

Agenda
Rio Linda / Elverta Community Water District
Finance / Administrative Committee

Visitors/Depot Center
6730 Front Street
Rio Linda, CA 95673

July 9, 2018
6:30 p.m.

Public documents relating to any open session items listed on this agenda that are distributed to the Committee members less than 72 hours before the meeting are available for public inspection on the counter of the District Office at the address listed above.

The public may address the Committee concerning any item of interest. Persons who wish to comment on either agenda or non-agenda items should fill out the Comment Card and give it to the General Manager. The Committee Chair will call for comments at the appropriate time. Comments will be subject to reasonable time limits (3 minutes).

In compliance with the Americans with Disabilities Act, if you have a disability, and you need a disability related modification or accommodation to participate in this meeting, then please contact the District office at (916) 991-1000. Requests must be made as early as possible and at least one full business day before the start of the meeting.

Call to Order

Public Comment

This is an opportunity for the public to comment on non-agenda items within the subject matter jurisdiction of the Committee. Comments are limited to 3 minutes.

Items for Discussion:

1. Review and discuss the expenditures of the District for the month of June 2018.
2. Review and discuss the Financial Reports of the District as of June 30, 2018.
3. Review and discuss the written, signed request from the employees to consider changing the hours of operation.
4. Discuss the proposed revisions to Policy 2.01.150.
5. Discuss needed changes to District Policies 3.06.600 through 3.06.800, disposition of surplus items
6. Discuss the necessity for and extent of changes to the *Selection Process* and *Ineligibility or Disqualification* subsections of the **Employment Process** section of the District Personnel Handbook.
7. Discuss the options for a process to negotiate and revise the current GM Employment Agreement.

Directors' and General Manager Comments

Items Requested for Next Month's Committee Agenda

Adjournment

Next Finance / Administrative Committee meeting: Monday, August 13, 2018 at 6:30 p.m.

ADA COMPLIANCE STATEMENT

In compliance with the Americans with Disabilities Act, if you need special assistance or materials to participate in this meeting, please contact the District Office at 916-991-1000. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting and agenda materials.



Finance /Administrative Committee Agenda Item: 1

Date: July 09, 2018

Subject: Expenditure Summary

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

It is recommended that the Finance / Administrative Committee approve the Expenditure Summary for the month of June 2018 and forward to the July 16, 2018 meeting of the Board.

Current Background and Justification:

These expenditures were necessary and prudent for operation of the District and consistent with the policies and budget adopted by the Board of Directors. The Expenditure Summary provides the listing of expenditures which have occurred since the last regular meeting of the Board.

Conclusion:

Consistent with the District policies, the Expenditure Summary is to be reviewed by the Finance/Administrative Committee and approved by the Board of Directors.

Rio Linda Elverta Community Water District
Operating Account GL 10000 Expenditure Report
June 2018

Type	Date	Num	Name	Memo	Amount
Liability Check	06/04/2018	EFT	QuickBooks Payroll Service	For PP Ending 05/31/2018 Paydate 06/05/2018	18,284.88
Liability Check	06/05/2018	EFT	CalPERS	For PP Ending 05/31/2018 Paydate 06/05/2018	1,761.47
Liability Check	06/05/2018	EFT	CalPERS	For PP Ending 05/31/2018 Paydate 06/05/2018	1,865.71
Liability Check	06/05/2018	EFT	California State Disbursement Unit	Employee Garnishment	397.50
Liability Check	06/05/2018	EFT	Nationwide	Employee Benefits	1,153.57
Liability Check	06/05/2018	EFT	Internal Revenue Service	Employment Taxes	6,404.52
Liability Check	06/05/2018	EFT	Employment Development	Employment Taxes	1,354.53
Bill Pmt -Check	06/05/2018	EFT	Adept Solutions	Computer Maintenance	1,259.13
Bill Pmt -Check	06/05/2018	EFT	Comcast	Phone/Internet	413.45
Bill Pmt -Check	06/05/2018	EFT	Republic Services	Utilities	87.16
Bill Pmt -Check	06/05/2018	EFT	Sprint	Field Communication	347.05
Bill Pmt -Check	06/05/2018	EFT	Voyager Fleet Card	Transportation Fuel	541.31
Check	06/05/2018	EFT	RLECWD - Operating	Transfer Capacity Fees to Capital Improvement	59,676.17
Check	06/05/2018	5427	Employee	For PP Ending 05/31/2018 Paydate 06/05/2018	92.35
Check	06/05/2018	5428	RLECWD	Umpqua Bank Monthly Debt Service Transfer	16,500.00
Liability Check	06/05/2018	5429	Franchise Tax Board	Employee Garnishment	404.54
Check	06/05/2018	5430	Customer	Final Bill Refund	1.54
Bill Pmt -Check	06/05/2018	5431	ACWA/JPIA	Employee Benefits	21.15
Bill Pmt -Check	06/05/2018	5432	BHI Management Consulting	Professional Fees-Strategic Planning	7,027.08
Bill Pmt -Check	06/05/2018	5433	Corix Water Products	Distribution Supplies	504.27
Bill Pmt -Check	06/05/2018	5434	Neopost USA	Annual Contract Maintenance 2018-19	1,598.11
Bill Pmt -Check	06/05/2018	5435	Oreilly Automotive	Shop Supplies	11.84
Bill Pmt -Check	06/05/2018	5436	Rio Linda Elverta Recreation & Park Dist	Meeting Fees	50.00
Bill Pmt -Check	06/05/2018	5437	RW Trucking	Distribution Supplies	664.33
Bill Pmt -Check	06/05/2018	5438	Safety-Kleen Systems	Transportation Maintenance	190.84
Bill Pmt -Check	06/05/2018	5439	Sierra Chemical Company	Chemical Supplies	1,743.92
Bill Pmt -Check	06/05/2018	5440	SMUD	Utilities	12,932.77
Bill Pmt -Check	06/05/2018	5441	Staples	Office Expense	135.30
Bill Pmt -Check	06/05/2018	5442	Postmaster	Postage	250.00
Bill Pmt -Check	06/05/2018	5443	Vanguard Cleaning Systems	Janitorial	195.00
Liability Check	06/19/2018	EFT	AFLAC	Employee Benefits	584.98
Liability Check	06/19/2018	EFT	QuickBooks Payroll Service	For PP Ending 06/15/18 Pay date 06/20/18	17,159.98
Liability Check	06/20/2018	EFT	CalPERS	For PP Ending 06/15/18 Pay date 06/20/18	1,662.71
Liability Check	06/20/2018	EFT	CalPERS	For PP Ending 06/15/18 Pay date 06/20/18	1,760.92
Liability Check	06/20/2018	EFT	Internal Revenue Service	Employment Taxes	6,006.82
Liability Check	06/20/2018	EFT	Employment Development	Employment Taxes	1,262.39
Liability Check	06/20/2018	EFT	Nationwide	Employee Benefits	1,147.04
Liability Check	06/20/2018	EFT	California State Disbursement Unit	Employee Garnishment	397.50
Liability Check	06/20/2018	EFT	Western Health Advantage	Employee Benefits	11,406.71
Check	06/20/2018	EFT	RLECWD - Capital Improvement	Current Monthly Transfer	50,000.00
Check	06/20/2018	EFT	RLECWD - SURCHARGE ACCOUNT 1	Current Monthly Transfer	44,928.50
Check	06/20/2018	EFT	RLECWD - Operating	Transfer funds for Security Deposits paid with Credit Card	1,100.00
Check	04/20/2018	EFT	RLECWD - Capital Improvement	Transfer Capacity Fees to Capital Improvement	14,062.01
Check	04/20/2018	EFT	RLECWD - SURCHARGE ACCOUNT 2	Bi-Monthly Transfer	36,342.90
Bill Pmt -Check	06/20/2018	EFT	Bankcard Center 2911	Computer,Mgmt Training, Office, Postage, Publishing	3,398.39
Bill Pmt -Check	06/20/2018	EFT	Bankcard Center 4506	Fuel	85.56

Rio Linda Elverta Community Water District
 Operating Account GL 10000 Expenditure Report
 June 2018

Type	Date	Num	Name	Memo	Amount
Bill Pmt -Check	06/20/2018	EFT	Bankcard Center 7806	Meetings, Office, Staff Training	457.94
Bill Pmt -Check	06/20/2018	EFT	Bankcard Center 8200	Fuel	78.18
Bill Pmt -Check	06/20/2018	EFT	Bankcard Center 8900	Fuel	64.48
Bill Pmt -Check	06/20/2018	EFT	Verizon	Field IT	260.64
Liability Check	06/20/2018	5444	Teamsters Local #150	Union Dues	560.00
Check	06/20/2018	5445	Customer	Customer Final Bill Refund	14.58
Check	06/20/2018	5446	Customer	Customer Final Bill Refund	16.37
Check	06/20/2018	5447	Customer	Customer Final Bill Refund	87.15
Bill Pmt -Check	06/20/2018	5448	Affinity Engineering	Engineering; ESP; Northborough; Rite Aid	13,545.00
Bill Pmt -Check	06/20/2018	5449	BSK Associates	Lab Fees	10,360.00
Bill Pmt -Check	06/20/2018	5450	Churchwell White	Legal Services	5,678.90
Bill Pmt -Check	06/20/2018	5451	Cintas Corporation	Safety	72.67
Bill Pmt -Check	06/20/2018	5452	Communication Systems Unlimited	Building Maintenance	89.00
Bill Pmt -Check	06/20/2018	5453	Continental Utility Solutions	Computer Maintenance	1,500.00
Bill Pmt -Check	06/20/2018	5454	CoreLogic Solutions	Metro Scan	134.75
Bill Pmt -Check	06/20/2018	5455	DirectHit Pest Control	Building Maintenance	75.00
Bill Pmt -Check	06/20/2018	5456	GM Construction & Developers	Contract Repair Services	1,200.00
Bill Pmt -Check	06/20/2018	5457	Henrici, Mary	Retiree Insurance Reimbursement	900.00
Bill Pmt -Check	06/20/2018	5458	PG&E	Utilities	38.78
Bill Pmt -Check	06/20/2018	5459	Quill Corporation	Office Expense	378.13
Bill Pmt -Check	06/20/2018	5460	Rio Linda Hardware & Building Supply	Shop Supplies	90.54
Bill Pmt -Check	06/20/2018	5461	Spok, Inc.	Field Communication	15.17
Bill Pmt -Check	06/20/2018	5462	UniFirst Corporation	Uniforms	160.65
Bill Pmt -Check	06/20/2018	5463	Affinity Engineering	Capital Improvement: Well 10	4,850.00
Bill Pmt -Check	06/20/2018	5464	Nor-Cal Pump & Well Drilling	Capital Improvement: Well 16	1,260.00
Bill Pmt -Check	06/20/2018	5465	Wood Rodgers	Capital Improvement: Well 16	1,475.00
Liability Check	06/25/2018	EFT	Dental and Vision Ins.com	Employee Benefits	1,961.10
Total 10000 - Bank - Operating Account					<u>372,499.93</u>

