Requirement of Deposit for Temporary Meters (continued) | | | | | |
| | | - Construction Trailer Temporary Meter | 2" | | $2,046.00 | | |
| | | - Tank Truck Temporary Meter (Ordinance No. 372) | 2" | | $850.00 | | |
| | | | | | | | |
| 31 | 31.03 A.4. | Temporary Meter Install & Removal | | | $128.00 | | |
| | | | | | | | |
| 31 | 31.03 A.5. | Temporary Meter Move Fee (includes backflow certification) | 3/4" - 2" | | $64.00 | | |
| | | | 3" and larger | No backflow test | $64.00 | | |
| | | | | | | | |
| 33 | 33.07 A. | Customer Request for Meter Test (Deposit) | 5/8", 3/4" & 1" | | $25.00 | | |
| | | | 1-1/2" & 2 " | | $50.00 | | |
| | | | 3" & Larger | | $125.00 | | |
| 34 | 34.01 D.2. | Returned Check Charges | | | $25.00 | | |
| 34 | 34.02 B. | Late Payment Charge | | | 5% of Delinquent Balance | | |
| | | | | | | | |
| 34 | 34.02 G.1.(d) | Delinquency Tag | | | $10.00 | | |
| | | | | | | | |
| 34 | 34.02 G.3.(a) | Meter "Turn-On" Charge | | During regular business hours | $35.00 | | |
| | | | | | | | |
| 34 | 34.02 G.3.(b) | Meter "Turn-On" Charge | | After regular business hours | $65.00 | | |
| | | | | | | | |
| 53 | 53.03 A.1. | Sewer Capacity Fee per EDU for parcels within a Sewer ID | | | $4,259.11 | | |
| | | | | | | | |
| 53 | 53.03 A.2. | Sewer Capacity Fee per EDU for parcels not within a Sewer ID | | | $6,661.37 | | |
| | | | | | | | |
| 53 | 53.03 B.1. | Sewer Connection Fee - Russell Square | | | $7,500.00 | | |
| | | | | | | | |
| 53 | 53.03 B.2. | Monthly Sewer Service Charge - Russell Square | | | $200.00 | | |
| | | | | | | | |
| 53 | 53.10 & 11 | Set-up Fees for Accounts | | | $10.00 | | |
| | | | | | | | |
| 53 | 53.10 | Residential Sewer Usage Fee [(2)] | | Rate multiplied by winter average units | $2.46 | | |

[(2)] Sewer billed beginning January 1, 2016.

| Section # | Code # | Fee Description | Meter Size | | Charges |
|---|---|---|---|---|---|
| 53 | 53.10 | Residential Sewer System Fee [2] | 5/8", 3/4" & larger | | $17.19 |
| | | | | | |
| 53 | 53.10 A. | Residential Sewer Without Consumption History [2] | 5/8", 3/4" & larger | | $40.19 |
| 53 | 53.10 B. | Multi-Residential Usage Fee - Sewer Without Consumption History [2] | | | $29.27 |
| | | | | | |
| 53 | 53.10 B.2. | Multi-Residential Usage Fee - Sewer [2] | | Rate multiplied by winter average units | $2.46 |
| | | | | | |
| 53 | 53.10 B. 2. | Multi-Residential System Fee - Sewer [2] | .75" | | $27.07 |
| | | | 1" | | $39.86 |
| | | | 1.5" | | $71.82 |
| | | | 2" | | $110.17 |
| | | | 3" | | $199.66 |
| | | | 4" | | $327.51 |
| | | | 6" | | $647.12 |
| | | | 8" | | $1,030.67 |
| | | | 10" | | $1,478.12 |
| | | | | | |
| 53 | 53.11 | Commercial and Institutional Sewer Strength Factors | Low Strength | 1 | |
| | | | Medium Strength | 2 | |
| | | | High Strength | 4 | |
| | | | | | |
| 53 | 53.11 | Monthly Usage Fee for Commercial and Institutional Sewer [2] | Rate multiplied by | Low Strength | $2.46 |
| | | | annual avg. | Medium Strength | $3.53 |
| | | | units | High Strength | $5.63 |
| | | | | | |
| 53 | 53.11 | Monthly System Fee for Commercial and Institutional Sewer [2] | .75" | | $27.07 |
| | | | 1" | | $39.86 |
| | | | 1.5" | | $71.82 |
| | | | 2" | | $110.17 |
| | | | 3" | | $199.66 |
| | | | 4" | | $327.51 |
| | | | 6" | | $647.12 |
| | | | 8" | | $1,030.67 |
| | | | 10" | | $1,478.12 |

[2] Sewer billed beginning January 1, 2016.

| Section # | Code # | Fee Description | Meter Size | Charges | | |
|---|---|---|---|---|---|---|
| 60 | 60.03 | Issuance of Availability Letters for Water and/or Sewer Service | | $75.00 | | |
| 72 | 72.04 A.1. | Locking or Removing Damaged or Tampered Meters | | | | |
| | | - To Pull and Reset Meter | 3/4" - 2" | $170.00 | | |
| | | - Broken Curbstop or Tabs | 3/4" - 1" | $192.00 | | |
| | | - If Customer uses Jumper | 3/4" - 1" | $149.00 | | |
| | | - Broken Lock/Locking Device | 3/4" - 1" | $56.00 | | |
| | | - Cap Lock (Welded) | 3/4" - 1" | $158.00 | | |
| | | - Broken Curbstop or Tabs | 1.5" - 2" | $265.00 | | |
| | | - To Pull and Reset Meter | 3" | $351.00 | | |
| | | - To Pull and Reset Meter | 4" | $454.00 | | |
| | | - To Pull and Reset Meter | 6" | $454.00 | | |
| | | - To Pull and Reset Meter | 8" | $600.00 | | |
| | | - To Pull and Reset Meter | 10" | $600.00 | | |
| | | | | | | |
| 72 | 72.05 D. A. | Type I Fine | | | | |
| | | - First Violation | | $100.00 | | |
| | | - Second Violations | | $200.00 | | |
| | | - Third or each additional violation of that same ordinance or requirement within a twelve-month period | | $500.00 | | |
| | | | | | | |
| | | Type II Fine | Will not exceed per each day the violation is identified or continues. | $5,000.00 | | |
| | | | | | | |
| | | Type III Fine | Fine up to amount specified per each day the violation is identified or continues. | $500.00 | | |
| | | | | | | |
| | | Type IV Fine | Fine up to amount specified per each day the violation is identified or continues. | $500.00 | | |
| | | | | | | |

| Section # | Code # | Fee Description | Meter Size | Charges | | |
|---|---|---|---|---|---|---|
| State Water Code | #71630 & Annual Board Resolution #4142 | Water Availability/Standby Annual Special Assessment Charge | Less than one-acre all I.D.s & Outside an I.D. | $10.00 | | |
| | | | Per acre in I.D. 1, 5, & Outside an I.D. | $10.00 | | |
| | | | | | | |
| | | | Per acre in I.D. 2,3,7,9,10,19,20,22,25, & 27 | $30.00 | | |
| | | | | | | |
| | | | Less than one-acre Outside I.D. and greater than one mile from District facilities. | $3.00 | | |
| | | | | | | |
| | | | Per acre for outside I.D. & greater than one mile from District facilities. | $3.00 | | |
| | | | | | | |
| State Water Code | #71630 & Annual Board Resolution #4142 | Sewer Availability/Standby Annual Special Assessment Charge | Less than one acre I.D. 4, 14, & 18 | $10.00 | | |
| | | | | | | |
| | | | Per acre I.D. 4, 14, & 18 | $30.00 | | |
| | | | | | | |
| Annual Board Resolution | | General Obligation Bond Annual Tax Assessment | Per $1000 of assessed value for I.D. 27 | $0.005 | | |

**Policies**

| | | | | | |
|---|---|---|---|---|---|
| 5 | Copies of Identifiable Public Records | | $0.10/page | | |
| | Cassette Tape Duplication | | $2.00/tape | | |
| | Yearly Subscription Service for Agendas and Ratified Minutes | | $20.00/year or $0.50/meeting | | |
| | Yearly Subscription Service for Board Packet and Ratified Minutes | | $100.00/year for first copy and $200.00/year for each copy thereafter | | |

OTAY WATER DISTRICT

BOARD OF DIRECTORS POLICIES

OTAY WATER DISTRICT
BOARD OF DIRECTORS POLICIES

# I N D E X


| Policy | Subject |
|---|---|
| 01 | Cleaning of Private Sewer Laterals |
| 02 | Employee Recognition |
| 03 | Detachment of Land from Improvement Districts |
| 04 | Quotations for Fees or Charges |
| 05-A | Records Retention and Destruction |
| 05-B | Records Policy and Procedures - Accessibility |
| 06 | Annual Capital Improvement Program Development |
| 07 | Conditions for Installment or Deferred Payments to the District |
| 08 | Directors Compensation, Reimbursement of Expenses and Group Insurance Benefits |
| 09 | Land Acquisition |
| 10 | Requirement of Approval for a Private Lateral |
| 11 | Requests of Developers to Place Covenants on Maps Being Processed |
| 12 | Employment or Termination of Employment of District Personnel |
| 13 | Use of District Boardroom/Meeting Rooms |
| 14 | Use of District Vehicles and Car Allowance |
| 15 | Use of District Credit Cards, Petty Cash, and Expenditures Involving District Credit |
| 18 | Private or Public Water and Sewer Systems on Private Property |
| 19 | Tobacco Free Campus |
| 21 | Policy for Selection of Professional Consultants |
| 22 | Drug Free Workplace Policy and Procedure |


Policy Subject

| | |
|---|---|
| 23 | Provisions for Allowing a Sewage Pump Station to be Constructed in Lieu of a Gravity Sewer |
| 24 | Recruitment, Selection and Employment Policy |
| 25 | Reserve Policy |
| 26 | District Administration of Reimbursement Agreements |
| 27 | District Investment Policy |
| 28 | Joint Use of Land Adjacent to and above Reservoirs |
| 29 | Claims Handling Procedure |
| 31 | Encouraging Disadvantaged Business Enterprise Firms |
| 33 | Redistricting of Directors Division Boundaries |
| 34 | Staff Travel and Business Related Expenses Policy |
| 35 | Medical Reserve Fund for District Retirees |
| 37 | Bilingual Program |
| 38 | Zero Tolerance for Violence in the Workplace |
| 40 | Ethics Policy |
| 41 | Employee Compliance with District's Conflict of Interest Code |
| 42 | Participation in Community Events and Programs/Sponsorship Opportunities |
| 44 | Review of Procedures Policy |
| 45 | Debt Policy |
| 46 | Media Relations Policy |
| 47 | Policy Against Discrimination and Harassment and Complaint Procedure |
| 48 | ADA/FEHA Disability Policy |
| 49 | Budget Policy – PENDING |
| Policy | Subject |
| 50 | Antifraud Policy |

51 Identity Theft Red Flags Policy

52 District Administration of Recycled Water Retrofit Program

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| CLEANING OF PRIVATE SEWER LATERALS | 01 | 10/15/84 | |

Purpose.

To establish policy determining that sewer laterals are the responsibility of property owners and not the District.

Background.

The District operates and maintains District sewer mains which collect sewage from sewer laterals on privately-owned property. A sewer lateral is deemed to be the portion of the property owner's sewer line that connects to the District main, whether in an easement on the owner's property or in a public right-of-way. Frequently stoppage occurs within privately-owned sewer laterals due to property owner's use and requests are made to the District to clear the stoppage in the lateral.

Policy.

The District is responsible for operation and maintenance of District sewer mains, which includes cleaning of the mains. The District has no responsibility for cleaning any portion of a property owner's sewer line or sewer lateral. District personnel are prohibited from cleaning or servicing any such sewer line or lateral unless otherwise authorized to do so by the General Manager. The General Manager may grant such authorization when he deems it to be in the best interest of the District to do so. Charges may be made to the owner for such service at the discretion of the General Manager.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| EMPLOYEE RECOGNITION | 2 | 6/2/04 | 7/5/06 |

## I. PURPOSE

To establish a policy for the recognition of the extra efforts, special accomplishments, volunteer work and outstanding performance of Otay Water District employees.

## II. POLICY

It is the District's Policy to identify, recognize and celebrate employees who best demonstrate the values, mission and Strategic Plan of the District; to recognize outstanding and beyond the call of duty performance and achievements by Otay Water District employees; and to raise the standards in the performance of work, to expand employee safety and to increase excellence and efficiency in the accomplishment of projects.

## III. PROCEDURE

To provide effective recognition of extra efforts and accomplishments of employees, District staff will develop budget proposals as part of the regular budget process for Board approval.

In accordance with Code of Ordinance, Division I, Chapter 1, Section 2.01 B, the General Manager is authorized to promulgate Human Resources Policies and Procedures to explain, clarify and administer this policy.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| DETACHMENT OF LAND FROM IMPROVEMENT DISTRICTS | 03 | 10/15/84 | 8/10/11 |

Purpose.

To provide procedures and conditions for detachment of property from improvement districts under certain circumstances.

Background.

Property owners have participated in the formation and development of improvement districts in anticipation that some day water or sewer service would be available. However, due to the condition or location of the property, providing service to certain parcels may be impossible, impractical, or economically unfeasible, thus eliminating any benefit to the parcel from remaining in the improvement district.

Policy.

If a property owner can demonstrate that the property no longer benefits from remaining in an improvement district, the owner may petition the District to detach the property from the improvement district if either of the following conditions exists:

(a) The owner furnishes proof that due to governmental regulations the property cannot be developed, i.e., "Flood Control Channel," moratorium, etc., which would preclude any development.

(b) It is physically impossible or impractical for the property to receive the particular service furnished by the improvement district.

(c) The cost of facility construction required to serve the property is financially unfeasible.

There shall be no refund of property taxes previously paid on the property being detached.

If, after such detachment the owner desires to re-annex the property to an improvement district, the owner must pay all associated administrative fees be determined in accordance with District requirements as then in effect.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| QUOTATIONS FOR FEES OR CHARGES | 04 | 10/15/84 | 8/10/11 |

Purpose:

To provide that quotations given for fees and charges (including annexation fees) shall be firm for a fixed period of time following the date of issuance.

Background:

The District frequently receives requests for information regarding fees or charges for (i) annexation of land to the District or to an Improvement District, or (ii) connection to District facilities. On occasion, after giving a quotation, the fees or charges have been increased before the property owner or developer could complete arrangements for financing. This created an unforeseen hardship.

Policy:

Responses to requests for information concerning fees or charges will be furnished by the District in writing.

The amount of such fees, or charges, shall be determined in accordance with District Ordinances and District Policies.

The fees and charges are subject to change. At the time of annexation or connection, customers will be responsible to contact Otay Water District for current fees and charges.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject<br>RECORDS RETENTION AND DESTRUCTION | Policy Number<br>05-A | Date Adopted<br>2/3/10 | Date Revised<br>7/1/16 |

## I. PURPOSE

To ensure that necessary records and documents of the Otay Water District are adequately protected and maintained and to ensure that records that are no longer needed or are of no value are discarded at the proper time. This Policy also serves as assistance in providing management with the information necessary for and aiding of District employees in understanding their obligations in retaining electronic documents that are developed during phases of records creation and to assist in controlling the life cycle of all District records, including e-mail, Web files, text files, sound and movie files, PDF documents, and all Microsoft Office or other formatted files.

## II. SCOPE

This policy is applicable to all District departments and offices directly responsible to the General Manager. The objectives of the Records Retention Policy are:

- To ensure that all legal, historical, fiscal, and administrative requirements are satisfied before records are destroyed.
- To conserve District resources, such as space and staff time, by managing records and removing inactive or obsolete material from office files.
- To maintain a regular, controlled flow of records from offices to destruction or archive storage.

## III. POLICY

This policy represents the District's policy regarding the retention and disposal of records, including electronic documents. Attached as ***Appendix 1*** is a Record Retention Schedule that is approved as the District's maintenance, retention and disposal schedule for physical records and the retention and disposal of electronic documents.

## IV. DEFINITION

(a) Public Record – Any writing as set forth in California Government Code Section 6252, but generally shall include any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by the District, regardless of physical form or characteristics.

(b) Records Management – The planned and systematic control of business records from their creation or receipt, through final disposition.

(c) Records Retention Schedule – The document that outlines how long a document must be kept by law, or longer, if needed for District operations.

(d) Official Record - The records to which retention schedules apply.

(e) Retention Period – The length of time a record needs to be maintained to satisfy the purposes for which it was created, and to fulfill legal, fiscal, and administrative requirements of the District.

(f) Transitory Records – Records that are of informal communications produced via a computer (E-mail), routine requests, posted notes or other temporary medium. Transitory records are designed to have a limited retention period and as such, are not considered records unless they are in relation to another document or project.

(g) Abbreviations – The following abbreviations are used in the Records Retention Schedule:

**A** = Active Financial Audit
**ACT** = Active (e.g., while the contract is active or while an employee is still working for the District)
**C** = Closed, Expired
**CY** = Calendar Year
**FY** = Fiscal Year
**L** = Life of Facility
**P** = Permanent
**R** = Revised, Cancelled, Obsolete, or Superseded
**T** = Termination, Death

V. ADMINISTRATION

A. General

1. The District's General Manager is the officer in charge of the administration of this Policy and the implementation of processes and procedures to ensure that the Record Retention Schedule is followed.

2. The General Manager is also authorized to make modifications to these procedures and to the Record Retention Schedule from time to time to ensure that it is in compliance with local, state and federal laws including policies and procedures, the appropriate documents and record categories for the District; work with the District's General Counsel

to monitor local, state and federal laws affecting record retention; periodically review the record retention and disposal program; and monitor compliance with this Policy.

B. Suspension of Record Disposal due to Litigation or Claims

In the event the District is served with any subpoena or request for documents or any employee becomes aware of a governmental investigation or audit or the commencement of any litigation against or concerning the District, such employee shall inform the General Manager and any further disposal of documents shall be suspended until such time as the General Manager, with the advice of counsel, determines otherwise. The General Manager shall take steps to promptly inform all staff of any suspension in the further disposal of documents.

C. Records Retention Schedule Organization

1. The Record Retention Schedule is organized by type of records, description of records, governing authority, and its retention period.

D. Destruction of Records

All records shown on the Records Retention Schedule shall be retained for the period indicated on the Records Retention Schedule and may be destroyed thereafter. The General Manager or designee of the District is authorized to destroy records of the District according to the Records Retention Schedule without further authorization from the Board of Directors.

E. Method of Destruction of Records

Official records at the end of their retention period are eligible for destruction. A destruction approval report is used to list eligible records and obtain appropriate approvals. Official records shall not be destroyed if any legal action, audit or government investigation involving those records is identified. Destruction of paper records shall be by shredding or other legally acceptable method. A Certificate of Destruction or other accepted form of

documentation shall be prepared and saved permanently within the District's Retention Management System. Electronic records shall be deleted by removing those records from the system on which they reside and erasing the data. Deleted electronic records, including emails are considered to have been disposed/destroyed once they are deleted from the active computer system and any storage devices.

**CITATIONS**

B & P – Business and Professions Code

CCP - Code of Civil Procedures

CCR - Code of California Regulations

CEQA - California Environmental Quality Act

CFR - Code of Federal Regulations

CVC - California Vehicle Code

GC - Government Code

H&S - Health & Safety

LC - Labor Code

OMB - Office Management & Budget

OPS - Opinion Attorney General

OSHA - Occupational Safety & Health Act

PC - Penal Code

USC - United States Code

WC - Water Code

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| RECORDS POLICY AND PROCEDURES - ACCESSIBILITY | 05-B | 2/3/10 | |

Purpose

To set forth the procedures that will facilitate the process for responding to requests under the California Public Records Act ("CPRA").

Policy

The CPRA permits local agencies to adopt regulations stating the procedures to be followed when making their records available to the public. The Otay Water District's Board of Directors desires to set forth the procedures by which such records will be made available to the public. The Board is mindful of the constitutional right of privacy accorded to individuals and it is the intent of the Board to promulgate a policy that strikes an appropriate balance between the objectives of open government and the individual's right of privacy.

Procedures

Records Available for Inspection and Copying

Except for records exempt from disclosure by express provisions of law, records available for inspection and copying include any writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained by the District, regardless of the physical form and characteristics. The records do not have to be written but may be in another format that contains information such as computer tape or disc or video or audio recording.

"Writing" includes any handwriting, typewriting, printing, photographing, and every other means of recording upon any form of communication or representation such as letters, words, pictures, sounds, or symbols, as well as all papers, maps, magnetic or paper tapes, photographic films and prints, and electronic mail.

Making a Request for Records

There is no specific form that must be used to request records. Requests may be made orally or in writing and may be delivered in person, through the mail, via e-mail or via facsimile. The request must contain a reasonable description of the desired records. When an oral request is received, the District may request that the public records request be confirmed in writing. The District may also follow-up verbally or in writing to clarify or eliminate any confusion concerning a request. Requests must be submitted to the District Secretary.

Locating and Identifying Records

Public records are open to inspection at all times during regular District business hours. The District Secretary shall be responsible for responding to records requests and coordinating with the various departments within the District to compile documents and information responsive to such requests.

If a request for records seeks the production of records or documents that are not in existence at the time the request is made, the District is not obligated to create a document in order to respond to the request.

Form of Records Provided

Records will be made available in their original form or by a true and correct copy. Audio, photographic and computer data, or any other such records, shall be exact replicas unless the District determines it is impracticable to provide exact replicas. Any reasonably segregable portion of a record shall be provided to the public after deletion of portions that are deemed exempt from disclosure.

Common Exemptions

Certain categories of documents are generally not subject to disclosure. These include, but are not limited to: (1) preliminary drafts of certain documents that are not retained by the District in the ordinary course of business; (2) records related to pending litigation; (3)attorney-client communications; (4) personnel records, medical information, or other similar records the disclosure of which would constitute an unwarranted invasion of personal privacy; (5) corporate financial and proprietary information, including trade secrets; and (6) records protected by State or Federal law.

Time for Response

Upon receipt of a request for records, the District shall make the records promptly available to the requestor. When a copy of a record is requested, the District shall determine within ten (10) calendar days whether to comply with the request, and shall promptly inform the requestor of the District's decision and reasons therefor.

In unusual circumstances, as defined in the CPRA, the initial ten (10) calendar day period to make a determination may be extended for up to an additional fourteen (14) calendar days. If so, the District will inform the requestor of the extension, in writing,

within the initial ten (10) day period, setting forth the reasons for the extension, along with the estimated date of the District's further response.

If a written request for information is denied in whole or in part, the denial shall be in writing and shall contain the reasons for denial of access to the subject records.

Fees and Charges

The District charges for the direct costs of duplicating records (in paper, CDs, audio cassettes, tape or other appropriate medium) and for the direct cost of postage and other delivery methods as set forth on Appendix A to the District's Code of Ordinance.

Requestors of electronic records shall pay for production costs, including the cost to construct the record and the cost of programming and computer services necessary to produce the copy if response to the request requires the immediate production of a record that is otherwise only produced at regularly scheduled intervals, or if data compilation, extraction, or programming is required to produce the requested record. However, the District will not charge for access to electronic data that is accessible in its existing form (including PDF copies of agenda items that are provided in the form previously made available on the District's website) and that does not require staff to locate, identify or extract data or to incur other costs to the District.

Responding to Requests for Particular Documents

The following procedures shall apply when responding to requests for these particular categories of documents:

*Disclosure of Litigation Materials*

1. When litigation in which the District is a party is finally adjudicated or otherwise settled, records of communications between the District and the adverse party in the litigation shall be subject to disclosure including the text and terms of any settlement agreement between the parties.

2. Such disclosure shall not apply to records that are otherwise privileged under federal or state law, such as attorney-client communications, or to records sealed by the court or where disclosure is otherwise limited by the court.

*Disclosure of Information Relating to Contracts, Bids and Proposals*

1. Records of contractors' bids shall be available for inspection immediately following the opening of bids.

2. Responses to Requests for Proposals, Qualifications or Quotations and similar submittals shall be regarded as public records and are available for inspection after District staff's recommendation has been made public, unless there are elements in the proposal which are defined by the proposer as business or trade secrets and plainly marked as "Confidential," Trade Secret," or "Proprietary." Although trade secret information may be exempt from disclosure, the District typically is not in a position to establish whether the information that a proposer has submitted is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary", the District will provide the proposer who submitted the information with reasonable notice to allow the proposer to seek protection from disclosure by a court or government agency of competent jurisdiction.

3. When an individual, firm or organization is awarded a contract, information including financial information which was submitted to the District during the bid or proposal process from all proposers will be subject to disclosure unless otherwise exempt.

*Budgetary Information*

Budgetary information including bills or records of payments, which are submitted to the District's Board or other body having budgetary authority, shall be subject to disclosure unless the record is confidential or privileged under State or Federal law.

*Personal Information*

Requests for records and documents containing personal information such as social security numbers, home addresses, home telephone numbers, financial matters, and medical or employment history, should be reviewed on a case by case with the District's General Counsel. The District may respond to requests for personal information in one or more of the following ways:

1. delete or redact those portions of the records that include personal information and make the remaining portion of the record available for inspection if the remaining portion of the record is not otherwise exempt from disclosure;

2. notify the party whose personal information is being sought and provide the party with the opportunity to initiate legal proceedings or other appropriate process to prevent the release of such information;

3. seek a judicial determination as to whether or not the requested personal information should be disclosed; or

4. disclose the information where permitted, allowed or compelled to do so.

*Complaints and Complaint Information*

Information regarding complaints shall be made available. However, specific information about complainants shall be redacted from any record furnished if necessary in order to protect the privacy rights and safety of individuals making complaints and to protect an individual's right to petition government for redress of grievances.

*Electronic Mail*

E-mail shall be treated the same as other written documents. If the e-mail is kept in the ordinary course of business, it is a public record unless it falls within some exception to disclosure under the CPRA.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| ANNUAL CAPITAL IMPROVEMENT PROGRAM DEVELOPMENT | 06 | 10/15/84 | 5/4/16 |

PURPOSE

To define the policy on the preparation and approval of the annual Capital Improvement Program.

BACKGROUND

District staff develops and maintains a Water Resources Master Plan (WRMP), an Integrated Water Resources Plan (IRP), and Strategic Plan that collectively are used to prepare the annual Capital Improvement Program (CIP) and to identify the CIP projects required for ultimate build out. The WRMP is revised every five years and adopted by the Board. Annually, staff prepares a six-year moving window CIP that provides information on budget assumptions, source of funds, allocation of funds, project costs, project location, description, justification, scheduling, etc. The six-year CIP is submitted and presented to the Board of Directors to obtain approval for staff to proceed with implementation to plan, design, and construct facilities and programs necessary to meet the needs of the District.

POLICY

The General Manager, or his designee, shall prepare a proposed six-year CIP for submission to the Board of Directors for their review prior to and approval by June 30 of each fiscal year.

The CIP projects shall be reviewed and updated annually to consider appropriate revisions based on the most recent WRMP, IRP, Strategic Plan, and market condition information. The timing of projects shall be based on necessity and availability of financing. The intent is that new CIP projects will be installed as development requires the facilities. With regard to all CIP projects, it is acknowledged that compliance with the California Environmental Quality Act adds a measure of unpredictability with regard to the timing of CIP projects.

The WRMP, IRP, and the CIP projects shall be divided into two phases: Phase I - one to six years; and Phase II - seven to ultimate buildout. CIP project sheets for projects in Phase I shall be prepared and identify estimated total cost, cash expenditure timing, location, description, justification, funding allocation, and schedule. For the Phase II CIP projects, the CIP shall identify the need for the projects, along with their estimated total cost and funding allocation.

Upon approval by the Board of Directors of the annual six-year CIP, staff is authorized to proceed with planning, design, construction, etc. of those projects that have budgets within

the current fiscal year. The General Manager is authorized to redistribute funds between approved CIP projects as long as the total project budget is not exceeded and the District has adequate CIP reserves to fund the project. In addition, the General Manager is authorized to exceed the budget for specific CIP projects under the following conditions:

a. For CIP projects less than or equal to $50,000, the cumulative amount of the specific CIP project expenditures does not exceed that authorized under Code of Ordinances Section 2.01, Authority of the General Manager.
b. For CIP projects more than $50,000, the amount being authorized does not exceed the lesser of 25% of the specific CIP project budget amount or that authorized under Code of Ordinances Section 2.01, Authority of the General Manager.
c. The total fiscal year CIP budget is not exceeded.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| CONDITIONS FOR INSTALLMENT OR DEFERRED PAYMENTS TO THE DISTRICT | 07 | 10/15/84 | 10/06/10 |

PURPOSE

To establish a policy regarding conditions for making installment or deferred payments to the District.

BACKGROUND

Occasionally the District receives requests to allow payment of certain connection charges on an installment or deferred basis. Approval of these agreements will occur in very limited circumstances where it is in the District's best interest that the agreement be made. In addition, if the District is to consider such requests, the District must not be in a position of risk of loss in the event of non-payment.

POLICY

The following procedures, terms and conditions shall apply to requests and arrangements for payment to the District on an installment or deferred basis:

1. Requests for installment or deferred payments shall be reviewed by the District. Each request shall indicate the terms desired with a maximum term of 12 months. The person or party making the request shall furnish all financial information or data deemed necessary by the District to review the request.

2. The General Manager shall have authority to negotiate and execute deferral agreements with residential and non-residential customers where the value of the agreement does not exceed the General Manager's signatory authority as established in Chapter 2, Section 2.01-D of the Code of Ordinance. In addition, the General Manager will inform the Board of such executed agreements within his monthly report to the Board of Directors.
3. Where the value of the proposed agreement exceeds the General Manager's authority, the District shall make a recommendation to the Board of Directors for approval or disapproval, with reasons for the recommendation.

4. In emergency situations, the General Manager is authorized to enter into a deferral agreement exceeding his/her authority to allow a customer to connect to the District system. The General Manager shall submit all such deferral agreements to the Board for ratification at the next regularly scheduled Board meeting.

5. A minimum down payment of ten percent (10%) of the total amount to be paid in installments or on a deferred basis is required and is nonrefundable.

6. Any increases in rates, fees, or charges shall apply to all connections which have not been made at the time the increase is adopted, including but not limited to capacity fees and annexation fees.

7. The only fees that will be considered for deferral are Otay Capacity Fees and Annexations fees. All labor and materials costs will not be considered for deferral as this would place the District in a position of risk in the event of default. In addition, the District will not make arrangements for deferral of fees collected by the District on behalf of other governmental entities. These fees must be paid prior to the execution of the agreement or payment arrangements must be obtained from the CWA or MWD by the applicant.

8. For each installment or deferred payment arrangement a promissory note, payable to the District, shall be executed to provide for terms of payment of the balance of principal due, with interest payable monthly at a rate equal to five percent (5%) per annum over the Federal Reserve Discount Rate.

9. In addition to execution of a promissory note for the balance of the payment, the District will consider requiring security to guarantee payment of the promissory note, such as but not limited to, a letter of credit, performance bond, lien contract, certificate of deposit, or other security satisfactory to the District.

10. An administrative fee for the establishment of a deferral agreement of $500.00 will be charged for all such agreements.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject<br><br>DIRECTORS COMPENSATION, REIMBURSEMENT OF EXPENSES AND GROUP INSURANCE BENEFITS | Policy Number<br>08 | Date Adopted<br>2/20/91 | Date Revised<br>7/2/14 |

## Purpose

To provide guidelines for payment of compensation and reimbursement of expenses to Directors in connection with their attendance at meetings or the performance of other authorized business, and for group insurance benefits for Directors.

## Background

Members of the Board of Directors ("Directors") attend regular, adjourned or special meetings of the Board of Directors ("Board"). In addition, Directors attend other District meetings, committee meetings, association meetings, and educational seminars on behalf of the District. These meetings and seminars are related to District business, water and water related issues, and California special districts. State statutes authorize District payments for meetings, reimbursements of expenses. State law also authorizes the District to provide health and welfare benefits for active Directors and, in limited circumstances, retired Directors if they served 12 years and were first elected prior to January 1, 1995. The District is also authorized to offer health and welfare benefits for retired Directors who commenced office on or after January 1, 1995, if the recipient participates on a self-pay basis.

## Policy

The District will compensate Directors on a per diem basis for attendance at authorized meetings or functions and will reimburse Directors for reasonable expenses incurred while traveling on District business to include, lodging, dining, transportation and related incidentals.

A. Directors Per Diem

As provided in Section 1.01 C. of the District Code of Ordinances, each Director shall receive a per diem in the amount of $100 for each day of attendance at meetings of the Board or for each day of service rendered as a Director by request or authorization of the Board, not to exceed a total of ten (10) days in any calendar month. Attendance at any meeting shown on Exhibit A to this Policy shall be deemed a meeting requested or authorized by the Board. Attendance of meetings shall be in accordance with Exhibit A. The President of the Board or the Board may authorize a Director to attend meetings not listed in Exhibit A when the President or the Board determine that it is in the interest of the District that a Director attend, and that such attendance be compensated and expenses reimbursed. Director's claims for per diem amounts shall be made on a "Board of Directors Per Diem and Mileage Claim Form" (Exhibit B). The President of the Board or the Board may approve reimbursement of

expenses outside the per diem limit for a Director, if the Director submits receipts for all of the related District business expenses.

Attendance at a meeting that is not authorized by this policy (pre-approved meetings) or pre-approved by the President may be approved by the Board for per diem. Director's seeking per diem amounts for these meetings shall request that the item be presented to the Board at its next regularly scheduled meeting for consideration. The decision of the Board shall be final.

When travel arrangements require a day earlier arrival or a day later departure, Directors will not be eligible for the $100 per diem, however, reasonable expenses associated with the extended stay will be reimbursed as specified below.

B. Pre-payment of Otherwise Reimbursable Expenses

The Director may request pre-payment of registration, transportation, and lodging, using the "Board of Directors Travel Request Form" (Exhibit C). Pre-payments shall be limited to the Director's expenses only. No advances shall be made on travel expenses.

C. Reimbursement of Expenses

Each Director shall be reimbursed for travel expenses to and from the meetings described in Exhibit A or for any other authorized District business as follows:

1. Authorization

Travel associated with the attendance of meetings or functions for Directors shall be approved in advance by the Otay Water District Board President. To request approval of travel, the Director should complete a "Board of Directors Travel Request Form" (Exhibit B) in order to be eligible for compensation and/or reimbursement. Travel requests will be reviewed and approved by the Board President or the Board.

2. Transportation

a. Air Transportation
The District will endeavor to purchase airline tickets in advance taking advantage of discounts and low airfares.

b. Automobile
1. Personal Auto: Directors may use their personal vehicle. The District will reimburse Directors at the current rate/mile as established by the

IRS, plus tolls, parking, etc., provided, however, if air transportation is available, the total amount of expense paid shall be limited to the cost of coach air travel between points traveled by personal vehicle. Gasoline, collision and liability insurance, and maintenance will be provided by the Director and is deemed covered in the rate/mileage reimbursement.

Directors using personal vehicles on District business must maintain a valid California driver's license and the automobile insurance coverage required by the State of California, or make arrangements for a driver who meets the above requirements. The General Manager's Staff will verify that Directors have a valid driver's license. Directors will also be required to maintain automobile insurance coverage. Proof of such insurance will be submitted two times per year, in January and July, and is required to be eligible for mileage reimbursement.

2. Rental Cars: The District will provide a rental car when needed. Such rental car shall be a compact or mid-size class, unless upgrades are offered at no additional cost to the District.

c. Miscellaneous Transportation
Whenever practicable, bus, taxi, rail, shuttle, etc. transportation may be used in lieu of, or in conjunction with, modes above.

3. Meals and Lodging

a. Meals and Beverages
Whenever travel requires meals, the meals, excluding gratuity, shall be reimbursable, provided the Director presents a receipt along with the "Board of Directors Expense Claim Form" (Exhibit D) for all meals. Reimbursements for expense items where a receipt has been lost will not be paid until the President or the Board has reviewed and approved the expense item. Meals are reimbursable based on the Meals and Incidental Expenses (M&IE) as updated by the U.S. General Services Administration:

1. Full Day Reimbursement
When a Director is traveling for a full day and no meals are provided for by other sources, such

as pre-paid registration, the Director may be reimbursed for meal expenses at the rate provided by the M&IE per day. This amount is exclusive of any gratuities.

2. Single Meal Reimbursement
When a Director requires reimbursement for a single meal while traveling, the maximum meal reimbursement amount shall be at a rate provided by the M&IEfor Breakfast, lunch, and/or dinner, or amounts determined by the President or the Board to be reasonable for the occasion or circumstances. These amounts and any amount approved by the President or Board shall exclude gratuities.

3. Partial Day Reimbursement
When a director will be traveling for a partial day or where a single meal is provided for by other sources such as pre-paid registration, the maximum reimbursement amount shall be at the rate provided by the M&IE per meal, or such other amounts as may be determined by the President or the Board to be reasonable for the occasion or circumstances. In any event all amounts to be reimbursed shall exclude any gratuities.

4. Taxes
The maximum meal reimbursement amounts are inclusive of and assume expenses for taxes. The maximum meal reimbursements shall exclude any and all gratuities.

b. Lodging
The District will reimburse Directors or pre-pay accommodations in single rooms at conference facilities or in close proximity when applicable. Or, in the absence of conference accommodations, normal single-room business, government or commercial class accommodation may be obtained. Under normal circumstances, lodging will not be reimbursed for the night before a conference starts and the night after it ends. However, in situations where available travel schedules would require the Director to leave home before 6:00 AM or return to home after 12:00 AM, lodging for the night before or the night after will be reimbursable.

4. Entertainment

   The District shall not cover any expenses incurred for recreation or entertainment.

5. Incidental Expenses

   Unavoidable, necessary and reasonable authorized expenses will be fully reimbursed by the District. Some examples of allowable expenses are:

   a. Telephone Calls (Business): Calls placed by the Director, to the District office, or for the purpose of conducting District business. Business related calls should be itemized on the Director's "Board of Directors Expense Claim Form" (Exhibit D).

   b. Telephone Calls (Personal): One (1) brief personal call each day away from home, up to a $10 maximum per day.

   c. Telephone Calls (Local): Charges for local calls, for meal or transportation reservations, or for area information related to travel.

   d. Reasonable transportation to local restaurants and to optional functions that are a part of conference events.

   e. Parking fees.

   f. The following expenses are not reimbursable:

      1. Alcoholic beverages

      2. Parking or traffic violations

      3. In-room movies or laundry services

6. Director's Responsibility

   a. Directors must submit a detailed "Board of Directors Expense Claim Form" for reimbursement. Claim forms should be supported by vouchers and itemized receipts of expenditures for which reimbursement is being requested. Receipts must be attached for all expenses. If a receipt is lost, the lost receipt must be noted on the "Board of Directors Expense Claim Form" (Exhibit D) and approved by the President or the Board before any payment can be made. Claim forms shall be submitted within 45 calendar days after the expense was incurred. Expense claims requiring reimbursement to the District, which are not reconciled within 45 calendar days, shall be deducted

from the next month's reimbursement.

b. Expenses will not be reimbursed for meetings that have been pre-paid and not attended. The President or the Board may excuse an absence for a meeting. The absent Director shall provide a verbal or written report at the next regularly scheduled Board meeting stating the reason for the absence and, if appropriate, request that it be excused. Directors will be required to reimburse the district for any pre-paid expenses for any unexcused absence. This reimbursement will be made by deduction from future expenditures.

c. When two (2) or more Directors combine an expense on one receipt, the Director requesting reimbursement should indicate, on or attached to the Director's "Board of Directors Expense Claim Form" the identity of the other persons sharing expenses. This will facilitate appropriate allocation of expenses to each participant.

d. Except where the District sponsors a table at an event, expenses incurred by spouses, family members, or guests are the responsibility of the Director.

e. The District shall, at least annually, provide a report to disclose any reimbursement paid by the district within the immediately preceding fiscal year of at least $100 for each individual charge for services or product received. "Individual charge" (as defined in California Government Code Section 53065.5) includes, but is not limited to, one meal, lodging for one day, transportation, or a registration fee.

D. District Group Insurance Benefits

1. Each Director, while serving as a member of the Board of Directors, shall be entitled to the health and welfare and life insurance benefits set forth in the Schedule of Benefits in the District Group Insurance Plan Booklet, which benefits are furnished by the District at District cost, with applicable contributions, for active District employees and Directors. Each active Director shall also be entitled to a $65,000 term life and accidental death and dismemberment insurance policy (subject to policy requirements and any standard age reduction schedule), a $50,000 travel accidental death and dismemberment policy. In addition to the foregoing, the District will pay premiums for additional individual life insurance coverage in an amount of up to $250,000 for a 20 year term for those

active Directors who apply for such coverage with the District's provider and meet the provider's standard underwriting guidelines and policy requirements. If coverage at higher amounts or for a longer term is made available by the provider, each Director may purchase such additional coverage on a self-pay basis.

2. Each former member of the Board of Directors, who served in office after January 1, 1981, who was elected to a term of office that began before January 1, 1995, who is at least 60 years of age, and whose total service at the time of termination is not less than 12 years, shall be entitled to the health and welfare and life insurance benefits set forth in the District Group Insurance Plan Booklet, which benefits are furnished by the District, at District cost, for retired Directors.