Accrual Basis

**Rio Linda Elverta Community Water District
Other Accounts Expenditure Report
June 2018**

Type	Date	Num	Payee	Memo	Amount
Transfer	06/20/2018	EFT	RLECWD - Operating Account	May 2018 Security Deposits Applied	1,700.00
10100 · Security Deposits					<u>1,700.00</u>

Type	Date	Num	Payee	Memo	Amount
Check	06/28/2018	EFT	State Water Resources Control Board	Safe Drinking Water State Revolving Fund Loan Payment	230,677.32
10300 · Surcharge Account					<u>230,677.32</u>

Type	Date	Num	Payee	Memo	Amount
Transfer	06/20/2018	EFT	RLECWD - Operating	CIP Expense Transfer: Refer to operating check numbers: 5463, 5464, & 5465	7,585.00
10455 · Capital Improvement Reserve					<u>7,585.00</u>



Finance /Administrative Committee Agenda Item: 2

Date: July 09, 2018

Subject: Financial Report

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

It is recommended that the Finance / Administrative Committee review the Finance Reports of the District for the month of June 2018.

Current Background and Justification:

The financial reports are the District's balance sheet, profit and loss, and capital improvements year to date. This report provides the snapshot of the District's fiscal health for the period covered.

Conclusion:

Consistent with District policies, these financials are to be reviewed by this committee and presented to the Board of Directors to inform them of the District's current financial situation.

Rio Linda Elverta Community Water District
DRAFT Balance Sheet
 As of June 30, 2018

ASSETS

Current Assets

Checking/Savings

100 · Cash & Cash Equivalents

10000 · Operating Account

10005 · Operating Fund 370,745.50

10010 · Operating Reserve Fund 250,000.00

Total 10000 · Operating Account 620,745.50

10100 · Trust/Security Deposit Account 43,452.00

10450 · Capital Improvement

10455 · Capital Improvement Fee Reserve 690,152.22

10460 · Vehicle Replacement Reserve 0.00

10465 · Cr6 Project 11,994.40

Total 10450 · Capital Improvement 702,146.62

10600 · LAIF GASB 45 15,992.96

Total 100 · Cash & Cash Equivalents 1,382,337.08

102 · Restricted Assets

102.1 · Restricted Capital Improvements

10700 · ZIONS Inv/Surcharge Reserve 491,624.20

Total 102.1 · Restricted Capital Improvements 491,624.20

102.2 · Restricted for Debt Service

10300 · Surcharge 1 Account 492,894.85

10325 · Community Business Bank 92,985.66

10350 · Umpqua Bank 40,752.38

10350 · Surcharge 2 Account 399,724.34

Total 102.2 · Restricted for Debt Service 1,026,357.23

Total 102 · Restricted Assets 1,517,981.43

Total Checking/Savings 2,900,318.51

Accounts Receivable 8,668.47

Other Current Assets

12000 · Water Utility Receivable 55,622.74

12200 · Accrued Revenue 192,500.00

12250 · Accrued Interest Receivable 1,632.50

15000 · Inventory Asset 132,606.59

16000 · Prepaid Expense 39,242.52

Total Other Current Assets 421,604.35

Total Current Assets 3,330,591.33

Fixed Assets

17000 · General Plant Assets 606,506.95

17100 · Water System Facilities 20,577,899.79

17300 · Intangible Assets 373,043.42

17500 · Accum Depreciation & Amort -8,241,347.85

18000 · Construction in Progress 595,995.98

18100 · Land 496,673.45

Total Fixed Assets 14,408,771.74

Other Assets

19000 · Deferred Outflows 297,772.00

19900 · Suspense Account 0.00

Total Other Assets 297,772.00

TOTAL ASSETS 18,037,135.07

Rio Linda Elverta Community Water District
DRAFT Balance Sheet
 As of June 30, 2018

LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	61,686.37
Credit Cards	1,166.62
Other Current Liabilities	693,399.63
Total Current Liabilities	<u>756,252.62</u>
Long Term Liabilities	
23000 · OPEB Liability	22,453.00
23500 · Lease Buy-Back	804,307.27
25000 · Surcharge 1 Loan	4,706,951.66
25050 · Surcharge 2 Loan	99,140.82
26000 · Water Rev Refunding	2,224,769.00
27000 · Community Business Bank	389,303.55
29000 · Net Pension Liability	902,961.00
29500 · Deferred Inflows-Pension	40,436.00
Total Long Term Liabilities	<u>9,190,322.30</u>
Total Liabilities	<u>9,946,574.92</u>
Equity	
31500 · Invested in Capital Assets, Net	6,698,923.46
32000 · Restricted for Debt Service	699,786.24
38000 · Unrestricted Equity	819,658.26
Net Income	-127,807.81
Total Equity	<u>8,090,560.15</u>
TOTAL LIABILITIES & EQUITY	<u><u>18,037,135.07</u></u>

**Rio Linda Elverta Community Water District
DRAFT Profit & Loss Budget Performance
June 2018**

	<u>Annual Budget</u>	<u>Jun 18</u>	<u>Jul 17- Jun 18</u>	<u>% of Annual Budget</u>	<u>YTD Annual Budget Balance</u>
Ordinary Income/Expense					
Income					
40000 · Operating Revenue	2,615,811.00	158,148.84	2,442,979.34	93.39%	172,831.66
41000 · Non-Operating Revenue					
41110 · Investment Revenue					
41112 · Interest Revenue	400.00	10.77	426.67	106.67%	-26.67
Total 41110 · Investment Revenue	<u>400.00</u>	<u>10.77</u>	<u>426.67</u>	<u>106.67%</u>	<u>-26.67</u>
41120 · Taxes and Assessments	70,000.00	0.00	81,652.88	116.65%	-11,652.88
41140 · Other Non-Operating Revenue	2,000.00	0.00	0.00	0.00%	2,000.00
Total 41000 · Non-Operating Revenue	<u>72,400.00</u>	<u>10.77</u>	<u>82,079.55</u>	<u>113.37%</u>	<u>-9,679.55</u>
Total Income	<u>2,688,211.00</u>	<u>158,159.61</u>	<u>2,525,058.89</u>	<u>93.93%</u>	<u>163,152.11</u>
Gross Income	2,688,211.00	158,159.61	2,525,058.89	93.93%	163,152.11
Expense					
60000 · Operating Expenses					
60010 · Officers, Auditor & Legal Fees	112,383.00	2,228.08	79,455.86	70.70%	32,927.14
60110 · Salaries & Wages	643,156.00	52,423.39	605,041.20	94.07%	38,114.80
60150 · Employee Benefits & Expense	372,167.00	33,577.50	370,792.84	99.63%	1,374.16
60200 · Office Operations	343,576.00	35,587.13	321,063.57	93.45%	22,512.43
65000 · Field Operations	408,753.00	29,813.26	344,587.74	84.30%	64,165.26
Total 60000 · Operating Expenses	<u>1,880,035.00</u>	<u>153,629.36</u>	<u>1,720,941.21</u>	<u>91.54%</u>	<u>159,093.79</u>
69000 · Non-Operating Expenses					
69110 · Revenue Bond					
69105 · Principle	129,077.00	0.00	129,077.00	100.00%	0.00
69110 · Interest	69,617.00	0.00	69,616.40	100.00%	0.60
69120 · Admin Fees	0.00	0.00	0.00	0.00%	0.00
Total 69110 · Revenue Bond	<u>198,694.00</u>	<u>0.00</u>	<u>198,693.40</u>	<u>100.00%</u>	<u>0.60</u>
69125 · AMI Meter Loan					
69130 · Principle	45,400.00	0.00	45,399.73	100.00%	0.27
69135 · Interest	13,114.00	0.00	13,114.19	100.00%	-0.19
Total 69150 · Revenue Bond	<u>58,514.00</u>	<u>0.00</u>	<u>58,513.92</u>	<u>100.00%</u>	<u>0.08</u>
69400 · Other Non-Operating Expense	2,000.00	0.00	0.00	0.00%	2,000.00
Total 69000 · Non-Operating Expenses	<u>259,208.00</u>	<u>0.00</u>	<u>257,207.32</u>	<u>99.23%</u>	<u>2,000.68</u>
Total Expense	<u>2,139,243.00</u>	<u>153,629.36</u>	<u>1,978,148.53</u>	<u>92.47%</u>	<u>161,094.47</u>
Net Ordinary Income	<u>548,968.00</u>	<u>4,530.25</u>	<u>546,910.36</u>		
Net Income	<u>548,968.00</u>	<u>4,530.25</u>	<u>546,910.36</u>		

**Rio Linda Elverta Community Water District
Surcharge 1 Profit & Loss Budget Performance
DRAFT June 2018**

	<u>Annual Budget</u>	<u>Jun 18</u>	<u>Jul 17- Jun 18</u>	<u>% of Annual Budget</u>	<u>YTD Annual Budget Balance</u>
Income					
41000 · Non-Operating Revenue					
41110 · Investment Revenue					
41111 · Dividend Revenue	0.00	208.53	230.64	100.0%	-230.64
41112 · Interest Revenue	8,000.00	2,204.19	9,635.10	120.44%	-1,635.10
41113 · Market Value Adjustment	0.00	-1,156.94	-6,811.67	100.0%	6,811.67
	<u>8,000.00</u>	<u>1,255.78</u>	<u>3,054.07</u>	<u>38.18%</u>	<u>4,945.93</u>
43010 · Surcharge Revenue	523,374.00	209.00	465,517.78	88.95%	57,856.22
43020 · Bi-Mo Accrued Surcharge Revenue	0.00	42,500.00	42,500.00	0.0%	0.00
43000 · SRF Surcharge Revenue	<u>523,374.00</u>	<u>42,709.00</u>	<u>508,017.78</u>	<u>97.07%</u>	<u>15,356.22</u>
Total Income	<u>531,374.00</u>	<u>43,964.78</u>	<u>511,071.85</u>	<u>96.18%</u>	<u>20,302.15</u>
Gross Income	531,374.00	43,964.78	511,071.85	96.18%	20,302.15
Income					
69010 · Debt Service					
69150 · Surcharge (SRF)					
69155 · Principle	333,902.00	168,016.91	333,901.62	100.0%	0.38
69160 · Interest	127,453.00	62,660.41	127,453.02	100.0%	-0.02
69170 · Admin Fees	1,942.00	535.82	2,209.28	113.76%	-267.28
Total 69150 · Surcharge (SRF)	<u>463,297.00</u>	<u>231,213.14</u>	<u>463,563.92</u>	<u>100.06%</u>	<u>-266.92</u>
Total 69010 · Debt Service	<u>463,297.00</u>	<u>231,213.14</u>	<u>463,563.92</u>	<u>100.06%</u>	<u>-266.92</u>
Total Expense	<u>463,297.00</u>	<u>231,213.14</u>	<u>463,563.92</u>		
Net Income	<u>68,077.00</u>	<u>-187,248.36</u>	<u>47,507.93</u>		

CAPITAL BUDGET VS ACTUAL FISCAL YEAR 2017-2018
DRAFT July 2017 through June 2018

	GENERAL		CONNECTIONS		CHROMIUM MITIGATION & NEW WELLS		VEHICLE REPLACEMENT	
	\$ 1,080,092.00 \$ 1,080,092.00		\$ 62,680.00 \$ 62,680.00		\$ (23,521.00) \$ (23,521.00)		\$ 32,771.00 \$ 32,771.00	
	Annual Budget	YTD Actual	Annual Budget	YTD Actual	Annual Budget	YTD Actual	Annual Budget	YTD Actual
BEGINNING FUND BALANCE								
FUNDING SOURCES								
Fund Transfers								
Operating Fund Transfers In	600,000.00	600,000.00	-	-	-	-	-	-
CIP Fund Intrafund Transfers	(18,629.00)	(18,626.02)	-	-	-	-	18,629.00	18,626.02
Surcharge 2 Rate	-	-	-	-	218,230.00	193,609.42	-	-
Contributed Funding								
Capacity Fee Revenue	-	-	25,000.00	129,808.05	-	-	-	-
Contributed Facilities (Developers)	-	-	-	-	-	-	-	-
Grant Revenue	-	-	-	-	-	-	-	-
Loan Proceeds-OPUS Bank 3-1-18	-	-	-	-	146,105.00	99,140.82	-	-
Investment Revenue	350.00	194.78	-	-	20.00	27.82	-	-
Sale of Fixed Assets	-	-	-	-	-	-	-	-
TOTAL FUNDS AVAILABLE FOR CIP PROJECTS	1,661,813.00	1,661,660.76	87,680.00	192,488.05	340,834.00	269,257.06	51,400.00	51,397.02
PROJECTS								
A - WATER SUPPLY								
A-1 - River Arc	-	-	62,500.00	62,500.00	-	-	-	-
A-2 - El Dorado County Water & Power	14,442.00	14,441.63	-	-	-	-	-	-
A-3 - Well 2A - Cr6 Treatment	-	-	-	-	-	-	-	-
A-4 - Well 10 - Cr6 Treatment	-	-	-	-	81,220.00	85,748.60	-	-
A-5 - Well 15 - Cr6 Treatment	-	-	-	-	81,000.00	80,886.79	-	-
A-6 - Well 16	-	-	-	-	562,665.00	512,553.90	-	-
A-7 - Well 17	-	-	-	-	57,885.00	16,885.00	-	-
A-8 - Miscellaneous Pump Replacements	40,000.00	16,679.68	-	-	-	-	-	-
A-9 - Master Plan	26,000.00	5,635.00	-	-	-	-	-	-
A-10 - Well 9 Rehab	53,000.00	38,788.82	-	-	-	-	-	-
Total A - WATER SUPPLY	133,442.00	75,545.13	62,500.00	62,500.00	782,770.00	696,074.29	-	-
B - WATER DISTRIBUTION								
B-1 - System Valve Replacements	35,000.00	26,784.55	-	-	-	-	-	-
B-2 - Paving Replacements	30,000.00	25,200.00	-	-	-	-	-	-
B-3 - Service Replacements	30,000.00	11,797.90	-	-	-	-	-	-
B-4 - Large Meter Replacements	5,000.00	-	-	-	-	-	-	-
B-5 - Small Meter Replacements	60,000.00	50,561.70	-	-	-	-	-	-
Total B - WATER DISTRIBUTION	160,000.00	114,344.15	-	-	-	-	-	-
M - GENERAL PLANT ASSETS								
M-1 - Computer Server	7,805.00	7,804.58	-	-	-	-	-	-
M-2 - Trucks (2)	-	-	-	-	-	-	51,400.00	51,397.02
M-3 - Office & Shop Roof	38,201.00	38,201.00	-	-	-	-	-	-
Total M - GENERAL PLANT ASSETS	46,006.00	46,005.58	-	-	-	-	51,400.00	51,397.02
FO - PROJECTS FUNDED BY OTHERS								
TOTAL FO - PROJECTS FUNDED BY OTHERS	-	-	-	-	-	-	-	-
C - CONTINGENCY								
C-1 - Contingency (10% of Est A,B,M, & FO)	29,344.20	-	6,250.00	-	78,277.00	-	-	-
TOTAL BUDGETED PROJECT EXPENDITURES	368,792.20	235,894.86	68,750.00	62,500.00	861,047.00	696,074.29	51,400.00	51,397.02
ENDING FUND BALANCE	\$ 1,293,020.80	\$ 1,425,765.90	\$ 18,930.00	\$ 129,988.05	\$ (520,213.00)	\$ (426,817.23)	\$ -	\$ -



Finance /Administrative Committee Agenda Item: 3

Date: July 09, 2018

Subject: Request from Employees to Change Hours of Operation

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

I recommend the Finance/Admin Committee engage in dialog with the employees to clarify the request for a change in the hours of operation and/or recommend the appointment of an ad hoc committee to explore all facets of flexible schedules.

Current Background and Justification:

Flexible work schedules have proven to be a valid means of increasing employee productivity and job satisfaction. If the Committee and ultimately the Board fully supports switching to a 4-10 schedule for all employees, then the discussion and response by the District should focus on when to switch and how to communicate the switch to the customers.

If the Committee wishes to explore other concepts of flexible schedules, e.g.9/80 and others, the how-to of corresponding with the employees becomes the first step. The District hours of operation and ability to assign shift schedules is a matter of setting policy. The District should not convey or allow any mutation of this function to creep into negotiations for a MOU renewal. Accordingly, the Finance/Admin committee should carefully word any response associated with the desire to discuss alternatives to the straight 4 -10 schedule for all employees being requested by the employees.

The District and the GM clearly have the authority to prescribe hours of operation and to change such hours with reasonable notice to employees. However, the change to being closed every Friday is a substantial one. It should be fully evaluated and discussed.

Conclusion:

I recommend the Finance/Admin Committee review the written request from all the employees (excluding the GM) and discuss the benefits and ramifications with the General Manager. If the Committee supports switching hours of operation to support a 4-10 schedule, Mon -Thurs, I recommend the item be forwarded onto the July 16th agenda, and focus the District's actions on effective date and means of announcement.

If the Finance/Admin Committee wishes to explore variations or other means of providing flexible schedules, I recommend you direct staff accordingly.

Proposal : Change to Hours of Operation

The RLECWD staff would like to change the district's hours of operations. The new hours of operation would change to Monday thru Thursday (6:30am-5:00pm). Currently we operate Monday thru Friday (7:00am – 4:00pm). We desire this change to enhance our quality of life while providing exceptional customer service and meeting all of the district's needs. This change would require most employees to change from an eight hour work day to a ten hour work day. We have all agreed to this change.

The change to hours of operation would benefit the district in many ways.

1. While we would be closed 52 days more a year, this would help drive down operational cost. Which in turn would save the district money.
2. We have been told by many of our customers "Why do you close at 4:00pm; when a lot of people get off work at 4:00pm?" "I cannot make it in by 4:00pm." "I had to take time off work to come in." Changing the hours would give our customers six more hours a week to conduct business, outside of our current hours of operation. With this larger window customers would be able to come in and speak with personnel to pay a bill, talk about water conservation, or fix customer's problems as they arise.
3. With longer hours, the field staff would accrue less overtime. Much of the overtime is accrued by not having enough time to complete scheduled repairs or other time

consuming tasks. Most overtime is accrued between 4:00pm and 5:00pm.

In closing we would like to express our appreciation for taking the time to review this matter.

The RLECWD Team:

Pat Goyet



Deborah Denning



Renita Lehman



Kimberly Bassett



Chris Bell



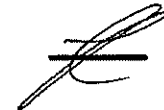
Vincent Vigallon



Justin Davis



Frank Chacon





Finance /Administrative Committee Agenda Item: 4

Date: July 09, 2018

Subject: Proposed Revisions to Policy 2.01.150

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

I recommend the Finance/Admin Committee review the proposed options for revisions to Policy 2.01.150 and consider forwarding their recommended option onto the July 16th agenda.

Current Background and Justification:

The Board discussed the current potential for interpretation of the current Policy 2.01.150 at the June 16th meeting. The Board returned the item to the Finance/Admin Committee for further refinement and recommendation.

The options for simple revisions to Policy 2.01.150 is a document included with your agenda packets. Either option is suitable for removing the potential for interpretation illustrated at the June 16th Board meeting.

It is worthy to note that the current policy cites minutes of the March 30, 2009 meeting and also cites Resolution 2008-08. It may be appropriate to clean up those citations with any action deemed acceptable by the Board.