E.Miscellaneous

Cell Phone expenses are not considered a reimbuseable expense

## Attachments

Exhibit A: Approved Function List
Exhibit B: "Board of Directors Per Diem and Mileage Claim Form"
Exhibit C: "Board of Directors Travel Request Form"
Exhibit D: "Board of Directors Expense Claim Form"

EXHIBIT A

# Approved Functions List

**Board Policy for payment of per diems and expenses for Director attendance at District meetings:**

The Board reviews its authorization and policy for payment of per diems (pre-approved meetings) annually, in January following reorganization of the Board and election of a new President. Below is the current Board policy:

1. The following meetings are pre-approved for all Directors to attend and receive a per diem and expense reimbursement:

   - Otay Water District Regular and Special Board Meetings
   - Otay committee meetings for committee members only
   - Otay business meetings called by the General Manager and authorized by the President of the Board where individual Directors are requested to attend
   - Except as otherwise specifically excluded in this policy, official District functions that take place during normal business hours where Directors are requested to attend by either the Board President or the Board
   - Semi-annual conference of the Association of California Water Agencies
   - Regular quarterly meetings of the Water Agencies Association of San Diego County
   - Regularly monthly meeting of Council of Water Utilities
   - Business meetings and conferences of the California Special District Association held in San Diego County

   All other meetings not listed here require pre-approval by the President or Board.

2. The following meetings are pre-approved for designated Otay Director representatives or designated alternate. The District Secretary will maintain an updated list of designated Director representatives. Any other Director who wishes to attend these meetings and receive a per diem must have approval from the President or Board prior to the event or be designated by the President or Board, as an alternate. The pre-approval shall include the attendance of the Director at the commission, committee, board or meeting and any committee, subcommittee or other official or posted meeting of the agencies, commissions, committees or boards listed below:

- Planning Group and City Commission meetings that fall within the boundaries of each directors district (when issues impacting OWD are discussed)
- Inter-Agency Committee Meeting
- METRO (TAC/AFFORD) Commission
- ACWA or CSDA meetings/conferences
- Water Conservation Garden

3. The Board President or his designee is pre-authorized to attend District business meetings with cities and other agencies to represent Otay Water District, and may claim a per diem and expenses. Any other Director desiring to attend the same meeting of this nature would require approval to attend from the President or the Board in order to receive a per diem and expense reimbursement.

4. When the President or the Board appoints a director(s) to a committee, the meeting(s) shall be considered pre-approved for per diem and expense reimbursement.

5. The following meetings are not eligible for pre-approved per diem claims:
   a) Attending other Districts' Board meetings
   b) Otay employee appreciation breakfast, luncheons or dinners
   c) Retirement receptions
   d) Otay picnics or dinner-dances or other purely social events
   e) CWA meeting attendance (by Otay Water District appointed CWA Board Member(s))
   f) Chamber of Commerce events
   g) First Friday Breakfasts unless presenting Otay official business to the assembly
   h) Any political campaign event or function

6. In order to submit a per diem/travel reimbursement the member must attend at least 50% of the meeting (per day) and the reimbursement request must be submitted within 45 days of the occurrence, otherwise it may be considered attended without per diem. The President of the Board will make the final determination.

7. All other meetings/conferences/tours/seminars/ workshops/functions not listed in this policy must be pre-approved by the Board President or the Board.

EXHIBIT B

**OTAY WATER DISTRICT**

**BOARD OF DIRECTORS**

**PER-DIEM AND MILEAGE CLAIM FORM**

Pay To: _____ Period Covered:

Employee Number: _____ From: _____ To: _____

| ITEM | DATE | MEETING | PURPOSE / ISSUES DISCUSSED | MILEAGE HOME to OWD OWD to HOME | MILEAGE OTHER LOCATIONS |
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**Total Meeting Per Diem:** $ _____
**($100 per meeting)**

**Total Mileage Claimed:** _____ **miles**

_____
**(Director's Signature)**

**GM Receipt:** _____ **Date:** _____

**FOR OFFICE USE: TOTAL MILEAGE REIMBURSEMENT: $**_____

EXHIBIT B

**INSTRUCTIONS ON REVERSE**

EXHIBIT B

**INSTRUCTIONS FOR PREPARATION OF**
**BOARD OF DIRECTORS PER DIEM CLAIM FORM**

1. Record the date, and name or purpose/issues discussed of meeting attended on behalf of the District.

   Note: The District will pay Director's per-diem for one meeting/ function per day and the maximum of 10 meetings/functions per month. If a Director attends more than 10 meetings/functions (10 days), the District will reimburse for the mileage and any reimbursable out-of-pocket expenses incurred for these additional meetings.

2. Record number of miles (round trip) driven to attend meeting/ function.

The use of personal vehicles in the conduct of official District business shall be reimbursed at the current Internal Revenue Service rate. The Director's expense claim should indicate the nature of the trip. If a trip begins at home, the District will reimburse the mileage from home to destination and return mileage. District insurance does not cover personal vehicles while they are being driven on District business. The reimbursement rate is inclusive of an allowance for insurance costs. The District will reimburse Directors for the deductible under their personal insurance policy should they be involved in an accident while on District business. To be eligible for reimbursement, each Director shall maintain a current California driver’s license and at least the minimum vehicle liability insurance required by State law or shall arrange for a driver who meets said standards.

The District will not reimburse the cost of travel of a personal nature taken in conjunction with travel on official business.

Claim forms shall be submitted within 45 calendar days after the meeting date. Expense claims requiring reimbursement to the District which are not reconciled within 45 calendar days, shall be deducted from the next month’s reimbursement.

**No information on the Per Diem Claim Form may be designated as confidential in nature. All expenses must be fully disclosed on the form.**

EXHIBIT C

# OTAY WATER DISTRICT

## BOARD OF DIRECTORS
## TRAVEL REQUEST FORM

**Director:** _____ **Date of Request:** _____

**Name and Location of Function:** _____

**Date(s) function to be held:** _____ - _____

**Sponsoring Organization:** _____

**Request for Prepayment of Fees Related to the Function:**

| Expense Type | Not Needed | Pre-Payment Requested |
|---|---|---|
| Registration | ☐ | ☐ |
| Airline | ☐ | ☐ |
| Auto Rental | ☐ | ☐ |
| Mileage | ☐ | N/A |
| Taxi/Shuttle | ☐ | N/A |
| Lodging | ☐ | ☐ |
| Meals | ☐ | N/A |
| Other Expenses – Explain Below | ☐ | ☐ |

**Lodging Preference:** _____

**Explanation of Other Expenses:** _____

_____ _____

**Signature of Director** **Date of Request**

**For Office Use Only Below This Line**

**Date of Board Approval:** _____

| Expense Type | Description | Amount Pre-Paid |
|---|---|---|
| Registration | | |
| Airline | | |
| Auto Rental | | |
| Mileage | | N/A |
| Taxi/Shuttle | | N/A |
| Lodging | | |
| Meals | | N/A |
| Other Expenses | | |

_____ _____

District Secretary Date Processed

EXHIBIT D

**OTAY WATER DISTRICT**

**BOARD OF DIRECTORS**
**EXPENSE CLAIM FORM**

Pay To: _____ Period Covered:

Employee Number: _____ From: _____ To: _____

ITEMIZED REIMBURSEMENT CLAIMED

| Date | Type of Reimbursement | Amount |
|---|---|---|
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TOTAL Reimbursement Claimed: $ _____

Director Signature: _____ Date: _____

GM Receipt: _____ Date: _____

**INSTRUCTIONS ON REVERSE**

EXHIBIT D

**INSTRUCTIONS FOR PREPARATION OF**
**BOARD OF DIRECTORS EXPENSE CLAIM FORM**

The necessary expenses incurred while traveling on District business including common carrier fares (economy class), automobile rental charges, District business telephone calls, one personal telephone call home each day ($10 maximum per day), lodging, baggage handling, parking fees, meals, etc. will be reimbursed when documented on the Director's Per Diem and Expense Claim Forms. Receipts must be attached for all meal expenses. If a receipt is lost, the lost receipt should be noted next to the expense and submitted to the President before any reimbursement can be made. Receipts are required for the reimbursement of all expenses.

All receipts must have the nature of the expense and the business purpose noted on the receipt.

The District will not reimburse the cost of travel of a personal nature taken in conjunction with travel on official business.

Meals shall be reimbursed up to $46 per day, or an amount determined by the President of the Board of Directors to be reasonable for occasion or circumstances, exclusive of any gratuities. Partial days shall be reimbursable at a rate of $8 for breakfast, $13, for lunch and $25 for dinner, or amounts determined by the President of the Board of Directors to be reasonable for the occasion or circumstances, excluding any gratuities. The above amounts may be combined if travel status requires two (2) or more meals. The meal reimbursement amounts are inclusive of and assume expenses for taxes only. Gratuities are not reimbursable and are excluded. Where pre-paid registration includes meals, only meals that are not included in the registration will be reimbursable.

Any receipts that include costs of personal travel (e.g., hotel receipt for employee and spouse) should identify what the cost would have been without personal travel (e.g., single room rate as opposed to double room rate).

Claim forms shall be submitted within 45 calendar days after the expense was incurred. Expense claims requiring reimbursement to the District which are not reconciled within 45 calendar days, shall be deducted from the next month’s reimbursement.

**No information on the Expense Claim Form may be designated as confidential in nature. All expenses must be fully disclosed on the form.**

**The following expenses are <u>not reimbursable:</u>**

**a. Alcoholic Beverages**

**b. Parking or traffic violations**

**c. In-room movies**

**d. Laundry service**

**e. Entertainment or recreation**

**f. Expenses incurred by spouses, family members, or guests.**

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| LAND ACQUISITION | 09 | 10/15/84 | 8/10/11 |

PURPOSE

To establish criteria for acquisition of land for District facilities.

BACKGROUND

From time to time the District has needed to acquire land for construction, maintenance, and operation of District facilities.

Occasionally, the District needs to acquire land for expansion of an existing facility or to obtain land in an area which has been developed. Acquiring land after development within the area has proven costly to the District because of increased cost or lack of availability of land at the desired site.

POLICY

To eliminate the necessity of acquiring additional land at a later date or of acquiring land after an area has been developed, the following procedures shall be followed:

1. Prior to acquisition of any land for District facilities an engineering study shall be performed to determine all future needs of the District at any site or in any area which is being planned for development.

2. Land to be acquired shall be of a size to fulfill the Engineering Department's recommendation of anticipated needs.

3. At the time tentative maps are filed with the District for large subdivision developments, a determination shall be made by the District to acquire any land that may be needed for other future District facilities. If it is determined that the District will need land, arrangements shall be made with the developer to have a parcel or parcels of land set aside for future use by the District.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| REQUIREMENT OF APPROVAL FOR A PRIVATE LATERAL | 10 | 10/15/84 | 4/06/16 |

Purpose

To provide conditions for waiver of District ordinances that will authorize use of a private lateral (also known as a "spaghetti line") for water or sewer service.

Background

The District often receives requests from owners of property for permission to use a private lateral instead of extending a District water or sewer main. If it has been determined that it is not practical or feasible to extend a main, the District will consider approval of the use of a private lateral.

Policy

When an application is made for water or sewer service, together with a request for permission to use a private lateral, District Engineers will make an evaluation to determine 1) whether District facilities can or should be extended or 2) whether a private lateral should be used. The General Manager, or his designee, is hereby authorized to make the determination on whether the existing District line shall be extended in accordance with District Ordinances or whether use of a private lateral will be permitted.

If it is determined that it is not practical to extend District water facilities and a private lateral for water service should be permitted, District Engineers shall recommend the size and type of lateral to be connected to the District water system to assure adequate water service to the property.

If it is determined that it is not practical to extend District sewer facilities and a private lateral for sewer service should be permitted, District Engineers shall recommend the size and type of lateral to be connected to the District sewer system.

An Agreement for Use of a Private Lateral ("Private Lateral Agreement") associated with the property shall be executed by the property owner(s) and the District prior to the start of the construction of a private lateral. The Private Lateral Agreement shall also be recorded with the property. All costs associated with a private lateral will be the responsibility of the property owner. Easements or rights-of-way

required for the private lateral shall also be the responsibility of the property owner.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| REQUESTS OF DEVELOPERS TO PLACE COVENANTS ON MAPS BEING PROCESSED | 11 | 10/15/84 | |

## Purpose

To establish guidelines regarding requests from property owners or developers for placement of covenants on maps being processed by the County in lieu of other security required by the District.

## Background

When maps are being processed through the County of San Diego, the District generally imposes certain requirements for providing water or sewer service to the lots or parcels to be created under the map. The District requires that a guarantee of performance of these requirements be made before final approval of the map. Owners or developers often request that completion of the requirements be delayed until after final approval of the map by inserting a "covenant" on the map which would provide that a building permit will not be issued for any of the parcels or lots on the map until the covenant has been fulfilled. District experience has been that the use of the covenant is not a satisfactory guarantee for fulfilling the requirements of its ordinances to provide service to subdivisions and lot splits in the District.

## Policy

In the processing of subdivision or parcel maps it is the District policy not to approve covenants placed on maps to fulfill the District ordinance requirements for providing water or sewer service.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| EMPLOYMENT OR TERMINATION OF EMPLOYMENT OF DISTRICT PERSONNEL | 12 | 8/21/91 | 11/06/13 |

PURPOSE

To establish procedures for the employment or termination of executive, staff and other personnel.

BACKGROUND

Section 71340 of the California Water Code provides that the Board of Directors of Municipal Water Districts shall appoint the following personnel, who are designated as officers of the District: Secretary, Treasurer, Attorney, General Manager and Auditor. In addition, the Board may appoint a Deputy Secretary and a Deputy Treasurer. Each of such officers is to serve at the pleasure of the Board. Section 71341 of the California Water Code provides that the Board may appoint such additional assistants and employees as it deems necessary to operate the District. The essence of these provisions is set forth in Section 1.02 of the District Ordinances.

Section 71362 of the California Water Code provides that, subject to the approval of the Board of Directors, the General Manager shall have the authority to employ and discharge all employees and assistants, other than those referred to in Section 71340, at pleasure, and to prescribe their duties and fix their compensation. These provisions are set forth in Section 2.01 of the District Ordinances. All employment at the District is thus "at-will," pursuant to Section 71362, and both employees and the District have the right to terminate employment at any time, with or without advance notice, and with or without cause.

POLICY

In accordance with the above provisions, the District shall employ or terminate District personnel as follows:

1. The employment or termination of personnel for the District position of General Manager, Secretary, Deputy Secretary, Treasurer, Deputy Treasurer, Attorney, Controller or Auditor, or the assistant or deputy to any of such positions, shall be made only by action of the Board of Directors.

2. The General Manager shall employ or terminate personnel for the District position of Assistant General Manager provided that, prior to taking final action thereon, the General Manager shall notify the Board of Directors of his/her intention to so employ or terminate.

3. The General Manager shall employ or terminate personnel for all other District positions.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| USE OF DISTRICT BOARDROOM/MEETING ROOM | 13 | 3/4/85 | 11/05/03 |

## PURPOSE

To establish rules and procedures for use of the District Boardroom/meeting rooms for purposes other than Otay Water District activities.

## BACKGROUND

The District Boardroom is primarily utilized for meetings of the Otay Water District Board of Directors, public hearings and other District activities. Frequently, the District receives requests from various agencies, groups or committees to utilize the Boardroom or other meeting room facilities.

## POLICY

Arrangements for such use shall be made in advance by filing a District Application for use of District Facilities form which shall specify the rules and regulations pertaining thereto. Said rules and regulations shall include:

1. The application must be made by a resident of the District who is also a duly-appointed representative of the association or group seeking to use the Boardroom or meeting facilities. The group or association must consist primarily of District residents.

2. Priority of uses:

   a. Otay Water District related meetings have first priority.

   b. Government agencies.

   c. Non-profit or public benefit organizations consisting primarily of District residents.

3. The Boardroom shall be available no later than 10:00 p.m. on weekdays. It shall not be available weekends or holidays.

4. No smoking, food or beverages.

5. A cleaning deposit of $150 shall be required from groups other than government agencies.

6. The group/association shall agree to defend, hold harmless and indemnify the District from any liability arising out of the use of District property and shall obtain insurance in

the amount of $1,000,000 with the District named as an additional insured. Governmental entities shall not be required to obtain insurance.

7. The group/association shall be liable for all theft and/or damages to equipment, furniture, etc. that may occur during their use of the District's facilities.

8. No admission fee may be charged by the user.

9. No games of chance, lottery or gambling of any kind.

10. No illegal activity shall be permitted.

11. Minor children must be supervised at all times while on District property.

12. No decorations may be affixed to furniture, walls, ceilings or fixtures.

13. No animals are allowed except assistance/service dogs.

14. District telephones are not available for public use.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| USE OF DISTRICT VEHICLES AND CAR ALLOWANCE | 14 | 7/1/85 | 10/5/11 |

PURPOSE

To prescribe rules and regulations for the use of District vehicles by Directors and employees of the District and the provision of a car allowance for certain executive employees.

BACKGROUND

Certain District vehicles are made available for use by designated employees and Directors during business hours and in some instances during off-duty hours. Executive staff may be provided a vehicle allowance in lieu of the availability and use of District vehicles.

POLICY

The following rules shall apply to the use of District vehicles:

1. Executive Management

   Certain District vehicles are assigned to specific executive management employees on a 24-hour basis, including personal use. These vehicles are provided pursuant to employment agreements authorized by the Board of Directors or General Manager. A list of District vehicles assigned to District employees is maintained by Human Resources.

2. Automobile Allowance

   Executive staff consisting of Department Chiefs and Assistant General Managers may be provided a vehicle allowance, in lieu of a District vehicle, as determined by the General Manager. These employees shall be required to maintain automobile insurance at the minimum levels required by state law. These employees shall use their personal vehicles to conduct District business within San Diego County and may only use District vehicles for business trips out of San Diego County, or in unusual circumstances (i.e., 4-wheel drive necessary).

   When using their personal vehicles, all operating expenses are to be borne by these employees.

3. Certain District service vehicles are assigned to specific management, supervisory, and crew leader positions on a 24-hour per day basis for emergency purposes. A list of District service vehicles assigned to District employees is maintained by Human Resources. Such personnel are authorized to use the vehicles assigned to them day or night to respond to District business requirements.

Each person is also authorized to use the vehicle for transportation to and from his residence and to store the vehicle at his residence when the vehicle is not being used for District business. Certain management, supervisory and crew leaders may also use the vehicle for educational activities, personal errands during lunch breaks and on their way to and from work, and for medical appointments occurring during work hours. Other use of such vehicles is not authorized. Transportation of non-district personnel for non-district business requires the approval of the General Manager or designee. Employees must comply with all District policies, procedures and must remain sensitive to the public's perception of them while using District vehicles. The transportation of firearms, ammunition, explosives, hazardous materials, alcoholic beverages or illegal drugs is strictly prohibited.

Each employee assigned a District vehicle is responsible for Social Security and income taxes relating to the commuting value and will comply with Internal Revenue Service regulations relating to de minimis use.

4. Use of other District vehicles (i.e., pool vehicle) outside of normal business hours may be made only upon prior approval of the General Manager or designee.

5. Use of any District vehicle outside of San Diego County may be made only with the prior approval of the General Manager or designee.

6. District employees may use District pool vehicles only for transportation required to perform their official District duties. Authorization must be obtained from General Manager or designee to transport non-District personnel in pool vehicle while on District Business.

7. Only when a District pool vehicle is not available, may District employees, other than those mentioned in paragraph "1" above, use their own private vehicles for transportation required to perform their official District duties, and only if the employee maintains automobile insurance in at least the minimum amounts required by state law and a valid California driver's license. Private motor vehicles may not be used for any business purpose if the above insurance and license requirements are not in place. In such instances, the employee shall receive reimbursement for mileage at the established IRS rate. Authorization must be obtained from the General Manager or a designee to transport non-District

personnel in one's own private vehicle while on District Business.

8. The use of tobacco products, as defined in Board Policy No. 19, is prohibited in all District vehicles, including those assigned to an employee and all vehicles available to employees for general District business such as pool vehicles, utility trucks, Vactor trucks, heavy equipment, etc.

9. While driving, all activities that would distract an employee from driving a District vehicle safely are prohibited (i.e., eating and drinking). The use of a cell phone, while driving, must comply with state law. Text messaging, email, and other forms of electronic communication are prohibited in a moving vehicle. Passengers are also discouraged from the above activities when they are needed to assist a driver to safely maneuver a vehicle. Occasional snacks are acceptable as long as it does not distract the driver or passenger from the primary task of driving or assisting the driver.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| USE OF DISTRICT CREDIT CARDS, PETTY CASH, AND EXPENDITURES INVOLVING DISTRICT CREDIT | 15 | 4/7/86 | 5/7/2008 |

PURPOSE

To prescribe rules and regulations for use of District credit cards, petty cash and expenditures involving District credit.

BACKGROUND

The General Manager may authorize the issuance of credit cards only for use in connection with approved District-related business. In addition, District employees may be authorized to make petty cash expenditures on behalf of the District.

POLICY

The following rules shall apply to the use of District credit cards, petty cash and expenditures involving District credit:

1. Credit Cards

   a. The General Manager may be issued and may authorize credit cards to be issued to District employees and to District Board Secretaries. Credit cards shall be issued and used in compliance with the District's Purchasing Manual and applicable statutes and laws.

2. Petty Cash

   a. District petty cash funds shall be used for the convenience of the operation of the District.

   b. Petty cash, to the limit established by the General Manager, may be obtained from the District Finance Department only upon completion of the proper form and approval by the General Manager or his/her designee.

   c. Cash advanced must be used or returned as soon a practical, but not later than 15 days from date issued.

   d. Reconciliation of petty cash and expenditures must be made on the prescribed District form. Receipts for expenditures must accompany such reconciliation. Occasionally receipts may not be available; and, if so, such fact must be noted on the reconciliation form and the reason presented.

e. Petty cash may be utilized to advance monies during District emergencies.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| REPRESENTATION OF EMPLOYEE ORGANIZATIONS AT MEETINGS OF THE DISTRICT BOARD OF DIRECTORS | 16 | 5/19/86 | 2/19/92 |

POLICY 16 DELETED 7/2/03

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| PRIVATE OR PUBLIC WATER AND SEWER SYSTEMS ON PRIVATE PROPERTY | 18 | 8/17/87 | 8/10/11 |

PURPOSE

To establish policy for determining whether water and/or sewer systems on private property should be private systems or become part of the District public systems.

BACKGROUND

Private residential and commercial developers with on-site water and/or sewer systems have requested the District to accept these systems as public systems to be operated and maintained by the District. In order to properly operate and maintain the systems on private property, it is necessary that such systems be constructed of the same materials and to the same District Standards and Specifications as required in public streets.

POLICY

Water and/or sewer systems constructed on private property to solely serve the private property shall be considered private systems, not subject to District operation and maintenance, unless the systems are constructed in accordance with this policy and accepted by the District. Water and sewer systems constructed on private property, which are to be accepted by the Otay Water District as part of its public systems, shall be constructed of the same materials and to the same District Standards and Specifications as required in public streets. In addition, the installation of such systems must fulfill the following criteria:

1. Water and/or sewer mains installed in commercial, industrial, apartment, or condominium complexes must be constructed in a traveled way with a minimum width of 24 feet, exclusive of parking and/or structural encroachments. In private residential developments (PRD), where parking is prohibited on private streets and graded roadway width is at least 24 feet, the paved utility easement may be reduced to 20 feet as consistent with the County private street standard or private street standards of the City of Chula Vista. Where access to the private street system is limited by a security gate, the District shall be provided a means of access.

2. Water and/or sewer mains shall be constructed within five feet of the centerline of the traveled way and shall have a minimum of six feet horizontal clearance and three feet vertical clearance between the water and sewer mains.

3. Water meters, fire hydrants, and any other water or sewer appurtenances shall be provided appropriate easements acceptable to the District Engineer.

4. Utility easements shall be included in the full width of the traveled way in which the utility is installed as consistent with criteria No. 1.

5. Water systems shall be loop connected to water mains in public streets, as determined by the District Engineer.

6. Water meters shall be located outside of parking spaces to allow access to District personnel.

7. Valves shall be located in the traveled way so that access is always available to District personnel.

8. Fire hydrant locations and access for fire fighting equipment shall require review and approval by local fire department officials.

9. Intersections and curves in the traveled way carrying water and/or sewer mains shall be of sufficient width to accommodate construction/maintenance equipment.

10. Sewer manholes shall be located so as to allow access at any time to District personnel and equipment.

The District Engineer will utilize the above criteria in evaluating a request for a public system on private residential/commercial developments. No exceptions allowed.

Water and/or sewer systems which do not satisfy the criteria set forth in this policy shall be designated private systems and must be in compliance with applicable sections of the District Code of Ordinances for connection of private systems to the District public systems.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| TOBACCO FREE CAMPUS | 19 | 3/6/89 | 10/07/09 |

PURPOSE

To establish the policy regarding the use of tobacco products on District property. This policy applies to all employees, consultants, volunteers and visitors while on District property and areas designated as District field work sites.

POLICY

1. Otay Water District is dedicated to maintaining a safe and productive working environment for its employees and is committed to taking appropriate action to eliminate threats to employees' health and safety posed by the use of tobacco products. "Use" means a method of consuming tobacco products, including but not limited to smoking, inhaling and chewing. "Tobacco product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis or any other preparation of tobacco.

2. This policy prohibits the use of tobacco products within District controlled properties where employees and other persons will be exposed to secondhand smoke and smokeless tobacco residue. Hence, the use of tobacco products is prohibited on all District-owned property and on District designated field work sites.

3. No ashtrays or other ash receptacles will be placed in areas where the use of tobacco products is prohibited. The only exceptions will be outside the public entrances to District facilities, in order to assist visitors in discarding of their tobacco product.

RESPONSIBILITY

Managers and supervisors are responsible for enforcing this policy in areas under their control.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject<br><br>POLICY FOR SELECTION OF PROFESSIONAL CONSULTANTS | Policy Number<br>21 | Date Adopted<br>8/1/90 | Date Revised<br>3/13/06 |

I. PURPOSE

The purpose of this policy is to establish procedures governing the selection of professional consultants in the performance of District work.

II. SCOPE

This policy is applicable to all District departments and offices directly responsible to the General Manager.

III. POLICY

For the purpose of this policy, "professional consultants" means any "Firm" qualified and authorized to provide "architectural, landscape architectural, engineering, environmental, and land surveying services" or "construction project management" or "environmental services," as each of those terms or services is defined in the California Government Code, commencing with Section §4525, as hereinafter amended or renumbered (the "Professional Services Provisions").

This Policy provides a method and procedure pursuant to which professional consultants in engineering, architectural, landscape architectural, environmental, land surveying and construction management, including plan checking, inspection, and projects requiring a special expertise, may be retained from the private sector to augment the District's professional capabilities or for the performance of specialized services not available to the District from the existing District work force.

Services provided to the District by professional consultants may cover a wide range of professional activity including but not limited to studies, special reports, design and related activities on such projects as pipelines, pump stations, reservoirs, planning studies and other expert testimony capabilities.

Pursuant to the Professional Services Provisions, and particularly the provisions of the California Government Code Section §4526, the Otay Water District may adopt procedures that assure that professional services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices. Furthermore, maximum participation of small business firms, as defined in Government Code Section 14837, and disadvantaged business enterprises (DBEs) shall be encouraged. Government Code Section 14837 defines "small business" as a business in which the principal office is located in California and the officers of such business are domiciled in

California, which is independently owned and operated and which is not dominant in its field of operation.

IV. METHOD OF SELECTION OF PROFESSIONAL CONSULTANTS

A. Major Projects - Anticipated Fee Greater than $200,000

1. The District will advertise in at least one local newspaper of general circulation, on the District's webpage, and through CWA's Small Contractor Outreach and Opportunities Programs, and any other medium deemed appropriate by the project manager, before a Request for Proposal (RFP) is issued. Interested parties will be required to submit a Letter of Interest and a Statement of Qualifications within the time frame specified in the publication. The "Statement of Qualifications" shall be a written document, shall contain background information on the firm that is current as of the date of submission of the statement and must highlight the work, expertise and experience that qualify the firm to undertake the work required by the District, as such work is described in the publication.

2. All parties who submit Letters of Interest and a Statement of Qualifications, and are deemed qualified as a result of the Statement of Qualifications process, will receive a copy of the RFP. Proposals will only be accepted from those firms that submitted the Letter of Interest and the Statement of Qualifications within the time-frame specified in the publication. The form of the proposal will be prescribed by the District. If a firm has submitted a Statement of Qualifications within a calendar year and the qualifications remain correct and accurate, then only a letter of interest will suffice.

3. The General Manager and the appropriate department head(s) shall approve the selection criteria and the associated weighing factor to be used in evaluating the proposals accepted by the District in accordance with Paragraph 2, above. The General Manager, or his/her designee, shall appoint a review panel of no fewer than five qualified staff to review and evaluate the proposals, and to rank the firms in the order from most qualified to least qualified. The panel will interview only those firms which in the panel's opinion appear to have the most desirable qualifications. If in the opinion of the panel none of the firms are qualified, all proposals may be rejected. In the event of an

unusual project which poses special problems beyond the scope previously encountered by staff personnel, the review panel may be augmented by an unbiased, qualified member of the profession being considered, so long as he/she has not and will not submit a proposal.

4. If a firm is rejected on the basis of its proposal, and is not asked to appear for an interview, the firm may appeal the decision by submitting a protest to the General Manager or his/her designee. A copy of the proposal shall be submitted with the protest. The protest shall be filed within five business days of the rejection notification. The protest shall provide a compelling reason why the firm believes the original proposal contained all relevant experience or other requested information. If the General Manager, or his/her designee, concurs with the appellant, the firm shall be added to the interview list.

5. Immediately upon conclusion of oral interviews, the review panel's oral scores will be combined with the written proposals scores and shall designate the order of preference of the candidates.

6. The department head designated by the General Manager, or his/her designee, shall commence negotiations of an agreement with the first choice of the review panel for the extent of service to be rendered and the compensation. If agreement is not reached within a reasonable time, the department head shall terminate the negotiations with the first choice and shall open negotiations with the second choice of the review panel and so on until a firm is retained or the list of selected firms is exhausted. Professional societies and organizations have published schedules of fees for professional services which may be used as a guide following adjustment to reflect the actual scope of work expected of the firm selected.

B. <u>Intermediate Projects - Fees of $50,000 to $200,000</u>

1. The process for selecting consultants for intermediate projects shall be the same as prescribed in Sections IV-A and V of this policy, with the exception of formal interviews of the highest ranked consultants which are not required, and subject to other applicable exceptions described below.

C. Minor-Intermediate Projects – Fees of $5,000 to $50,000

1. The process for selecting consultants for minor-intermediate projects shall be the same as prescribed in Sections IV-B and V of this policy, with the exception of advertisement in a paper of major circulation, and subject to other applicable exceptions described below.

D. Minor Projects - Fees Less than $5,000

1. The process for selecting consultants for minor projects shall be in accordance with the Purchasing Manual as adopted by the Board.

V. PROCEDURAL REQUIREMENTS FOR SELECTION OF CONSULTANTS FOR MAJOR, INTERMEDIATE AND MINOR-INTERMEDIATE PROJECTS

1. The appropriate department head receives proposals from all interested parties; which are defined as consultants that have submitted a Letter of Interest and a Statement of Qualifications as defined in Section IV-A-1.

2. The evaluating panel shall consider the qualifications and demonstrated experience of the prospective consultants as well as the fee proposed by each firm to provide the services as requested in the RFP. The panel will determine which firm offers the best value for the work required. Such determination will be made with due consideration to all factors including the qualifications, approach to the scope of work, and experience of the consultant, relative to the project as measured in the score matrix. The weight assigned to each factor under consideration will be reflected in the score matrix included in the RFP.

3. A review panel is appointed in accordance with this policy. Review panel member names are not made available to consultants prior to a call for interview.

4. The first choice of the review panel is called for negotiation. If an agreement cannot be negotiated, the first choice will be dismissed from further consideration on that particular project. Following the dismissal of the first choice, negotiations will commence with the second.

5. A successful negotiation shall result in presentation by the department head to the General Manager, or his/her designee, of a professional agreement signed by the selected firm. The agreement may provide for differing methods of compensation based upon the type of work to be performed. "Per diem" or "hourly" compensation is the general rule when specific scope

of work is yet to be determined. This type of compensation should carry a stated maximum amount which will not be exceeded except by prior District approval. Fixed-fee or cost-plus-fixed-fee compensation is commonly used after scope of work has been explicitly identified. Compensation is paid as services are performed rather than in advance.

6. All contracts in excess of the amount authorized by the Board to the General Manager, or his/her designee, in accordance with Section 2.01 of the District's Code of Ordinances, shall be submitted to the Board for consideration.

7. All agreements for professional services shall provide for the management phase of the resulting contract. A single project manager shall be designated by the consultant and a liaison manager shall be designated by the District for purposes of contract administration.

8. Late responses or untimely responses by prospective candidates should not be considered for further action. The ability to respond to a publication or an invitation for consideration in a timely and responsive manner is essential to a future satisfactory contract relationship.

9. All proposed contracts shall be reviewed by the District's Legal Counsel and approved as to form prior to presentation to the General Manager or his/her designee.

10. The department head shall insure that other departments which have a proper interest in the work under consideration are kept informed as to the progress of the work and that user decisions and desires are constructively considered within the constraints of financial and practical limitations.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| DRUG FREE WORKPLACE POLICY AND PROCEDURE | 22 | 9/19/90 | 7/6/16 |

## A. Policy

The Otay Water District (''District'') has zero tolerance for the use of controlled substances or the abuse of alcohol. Employees who are under the influence of a drug or alcohol on the job compromise the District's interests and endanger their own health and safety as well as the health and safety of others. The District prohibits the use, possession, manufacture, distribution, or being under the influence of alcohol or controlled substances by any District employee while on District property or while on duty, except as specified herein. Violation of this policy is an act of misconduct meriting dismissal without prior warning or disciplinary action in accordance with the District's Discipline Policy and Procedures.

## B. Exceptions

The following exceptions apply to this policy:

1. Events - Authorized Use of Alcohol
   The General Manager or his/her designee, at his/her discretion, may authorize the use of alcohol at a District event, subject to any conditions he/she elects to impose.

2. Customary Use of Over-the Counter or Prescription Drugs
   The exceptions set forth in this section do not extend to the use of marijuana, or any product made or derived from marijuana, regardless of whether the employee's doctor prescribes, recommends, or authorizes its use. With respect to an employee, use of an over-the-counter drug, or a prescription-only drug under a prescription for the employee, in the manner prescribed, will not be treated as a violation of this policy unless the drug has potential side effects which impair the employee's ability to perform any safety-sensitive duty and/or the core duties of his/her position and the employee has failed to notify his/her supervisor or Human Resources of such side effects before performing duties while under the influence of the drug. The District may require a note from the employee's doctor concerning authorization for a

prescription and/or the possible side effects of the prescribed drugs. The District shall comply with all applicable laws concerning the privacy of employees' medical information.

With respect to an applicant, use of an over-the-counter drug, or a prescription-only drug under a prescription for the applicant, in the manner prescribed, will not disqualify the applicant for employment if he/she satisfactorily explains such use upon being informed of a positive test for controlled substances. The District may require a note from the applicant's doctor concerning authorization for a prescription and/or the possible side effects of the prescribed drugs.

**C. Definitions**

1. Accident:

   a. Any accident, in which an employee is driving on District business, and is at fault or suspected of having significantly contributed to an accident. This shall apply to employees covered by the Department of Transportation (''DOT'') policy only if the accident is not subject to the DOT policy.
   b. Any accident, not involving the driving of a District vehicle, that is reasonably believed by management or credibly reported by another person to have been caused by an on-duty employee and which results in serious physical injury.

2. Controlled Substance:

   a. Any drug or substance identified by section 40.85 of title 49 of the Code of Federal Regulations or sections 11054-11058 of the California Health and Safety Code.
   b. Any drug or substance.

3. Dilute Specimen: A specimen with creatinine and specific gravity values that are lower than expected for human urine or a specimen that is adulterated in any way.

4. Drug Paraphernalia: This term has the same definition as is used in section 11364.5(d) of the California Health and Safety Code and applies only to paraphernalia deemed unlawful under section 11364.5(d).

5. Manager/Management: A District employee who is designated as a supervisor, manager, or executive.

6. Medical Review Officer: A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results for substance tests and evaluating medical explanations for certain test results.

7. Negative: A person is considered to have tested negative for a substance if his/her substance test does not produce a positive result.

8. Positive: A person is considered positive for alcohol if he/she has a blood alcohol concentration of 0.04 or greater at the time he/she submits to testing. A person is considered positive for a Controlled Substance if he/she has any amount of a Controlled Substance at or above a ''cutoff concentration'' specified in section 40.87 of title 49 of the Code of Federal Regulations at the time he/she submits to testing.

9. Reasonable Suspicion: A reasonable suspicion exists that a person is under the influence of a substance if a trained observer (who has received the appropriate training to recognize the signs and symptoms of drug and alcohol use) reasonably comes to the conclusion that the person is under the influence of a substance due to having personally observed, with respect to the person, some or all of the effects specified in Appendix A of this policy.

   Additionally, a reasonable suspicion exists that a person is under the influence of a substance if an observer has seen the person use a substance.

No one factor is sufficient to create a reasonable suspicion, but an observer may make a reasonable assessment based on the quantity, degree, and/or severity of applicable factors.

10. Refusal to Submit to Testing. Each of the following constitutes a refusal to submit to testing:

    a. Failing to immediately report for substance testing when directed to do so;
    b. Failing to complete the testing process (including signing any forms necessary to authenticate or identify a specimen);
    c. Failing to provide an adequate amount of breath, saliva, or urine for a test;
    d. Failing to cooperate with any aspect of the testing process, including but not limited to refusing to wash hands when directed, being confrontational with testing personnel, or failing to comply with instructions in a ''direct observation,'' as that term is used in section 40.197 of title 49 of the Code of Federal Regulations;
    e. Using or wearing a prosthetic device to interfere with the collection process;
    f. Admitting to adulterating or diluting the specimen; or
    g. Any act or failure to act that is intended to interfere with the testing or alter the results of the testing.

11. Safety-Sensitive Duties: Duties which consist of any of the following:

    - Operating any assigned District vehicle or equipment (includes management and non-management employees);
    - Work in ''confined spaces,'' as that term is defined in District regulations or CalOSHA regulations;
    - Performing maintenance on any vehicle;
    - Loading, unloading or attending any District vehicle or equipment;
    - Access to sensitive/classified information related to emergency response, safety or security duties;

- Participation in Hazardous Waste Operations and Emergency Response Confined Space Rescue Team;
- Work performed at elevated or depth locations more than 4ft above or below ground; or
- Work involving the use or disposal of hazardous chemicals as that term is defined in District regulations or Cal OSHA regulations.

12. Serious Physical Injury: An injury to an employee that causes the employee to be absent from work following an Accident or which requires hospitalization of the employee.

13. Substance: Any substance containing alcohol or any Controlled Substance.

14. Under the Influence: With respect to alcohol, a person is under the influence at the time he/she is ordered to submit to testing if he/she tests Positive for alcohol at the time he/she submits to testing. With respect to Controlled Substances, a person is under the influence at the time he/she is ordered to submit to testing if he/she tests Positive for a Controlled Substance at the time he/she submits to testing.

**D. Conflicts with DOT Policy**

As to applicants or employees to whom the DOT Policy applies, to the extent this policy imposes a requirement that is less stringent than the DOT Policy the more stringent requirements of the DOT Policy will control.

**E. Testing Procedures**

When an employee or applicant is to be tested, the District shall use the same testing procedures that are used for testing under the DOT Drug and Alcohol Testing Policy, including the procedures for testing a ''split specimen,'' as that term is defined in section 40.3 of title 49 of the Code of Federal Regulations. The service providers shall comply with section 40.47 of title 49 of

the Code of Federal Regulations except they shall use a non-federal custody and control form for applicants and employees.

1. Alcohol Testing

   Alcohol testing will be conducted using evidential breath testing devices (''EBT'') approved by the National Highway Traffic Safety Administration. A screening test must be conducted first. If the result is an alcohol concentration level of less than 0.02, the test is considered a Negative test. If the alcohol concentration level is 0.02 or more, a second confirmation test must be conducted. Alcohol testing shall be accomplished by a laboratory certified by the U.S. Department of Health and Human Services.