Conclusion:

I recommend the Finance/Admin Committee review the options for revising Policy 2.01.150 and forward the recommended option onto the July 16th agenda., If deemed necessary and appropriate, the Committee should further direct a cleanup of the now obviated citations currently included in the policy, i.e. Resolution 2008-08 and 3/30/09 minutes

Option 1

2.01.150 Agendas. (*Amended Resolution 2008-08, 3/30/09 minutes*) The Secretary shall prepare the agenda for the meeting containing a brief description of each agenda item and post it at least 72 hours prior to the regular Board meeting. ~~after consultation with the President.~~ If a Board member twenty-four (24) hours prior to the posting of the agenda requests a matter be placed on an agenda, the Secretary shall include an item on the agenda to permit discussion of the matter, subject to approval by the President. Agendas for Special Board meetings shall be posted at least twenty-four (24) hours prior to the meeting. The Board by majority vote, or as otherwise provided by law, may modify the agenda prior to proceeding to the consideration of the first matter. All matters shall be considered by the Board in the order listed on the agenda as posted or modified, to the extent of time available. No action may be taken on any matter which did not appear on the posted agenda except as permitted by State law. Agenda items not considered or completed at a meeting for lack of time become agenda items at the following meetings in accordance with the forgoing policies

Option 2

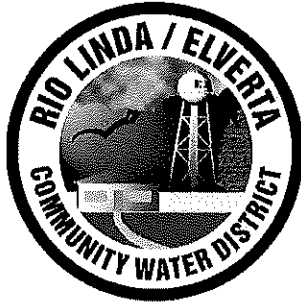
2.01.150 Agendas. (*Amended Resolution 2008-08, 3/30/09 minutes*) The Secretary shall prepare the agenda for the meeting containing a brief description of each agenda item and post it at least 72 hours prior to the regular Board meeting after consultation with the President as necessary. If a Board member twenty-four (24) hours prior to the posting of the agenda requests a matter be placed on an agenda, the Secretary shall include an item on the agenda to permit discussion of the matter, subject to approval by the President. Agendas for Special Board meetings shall be posted at least twenty-four (24) hours prior to the meeting. The Board by majority vote, or as otherwise provided by law, may modify the agenda prior to proceeding to the consideration of the first matter. All matters shall be considered by the Board in the order listed on the agenda as posted or modified, to the extent of time available. No action may be taken on any matter which did not appear on the posted agenda except as permitted by State law. Agenda items not considered or completed at a meeting for lack of time become agenda items at the following meetings in accordance with the forgoing policies.

Notes and Comments:

The current version of Policy 2.01.150 cites the minutes of the March 30, 2009 meeting (relevant excerpt shown below).

It was motioned by Director Spicer-Johnson and seconded by Director Paine to revise the policy manual section 2.08.150 to read "If a Board member 24 hours prior to the posting of the agenda requests a matter be placed on an agenda, the Secretary shall include an item on the agenda to permit discussion of the matter". The motion carried by a unanimous vote of 5-0-0.

Resolution 2008-08 is also cited in the current policy. It may be appropriate to rescind Resolution 2008-08 because the Board has acted repeatedly since 2008 to revise policies, and the entire policy manual was adopted in July 2015.



**Finance /Administrative Committee
Agenda Item: 5**

Date: July 09, 2018

Subject: Needed Changes to District Policy 3.06.600, 3.06.700 and 3.06.800

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

I recommend the Finance/Admin Committee review the proposed changes to current Policy 3.06.600, 3.06.700 and 3.06.800 and forward an item onto the July 16th agenda.

Current Background and Justification:

The District recently replaced two older, refurbished multi-function printers with one new machine, which enables the District to declare the older machines to be surplus assets. Upon reviewing the current policies for dispositioning surplus assets, I observed some facets which are out of compliance and/or out of date with currently acceptable, practices commonly adopted by public agencies.

An example of more up to date policy is included with your Committee packets. The current version of Policy 3.06.600, 3.06.700 and 3.06.800 is also included in your packets.

Conclusion:

I recommend the Finance/Admin Committee review the proposed revision to Policy 3.06.600 and forward onto the July 16th agenda.

3.06.100 Purpose.

The primary purpose of this policy is to allow management staff to determine if a parcel of real property, easement, vehicle or large equipment or other personal property is no longer needed for daily, emergency and/or future operations of the District. A staff report is generated to document why a parcel of real property, easement, vehicle or large equipment or other District property should not be retained.

3.06.200 Definitions.

Real Property – Any ownership interest in any parcel of land, buildings and improvements owned by the District.

Easement – An interest in another’s real property that permits the District to make limited use of that real property for a District purpose.

Vehicles and Large Equipment – Any ownership interest in utility trucks, dump trucks, tractors, backhoes, and other significant self-propelled equipment used in District operations.

Personal Property – Any ownership interest in any moveable or intangible thing that is subject to ownership and not classified as real property including: shop tools (cut-off saws, drills, etc), computer equipment (monitors, printers, etc), furniture.

3.06.300 Yearly Inventory of Real Property.

Pursuant to Government Code Section 50569, every year before December 31st, the District shall inventory all of the real property it owns or controls and shall determine if any real property owned or controlled is in excess of the District’s foreseeable needs (“Surplus Real Property”). If any real property is found to be in excess, the District shall list such real property in a document, which will be public record. Title 3 Page 4

3.06.400 Disposal of Real Property.

1. District management determines if a parcel of real property no longer meets the needs of daily, emergency and/or future operations. A staff report is generated to document why the parcel should not be retained.

2. District management determines if a parcel falls within the notice and offer procedures provided in Government Code sections 54220 through 54232, as they may be amended from time to time. A parcel of real property is exempt from the statutory notice and offer procedures if it:

a) Is less than 5,000 square feet; or

b) Is less than “the minimum legal residential building lot size for the jurisdiction in which the parcel is located”; or

c) Is sold to a Landowner of contiguous land; and;

i. Is not: (a) contiguous to land owned by a state or local agency that is used for park, recreational, open-space, low- or moderate-income housing; or (b) located in an enterprise zone or high-density, economically-distressed areas involved in certain redevelopment program; **and**

ii. Has no recorded access and is less than 10,000 square feet;

3. If the statutory notice and offer procedures must be followed, the District must obtain a qualified appraisal of the parcel and offer the surplus real property to specified public agencies before it can sell the property to other public agencies or a private party. The specified public agencies are as follows:

a) Sacramento County for developing low- and moderate-income housing;

b) Sacramento County Parks and Recreation Department for park and recreational purposes;

c) Any regional park authority that has jurisdiction over the area in which the surplus real property is located if it is to be used for park and recreational purposes;

d) The State Resources Agency for park and recreational purposes; and

e) The school district in whose jurisdiction the parcel is located.

4. The Board of Directors declares real property as surplus and determines if a parcel must be offered to the designated public agencies under the statutory notice and offer procedures prescribed by the Government Code or is exempt from such procedures. If the District must sell a surplus parcel under the statutory notice and offer procedures, the General Manager will give qualifying public agencies notice of the parcel's availability for purchase. If none of the agencies to which notice must be given notifies the District within 60 days after receiving notice that they are interested in buying the surplus parcel, then the District may sell the parcel by advertised public sale. If the District receives notice from an agency that it wishes to purchase or lease the Surplus Real Property, the District and the interested agency shall enter into good faith negotiations for a period of at least sixty (60) days. If the parties fail to reach an agreement within sixty (60) days, the District may proceed with disposing of the real property through a public sale as described in this section.

5. In the event that more than one agency responds to the statutory notice by expressing an interest in purchasing the surplus real property, the District will give first priority to the agency that agrees to use the surplus real property for low or moderate income housing. However, if the surplus real property is already being used for a park or a recreational purpose, or if the surplus real property is designated for park or recreational purpose in the applicable general plan, then the District will give first priority to an agency that agrees to use the real property for a park or recreational use.

6. In all cases where the statutory notice and offer procedures have not resulted in disposal of a parcel, the District will sell surplus real property by public sale. The General Manager will notice the parcel's sale at the appraised value unless the Board of Directors authorizes a different price. The notice of sale will contain a description of the surplus real property; a statement of time and place for opening bids. Bids for the purchase of surplus real property will be accepted or rejected by a resolution of the District Board of Directors. Alternatively, the District may list the surplus parcel for public sale with a licensed real estate broker in good standing who advertises the parcel through a multiple listing service or similar listing system at a fair market value determined by the broker using comparable sales data. Documents for the conveyance of title to surplus real property will be executed by the President of the Board upon authorization by the Board of Directors.

7. If the General Manager determines that a surplus parcel is exempt from the Government Code's notice and offer procedures, it will not be necessary to obtain a formal appraisal of the property. If circumstances warrant and the Board of Directors determines it is in the best interest of the public the surplus parcel may be sold for less than fair market value. In such cases, the General Manager or his/her designee will prepare a staff report documenting why the parcel was not appraised, why it may be sold for less than fair market value, the fiscal impact of selling the parcel and why it is exempt from the Government Code notice and offer procedures. After review of the staff report, the Board of Directors may approve the sale of the surplus parcel by motion. A staff report and a certified copy of the Board of Directors Meeting minutes reflecting the Board's approval of the sale is sufficient to authorize the General Manager to make the sale.

3.06.500 Procedure for Relinquishment of District Interest in Easements.

1. Staff determines if an easement no longer meets the needs of daily, emergency and/or future operations of the District. Staff then will generate a report that documents the justification for relinquishing the easement and makes a determination whether the easement has any fair market value. Staff then will forward the report to the General Manager for review. If staff determines that the easement has some marketable value, the General Manager will present the staff report to the Board at a subsequent meeting with a recommendation for Board of Directors action on relinquishing the easement in exchange for valuable consideration.

2. If staff determines that the easement has *nominal* fair market value, with Board approval, the General Manager shall have the authority, upon review and approval of the recommendation in the staff report, to sign and record a quitclaim deed to relinquish the District's interest in the easement. *If the easement*

is a Public Utility Easement, the General Manager shall have the authority, upon review and approval of the recommendation in the staff report, to sign an easement relinquishment letter.