2. Controlled Substance Testing

   a. The test must be conducted by analyzing the employee's urine.
   b. The urinalysis shall be done at a laboratory certified by the U.S. Department of Health and Human Services.
   c. The urine specimen must be split into two bottles labeled as "primary" and "split" specimen. Both bottles must be sent to the laboratory.
   d. If the urinalysis of the primary specimen tests Positive for the presence of illegal Controlled Substances, the employee has 72 hours from time of notification to request that the split specimen be analyzed by a different certified laboratory.
   e. The urine sample shall be tested for the following: marijuana metabolites, cocaine metabolites, opiates, amphetamines and phencyclidine (''PCP'');
   f. If the test is Positive for one or more of the drugs listed in subsection "e" above, a confirmation test must be performed using gas chromatography/mass spectrometry analysis.
   g. All drug test results will be reviewed and interpreted by the Medical Review Officer before they are reported to the District.

h. With all Positive drug tests, the Medical Review Officer will contact the employee to determine if there is a medical explanation for the Positive test result. If documentation is provided and the Medical Review Officer determines that there is a legitimate medical use for the prohibited drug, the test result may be reported to the District as Negative.

**F. Testing**

1. Persons Subject to Substance Screening

- All applicants for employment, in conjunction with pre-employment physical examination;
- All employees reasonably suspected of using Substances while on duty or on District property or while working while Under The Influence of Substances;
- All employees reasonably suspected of possessing, manufacturing, or distributing Substances while on duty or on District property;
- Any employee at fault or reasonably suspected of having significantly contributed to an Accident while on duty;
- Any employee who performs Safety-Sensitive Duties whose name is selected for testing pursuant to the District's random testing procedure; or
- Any District employee who applies for and is selected for a position that will require the performance of Safety-Sensitive Duties.

2. Pre-employment, Promotions and Transfer Physicals

All applicants for employment shall, as part of their pre-employment physical examination, submit to a urine analysis or other legally authorized testing methods as selected by the District for Substances.

Any District employee who applies for a position that will require the performance of Safety-Sensitive Duties shall, as a precondition to appointment to such position, submit to a urine

analysis or other legally authorized testing method as selected by the District for Substances.

3. Random Testing of Managers and Safety-Sensitive Duty Employees

Each year the District shall randomly conduct Substance tests of employees who perform Safety-Sensitive Duties. Based on the number of such employees employed by the District on January 1, the District shall conduct by the following December 31, a number of tests for Controlled Substances equal to 25 percent of the total number of employees who perform Safety-Sensitive Duties, or the minimum amount required by DOT regulations, whichever is greater. Within the same time period, the District shall randomly conduct a number of tests for alcohol equal to 25 percent of the same number of safety-sensitive employees, or the minimum amount required by DOT regulations, whichever is greater.

Each year the District shall randomly conduct Substance tests of managers who are not randomly tested as employees performing Safety-Sensitive Duties. Based on the number of managers employed by the District on January 1, the District shall conduct by the following December 31 a number of tests for Controlled Substances equal to 25 percent of the total number of such managers, or the minimum amount required by DOT regulations, whichever is greater. Within the same time period, the District shall randomly conduct a number of tests for alcohol equal to 25 percent of the same number of such managers, or the minimum amount required by DOT regulations, whichever is greater. Managers who perform Safety-Sensitive Duties and who are included in the pool of Safety-Sensitive Duty employees selected for random testing shall not be included in the pool of non-Safety-Sensitive Duty managers who are selected for random testing.

The General Manager will contract with a service provider to perform the random selection of employee names for Substance testing and select the dates upon which the employees will be tested. The service provider must ensure that every Safety-

Sensitive employee has an equal chance of being selected each time a name is randomly drawn and that any employee whose name is selected is not exempt from having his/her name selected in any subsequent drawing in the same year.

The service provider shall provide the selected names and dates to the Safety and Security Specialist and/or Human Resources Manager, who shall not disclose this information to any other person except to the employee selected for testing and the employee's supervisor at the time that the employee is required to submit to testing. If the employee is absent from duty on a date that he/she has been randomly selected for testing, an alternate name may be selected or he/she may be required to submit to a test immediately upon returning to work, without prior notice.

Upon being informed that he/she is required to submit to a random test, the employee must report to the testing location, as quickly as possible but no greater than one hour from being informed, and complete the test as directed by personnel at the testing location. Upon completing testing, the employee shall report back to duty if his/her duty day has not yet concluded.

Random testing is separate from the other forms of testing described in this policy. An employee who submits to a Reasonable Suspicion or post-Accident test does not satisfy the requirement that he/she submit to a random test when ordered.

4. Post-Accident Testing

If an employee is involved in an Accident that under this policy requires that the employee submit to Substance testing, the employee's supervisor shall immediately contact Human Resources and the Safety and Security Specialist to report the Accident and the necessity of testing. After consultation with Human Resources, if it is determined that the employee should be tested, then the supervisor shall direct the employee to report to the testing location and complete the test as directed by personnel at the testing location. The supervisor

shall arrange to transport the employee to the testing location. Upon completing testing, the employee shall report back to duty if his/her duty day has not yet concluded, unless a Reasonable Suspicion exists, based on the observation of the employee's supervisor and in consultation with Human Resources, that the employee was Under the Influence of a Substance at the time or shortly after the Accident. If such a Reasonable Suspicion exists, the employee shall be released from duty for the remainder of the day. The supervisor, in consultation with Human Resources, thereafter shall determine on a day-to-day basis whether to permit the employee to return to duty, until the results of the test have returned. If an employee has been ordered to submit to Substance testing for post-Accident testing, and Reasonable Suspicion exists, the District may place the employee on leave without pay pending the test results. If the employee's test results are Negative, the District shall restore any salary lost by the employee for the days he/she was on leave, as though the employee had reported for duty.

If the employee requires immediate medical assistance due to the Accident, such that he/she is unable to report to the testing location, the supervisor shall coordinate with the hospital to conduct the test or require the employee to report to the testing location as soon as is practicable.

The determination as to whether an employee is involved in an Accident shall be made by the employee's supervisor in consultation with the Safety and Security Specialist and Human Resources, based on the information available to him/her. If it cannot be immediately determined whether the employee was involved in an Accident, the supervisor shall not order the employee to testing until a determination can be made.

The following criteria apply when conducting drug and alcohol tests due to an Accident:

a. A breath alcohol test must be administered as soon as possible. Every effort should be made to ensure that a

breath alcohol test is performed within eight hours following the Accident. If testing has not occurred within eight hours, attempts to test should be discontinued. However, if testing did not occur within eight hours, and Reasonable Suspicion existed at the time or shortly after the Accident the employee may resume duties with his/her next shift that begins after the eight hours have passed. Prior to the employee's return, management shall observe the employee's condition before the employee is allowed to resume duties to ensure that there is no longer Reasonable Suspicion.

b. A drug screening test should be initiated prior to the 32nd hour following an Accident.
c. The employee must remain readily available for testing or he or she will be deemed to have refused the test (see Refusal to Submit to Testing). This rule does not require the delay of necessary medical attention for injured persons following the Accident nor prohibit the employee from leaving the scene to obtain assistance or necessary emergency medical care.
d. An employee subject to post-Accident testing may not use alcohol within eight hours following the Accident or before an alcohol test, whichever comes first.
e. Testing will not be conducted on any deceased employee.
f. The results of a breath or blood test for the use of alcohol or a urine test for Controlled Substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this policy provided such results are obtained by the employer, and conform to the applicable Federal, State or local requirements.
g. The potentially affected employee will not be allowed to proceed alone to or from the collection site. Time spent in complying with post-Accident testing is compensable.
h. Documentation of the activity being performed by the employee that supports the determination to conduct post-Accident testing should be prepared and signed by the supervisor requesting the test within 24 hours of the

Accident or before the results of the drug test are released, if possible.

5. Reasonable Suspicion Testing

If a supervisor, manager, the Safety and Security Specialist, other personnel has a Reasonable Suspicion that the employee is Under the Influence of a Substance while on District property or on duty, he/she shall consult with Human Resources of this observation to determine if testing is appropriate. After consultation with Human Resources, if it is determined that the employee should be tested, a supervisor shall direct the employee to immediately report for testing and complete the test as directed by personnel at the testing location. The supervisor shall arrange to transport the employee to the testing location. If the person who advises Human Resources of the Reasonable Suspicion is not the employee's supervisor, Human Resources must immediately notify the supervisor of the Reasonable Suspicion, and the supervisor shall arrange to transport the employee to the testing location. The supervisor(s) witnessing the impairment must document the specific observations upon which the Reasonable Suspicion is based.

Upon completing testing, the employee shall be released from duty for the remainder of the day. The supervisor, in consultation with Human Resources, thereafter, shall determine on a day-to-day basis whether to permit the employee to return to duty, until the results of the test have returned. If an employee has been ordered to submit to Substance testing for Reasonable Suspicion, the District may place the employee on leave without pay pending the test results. If the employee's test results are Negative, the District shall restore any salary lost by the employee for the days he/she was on leave, as though the employee had reported for duty.

The following criteria apply when conducting drug and alcohol tests due to Reasonable Suspicion:

a. Alcohol
A breath alcohol test must be administered as soon as possible. Every effort should be made to ensure that a breath alcohol test is performed within eight hours. If testing has not occurred within eight hours, attempts to test should be discontinued and the employee may resume duties with his/her next shift that begins after the eight hours have passed. However, prior to the employee's return, management shall observe the employee's condition before the employee is allowed to resume duties to ensure that there is no longer Reasonable Suspicion.

b. Controlled Substances
A urinalysis test for Controlled Substances must be administered as soon as possible. Every effort should be made to ensure the urinalysis is performed within 32 hours of the observation.

c. The employee may not proceed alone to or from the collection site. The supervisor or other appropriate person making the observation shall arrange to transport the employee to the testing site.

d. Documentation to support the determination to conduct Reasonable Suspicion testing should be prepared and signed by the person who made the determination within 24 hours of the determination or before the results of the test are released, whichever is earlier, if possible.

6. Acknowledgment and Consent

Any employee subject to testing under this policy will be asked to sign a form acknowledging the procedures governing testing, and consenting to (1) the collection of a urine sample for the purpose of determining the presence of alcohol or Controlled Substances, and (2) the release to the District of medical information regarding the test results. Refusal to sign the agreement and consent form, or to submit to the drug test, will result in the revocation of an applicant's job offer, or will

subject an employee to discipline up to and including termination.

7. Refusal to Submit to Testing

If an applicant refuses to submit to testing for any Substance, the applicant is disqualified for employment. If a District employee who has applied for a position that requires the performance of Safety-Sensitive Duties refuses to submit to testing for any Substance, the employee is disqualified for such position.

If an employee refuses to submit to testing for any Substance, the District may treat such refusal as an act of insubordination. The District shall also impose the same disciplinary action of dismissal for a refusal to test that it would impose for a Positive test result, so as not to encourage employees to refuse to test in the hope of avoiding more severe disciplinary action. The District may immediately place an employee on leave without pay if the employee refuses to submit for testing.

8. Refusal to Authorize Disclosure of Results of Testing

If an applicant refuses to authorize the disclosure of the testing results to the District, the applicant is disqualified for employment. If a District employee who has applied for a position that requires the performance of Safety-Sensitive Duties refuses to authorize the disclosure of the test results to the District, the employee is disqualified for such position.

If an employee refuses to authorize the disclosure of results of testing to the District, the District will impose the same

disciplinary action of dismissal for a refusal to authorize the disclosure of results of testing, that it would impose for a Positive test result, so as not to encourage employees to refuse to authorize the disclosure of test results in the hope of avoiding more severe disciplinary action.

9. Positive Test

If an applicant tests Positive for a Controlled Substance, he/she shall be disqualified for employment unless he/she meets the requirements for the over-the-counter/prescription drug exception set forth in Section B(2) of this policy. If a District employee who has applied for a position that requires the performance of Safety-Sensitive Duties tests Positive for a Substance, the employee is disqualified for such position.

If an employee tests Positive for a Substance, the employee shall not be returned to duty and shall not receive pay during his/her absence until the employee requests that the split urine specimen be tested and the test of that specimen is not Positive for a Substance.

This unpaid absence shall not be considered a disciplinary or punitive action against the employee and any record of such absence shall be maintained separately from the employee’s personnel file. The absence is for the administrative and safety interests of the District. This unpaid absence has no effect on the District’s decision or ability to discipline an employee for violating this policy.

If the Medical Review Officer determines that an employee’s specimen is a Dilute Specimen and the specimen is Positive for a Substance, the employee shall be considered to have tested Positive for that Substance. If a Dilute Specimen produces a Negative result then the employee shall be required to submit to a second Substance test, in the manner prescribed in section 40.197 of title 49 of the Code of Federal Regulations.

10. Request for Retest

If an employee tests Positive for any Substance, the employee may, within 72 hours of being notified of the Positive test result, request of the Medical Review Officer that the split specimen be tested. If the employee does not timely submit a request, the employee shall be considered to have waived his/her right to have the split specimen tested. The employee shall pay for the cost of testing the split specimen. If the employee is unable to pay this cost at the time of the request, the District must ensure that the split specimen is tested even if it means that the District may have to initially bear the cost. The District may recover the cost from the employee at a later time.

If a split specimen does not produce a Positive result for a Substance, the District shall restore any salary lost by the employee as a result of an absence imposed because of the Positive result on the first specimen. The employee shall be considered to have not tested Positive for a Substance. The District shall also reimburse the employee for the cost of the retest if the employee paid for the retest.

The District may not request that the split specimen be tested.

**G. Employee Assistance Programs**

The District may refer any employee, including an employee who is dismissed because of a Positive test for a Substance, to its employee assistance program. If in any instance the District is required to lawfully accommodate an employee's disability related to Substance abuse, the District shall refer the employee to a Substance abuse professional.

**H. Suspicion of Possession/Distribution/Manufacture of Controlled Substances**

If a supervisor has a Reasonable Suspicion that an employee unlawfully possesses or is distributing or manufacturing a Controlled Substance or Drug Paraphernalia on or in District

property, or while on duty, the supervisor must report this suspicion to Human Resources.

1. For purposes of Section H only, ''Reasonable Suspicion'' means the following:
   a. As to possession, the supervisor or a reporting credible source must have seen a Substance or item on the person of the employee, in the employee's work area, or in or on District property assigned to the use of the employee that a reasonable person would believe is a Controlled Substance or Drug Paraphernalia, or have seen in any of the same areas a container that a reasonable person would believe contains a Controlled Substance or Drug Paraphernalia.
   b. As to distribution, the supervisor must have seen the employee convey to another person a Substance or item that a reasonable person would believe is a Controlled Substance or Drug Paraphernalia, or have seen the employee convey a container to another person that a reasonable person would believe contains a Controlled Substance or Drug Paraphernalia, or have received a report of observation of the same from a credible source.
   c. As to manufacture, the supervisor must have observed conditions that a reasonable person would equate to the manufacture of a Controlled Substance or Drug Paraphernalia, which may include the observation of smell, appearance, or sound. The supervisor must also have observed conditions that would attribute suspected manufacture to the employee, such as observing these conditions in the employee's work area or in or on District property assigned to the use of the employee. If the conditions are observed on the person of the employee, the supervisor must consider whether the employee reported to duty in such condition instead of changing to such condition while on duty, or have received a report of observation of the same from a credible source.

2. After a report of a Reasonable Suspicion has been made to Human Resources, the Human Resources Manager must confer with management representatives to consider whether the reported

observation constituted Reasonable Suspicion, and decide what steps to take in response to the reported observation.

a. If the decision is to take no further action, the matter will be dismissed.
b. If the decision is to discuss the observation with the employee, Human Resources and the supervisor will meet with the employee to discuss the observation. If as a result of the discussion, Human Resources and/or the supervisor believe that a search is necessary, they will confer with management representatives to determine whether to conduct a search.
c. If the decision is to conduct a search, the search must be limited to a search of District property, such as the employee's work area (including desk drawers and file cabinets), District vehicle or equipment, and District facilities. The search may be performed by the Human Resources representative or another person designated by the Human Resources representative, which may include the supervisor. The employee does not need to be present during the search. If any material is retrieved that appears to bear out the supervisor's Reasonable Suspicion, the Human Resources representative must take possession of the material.
d. If the decision is to conduct a search and the distribution of Controlled Substances or Drug Paraphernalia is reasonably suspected, the search may include not only the work area/equipment of the employee suspected of distributing Controlled Substances or Drug Paraphernalia, but the work area/equipment of any employee whom was observed receiving the item from the employee suspected of distributing Controlled Substances or Drug Paraphernalia. The receiving employee is entitled to the same rights as the distributing employee.
e. Any search of the person of the employee or personally-held possessions of the employee, such as a briefcase, purse, pocketbook, backpack or personal vehicle, must be conducted by a law enforcement officer. If the decision to conduct a

search extends to these areas, Human Resources should contact law enforcement to request such a search.

3. If the Human Resources representative takes possession of any material as a result of the search, and the employee does not confirm that it is a Controlled Substance or Drug Paraphernalia, the District shall contact the local law enforcement agency and will forward the Substance to have the item tested/analyzed to determine if it is a Controlled Substance or Drug Paraphernalia. If a law enforcement officer takes possession of an item as a result of a search, and the employee does not confirm that it is a Controlled Substance or Drug Paraphernalia, the District shall follow up with the law enforcement agency to verify the item is a Controlled Substance or Drug Paraphernalia. The employee shall not return to duty and shall not receive pay during his/her absence until the law enforcement agency has verified that the tested/analyzed item is not Positive for a Controlled Substance or Drug Paraphernalia. If the tested/analyzed item does not produce a Positive result for a Controlled Substance or Drug Paraphernalia, the District shall restore any salary lost by the employee as a result of the absence.

## I. Disciplinary Action

Disciplinary action for violations of this policy will be taken in accordance with the District's Discipline Policy and Procedures.

## J. Accommodation of Individuals with Disabilities

Nothing in this policy shall be construed so as to relieve the District of its lawful obligation to accommodate individuals with disabilities.

## K. Confidentiality

All alcohol and drug-testing records will be treated as confidential.

## APPENDIX A

## INDICATION OF DRUG USE

**REMEMBER THAT THESE SYMPTOMS ARE ONLY INDICATIONS. THEY MAY BE A SIGN OF SOMETHING OTHER THAN DRUG OR ALCOHOL USE.**

PHYSICAL

1. Increased pulse rate
2. Weak and rapid pulse
3. Increased blood pressure
4. Increased body temperature
5. Constricted pupils
6. Dilated pupils
7. Bloodshot eyes
8. Water eyes
9. Runny nose
10. Nasal sores
11. Slowed respirations
12. Shallow respiration
13. Cold and clammy skin
14. Chills and sweats
15. Cramps
16. Nausea
17. Convulsions

MENTAL AND EMOTIONAL

1. Increased alertness
2. Excitation
3. Anxiety
4. Irritability
5 Euphoria
6. Increased emotionality
7. Impaired attention
8. Impaired memory
9. Altered perceptions
10. Disorientation
11. Visual illusions
12. Hallucinations
13. Paranoia
14. Delirium
15. Irrational fears
16. Panic
17. Depressed mood

BEHAVIORAL

1. Slurred speech
2. Staggered gait
3. Fatigue
4. Apathy
5. Drowsiness
6. Loss of appetite
7. Increased appetite
8. Hyperactivity
9. Agitation
10. Argumentative
11. Hostility
12. Tremors
13. Insomnia

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| PROVISIONS FOR ALLOWING A SEWAGE PUMP STATION TO BE CONSTRUCTED IN LIEU OF A GRAVITY SEWER | 23 | 5/14/97 | |

## Purpose

To provide guidance in determining provisions for accepting a sewage pump station by Otay Water District in lieu of a gravity sewer for serving a land development.

The provisions set forth in this policy describe circumstances and considerations whereby the Otay Water District will accept a sewage pump station as a District facility. These provisions are applicable for serving land areas within the District and land areas annexed to the District for sewer service.

## Background

To achieve orderly development of sewerage facilities within the Otay Water District, the construction of a sewage pump station to serve a land development shall be considered only under special circumstances indicated in this policy.

Acceptance of sewerage system facilities by the Otay Water District, shall be subject to the developer constructing facilities to District requirements.

Because Operations and Maintenance (O & M) costs are substantially more for pump station facilities than for gravity sewers, contribution of funding for future pump station O & M costs is considered a necessary part of a pump station becoming a part of District facilities.

## Policy

In order to minimize additional operation and maintenance costs to the District and to control orderly development of District sewerage facilities, the following provisions shall be the basis for considering requests for the District to allow construction of a sewage pump station in lieu of construction a gravity sewer and for the District's acceptance of a sewage pump station for Operation and Maintenance.

1. Sewage pump stations will not be considered an acceptable means of serving a land area when construction of a gravity sewer system is possible and would be in the best interest of the District.

2. When a gravity sewer cannot be constructed to serve a land area because of geographic or topographic reasons or other features that would make its construction detrimental to the public or the surrounding land area, a pump station may be considered. The proposed pump station must satisfy the following criteria:

a. The total capital costs for the pump station must be provided by person(s) or development requesting the pump station.

b. The pump station must have sufficient capacity to serve the entire drainage basin that may possibly contribute flow to the pump station, and

c. The pump station design and construction must meet standards acceptable to the Otay Water District.

3. If the possibility exists that this pump station or project may be converted to a gravity system in the future, the person(s) or development requesting this pump station shall provide easements and install pipelines acceptable to the District for the conversion.

4. In the consideration for a pump station to serve a land area, the payment of pump station operation and maintenance (O & M) and replacement costs shall be satisfied by one or more of the following provisions:

a. A lump sum payment by the person(s) or development requesting the pump station shall be made to the District in an amount sufficient to cover the O & M and replacement costs estimated by the District for the life of the pump station; or

b. A special District connection fee charge to each equivalent dwelling unit served by the pump station shall be established by an Otay Water District Ordinance. The special connection fee shall be based on the estimated O & M and replacement costs for the life of the pump station; or

c. A special monthly zone service charge collected in accordance with a special District Ordinance section. The zone service charge shall be adjusted periodically to provide sufficient funds for annual O & M and replacement. Because of high administrative costs, this method of payment should be considered only in special circumstances where (1) a small number of individual residences are served and (2) the special zone of service has been requested mutually by the homeowners served.

The selection of one or more of the above provisions for O & M and replacement costs shall be recommended by the General Manager after considering the best interests of the District and the effected residents. The Otay Board of Directors shall make a final determination of the acceptable provisions(s) for allowing a sewage pump station.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| RECRUITMENT, SELECTION, AND EMPLOYMENT POLICY | 24 | 11/04/98 | 11/06/13 |

## PURPOSE

It is the purpose of this policy to provide guidelines for the recruitment and selection of regular, student intern, temporary and/or contract employees.

## POLICY

It is the policy of the Otay Water District ("District") to recruit and select the best qualified Applicants on the basis of job-related standards of experience, education, training, ability, and merit; to encourage members of the communities which we serve to apply for employment opportunities with the District; to encourage District employees to apply for positions for which they believe they qualify, to assure that qualified internal Applicants are given fair and adequate consideration; and to advance regular District employees when it is determined that they are the best qualified.

## EQUAL EMPLOYMENT OPPORTUNITY

The District is an equal opportunity employer. All employees and Applicants shall receive equal consideration and treatment. The District shall recruit, hire, and promote the best qualified individuals without regard to race, color, religion, sex (including gender, pregnancy, childbirth, or related medical condition), national origin, ancestry, age, physical or mental disability, medical condition, marital status, sexual orientation, or membership in any other "protected class" recognized by California or Federal law.

## AUTHORITY OF THE GENERAL MANAGER AND EMPLOYMENT AT WILL

Section 2.01 of the District's Code of Ordinance provides that, pursuant to Sections 71362 and 71363 of the California Water Code, the General Manager has the authority to manage and operate the affairs of the District. This authority includes the employment, discharging and fixing of compensation for all employees and assistants, except those referred to in California Water Code Section 71340, at pleasure, and to prescribe their duties and promulgate specific rules and regulations for such employees and assistants. All employment at the District is thus "at-will," pursuant to Section 71362, and both employees and the District have a right to terminate employment at any time, with or without advance notice, and with or without cause.

The General Manager's authority also includes making appointments of temporary or contract employees needed to perform District work resulting from such matters as interim vacancies, peak workload, and special projects so long as he/she operates within Board-approved budgeted appropriation levels. Contract or Temporary Appointments are not subject to amount limits for agreements, contracts, or other documents as defined in Section 2.01(E) of the District's Code of Ordinance, or to formal competition, selection and advertisement requirements identified herein.

DEFINITIONS

A. Applicant: A person applying for a position, including a District employee who seeks Appointment to a different position.

B. Appointment: The employment of a person in a position, whether on a regular or temporary basis.

C. Closed/Promotional Recruitment: A recruitment open only to qualified regular District employees, or open only to qualified regular District employees in a particular classification, unit or division.

D. Conviction: Any sentence, suspended sentence, probation or other resolution followed by a verdict, plea (including a no contest plea) or other finding of guilt. The term "Conviction," as used herein, shall not include any conviction that has been otherwise exempted by law.

E. Eligible List: A list of qualified Applicants who remain eligible for consideration for a position.

F. Employment Announcement: A formal notice by the District of an employment opportunity.

G. Open/Competitive Recruitment: A recruitment open to all interested qualified Applicants.

H. Promulgation: The date Human Resources certifies the list of eligible Applicants for consideration.

I. Qualified Applicant: An Applicant who has passed all elements of the selection process, would be at least 18 years old at the time of Appointment and remains eligible for Appointment.

J. Recruitment and Selection Plan: A planned process to establish an adequate pool of qualified Applicants which shall consist of an open/competitive or a Closed/Promotional Recruitment.

K. Regular Appointment: An Appointment to a regular authorized position with benefits.

L. Regular Vacancy: A vacancy in an authorized position.

M. Student Intern: An employee who is currently enrolled at or near full-time status as a student in an accredited community college, college, or university in an undergraduate or graduate program in good academic standing.

N. Temporary Appointment: An Appointment made for a specific duration, generally not to exceed one year. Temporary Appointments may be exempt from the formal Recruitment and Selection Plan.

RECRUITMENT AND SELECTION PLAN

All Regular Vacancies shall be filled through an Open/Competitive Recruitment and Selection Plan unless otherwise approved by the General Manager. This is consistent with best practice and expected to maximize community participation, competition, diversity, and the number of highly qualified Applicants available for consideration for employment. However, the General Manager may authorize a Closed/Promotional Recruitment and Selection Plan given the requirements of the position and the quality of the internal Applicant pool.

All Applicants for regular positions shall submit to the same Recruitment and Selection Plan for that position. The General Manager may approve revising the Recruitment and Selection Plan in order to better meet the needs of the District.

A. Notice of Employment Opportunities

Human Resources shall post-employment opportunities for Regular Vacancies consistent with the approved Recruitment and Selection Plan.

The Employment Announcement shall include the following:

1. Classification Title
2. Salary Rate and/or Range
3. Essential Functions
4. Required Qualifications
5. Skills Exam
6. Application Filing Instructions
7. Equal Employment Opportunity Employer Statement

B. Disqualification of Applicants

Applicants may be disqualified at any time during the process for any of the following reasons:

1. The Applicant is found to lack any of the minimum job requirements established for the position.
2. The Applicant has made a false statement of material fact in the application or has committed fraud or deception in the selection process or in securing eligibility for Appointment.
3. The Applicant has a history of less than satisfactory employment.
4. The Applicant uses or attempts to use any personal or political influence to further eligibility.
5. The Applicant has without authorization directly or indirectly obtained information regarding examinations.
6. The Applicant fails to submit his or her application in compliance with articulated guidelines or within the prescribed time limits.

7. The Applicant has taken part in the compilation, administration, or correction of the examinations for the position for which he/she is an Applicant.
8. Any other reason deemed by the General Manager to protect the best interests of the District.

C. Examination Content

The Recruitment and Selection Plan shall be job-related in order to determine the ability of Applicants to perform the duties of the job classification. The plan may provide for one or more of the following types of examinations:

1. Review of Employment Application and/or Required Supplementary Material(s);
2. Written Examination;
3. Physical Agility and/or Performance Skill Examination; or
4. Oral Interview.

D. Eligible Lists

Eligible Lists may be maintained to fill current and future vacancies. The Eligible List will be valid for up to twelve (12) months from Date of Promulgation. Human Resources may pull Applicants from any Eligible List in lieu of posting a position or to augment the Applicant pool for other similar classifications with related skills and abilities.

E. Conditions of Appointment

Once an Applicant is determined to be the best qualified, but prior to Appointment, the Applicant shall meet and agree to the terms and conditions of employment specified for a particular position. Failure of such pre-employment examinations may cause the Applicant to be disqualified for employment. Conditions of employment may include, but are not limited to the following:

1. Physical Fitness/Medical Examination;
2. Drug/Alcohol Screening;
3. Verification of lawful work status under Immigration rules; and
4. Verification of employment, education, certificates, licenses, driving, and criminal history including fingerprinting.

F. Evaluation of Criminal Conviction Information

Upon receipt of the Criminal Conviction information, the District shall determine if the information shall disqualify the Applicant. There shall be an automatic disqualification for employment for any of the following:

a. Any felony Conviction;
b. Any misdemeanor Conviction within one year preceding the date of application for any offense(s) considered to be crimes of moral turpitude by any court of the state, and/or

crimes involving, firearms, explosives, violence, dishonesty and/or requiring registration under Penal Code §290; or

c. Intentionally failing to disclose a prior Conviction of any type, unless said Conviction has been otherwise exempted by law.

## 1.0 The District

The Otay Water District is a California municipal water district, authorized in 1956 by the State Legislature under the provisions of the Municipal Water District Act of 1911. The District is a "revenue neutral" public agency; meaning each end user pays their fair share of the District's costs of water acquisition, construction of infrastructure, and the operation and maintenance of the public water facilities.

The District provides water service within its boundaries, and provides sewer and recycled water service within certain portions of the District. As such, the District operates three distinct business segments:

- Potable water
- Recycled water
- Sewer

Each of these business segments has an identifiable customer base. In addition, the developer community, large and small, makes up a significant class of customer for each business segment. As a result, the District has four distinct customer service types:

- Developers
- Potable water users
- Recycled water users
- Sewer users

The District has established practices and developed computer systems that have enabled the District to maintain a clear separation between the service costs relating to each of its four customer service types. Regardless of customer class, financial principles regarding cost allocation and fund accounting are fundamental to the District’s Reserve Policy. These principles are derived from the statements of the Governmental Accounting Standards Board (GASB), and from oversight and advisory bodies such as the California State Auditor, the Little Hoover Commission, and the Government Finance Officers Association (GFOA). These have significant impacts on how the finances of the District are organized and how financial processes work within the organization.

## 1.1 The District's Use of Financial Resources

All of the District's expenditures fall into two broad categories: operating costs and capital expenditures. The operating costs include costs relating to the purchase and delivery of potable and recycled water, and the transportation and treatment of sewage. The capital expenditures support the construction of infrastructure necessary to deliver services. The District uses various funds to support the operating and capital efforts. Operations and maintenance is financed only by rates and charges, also called pay-as-you-go, while capital infrastructure is financed using two financing methods: pay-as-you-go and debt issuance (requiring annual debt service). The Capital Improvement Program (CIP) and the two funding methods support the construction, betterment, and replacement of infrastructure in all three business areas: potable, recycled, and sewer.

The District establishes different funds to track revenues allocated to different activities. Once established, each fund receives financial resources up to the levels defined in this policy. Every year, as a part of the annual budget process, the District's rate model is updated for each fund with the current fund balances and the estimated revenues and expenditures for the next six years. The expenditure requirements and financial resources are then evaluated to ensure that the existing fund balances and additional revenues are sufficient within the current budget cycle and for the next five years to maintain target fund levels. If a deficit is identified, then options for transfers, shifting CIP projects, debt, cost saving measures, and/or rate increases are evaluated.

## 1.2 The District's Capital Improvement Program (CIP)

The planning, design, and construction costs of all capital facilities within the three business segments are allocated to four cost types and corresponding fund categories: New Water Supply, Expansion, Replacement, and/or Betterment. The allocation to these four cost types is defined in the District's Capital Improvement Program (CIP) and is determined by an engineering analysis that identifies which type of customer will benefit from each facility, planned or existing. The costs of the capital

improvements are borne by either existing users or by the developing areas, or by a combination of the two, as applicable. This Reserve Policy protects both the existing users and the developing areas from incurring unwarranted costs. Developing areas are not required to finance facilities that are replacement or betterment and established areas are not required to replace facilities before they are worn out because of new development. However, to ensure a fair allocation of costs, each facility has the potential to be classified into any or all of the four cost types. In addition to these cost types there are occasional CIPs that may be billable to a third party, if for example a third party requires a District facility be relocated. Paragraphs a through d below, describe how the costs of capital facilities are financed through various fees.

a. New Water Supply

The portion of a new supply project that benefits new users is financed from the reserves in the New Water Supply Fund category. These reserves are primarily derived from proceeds of the new water supply fee. The New Water Supply Fund is restricted, meaning the amounts credited to this fund are accounted for separately and are used solely for the planning, design, and construction of the new water supply expansion facilities. Debt financing may also be a temporary financial resource to finance new water supply projects. The District has a Debt Policy (Policy No. 45) that guides the debt issuance process. Any debt proceeds used for this purpose would be restricted in nature and tracked separately. General use reserves may also be placed in the Designated New Water Supply Fund and used for water supply projects.

b. Expansion

The portion of a CIP project that benefits new users is financed from the reserves in the Expansion Fund category. These reserves are primarily derived from proceeds of the "incremental" portion of the capacity fees collected within developing areas. Capacity fees are accounted for separately and used for the planning, design, and construction of expansion facilities. Additionally, expansion may be financed by the "buy-in" portion of the capacity fee which is restricted for CIP purposes, but not specifically for expansion. Debt financing may also be a temporary financial resource for expansion projects. General use reserves may

also be placed in the Designated Expansion Fund and used for expansion projects.

c. Replacement
The portion of a CIP project that benefits existing users by replacing an existing facility is financed from the reserves in the Replacement Fund category. Replacement of facilities may be financed with proceeds of the "buy-in" portion of the capacity fees, general use reserves held in the Designated Replacement Fund, and debt proceeds. The various funding sources available for replacement projects is anticipated to provide the necessary flexibility to begin projects while any necessary debt financing is being obtained.

d. Betterment
Facilities that improve reliability, meet new regulations, or create increased levels of service are considered betterment facilities that benefit existing users. The reserves in the Betterment Fund category are used to finance these projects or portions of projects. Proceeds of the "buy-in" portion of the capacity fees may also be used to finance betterment projects. General use reserves may be placed in the Designated Betterment Fund and used for betterment projects.

*1.21 Relocations*
Occasionally, relocation of a District facility is required by a third party. If the District has a superior easement the relocation cost will be paid by the third party, but only to the extent that the District does not benefit from the relocation. When relocation is required, a CIP project may be created which is wholly or partially financed by a third party. On occasion, the District will require that its own facilities be relocated. Depending on the nature of the facilities, the financial resources for these projects could be from new water supply, expansion, replacement, betterment or third party financing. Each project is individually negotiated with the third party based on the facts and circumstances of the relocation. Occasionally, the District will improve the facilities that are being relocated. When determining how to allocate costs to various funds the following guideline is suggested: if a project has more than five years of useful life remaining, an incremental cost view should be considered; if the project has less than five years of useful life remaining, a pro-rata cost approach should be considered. Also,

the likelihood the District will benefit from an asset's life extension should be evaluated prior to allocating costs.

*1.22 Oversizing*
If deemed reasonable by the District, in connection with the construction of backbone facilities, a developer may be required to oversize new facilities for future development. The developer is reimbursed for incremental oversizing costs as per Policy No. 26. These reimbursements are not available for the distribution system within a development which is an obligation of the developer.

*1.23 Exclusion of Developed Areas from Expansion Costs*
Developed areas are assumed to have sufficient supply and capacity to meet their current requirements as provided by the developers. In addition, they are considered to have borne capital financial costs that are at least proportionate to the benefits they have received from capital facilities. Accordingly, no regional capital financing costs are allocated to these areas so that they will not incur any costs for newly developing areas, except for capital projects that produce district-wide benefit or cost savings.

*1.24 Improvement Districts (IDs)*
Improvement Districts (IDs) are established to facilitate the financing of particular improvements by the specific beneficiaries. The District has a number of improvement districts that were established for General Obligation (GO) debt repayment. Most GO debt has been paid off and it is unlikely that the District will issue additional GO debt. Improvement districts continue to be used for other purposes: 1) to distinguish sewer customers from water customers on the county tax roll; or 2) to place parcels on the county tax roll for the collection of availability fees.

Over the years, the District moved to a district-wide perspective of financing improvements. This philosophy is evident by the district-wide capacity and annexation fees. The District also uses district-wide water rates. As time goes on, it is expected that IDs will continue to outgrow their purpose and their use will diminish.

## 1.3 The Purpose of the Policy

Public entities accumulate and maintain reserves to ensure both financial stability and continuous availability of services. Financial stability and the resulting improved credit quality allow the public entity to weather times of uncertainty and the impact of negative events, both major and minor. Reserves allow for the ongoing maintenance of property and timely payment of expenses even when such expenses exceed money available from a single fiscal period. In the final analysis, the type and level of reserves are driven by the type and magnitude of uncertainty faced by the public entity.

A "reserve" has a number of meanings, as follows:

- Working capital is required to insure timely payment of obligations.
- A buffer against volatility in revenues.
- Liquidity is required to obtain other goods and services (*e.g.*, bank services).
- Designated money to protect creditors.
- Money set aside to replace assets at the end of their useful lives.
- Money set aside to repair or replace assets damaged or destroyed at unanticipated times.

It is important to note that reserves, fund balance, and net assets are not the same. Fund balance and net assets are accounting terms and may not always be in the form of cash or liquid investments. Fund balances and net assets may not always be reserves unless a designation of all or a portion of fund balance is made. In addition, the term fund balance was replaced by net assets as codified by the Governmental Accounting Standards Board (GASB).

In short, reserves are the liquid assets of the District, accumulated and maintained for application to finance contingent future activities, whether known or unanticipated, operating or capital in nature. The District's Reserve Policy governs the

management and use of these financial resources. Few policies have a more significant impact on the financial health and stability of the District. This policy explains several key financial concepts used by the District and provides some background information to the overall strategies and practices utilized. The District has a fiduciary obligation to its customers, to manage and direct the use of public funds for the purpose of providing water and sewer services in an efficient and financially sound manner.

### 1.4 Policy Guidelines

In 2000, the Little Hoover Commission reviewed the levels of reserve funds for special districts in California and prepared a report reflecting that special districts were accumulating unreasonable levels of funds. As a proactive response, the California Special Districts Association (CSDA) prepared Reserve Guidelines for its members. The Reserve Guidelines were significant in noting that reserve levels need to be in context of the organization's overall business model and capital improvement plan.

There are a number of potential events which the District should consider in the development of reserves:

- Economic Uncertainty - performance of the regional economy and the impact of that performance on demand for water.
- Weather - the amount of rainfall and the impact of weather on the availability and the cost of water as well as the demand for water.
- Government Mandates - the impact of federal and state regulation, particularly environmental regulation.
- Tax Changes - limitations on the District's taxing and spending powers through the passage of a voter referendum, the impound of District property taxes or the removal of the District's power to levy property taxes, further increases to Educational Revenue Augmentation Fund (ERAF) contributions or changes in calculation methodology.
- Operating Costs - increases in operating and maintenance costs because of inflation, labor agreement or other modification.

- Force Majeure - unanticipated expenditures resulting from natural disasters or intentional acts.
- Emergency Maintenance - unanticipated expenditures resulting from unexpected failure of assets (*e.g.*, rupture in the primary transmission system).
- Unexpected Variation in Cash Flow - the incidence of additional costs or decreased revenues that require short-term borrowing in the absence of sufficient financial resources.

The California State Auditor has, in its oversight role, offered a number of quality recommendations for the development of reserve policies as outlined in its report entitled, "California's Independent Water Districts: Reserve Amounts Are Not Always Sufficiently Justified, and Some Expenses and Contract Decisions Are Questionable," dated June 2004, Report No. 2003-137. All of these recommendations have been incorporated into this policy in an effort to address key issues surrounding the management and use of District reserves. The detailed objectives as identified by the State Auditor are as follows:

- Distinguish between restricted and unrestricted reserves.
- Establish distinct purposes for all reserves.
- Set target levels, including minimums and maximums, for the accumulation of reserves.
- Identify the events or conditions that prompt the use of reserves.
- Conform to plans to acquire or build capital assets.
- Receive Board approval and that it is in writing.
- Require periodic review of reserve balances and rationale for maintaining them.

Yet, the State Auditor's report acknowledges that the California Constitution (Article XIII B, Section 5) is vague in its provisions governing the accumulation and use of reserves.[1]

[1] California State Auditor, Bureau of State Audits, "California's Independent Water Districts: Reserve Amounts Are Not Always Sufficiently Justified, and Some Expenses and Contract Decisions Are Questionable," dated June 2004, 2003-137; p. 8.

Specifically, the Constitution states that "each entity of the government can establish contingency, emergency, unemployment, reserve, sinking fund…or similar funds as it shall deem reasonable and proper."[2] Similarly, the State's Water Code does not impose any requirements as to specific or recommended reserve fund levels. As a result, the public finance community as a whole has yet to settle on any real objective standards for the level of reserve funds appropriate for governmental enterprises. This lack of consensus as to specific standards is indicative of the wide variance of the financial and operations context for different districts and different contingencies justifying reserves.