3. If, upon recommendation of staff, the General Manager authorizes disposal of an easement under this section, then the General Manager will report the disposal of the easement to the Board at its next regular meeting following the recording of the quitclaim deed relinquishing the easement. Title 3 Page 6

3.06.600 Disposal of Vehicles and Large Equipment.

1. At least once each fiscal year, the General Manager will prepare a list of District vehicles and items of large equipment that are deemed surplus because the burden of maintaining or storing the vehicle or large equipment exceeds its use to the District taking into consideration: (a) needed repairs to the vehicle or large equipment, (b) insurance costs, (c) other vehicles or large equipment owned or controlled by the District; and (d) usefulness of the vehicle or large equipment to the District. To determine overall value of a vehicle or large equipment, the District will consider age/depreciation, maintenance and repairs, miles, type of service, reliability, and condition as criteria for this determination. If beneficial to the District, the surplus vehicle or large equipment may be traded in with a dealer in the process of procuring an updated vehicle or large equipment.

2. If the item is not traded in District staff will establish values and set minimum bid prices for each vehicle or item of large equipment to be sold by public auction. If staff determines that the particular vehicle or large equipment has diminutive or no value or the costs of preparation and sale exceeds the value of the vehicle or equipment, then the General Manager is authorized to dispose of the property in accordance with Sections 3.05.600.00 (5) and (6) of this policy.

3. The General Manager may authorize the sale of surplus vehicles and large equipment with an estimated value of \$1,000 or less. Vehicles and large equipment with an estimated value greater than \$1,000 will be sold as surplus following authorization by the Board of Directors at a public meeting.

4. After sale of a vehicle or large equipment has been authorized by the Manager or Board of Directors as required in Section 3.06.400(3), vehicles or large equipment are to be sold at public auction. The General Manager will consign the vehicles or large equipment to a public auctioneer after posting a notice concerning the sale of the vehicle and/or large equipment.

3.06.700 Guidelines Concerning the Sale of Surplus Vehicles and Large Equipment.

Prior to the sale of surplus vehicles or large equipment, the General Manager will direct staff to assist in the following:

1. Remove all District equipment from the vehicle or large equipment (radio, decals, etc.).

2. Clean and repair the vehicle or large equipment if it is an immediate safety issue.

 3. The sale of the vehicle or large equipment at public auction.

 4. Establish vehicle or large equipment value using an appropriate, publicly available valuation tool such as the Kelley Blue Book, qualified appraisal, trade publications or classified newspaper advertisements. Staff will prepare a written report concerning the valuation of the item and attach appropriate documentation.

 5. Arrange for the delivery and consignment of the item and, in consultation with the General Manager and auctioneer, determine an appropriate reserve or minimum price for the item.

 6. Prepare and post a notice of sale. The notice and advertisement will include the vehicle or large equipment description, minimum bid, conditions of sale, and place of public auction.
- Title 3 Page 7
7. When the vehicle or large equipment is sold, the General Manager or his/her designee will sign the "pink slip", bill of sale and any other documents required to complete the sale.

 8. After the vehicle or large equipment is sold, the General Manager or his/her designee will complete paperwork as required by the Department of Motor Vehicles (DMV) to report the sale of the vehicle or large equipment, and return all completed forms and vehicle license plates to DMV.

3.06.800 Disposal of Other Personal Property Other than Vehicles/Large Equipment.

1. At least once each fiscal year, the General Manager will prepare a list of District personal property, other than vehicles and large equipment, which is deemed surplus personal property because the District no longer uses the item and it is not foreseeable that the District will need to use the item in the future.

2. District management staff will establish values and set minimum bid prices for each item of personal property to be sold by public auction. If staff, during the process of establishing value to an item of personal property, determines it to be of diminutive or no value, the General Manager is authorized to dispose of the property in accordance with Sections 3.06.600 (5) and (6) of this policy.

3. The General Manager may authorize the sale of personal property with an estimated value of \$1,000 or less. Personal property with an estimated value greater than \$1,000 will be sold as surplus following authorization by the Board of Directors at a public meeting. Surplus personal property is to be sold at public auction. The General Manager will consign the personal property to a public auctioneer after posting a notice concerning the District's sale of the property. The District reserves the right to place items of surplus property in a group or lot for sale to the highest bidder.

4. For surplus items not sold, the General Manager has the authority to donate such items to another government agency or any non-discriminatory, tax exempt non-profit organization qualified under Internal Revenue Code section 501(c)(3).

5. If an item of surplus property is not sold during sale and the General Manager is unable to donate the surplus items to a qualified government agency or tax-exempt organization, the General Manager may properly dispose of such items at a legal disposal site.

3.06.900 Revenue from Disposal of Surplus Property.

All revenue received from the disposal of surplus real or personal property will be deposited in the District's General Operating Fund unless otherwise specified by the Board of Directors.

3.06.1000 Prohibition against Upgrades.

Unless necessary to ensure the safety, merchantability and/or serviceability of surplus property, District staff may not make any repairs or upgrades to any real or personal property recommended or already deemed to be surplus. For example, staff may not replace a vehicle's worn but serviceable tires with new tires, nor may staff add or replace optional equipment that enhances a vehicle's value. Before sale and upon the General Manager's authorization, District staff may repair or replace parts on a surplus item if it is necessary to ensure that it is safe, serviceable and/or merchantable.

Purpose

Rio Linda Elverta Community Water District ("the District") must from time to time surplus equipment/property which has become outdated, worn-out, or unnecessary. Accordingly, this policy prescribes the methods and means to remove these items from the District's inventory, provide accurate information for insurance purposes, and assure the District receives fair market value for the surplus assets in the most efficient means practical under varying circumstances.

Sale of Surplus Vehicles, Equipment and Materials

Board of Directors acts to declare vehicles and/or equipment surplus, and additionally act to declare the manner each item is to be dispositioned (sealed-bid or internet). Board of Directors then authorize General Manager to review bids and authorize sale of item(s) to the highest bidder.

1) Sealed-bid Basis:

- a) Item is advertised for sale in a newspaper of local general circulation with information about the location/hours/days it can be seen and the deadline date for submission of sealed bids.
- b) Sealed bids are opened after the submission deadline by the District Clerk or Deputy District Clerk of the Board. The General Manager then determines if the bid is adequate for acceptance.

2) Internet Basis:

- a) Item is posted on eBay or similar user-friendly internet system that allows a user of the system to place ongoing bids on an item they are interested in purchasing. The system should allow bidders to see the last highest bid made and post a higher bid, if they choose, until the sale deadline.
- b) A link to the Internet-posted items will be added to the District's website.
- c) Photos of the surplus item (subject to the General Manager's discretion), as well as contact and site-inspection information, will be provided at both the eBay/user friendly internet system and the District's website.
- d) The minimum bidding period will be seven days after the advertisement is published or posted.
- e) If the item is large, sale specifications may include the requirement that the buyer retrieve it at District facility.
- f) Once bidding is complete, the General Manager will review bids received and authorize sale of the item to the highest bidder.
- g) Buyers will be allowed to pay by cash or cashier's check.
- h) Minimum bid recommendations by Department Managers will be subject to approval by the General Manager.
- i) Buyers will typically be given one week from the date of sale to retrieve the purchased item, unless the General Manager determines that circumstances warrant an extended period.

j) Results of the sale will be reported to the Board of Directors at its next regular monthly meeting after the sale is complete.

Disposal of Scrap Material

In the normal course of business, the District will require disposal of items which do not have value as assets but have value as recycled material, such as glass, paper, scrap metal, and copper wire and pipe. For large quantity items with a combined total value estimated to be less than \$500, the following terms shall apply:

1. Board action for designation as surplus assets is not required for each transaction, i.e. the Board may provide blanket authorization for disposition at a reputable recycling facility.
2. The recycling facility must compensate the District by means of a check payable to the District.
3. Copper pipe of sufficient lengths, which may be used in the construction industry instead of recycled, may be dispositioned in accordance with the Surplus Vehicles, Equipment and Materials section above.



Finance /Administrative Committee Agenda Item: 6

Date: July 09, 2018

Subject: New Employee Selection Process

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

I recommend the Finance/Admin Committee review the Personnel Handbook, Employment Process, Selection Process subsection and further review the recommendations from Legal Counsel and ACWA JPIA, then direct staff to implement the necessary changes.

Current Background and Justification:

The new employee selection process for the Conservation Coordinator/Customer Service Tech. 1 vacancy is underway. Following the steps provided in the District's current policy in the Personnel Handbook is inconsistent with current California employment laws and court precedents.

Examples of noncompliant practices currently prescribed in District policy include:

- Drug screening of candidates for positions which are not safety-sensitive.
- Criminal background checks performed prior to job offer.
- Medical examination performed prior to offer of employment.

When I became aware of the District's selection process issues, I contacted Legal Counsel for review of the current policy. I also requested assistance from ACWA JPIA to acquire their sample policies for employee selection. The responses from Legal Counsel and ACWA JPIA are documents included with your Committee packets.

Conclusion:

I recommend the Finance/Admin Committee forward an item onto the July 16th agenda to authorize necessary changes to the District's employee selection process.

Tim Shaw

From: Debra H. Vierra <Debra@churchwellwhite.com>
Sent: Monday, June 18, 2018 8:30 AM
To: Tim Shaw
Cc: Helane Seikaly; Barbara Brenner
Subject: Pre-employment drug testing

Hi Tim:

I am following up on our conversation regarding the District's policies and practices regarding pre-employment drug testing. Our conversation stemmed from a your concern over a recent applicant's question about a job posting for a customer service position which stated it required a pre-employment drug test. You noted that your understanding was that the law does not allow pre-employment testing for positions which are not safety sensitive. The District's policy provides that applicants "may" be subjected to a myriad of testing (including, among others, psychological testing, agility testing and drug screening). While the policy is permissive, it has apparently been administered to require drug tests for all applicants, regardless of position. You are concerned that absent revision, it might continue to be administered erroneously.

As we discussed, this area has been fraught with confusion for employers. California courts have long held that blanket pre-employment drug testing is acceptable. And, in the case of Loder v. City of Glendale, 927 P.2d 200 (Cal. 1997), the California Supreme Court upheld pre-employment drug testing for a public employer. In that case, the City of Glendale tested all applicants after offering them jobs. The Court found this pre-employment testing was justified under the California Constitution because of the significant problems posed for the city by employees who abused drugs and alcohol. The Court found that applicants typically are required to disclose information in the hiring process and thus they had a reduced expectation of privacy, which was outweighed by the city's legitimate and substantial interest in determining whether an applicant was currently engaged in drug use before hiring.