The Government Finance Officers Association (GFOA) in its "Recommended Practice on Appropriate Level of Unreserved Fund Balance in the General Fund" (2002) states that in establishing a policy governing the level of unreserved fund balance in the general fund, a government should consider a variety of factors. These include:

- The predictability of its revenues and the volatility of its expenditures (*i.e.*, higher levels of the unreserved fund balances may be needed if significant revenue sources are subject to unpredictable fluctuations or if operating expenditures are highly volatile).
- The availability of resources in other funds as well as the potential drain upon general fund resources from other funds (*i.e.*, the availability of resources in other funds may reduce the amount of the unreserved fund balance needed in the general fund, just as deficits in other funds may require that a higher level of unreserved fund balance be maintained in the general fund).
- Liquidity (*i.e.*, a disparity between when financial resources actually become available to make payments and the average maturity of related liabilities may require that a higher level of resources be maintained).
- Designations (*i.e.*, governments may wish to maintain higher levels of the unreserved fund balance to compensate for any portion of unreserved fund balance already designated for a specific purpose).

[2] California Constitution, Article XIII B, Section 5.

In the preparation of this policy, each of the CSDA guidelines and the GFOA recommendations has been considered. In addition, all seven objectives provided by the State Auditor are specifically addressed for each reserve. The District wholly supports the State Auditor's efforts to bring a high-level of quality to reserve governance and establishing a standard of performance.

The District recognizes that the customer pays for services provided. Quality management requires that periodic valuations be performed so that fees and charges can be set at appropriate levels to recover the cost of service. The District's Reserve Policy has been drafted with consideration of the GFOA, CSDA, and State Auditor's general guidelines as provided above. In addition, the District has adopted the following principles in the management of its financial resources:

- Reserves are held and used only for the purpose for which they are collected. This is done to maintain equity among customers.
- Each of the service types is tracked separately so that expenditures and revenues can be monitored and evaluated for each customer type. This provides the District with the necessary information to appropriately charge for each of the services.
- Separation of operations and maintenance from capital expenditures occurs within each of the service types. This is done because the financing of these expenditures is often on different timelines or use different reserves.
- The District will hold its reserves at responsible and prudent levels. This policy sets minimum, maximum, and target levels for each of the various funds. This has been done so that the District can maintain reserves to meet the purpose for which the funds were established. The levels are set by reference to line items in the District's financial statements and approved budgets. This allows reserve levels to adjust to the District's changing financial circumstances.
- Debt financing of facilities provides intergenerational equity and maintains rates at reasonable levels. This equity is accomplished with long-term financing which spreads the cost of facilities over the life of the facilities. The burden to pay for facilities is then paid by those who use

them. The District could amass significant reserves by pre-collecting financial resources in a Replacement Reserve Fund allowing the District to cash finance all replacements. However, this would require significant rate increases burdening the current customers and creating reserve levels difficult to defend to the ratepayers or other oversight entities.

These concepts are fundamental to the way the District manages its funds and have a direct impact on the way rates and charges are set. The District performs annual budget evaluations and updates its rate model on an annual basis to monitor and adjust the various funds and revenue sources. The separation, tracking, and projecting of the various funds and expenditures create the essential information necessary for the equitable rate structure maintained by the District. The annual review preserves the balance between services provided and the fees charged. This review also insures that reserves will be available to continue to serve the District's customers.

**Financial Sources**

**2.0 Developers**

a. Meter Installation Charges (General Use)
Meter fees are charges collected for new water service connections. Fees vary depending upon meter size and type of service. The costs associated with meter installations are included in the Operating Expenses section of the budget. These charges are financed by developers.

b. Developer Deposits (General Use)
These deposits are for the engineering and operations services provided to developers. They are tracked separately for each developer and any excess amount is returned to the developer.

c. Water Annexation Fees (General Use)
Annexation fees[3] are collected as a condition of annexing into the District's potable or recycled water facilities. Since the existing facilities have been built and maintained

[3] Code of Ordinances, Section 9.

by developers or customers within the District, the annexation fee is calculated based on the present value of all property taxes (1% property tax and availability fees) paid by existing and prior customers. The annexation fee reimburses existing customers for past contributions so that all customers have contributed more equally to water facilities. Proceeds of annexation fees are unrestricted and may be used for any general fund purpose.

d. Sewer Annexation Fees (General Use)

A sewer annexation fee is collected when property is annexed into an improvement district. Since the existing facilities have been built and maintained by developers or customers within a sewer IDs, the annexation fee is calculated based on the present value of all availability fees paid by existing and prior customers. The annexation fee reimburses existing customers for past contributions so that all customers have contributed more equally to sewer facilities. Proceeds of the annexation fees are unrestricted and may be used for any general fund purpose.

e. New Water Supply Fee (Restricted)

New water supply fees[4] are based on the cost of the expansion portion of new water supply projects divided by the number of future equivalent dwelling units (EDU). The new water supply fee covers the cost of planning, design, construction, and financing associated with facilities for the District's new supply needs. These fees are paid by developers. The proceeds of this fee may be used only for new potable or recycled water supply projects. Although the fees collected are not restricted separately, one portion for potable and the other for recycled, they are tracked separately.

f. Water Capacity Fees (Restricted)

Water capacity fees[4] are based on the value of existing and future facilities divided by the number of existing and future equivalent dwelling units. This method of calculating capacity fees is called the combined method, where the "buy-in" portion of the capacity fee covers costs to repay existing customers for the facilities that they have built, and where the "incremental" portion of the capacity fee covers the cost of future expansion facilities. The "buy-in"

[4] Code of Ordinances, Section 28

portion of the capacity fee is restricted to pay for planning, design, construction, and financing associated with expansion, replacement or betterment facilities. The "buy-in" portion may be shifted back and forth between expansion, betterment or replacement as the financing needs change. The "incremental" portion of the capacity fee is limited to planning, design, construction, and financing exclusively for expansion facilities (excluding new water supply expansion).

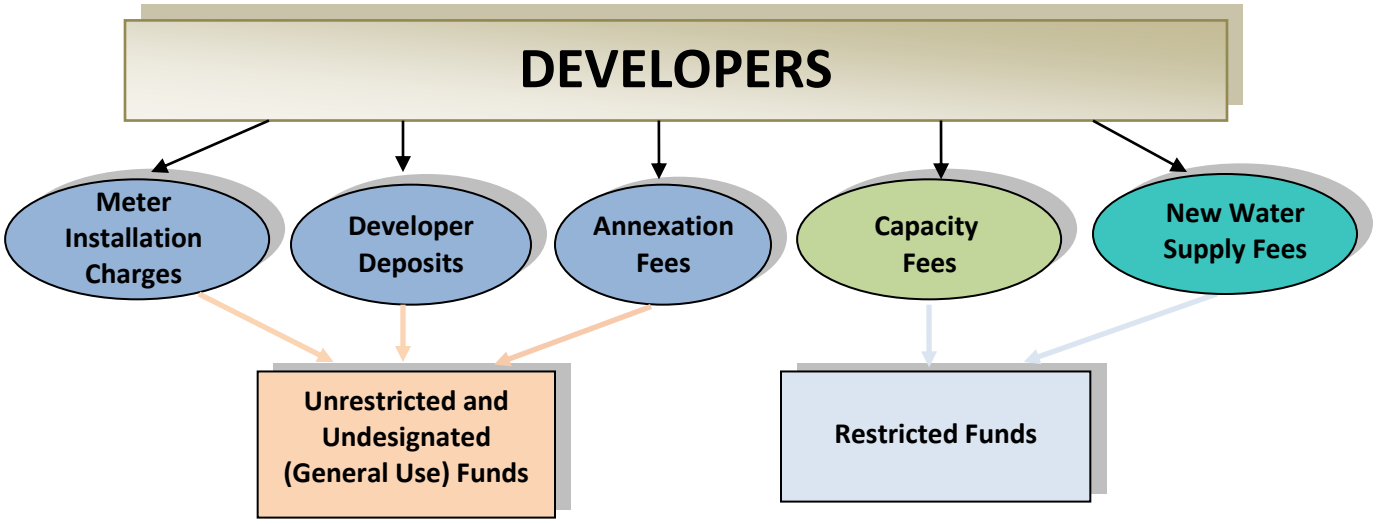
g. Sewer Capacity Fees (Restricted)
Sewer capacity fees are based on the value of existing and future facilities divided by the number of existing and future equivalent dwelling units. This method of calculating capacity fees is called the combined method, where the "buy-in" portion of the capacity fee covers cost to repay existing customers for the facilities that they have built, and where the "incremental" portion of the capacity fee covers the cost of future expansion facilities. The "buy-in" portion of the capacity fee is restricted to pay for planning, design, construction, and financing associated with expansion, replacement or betterment facilities. The "buy-in" portion may be shifted back and forth between expansion, betterment or replacement as the financing needs change. The "incremental" portion of the capacity fee is limited to planning, design, construction, and financing exclusively for expansion facilities. For parcels within a sewer ID the calculation excludes the tax debt already paid by these customers therefore, producing a lower fee than for parcels outside of a sewer ID. The capacity fees are restricted to pay for planning, design, construction, and financing associated with the expansion, replacement, or betterment of facilities.

Facility needs are based on projected land use planning. Changes in anticipated future land use occur and can alter projected facility requirements. Thus, both the anticipated facilities needs and their projected costs change over time as regulatory agencies make changes to land use. The District periodically reviews the capacity fee calculation to accommodate such variations. These fees are paid by developers.

The District's construction of infrastructure occurs prior to the addition of EDUs. This sequence serves two purposes: one it ensures that the District can serve the pending construction as it is completed; and two, it is more efficient to oversize many facilities at the outset rather than build for the current need and then reconstruct when the future need is realized. As a result of this strategy, the District has financed construction with bond financing as the existing expansion reserves are depleted.

The water capacity fee is calculated based on the combined recycled and potable water systems' needs. This methodology is used because the two water systems work hand-in-hand. All capacity fees can be used for either potable or recycled but must be tracked to distinguish between the "buy-in" and "incremental" portions as described above. So, while capacity fees are not restricted separately by potable and recycled, they are tracked separately.

**Diagram 2.0: Flow of Funds - Developer Sources**




## 2.1 Customers/Users

a. Uniform Rates and Charges (General Use)
Charges to users for water, sewer, and recycled water are uniform throughout the District for similar customer types.

b. Monthly System Fees (General Use)
This is a fixed revenue source that is charged monthly. The amount of the charge is based on the meter size.

c. Energy Charges (General Use)
The energy pumping fee is a charge per Unit of water for each 100 feet of lift, or fraction thereof, above the base elevation of 450 feet. This charge is placed on the monthly water bills of all water customers.

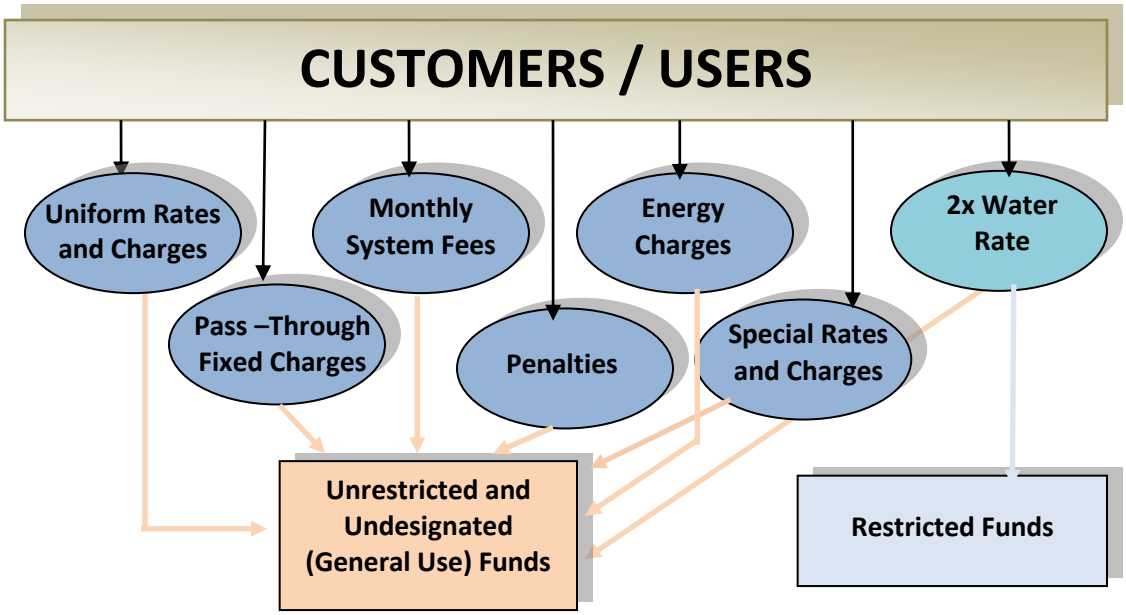
d. Penalties (General Use)
Penalties are added to the monthly water and sewer bills for late charges, locks, etc.

e. Pass-through Fixed Charges (General Use)
A fixed monthly charge to the District's customers intended to collect sufficient funds to pass-through the increased fixed costs from the County Water Authority (CWA) and the Metropolitan Water District (MWD).

f. Special Rates and Charges (General Use)
In addition to the uniform water and sewer charges, the District has a special sewer rate for the Russell Square lift station. The Russell Square fee is for construction, installation, maintenance or repair of the Russell Square lift station. This fee is collected in accordance with the Russell Square sewer charge (see Code of Ordinances Section 53.03B).

g. Temporary Meter Fees (General Use/Restricted)
Water charges, in lieu of capacity fees, are charged on temporary meters. This is done because temporary meters use system capacity but they are not charged a capacity fee. Temporary water use is charged at two times the water rate with the added charge placed in the Restricted Expansion Fund. The primary users of these temporary meters are developers; however, general customers also use these for various purposes.

**Diagram 2.1: Flow of Funds - Customer Sources**




## 2.2 County-Collected Taxes and Fees

a. General Levy Property Tax Receipts (1% Property Tax) (General Use)

In 1978, Proposition 13 limited the levy of ad valorem property taxes on real property to one percent of the assessed value of such property. Subsequent legislation, AB 8, established that the receipts from the one percent levy were to be distributed to taxing agencies proportionate to each agency's general levy receipts prior to Proposition 13. Taxes received are for general use. Spending limits for the District are governed by the 1979 passage of California Proposition 4, Limitations of Government Appropriations (GANN limit). Proposition 4 places an appropriation limit on most spending from tax proceeds.

b. Availability Charges (General Use/Restricted)

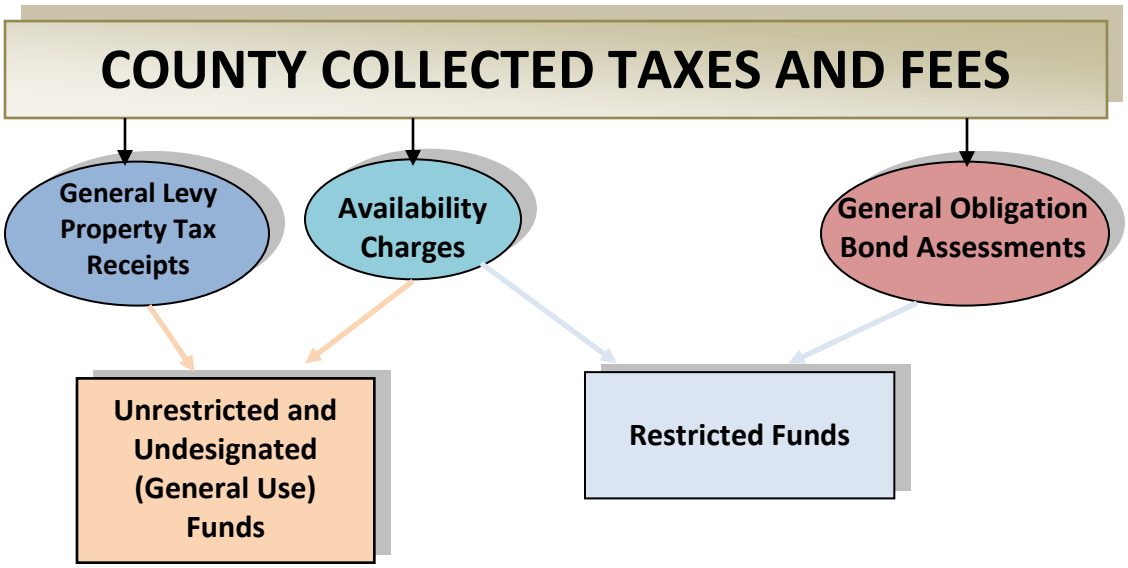
The District levies availability charges each year in developed and undeveloped areas. Current legislation provides that any amount up to $10 per parcel is general use and any amount over $10 per parcel is restricted to be expended in and for the improvement district (ID) within

which it is collected. Accordingly, the District may use availability charges in excess of $10 toward costs of water and sewer facilities which are either, expansion, betterment, or replacement of facilities consistent with the purpose of the ID in which they are collected. This portion of the proceeds of availability charges is geographically restricted and restricted by purpose. As costs are incurred on these projects the respective IDs are charged, reducing the reserves. To the extent that availability charges are not used for the purpose for which they are collected, they must be returned to the property owners that paid them. The District has historically used these reserves for betterment capital facilities thus, the restricted reserves are accounted for in "sub-funds" of the Betterment Fund (See 2.1 f.).

c. Improvement District General Obligation (GO) Bond Assessments (Restricted)

The District has historically issued general obligation (GO) debt and establishes an improvement district for the repayment of that debt. When this financing method is used, the county tax roll can be used to collect special taxes or assessments within the ID to pay the debt obligation. The proceeds of the debt are restricted for the purpose as defined in the bond documents.

**Diagram 2.2: Flow of Funds – County Collection Sources**



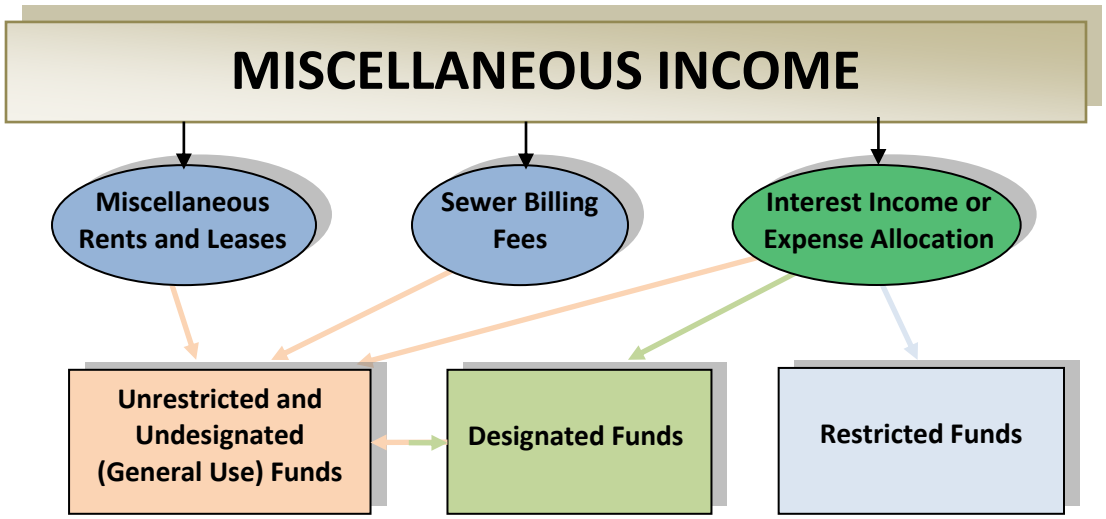
## 2.3 Miscellaneous Income

a. Miscellaneous Rents and Leases (General Use)
Revenues received from the rental and lease of District property are general use revenues. Not only are they periodic revenues, but there is also a one-time fee charged with the setup of each new lease. The District incurs expenses related to these rents and leases. The one-time fees are calculated to recover the costs to setup the leases.

b. Sewer Billing Fees (General Use)
Sewer billing fees are general use revenues. The District provides processing and billing services to the City of Chula Vista to bill and collect from their customers for sewer service. These fees are to recover the cost the District incurs to provide this service.

c. Interest Income or Expense Allocation (General Use, Designated, and Restricted)
Interest income (expense) will be allocated every month based upon each fund's month-ending balance. In this way, each fund receives credit for interest earned by that fund and each fund with a negative balance is charged for the use of the other fund's reserves.

**Diagram 2.3: Flow of Funds – Miscellaneous Income Sources**



## 2.4 Debt Issuance

a. Loans (General/Restricted Use)

As the District determines that additional financing is required for a particular purpose, the option of borrowing is considered. The determination to borrow is made as a part of the annual rate model update and is evaluated in accordance with the Debt Policy before it is recommended to the Board for action. As an option to bond indebtedness, loans are available to satisfy short-term financing needs. These loans may or may not be contractually restricted for a particular purpose.

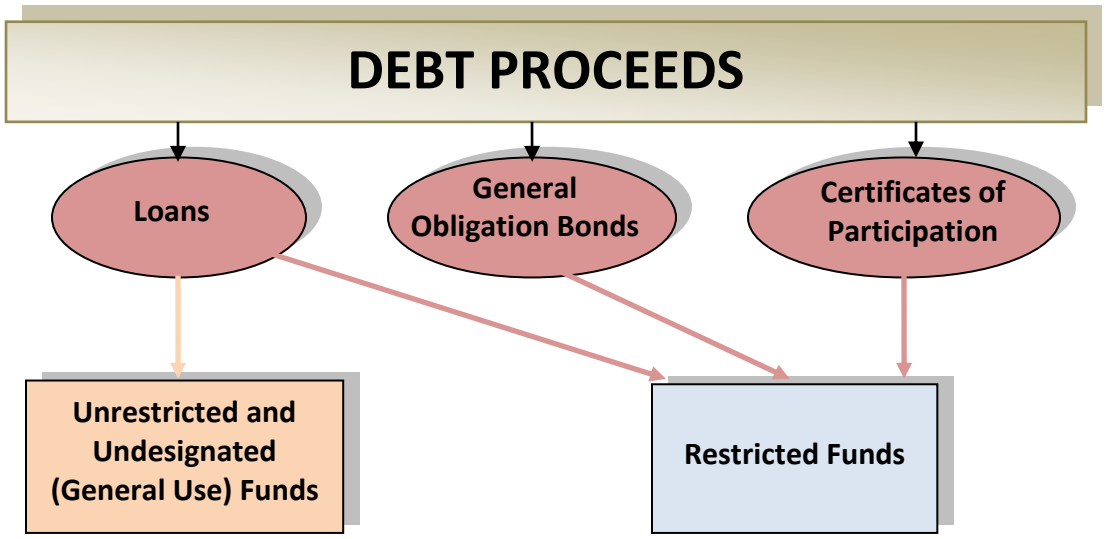
b. General Obligation (GO) Bonds (Restricted)

As the District becomes more developed it becomes less likely that general obligation debt will be used as it requires a vote of the public to be approved. Bond proceeds are restricted for the construction of those facilities identified in the GO bond issuance. Occasionally, specific portions of bond proceeds may be allocated for the repayment of the principal and interest, also called debt service, on these bonds. As the District determines that additional financing is required for a particular purpose, the option of debt issuance is considered. The determination to issue debt is made as a part of the annual rate model update and is evaluated in accordance with the Debt Policy before it is recommended to the Board for action.

c. Certificates of Participation (COPs) (Restricted)

General revenues of the District are pledged as security for Certificates of Participation (COPs) indebtedness. If the District determines that additional financing is required for a particular purpose, the option of debt issuance is considered. The determination to issue debt is made as a part of the annual rate model update and is evaluated in accordance with the Debt Policy before it is recommended to the Board for action. This form of financing has become the industry’s preferred form of financing as it does not require a vote of the general public.

**Diagram 2.4: Flow of Funds – Debt Issuance Sources**




**2.5 Inter-fund Transfers**

Each year in the budgeting process, future fund levels are projected for the next six years. Based on these projections transfers are recommended. Reserves may be transferred between Unrestricted or Designated Funds and the General Fund (see 4.0 "Funding Levels" and 4.1 "Fund Transfers"). Reserves may not be transferred to or from any of the restricted funds unless it is between two restricted funds with a shared purpose.

**Fund Types and Categories**

**3.0 General Funds**

a. Purpose

The General Fund is neither restricted nor designated. The District maintains one General Fund for each business segment (water, sewer, and recycled). This fund holds the working capital and emergency operating reserves. While the General Fund has a short-term focus to finance the District's annual operations, it is supported by the six-year rate model. This

fund is primarily used to finance the operations of the District; however, it can be used for any District purpose.

This fund can be used to supplement the District's rates and charges and be a temporary source of revenue to balance the Operating Budget. This fund can also be used to avoid spikes in the rates or significant and abrupt increases. It is an industry practice to have a fund that can be used to stabilize rates. This would only occur if there was a temporary need for reserves that would smooth out a rate spike or to ramp up what would otherwise be a dramatic rate increase.

The General Fund also plays a role in the debt planning of the District. This fund is viewed by the debt markets as a commitment by the District to ensure financial stability of the rates and charges of the District. The District is anticipated to need a number of debt issuances over the years and this fund will help the District not only to stabilize rate fluctuations but also to access low cost financing for future projects.

b. Sources

Meter installation charges, temporary meter fees, uniform rates and charges, monthly system fees, energy charges, penalties, pass-through fixed charges, general levy property tax receipts, water annexation fees, availability charges, miscellaneous rents and leases, sewer billing fees, interest income or expense allocation, loans, and a portion of the temporary water sales.

The sewer general fund receives sewer charges, penalties, availability charges, sewer annexation fees, and interest income or expense allocation.

c. Funding Levels

I. **Minimum Level** – The minimum reserve level for each business segment of the General Fund is three months of operating budget expenses (evaluated separately for each segment).

II. **Maximum Level** – The maximum reserve level for the General Fund is nine months of operating budget expenses. In the event that this fund exceeds the seven month level, the excess will be evaluated or transferred to one or more of the designated funds.

III. **Target Level** – The target level of reserves is three months of operating budget expenses. In the event that the fund drops below the target level, rate increases or fund transfers would be considered.

## 3.1 Designated Other Post Employment Benefits (OPEB) Fund

a. Purpose

Designated Other Post Employment Benefits (OPEB) reserves are "general use" reserves that have been set apart by Board action to finance the medical benefits of qualified retirees as outlined in the District's benefits plan. This fund is available to hold any Board designated OPEB funds. The District also has a trust at CalPERS and is restricted for the purpose of financing the OPEB liability. Money held in the CalPERS trust restricts the funds from any use other than OPEB. The two funds are considered jointly when looking at target reserve levels. Every two years, actuarial study is performed to update the annual financing requirements. Changes in the actuarial valuation may result from changes in benefit levels, employee population, health insurance costs, or general market conditions.

b. Sources

The OPEB liability may be financed by general use reserves coming from user rates and charges, either from an operating budget expenditure or from interfund transfers. Transfers of unrestricted reserves may come from the various designated funds or from the General Fund. As a part of the normal budget process, annual operating revenues have been sufficient to finance the ongoing needs of this designated fund. While debt financing is also an option, the District has only used user rates and charges to finance this fund.

c. Funding Levels

I. **Minimum Level** – The minimum reserve level for this fund is equal to the District's OPEB liability as determined by the actuarial study. When considering the reserve level of this fund, both the District held OPEB reserves and CalPERS held OPEB reserves must be considered jointly.

II. **Maximum Level** – The maximum reserve level for this fund is equal to the District's OPEB liability as determined by the actuarial study. In the event that the two funds, as described above, exceed the OPEB liability, the District will reduce the annual funding levels as defined by the actuarial study.

III. **Target Level** – The target reserve level for this fund is equal to the District's OPEB liability as determined by the actuarial study. In the event that the two funds, as described above, fall below the OPEB liability, the District will increase the annual funding levels as defined by the actuarial study.

## 3.2 New Water Supply Fund Category

a. Purpose

The New Water Supply Fund category is to finance the expansion portion of new water supply projects and is therefore to be paid by developers. When considering the reserve level of the New Water Supply category; the New Water Supply Fund, the New Water Supply Debt Fund, and the Designated New Water Supply Fund all work in concert and must be considered jointly.

b. Sources

The New Water Supply Fund receives reserves only from the new water supply fee. Other funds within the new water supply category of funds receive debt proceeds and general use reserves through a designation to this category.

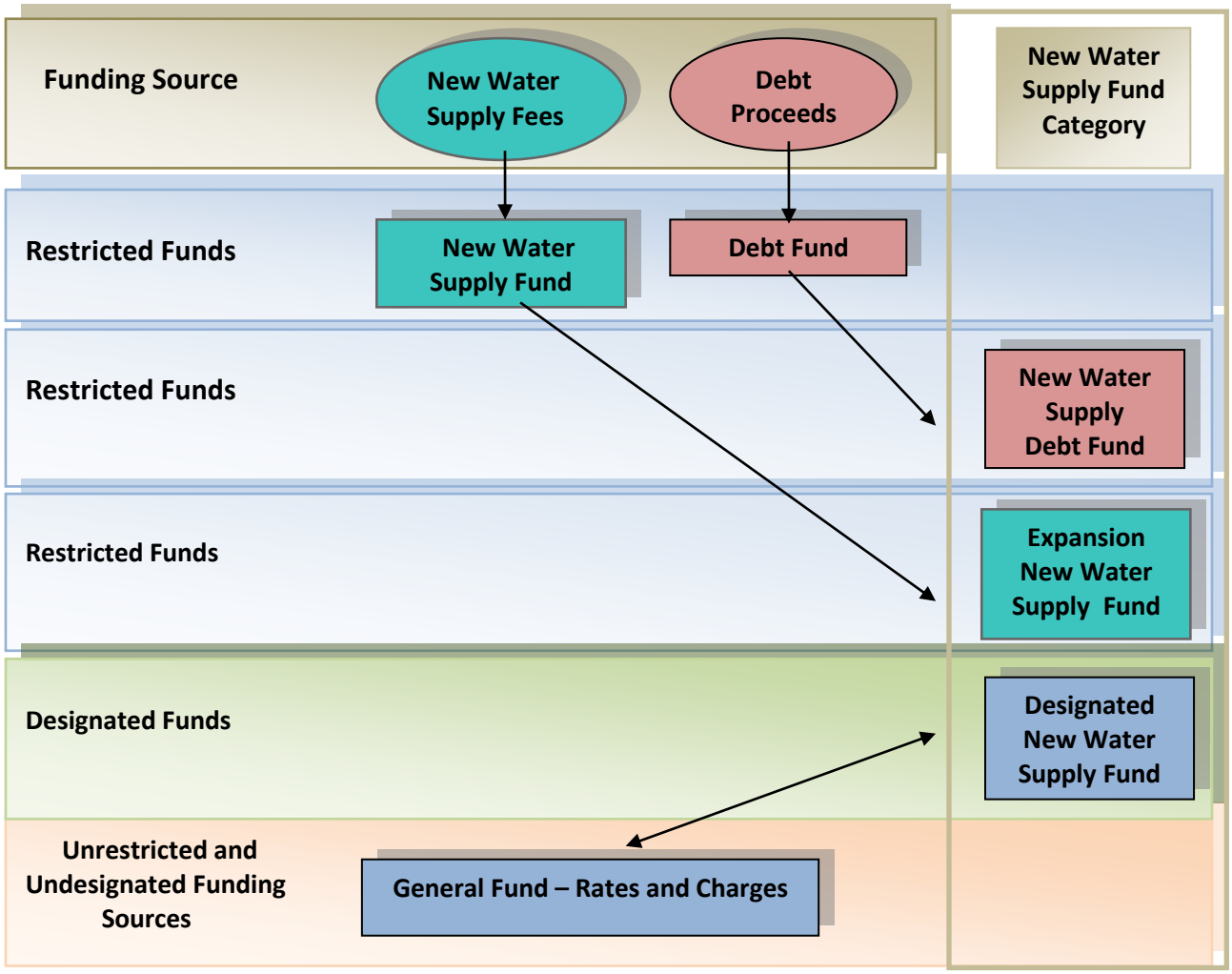
c. Funding Levels

I. **Minimum Level** – As the District matures the CIP will move to purely replacement projects. As the District moves through its lifecycle the need for new water supply reserves will decrease and may be reduced to zero.

II. **Maximum Level** – The maximum reserve level for the new water supply category of funds is limited to five years of the unfinanced new water supply facilities as described in the District's CIP Budget. To determine the unfinanced amount, the total new water supply financing needs must be reduced by the projected new water supply revenues, general fund designations, and bond financing. If the combined new water supply reserves exceed the target level, the District should consider transferring designated reserves to meet other purposes, reduce the new water supply fee, or change the timing of the new water supply projects.

III. **Target Level** – In order to facilitate debt financing of the new water supply, it is important that the various new water supply funds retain an overall reserve level of six months, prior to any attempt to obtain debt financing. This reserve level allows the District the time necessary to issue additional debt without depleting new water supply reserves. If the combined new water supply reserve levels drop below six months of expenditures, this would trigger a transfer of general use reserves, a bond sale, or a change in the timing of new water supply projects. Bond proceeds would be placed in the Restricted New Water Supply Debt Fund while transfers would be placed in the Designated New Water Supply Fund.

**Diagram 3.2: New Water Supply Fund Category**




## 3.3 Expansion Fund Category

a. Purpose

The Expansion Fund category is to finance the expansion portion of capital projects and therefore is to be paid for by developers. When considering the reserve levels of the expansion category, the following funds work in concert and must be considered jointly: the Expansion Fund, Expansion Debt Fund, Capital Improvement Fund, and the Designated Expansion Fund. Potable and recycled reserves are considered jointly while sewer is evaluated separately.

b. Sources

The Expansion Fund is financed by water charges in lieu of capacity fees (for temporary meters) and the "incremental" portion of the capacity fee. The other funds in this category may also be financed by debt proceeds, the "buy-in" portion of the capacity fee, and the general fund through a designation of reserves.

c. Funding Levels

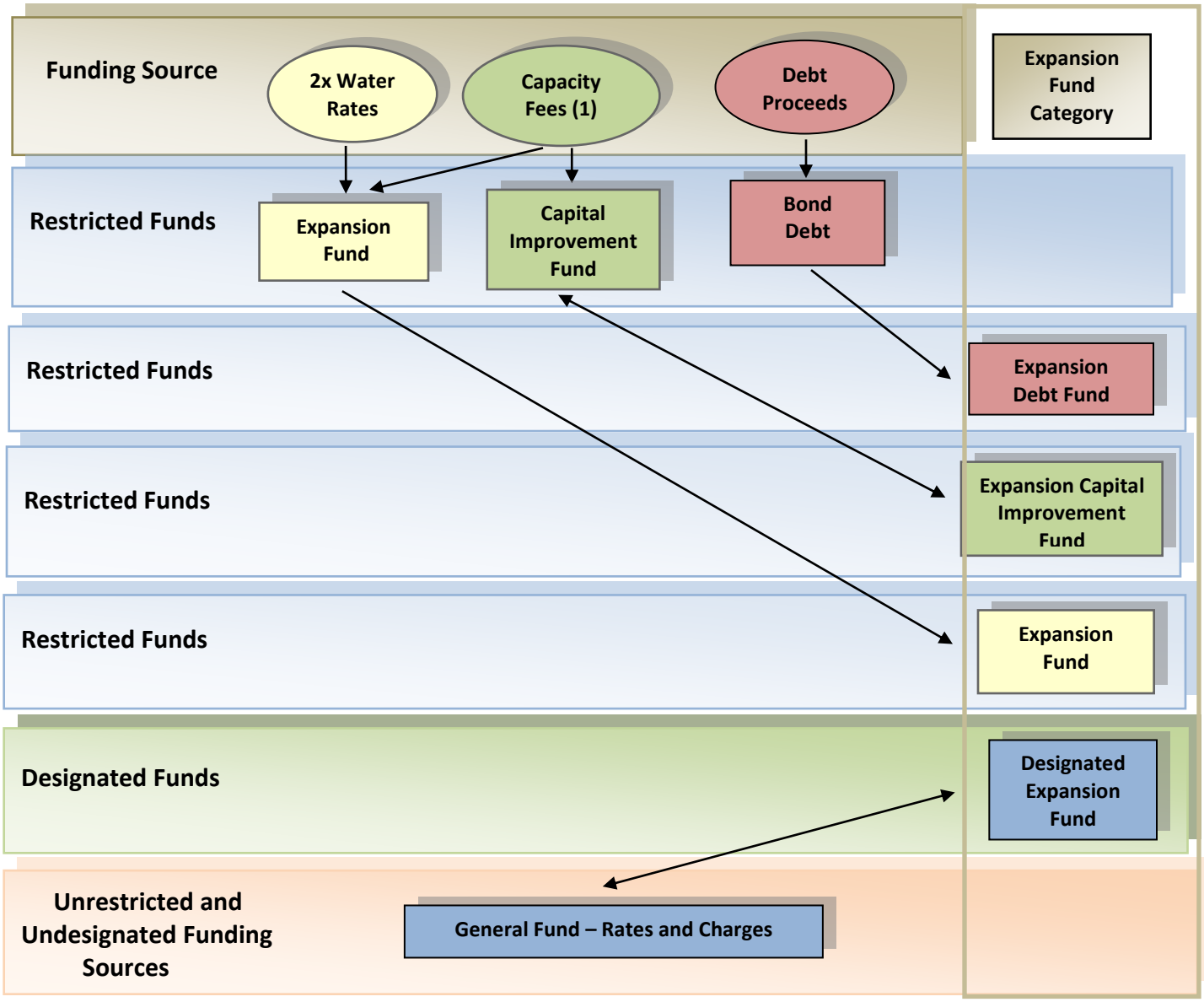
I. **Minimum Level –** As the District matures the CIP will move to purely replacement and betterment projects. As the District moves through this lifecycle the need for expansion reserves will decrease and may be reduced to zero.

II. **Maximum Level** – The maximum reserve level for the expansion category of funds is limited to five years of unfinanced expansion facilities as described in the District's CIP Budget. To determine the unfinanced amount, the total financing needs must be reduced by the projected expansion revenues, bond financing, and any restricted or general fund revenues allocated to this fund category. If the combined expansion reserves exceed target levels, the District should consider reducing capacity fees, reallocating restricted or designated funds to meet other purposes, or shifting the timing of expansion projects.

III. **Target Level –** The target level is six months of expansion expenditures. It is important that the expansion reserves remain at a minimum of six months of expansion expenditures. This reserve level allows the District the time necessary to issue additional debt without depleting expansion reserves. If the combined expansion reserves drop below six months of expenditures this would trigger a transfer of general use reserves, a bond sale, an adjustment to the timing of expansion projects, or a reallocation of restricted reserves. Bond proceeds would be placed in the Restricted Bond

Fund, transfers of general use reserves would be placed in the Designated Expansion Fund, and transfers of restricted reserves would be placed in the Expansion Capital Improvement Fund.

## Diagram 3.3: Expansion Fund Category




(1) For Water Capacity Fees 32.4% goes into the Expansion fund and 67.6% goes into the Capital Improvement Fund. For Sewer Capacity Fees 100% goes into the Capital Improvement Fund.

### 3.4 Replacement Fund Category

a. Purpose

The Replacement Fund category is to finance replacement projects. When considering the reserve levels of the replacement category of funds, the following funds work in concert and must be considered jointly: the Debt Fund, Capital Improvement Fund, and the Designated Replacement Fund. The purpose of these reserves is to pay for the replacement of capital infrastructure and capital purchases. These reserves are not to be used for the replacement of non-capital items.

With the District's development of its financial systems and the greater need and ability to separate and track reserves, the replacement reserves have been separated into three funds: water, recycled, and sewer.