However, the Ninth Circuit's holding in Lanier v. City of Woodburn, 518 F3d 1147 (9th Cir. 2008), indicated that a pre-employment drug test is a suspicionless search and, as such, is permissible under the federal constitution in only very limited circumstances. In that case, the city had a blanket pre-employment testing policy, which it applied to an applicant for a library page position. The city argued that drug abuse is a societal problem which negatively impacts job performance and children. The court found that there was no evidence the library page was responsible for children's safety or security and the need to test by the employer must be more specific than a the general existence of a societal problem ; i.e. rampant drug use. Rather, the city needed a compelling interest to justify a suspicionless search and thus, court limited pre-employment testing to "safety or security sensitive positions."

Thus, there is a split in California and federal courts on the subject. However, federal law is applicable to California public agencies and, under Lanier, a blanket drug testing policy will not be upheld under the 4th amendment unless the employer can show that the position sought is one that involves safety or security. The Lanier court did not discuss what qualifies a position as such, but other cases have discussed the issue in post-employment context. Those cases focus on the degree, severity and immediacy of the harm imposed; such as whether an error in judgement, inattentiveness or diminished coordination or dexterity could result in mistakes that endanger the health and safety of others.

In light of the foregoing, as you suggested in our conversation, best practice would be to review the job descriptions and identify and designate safety/security sensitive positions in those descriptions in advance of pre-employment drug testing. Also, in reviewing the portion of the applicant screening policy you sent to us, I noted that it refers to other medical and psychological testing. The District should be aware that those tests are subject to similar privacy concerns, as well as concerns under the ADA. All such tests should be conducted only after a conditional offer of employment, and

Agenda Item 6

must be carefully analyzed to be sure they are job related, necessary and do not create an adverse impact on any protected group. Additionally, all such tests require a proper release under the California laws related to confidential medical records.

Please let us know if you have further questions or would like us to help in review/revision of the District's policies.

Deb

Churchwell **White** ^{LLP}

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churchwellwhite.com



Selection Process

The selection process shall include personal interviews and may include such recognized techniques as achievement tests, aptitude tests, performance tests, evaluation of previous work performance, ~~psychological evaluation,~~ work samples, physical agility tests, ~~review and investigation of personal background and references,~~ ~~drug screening and fingerprinting.~~ Subsequent to appointment, but before beginning work, ~~all applicants~~ new employees may be requested to participate in drug screening (safety-sensitive employees), background checks, and medical and psychological evaluations. ~~shall provide the Rio Linda/Elverta Community Water District with the results of a pre-employment medical examination performed by a doctor selected by the Rio Linda/Elverta Community Water District. Upon recommendation of the examining physician, the employee may be refused employment.~~ Selection techniques will be impartial and shall relate to those areas which will adequately and fairly indicate the relative ability and quality of candidates under consideration to execute the duties and responsibilities of the position to which they seek to be appointed. Upon completion of the selection process, the General Manager shall make appointments from those candidates who, on the basis of their performance in the selection process, appear most qualified for the position under consideration. The appointment shall become effective when the selected applicant has signed all papers required by the Rio Linda/Elverta Community Water District, and those papers bear the appropriate signatures confirming the appointment.

Ineligibility or Disqualification

The General Manager may withdraw anyone from consideration whose appointment will be deemed contrary to the best interest of the Rio Linda/Elverta Community Water District. Reasons for disqualifications may include but shall not be limited to the following deficiencies:

- Lack of any of the requirements established for the position for which application has been made
- ~~Physical or mental disabilities such as to render the applicant unfit to perform the duties of the position to which appointment is being sought.~~
- ~~Use of intoxicating beverages to excess.~~
- ~~Unlawful use of habit forming drugs.~~
- ~~Conviction of a felony or conviction of a misdemeanor involving moral turpitude.~~
- ~~Infamous or notoriously disgraceful conduct.~~
- Dismissal from any position for any cause which would be cause for dismissal by the Rio Linda/Elverta Community Water District.
- Resignation from any position to avoid dismissal. Deception or fraud in making the application.

Agenda Item 6

- | Request by applicant that his name be withdrawn from consideration. Failure to reply within reasonable time to communication concerning availability for employment.
- Failure to accept appointment within two days after notification or to report for duty within the time prescribed in the offer of employment.
- | ~~Positive results from the pre-employment drug screening.~~

Applicants disqualified shall be notified immediately. All records related to disqualifications shall be maintained for a period of at least two years.

Selection Process

The selection process shall include personal interviews and may include such recognized techniques as achievement tests, aptitude tests, performance tests, evaluation of previous work performance, work samples, physical agility tests, and references. Subsequent to appointment, but before beginning work, new employees may be requested to participate in drug screening (safety-sensitive employees), background checks, and medical and psychological evaluations. Selection techniques will be impartial and shall relate to those areas which will adequately and fairly indicate the relative ability and quality of candidates under consideration to execute the duties and responsibilities of the position to which they seek to be appointed. Upon completion of the selection process, the General Manager shall make appointments from those candidates who, on the basis of their performance in the selection process, appear most qualified for the position under consideration. The appointment shall become effective when the selected applicant has signed all papers required by the Rio Linda/Elverta Community Water District, and those papers bear the appropriate signatures confirming the appointment.

Ineligibility or Disqualification

The General Manager may withdraw anyone from consideration whose appointment will be deemed contrary to the best interest of the Rio Linda/Elverta Community Water District.

Reasons for disqualifications may include but shall not be limited to the following deficiencies:

- Lack of any of the requirements established for the position for which application has been made.
- Dismissal from any position for any cause which would be cause for dismissal by the Rio Linda/Elverta Community Water District.
- Resignation from any position to avoid dismissal. Deception or fraud in making the application.
- Request by applicant that his name be withdrawn from consideration. Failure to reply within reasonable time to communication concerning availability for employment.
- Failure to accept appointment within two days after notification or to report for duty within the time prescribed in the offer of employment.

Applicants disqualified shall be notified immediately. All records related to disqualifications shall be maintained for a period of at least two years.

MODEL
DRUG AND ALCOHOL PROGRAM

DISTRICT NAME
ADDRESS
CITY, STATE ZIP
TELEPHONE

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I. PURPOSE OF POLICY

[Agency name] has a significant interest in ensuring the health and safety of its employees. It has an obligation to ensure that its employees do not present a safety risk to the general public. Drug or alcohol use may pose a serious threat to job performance, employee health and safety, and public safety.

For these reasons, it is the policy of [agency name] to prevent substance use or abuse from having an adverse effect on its employees. [Agency name] maintains that the work environment is safer and more productive without the presence of alcohol, illegal or inappropriate drugs in the body or on company property. Furthermore, employees have a legitimate expectation to work in an alcohol and drug-free environment and to work with employees free from the effects of alcohol and drugs. Employees who abuse alcohol or use drugs are a danger to themselves, their coworkers and the [agency name]'s assets.

[Agency name] will be firm in identifying and disciplining those employees who do not voluntarily seek assistance and who continue to abuse alcohol or use controlled substances in violation of the following:

No employee who is on duty or on standby for duty will:

1. Use, possess, or be under the influence of illegal or unauthorized drugs or other illegal mind-altering substances; or
2. Use or be under the influence of alcohol to any extent that would impede the employee's ability to perform his or her duties safely and effectively.

No employee will perform duties that, because of drugs taken under a legal prescription, cannot be performed without posing a threat to the health or safety of the employee or others. This includes medications that may impair the employee's ability to operate machinery or motor vehicles.

Employees will be subject to drug and alcohol testing when there is reasonable suspicion that the employee has violated the rules expressed herein. In addition, when such an employee has already been found in violation through the adverse action or medical examination process under this policy, as a result of substance testing under this policy, or by the employee's own admission, the employee will be required to submit to periodic substance testing as a condition of remaining in or returning to District employment.

II. SCOPE

The purpose of this policy is to protect District employees and the public from risks associated with alcohol abuse and controlled substances use. This policy is also intended to comply with all applicable Federal and State regulations governing workplace anti-drug programs in the transportation industry. The

Department of Transportation (DOT) has implemented "Procedures for Transportation Workplace Drug Testing Programs" (49 CFR, Part 40) and "Controlled Substances and Alcohol Use and Testing" (49 CFR, Part 382). The regulations mandate urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevent performance of such functions when there is a positive test result.

III. DESIGNATED EMPLOYER REPRESENTATIVE (DER)

The Designated Employer Representative (DER) who is to answer employee questions about drug and alcohol policies and procedures is:

List the identity of the person, and/or position designated by the employer to answer employee questions about the employer's anti-drug use and alcohol misuse programs.

IV. APPLICABILITY

This policy applies to all employees when they are on District property or when performing any District-related business. It also applies to employees operating District vehicles or equipment. It applies to off-site lunch periods and breaks when an employee is scheduled to return to work.

Visitors, vendors, and contracted employees violating this policy will not be permitted to conduct business on District property or projects and will be ordered off District property.

For the purpose of this program, the District may have up to three categories of employees which may be defined in the District policy handbook and/or any collective bargaining agreement:

- General (Non-Safety/Security Sensitive)
- Safety/Security Sensitive
- Safety Sensitive (DOT)

A. General (Non-Safety/Security Sensitive)

Positions not addressed in the other two categories. This employment category is subject to reasonable suspicion, return-to-duty and follow-up controlled substance and/or alcohol testing.

B. Safety/Security Sensitive

Job positions which the District determines are safety or security sensitive in their nature. These positions include the following functions:

1. Their duties involve a greater than normal level of trust, responsibility for or impact on the health and safety of others; and

2. Errors in judgment, inattentiveness or diminished coordination, dexterity or composure while performing their duties could clearly result in mistakes that would endanger the health and safety of others; and
3. Employees in these positions work with such independence or perform such tasks that it cannot be safely assumed that mistakes such as those described in (2) could be prevented by a supervisor or another employee.