Projects undertaken solely for the purpose of replacing major capital equipment or facilities, *i.e.*, where the cost exceeds $10,000 for capital purchases or $20,000 for infrastructure items, generally these are not considered normal maintenance. When the cost is below $10,000, the costs are financed annually as operational maintenance. As charges are incurred on replacement projects the reserves are deducted from the respective Replacement Funds on a monthly basis.

b. Sources

The various funds in this category are financed by debt proceeds, the "buy-in" portion of the capacity fee, and general fund designations.

c. Funding Levels

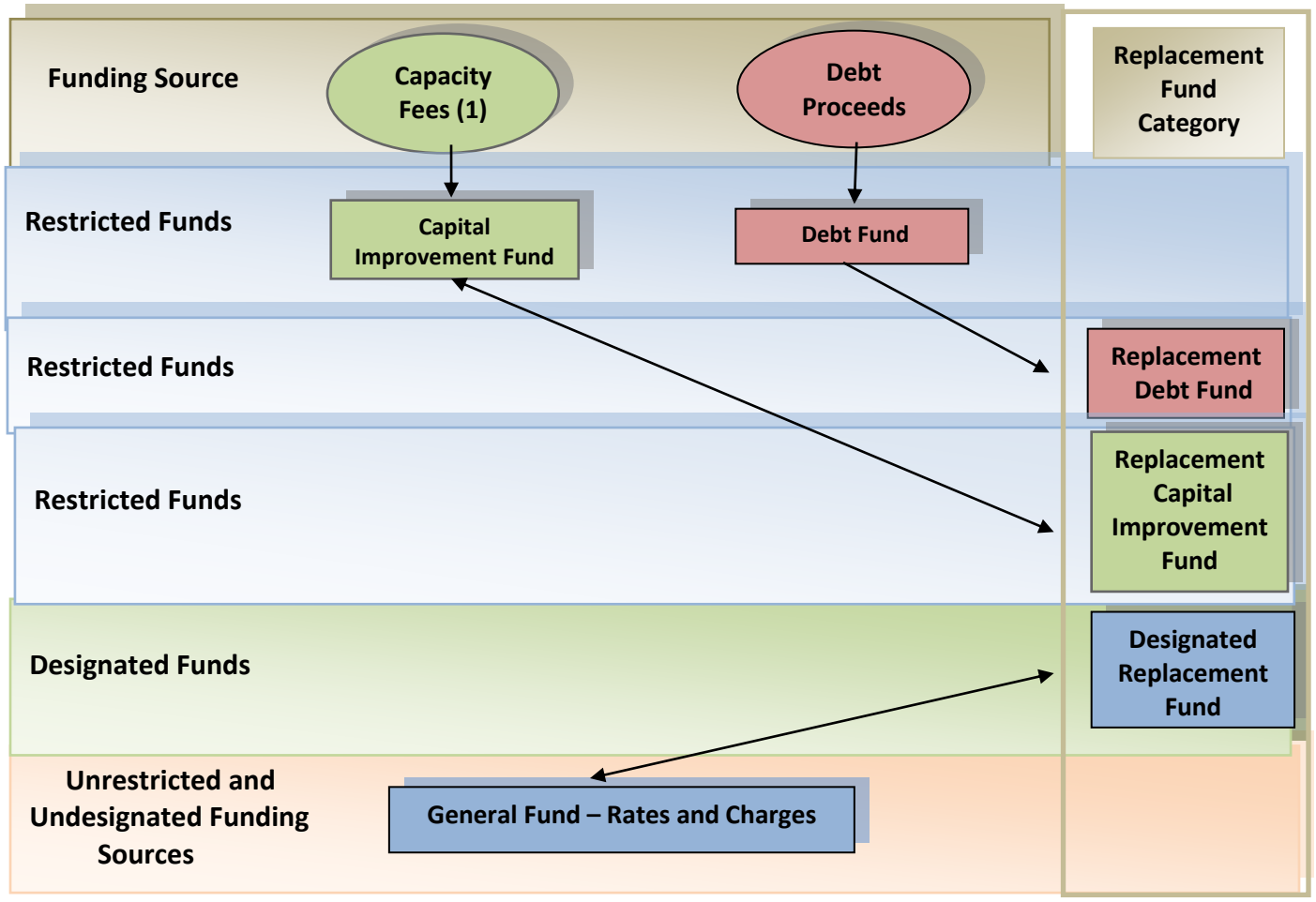
I. **Minimum Level** – The minimum reserve level of this category of funds is 3% of the historical value of existing assets as identified in the District's current financial statements. Potable, recycled, and sewer replacement are evaluated separately.

II. **Maximum Level** – The maximum reserve level of this category of funds is 6% of existing assets. If the

combined replacement reserves exceed target levels, the District should consider transferring the "buy-in" portion of the capacity fee to meet other purposes. Another consideration would be to shift the timing of replacement projects.

III. **Target Level** – The target reserve level of this category of funds is 4% of existing assets. In the event that the reserves fall below the recommended target level, the District should consider transferring the "buy-in" portion of the capacity fee. The District should also consider shifting the timing of replacement projects or issuing debt to support the planned level of facility replacement. The District will act based on the annual six-year rate model, to insure that at the end of that planning horizon the reserves exceed the minimum level and is approaching the target level.

## Diagram 3.4: Replacement Fund Category




(1) For Water Capacity Fees 67.6% goes into the Capital Improvement Fund. For Sewer Capacity Fees 100% goes into the Capital Improvement Fund.

### 3.5 Betterment Fund Category

a. Purpose

The Betterment Fund category is to finance the betterment portion of capital projects with a portion going to maintenance of the potable, recycled, and sewer systems. The District maintains separate Betterment Fund categories, one for each improvement district. An improvement district is a legally defined geographic area usually established for the purpose of bond financing of facilities. The betterment reserves within

these funds are restricted by law for use within the improvement district in which the fees were collected (Water Code 71631.6). However, the legal restriction of this reserve depends upon the particular revenue source. (See Section 2.2 b. for a review of the availability fees).

When considering the reserve levels of the betterment category of funds, the following funds work in concert and must be considered jointly: the Betterment Fund, Debt Fund, Capital Improvement Fund, and Designated Betterment Fund.

b. Sources

The Betterment Fund category receives restricted revenues by improvement district from availability fees (the first $10 is unrestricted, while amounts over $10 are restricted) collected through the county tax roll. Betterment may also be financed by debt proceeds, the "buy-in" portion of the capacity fee, as well as the general fund through a designation of reserves.

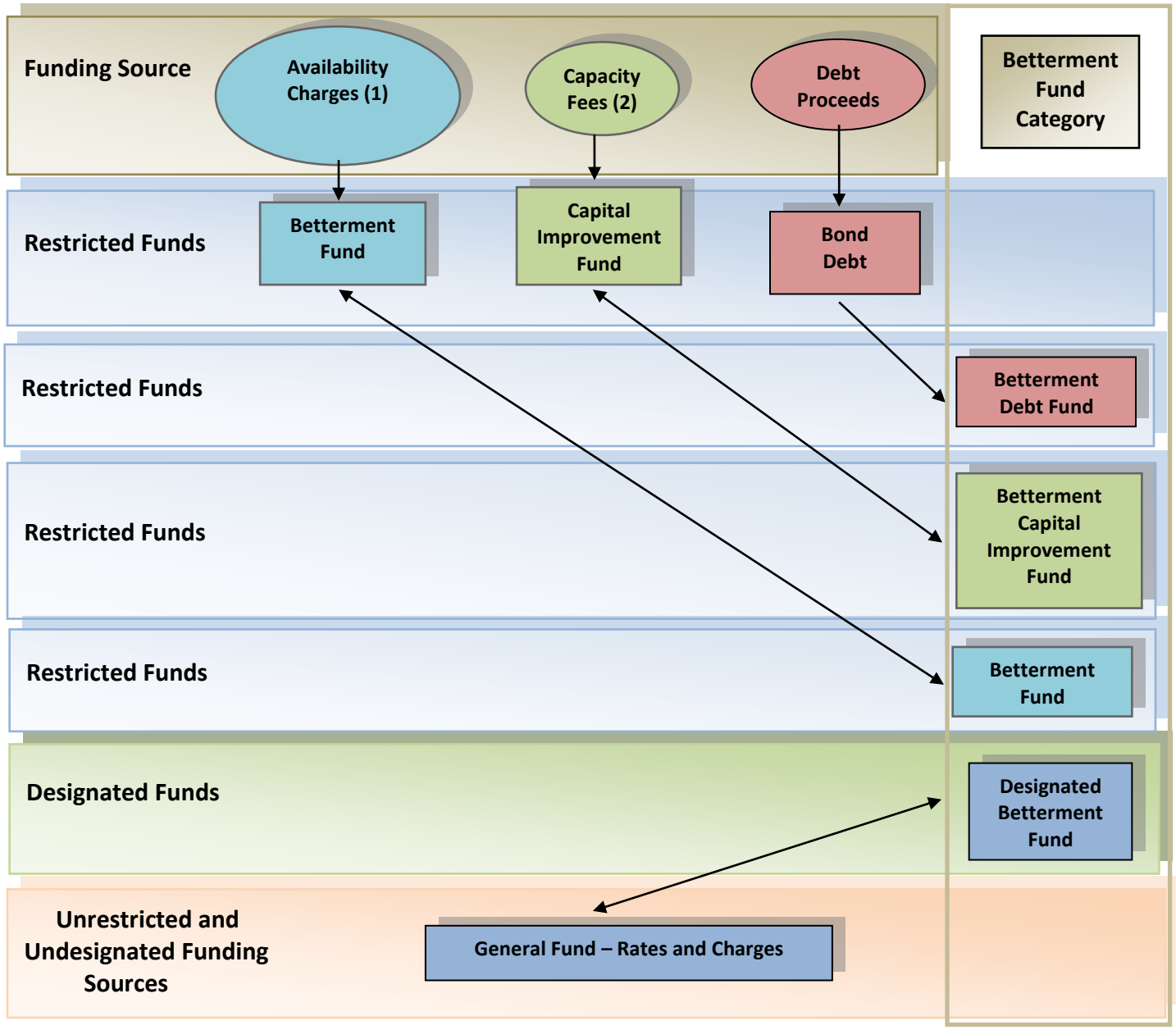
c. Funding Levels

I. **Minimum Level** – As the District matures the CIP will move to purely replacement projects. As the District moves through this lifecycle the need for betterment reserves will decrease and may be reduced to zero.

II. **Maximum Level** – The maximum reserve level for the betterment category of funds is limited to five years of unfinanced betterment facilities as described in the District's CIP Budget. To determine the unfinanced amount, the total financing need must be reduced by the projected betterment revenues, bond financing, and general fund designations. If this maximum is exceeded, then the District should evaluate reductions in the special water rates and availability fees, transferring designated reserves to meet other purposes, or shifting the timing of betterment projects.

III. **Target Level** – The target is six months of betterment expenditures. It is important that the betterment reserves remain at a minimum of six months of betterment expenditures. This reserve level allows the District the time necessary to issue additional debt without depleting betterment reserves. If the combined betterment reserves drop below six months of expenditures this would trigger a transfer of general use reserves, a bond sale, or an adjustment to the timing of betterment projects. Bond proceeds would be placed in the Betterment Bond Fund while transfers would be placed in the Designated Betterment Fund.

## Diagram 3.5: Betterment Fund Category




(1) The portion of charges over $10 per parcel is restricted.
(2) For Water Capacity Fees 67.6% goes into the Capital Improvement Fund. For Sewer Capacity Fees 100% goes into the Capital Improvement Fund.

## Diagram 3.6: Fund Targets

| Fund or Fund Category | Actions to Consider if below Target | Target | Maximum |
|---|---|---|---|
| New Supply Fund Category | New supply fee increase, bond financing, or transfer to designated or CIF Funds | Total of all funds in fund category = six months of capital expenditures | Nexus of cost to fee |
| Expansion Fund Category | Capacity fee increase, bond financing, or transfer to designated or CIF Funds | Total of all funds in fund category = six months of capital expenditures | Nexus of cost to fee |
| Replacement Fund Category | Bond financing, or transfer to designated or CIF Funds | Total of all funds in fund category = 4% of infrastructure | Nexus of cost to fee |
| Betterment Fund Category | Bond financing, or transfer to designated or CIF Funds | Total of all funds in fund category = six months of capital expenditures | 5 years unfunded needs |
| Debt Reserve Fund | Increase tax collection or rates | One semi-annual payment | Two semi-annual payments |
| OPEB Fund | Fund transfers | Full funding | Full funding |
| General Fund | Rate increase or fund transfers | Three months of operating budget expenses | Nine months of operating budget expenses |

**Additional Restricted Funds**

**4.0 Capital Improvement Fund**

a. Purpose

The "Capital Improvement Fund's sole purpose is to track the "buy-in" portion of the capacity fee and to ensure these fees are expended solely for the purpose for which they were collected. In this case it is to pay for facilities that were in existence at the time this fee was established.

These fees may be used for expansion, replacement, or betterment projects or any debt related to these categories. The water capacity fees may also be used for either the potable or the recycled systems. As capacity fees are collected, the "buy-in" portion of the fee is allocated as needed to one of three capital improvement funds, one in each of the Expansion, Replacement, and Betterment Fund categories. These reserves are used to pay debt or offset any negative balance within these three categories of funds. For sewer, these fees fund the Expansion, Replacement, or Betterment Fund categories. These fees may not be used to finance the New Water Supply category, as there were no new water supply facilities in existence at the time the new methodology for capacity fees was established.

b. Sources
The "buy-in" portion of the capacity fee collected after June 30, 2010 or after September 30, 2014 for sewer.

c. Funding Levels
There are no minimums, maximums, or target levels for these reserves on an individual basis. The allocation of this fee to the various capital improvement funds is dependent on the overall reserve levels within each fund category.

## 4.1 Debt Reserve Fund

a. Purpose
The Debt Reserve Fund is established to hold the proceeds from the various debt issuances. There are two types of debt, General Obligation bonds and Certificates of Participation bonds. The proceeds are transferred to the New Water Supply, Expansion, Replacement, or Betterment Debt Funds as they are expended for various facilities within those fund categories. As repayment of the debt occurs, the balances within these individual funds are reduced so that the financial impact of issuing debt is tracked within the category for which the debt was issued.

b. Sources
Debt proceeds.

c. Uses

There are no minimums, maximums, or target levels for this fund on an individual basis. This fund is available on an as needed basis to fund CIP projects for new water supply, expansion, replacement, or betterment. From a funding level perspective, these reserves are evaluated in the context of all the various funds within each fund category.

**Fund Transfers**

## 5.0 Funding Levels

As described in the preceding sections, the District maintains reserves for its operating and capital activities. These reserves can be of three types: 1) undesignated or general use reserves, 2) designated, and 3) restricted for a specific purpose. The restricted reserves can be restricted geographically and/or by purpose. The District maintains various funds to track the various designations and restrictions. The source of the money for each fund was discussed along with the purpose, source of funds, and levels. Key characteristics of these funds are the target levels, minimums, and maximums. The funding levels must be viewed in the context of the economic environment, political environment, and in light of the District's rate model. The District's six-year rate model not only shows the current balance but also shows the trend of the fund balances. Often the trend of the fund is a greater indicator of financial stability than is the current balance.

The rate model is updated each year with the budget process and evaluates each fund over the next six years. The rate model will take into account the general economic environment, looking at the development rate, supply rate increases, the possibility of raising rates, capital infrastructure spending, and strategic plan initiatives. The fund balances may at times be over or under the target amount. This is not only acceptable but expected. The rate model provides an empirical estimate of the conformance between the projected District's financial activities and the guidelines of this policy.

## 5.1 Fund Transfers

Reserves within the District's various designated funds come from interfund transfers of unrestricted general use reserves. It is important to note that the District has the ability to use general use reserves for any business purpose. General use reserves may be transferred to and from any unrestricted fund for any business need. Designated reserves are general use reserves which have been set aside for a specific purpose by Board action. These reserves can only be used for the purpose they were designated, or with Board action they may be used for any other business purpose. While general use reserves may be used for any restricted purpose they may not be transferred to Restricted Funds due to the sensitivity of the tracking of restricted reserves. If reserves are needed for a restricted purpose they are transferred to a Designated Fund within the fund category with that particular purpose. Reserves restricted to a fund category may only be used within that category and may not be transferred to another category. For example, the new water supply fee and the "incremental" portion of the capacity fee are restricted reserves for a specific purpose, and may not be transferred to another category as no other category has the same purpose. However, the "buy-in" portion of the capacity fees are restricted for purposes that are shared by more than one category of funds and may therefore be transferred to a restricted fund within another fund category as long as it shares the same purpose.

In many situations reserve transfers are expected as some fund categories will exceed their maximums or drop below their minimums. Only fund categories that are below the stated target are eligible to receive transferred reserves. Fund categories that exceed their maximums are first to be considered for transfers out, followed by funds that exceed their targets. Funds that exceed their minimums are also available for reserve transfers out, but only when other options are not available.

The rationale for prioritizing reserve transfers is based on the immediacy of the need and the availability of reserves from other funding sources. For example, the General Fund is first to receive reserves when it drops below its target or minimum levels. This is because of the immediate and ongoing nature of the expenditures that are served by this fund. The operation of the

District is first and foremost of the objectives of the District. On the other end of the spectrum, the Replacement Fund has a long-term perspective and will be used to partially finance replacement assets for many years to come. Debt financing is available to respond to this long term, foreseeable, and planned cash flow. This fund is less likely to have immediate needs and has other financing options.

When making the determination of when transfers are necessary, all funds within a fund category work as a group. The combined balance of the restricted and designated funds is looked at when determining whether the fund category requires additional funding from the Restricted Capital Improvement Fund, Restricted Debt Fund, or the General Fund. Because the Capital Improvement Fund may finance expansion, replacement or betterment reserves may be transferred between these fund categories, but only back and forth within its own type of restricted fund.

As an example, if during the rate model update process it was determined that the Expansion Funds (designated and restricted) would drop and stay below the minimum during the six-year planning horizon, this would trigger a bond sale, a transfer of general use reserves, and/or a transfer of restricted reserves. If in the cash planning process, it was anticipated that the General Fund would remain above target during the planning horizon and that the trend did not present a problematic underfunded status, then General Fund reserves would be considered available for transfer prior to making proceeds available from a bond sale. Also, if during this period the Betterment Fund category was anticipated to exceed its maximum, then reserves from either the Designated Betterment Fund, or the Capital Improvement Fund would be transferred to the corresponding Expansion Fund prior to a bond sale. All funds are evaluated to determine which has the greatest need or availability of reserves before any reserve transfer recommendation is presented to the Board.

## GLOSSARY

The Reserve Policy contains terminology that is unique to public finance and budgeting. The following glossary provides assistance in understanding these terms.

Annexation Fees: When water service is requested for land outside the boundaries of the District, the land to be serviced must first be annexed. For sewer service the land must be annexed into an improvement district within the District.

Assets: Resources owned or held by Otay Water District that has monetary value.

Availability Fees: The District levies charges each year in developed areas to be used for upgrades, betterment, or replacement and in undeveloped areas to provide a source of funding for planning, mapping, and preliminary design of facilities to meet future development. Current legislation provides that any availability charge in excess of $10.00 per acre shall be used only for the purpose of the improvement district for which it was assessed.

Bond: A written promise to pay a sum of money on a specific date at a specified interest rate. The interest payments and the repayment of the principal are authorized in a District bond resolution. The most common types of bonds are General Obligation (GO) bonds and Certificates of Participation (COPs). These are frequently used for construction of large capital projects such as buildings, reservoirs, pipelines and pump stations.

Capital Equipment: Fixed assets such as vehicles, marine equipment, computers, furniture, technical instruments, etc. which have a life expectancy of more than two years and a value over $10,000.

Capital Improvement Program: A long-range plan of the District for the construction, rehabilitation and modernization of the District-owned and operated infrastructure.

CWA: The County Water Authority was organized in 1944 under the State County Water Authority Act for the primary purpose of importing Colorado River water to augment the local water supplies of the Authority's member agencies. The Authority purchases water from the Metropolitan Water District of Southern California (MWD) which imports water from the Colorado River and the State Water Project.

Debt Service: The District's obligation to pay the principal and interest of bonds and other debt instruments according to a predetermined payment schedule.

Expenditures/Expenses: These terms refer to the outflow of funds paid or to be paid for an asset, goods, or services obtained regardless of when actually paid for. (Note: An encumbrance is not an expenditure). An encumbrance reserves funds to be expended in a future period.

Fund: An account used to track the collection and use of monies for a specifically defined purpose.

Fund Balance: The current funds on hand resulting from the historical collection and use of monies. The difference between assets and liabilities reported in the District’s Operating Fund plus residual equities or balances and changes therein, from the results of operations.

Interest Income: Earnings from the investment portfolio. Per District Policy Number 25, interest income will be allocated to the various funds each month based upon each fund’s prior month-ending balance.

Late Charges/Penalties: Charges and penalties are imposed on customer accounts for late payments, returned payments, and other infringements of the District’s Code of Ordinances.

1% Property Tax: In 1978, Proposition 13 limited general levy property tax rates for all taxing authorities to a total rate of 1% of full cash value. Subsequent legislation, AB 8, established that the receipts from the 1% levy were to be distributed to taxing agencies according to approximately the same proportions received prior to Proposition 13.

Operating Budget: The portion of the budget that pertains to daily operations that provide basic governmental services. The operating budget contains appropriations for such expenditures as personnel, supplies, utilities, materials, travel and fuel, and does not include purchases of major capital plant or equipment which is budgeted for separately in the Capital Budget. The Operating Budget also identifies planned non-operating revenues and expenses.

Revenue: Monies that the District receives as income. It includes such items as water sales and sewer fees. Estimated revenues are those expected to be collected during the fiscal year.

Russell Square: A sewer lift station constructed in 1983 that serves four properties in the Russell Square Development.

System Fees: Each water service customer pays a monthly system charge for water system replacement, maintenance, and operation expenses. The charge is based on the size of the meter and class of service.

Tax Collection for Bond Debt: California Water Code Section 72091 authorizes the District, as a municipal water district, to levy ad valorem property taxes which are equal to the amount required to make annual payments for principal and interest on General Obligation bonds approved by the voters prior to July 1, 1978.

Unit: A Unit of water is 100 cubic feet or 748 gallons of water.

Water Rates: Rates vary among classes of service and are measured in Units. The water rates for residential customers are based on an accelerated block structure. As more Units are consumed, a higher Unit rate is charged. Effective in 2009, all non-residential customers are charged for water based on a tiered rate structure in which water rates are based on meter size and amount of Units consumed.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| DISTRICT ADMINISTRATION OF REIMBURSEMENT AGREEMENTS | 26 | 2/10/93 | 6/01/16 |

PURPOSE

This policy establishes guidelines for how the District will administer reimbursement agreements for facilities, both Master Plan and Non-Master Plan. It also describes when and how the District will participate in the cost of such Regional Facilities.

BACKGROUND

Policy 26 requires that a development which creates the need for new facilities must bear all costs to construct and finance the on-site, in-tract and off-site water, wastewater, and recycled water systems.

"On-site" facilities are defined as those pipelines, pump stations and reservoirs required within a development's project boundaries. "Off-site" facilities are those facilities located outside a project's boundary that are required to serve the project. "In-tract" facilities are defined as those non-regional facilities that serve only the project being constructed. In-tract facilities are the sole responsibility of the developer/property owner until the facilities and all required property easements are dedicated to, and accepted by, the District pursuant to authority granted by the Board to the General Manager.

The District's Master Plan includes all Regional Facilities anticipated to be necessary to provide service throughout the District. The District's capacity fees have been calculated to pay for the cost of all the Regional Facilities identified in the Water Facilities Master Plan including the developer/property owner's portion of such facilities. The District does not subsidize development but it does undertake responsibility to ensure that those Regional Facilities located within a development are constructed and that the costs associated with the construction of said facilities is fairly distributed among all users.

POLICY

A. Master Plan Regional Facilities-Reimbursement by the District: The District may reimburse the developer/property owner for construction and design costs on both on-site and off-site Regional Facilities identified in the Master Plan, if the project meets the following guidelines:

1. The project must be in the District's approved five-year Capital Improvement Program (CIP) at the time of the request, and the construction and design costs shall not exceed the CIP budget amount without prior Board approval.

2. The District has approved a Sub-Area Master Plan (SAMP) that defines all In-tract, Off-Site, and On-Site facilities required to serve the Development and includes any required fire flow calculations, maps, and modeling upon which the non-regional facilities are clearly described. As part of the SAMP approval, the District will determine whether the non-Regional Facilities need to be upsized to meet a regional need. If needed, the District will require the developer/property owner to upsize the non-Regional Facilities to meet the regional need. These Regional Facilities will be included in the approved SAMP. The incremental increase between the non-Regional to Regional Facilities will be the basis for the reimbursement agreement. The District will amend the Water Facilities Master Plan based upon the facilities included in the Development's SAMP.

3. The developer/property owner makes an irrevocable offer to dedicate to the District the facilities and any easements required for the operation and maintenance of the facilities, which offer is accepted by the General Manager, and all applicable language and documentation for the dedication(s) is prepared and recorded, all in the manner authorized by the Board.

4. The developer/property owner enters into an Agreement for Construction of a Water System or Sewer System with the District.

5. The developer/property owner obtains three (3) bids from qualified contractors and provides copies of the bids to the District. The developer/property owner is responsible for selecting the lowest responsive responsible bidder. The developer/property owner will be reimbursed only for the Regional Facility CIP portions of the project based on the unit prices submitted with the lowest responsive responsible bid.

6. The cost of addressing environmental issues, such as burying a reservoir, shall not be reimbursable unless they are addressed in the District's Master Environmental Impact Report and CIP.

7. All soft costs, such as engineering, inspection, bonds, etc., will be included in the reimbursement cost at five percent of the construction costs.

8. Except as provided below, the District will pay 100 percent of the reimbursement cost after the General Manager accepts the project.

9. The District may elect to finance the facilities by borrowing if, after analysis by the Finance Department, it is determined that the borrowing fits into the District's financial plan as outlined in Policy 25.

10. If, for any reason, reimbursement funds are not available at the time the project is operationally complete, the District may elect to defer or a portion of the reimbursement the District determines is due to the developer/property owner until the General Manager accepts the dedication of the project and until all liens, claims and/or bonds, as applicable, have been released in the manner provided under the Agreement for Construction of a Water System.

11. Funds for reimbursement shall be carried as a CIP until the reimbursement is made.

12. Each Reimbursement Agreement requires approval by the Board. A Staff Report will be prepared and reviewed with the Finance Department prior to presentation to the Board for approval.

13. This type of Reimbursement Agreement ends five (5) years after Board’s original approval. The reimbursement agreement may be terminated prior to said (5) year term by the General Manager upon a determination that the developer/property owner has failed to comply with its obligations under the Reimbursement Agreement or the Agreement for Construction of a Water System or Sewer System.

14. If the Reimbursement Agreement expires prior to the acceptance of the facilities by the District or prior to payment of reimbursement, the developer/property owner shall no longer be entitled to reimbursement. The Developer may submit new documentation and request that the District enter into a new Reimbursement Agreement. If the District agrees to enter into a new Reimbursement Agreement for the facilities, however, the District may revise the terms and amounts of reimbursement at its discretion based on information available at the time of the request.

15. All reimbursement requests shall be submitted to the Board for consideration and shall not be processed without prior Board approval.

B. Non-Master Plan Facilities-Reimbursement to Developer by Future Users: Occasionally, a developer/property owner requests that the District administer a reimbursement agreement to collect money from future customers who connect to the facility built by the developer/property owner. If the District agrees, the District collects the reimbursement amount from each customer connecting to the facility, together with any other District connection fees. The reimbursement portion of the customer's payment is forwarded by the District to the developer/property owner as reimbursement.

The District may administer this type of reimbursement agreement if the developer/property owner's project meets the following criteria and guidelines:

1. The developer/property owner demonstrates that the facilities to be constructed have adequate capacity to serve future customers.

2. The developer/property owner requests and executes a Reimbursement Agreement, which is presented to the Board for approval in conjunction with the presentation of an Agreement To Construct.

3. The developer/property owner deposits with the District the estimated cost for District staff to prepare a nexus study and obtain Board approval for the Reimbursement Agreement. District staff will provide a written estimate of the required deposit to the developer/property owner within 15 days of the developer/property owner's request.

4. The developer/property owner provides three (3) bids from qualified contractors for the purpose of establishing the cost of the facilities and the portion of the reimbursement amount which is to be allocated to future connections.

5. A nexus study shall be performed by District staff to identify which property owners may benefit from the construction of the proposed facility and the amount the District will reimburse the developer/property owner.

6. An informational staff report will be presented to the Board before the public notice is sent to those property owners affected by the Reimbursement Agreement,.

7. The District shall give notice to all property owners who will be subject to the reimbursement charge. These property owners will then be responsible to pay their fair share of the cost of the facilities from the time they connect to the system. The fair share will be based on their Assigned Service Unit/Equivalent Dwelling Unit (ASU/EDU) contribution to the total projected ASU/EDU to use the system. The reimbursement charge will be in addition to any other fees a property owner would pay to the District to obtain service.

8. Each Reimbursement Agreement requires approval by the Board. Prior to presenting a Reimbursement Agreement to the Board, staff must obtain two original Reimbursement Agreements signed by an authorized representative of the developer/property owner. In addition, a Staff Report must be prepared and reviewed with the Finance Department prior to presentation to the Board for approval.

9. This type of Reimbursement Agreement shall be valid for 10 years from the date of Board approval. After the 10 year period has lapsed the collection of the reimbursement amount by the District shall cease.

10. Concurrently with submission of a signed Reimbursement Agreement, the developer/property owner shall pay an administrative fee to the District, to defray costs related to the review of the request and the negotiation and execution of the Reimbursement Agreement. The amount of the administrative fee will be calculated at the staff rate existing at the time of said submission.

11. In addition, concurrently with payment of the fee described above, developer must pay a fee to defray costs estimated to be incurred for each connection to be established during the term of the Reimbursement Agreement. The amount of this fee will be calculated based on an estimated 5 man hours of District Permit Technician work per connection. The staff rate in existence at the time the Reimbursement Agreement is executed will be used as a base and it will be projected to change each year to account for changes in the COLA, as determined by the District's Finance Department.

12. The District will not distribute any reimbursement funds to the developer/property owner until the project has been accepted by the Board. The distribution of reimbursement funds will occur as

the District collects the funds from new customers who connect to the facility, but not more frequently than once per year.

13. District staff shall collect the reimbursement amount due at the same time the standard District capacity fees for the new service are collected.

14. If the Reimbursement Agreement expires prior to acceptance of the facilities by the District or prior to payment of reimbursement, the developer/property owner shall no longer be entitled to reimbursement. The developer/property owner may submit new documentation and request that the District enter into a new Reimbursement Agreement. If the District agrees to enter into a new Reimbursement Agreement for the facilities, however, the District may revise the terms and amounts of reimbursement at its discretion based on information available at the time of the request.

15. All reimbursement requests shall be submitted to the Board for consideration and shall not be processed without prior Board approval.

C. Non-Master Plan Facilities-Reimbursement to Developer/Property Owner by the District: Normally the District would not participate in the cost of facilities which are not identified in the Master Plan. These facilities are of benefit only to the adjoining property and should ordinarily be financed solely by the developer/property owner proposing the new facility. Nonetheless, there may be circumstances where the General Manager determines that it is appropriate for the District to participate in the cost of a non-Master Plan facility. Typical reasons would be in order to accommodate future growth or betterment of the system. In these instances, the District may establish special fees to recover the reimbursement costs from benefiting property owners as they connect to the system.

The District may reimburse the developer/property owner for construction costs if the project meets the following criteria and guidelines:

1. The General Manager has determined that it is appropriate for the District's customers to participate in the construction of the project.

2. The developer/property owner shall obtain three (3) bids from qualified contractors and provide copies of the initial bids to the District. The developer/property owner is responsible for

selecting the lowest responsive bidder. The developer/property owner will be reimbursed for the CIP portions of the project based on the unit prices submitted with the lowest responsive bid.

3. A nexus study will be performed by the District to identify property owners who may benefit from the construction of the proposed facility.

4. Prior to the public notice being sent to the property owners affected by the Reimbursement Agreement, an informational Staff Report shall be presented to the Board.

5. The District shall provide notice to all property owners which will be subject to the reimbursement charge. These properties will then be responsible to pay their fair share of the cost of the facilities, plus interest, at such time as they connect to the system.

6. The developer/property owner shall request and execute the Reimbursement Agreement with the District prior to awarding any contracts for construction.

7. Each Reimbursement Agreement requires approval by the Board. A Staff Report shall be prepared and reviewed with the Finance Department prior to presentation to the Board for approval.

8. Except as provided below, the District will pay 100 percent of the reimbursement cost after the General Manager accepts the project.

9. The District may elect to finance the facilities by borrowing, if it is determined that borrowing is in the best interest of the District's customers.

10. If for any reason reimbursement funds are not available at the time the project is operationally complete, the District may elect to defer the reimbursement until the General Manager determines that it is appropriate to make payments.

11. Funds for reimbursement shall be carried as a CIP until the reimbursement has been made.

12. This type of Reimbursement Agreement contains no end date for the collection by the District of its contributed share of the cost,

and shall be the responsibility of all current and subsequent property owners.

13. District staff shall collect the reimbursement amount due at the same time the standard District capacity fees for the new service are collected.

14. If the Reimbursement Agreement expires prior to acceptance of the facilities by the District or prior to payment of reimbursement, the developer/property owner shall no longer be entitled to reimbursement. The developer/property owner may submit new documentation and request that the District enter into a new reimbursement agreement. If the District agrees to enter into a new reimbursement agreement for the facilities, however, the District may revise the terms and amounts of reimbursement at its discretion based on information available at the time of the request.

15. All reimbursement requests shall be submitted to the Board for consideration and shall not be processed without prior Board approval.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| INVESTMENT POLICY | 27 | 9/15/93 | 5/4/16 |

## 1.0: POLICY

It is the policy of the Otay Water District to invest public funds in a manner which will provide maximum security with the best interest return, while meeting the daily cash flow demands of the entity and conforming to all state statues governing the investment of public funds.

## 2.0: SCOPE

This investment policy applies to all financial assets of the Otay Water District. The District pools all cash for investment purposes. These funds are accounted for in the District's audited Comprehensive Annual Financial Report (CAFR) and include:

- 2.1) General Fund
- 2.2) Capital Project Funds
  - 2.2.1) Designated Expansion Fund
  - 2.2.2) Restricted Expansion Fund
  - 2.2.3) Designated Betterment Fund
  - 2.2.4) Restricted Betterment Fund
  - 2.2.5) Designated Replacement Fund
  - 2.2.6) Restricted New Water Supply Fund
- 2.3) Other Post Employment Fund (OPEB)
- 2.4) Debt Reserve Fund

Exceptions to the pooling of funds do exist for tax-exempt debt proceeds, debt reserves and deferred compensation funds. Funds received from the sale of general obligation bonds, certificates of participation or other tax-exempt financing vehicles are segregated from pooled investments and the investment of such funds are guided by the legal documents that govern the terms of such debt issuances.

## 3.0: PRUDENCE

Investments should be made with judgment and care, under current prevailing circumstances, which persons of prudence, discretion and intelligence, exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the "Prudent Person" and/or "Prudent Investor" standard (California Government Code 53600.3) and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

## 4.0: OBJECTIVE

As specified in the California Government Code 53600.5, when investing, reinvesting, purchasing, acquiring, exchanging, selling and managing public funds, the primary objectives, in priority order, of the investment activities shall be:

4.1) Safety: Safety of principal is the foremost objective of the investment program. Investments of the Otay Water District shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, the District will diversify its investments by investing funds among a variety of securities offering independent returns and financial institutions.

4.2) Liquidity: The Otay Water District's investment portfolio will remain sufficiently liquid to enable the District to meet all operating requirements which might be reasonably anticipated.

4.3) Return on Investment: The Otay Water District's investment portfolio shall be designed with the objective of attaining a benchmark rate of return throughout budgetary and economic cycles, commensurate with the District's investment risk constraints and the cash flow characteristics of the portfolio.

## 5.0 DELEGATION OF AUTHORITY

Authority to manage the Otay Water District's investment program is derived from the California Government Code, Sections 53600 through 53692. Management responsibility for the investment program is hereby

delegated to the Chief Financial Officer (CFO), who shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials and their procedures in the absence of the CFO.

The CFO shall establish written investment policy procedures for the operation of the investment program consistent with this policy. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the CFO.

## 6.0: ETHICS AND CONFLICTS OF INTEREST

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the General Manager any material financial interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the District.

## 7.0: AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

The Chief Financial Officer shall maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers who are authorized to provide investment services in the State of California. These may include "primary" dealers or regional dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (Uniform Net Capital Rule). No public deposit shall be made except in a qualified public depository as established by state laws.
All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the District with the following, as appropriate:

- Audited Financial Statements.
- Proof of Financial Industry Regulatory Authority (FINRA) certification.
- Proof of state registration.
- Completed broker/dealer questionnaire.
- Certification of having read the District's Investment Policy.
- Evidence of adequate insurance coverage.

An annual review of the financial condition and registrations of qualified bidders will be conducted by the CFO. A current audited financial statement is required to be on file for each financial institution and broker/dealer in which the District invests.

## 8.0: AUTHORIZED AND SUITABLE INVESTMENTS

From the governing body perspective, special care must be taken to ensure that the list of instruments includes only those allowed by law and those that local investment managers are trained and competent to handle. The District is governed by the California Government Code, Sections 53600 through 53692, to invest in the following types of securities, as further limited herein:

8.01) United States Treasury Bills, Bonds, Notes or those instruments for which the full faith and credit of the United States are pledged for payment of principal and interest. There is no percentage limitation of the portfolio which can be invested in this category, although a five-year maturity limitation is applicable.

8.02) Local Agency Investment Fund (LAIF), which is a State of California managed investment pool, may be used up to the maximum permitted by State Law (currently $65 million). The District may also invest bond proceeds in LAIF with the same but independent maximum limitation.

8.03) Bonds, debentures, notes and other evidence of indebtedness issued by any of the following government agency issuers:

- Federal Home Loan Bank (FHLB)
- Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac")
- Federal National Mortgage Association (FNMA or "Fannie Mae")
- Government National Mortgage Association (GNMA or "Ginnie Mae")
- Federal Farm Credit Bank (FFCB)
- Federal Agricultural Mortgage Corporation ( FAMCA or "Farmer Mac")

There is no percentage limitation of the portfolio which can be invested in this category, although a five-year maturity limitation is applicable. Government agencies whose implied guarantee has been reduced or eliminated shall require an "A" rating or higher by a nationally recognized statistical rating organization.

8.04) Interest-bearing demand deposit accounts and Certificates of Deposit (CD) will be made only in Federal Deposit Insurance Corporation (FDIC) insured accounts. For deposits in excess of the insured maximum of $250,000, approved collateral shall be required in accordance with California Government Code, Section 53652. Investments in CD's are limited to 15 percent of the District's portfolio.

8.05) Commercial paper, which is short-term, unsecured promissory notes of corporate and public entities. Purchases of eligible commercial paper may not exceed 10 percent of the outstanding paper of an issuing corporation, and maximum investment maturity will be restricted to 270 days. Investment is further limited as described in California Government Code, Section 53601(h). Purchases of commercial paper may not exceed 10 percent of the District's portfolio and no more than 10 percent of the outstanding commercial paper of any single issuer.

8.06) Medium-term notes defined as all corporate debt securities with a maximum remaining maturity of five years or less, and that meet the further requirements of California Government Code, Section 53601(k). Investments in medium-term notes are limited to 10 percent of the District's portfolio.

8.07) Money market mutual funds that invest only in Treasury securities and repurchase agreements collateralized with Treasury securities, and that meet the further requirements of California Government Code, Section 53601(l). Investments in money market mutual funds are limited to 10 percent of the District's portfolio.

8.08) The San Diego County Treasurer's Pooled Money Fund, which is a County managed investment pool, may be used by the Otay Water District to invest excess funds. There is no percentage limitation of the portfolio which can be invested in this category.

8.09) Under the provisions of California Government Code 53601.6, the Otay Water District shall not invest any funds covered by this Investment Policy in inverse floaters, range notes, interest-only strips derived from mortgage pools, or any investment that may result in a zero interest accrual if held to maturity. Also, the borrowing of funds for investment purposes, known as leveraging, is prohibited.

## 9.0: INVESTMENT POOLS/MUTUAL FUNDS

A thorough investigation of the pool/fund is required prior to investing, and on a continual basis. There shall be a questionnaire developed which will answer the following general questions:

- A description of eligible investment securities, and a written statement of investment policy and objectives.
- A description of interest calculations and how it is distributed, and how gains and losses are treated.
- A description of how the securities are safeguarded (including the settlement processes), and how often the securities are priced and the program audited.
- A description of who may invest in the program, how often, and what size deposits and withdrawals are allowed.
- A schedule for receiving statements and portfolio listings.
- Are reserves, retained earnings, etc., utilized by the pool/fund?
- A fee schedule, and when and how is it assessed.

- Is the pool/fund eligible for bond proceeds and/or will it accept such proceeds?

## 10.0 COLLATERALIZATION

Collateralization will be required on certificates of deposit exceeding the $250,000 FDIC insured maximum. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value of principal and accrued interest. Collateral will always be held by an independent third party with whom the entity has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the entity and retained. The right of collateral substitution is granted.

## 11.0: SAFEKEEPING AND CUSTODY

All security transactions entered into by the Otay Water District shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by a third party custodian designated by the District and evidenced by safekeeping receipts.

## 12.0: DIVERSIFICATION

The Otay Water District will diversify its investments by security type and institution, with limitations on the total amounts invested in each security type as detailed in Paragraph 8.0, above, so as to reduce overall portfolio risks while attaining benchmark average rate of return. With the exception of U.S. Treasury securities, government agencies, and authorized pools, no more than 50% of the District’s total investment portfolio will be invested with a single financial institution.

## 13.0: MAXIMUM MATURITIES

To the extent possible, the Otay Water District will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the District will not directly invest in securities maturing more than five years from the date of purchase. However, for time deposits with banks or savings and loan associations, investment maturities will not exceed two years. Investments in commercial paper will be restricted to 270 days.

## 14.0: INTERNAL CONTROL

The Chief Financial Officer shall establish an annual process of independent review by an external auditor. This review will provide internal control by assuring compliance with policies and procedures.

## 15.0: PERFORMANCE STANDARDS

The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs.

The Otay Water District's investment strategy is passive. Given this strategy, the basis used by the CFO to determine whether market yields are being achieved shall be the State of California Local Agency Investment Fund (LAIF) as a comparable benchmark.

## 16.0: REPORTING

The Chief Financial Officer shall provide the Board of Directors monthly investment reports which provide a clear picture of the status of the current investment portfolio. The management report should include comments on the fixed income markets and economic conditions, discussions regarding restrictions on percentage of investment by categories, possible changes in the portfolio structure going forward and thoughts on investment strategies. Schedules in the quarterly report should include the following:

- A listing of individual securities held at the end of the reporting period by authorized investment category.
- Average life and final maturity of all investments listed.
- Coupon, discount or earnings rate.
- Par value, amortized book value, and market value.
- Percentage of the portfolio represented by each investment category.

## 17.0: INVESTMENT POLICY ADOPTION

The Otay Water District's investment policy shall be adopted by resolution of the District's Board of Directors. The policy shall be reviewed annually by the Board and any modifications made thereto must be approved by the Board.

## 18.0: GLOSSARY

See Appendix A.

## APPENDIX A: GLOSSARY

**ACTIVE INVESTING:** Active investors will purchase investments and continuously monitor their activity, often looking at the price movements of their stocks many times a day, in order to exploit profitable conditions. Typically, active investors are seeking short term profits.

**AGENCIES:** Federal agency securities and/or Government-sponsored enterprises.

**BANKERS' ACCEPTANCE (BA):** A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**BENCHMARK:** A comparative base for measuring the performance or risk tolerance of the investment portfolio. A benchmark should represent a close correlation to the level of risk and the average duration of the portfolio's investments.

**BROKER/DEALER:** Any individual or firm in the business of buying and selling securities for itself and others. Broker/dealers must register with the SEC. When acting as a broker, a broker/dealer executes orders on behalf of his/her client. When acting as a dealer, a broker/dealer executes trades for his/her firm's own account. Securities bought for the firm's own account may be sold to clients or other firms, or become a part of the firm's holdings.

**CERTIFICATE OF DEPOSIT (CD):** A short or medium term, interest bearing, FDIC insured debt instrument offered by banks and savings and loans. Money removed before maturity is subject to a penalty. CDs are a low risk, low return investment, and are also known as "time deposits", because the account holder has agreed to keep the money in the account for a specified amount of time, anywhere from a few months to several years.

**COLLATERAL:** Securities, evidence of deposit or other property, which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**COMMERCIAL PAPER:** An unsecured short-term promissory note, issued by corporations, with maturities ranging from 2 to 270 days.

**COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR):** The official annual report for the Otay Water District. It includes detailed financial information prepared in conformity with generally accepted accounting principles (GAAP). It also includes supporting schedules necessary to demonstrate compliance with finance-related legal and contractual provisions, extensive introductory material, and a detailed statistical section.

**COUPON:** (a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to a bond evidencing interest due on a set date.

**DEALER:** A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

**DEBENTURE:** A bond secured only by the general credit of the issuer.

**DELIVERY VERSUS PAYMENT:** There are two methods of delivery of securities: delivery versus payment and delivery versus receipt. Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

**DERIVATIVES:** (1) Financial instruments whose return profile is linked to, or derived from, the movement of one or more underlying index or security, and may include a leveraging factor, or (2) financial contracts based upon notional amounts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities or commodities).

**DISCOUNT:** The difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

**DISCOUNT SECURITIES:** Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U.S. Treasury Bills.

**DIVERSIFICATION:** Dividing investment funds among a variety of securities offering independent returns.

**FEDERAL CREDIT AGENCIES:** Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

**FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC):** A federal agency that insures deposits in member banks and thrifts, currently up to $100,000 per deposit.

**FEDERAL FARM CREDIT BANK (FFCB):** The Federal Farm Credit Bank system supports agricultural loans and issues securities and bonds in financial markets backed by these loans. It has consolidated the financing programs of several related farm credit agencies and corporations.

**FEDERAL FUNDS RATE:** The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**FEDERAL AGRICULTURAL MORTGAGE CORPORATION (FAMC or Farmer Mac):** A stockholder owned, publicly-traded corporation that was established under the Agricultural Credit Act of 1987, which added a new Title VIII to the Farm Credit Act of 1971. Farmer Mac is a government sponsored enterprise, whose mission is to provide a secondary market for agricultural real estate mortgage loans, rural housing mortgage loans, and rural utility cooperative loans. The corporation is authorized to purchase and guarantee securities. Farmer Mac guarantees that all security holders will receive timely payments of principal and interest.

**FEDERAL HOME LOAN BANK (FHLB):** Government sponsored wholesale banks (currently 12 regional banks), which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies.

**FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC or Freddie Mac):** A stockholder owned, publicly traded company chartered by the United States federal government in 1970 to purchase mortgages and related securities, and then issue securities and bonds in financial markets backed by those mortgages in secondary markets. Freddie Mac, like its competitor Fannie Mae, is regulated by the United States Department of Housing and Urban Development (HUD).

**FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA or Fannie Mae):** FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**FEDERAL RESERVE SYSTEM:** The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

**FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC. (FINRA):** An independent, not-for-profit organization authorized by Congress to protect America's investors by making sure the securities industry operates fairly and honestly. It is dedicated to investor protection and market integrity through effective and efficient regulation of the securities industry. FINRA is the successor to the National Association of Securities Dealers, Inc. (NASD).

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae):** A government owned agency which buys mortgages from lending institutions, securitizes them, and then sells them to investors. Because the payments to investors are guaranteed by the full faith and credit of the U.S. Government, they return slightly less interest than other mortgage-backed securities.

**INTEREST-ONLY STRIPS:** A mortgage backed instrument where the investor receives only the interest, no principal, from a pool of mortgages. Issues are highly interest rate sensitive, and cash flows vary between interest periods. Also, the maturity date may occur earlier than that stated if all loans within the pool are pre-paid. High prepayments on underlying mortgages can return less to the holder than the dollar amount invested.

**INVERSE FLOATER:** A bond or note that does not earn a fixed rate of interest. Rather, the interest rate is tied to a specific interest

rate index identified in the bond/note structure. The interest rate earned by the bond/note will move in the opposite direction of the index. An inverse floater increases the market rate risk and modified duration of the investment.

**LEVERAGE:** Investing with borrowed money with the expectation that the interest earned on the investment will exceed the interest paid on the borrowed money.

**LIQUIDITY:** A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

**LOCAL AGENCY INVESTMENT FUND (LAIF):** The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

**MARKET VALUE:** The price at which a security is trading and could presumably be purchased or sold.

**MASTER REPURCHASE AGREEMENT:** A written contract covering all future transactions between the parties to repurchase/reverse repurchase agreements that establish each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller borrower.

**MATURITY:** The date upon which the principal or stated value of an investment becomes due and payable.

**MONEY MARKET:** The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

**MUTUAL FUNDS:** An open-ended fund operated by an investment company which raises money from shareholders and invests in a group of assets, in accordance with a stated set of objectives. Mutual funds raise money by selling shares of the fund to the public. Mutual funds then take the money they receive from the sale of their shares (along with any money made from previous investments) and use it to purchase

various investment vehicles, such as stocks, bonds, and money market instruments.

**MONEY MARKET MUTUAL FUNDS:** An open-end mutual fund which invests only in money markets. These funds invest in short term (one day to one year) debt obligations such as Treasury bills, certificates of deposit, and commercial paper.

**PASSIVE INVESTING:** An investment strategy involving limited ongoing buying and selling actions. Passive investors will purchase investments with the intention of long term appreciation and limited maintenance, and typically don't actively attempt to profit from short term price fluctuations. Also known as a buy-and-hold strategy.

**PRIMARY DEALER:** A designation given by the Federal Reserve System to commercial banks or broker/dealers who meet specific criteria, including capital requirements and participation in Treasury auctions. These dealers submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission registered securities broker/dealers, banks, and a few unregulated firms.

**PRUDENT PERSON RULE:** An investment standard. In some states the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state—the so-called legal list. In other states the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**PUBLIC SECURITIES ASSOCIATION (PSA):** A trade organization of dealers, brokers, and bankers who underwrite and trade securities offerings.

**QUALIFIED PUBLIC DEPOSITORIES:** A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

**RANGE NOTE:** An investment whose coupon payment varies and is dependent on whether the current benchmark falls within a pre-determined range.

**RATE OF RETURN:** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond the current income return.

**REGIONAL DEALER:** A securities broker/dealer, registered with the Securities & Exchange Commission (SEC), who meets all of the licensing requirements for buying and selling securities.

**REPURCHASE AGREEMENT (RP OR REPO):** A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money that is increasing bank reserves.

**SAFEKEEPING:** A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

**SECONDARY MARKET:** A market made for the purchase and sale of outstanding securities issues following their initial distribution.

**SECURITIES & EXCHANGE COMMISSION:** Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SEC RULE 15C3-1:** See Uniform Net Capital Rule.

**STRUCTURED NOTES:** Notes issued by Government Sponsored Enterprises (FHLB, FNMA, FAMCA, etc.), and Corporations, which have imbedded options (e.g., call features, step-up coupons, floating rate coupons, derivative-based returns) into their debt structure. Their market performance is impacted by the fluctuation of interest rates, the volatility of the imbedded options and shifts in the shape of the yield curve.

**TREASURY BILLS:** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

**TREASURY BONDS:** Long-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities of more than 10 years.

**TREASURY NOTES:** Medium-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two to 10 years.

**UNIFORM NET CAPITAL RULE:** Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**YIELD:** The rate of annual income return on an investment, expressed as a percentage. (a) INCOME YIELD is obtained by dividing the current dollar income by the current market price for the security. (b) NET YIELD or YIELD TO MATURITY is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| JOINT USE OF LAND ADJACENT TO AND ABOVE RESERVOIRS | 28 | 6/21/95 | 8/10/11 |

PURPOSE

To establish a policy allowing for joint use of land adjacent to reservoirs and above buried concrete reservoir roofs, and to establish the costs for said joint use.

BACKGROUND

The District may be asked by outside parties to allow joint use of land adjacent to reservoirs or above buried concrete reservoir roofs. The District has determined that some types of joint uses will require that the reservoir be designed and constructed to a higher standard which will increase the cost of the reservoir. It is the intent of the District to require the party requesting the joint use to pay the increased costs as partial compensation for the District permitting the joint use. However, the District Board may elect to "up front" the cost of design and construction of the reservoir to a higher standard with the anticipation of receiving a future reimbursement from an uncommitted or unidentified user. This will be considered on a project-by-project basis.

The joint use allowed by other agencies and to be considered by Otay Water District fall into one of the following categories:

1. Court-type recreational uses, such as tennis, basketball, handball and roller hockey. These facilities may be constructed directly on top of unburied concrete reservoir surfaces. Vehicles will not be allowed on top of the reservoir.

2. Park-type uses, such as picnic areas, sodded sports fields for baseball and soccer, and landscaped areas for public enjoyment. These uses can be accommodated and built on the soil that the District included as part of the reservoir project. In some cases no traffic loading will be allowed and in other cases light maintenance-type vehicles will be allowed.

3. Same as Item No. 2 above, except the joint use will require the reservoir to be covered with additional soil.

4. Uses for parking and vehicle access, such as parking lots, equipment storage and residential streets.

The types of use for buried concrete reservoirs are as follows:

TYPE OF USE

1. Park-type use, court facilities with grandstands, directly on roof, no vehicle

loading.

2. Park-type use, landscaping of soil to District design, no vehicle loading.

3. Park-type use, landscaping, 18-inches additional soil to District design, no vehicle loading.

4. Park-type use, landscaping of soil to District design with light vehicle loading.

5. Park-type use, landscaping 18-inches additional soil to District design, with light vehicle loading.

6. Light highway, traffic loading, parking, driveways or roadways.

The total additional costs for these facilities shall be calculated by a professional engineer and approved by District staff.

POLICY

It is the District's policy that, where possible, the District will consider designing and constructing reservoirs and buried concrete reservoirs in a manner to allow joint use of the land adjacent to, and above the concrete reservoir roof. The user requesting the joint use will be required to pay the additional design and construction costs to accommodate the joint use. Actual costs will be determined on a case-by-case basis as well as consideration of off-sets, such as land.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| CLAIMS HANDLING PROCEDURE | 29 | 9/6/95 | 3/2/11 |

PURPOSE

To establish a policy for handling claims filed against the District.

BACKGROUND

California Government Code Sections 935 et seq. authorize the District to establish procedures for handling claims and to delegate to the General Manager the authority to settle or deny claims up to certain amounts.

POLICY

The Board of Directors authorizes the General Manager, after consultation with the General Counsel, to allow or reject claims up to the amount of $10,000.

The General Manager shall report to the Board, as an information item, all actions taken on claims within his authority at the Board's next regular meeting.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| ENCOURAGING DISADVANTAGED BUSINESS ENTERPRISE FIRMS | 31 | 12/17/97 | 8/10/11 |

## PURPOSE

To encourage Disadvantaged Business Enterprise (DBE) firms to compete for District professional services and construction contracts.

## BACKGROUND

At its meeting on November 16, 1994, the Board of Directors considered ways in which the District could enhance its program of encouraging DBE firm participation on District professional services and construction contracts. The Board approved several Action Items to assist in this effort. The Action Items were reconsidered at the Board of Directors meeting on the date indicated above and the seven Action Items set forth below were re-adopted.

## POLICY

It is the Policy of the Otay Water District to encourage participation of Disadvantaged Business Enterprises (DBE), Emerging Business Enterprises (EBE), Minority Business Enterprises (MBE), Small Business Enterprises (SBE), Women Business Enterprises (WBE), Disabled Veteran Business Enterprises (DVBE) and other historically underrepresented business enterprises (collectively known for the purpose of this Policy as DBE firms), on District professional services and construction contracts.

Board-approved Action Items are as follows:

1. Customize Performance Bond requirements for each project.
2. Customize Liability Insurance requirements for each project.
3. Place project notifications in DBE plan rooms and publications.
4. Attend conferences on encouraging DBE participation.
5. Encourage Prime (General) Contractor use of DBE firms.
6. Train DBE firms on submitting bid documents.
7. Break large projects into smaller projects when practicable.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| Redistricting of Directors Division Boundaries | 33 | 4/5/00 | |

## Purpose

To ensure equal population distribution of the Directors' Divisions boundaries by developing a policy that provides the opportunity for the Board to review this issue at least every three years.

## Background

In February of 2000, the Board revised the Director's division boundaries. This was necessary because the District has experienced significant growth and will continue to do so into the foreseeable future. For example, over the last ten years, Otay's installed meter base has grown more than 50% between 1990 and February 1, 2000. Currently Otay has approximately 36,536 separate accounts, which because of multi-meters (condos, apartments) includes 41,476 households. We have already received plans from developers that indicate that this growth will continue at a pace equal to or greater than the last ten years. In addition, the growth is not uniform but is more likely to occur only in those districts that have large new developments planned. Therefore, given that significant and unequal growth is anticipated, the Board wishes to define, via Board policy, when is the most prudent time to revisit the redistricting of Director's boundaries. Consequently, the Board requested that staff recommend a policy advising the Board as to when and how the Board should revisit this important issue.

To this end, staff reviewed population trends and sources of data available to the District concerning population growth. Staff also surveyed the four fastest growing counties in California (Placer, San Bernardino, Riverside, and Calaveras counties) as well as Padre Dam, Sweetwater, South Bay Irrigation District, San Diego County Water Authority, and Irvine Ranch Water District to determine if there was a common policy guiding redistricting procedures. Of these agencies, only Sweetwater had a specific policy for redistricting, and none of the agencies had specific criteria for when a review should occur, short of a general sense that review should occur whenever inequitable growth has occurred. To provide the Board with a reasonable policy for the timing and procedure for redistricting Director's boundaries, staff recommends the following policy.

## Policy

The Board of Directors of Otay Water District will review, and change if necessary, the boundaries of its divisions every three years beginning in April 2003. These changes must be completed 120 days before any general election. In addition, the Board may review and change the boundaries whenever the Board deems it advisable for the best interests of the District and the convenience of its voters, according to Water Code §71541.

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| Redistricting of Directors Division Boundaries | 33 | 4/5/00 | |

The objective of redistricting is to make the five (5) Divisions within the District as nearly equal in population as may be practicable. If the Board determines that because of population or area changes, the Divisions are no 1onger substantially equal, then the Board can change the boundaries. As population or area within the divisions shift, modification of the boundaries may be appropriate to maintain the basic "one person, one vote" standard applicable to public agencies.

Procedure

The General Manager will present to the Board a report every three years describing how the residential population within each Division has changed over the previous three years. This information will be derived based upon the number, location, type and date of installation of the water meters. Staff will prepare a recommendation concerning how the boundaries might be most equitably adjusted. The Board will have the opportunity to review and change any of these recommendations.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| STAFF TRAVEL AND BUSINESS RELATED EXPENSES POLICY | 34 | 5/3/2000 | 10/5/11 |

## Purpose

To provide guidelines for compensation and the advancement and reimbursement of expenses when work duties require Otay Water District ("District") Staff ("Staff")to conduct District business away from their regular work site(s) and outside of San Diego County.

## Background

Employees of the District are called upon to travel or conduct business related meetings, conferences, training or functions away from their regular work site(s) and outside of San Diego County, in conjunction with their job functions. Federal and State laws permit and provide guidance for reimbursement of expenses and compensation to employees while traveling out of San Diego County on District business.

## Policy

The District will reimburse Staff for reasonable expenses incurred while out of San Diego County at District business related meetings, functions, conferences, training or traveling on District business, including lodging, meals, transportation, and related incidentals. The District will compensate non-exempt employees while traveling in accordance with District policy, applicable Memorandums of Understanding ("MOUs"), and federal and state laws.

## Procedures

A. Advances and Pre-payment of Otherwise Reimbursable Expenses

Employees may request pre-payment of registration, transportation, and lodging, and may request an advance upon expected costs for meals, fuel for District or rental vehicles, public ground transportation, and taxis using the "Staff Travel Authorization Request" form (Exhibit A). Pre-payments and advances shall be limited to the employee's expenses only. Advances for per diem meals shall not exceed the per diem allowance anticipated for the trip plus known costs of ground transportation. Advances should be requested in a timely manner to allow normal processing through accounts payable.

B. Reimbursement of Expenses

Each employee shall be reimbursed for travel expenses incurred while at authorized District business related meetings, functions, conferences, or training outside of San Diego County as follows:

1. Accountability

Travel Expenses shall be budgeted by Staff as a part of the annual budget process. Any travel expenses approved with the budget shall be considered authorized for that fiscal year only. Travel expenses included in Capital Improvements Program ("CIP") budgets are also considered authorized. Before the District expends any funds for authorized travel that involves lodging or public transportation expenses, the employee must complete a "Staff Travel Authorization Request" form (Exhibit A). The employee's Department Chief shall approve the authorization form. When a Department Chief is traveling, the Assistant General Manager shall approve the authorization form.

2. Transportation

The District will pay for reasonable transportation costs. Employees should endeavor to use the most appropriate mode of transportation given the purpose and nature of the trip. If for personal preference or for non-business related reasons the employee incurs additional travel expenses, the employee will be responsible for the additional expenses.

a. Air Transportation
The District will reimburse employees or pre-pay costs for economy (coach) class airfares. The District will endeavor to purchase airline tickets in advance, taking advantage of discounts and low airfares. Whenever possible, airline reservations shall be made to permit travel during normal business hours.

b. Automobile
1. District Vehicle: Whenever travel by vehicle is most cost effective or practical, Staff shall endeavor to use a District vehicle.

Staff must have a valid California driver's license to operate a District vehicle. The District will reimburse employees for gasoline purchases with receipts while using a District vehicle; however, employees should ensure that the vehicle has sufficient fuel to reach the desired destination and return, or a full tank of fuel, before departing from the District offices. Employees must comply with the provisions of Board of Directors Policy No. 14, "Use of District Vehicles and Car Allowance" whenever an employee chooses to use a District vehicle while traveling.

2. Personal Vehicle: Employees must obtain permission from their Department Chief before using a personal vehicle in conjunction with District business.

   In situations where an employee uses a personal vehicle on District business, the employee must maintain a valid California Driver's License and at least the minimum automobile insurance coverage required by the State of California, or make arrangements for a driver who meets the above requirements. Administrative Services Staff will verify that the employee has a valid California driver's license. Employees may not use a personal vehicle that is not insured according to the policy. Employees shall attest to meeting the license and insurance requirements by completing an "Authorization to Drive a Privately Owned Vehicle on District Business" form upon hire or as required.

   If a personal vehicle is used, the employee will be reimbursed at the current maximum allowable tax-exempt reimbursement rate provided by the IRS.

   Employees who receive a monthly mileage allowance are not eligible to receive reimbursement for mileage.

3. Rental Cars: The District will cover the

expenses required for use of a rental car on District business. The maximum reimbursement for rental cars shall be based on the rate provided for a standard mid-sized car, unless there is a clear business need and it is approved by the General Manager or designee. Upgrades or additional cost features are the employee's responsibility.

c. Miscellaneous Transportation
Whenever practicable, bus, taxi, rail, shuttle, etc. transportation may be used in lieu of, or in conjunction with, the modes listed above.

3. Meals and Lodging

a. Meals and Beverages
Whenever travel outside of San Diego County requires meals, an employee may receive the per diem allowance at the current Meal and Incidental Expenses ("M&IE") rate for San Diego as determined by the U.S. General Services Administration.

1. Per diem:

a. Full Day Allowance
When an employee is traveling for a full day and no meals are provided by other sources, such as pre-paid registration, the per diem meal allowance shall be at the current Domestic Per Diem Rate for M&IE , or an amount that the General Manager deems reasonable for the occasion or circumstances. Taxes and gratuities are inclusive.

b. Single Meal Allowance
When an employee requires an allowance for a single meal while traveling, the per diem meal allowance shall be at the M&IE rate for breakfast, lunch, or dinner as determined by the U.S. General Services Administration, or amounts that the General Manager deems reasonable for the occasion or circumstances. Taxes and gratuities are inclusive.

c. Partial Day Allowance
When an employee will be traveling for a partial day or where a single meal is provided for by other sources such as pre-paid registration, the per diem allowance amount shall be at the M&IE rate for breakfast, lunch, or dinner as determined by the U.S. General Services Administration, or amounts that the General Manager deems reasonable for the occasion or circumstances.

d. Receipts do not have to be submitted for per diem allowances.

b. Lodging
The District will reimburse employees or pre-pay accommodations in single rooms at conference facilities or in close proximity when applicable. In the absence of conference accommodations, normal single-room business, government or commercial class accommodation may be obtained. Under normal circumstances, lodging will not be reimbursed for the night before a conference starts or the night after it ends. However, in situations where available travel schedules would require the employee to leave home before 6:00 AM or return home after 12:00 AM, lodging for the night before or the night after will be reimbursable. With prior supervisory approval, if staying overnight, an extra night or over a weekend at a destination allows for a reduction of travel expenses, and the cost of accommodations is less than the savings realized by the documented reduced transportation expenses, the District may pre-pay or reimburse the employee for the extra night’s lodging. Only lodging expenses will be reimbursed in these situations.

4. Entertainment

The District will not cover expenses incurred for recreation or entertainment.

5. Incidental Expenses

   Unavoidable, necessary and reasonable authorized expenses will be fully reimbursed by the District. Some examples of allowable expenses are:

   a. Telephone Calls (Business): Calls placed by the employee to the District office or for the purpose of conducting District business. Business related calls should be itemized on the "Staff Expense Claim Form" (Exhibit B).

   b. Telephone Calls (Personal): One (1) brief personal call each day away from home, up to a $10 maximum per day.

   c. Telephone Calls (Local): Charges for local calls, for meal or transportation reservations, or for area information related to travel.

   d. Reasonable transportation to local restaurants and to optional functions that are a part of conference events.

   e. Reasonable gratuities.

   f. Parking fees.

   g. The following expenses are not reimbursable:

      1. Alcoholic beverages;

      2. Parking or traffic violations;

      3. In-room movies;

      4. Laundry service; and

      5. Expenses incurred by spouses, family members, or guests.

6. Compensation for Non-Exempt employees

   Non-exempt employees traveling and staying overnight are normally authorized to work only the total number of hours they were regularly scheduled to work, exclusive of applicable travel time. However, all employees traveling and staying overnight are considered by the District to be on flexible schedules.

   During flexible schedules, employees' starting time, meal period, rest periods, etc. are adjusted to accomplish work with minimal overtime.

Should business require a non-exempt employee to travel, function attendance and travel hours are compensable pursuant to state law. These hours are considered regular work hours for purposes of calculating overtime. During all compensable hours, an employee is subject to any and all provisions of District Policies and Procedures.

The following hours are compensable:

a. Actual hours spent at meetings, conferences, or functions, excepting meals and special events of an entertainment nature held in conjunction with a function.

b. Actual hours spent in transit, excepting hours spent in travel between the employee's residence and the District. Any time spent in layover at a public transportation facility is also compensable as transit time, unless the employee chooses to participate in recreational activities during the layover.

On the other hand, time spent taking a break from travel in order to eat a meal, sleep or engage in other personal pursuits not connected with traveling or making necessary travel connections, such as sightseeing, visiting friends and family, or other activites of a recreational or entertainment nature, are not compensable.

7. Employees' Responsibility

a. In situations where an employee can use the Petty Cash procedures for reimbursement of travel expenses, the employee may submit a "Petty Cash Order" form (Exhibit B) to be reimbursed. If expenses to be reimbursed are beyond the scope of the Petty Cash procedures, employees must submit a detailed "Staff Expense Claim Form" (Exhibit C). Petty Cash Orders and Expense Claim Forms should be supported by vouchers and itemized receipts of expenditures for which reimbursement is being requested. Receipts must be attached for all expenses with the exception of per diem meal allowance. If a receipt required for reimbursement is lost, the lost receipt must be

noted on the "Staff Expense Claim Form" and approved for reimbursement before any payment can be made. Claim forms must be submitted within 14 calendar days after the expense was incurred.

b. Expenses will not be reimbursed for meetings that have been pre-paid and not attended. Employees may be required to reimburse the District for any pre-paid expenses for any unexcused absence. The General Manager will determine if an absence from a pre-paid meeting is excused or unexcused.

c. When two (2) or more employees combine an expense on one receipt, the employee requesting reimbursement should indicate on the "Staff Expense Claim Form" the identity of the other persons sharing expenses.

d. Expenses incurred by spouses, family members, or guests are the responsibility of the employee.

e. Any misrepresentation in connection with the petty cash order or reimbursement process will be grounds for discipline up to and including termination of employment.

Attachments

Exhibit A: "Staff Travel Authorization Request"

Exhibit B: "Petty Cash Order"

Exhibit C: "Staff Expense Claim Form"

EXHIBIT A

# OTAY WATER DISTRICT

## STAFF TRAVEL AUTHORIZATION REQUEST

**Employee Name:** _____ **Date of Request:** _____

**Name and Location of Function:** _____

_____

**Is Travel out of San Diego County?** ☐ **Yes** ☐ **No* (*not eligible for staff travel)**

**Note: If you will be driving a District vehicle out of San Diego County or driving non-District personnel in a District vehicle or your private vehicle, you must obtain authorization by completing the "Vehicle Use Authorization Form Out of County and Transport Non-District Personnel" form.**

**Date(s) function to be held:** _____ - _____

**Purpose of function:** _____

**Sponsoring Organization:** _____

**Request for Pre-Payment or Advance of Fees Related to the Function:**

| Expense Type | Not Needed | Pre-Payment Requested | Advance Requested |
|---|---|---|---|
| Registration | ☐ | $ | N/A |
| Airline | ☐ | $ | N/A |
| Auto Rental | ☐ | $ | N/A |
| Fuel – for District or Rental Cars only** | ☐ | N/A | $ |
| Taxi / Shuttle** | ☐ | N/A | $ |
| Lodging | ☐ | $ | N/A |
| Meals – See Below | ☐ | N/A | $ |
| Other Expenses – Explain Below | ☐ | $ | $ |
| (**Advanced through petty cash. Please request these expenses at the conclusion of the trip if possible.) | **Total Pre-Payment Requested:** | | |
| | **Total Advance Requested:** | | |

Lodging Preference: _____

Explanation of Other Expenses: _____

**MEALS CALCULATOR**

Personal funds may be used in lieu of requesting advancement for meals. Meal per diem amounts are the same regardless of travel destination out of the County.

How many meals does the function provide? _____ (do not include in calculation below)

**(____ x $36 = $_____) + (____ x $18 = $_____) + (____ x $12 = $_____) = $_____**

Expected dinners — Expected lunches — Expected breakfasts — Total meal advancement

_____ _____

Employee Signature — Date of Request

**(Staff Expense Claim form must be completed within 14 calendar days after return from travel.)**

**For Office Use Only Below This Line**

**Total Pre-Paid: $**_____ **Total Advanced: $**_____

**Travel Approved by:**_____ **Date:**_____

Rev. 9/11

EXHIBIT A

# INSTRUCTIONS FOR PREPARATION OF STAFF TRAVEL AUTHORIZATION REQUEST FORM

The District will reimburse for necessary expenses incurred while traveling **outside of San Diego County** at District business and related meetings, functions, training or traveling on District business including common carrier fares (economy class), automobile rental charges, District business telephone calls, one personal telephone call home each day ($10 maximum per day), lodging, baggage handling, parking fees, meals, gratuities, etc. Please review the "Staff Travel and Business Related Expenses Policy" to familiarize yourself with the District's requirements.

- **Transportation**
  Employees should endeavor to use the most appropriate mode of transportation given the purpose and nature of the trip. The District will reimburse or pre-pay costs for economy (coach) class air transportation. Employees must obtain permission from their Department Chief or AGM before using a personal vehicle in conjunction with District business and complete the "Vehicle Use Authorization Form Out of County and Transport Non-District Personnel" form.
- **Advances and Pre-payments**
  Employees may request pre-payment of registration, transportation, and lodging, and may request an advance for expected costs for meals, fuel for District or rental vehicles, public ground transportation, and taxis using the "Staff Travel Authorization Request" form. It is recommended that expenses for fuel, taxi and shuttle be reimbursed at the conclusion of the trip if possible.

  Pre-payments and advances shall be limited to the employee's expenses only. Advances should be requested in a timely manner to allow normal processing through accounts payable.

- **Meals**
  Advances for per diem meals shall not exceed the per diem allowance anticipated for the trip. Receipts should not be submitted for per diem meal allowances. If advancement for meal allowance is not requested, employee may use their personal funds to pay for meals and request the per diem allowance after the travel is completed by submitting the "Staff Expense Claim Form." It is recommended that per diems for meals be reimbursed at the conclusion of the trip if possible. CalCard may not be used for meal per diems.

  Per diem meal allowance shall be at the Meals Incidental Expenses ("M&IE") rate determined by the U.S. General Services Administration for San Diego**,** or amounts that the General Manager deems reasonable for the occasion or circumstances. Partial day's per diem allowance shall be at the M&IE rate for breakfast, lunch and dinner**,** or amounts that the General Manager deems reasonable for the occasion or circumstances. The per diem meal allowance is inclusive of and assumes expenses for taxes and gratuities. Where pre-paid registration includes meals, only meals that are not included in the registration will be provided as per diem meal allowance.
- **Receipts**
  Receipts must be attached for all expenses with the exception of per diem meal allowances. If a receipt required for reimbursement is lost, the lost receipt should be noted next to the expense, submitted to the Department Chief, and approved by the Department Chief before any reimbursement can be made. **All receipts must have the nature of the expense and the business purpose noted on the receipt.** Any receipts that include costs of personal travel (e.g., hotel receipt for employee and spouse) should identify what the cost would have been without personal travel (e.g., single room rate as opposed to double room rate).
- **Staff Expense Claim Form**
  Upon return from travel, if expenses were incurred that need to be reimbursed, the "Staff Expense Claim Form" must be submitted **within 14 calendar days** after the expense was incurred. Advances and pre-payments shall be deducted from expenses and reconciled with travel authorization forms where applicable.

Department Chiefs, Assistant General Mangers or the General Manager may authorize Travel Authorization Request Forms.

**No information on the "Staff Travel Authorization Request Form" may be designated as confidential in nature. All expenses must be fully disclosed on the form.**

**The following expenses are not reimbursable:**

**a. Alcoholic beverages**

**b. Parking or traffic violations**

**c. In-room movies**

**d. Laundry service**

**e. Entertainment or recreation**

**f. Expenses incurred by spouses, family members, or guests**

**The Staff Travel Policy does not apply to meetings, conferences, training or functions attended in the County of San Diego. For expenses in the County of San Diego please coordinate reimbursements with your department.**

EXHIBIT B

# PETTY CASH ORDER

DATE _____

NAME _____

DEPT _____

REQUEST REIMBURSEMENT FOR THE FOLLOWING EXPENSES:

| Project | Subproject | Activity | Cost Type | DESCRIPTION | AMOUNT |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| **Total:** | | | | | 0.00 |

| PURPOSE OF EXPENDITURES |
|---|
| |
| |
| |
| |
| |
| |
| |

_____

DEPARTMENTAL APPROVAL

_____

CASH RECEIVED BY DATE

**NOTE: RECEIPTS MUST BE ATTACHED. FORM IS NOT TO BE USED FOR OVERNIGHT TRAVEL.**

EXHIBIT C

**OTAY WATER DISTRICT**

**STAFF EXPENSE CLAIM FORM**

Vendor #: _____ Date: _____

Pay to: _____ Period Covered: _____

Employee Number _____ From: _____ To: _____

**ITEMIZED REIMBURSEMENTS CLAIMED**

(Attach receipts for all expenses, except for per diem meal and beverage allowances.)

| DATE | DESCRIPTION OF REIMBURSEMENT | TOTAL REIMBURSABLE AMOUNT | LESS AMOUNT PREPAID | LESS AMOUNT ADVANCED | TOTAL AMOUNT CLAIMED |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

**ACCOUNT CODINGS:** **Project** **Subproject** **Activity Code** **Cost Type** **Department**

1)
2)
3)
4)

**For Travel Reimbursements:**

Nature of Travel: _____ Date Travel Commenced _____

Destination: _____ Date Travel Terminated _____

Total Mileage Claimed = _____ Miles x $. _____ Rate = $ _____

**Total Reimbursements Claimed:** $ _____

_____ _____

Employee Signature Date

_____ _____

Approved by Date

Rev. 4/10

**INSTRUCTIONS FOR PREPARATION OF STAFF EXPENSE CLAIM FORM**

The necessary expenses incurred while traveling outside of San Diego County at District business related meetings, functions, training or traveling on District business including common carrier fares (economy class), automobile rental charges, District business telephone calls, one personal telephone call home each day ($10 maximum per day), lodging, baggage handling, parking fees, meals, gratuities, etc. will be reimbursed when documented on the Staff Expense Claim Forms. Receipts must be attached for all expenses with the exception of per diem meal allowances. If a receipt required for reimbursement is lost, the lost receipt should be noted next to the expense, submitted to the DepartmentChief, and approved by the Department Chief before any reimbursement can be made. **All receipts must have the nature of the expense and the business purpose noted on the receipt.**

The District will not reimburse the cost of travel of a personal nature taken in conjunction with travel on official business. Per diem meal allowance shall be at the rate provided by the Meals Incidental Expenses (M&IE), or amounts that the General Manager deems reasonable for the occasion or circumstances. Partial day's per diem allowance shall be at the rate provided by M&IE for breakfast, lunch and dinner, or amounts that the General Manager deems reasonable for the occasion or circumstances. The per diem meal allowance is inclusive of and assumes expenses for taxes and gratuities of up to 15%. Where pre-paid registration includes meals, only meals that are not included in the registration will be provided as per diem meal allowance.

Any receipts that include costs of personal travel (e.g., hotel receipt for employee and spouse) should identify what the cost would have been without personal travel (e.g., single room rate as opposed to double room rate).

Mileage will be reimbursed for travel using personal vehicles only if a District vehicle is not available. In order to be reimbursed for mileage, employees must have a valid Driver’s License and current automobile insurance that meets or exceeds State minimum insurance requirements.

Advances and pre-payments shall be deducted from expenses and reconciled with travel authorization forms where applicable.

Department Chiefs or the General Manager may authorize Expense Claim Forms.

Claim forms must be submitted within 14 calendar days after the expense was incurred.

**No information on the Expense Claim Form may be designated as confidential in nature. All expenses must be fully disclosed on the form.**

**The following expenses are <u>not reimbursable:</u>**

**a. Alcoholic beverages**

**b. Parking or traffic violations**

**c. In-room movies**

**d. Laundry service**

**e. Entertainment or recreation**

**f. Expenses incurred by spouses, family members, or guests.**

**g. Meetings, conferences, training or functions attended in the County of San Diego.**

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| MEDICAL RESERVE FUND FOR DISTRICT RETIREES | 35 | 6/7/00 | 7/6/16 |

**PURPOSE:**

This policy is intended to provide a guideline for the prudent management of the District's medical reserve fund for retired employees and Board Members. The goal of this policy is to establish the District's reserve policy for the funding of the OPEB Reserve and related CALPERS Trust, which is performed in a manner intended to reduce the impact of medical expense on the annual operating budget.

**OBJECTIVE:**

The fundamental financial objective of the medical reserve fund is to establish and receive contributions from the general fund operating reserves, which will remain approximately at the level necessary to meet the annual obligation of the District's existing benefit package. The medical reserve fund is designed to accurately monitor and forecast expenditures and revenues to the fullest extent possible.

The District will endeavor to make medical and dental coverage available for retired individuals and their dependents as described in the Memorandum of Understanding between the District and the Employees' Association. Retired employees will be eligible for continuation of coverage if they satisfy both the age and years of service requirements at the point full-time employment ceases.

**DELEGATION OF AUTHORITY:**

Under authority granted by the Board of Directors, the General Manager will administer the fund.

**REPORTING:**

Every two years, the District will have an actuarial evaluation completed to determine the financial liability of the fund. A qualified actuary, in accordance with the principles and procedures established by the Actuarial Standards Board (ASB), should perform the actuarial valuation. The Chief Financial Officer will report the results of the actuarial evaluation to the Board of Directors. This report should include the fund assets, projected funding and liability based on the most recent employee information.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| **BILINGUAL PROGRAM** | 37 | 2/21/01 | |

Purpose

To establish a policy to provide accurate and efficient implementation of the District's Bilingual Program.

Background

The District receives telephone calls and inquiries from non-English speaking customers. In an effort to respond to the needs of our customers, policies and procedures shall be implemented to designate District positions as bilingual for those positions requiring an employee to provide bilingual skills while performing their duties.

Policy

To maximize the effective delivery of service to all communities within the Otay Water District, it is the District's policy to recruit, examine and appoint qualified individuals who are proficient in a second language. To provide and implement policies and procedures to designate bilingual positions and to certify an employee's proficiency in a second language.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject<br><br>ZERO TOLERANCE FOR VIOLENCE IN THE WORKPLACE | Policy Number | Date Adopted | Date Revised |
| | 38 | 11/07/01 | |

I. Purpose

Otay Water District recognizes that workplace violence has become a serious problem that affects job performance. Homicides in the workplace account for the second largest number of employee work related deaths.

The District is required under California law to maintain a safe and healthful place of employment for its employees. Each employee has a responsibility to perform work for the public in a safe, effective and efficient manner. The District will strive to eliminate acts of violence, aggression and threatening behaviors in the workplace and promote respect for all persons. In consideration of the health and safety of others, this policy establishes a "zero-tolerance" position towards threats or acts of violence in the workplace.

The District promotes the concept of mutual respect for all persons. Violence, acts of aggression, sexual harassment, discrimination and threatening behaviors do not flourish in environments where people respect each other.

It is the purpose of the Workplace Security and Anti-Violence Policy of Otay Water District to establish guidelines to prohibit:

- Violence
- Acts of aggression
- Threatening behaviors against all employees at the workplace
- To provide information to all employees regarding violence in the workplace
- To establish a procedure for reporting acts of aggression and violence
- To standardize a procedure for dealing with an act of aggression and violence
- To promote a workplace free of acts of aggression and violence

## II. Policy

Otay Water District is committed to creating and maintaining a work environment free of any and all types of violence and acts of aggression. The District recognizes that issues related to violence in the workplace are enforced by 3203 of the CAL-OSHA General Industry Safety Orders.

**The District will not tolerate violence in the workplace** and will take preventive, corrective and/or disciplinary action (including criminal prosecution) against any individual that violates this policy.

**Zero-Tolerance Standard** – The District establishes a zero-tolerance for aggressive behavior or acts of violence in the workplace. Incidents of violence, whether implied or actual, will not be tolerated by any person under any circumstance. There is no excuse for any type of violent behavior.

All comments and actions of a violent nature will be taken seriously and will not be tolerated. While all individuals have the right to self-expression, expressions of violence or potential violence are strictly prohibited.

This policy applies to all persons involved in the District's operation including, but not limited to: full-time, part-time, vendors and contractors, temporary and volunteer employees of Otay Water District and anyone else visiting District property or job sites. It includes all work areas where an employee is assigned to perform a job function and/or where the employee is representing or perceived to be representing the District.