C. Safety-Sensitive (DOT)

Job positions requiring the use of a commercial drivers license (CDL). A safety-sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive function. Safety-sensitive employees are subject to pre-employment, reasonable suspicion, random, post-accident, return-to-duty and follow-up controlled substance and/or alcohol testing as covered under Title 49 Code of Federal Regulations (CFR), Part 382.

V. PROPER APPLICATION OF THE POLICY

The District is dedicated to assuring fair and equitable application of this policy. Therefore, supervisors are required to administer all aspects of the policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy with respect to their subordinates may be subject to disciplinary action, up to and including termination.

VI. PROHIBITED SUBSTANCES

Prohibited substances addressed by this policy include the following:

A. Controlled Substances

Controlled substances are drugs that include, but are not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine.

B. Alcohol

Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl and isopropyl alcohol.

VII. PROHIBITED CONDUCT

No employee will report to any work site or will work impaired by any drug or alcohol, lawful or unlawful.

No employee at any work site will use or possess any quantity of any drug or alcohol, lawful or unlawful, except for authorized drugs. This prohibition generally does not apply to alcohol in those circumstances designated as social by the District, nor does it apply to the use or possession of alcohol in their residences

by those employees who reside in District-owned residences except to the extent that such use or possession would interfere with the performance of their duties.

No employee at any work site shall manufacture, dispense, distribute, or sell any drug or alcohol, lawful or unlawful.

No employee may perform or continue to perform security-sensitive or safety-sensitive functions if the employee is using alcohol.

No employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

VIII. NOTIFICATION OF CRIMINAL DRUG CONVICTION

All employees must, as a condition of employment, abide by the terms of this policy and report any conviction under a criminal drug statute for violations occurring on or off District premises while conducting District business. A report of conviction must be made to the human resources contact within five days after conviction, as mandated by the Federal Drug-Free Workplace Act of 1988 and the California Drug-Free Workplace Act of 1990. Failure to report such convictions may subject the employee to disciplinary action, up to and including dismissal.

IX. PRESCRIPTION AND NON-PRESCRIPTION SUBSTANCES

Using or being under the influence of any legally obtained drug by an employee while performing District business, while on District property, or while on standby is prohibited if such use or influence may affect the safety of the employee, co-workers, members of the public, the employee's job performance, or the safe or efficient operation of the District's business.

An employee may continue to work, even though under the influence of a legal substance, if District management has determined, after consulting with a competent medical authority, that the employee does not pose a threat to their own safety or their co-workers and that the employee's job performance is not significantly affected by the legal drug. Otherwise, the employee may be reassigned to an alternative position, if available, or be required to take a leave of absence or comply with other appropriate action as determined by the District.

Failure to report the use of such drugs or failure to provide proper evidence of medical authorization may result in disciplinary action.

X. VOLUNTARY ADMITTANCE

Employees who believe they may have a substance abuse problem are encouraged to seek assistance for resolving that problem. An employee voluntarily seeking help can make a confidential request for assistance to their supervisor. The employee will be referred to a SAP for assessment and rehabilitation recommendations.

Prior to the assessment, the employee must sign a release of information that will enable the DER to receive the results of the assessment, and to receive subsequent reports related to the assessment, and the driver's successful completion of all recommendations for assistance.

Employees may use accumulated sick leave, vacation time, or compensatory time to participate in a rehabilitation program. The District will not be responsible for program costs.

Employees who admit to alcohol misuse or controlled substances use are not subject to disciplinary measures provided that the employee does not self-identify in order to avoid testing under the requirements of this program.

After approval from the SAP, the employee may return to work and may be subject to unannounced follow up testing, based on the SAP's recommendations. Any employee failing to complete the program will be subject to termination.

NOTE: Health insurance plans may provide coverage for rehabilitation costs. Health benefits information can be obtained from the District's human resources contact.

The following conditions must apply to the employee's self-admission:

1. The employee's admission cannot be made during his/her on-duty time. It must occur prior to the employee's reporting for duty on any particular day.
2. The employee's admission cannot be made in an attempt to avoid a required drug and/or alcohol test.
3. Under 49 CFR Part 382.121, FMCSA requires the driver be removed from safety-sensitive functions, including driving.
4. When the DER is satisfied that the driver has successfully complied with the SAP's recommendations for assistance, the employee's supervisor may return the employee to duty, including safety-sensitive functions, provided that:
 - a. Prior to returning to safety-sensitive functions, the employee will be required to provide a negative DOT drug and/or alcohol test result, and
 - b. An employee who self-identifies under this policy, and who then fails to comply with the SAP's recommendations will be considered to have engaged in conduct prohibited by this policy.

[Agency name] will adhere to the following terms, in accordance with its policy and 49 CFR Part 382.121:

1. No adverse action will be taken against a driver who admits to drug and/or alcohol use under the terms above, provided he/she cooperates with the assessment and recommendations for treatment.
2. An employee who self-identifies under this program will be given reasonable time to obtain the required assessment and assistance.
3. An employee, who complies with all requirements and the SAP's recommendations for assistance, will be permitted to return to duty.
4. A safety-sensitive employee who cooperates and successfully complies with this program will not be considered to have had a FMCSA violation of prohibited conduct under 49 CFR Part 382, Subpart B.
5. An employee who fails to comply with treatment recommendations, either under this provision, or as recommended by a SAP, will be subject to disciplinary action up to and including termination of employment.

XI. TESTING FOR PROHIBITED SUBSTANCES

Testing will be conducted in a manner to assure a high degree of accuracy and reliability, using techniques, equipment, and laboratory facilities approved by the Department of Health and Human Services (DHHS).

Controlled substance testing includes marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). An initial controlled substance screen will be conducted on each specimen. For specimens that test above initial screening thresholds, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the controlled substance levels are above the minimum thresholds established in the DOT guidelines (49 CFR, Part 40).

Tests for alcohol concentration will be conducted utilizing an approved Evidential Breath Testing (EBT) device operated by a trained Breath Alcohol Technician (BAT). If the initial test indicates an alcohol concentration of 0.02 or greater, a confirmation test will be performed to confirm the result of the initial test. An employee who has a confirmed alcohol concentration of 0.02 but less than 0.04 will be removed from their position for at least 24 hours. A breath alcohol concentration of 0.04 or greater will be considered a positive alcohol test.

A. GENERAL EMPLOYEES

1. Reasonable Suspicion Testing

[Insert agency name] shall conduct a drug and/or alcohol test when a manager or supervisor has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

The determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Reasonable suspicion determinations must be made by a manager or supervisor who is trained to detect the signs and symptoms of controlled substance and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse.

A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

Reasonable suspicion testing may be based upon, among other things:

- a. Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug.
- b. A pattern of abnormal conduct or erratic behavior.
- c. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking.
- d. Adequate documentation of unsatisfactory work performance or on-the-job behavior.
- e. Physical signs and symptoms consistent with prohibited substance use.
- f. Occurrence of a serious or potentially serious accident that may have been caused by human error.
- g. Fights (to mean physical contact), assaults and flagrant disregard or violations of established safety, security, or other operation procedures.

The manager or supervisor requesting an employee to submit to a drug or alcohol test based on reasonable suspicion must document facts constituting reasonable suspicion in writing (**See Appendix H – “Reasonable Suspicion Documentation Form”**).

Employees reasonably believed to be under the influence of drugs or alcohol will not be permitted to engage in further work. In addition, such employees will not be permitted to drive themselves from the worksite. A supervisor will see that the employee is transported to the designated collection center (**See Appendix D – “Collection Center Location”**).

A controlled substance test is considered positive when a verified confirmation test indicates specimens have concentrations of a particular class of drug above the specified concentration levels. Drug classes and threshold concentration levels are listed in the "Controlled Substance (Drug) Test" Definition Section of this policy.

An alcohol test is considered positive when a verified confirmation test indicates a breath alcohol content greater than 0.04. "Alcohol Concentration Level" is defined in the Definition Section of this policy.

Following a reasonable suspicion determination, a supervisor or manager will take the following actions immediately:

- a. Confront the employee involved, and keep under direct observation until the situation is resolved.
- b. Secure the alcohol and drug program administrator's concurrence to observations; job performance and company policy violations must be specific.
- c. After discussing the circumstances with the supervisor or dispatcher, the alcohol and drug program administrator will arrange to observe or talk with the employee. If he/she believes, after observing or talking to the employee, that the conduct or performance problem could be due to substance abuse, the employee will be immediately informed that continued refusal will result in disciplinary measures up to and including termination.
- d. Employees will be asked to release any evidence relating to the observation for further testing. Failure to comply may subject the employee to subsequent discipline or suspension from duties. All confiscated evidence will be receipted for with signatures of both the receiving supervisor, as well as the provider.
- e. If upon confrontation by the supervisor or manager, the employee admits to use but requests assistance, the alcohol and drug program administrator will arrange for assessment by an appropriate substance abuse professional (SAP).

2. Manager / Supervisor Training

Reasonable suspicion determinations should be made by a manager or supervisor who is trained to detect the signs and symptoms of controlled substance and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse.

Managers and supervisors should receive at least 60 minutes of training on alcohol misuse and at least 60 minutes of training on controlled substances use. The training will be used by the supervisors and/or managers to determine whether reasonable suspicion exists to require an

employee to undergo testing. The training will include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

B. SAFETY/SECURITY SENSITIVE EMPLOYEES (NON-DOT)

1. Covered Employees

See Appendix B – “Covered Positions by Job Title.”

2. Pre-Placement/Post Offer Controlled Substance (Drug) Testing

An applicant for a safety/security sensitive position with the District will be required to undergo a drug screening analysis prior to employment. Any offer of employment will be conditioned upon compliance with this policy. The applicant will be requested to execute a consent form which includes a waiver and release. The “Controlled Substances Custody and Control Form” will be completed by the applicant and collection center at the time of collection. A positive test indicating the presence of controlled substances as defined in this policy may constitute disqualification of the applicant for the position for a period of six months.

3. Reasonable Suspicion Testing

A drug and/or alcohol test shall be conducted when a manager or supervisor has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

The determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor, or other company official, who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.

If an alcohol test is not administered within two hours following the determination to conduct a reasonable suspicion test, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following the determination to test, cease attempts to administer an alcohol test and update the record with the reasons for not administering the test.