Dissemination of Policy to Employees – Information about the prohibition of threats or incidents of violence will be provided to all full-time, part-time and temporary employees at their time of hire, and periodically thereafter through a communication method determined by the General Manager. In addition, copies of the policy and/or notices will be generated to inform contractors, vendors, volunteers and anyone else visiting District property, of the prohibition against threats or incidents of violence in the workplace.

## III. Definitions

Definitions of Threats or Acts of Violence – All direct or implied expressions of an intent to inflict physical harm and/or actions that a reasonable person would perceive as possibly detrimental to their physical safety or property will be considered as a threat. Acts of violence include conduct against individuals or property that is sufficiently offensive, severe or coercive to alter the District's employment conditions or which creates a hostile, abusive or intimidating work environment for one or more District employees. All threats or acts of violence will be taken seriously and immediately acted upon. While not inclusive, the following are examples of behaviors that are strictly prohibited under this policy:

A. Threats or acts of physical force and/or assault, such as pushing, shoving, slapping, hitting, punching or striking.
B. Threatening conduct, such as menacing gestures, stalking, brandishing weapons, tools or equipment, as if intending to cause physical harm.
C. Possession of firearms, weapons or any dangerous devices on District property or District job site. Recreational firearms shall not be transported in employee's vehicle on District premises.
D. Inappropriate use of tools or equipment on District property or District job sites.
E. Verbal or written harassment designed to intimidate or instill fear in others, including cursing, harassing phone calls, faxes, letters, memos and electronic communication.
F. Verbal or written harassment devised to provoke a loss of emotional control in others, such as taunting or demeaning statements, gestures or sounds.
G. Direct or veiled verbal threats of physical harm to individuals, their family members, friends, associates, personal property or District property.
H. Threatening verbal or written jokes about acts of violence.
I. A self-prediction of loss of control.
J. Yelling or profanity that a reasonable person would consider to be intimidating or demeaning.

Examples of Workplace Violence – General situations of prohibited violent conduct include, but are not limited to, the following:

A. Threats or acts of violence not occurring on District property, but involving someone who is acting within the course and scope of District employment and volunteer service.
B. Threats or acts of violence occurring on District property, regardless of the relationship between the District and the parties involved in the incident.
C. Threats or acts of violence not occurring on District property involving an employee of the District if the threats or acts of violence adversely impact the District's best interests.

IV. Procedure

Employee Responsibilities

All employees must comply with the provisions of this policy. Any violation of this policy by a District employee shall result in immediate disciplinary action, which may include referral to the Employee Assistance Program, written notice, days off or any other discipline up to and including termination. All oral and/or written reports required by employees under this policy shall be done without fear of reprisal and, to the extent possible, on a confidential basis.

A. Employees shall immediately report customers' actions, or citizen contacts of threatening behavior, to their supervisor, and when appropriate to the Police Department.
B. Employees shall immediately report to the appropriate supervisor, Assistant Chief or Human Resources Manager any incident of threat or physical harm directed at them, or a co-worker, by another employee, supervisor, or customer.
C. Employees are responsible for reporting to their supervisor when they have a restraining order against someone. Employees will further furnish to their supervisor, identifying information of the person and information on types of vehicles driven by a party whom the restraining order against persons who are harassing, threatening or stalking employees. The supervisor will notify Human Resources.

D. The employee will furnish a copy of the restraining order to the Police Department. If available, a photograph is very helpful in identifying the person whom the restraining order is for.
E. Employees are to report a bomb threat immediately to their supervisor.
F. Employees must report threatening behaviors from fellow employees to their supervisor, Assistant Chief, or Human Resources. When necessary these reports may be made confidentially.

Incidents Involving Members of the Public – This policy recognizes that employee security applies not only to co-workers' interactions, but also to associations with members of the public, including relatives and friends of employees. Employees are reminded to use caution when dealing with any angry or intimidating member of the public. If unsuccessful in getting the person to calm down, the employee should refer the individual to his or immediate supervisor or Assistant Chief. It may be necessary to remove all employees from the potential risk and notify the Police Department via **9-911**.

The immediate supervisor and/or Assistant Chief will determine how to handle future business transactions with an angry or intimidating individual. Furthermore, if appropriate, legal action may be taken against any member of the public who violates employee security in any fashion.

Supervisory and Management Responsibilities:

A. It is the duty of all managers and supervisors to carry out the enforcement of this policy and to investigate all complaints of violations of this policy.
B. Managers and supervisors shall take complaints of an employee's threatening behavior seriously. At times it may be necessary to keep confidential the name of the person who has reported a threatening behavior of a citizen or employee.
C. In cases of restraining orders, managers and supervisors will advise the Assistant Chief and, when appropriate, the Police Department will be notified to provide added protection for all employees. Managers and supervisors have a responsibility to provide added protection, as deemed appropriate, for all employees.

D. Managers and supervisors have a responsibility to follow the procedure for dealing with a bomb threat and report it immediately to their Assistant Chief.
E. Managers and supervisors have the responsibility to encourage or formally refer employees to use the EAP when deteriorating or unsatisfactory job performance does not improve with usual supervisory action. A supervisor should not attempt to diagnose an employee's problem. The supervisor's role is to monitor job performance.
F. Managers and supervisors have a responsibility to promote respect among all employees.
G. Managers and supervisors have a responsibility to discipline all employees who bring unauthorized weapons on any District job site.
H. Managers and supervisors have a responsibility to solicit employee perceptions of unsafe conditions or situations.

Conducting an Investigation – All alleged threats and incidents of violence will be investigated in a prompt, thorough, impartial and confidential matter. The General Manager will designate the applicable Assistant Chief, Human Resources Manager, other management employee or an outside investigator as the assigned investigator of the alleged incident. The "Threat/Incident Investigation Report" form will be used in conducting the investigation. The investigation will provide written notice to the accused employee of the reported allegation(s) in a manner that allows for the documentation of receipt. The notice will state the following:

A. The basis for the allegation(s), including the date that the incident allegedly occurred.
B. The ability to review the materials upon which the allegation(s) is based.
C. Information concerning the employee's right to respond to the allegation(s), orally or in writing, within five (5) working days.

Within five (5) working days after the receipt of the notice, the accused employee may request a meeting with the investigator to respond to the allegation(s). The accused employee may utilize this opportunity to present his or her side in response to the allegation(s). When appropriate, the employee accused of the threat or incident of violence may be placed on temporary administrative leave and removed from the workplace pending completion of the investigation.

If the alleged incident is substantiated, appropriate disciplinary action will be taken, up to and including termination. In addition, any legal action may be taken, as appropriate, against employees or members of the public in verified threats or incidents of violence. If discipline is warranted the employee will be notified with written notice, the proposed action, reasons, effective date, etc., the employee will also be advised of the right to review or appeal any disciplinary action taken.

Employees who retaliate against any person who has reported an alleged threat or incident of violence, regardless of whether the retaliation takes place on District property or District time, will be subject to disciplinary action up to and including termination.

Employees who falsely accuse a person of a threat or incident of violence, which is proven to be malicious and intentional, will be subject to disciplinary action, up to and including termination.

Human Resources will indefinitely maintain all files and records relating to reports of all incidents of violence.

Assessing the Seriousness of an Incident – Once the threat or act of violence has been verified, a preliminary assessment of the seriousness of the incident shall be made in order to respond to the complainant and the accused. Other actions that may be taken to fully develop an assessment of the seriousness of a threat or act of violence are:

A. Review the accused’s personnel records for previously documented threats or acts of violence, work performance issues, disciplinary actions, related medical conditions, financial problems and/or other related items.
B. Interview the supervisor, Assistant Chief and/or co-workers of the accused.
C. As deemed appropriate, notify law enforcement personnel.
D. Obtain, as required, the expertise of specialists such as psychiatrists or psychologists.
E. Determine if there has been a history of similar incidents to other employees.

If one or more of these actions are taken, the General Manager shall use discretion in determining who shall have access to an employee's records and will limit the number based on a strict "need-to-know" basis depending upon the specific situation. Such decision makers might include the General Manager, the General Counsel, the Human Resources Manager, the Assistant Chief as well as others the General Manager might identify as needing the information to protect other employees, the public and the District.

The records will be kept in a separate locked file under the direct control of the Human Resources Division and will not be made a part of employee's personnel file except when disciplinary action results from an investigation of the incident. When disciplinary action is taken, any disciplinary notices and supporting materials regarding the disciplinary action will be placed in the employee's personnel file. Reports maintained in the File will not be available for review or examination except upon the approval of the Assistant Chief of Administrative Services or the Human Resources Manager. Reports of violence will only be reviewed to determine risk or assess complaints of a threat concerning an employee of the District. Disciplinary action will be consistent with current District policy.

Assessing the Seriousness of a Potential Threat – Whenever a supervisor or manager learns of a potential threat, it is that person's responsibility to alert their Assistant Chief and Human Resources Manager and assess the seriousness of the threat. Examples of potential threats include but are not limited to the following:

A. An employee tells you that they are breaking up with a significant other and the significant other has threatened to kill them if they catch them with someone else.
B. A customer, over the phone, threatens to slash the tires of an employee's vehicle unless they receive satisfaction.
C. An employee comes to you and relates concern of a co-worker's recent state of mind or apparent depression, which has affected the co-worker's productivity and/or attitude at work.

Employee Assistance Program - The District recognizes that employees may from time to time experience difficulties related to their work, relationships with co-workers, supervisors, Assistant Chiefs or members of the public. Employees are reminded that the District has a well-established voluntary and confidential Employee Assistance Program (EAP) to assist employees and their families who seek help for problems causing added stress to their lives. Employees who are concerned about added stress are strongly encouraged to voluntarily seek assistance through this program. An employee may schedule an appointment with the EAP on District release time with the approval of the supervisor. If an employee requires leave time for additional visits or continuing treatment, he/she must follow established sick leave procedures.

The EAP provides counseling sessions at no cost to the employee. If further treatment is needed, the EAP will refer the employee to the appropriate resource. Most health insurance contains some type of coverage for treatment; however, the employee assumes the financial responsibility for all services that are not covered by the EAP or health insurance.

Supervisors should encourage employees to use the EAP when deteriorating or unsatisfactory job performance does not respond to usual supervisory actions or when a specific on the job incident does not respond to usual supervisory actions or when a specific on the job incident is cause for concern. While the District will be supportive of those who seek help voluntarily, the District will be equally firm in identifying and disciplining those who continue to violate this policy.

All Other Communication – The General Manager will determine the method of communicating specific information about the threat or incident of violence to employees and the news media. In the event of an incident, every effort will be taken to provide employees in the effected area with information that will minimize the stress and/or the anxiety associated with the incident, including on-site post-incident debriefing and/or referral to the District’s Employee Assistance Program.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| ETHICS POLICY | 40 | 11/27/01 | |

**PURPOSE**

To establish an Ethics Policy to define guidelines and specific prohibitions to which elected officials of the Board of Directors of the Otay Water District must conform in pursuit of their assigned duties and responsibilities to foster public respect, confidence and trust.

**POLICY**

1. Declaration of Policy

   The respected operations of democratic government emphasize that elected officials be independent, impartial and responsible to the people. It requires that they conduct themselves in a manner above reproach. It also imposes an obligation of personal integrity that will foster public respect, confidence and trust.

   This Ethics Policy provides the following general guidelines and specific prohibitions to which elected Otay Water District Officials must conform in pursuit of their assigned duties and responsibilities.

2. Disclosure of Closed Session Matter

   No member of the Otay Water District Board shall disclose to any person, other than members of the Board, General Manager, or other District staff designated by the General Manager to handle such matters of confidential District business, the content or substance of any information presented or discussed during a closed session meeting unless the District first authorizes such disclosure by the affirmative vote of three members.

3. Disclosure of Confidential Communications

   Except when disclosure is mandated by State or Federal law, no member of the District Board shall disclose confidential or privileged communications to any person other than members of the Board, General Manager, or other District staff designated by the General Manager to handle such matters, unless the Board of Directors first authorizes such disclosure by the affirmative vote of three members of the Board of Directors.

4. Conduct During Negotiations/Litigation

The Board of Directors is authorized to provide direction to specifically identified negotiators in a legally constituted closed session on matters involving pending litigation, real estate negotiations and labor negotiations. If the Board of Directors, in closed session, provides such direction to its negotiators, all contact with the negotiating party or party's representative shall be limited to and made by those individuals designated to handle the negotiations. During a pending labor negotiation, no member of the District Board shall have any contact or discussion with the negotiating party or the party's representative regarding the subject matter of the pending negotiation. In addition, during litigation or real estate negotiations, no member of the District Board (unless they have been designated as a negotiator) shall have any contact or discussion with litigating or negotiating party or the party's representative regarding the subject matter of the pending litigation or real estate negotiations.

Nothing in this section shall prohibit Board members from receiving written communications provided they are made available to all Board members, the General Manager, or the District's designated negotiators on an equal basis.

5. Ex Parte Communications

The purpose of this provision is to guarantee that all interested parties to any matter before the Board have equal opportunity to express and represent their interests. Ex parte communications are those communications members of the Board have with representatives of only one side of a matter outside the presence of other interested parties. A communication concerning only the status of a pending matter shall not be regarded as an ex parte communication.

Any written or oral ex parte communication received by a member of the Board in matters where all interested parties are entitled to an equal opportunity for a hearing, shall be made a part of the record by the recipient.

6. Violations and Penalties

Any violation of this Ethics Policy by a member of the Board shall constitute official misconduct if determined by an affirmative vote of three members of the Board in an open and

public meeting. In addition to any criminal or civil penalties provided by the Federal, State or other local law, any violation of the Ethics Policy shall constitute a cause for censure by the Board of Directors adoption of a Resolution of Censure.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| Employee Compliance with District's Conflict of Interest Code | 41 | 09/04/02 | |

## PURPOSE

To establish a policy for District employees to comply with all the applicable disclosure and disqualification requirements of the District's Conflict of Interest Code (Chapter 5, Section 6 in the Code of Ordinances).

## POLICY

No District employee shall engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a District employee, or with the duties, functions, or responsibilities of his or her appointing power or the District. Accordingly, all District employees shall comply with the District's Incompatible Activities Policy that is located at Exhibit B to the District's Conflict of Interest Code (Chapter 5, Section 6 in the Code of Ordinances).

To the extent that any employee is identified as a Designated Employee for purposes of the District's Conflict of Interest Code, such employee shall comply with all of the applicable disclosure and disqualification requirements of the Conflict of Interest Code, including compliance with the Prohibited Transactions Policy located within the District's Conflict of Interest Code at Exhibit A.

**Legal Reference:**

**CALIFORNIA GOVERNMENT CODE**

Sections 1090, *et seq.*
Sections 1125, *et seq.*
Sections 81000, *et seq.*

**CALIFORNIA CODE OF CALIFORNIA REGULATIONS**

Title 2, sections 18730, *et seq.* Provisions of Conflict of Interest Codes

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| Participation in Community Events and Programs/Sponsorship Opportunities | 42 | 1/8/03 | |

Purpose

The purpose of this policy is to provide guidance and consistency to the District's efforts to enhance its strategic communications and public policy implementation efforts. The District will, as a regular business practice, participate in and/or sponsor community events and/or programs, including those organized by not for profit organizations. It is important that these sponsorships are implemented in support of the District's goals as stated in the District's Strategic Plan. The following policy is intended to provide the direction and support necessary for the General Manager and the Board to make these decisions in a manner consistent with overall District objectives.

Policy

The General Manager shall authorize participation in and/or sponsorship of community events and programs, including those organized by not for profit organizations, in accordance with the General Manager's authorized expenditure and budget authority. Such items shall be reported to the Board as part of the General Manager's annual District budget process.

**Community and Governance -** The District recognizes that it exists in a complex political environment with many important stakeholders, including ratepayers, community groups, citizen's groups, and other local government agencies. Accordingly, the District realizes that it is critical to maintain active and positive relationships with these stakeholders to ensure that their concerns are being effectively addressed. These relationships also serve the important function of disseminating information about the District, the services provided by the District and District efforts related to securing water rights, conservation efforts and water recycling. It also assists in efforts to improve the overall image of the District, foster trust and confidence in the District and develop important relationships with community stakeholders and community leaders.

Therefore, in accordance with the District's strategic plan, the District will utilize this policy to:

- Improve District reputation through targeted communication with the community and local governments.
- Improve public relations between the District and customers/rate payers
- Educate the community about the District.
- Strengthen positive ties to the communities served by the District
- Engender confidence and trust from customers and rate payers
- Implement the Government and Public Relations Program
- Broaden communication with key stakeholders
- Foster positive relationship with Board of Directors

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| Participation in Community Events and Programs/Sponsorship Opportunities | 42 | 1/8/03 | |

Procedure

Requests for participation in and/or sponsorship of community events or programs must be made in writing to the General Manager. In the alternative, the General Manager may also identify community events or programs for which participation with substantially fulfills elements of the District's strategic plan. The General Manager shall document the benefits of participation/sponsorship of the community event or program and the level of participation.

The General Manager must evaluate the request or event/program in light of the District's strategic plan and determine if the request is consistent with the plan.

Approved requests will be forwarded to the Finance department for dispersal in accordance with District practices for dispersal of funds.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject<br><br>REVIEW OF PROCEDURES POLICY | Policy Number | Date Adopted | Date Revised |
| | 44 | 4/4/01 | 8/10/11 |

## Purpose

To establish a policy for review of policies, codes, ordinances, and resolutions related to District Programs.

## Background

On April 4, 2001, the Board of Directors approved the application of a Review Policy to routinely and systematically evaluate and reconsider District Policies and Procedures.

## Policy

It is the policy of the Board of Directors that:

1. The review shall be a cyclical ongoing process applied to all District Policies and Procedures.

2. Exceptions include:

    a. One-time Actions. Resolutions honoring a person or event, or awarding a contract or a grant, or an ordinance consolidating elections on a specific date, shall not require review.

    b. Actions to Delete. Formal action to delete a policy, code, ordinance or resolution.

    c. Actions Requiring Extraordinary Processes. Certain ordinances, if re-enacted, would require extraordinary processes, such as Environmental Impact Reports or Meet and Confer processes. These would be unnecessarily costly if the Board wished simply to continue an existing ordinance, rather than delete or revise it. Accordingly, the review shall not be applied to land use (general plan, zoning and subdivision ordinances, etc.) or personnel related ordinances.

    d. Waivers. The Board of Directors may make exceptions to this policy and by Board action waive application of review to specific policies, codes, ordinances and resolutions as deemed appropriate.

3. The review of all District policies, codes, ordinances and resolutions shall be submitted to the Board of Directors for review and approval periodically. The General Manager, or Designee, shall establish and maintain the procedures and scheduling to ensure compliance with this policy.

4. The responsibilities for performing the tasks involved in the review include the following:

   a. General Manager (GM) or Designee. Develops and maintains a review schedule and assigns coordination of the review to appropriate Management Groups for completion by their assigned departments.

   b. Chief of Administrative Services. Facilitates the review of policies, codes, ordinance and resolutions between departments. Schedules meetings when necessary.

   c. Departments. Reviews policies, codes, ordinances and resolutions as scheduled and recommends to Chief of Administrative Services deletion or revision.

   d. Board of Directors. Determines to continue, delete or revise each policy, code, ordinance or resolution.

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| DEBT POLICY | 45 | 4/13/04 | 9/4/13 |

## 1.0: POLICY

It is the policy of the Otay Water District to finance the acquisition of high value assets that have an extended useful life through a combination of current revenues and debt financing. Regularly updated debt policies and procedures are an important tool to insure the use of the District's resources to meet its commitments, to provide the highest quality of service to the District's customers, and to maintain sound financial management practices. These guidelines are for general use and allow for exceptions as circumstances dictate.

## 2.0: SCOPE

This policy is enacted in an effort to standardize the issuance and management of debt by the Otay Water District. The primary objective is to establish conditions for the use of debt, to minimize the District's debt service requirements and cost of issuance, to retain the highest practical credit rating, maintain full and complete financial disclosure and reporting, and to maintain financial flexibility for the District. This policy applies to all debt issued by the District including general obligation bonds, revenue bonds, capital leases and special assessment debt.

## 3.0: LEGAL & REGULATORY REQUIREMENTS

The Chief Financial Officer (CFO) and the District's Legal Counsel will coordinate their activities to ensure that all securities are issued in full compliance with Federal and State law.

## 4.0: CAPITAL FACILITIES FUNDING

### Financial Planning

The District maintains a six-year financial projection that identifies operating requirements and public facility and equipment requirements, and has developed a Rate Model for funding the District's 6-Year Capital Improvement Program (CIP). The District's CIP Budget places the capital requirements in order of priority and schedules them for funding and implementation. It identifies a full range of capital needs, provides for the ranking of the importance of such needs, and identifies all the funding sources that are available to cover the costs of the projects. In cases where the program identifies project funding through the use of debt financing, the budget should provide information needed to determine debt capacity. The Rate Model and the

CIP Budget give the Board part of the data needed to make informed judgments concerning the possibility of issuing debt.

**Funding Criteria**

The Chief Financial Officer (CFO) will evaluate all capital project requests and develop a proposed funding plan. Priority may be given to those projects that can be funded with current resources (annual cash flow, fund balances or reserves). Those projects that cannot be funded with current resources may be deferred or the CFO may recommend that they be funded with debt financing. However, debt financing will not be considered appropriate for any recurring purpose such as current operating and maintenance expenditures. The issuance of short-term cash-flow instruments is excluded from this limitation.

The General Manager will recommend the funding plan to the Board. The General Manager may deem it necessary or desirable in certain circumstances to convene a Finance Committee meeting to evaluate funding options presented by the Chief Financial Officer.

**Funding Sources**

The District's capital improvements can be classified in three categories: those related to an expansion of the system ("expansion"), those related to upgrading the existing system ("betterment") and those related to repairing or replacing existing infrastructure ("replacement"). In general, capital improvements for betterment or replacement are financed primarily through user charges, availability charges, and betterment charges. Capital improvements for expansion are financed through capacity fees. Accordingly, these fees are reviewed at least annually or more frequently as required and set at levels sufficient to ensure that new development pays its fair share of the costs of constructing necessary infrastructure. Additionally, the District will seek State and Federal grants and other forms of intergovernmental aid wherever possible.

**Pay-As-You-Go Projects**

The District's capacity fees are the major funding source in financing additions to the water system and the recycled water system. Over time, the fees collected and the cost to construct the capital projects should balance. However, collection of these fees is subject to significant fluctuation based on the rate of new development. Accordingly, the Chief Financial Officer, in developing the funding plan for the CIP, will determine that current revenues and adequate

fund balances are available so project phasing can be accomplished. If this is not the case, the Chief Financial Officer may recommend that:

1. The project be deferred until funds are available, or
2. Based on the priority of the project, long-term debt is issued to finance the project.

**Debt Financed Projects**

If a project or projects are to be financed with long-term debt, the District should use the following criteria to evaluate the suitability of the financing for the particular project or projects:

1. The life of the project or asset to be financed is 10 years or longer and its useful life is expected to exceed the term of the financing.
2. Revenues available for debt service are deemed to be sufficient and reliable so that long-term financing can be marketed without jeopardizing the credit rating of the District.
3. Market conditions present favorable interest rates and demand for District financing.
4. The project is mandated by State and/or Federal requirements and current resources are insufficient or unavailable.
5. The project is immediately required to meet or relieve capacity needs and current resources are insufficient or unavailable.

**5.0: DEBT STRUCTURE**

**General**

The District will normally issue debt with a maturity of not more than 30 years. The structure should approximate level debt service for the term where it is practical or desirable. There will be no debt structures that include increasing debt service levels in subsequent years, with the first and second year of a debt payoff schedule the exception and related to projected additional income to be generated by the project to be funded. There will be no "balloon" debt repayment schedules that consist of low annual payments and one large payment of the balance due at the end of the term. There will always be at least interest paid in the first fiscal year after debt issuance and principal starting no later than the first fiscal year after the

date the facility or equipment is expected to be placed in service. Capitalized interest will not be for a period of more than necessary to provide adequate security for the financing.

**Limitations on the Issuance of Variable Rate Debt**

The District will normally issue debt with a fixed rate of interest. The District may issue variable rate for the purpose of managing its interest costs. At the same time, the District should protect itself from too much exposure to interest rate fluctuations. In determining that it is in the District's best interest to issue certain debt at variable rates instead of fixed rates, at the time of issuing any variable rate debt, there should be at least a 10% estimated reduction in annual debt costs by issuing variable rate debt when compared to a similar issuance of fixed rate debt. If the estimated overall cost savings from issuing variable rate debt is not at least 10% at the time of issuance, relatively small fluctuations in rates could actually increase the District's financing costs over the life of the bonds compared to a similar fixed rate financing. By using this 10% factor at the time of issuance, the District can be relatively assured that its variable rate financing will be cost-effective over the term of the bonds.

The comparison will be based on the following criteria:

1. The interest rate used to estimate variable interest costs will be the higher of the 10 year average rate or the current weekly variable rate.

2. The variable rate debt costs will include an estimate for annual costs such as letter of credit fees, liquidity fees, remarketing fees, monthly draw fees and annual rating fees applicable to the letter of credit.

3. Any potential reserve fund earnings will reduce the fixed rate debt service or variable rate debt service as applicable.

Periodically, using the criteria described above, the Chief Financial Officer will compare the estimated annual debt service costs to maturity of any variable rate debt with estimated debt service if the debt was converted to fixed rates. If this analysis produces a break even in total payments over the life of the issue, the Chief Financial Officer will recommend converting such variable rate debt to fixed rate.

Variable rate debt should not represent more than 25% of the District's total debt portfolio. This level of exposure to interest rate fluctuations is considered to be manageable in an environment of increasing interest rates. At a higher ratio than this, the District might be faced with an unplanned water rate increase to meet its Rate Covenants. Rating agencies use this ratio in their analysis of the District's overall credit rating.

Further, Rate Covenants applicable to variable rate debt shall not compromise the issuance of additional debt planned by the District and variable rate debt should always contain a provision to allow conversion to a fixed rate at the District's option.

## 6.0: CREDIT OBJECTIVES

The Otay Water District seeks to maintain the highest possible credit ratings for all categories of long-term debt that can be achieved without compromising delivery of basic services and achievement of District policy objectives.

Factors taken into account in determining the credit rating for a financing include:

1. Diversity of the District's customer base.
2. Proven track record of completing capital projects on time and within budget.
3. Strong, professional management.
4. Adequate levels of staffing for services provided.
5. Reserves.
6. Ability to consistently meet or exceed Rate Covenants.

The District recognizes that external economic, natural, or other events may from time to time affect the creditworthiness of its debt. Nevertheless, the District is committed to ensuring that actions within its control are prudent and well planned.

## 7.0: COMPETITIVE AND NEGOTIATED SALE CRITERIA

### Competitive Sale

The District will use a competitive bidding process in the sale of debt unless the nature of the issue or specific circumstances warrants

a negotiated sale. The CFO will determine the best bid in a competitive sale by calculating the true interest cost (TIC) of each bid.

**Negotiated Sale**

Types of debt that would typically lend themselves to the negotiated sale format are variable rate debt and unrated debt. Circumstances that might warrant a negotiated sale may occur when the issue is of a limited size that would not attract wide-spread investor interest, during periods of high levels of issuance by other entities in the State, or during periods of market volatility or with relatively new financing techniques. In the event the District decides to use a negotiated sale, it will pay management fees only to those firms that place orders for bonds.

If the size of the District's proposed issue is not cost effective, the District may also consider issuing its debt by private placement or through any qualified Joint Power Authority (JPA) in the State of California whose principal business is issuing bonds.

## 8.0: REFUNDING DEBT

**Purpose**

Periodic reviews of all outstanding debt will be undertaken by the Chief Financial Officer to determine refunding (refinancing) opportunities. The purpose of the refinancing may be to:

1. Lower annual debt service by taking advantage of lower current interest rates.

2. Update or revise covenants on outstanding debt issue if a Rate Covenant appears to be too high, has precluded the District from implementing its financing plan, or has caused the District to increase rates to customers.

3. Restructure debt service associated with an issue to facilitate the issuance of additional debt, usually in order to smooth out peaks in total debt service which can occur frequently as one debt issue is layered on top of existing debt issues.

4. Alter bond characteristics such as call provisions or payment dates.

5. Pay for conversion costs such as funding a reserve fund or paying for credit enhancement when converting variable rate debt to fixed rate debt.

**Restrictions on Refunding**

Tax-exempt bonds typically have provisions that preclude early redemption of the bonds for a period of years after issuance. The number of times a tax-exempt bond can be refinanced prior to its Optional Redemption date (known as Advance Refunding) is limited by the IRS. For debt issued after 1986, issuers may only provide for Advance Refunding of obligations in advance of the Optional Redemption date one time. There is no limit by the IRS on the ability of issuers to redeem bonds early once the Optional Redemption date has been reached (known as Current Refunding).

**Savings Criteria**

In cases where an Advance Refunding or Current Refunding is intended to provide debt service savings, the District may commence the refinancing process if a minimum five percent (5%) present value savings net of issuance costs and any cash contributions can be demonstrated. Since interest rates may fluctuate between the time when a refinancing is authorized and when the debt is issued, beginning the process with at least a 5% savings should provide the District with some level of protection that it can achieve a minimum of three percent (3%) net present value savings of the refunding bonds when and if the debt is issued. These minimum standards are intended to protect the District staff from spending time on refinancings that become marginally cost-effective after the entire issuance process is complete.

The savings target may be waived, however, if sufficient justification for lowering the savings target can be provided by meeting one or more of the other refunding objectives described above.

**9.0: SUBORDINATE LIEN DEBT**

The District will issue subordinate lien debt only if it is financially beneficial to the District or consistent with creditworthiness objectives. Subordinate lien debt is structured to be payable second in priority to the District’s other outstanding debt. Typically, subordinate lien debt might be issued if the District desired a more flexible Rate Covenant with respect to its new

obligations and did not want to refinance all of its existing debt to obtain that less restrictive Rate Covenant.

## 10.0: FINANCING PARTICIPANTS

The District's purchasing guidelines provide the process for securing professional services related to individual debt issues. The solicitation and selection process include encouraging participation from qualified service providers, both local and national, and securing services at competitive prices.

***Financial Advisor***: The use of a Financial Advisor is necessary for the sale of debt by a competitive bid process and is desirable when issuing debt through a negotiated sale. The Financial Advisor has a fiduciary duty to the District and will seek to structure the District's debt in the manner that is saleable, yet meets the District's objectives for the financing. The Financial Advisor will advise the District on alternative structures for its debt, the cost of different debt structures and potential pricing mechanisms that can be expected from underwriters (such as call features, term bonds and premium and discount bond pricing) and, at the District's direction, will write the offering document (preliminary official statement). With respect to competitive sales, the Financial Advisor will arrange for distributing the preliminary official statement, accepting bids via an internet bidding platform, verifying the lowest bid and provide detailed instructions for the flow of funds at closing to the winning Underwriter, the Trustee and the District. In a negotiated sale, the Financial Advisor will provide independent confirmation on the Underwriter's proposed pricing to ensure that interest rates and Underwriter's compensation are appropriate for the credit quality of the issue and competitive in the overall public finance market in California.

***Underwriter***: The Underwriter markets the bonds for sale to investors. While the District's preference is to select the Underwriter for the debt via sale of the debt at competitive bid, there are circumstances when a negotiated issue is in the best interests of the District. Negotiated sales are preferable if the security features are particularly complex or market conditions are volatile. The Chief Financial Officer will recommend whether the method of sale is competitive or negotiated based on the type of issue and other market conditions. In the case of negotiated sales, the Underwriter will be required to demonstrate sufficient capitalization and sufficient experience related to the specific type of debt issuance.

The Underwriter will work in connection with the District's Financial Advisor on structuring the issue and offering different pricing ideas.

***Bond Counsel***: The District's Bond Counsel provides the primary legal documents that detail the security for the bonds and the authority under which bonds are issued. The Bond Counsel also provides an opinion to bond holders that the bonds are tax-exempt under both State and Federal law. All closing documents in connection with an issue are also prepared by Bond Counsel.

***Disclosure Counsel***: The District's Disclosure Counsel provides legal advice to the District regarding the adequacy of the District's disclosure of financial information or risks of investing in the District's debt issue to the investing public. The Disclosure Counsel can prepare the official statement or review the official statement and gives the District an opinion that there is no information missing from the official statement of a material nature that would be necessary for an investor to make an informed decision about investing in the District's bonds.

***Trustee***: The Trustee is a financial institution selected by the District to administer the collection of revenues pledged to repay the bonds and to distribute those funds to bondholders.

***Letter of Credit Bank***: The Letter of Credit Bank is a U.S. or foreign bank that has issued a letter of credit providing both credit enhancement (the Letter of Credit Bank will pay the debt in the event that the District defaults on the payment) and liquidity for a variable rate bond issue. These banks have their own short-term credit rating, which can be higher than the District's short-term credit rating. Liquidity is needed because variable rate bondholders are allowed to "put" their bonds back to the District if they do not like the interest rate currently being offered. The District's Remarketing Agent then finds a new buyer for those bonds, but in the event that no buyer is found, a draw is made under the letter of credit to purchase the bonds that have been "put." As soon as the bonds are remarketed to another buyer, the letter of credit is repaid. The letter of credit fees are paid annually or quarterly. Letter of credits are typically issued for not more than 3 years and must be renewed during the life of the bonds. Credit enhancement is discussed further under the heading "CREDIT ENHANCEMENT."

***Municipal Bond Insurer***: The Municipal Bond Insurer can be one of several insurance companies that provide municipal bond insurance policies securing payment of the District's debt. These policies

provide that the Municipal Bond Insurer will pay the District's debt in the event that the District defaults on its payments. Debt which is insured carries the Municipal Bond Insurer's credit rating. The insurance premium for the bond insurance policy is paid one time at the issuance of the debt and is non-cancelable for the term of the debt. Unlike a letter of credit, bond insurance policies do not provide liquidity and are most typically purchased for fixed rate debt.

***Remarketing Agent***: The Remarketing Agent is an investment bank that, each week, determines the interest rate for the District's variable rate obligations. The rate is set at the rate at which the obligations could be sold on the open market at 100% of their face value. The Remarketing Agent also finds new buyers for any of the obligations that are "put" back to the District.

***Rating Agencies***: Currently, there are three widely recognized rating agencies that rate municipal debt in the United States: Standard & Poor's, Moody's Investors Service, and Fitch Investors Service. Rating agencies establish objective criteria under which each type of financing undertaken by the District is to be analyzed. Upon request, a rating agency will rate the underlying strength of the District's financings, without regard to the purchase of any credit enhancement. The rating is released to the general public and thereafter, the rating agency will periodically update its analysis of a particular issue, and may raise or lower the rating if circumstances warrant. Investment-grade ratings range from "AAA" to "BBB-." A rating below "BBB-" is not investment grade. Many mutual funds cannot buy bonds that do not carry an investment grade.

***Verification Agent***: In a refunding, the District will deposit funds with an escrow agent (usually the trustee) in an amount sufficient, together with earnings thereon, to pay the debt service and redemption price of the debt being refunded through and including the call date. The Verification Agent verifies the mathematical accuracy of calculation of the amount to be deposited in escrow and the bond counsel relies on this verification in giving their opinion that the debt is defeased within the meaning of the indenture and that the lien of the debt on the revenues pledged to the debt being refunded is released.

## 11.0: CONFLICT OF INTEREST AND STANDARDS OF CONDUCT

Members of the District, the Board of Directors and its consultants, service providers and underwriters shall adhere to standards of

conduct and conflict of interest rules as stipulated by the California Political Reform Act or the Municipal Securities Rulemaking Board (MSRB), as applicable. All debt financing participants shall maintain the highest standards of professional conduct at all times, in accordance with MSRB Rules, including Rule G-37. There shall be no conflict of interest with the District with any debt financing participant.

## 12.0: CONTINUING DISCLOSURE

The District acknowledges the responsibilities of the underwriting community and pledges to make all reasonable efforts to assist underwriters in their efforts to comply with SEC Rule 15c2-12 and MSRB Rule G-36. The District will file its official statements with the MSRB and the nationally recognized municipal securities information repositories. The District will also post copies of its comprehensive financial reports on the MSRB's Electronic Municipal Market Access (EMMA) website, and will disseminate other information that it deems pertinent to the market in a timely manner (For bonds issued after 2012, 10 days). While initial bond disclosure requirements pertain to underwriters, the District will provide financial information and notices of material events on an ongoing basis throughout the life of the issue. Material events are defined as those events which are considered to likely reflect on the credit supporting the securities.

(a) The events considered material according to the SEC are:

1. Principal and interest payment delinquencies;

2. Unscheduled draws on debt service reserves reflecting financial difficulties;

3. Unscheduled draws on credit enhancements reflecting financial difficulties;

4. Substitution of credit or liquidity providers, or their failure to perform;

5. Adverse tax opinions or the issuance by the Internal Revenue Service of proposed or final determinations of taxability or of a Notice of Proposed Issue (IRS Form 5701-TEB);

6. Tender offers;

7. Defeasances;

8. Ratings changes; and

9. Bankruptcy, insolvency, receivership or similar proceedings.

Note: for the purposes of the event identified in subparagraph (9) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

(b) Pursuant to the provisions of this section (b), the District shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

1. Unless described in paragraph (a) above, notices or determinations by the Internal Revenue Service with respect to the tax status of the Bonds or other material events affecting the tax status of the Bonds;

2. The consummation of a merger, consolidation or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;

3. Appointment of a successor or additional trustee or the change of the name of a trustee;

4. Nonpayment related defaults;

5. Modifications to the rights of Owners of the Bonds;

6. Notices of redemption; and

7. Release, substitution or sale of property securing repayment of the Bonds.

Whenever the District obtains knowledge of the occurrence of a Listed Event under (b) above, the District shall as soon as possible determine if such event would be material under applicable federal securities laws.

## 13:0 INVESTMENT & ARBITRAGE COMPLIANCE

Tax-exempt bonds are required to meet certain provisions of the federal tax code in order to maintain their tax-exempt status. In order to prevent municipal issuers from borrowing money at tax-exempt rates solely for the purpose of investing the proceeds in higher yielding investments and making a profit ("arbitrage"), the federal tax code contains a provision that requires issuers to compare the interest earned on any bond funds held (such as a reserve fund) with interest that would theoretically be earned if the funds were invested at the yield of the bonds, and to "rebate" to the federal government any interest earned in excess of the theoretical earnings limit.

The Chief Financial Officer shall invest the bond proceeds subject to the District's Investment Policy in a timely manner, to ensure the availability of funds to meet operational requirements. In doing so, the CFO will maintain a system of record keeping and reporting to meet the arbitrage rebate compliance requirements of the federal tax code.

## 14.0: TYPES OF DEBT FINANCING

### General Obligation Bonds

General obligation bonds are secured by a pledge of the ad-valorem taxing power of the issuer and are also known as a full faith and credit obligations. Bonds of this nature must serve a public purpose to be considered lawful taxation of the property owners within the District and require a two third's majority vote in a general election. The benefit of the improvements or assets constructed and

acquired as a result of this type of bond must be generally available to all property owners.

The District can issue general obligation bonds up to but not in excess of 15% of the assessed valuation under Article XVI, Section 18 of the State constitution. An annual amount of the levy necessary to meet debt service requirements is calculated and placed on the tax roll through the County of San Diego. The District also has a policy that the ad-valorem tax to be used to pay debt service on general obligation bonds will not exceed $.10 per $100 of assessed value.

Voters within Improvement District No. 27 of the District authorized $100 million general obligation bonds in 1989. The District issued $11,500,000 general obligation bonds in 1992 and refinanced the bonds in 1998 and again in 2009. The District also has approximately $29 million in general obligation bonds authorized between 1960 and 1978 for various improvement districts throughout the District, but unissued. General obligation bonds can only be issued under these existing authorizations to the extent necessary to fund the improvements specified by each ballot measure.

General obligation bonds generally are regarded as the broadest and soundest security among tax-secured debt instruments. An unlimited-tax pledge would enable a trustee to invoke mandamus to force the District to raise the tax rate as much as necessary to pay off the bonds. General obligation bonds have other credit strengths as well: the property tax tends to be a steady and predictable revenue source, and when a vote is required to issue them, bondholders have some indication of taxpayers' willingness to pay. General obligation bonds carry the highest credit rating that a public agency can achieve and therefore, the lowest interest cost. General obligation bonds typically are issued to finance capital facilities and not for ongoing operational or maintenance costs.

The District will use an objective analytical approach to determine whether it can afford to assume new general obligation debt for the improvement districts, or in the case of projects not approved by the original ID 27 vote, prior to any submission of a general obligation bond ballot measure to voters. This process will compare generally accepted standards of affordability to the current values for the District. These standards will include debt per capita, debt as a percent of taxable value, debt service payments as a percent of current revenues and current expenditures, and the level of overlapping net debt of all local taxing jurisdictions. The process will also examine the direct costs and benefits of the proposed

expenditures. The decision on whether or not to assume new debt will be based on these costs and benefits, the current conditions of the municipal bond market, and the District's ability to "afford" new debt as determined by the aforementioned standards.

**Revenue Bonds**

Revenue bonds are limited-liability obligations that pledge net revenues of the District to debt service. The net revenue pledge is after payment of all operating costs. Since revenue bonds are not generally secured by the full faith and credit of the District, the financial markets require coverage ratios of the pledged revenue stream and a covenant to levy rates and charges sufficient to produce net income at some level in excess of debt service (a Rate Covenant).

Also there may be a test required to demonstrate that future revenues will be sufficient to maintain debt service coverage levels after any proposed additional bonds are issued. The District will strive to meet industry and financial market standards with such ratios without impacting the current rating. Annual adjustments to the District's rate structure may be necessary to maintain these coverage ratios.

The underlying credit of revenue bonds is judged on the ability of the District's existing rates to provide sufficient net income to pay debt service and the perceived willingness of the District to raise rates and charges in accordance with its Rate Covenant. Actual past performance also plays a role in evaluating the credit quality of revenue bonds, as well as the diversity of the customer base. Revenue bonds generally carry a credit rating one or two investment grades below a general obligation bond rating.

The District may use a debt structure called "Certificates of Participation" to finance capital facilities. However, if the certificates contain a pledge of net revenues and a Rate Covenant, they are treated as essentially the same as a revenue bond.

**Lease/Purchase Agreements**

Over the lifetime of a lease, the total cost to the District will generally be higher than purchasing the asset outright. As a result, the use of lease/purchase agreements in the acquisition of vehicles, equipment and other capital assets will generally be avoided, particularly if smaller quantities of the capital asset(s) can be purchased on a "pay-as-you-go" basis.

The District may utilize lease-purchase agreements to acquire needed equipment and facilities. Criteria for such agreements should be that the asset life is three years or more, the minimum value of the agreement is $50,000 and interest costs must not exceed the interest rate earned by the District's portfolio for the average of the past 6 months. Lease payments of this type are considered operating expenses and would reduce net operating income available to pay any District revenue bonds. There are no coverage requirements or rate covenants associated with lease/purchase agreements.

**State Water Loans**

The State Water Resources Control Board makes certain funds available to water districts throughout the State. These loans typically carry a below-market rate of interest and are short term in nature. While State loans should be incorporated into the District's debt portfolio for the financing of capital improvements, the payment of the loan should not compromise the District's ability to issue other planned debt or cause the District to violate its rate covenants or make it necessary for the District to increase rates to maintain existing rate covenants.

**Land Based Financing**

The District may consider developer or property owner initiated applications requesting the formation of community facilities or assessment districts and the issuance of bonds to finance eligible District facilities necessary to serve newly developing commercial, industrial and/or residential projects. Facilities will be financed in accordance with the provisions of the Municipal Improvement Act of 1913 and the Improvement Bond Act of 1915, or the Mello-Roos Community Facilities Act of 1982.

Typically, the bonds issued would be used to prepay, in a lump-sum, the District's capacity fees with respect to a large tract of land under development, or to finance in-tract infrastructure that will eventually be dedicated to the District. The bonds are secured by a special tax or assessment to be levied on property within the boundaries established for the community facilities district (sometimes known as a "Mello-Roos" district) or the assessment district. If the District becomes the sponsoring public agency for such financing district and the issuance of debt, the District will be required to enter into a Funding, Construction and Acquisition agreement for any of the facilities to be dedicated to the District upon completion. This agreement governs the type of facilities to be

constructed with bond proceeds and how the facilities will be accepted by the District.

In some cases, the District may not be asked to be the sponsoring agency for the formation of a financing district, rather, the developer or property owner may approach a school district or a city to be the sponsoring agency. Nonetheless, the property owner may want to include lump-sum payment of District fees in the financing or construction of certain facilities to be dedicated to the District upon completion. In this case, if the District desired to participate, the District would enter into a Joint Financing Agreement with the sponsoring agency, again governing the type of facilities to be constructed with bond proceeds and how the facilities will be accepted by the District.

On a case-by-case basis, the Board shall make the determination as to whether a proposed district will proceed under the provisions of the Assessment Acts or the Mello-Roos Community Facilities Act. The Board may confer with other consultants and the applicant to learn of any unique district requirements, such as long-term development phasing, prior to making any final determination.

All District and District consultant costs incurred in the evaluation of new development, district applications and the establishment of districts will be paid by the applicant(s) by advance deposits in those instances where a party or parties other than the District have initiated a proposed district. Expenses not legally reimbursable by the financing district will be borne by the applicant. The District may incur expenses for analyzing proposed assessment or community facilities districts where the District is the principal proponent of the formation or financing of the district.

Prior to the issuance of any land secured financing and in accordance with State law, the Board will adopt policies and procedures with criteria to be met before any special tax bonds or assessment district bonds may be issued. These criteria include the qualifications of the appraiser, the minimum value to lien ratio to be achieved prior to issuing the land secured debt and the maximum tax to be levied on different categories of property.

## 15.0: RATING AGENCY APPLICATIONS

The District may seek one or more ratings on all new issues that are being sold in the public market. These rating agencies include, but are not limited to, Fitch Investors Service, Moody’s Investors

Service, and Standard & Poor's. When applying for a rating on an issue over $1 million or more, the District shall make a formal presentation of the finances and positive developments within the District to the rating agencies. The District will report all financial information to the rating agencies upon request. This information shall include, but shall not be limited to, the District's Comprehensive Annual Financial Report (CAFR), and the Adopted Operating and Capital Budget.

## 16.0: USE OF CREDIT ENHANCEMENT

Credit enhancement is a generic term that means any third-party guarantee of debt service. Credit enhancement providers include municipal bond insurance companies or financial institutions. The purchase of credit enhancement allows the District's bond issue to carry the same credit rating as the credit provider. The District will seek to use credit enhancement when such credit enhancement proves cost-effective. Selection of credit enhancement providers will be subject to a competitive bid process using the District's purchasing guidelines, if applicable.

### Fixed Rate Bonds

Credit enhancement for fixed rate bonds is obtained by the purchase of bond insurance. If a commitment for bond insurance is obtained for a particular issue, the District will estimate the annual debt service for the issue based on current interest rates applicable to the credit rating of the bond insurer. If the estimated debt service on this basis is less than or equal to estimated debt service for the issue based on interest rates for bonds with the District's underlying or stand-alone credit rating, the District will purchase the bond insurance. Any intention of the District to prepay the debt ahead of its scheduled maturity will be taken into account in the analysis. Credit enhancement may be used to improve or establish a credit rating on a District debt obligation even if such credit enhancement is not cost effective if, in the opinion of the Chief Financial Officer, the use of such credit enhancement meets the District's debt financing goals and objectives, such as, funding of a reserve fund for the bonds.

### Variable Rate Bonds

Credit enhancement for variable rate bonds is comprised of two components: credit support and liquidity. The interest on variable rate bonds is based on a short-term investment rate (usually 7 days).

Any investor can tender their bonds back to the District to be repurchased on short notice (usually 7 days). Because of the short-term nature of the investment, the securities that the District is "competing" with for investors are AA-rated mutual funds. Therefore, variable debt needs to have credit enhancement to achieve a comparable AA rating, as well as liquidity support to provide the District with a mechanism to purchase any bonds that are tendered before they can be remarketed to new investors. A limited number of financial institutions offer letters of credit that combine both credit support and liquidity for one fee. An alternative is to purchase bond insurance to provide credit support and enter into a separate purchase agreement with a financial institution to provide liquidity. The difference in cost between the two structures will be analyzed before either alternative is selected for variable rate debt.

## 17.0: GLOSSARY

**Ad Valorem Tax:** A tax calculated "according to the value" of property. Such a tax is based on the assessed valuation of tangible personal property. In most jurisdictions, the tax is a lien on the property enforceable by seizure and sale of the property. General restrictions, such as overall restrictions on rates, or the percent of charge allowed, sometimes apply. As a result, ad valorem taxes often function as the balancing element in local budgets.

**Advance Refunding:** A procedure whereby outstanding bonds are refinanced by the proceeds of a new bond issue prior to the date on which outstanding bonds become due or are callable. Typically an advance refunding is performed to take advantage of interest rates that are significantly lower than those associated with the original bond issue. At times, however, an advance refunding is performed to remove restrictive language or debt service reserve requirements required by the original issue.

**Amortization:** The planned reduction of a debt obligation according to a stated maturity or redemption schedule.

**Arbitrage:** The gain that may be obtained by borrowing funds at a lower (often tax-exempt) rate and investing the proceeds at higher (often taxable) rates. The ability to earn arbitrage by issuing tax-exempt securities has been severely curtailed by the Tax Reform Act of 1986, as amended.

**Assessed Valuation:** The appraised worth of property as set by a taxing authority through assessments for purposes of ad valorem taxation.

**Basis Point:** One one-hundredth of one percent.

**Bond:** A security that represents an obligation to pay a specified amount of money on a specific date in the future, typically with periodic interest payments.

**Bond Counsel:** An attorney (or firm of attorneys) retained by the issuer to give a legal opinion concerning the validity of the securities. The bond counsel's opinion usually addresses the subject of tax exemption. Bond counsel may prepare, or review and advise the issuer regarding authorizing resolutions or ordinances, trust indentures, official statements, validation proceedings and litigation.

**Bond Insurance:** A type of credit enhancement whereby a monocline insurance company indemnifies an investor against a default by the issuer. In the event of a failure by the issuer to pay principal and interest in-full and on-time, investors may call upon the insurance company to do so. Once assigned, the municipal bond insurance policy generally is irrevocable. The insurance company receives an up-front fee, or premium, when the policy is issued.

**Call Option:** A contract through which the owner is given the right but is not obligated to purchase the underlying security or commodity at a fixed price within a limited time frame.

**Cap:** A ceiling on the interest rate that would be paid.

**Capital Lease:** The acquisition of a capital asset over time rather than merely paying rent for temporary use. A lease-purchase agreement, in which provision is made for transfer of ownership of the property for a nominal price at the scheduled termination of the lease, is referred to as a capital lease.

**Certificate of Participation:** A financial instrument representing a proportionate interest in payments such as lease payments by one party (such as the District acting as a lessee) to another party (often a trustee).

**CIP:** Capital Improvement Program.

**Competitive Sale:** The sale of securities in which the securities are awarded to the bidder who offers to purchase the issue at the best price or lowest cost.

**Continuing Disclosure:** The requirement by the Securities and Exchange Commission for most issuers of municipal debt to provide current financial information to the informational repositories for access by the general marketplace.

**Debt Service:** The amount necessary to pay principal and interest requirements on outstanding bonds for a given year or series of years.

**Defeasance:** Providing for payment of principal of premium, if any, and interest on debt through the first call date or scheduled principal maturity in accordance with the terms and requirements of the instrument pursuant to which the debt was issued. A legal defeasance usually involves establishing an irrevocable escrow funded with only cash and U.S. Government obligations.

**Derivative:** A financial product that is based upon another product. Generally, derivatives are risk mitigation tools.

**Discount:** The difference between a bond's par value and the price for which it is sold when the latter is less than par.

**Financial Advisor:** A consultant who advises an issuer on matters pertinent to a debt issue, such as structure, sizing, timing, marketing, pricing, terms and bond ratings.

**General Obligation Bonds:** Debt that is secured by a pledge of the ad valorem taxing power of the issuer. Also known as a full faith and credit obligation.

**Municipal Securities Rulemaking Board (MSRB):** The MSRB, comprised of representatives from investment banking firms, dealer bank representatives, and public representatives, is entrusted with the responsibility of writing rules of conduct for the municipal securities market.

**Negotiated Sale:** A sale of securities in which the terms of sale are determined through negotiation between the issuer and the purchaser, typically an underwriter, without competitive bidding.

**Official Statement:** A document published by the issuer that discloses material information on a new issue of municipal securities including the purposes of the issue, how the securities will be repaid, and the

financial, economic and social characteristics of the issuing government. Investors may use this information to evaluate the credit quality of the securities.

**Option:** A derivative contract. There are two primary types of options (see Put Option and Call Option). An option is considered a wasting asset because it has a stipulated life to expiration and may expire worthless. Hence, the premium could be wasted.

**Optional Redemption:** The redemption of an obligation prior to its stated maturity, which can only occur on dates specified in the bond indenture.

**Overlapping Debt:** The legal boundaries of local governments often overlap. In some cases, one unit of government is located entirely within the boundaries of another. Overlapping debt represents the proportionate share of debt that must be borne by one unit of government because another government with overlapping or underlying taxing authority issued its own bonds.

**Par Value:** The face value or principal amount of a security.

**Pay-as-you-go:** To pay for capital improvements from current resources and fund balances rather than from debt proceeds.

**Put Option:** A contract that grants to the purchaser the right but not the obligation to exercise.

**Rate Covenant:** A covenant between the District and bondholders, under which the District agrees to maintain a certain level of net income compared to its debt payments, and covenants to increase rates if net income is not sufficient to meet such level.

**Refunding:** A procedure whereby an issuer refinances an outstanding bond issue by issuing new bonds.

**Revenue Bonds:** A bond which is payable from a specific source of revenue and to which the full faith and credit of an issuer with taxing power is not pledged. Revenue bonds are payable from identified sources of revenue, and do not permit the bondholders to compel a jurisdiction to pay debt service from any other source. Pledged revenues often are derived from the operation of an enterprise. Generally, no voter approval is required prior to issuance.

**Special Assessments:** A charge imposed against property or parcel of land that receives a special benefit by virtue of some public improvement that is not, or cannot be enjoyed by the public at large. Special assessment debt issues are those that finance such improvements and are repaid by the assessments charged to the benefiting property owners.

**Swap:** A customized financial transaction between two or more counterparties who agree to make periodic payments to one another. Swaps cover interest rate, equity, commodity and currency products. They can be simple floating for fixed exchanges or complex hybrid products with multiple option features.

**True Interest Cost (TIC):** A method of calculating the overall cost of a financing that takes into account the time value of money. The TIC is the rate of interest that will discount all future payments so that the sum of their present value equals the issue proceeds.

**Underwriter:** The term used broadly in the municipal market, to refer to the firm that purchases a securities offering from a governmental issuer.

**Yield Curve:** Refers to the graphical or tabular representation of interest rates across different maturities. The presentation often starts with the shortest-term rates and extends towards longer maturities. It reflects the market’s views about implied inflation/deflation, liquidity, economic and financial activity, and other market forces.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject: MEDIA RELATIONS POLICY | Policy Number | Date Adopted | Date Revised |
| | 46 | 9/01/04 | |

## PURPOSE

To establish procedures to better inform the public, Otay Water District (District) customers, businesses and other stakeholders on water, sewer and recycled water related matters by engaging in a defined and proactive media relations program.

## BACKGROUND

The District recognizes an effective and quick way to communicate District policies and activities is by working in partnership with the news media. This policy requires that news media inquiries regarding the District and the District's position on matters should be given high priority, and should be responded to as quickly and efficiently as possible. Every effort should be made to reasonably meet media deadlines and to ensure that all information released is accurate and is in compliance with laws and regulations concerning individual privacy and confidentiality.

## POLICY

The General Manager's office is responsible for the District's media relations program. To assist with this vital function, the District may retain media relations assistance to provide public, community and governmental relations services.

All District employees should notify the General Manager, their department's Assistant General Manager or the General Manager's staff about media inquiries. With regard to District media requests, the media representative shall contact the General Manager who is authorized to speak on behalf of the District. Because the media often work on deadlines, all departments should respond as soon as reasonably possible when the General Manager requests department information or a spokesperson for the media. Specific guidelines for responding to media requests regarding the District's position on matters are as follow:

### DISTRICT SPOKESPERSONS

Unless otherwise authorized, the District's only designated spokespersons to speak on behalf of the District are:

- President of the Board of Directors
- General Manager

- Designees authorized by General Manager as noted by General Order.

MEDIA INQUIRIES

Any media inquiry received by other District staff regarding the District or the District's position on a matter should be referred immediately to the General Manager through the Assistant General Manager or Department Chief. An appropriate response to the media is: "I'm sorry; I don't have the full information regarding that matter. I will give your request to my Department Chief, who will respond to you as soon as he/she is available. "

Any staff member should obtain the reporter's name, phone number or cell phone number, topic of the story and deadline. Staff in the General Manager's office will make all reasonable efforts to coordinate a response with the General Manager and appropriate District staff.

LITIGATION, PERSONNEL AND DISTRICT ELECTION ISSUES

Generally, the business conducted by the District is public, and therefore, is public information. Inquiries regarding pending litigation, matters involving a significant exposure to litigation, certain personnel related information and District election information are exceptions.

Inquiries regarding pending litigation or exposure to litigation and District election issues should be referred to the General Manager's office.

GENERAL OR ROUTINE ISSUES

Calls from media should always be referred immediately to the General Manager's office through the employee's Department Chief or supervisor. The General Manager's office will coordinate a response, including designating a spokesperson.

When the General Manager has designated a spokesperson to respond to specific questions from the media, the General Manager should be informed of the topic, the name of the reporter and the proposed date of airing or publication, either before or immediately following these interviews.

DISTRICT-INITIATED INFORMATION

The District also makes its own efforts to get in touch with the media. For the most part, this proactive media contact is initiated through the General Manager's office. This includes issuing press releases and media advisories, and making personal contacts with reporters and editors for stories and other coverage. Departments seeking publicity for events or activities should contact the public relations staff in the General Manager's office as soon as possible to ensure the best media coverage of their activities.

Department staff members shall not initiate news media contacts on behalf of the District before notifying the General Manager, Assistant General Manager, or department chief.

EMERGENCY/SERVICE OUTAGE ISSUES

Because the Operations Division may be called upon to restore service due to outages, breakages or in other critical situations, their work is fundamental to the overall mission of the District. As a result, Operations personnel may be the only staff at the scene of an incident and may be called upon to address service restoration questions by the media.

In these situations, all such inquires will be immediately referred to the Chief of Operations who will make every effort to ensure that all information released is accurate, relevant and appropriate. Operations staff should notify the Chief of Operations immediately of any such media inquiry. The Chief of Operations will then take the lead for follow-up media communications and contact the General Manager.

Any media calls to other District staff regarding Operations matters should be referred immediately to the Chief of Operations, Assistant General Manager and General Manager's staff. All information released directly to the media by Operations should be provided immediately to the General Manager's staff and the Assistant General Manager.

During a crisis or major emergency, the District's Standardized Emergency Management Plan Section 5.1-1 assigns responsibilities and procedures for handling media and customer information.

CONCLUSION

Nothing in this policy should be construed as to restrict or preclude an employee of the District or a representative of the Otay Water District Employee Association (OWDEA) or other bargaining unit from communicating with the press on matters of public concern or on matters related to association and/or union activities. However, such communications should not be made during duty-time, nor be disruptive to the District's operations, and should be clearly understood as not being made on behalf of the District or representing the District's official position on such matters.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject: POLICY AGAINST DISCRIMINATION AND HARASSMENT AND COMPLAINT PROCEDURE | Policy Number | Date Adopted | Date Revised |
| | 47 | 10/11/05 | 3/4/15 |

PURPOSE

The purpose of this policy is to (i) advise all employees, unpaid interns, and volunteers that the Otay Water District ("District") disapproves of and will not tolerate unlawful discrimination or harassment of its employees, unpaid interns or volunteers, or retaliation against those who report such behavior, and (ii) set forth a procedure for investigating and resolving internal complaints of discrimination, harassment, or retaliation.

POLICY

The District is committed to providing a work environment free of unlawful discrimination, harassment, or retaliation against those who report discrimination or harassment. Discrimination or harassment based on sex (including gender, gender identity, gender expression, pregnancy, childbirth or related medical condition), race, color, religious creed, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sexual orientation, military or veteran status or any other basis protected by federal, state or local law is prohibited. Discrimination or harassment based on the perception that a person has any of those characteristics, or is associated with a person who has or is perceived as having any of those characteristics, is prohibited. Retaliation against any person who complains of unlawful discrimination or harassment or who provides evidence relating to such a complaint, is prohibited.

This Policy applies to all terms and conditions of employment, including, but not limited to: hiring, placement, advancement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training. It applies to each District employee, member of the Board of Directors, unpaid interns, volunteers and to all vendors conducting business with the District. Similarly, the District will not tolerate discrimination or harassment by its employees, unpaid interns, or volunteers of non-employees with whom the District employees, unpaid interns or volunteers have a business, service or professional relationship. The District will also attempt to protect employees, unpaid interns, and volunteers from harassment by non-employees in the workplace.

DEFINITIONS

Discrimination – Any decision or action that is based on an individual's status as a member of a protected class that adversely affects a District employee, unpaid intern or volunteer, or the employee's, unpaid intern's, or volunteer's work conditions, terms of employment, or work environment.

Harassment – Any decision or action that is based on a District employee's, unpaid intern's, or volunteer's status as a member of a protected class, made for the purpose or having the effect of adversely affecting that employee's, unpaid intern's, or volunteer's work conditions, terms of employment, or work environment. Harassment may include, but is not limited to:

- Verbal conduct such as epithets, derogatory jokes or comments, slurs, or unwelcome sexual advances, invitations or comments;
- Visual displays such as derogatory and/or sexually-oriented posters, photography, cartoons, drawings or gestures;
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work;
- Threats and demands to submit to sexual requests as a condition of continued employment or to avoid an adverse consequence, and offers of employment benefits in return for sexual favors.

Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Protected Class – Any class of persons who share a common sex, race, color, religious creed, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sexual orientation, military or veteran status or any other "protected class" recognized by federal, state or local laws. For purposes of this definition, "sex" includes gender, gender

identity, gender expression, pregnancy, childbirth, or a pregnancy- or childbirth-related medical condition.

Retaliation – Any decision or action that is based on the fact that a District employee, unpaid intern, or volunteer has previously complained of discrimination, harassment, or retaliation prohibited by this Policy (regardless of whether a formal complaint has been made) or has provided evidence in the investigation of another District employee's, unpaid intern's, or volunteer's complaint under this Policy, made for the purpose of adversely affecting the employee's, unpaid intern's, or volunteer's conditions of employment, terms of employment, or work environment.

Sexual Harassment – A form of harassment that is based on an employee's, unpaid intern's, or volunteer's gender but which objectively and subjectively creates an adverse impact on the employee, unpaid intern, or volunteer regardless of the purpose or intent of the alleged harasser.

COMPLAINT PROCEDURE

An employee, unpaid intern, volunteer, or job applicant who believes he or she has been the victim of discrimination, harassment, or retaliation by a District employee, a member of the Board of Directors, or a vendor may make a complaint verbally, or in writing by completing the District's Discrimination and Harassment Complaint Form. An employee, unpaid intern, or volunteer may make a complaint to any of the following:

- Human Resources;
- Any supervisor, manager, Assistant Department Chief, Department Chief, Assistant General Manager, or General Manager;
- Complaints against the General Manager should be directed to the President of the Board of Directors.

Applicants may make a complaint to any of the following:

- Human Resources or;
- General Manager.

Any person described above shall forward each written discrimination complaint to the General Manager or designee immediately of receiving the complaint or having knowledge of the complaint. If a complaint is made verbally, the person receiving the complaint shall notify Human Resources immediately.

Every reported complaint of discrimination, harassment or retaliation will be investigated thoroughly and promptly. If any manager, supervisor, Assistant Department Chief, Department Chief, or Assistant General Manager becomes aware of or suspects discrimination, harassment, or retaliation against a District employee, unpaid intern, volunteer, or applicant, or any allegation thereof, he/she must immediately notify the Human Resources Manager of the relevant facts and circumstances.

The General Manager or designee may conduct the investigation of alleged discrimination, harassment, or retaliation, or may delegate responsibility for the investigation to another District management employee. If the complaint is against the General Manager, the President of the Board of Directors shall be responsible for conducting the investigation, assigning another management employee, or outside investigator and overseeing the investigation. If the complaint is against the Board of Directors, the General Manager shall be responsible for contracting with an outside investigator to conduct the investigation. The Board will take appropriate action based on the findings.

During its investigation, the District shall take appropriate steps to protect the privacy of all parties involved. However, this shall not be construed to justify refusing to inform a person who has been accused of violating this Policy of the identity of the complainant and witnesses against him/her. Reports of discrimination, harassment, or retaliation may not be made anonymously, but information regarding any report and subsequent investigation will be disseminated on a “need to know” basis.

In the event that an investigation will take longer than 60 calendar days to complete, the investigator must notify the complainant of this fact prior to the expiration of 60 days and provide an anticipated completion date, in writing.

If a finding is made that discrimination, harassment, or retaliation has occurred, the District shall take remedial action appropriate to the circumstances, which may include disciplinary action up to and including termination for an employee, separation from the internship or volunteer opportunity for an unpaid intern or volunteer who has violated this Policy, or sanctions for a vendor who has violated this Policy.

Every District employee, unpaid intern, and volunteer has a duty to participate in good faith in any investigation conducted under this Policy. Failure to participate in good faith is a ground for disciplinary action appropriate to the circumstances. All employees, unpaid interns, and volunteers are encouraged to report in good faith discrimination, harassment, or retaliation. The District will not tolerate retaliation against any employee, unpaid intern, or volunteer making a good faith complaint of discrimination, harassment or retaliation, or for cooperating in an investigation. However, reports made maliciously or in bad faith may subject an employee, unpaid intern, or volunteer to disciplinary action appropriate to the circumstances up to and including termination or separation from the internship or volunteer opportunity.

The action of making a complaint does not preclude a complainant from filing a complaint with the appropriate State or Federal agency. For information as to where to file a claim, an employee may contact the Equal Employment Opportunity Commission at www.eeoc.gov or(213) 894-1000 or the Department of Fair Employment and Housing at www.dfeh.ca.gov or(800) 884-1684.

POLICY HISTORY

Human Resources Policy and Procedure, Effective August 4, 1993.
Board Policy adopted October 11, 2005.

OTAY WATER DISTRICT
**BOARD OF DIRECTORS POLICY**

| Subject | Policy Number | Date Adopted | Date Revised |
|---|---|---|---|
| ADA/FEHA Disability Policy | 48 | 05/03/06 | 01/04/12 |

PURPOSE

To provide policies to encourage a bias free environment for disabled employees or for disabled persons who seek employment with the Otay Water District (District).

STATEMENT OF POLICY

It is the policy of the District not to discriminate on the basis of disability for employment or the provision of services. It is the intent of the District to provide disabled employees a bias free work environment, including prompt and equitable resolution of complaints alleging discrimination on the basis of a disability. The District will provide reasonable accommodation in compliance with the Americans with Disabilities Act ("ADA") and the Fair Employment and Housing Act ("FEHA").

POLICY

General Provisions

The District has a commitment to ensure equal opportunities for disabled District employees. Every reasonable effort will be made to provide an accessible work environment. The District will not discriminate against disabled employees or applicants in its employment practices (e.g. hiring, training, testing, transfer, promotion, compensation, benefits, termination).

Interactive Process

The District will engage in the interactive process, as defined by the ADA and the FEHA, to determine whether an applicant or employee is able to perform his/her essential functions. As part of the interactive process, the District may invite the employee or applicant and, if necessary, the employee or applicant's health care provider, to meet. The employee may choose to have a third party present for support as an observer. However, this person may not act as a representative or attempt to negotiate on behalf of the employee. During the interactive process the District will examine possible reasonable accommodations that would allow the employee or applicant to continue to perform the essential functions in his/her position or, if appropriate, be otherwise employed by the District.

Complaints

Any District employee who believes that he/she has been discriminated against because of a physical or mental disability may file a discrimination complaint pursuant to the District's Policy 47, entitled "Policy Against Discrimination and Harassment and Complaint Procedure".

Any applicant who believes that he/she has been discriminated against because of a physical or mental disability may file a discrimination complaint by writing a formal letter to the District's Human Resources Manager.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject<br><br>ANTIFRAUD POLICY | Policy Number<br><br>50 | Date Adopted<br><br>10/03/07 | Date Revised<br><br>01/04/12 |

## PURPOSE

The purpose of this policy is to establish guidelines and assign responsibility for the development of controls and conducting of investigations to aid in the prevention, detection and reporting of fraud against the District.

## SCOPE

The District has zero tolerance for fraud and will investigate any fraud or suspected fraud without regard to the length of service, position / title, or relationship to the District of the suspected wrongdoer(s). Violation of this policy is an act of misconduct meriting dismissal without prior warning or disciplinary action in accordance with the District's Discipline Policy and Procedures. Further, an employee who directly observes or otherwise knows of fraudulent activity and fails to report it is in violation of this policy and may be subject to discipline as a result of this failure to act, up to and including termination of employment.

## BACKGROUND

The Otay Water District's Pre-Employment Policies require a through background investigation which includes fingerprinting to ascertain a candidate's criminal history. The Employee Standards of Conduct requires all personnel to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the District, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations. This policy applies to all directors, officers, employees, volunteers, and agents of the District.

## POLICY

1. **Definition of Fraud:**
   Fraud is defined as the intentional deception, false representation or concealment of a material fact, misappropriation of resources, or manipulation of data to the advantage or disadvantage of a person or entity. Fraud is not restricted to instances in which monetary or material benefits are received or denied, but may include intangible benefits such as status, power, position, and avoiding discipline.

**2. Actions Constituting Fraud:**

Examples of fraud include, but are not limited to, the following:

- Forgery, falsification or alteration of documents or instruments such as, but not limited to, timesheets, payroll records, travel and expense claims, checks, bank drafts, promissory notes, securities, invoices, purchase orders, receipts, other financial documents, contracts, vendor agreements, electronic files, etc.
- Misappropriation of funds, securities, supplies, inventory, or any other assets achieved through the use of deception or willful concealment.
- Impropriety in the handling or reporting of money or financial transactions.
- Profiteering as a result of insider knowledge of District activities.
- Bribery and corruption.
- Authorizing or accepting payments or payments in kind for goods or services not performed, or for hours not worked.
- Destruction, removal, theft or inappropriate use of records, furniture, fixtures, equipment, or any other assets achieved through the use of deception or willful concealment.
- Any violation of Federal, State, or local laws related to fraud or dishonest activities.
- Any similar or related irregularity or action.

**3. Management Responsibilities:**

The General Manager’s Office is responsible for the prevention and detection of fraud, misappropriations, and other irregularities. District management shall identify the risks to which systems, operations and procedures are exposed, and develop, maintain and ensure compliance with an appropriate and effective internal control system to provide reasonable assurance for the prevention and detection of fraud. Each member of management shares in this responsibility and shall familiarize themselves with the risks and exposures inherent in their area of responsibility and be alert for any indication of irregularity.

**4. Reporting Responsibilities:**

Employees who know, or should reasonably suspect under the circumstances before them, that another employee is committing fraud, have a duty to report such knowledge or suspicion to District management, including the facts and/or observations upon

which such knowledge is based. Failure to so report may result in disciplinary action, up to and including termination of employment. In most cases, an employee's immediate supervisor is in the best position to address an area of concern. However, if an employee is not comfortable speaking with their supervisor or is not satisfied with their supervisor's response, they should speak with the Manager of Human Resources or anyone in management whom they feel is more appropriate, including District's Legal Counsel.

Employees must not attempt to personally conduct investigations/interviews/interrogations, or discuss any details of the suspected fraudulent act with unauthorized personnel.

**5. Acting in Good Faith:**
Anyone filing a complaint concerning suspected fraudulent activity is presumed to do so in good faith and have reasonable grounds for believing the information disclosed indicates improper or illegal activity. However, based on the totality of the circumstances, any allegations found to be unsubstantiated and made in bad faith or for malicious reasons may constitute grounds for disciplinary action under the District's Discipline Policy and Procedures against the person filing the complaint.

**6. No Retaliation:**
No executive, manager, supervisor, or employee who in good faith reports suspected fraudulent activity shall suffer harassment, retaliation or adverse employment consequences. An employee who retaliates against a person who has reported a violation in good faith is subject to disciplinary action under the District's Discipline Policy and Procedures.

**7. Confidentiality:**
Violations or suspected violations may be submitted on a confidential basis by the complainant. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation. Information pertaining to the investigation shall not be disclosed or discussed with anyone other than those who have a legitimate need to know for the proper discharge of their duties.

**8. Investigation:**

The General Manager, or designee, shall investigate all fraudulent or suspected fraudulent acts. Based on the severity of the allegations, an immediate decision will be made concerning coordinating the investigation with the appropriate law enforcement officials. District legal counsel may also be involved in the process, as deemed appropriate. The investigator(s) shall take immediate steps as needed to secure statements, physical assets including computers and any records thereon, and all other potentially evidential documents. Affected employees shall cooperate fully with investigators, including regulatory or law enforcement personnel.

Where an initial investigation reveals that there are reasonable grounds for suspicion and to facilitate the ongoing investigation, the suspected wrongdoer(s) may be suspended in accordance with District policies and procedures.

**9. Reporting:**

The investigator is responsible for keeping the General Manager informed of the status of all investigations and findings. Upon completion of the investigation the General Manager will then, as deemed appropriate, report the findings to the President of the District’s Board of Directors. If an investigation substantiates that fraudulent or illegal activity has occurred, decisions to prosecute and/or refer the investigation results to the appropriate regulatory agencies for independent investigation will be made in conjunction with legal counsel.

**10. Corrective Action:**

The District will take the necessary steps, including legal action, to recover any losses arising from fraud or attempted fraud. This may include action against third parties involved in the fraud whose negligence contributed to the fraud. Management is responsible for taking the appropriate corrective action to ensure adequate controls exist to detect and prevent a recurrence of fraudulent activity.

**11. Waste and Abuse:**

Nothing in this policy shall preclude the District from investigating alleged or possible waste or abuse of District property, funds, or resources, regardless of whether the actions investigated constitute fraud or arise from an investigation of alleged or possible fraud. Nothing in this policy shall preclude

the District from taking disciplinary action, where appropriate, for substantiated waste or abuse, regardless of whether the discovery of the waste or abuse arose from an investigation of alleged or possible fraud.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject<br><br>IDENTITY THEFT RED FLAGS POLICY | Policy Number<br>51 | Date Adopted<br>5/13/09 | Date Revised |

## PURPOSE

This policy is established to comply with regulations issued by the Federal Trade Commission (FTC), 16 CFR Part 681, as part of the implementation of the Fair and Accurate Credit Transaction Act of 2003 (FACTA). The FACTA requires that "financial institutions" and "creditors" with "covered accounts" implement written programs which provide for detection of and response to specific activities ("red flags") that could be related to identity theft. An FTC rule notice states that creditors include "utility companies," and provides that "utility accounts" are covered accounts.

## SCOPE

The FTC regulations require the establishment of an Identity Theft Prevention Program ("Program") that includes reasonable policies and procedures to:

1. Identify relevant red flags and incorporate them into the Program.
2. Detect red flags.
3. Include appropriate responses to red flags.
4. Address new and changing risks through periodic Program updates.
5. Include a process for administration and oversight of the Program.

## BACKGROUND

Identity thieves use other person's identifying information to open new accounts and misuse existing accounts, creating havoc for consumers and businesses. The FTC, the federal bank regulatory agencies, and the National Credit Union Administration (NCUA) have issued regulations (the Red Flags Rules) requiring financial institutions and creditors to develop and implement written Identity Theft Prevention Programs as part of FACTA. The Programs must provide for the identification, detection, and response to patterns, practices, or specific activities – known as "red flags" – that could indicate identity theft.

## POLICY

### 1. Relevant Red Flags

Red flags are warning signs or activities that alert a creditor to potential identity theft. The guidelines published by the FTC include 26 examples of red flags which fall into the five categories below:

- Alerts, notifications, or other warnings received from consumer reporting agencies or service providers.

- Presentation of suspicious documents.

- Presentation of suspicious personal identifying information.

- Unusual use of, or other suspicious activity related to, a covered account.

- Notice from customers, victims of identity theft, or law enforcement authorities regarding possible identity theft in connection with customer accounts.

After reviewing the FTC guidelines and examples, staff determined that the following red flags are applicable to customer accounts. These red flags, and the appropriate responses, are the focus of this Program.

- Suspicious Documents and Activities:
    - Documents provided for identification appear to have been altered or forged.
    - The photograph, physical description, and/or other information on the identification is not consistent with the physical appearance of the person presenting the identification.
    - Information on the identification is not consistent with readily accessible information that is on file with the District.
    - The customer does not provide required identification documents when attempting to establish a utility account.
    - A customer refuses to provide proof of identity or appropriate security code information when discussing an established utility account.
    - A person other than the account holder or co-applicant requests information or asks to make changes to an established utility account.
    - Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the account.

- A customer notifies the District of any of the following activities:
    - Utility statements are not being received.
    - Unauthorized changes to a utility account.
    - Unauthorized charges on a utility account.
    - Fraudulent activity on the customer's bank account or credit card that is used to pay utility charges.

- The District is notified by a customer, a victim of identity theft, or a member of law enforcement that a utilities account has been opened for a person engaged in identity theft.

**2. Detecting Red Flags**

Red flags may be detected as employees interact with customers during the routine handling of new and/or existing accounts. The following is a list of detection methods that the District may use to prevent identity theft.

- Require customers to present government-issued identification information to open a new account. Types of necessary information include:
    - Name
    - Address
    - Phone number
    - Photo identification

- Independently contact the customer (in the case of phone or internet setup of new accounts).

- When fielding a request to access and/or modify an existing account, verify identity of the customer by requesting specific pieces of personal identifying information (identification similar to that used to open the account that matches information on the Customer Information System).

- For online or automated phone system access of customer accounts, require the establishment of security codes and/or questions during the initial set-up of the account.

**3. Responses to Red Flags**

If personnel identify a red flag associated with a new or existing customer account, one or more of the following actions will be taken to rectify the situation.

- Do not establish the utility account or make changes to an existing account until the customer's identity has been confirmed.

- For an existing account, the District may discontinue the services associated with that account and/or:

- Attempt to contact the customer independently, using information already on the Customer Information System.

- Continue to monitor the account for evidence of identity theft and contact the customer to discuss possible actions.
    - Change the passwords, security codes, or other security devices that permit access to an existing account.
    - Reopen an existing account with a new account number.
    - Close an existing account.

- Notify local law enforcement and provide them with all the relevant details associated with the event.

**4. Periodic Program Review and Updates**

The Finance Department staff is required to prepare an annual report which addresses the effectiveness of the Program, documents significant incidents involving identity theft and related responses, provides updates related to external service providers, and includes

recommendations for material changes to the Program. Recommendations for changes will be based on the following:

- Experience with identity theft.
- Changes to the types of accounts and/or programs offered.
- Implementation of new systems and/or new vendor contracts.

**5. Administration and Oversight of the Program:**

Specific roles are as follows:

- The Customer Service Manager will oversee the daily activities related to identity theft detection and prevention, ensure that all members of the customer service staff are trained to detect and respond to red flags, and provide ongoing oversight to ensure that the Program is effective.
- The Chief Financial Officer will prepare the annual report, which reviews all aspects of the Program as described above, and submit the report to the General Manager.
- The General Manager will review the annual report and approve any recommended changes to the Program, both annually and on an as-needed basis.

| OTAY WATER DISTRICT<br>**BOARD OF DIRECTORS POLICY** | | | |
|---|---|---|---|
| Subject | Policy Number | Date Adopted | Date Revised |
| DISTRICT ADMINISTRATION OF RECYCLED WATER RETROFIT PROGRAM | 52 | 9/2/09 | |

PURPOSE

This policy establishes guidelines for how the District will administer The Recycled Water Retrofit Program. It also describes when and how the District will reimburse the participants in the cost of such facilities.

BACKGROUND

Policy 52 establishes guidelines on the administration of the Recycled Water Retrofit Program. The District, in an effort to conserve potable water and encourage the use of recycled water where practical, will assist qualified applicants in the form of a grant.

POLICY

A. For projects accepted into the Recycled Water Retrofit Program, the District may reimburse the applicant for construction and design costs if the project meets the following guidelines:

1. The project shall be in an area with an existing recycled water main or where an installation of an extension is economically feasible to the District.

2. The interested party submits and the General Manager or designee approves the application for participation in the program.

3. The applicant shall enter into an Agreement with the District for Retrofit of Existing Irrigation Systems.

4. The applicant obtains three (3) bids from qualified contractors and provides copies of the bids to the District. The applicant is responsible for selecting the lowest responsive responsible bidder. The applicant will be reimbursed for the recycled water retrofit portions of the project based on the unit prices submitted with the lowest responsive responsible bid.

5. Design and engineering costs are covered by the applicant, and plan checking and inspection costs are covered by the District.

6. The reimbursement amount will be 50 percent of on-site construction costs of the conversion, as approved by the District.

7. Funds for reimbursement shall be carried as a CIP project until the reimbursement is made.

8. All reimbursement agreements will require approval by the Board. A Staff Report will be prepared and reviewed with the Finance Department prior to presentation to the Board for approval.

9. This reimbursement agreement terminates upon acceptance of the General Manager. The reimbursement agreement may be terminated prior to acceptance by the General Manager upon a determination that the applicant has failed to comply with its obligations under the reimbursement agreement

10. If the applicant defaults, and the District terminates the agreement, the applicant will be required to reimburse the District any and all costs incurred by the District up to the date of termination, and the District will no longer have an obligation under the agreement.