A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24

hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

a. Reasonable suspicion testing may be based upon, among other things:

- 1) Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug.
- 2) A pattern of abnormal conduct or erratic behavior.
- 3) Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking.
- 4) Adequate documentation of unsatisfactory work performance or on-the-job behavior.
- 5) Physical signs and symptoms consistent with prohibited substance use.
- 6) Occurrence of a serious or potentially serious accident that may have been caused by human error.
- 7) Fights (to mean physical contact), assaults and flagrant disregard or violations of established safety, security, or other operation procedures.

Reasonable suspicion determinations will be made by a manager or supervisor who is trained to detect the signs and symptoms of controlled substance and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse. (See **Appendix H – “Reasonable Suspicion Documentation Form”**).

b. Employees reasonably believed to be under the influence of drugs or alcohol will not be permitted to engage in further work. In addition, such employees will not be permitted to drive themselves from the worksite. A supervisor will see that the employee is transported to the designated collection center (See **Appendix D – “Collection Center Location”**).

c. A controlled substance test is considered positive when a verified confirmation test indicates specimens have concentrations of a particular class of drug above the specified concentration levels. Drug classes and threshold concentration levels are listed in the “Controlled Substance (Drug) Test” Definition Section of this policy.

d. An alcohol test is considered positive when a verified confirmation test indicates a breath alcohol content greater than 0.04. “Alcohol Concentration Level” is defined in the Definition Section of this policy.

4. Manager / Supervisor Training

Supervisors and managers will receive at least 60 minutes of training on alcohol misuse and at least 60 minutes of training on controlled substances use. The training will be used by the supervisors and/or managers to determine whether reasonable suspicion exists to require an employee to undergo testing. The training will include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

C. SAFETY-SENSITIVE / DOT-COVERED EMPLOYEES

The adverse impact of substance abuse by drivers has been recognized by the federal government. The Federal Motor Carrier Safety Administration (FMCSA) has issued regulations which may require [agency name] to implement a controlled substance testing program. [Agency name] will comply with these regulations and is committed to maintaining a drug-free workplace. All drivers are advised that remaining drug-free and medically qualified to drive are conditions of continued employment with [agency name].

1. Covered Employees

This policy applies to every employee whose position requires the possession of a commercial driver's license (CDL); every employee performing a "safety-sensitive function" as defined herein, and any person applying for such positions.

Under FMCSA, an employee is performing a safety sensitive function if they are:

- a. Driving a commercial motor vehicle which requires the driver to have a commercial driver's license (CDL)
- b. Inspecting, servicing, or repairing any commercial motor vehicle
- c. Waiting to be dispatched to operate a commercial motor vehicle
- d. Performing all other functions in or upon a commercial motor vehicle
- e. Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments being loaded or unloaded
- f. Performing driver requirements associated with an accident.
- g. Repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

A volunteer is a covered employee if:

- a. The volunteer is required to hold a commercial driver's license to operate the vehicle; or

- b. The volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity.

2. Testing Procedure

All testing will be conducted as required in 49 CFR Parts 40 and 382, as amended.

3. Pre-Placement/Post Offer Controlled Substance (Drug) Testing

- a. A negative pre-employment drug test result is required before an employee can first perform safety-sensitive duties.
- b. An applicant for a safety-sensitive position with the District will be required to undergo a drug screening analysis after an offer of employment has been made but before the applicant begins work for the District. Any offer of employment will be conditioned upon compliance with this policy.
- c. A positive test indicating the presence of controlled substances as defined in this policy may constitute disqualification of the applicant for the position for a period of six months. The District will notify disqualified applicants of the results of a drug test conducted under the DOT regulations if the driver requests the result within 60 days of being notified of the disposition of the employment application.
- d. An employer is not required to administer a pre-employment controlled substances test if:
 - 1. The driver has participated in a controlled substances testing program that meets the requirements of this part within the previous 30 days; and
 - 2. While participating in that program, either:
 - a) Was tested for controlled substances within the past 6 months (from the date of application with the employer), or
 - b) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the employer); and
 - c) The employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.
- e. Pre-placement controlled substances tests will also be required for:

1. Existing District employees who newly obtain a Commercial Drivers License or a Hazardous Materials Endorsement to haul hazardous materials (e.g., gaseous chlorine, propane) and will be using these licenses to perform safety sensitive functions within their job description;
2. Existing District employees who are promoted to positions that require a Commercial Drivers License or a Hazardous Materials Endorsement to haul hazardous materials (e.g., gaseous chlorine, propane) and will be using these licenses to perform safety sensitive functions within their job description;
3. Applicant's whose job descriptions include safety sensitive functions that are subject to DOT guidelines and have not been part of a drug program that complies with the FMCSA regulations for the previous 30 days; and
4. Existing District employees who are newly subject to a recently implemented District program and have not been tested for controlled substances in the previous six months or have not participated in a random drug and/or alcohol testing program for the previous 12 months.

f. Prior Employment Drug and Alcohol Testing Records

The District will make a good faith effort to obtain previous test information from the last two years from an applicant's previous employers. In this context, a good faith effort includes completing the **"Request for Past Test Results Form"** (Appendix E), enclosing the **"Report of Past Driver Drug and/or Alcohol Test Results Form"** (Appendix F), and sending the forms to each of the employers listed on the application in order to obtain the information from the previous two years. If there is no reply, a follow up phone call will be made in a further attempt to obtain the information. All requests will be documented and kept on file.

The District will review previous test information collected from prior employers for the following:

1. Alcohol test results with a breath alcohol concentration of 0.04 or greater;
2. Positive drug test results; and
3. Refusals to submit to a required alcohol or drug test.

If the District learns that the applicant tested positive for drugs, had an alcohol test result of 0.04 or greater, or refused to be tested, the applicant will not be allowed to perform safety sensitive functions until the District has evidence that the driver has met the return-to-duty requirements. The District will obtain evidence that the applicant was

evaluated by a SAP, completed any required counseling, passed a return-to-duty test, and was subject to any required follow up testing.

4. Reasonable Suspicion Testing

A drug and/or alcohol test shall be conducted when a manager or supervisor has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

The determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor, or other company official, who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.

A covered employee may be directed to undergo reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

If an alcohol test is not administered within two hours following the determination to conduct a reasonable suspicion test, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following the determination to test, cease attempts to administer an alcohol test and update the record with the reasons for not administering the test.

A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

a. Reasonable suspicion testing may be based upon, among other things:

- 8) Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug.
- 9) A pattern of abnormal conduct or erratic behavior.
- 10) Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking.
- 11) Adequate documentation of unsatisfactory work performance or on-the-job behavior.

- 12) Physical signs and symptoms consistent with prohibited substance use.
 - 13) Occurrence of a serious or potentially serious accident that may have been caused by human error.
 - 14) Fights (to mean physical contact), assaults and flagrant disregard or violations of established safety, security, or other operation procedures.
- b. Reasonable suspicion determinations will be made by a manager or supervisor who is trained to detect the signs and symptoms of controlled substance and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse. The manager or supervisor requesting an employee to submit to a drug or alcohol test based on reasonable suspicion must document facts constituting reasonable suspicion in writing (**See Appendix H – Reasonable Suspicion Documentation Form**).
- c. Employees reasonably believed to be under the influence of drugs or alcohol will not be permitted to engage in further work. In addition, such employees will not be permitted to drive themselves from the worksite. A supervisor will see that the employee is transported to the designated collection center (**See Appendix D – “Collection Center Location”**).
- d. A controlled substance test is considered positive when a verified confirmation test indicates specimens have concentrations of a particular class of drug above the specified concentration levels. Drug classes and threshold concentration levels are listed in the “Controlled Substance (Drug) Test” Definition Section of this policy.
- e. An alcohol test is considered positive when a verified confirmation test indicates a breath alcohol content greater than 0.04. “Alcohol Concentration Level” is defined in the Definition Section of this policy.

5. Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year.

Random testing must be conducted at all times of day when safety-sensitive functions are performed.

The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with

employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

Annually, at least 50% of the pool will be randomly tested for drugs, and at least 10% of the pool will be tested for alcohol, in accordance with DOT regulations. Testing rates will meet or exceed the minimal annual percentage rate set each year by the DOT Administrator.

The pool administrator will notify the District's designated employer representative at the beginning of the quarter if any District employees are selected with the computerized random number generator. The supervisor then has the entire quarter to send the selected employee to the designated collection center or arrange for an on-site collection (**See Appendix D – "Collection Center Location"**).

Each employee selected for testing shall be tested during the selection period. A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing shall proceed to the test site immediately.

In the event an employee, who is selected for a random test, is on vacation, laid off, or on an extended medical absence during the quarter of selection, an alternate employee will be randomly selected, and the unavailable employee will be put back into the pool for the next quarter. When this occurs, the District will keep documentation that the driver was ill, injured, laid off, or on vacation and that the employee was in the random selection pool for that cycle.

6. Post Accident Testing

- a. A supervisor shall be notified immediately following an accident to ensure proper post-accident instructions. The supervisor will determine if a test is necessary (**See Appendix G – Post-Accident Drug and Alcohol Testing Decision Form**). If a test is necessary, the supervisor will see that the driver is transported to the appropriate collection center (**See Appendix D – "Collection Center Location"**).
- b. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road, each employer shall test for alcohol for each of its surviving drivers:

- 1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - 2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - b) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- c. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for controlled substances for each of its surviving drivers:
- 1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - 2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - b) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

The following table notes when a post-accident test is required to be conducted.

Type of accident involved	Citation issued to Commercial Motor Vehicle Driver?	Alcohol and controlled substance test required
i. Human fatality	Yes	Yes
	No	Yes
ii. Bodily injury and immediate medical treatment away from the scene.	Yes	Yes
	No	No
iii. Disabling damage to any motor vehicle requiring tow away	Yes	Yes
	No	No

- c) If a post-accident alcohol test is not administered within two (2) hours following an accident, the supervisor of the employee shall prepare and maintain on file a record stating the reasons the test was not properly administered. If a test is not administered within eight (8) hours after the accident, the supervisor shall cease attempts to have the alcohol test administered, and prepare and maintain on file a record stating the reasons the test was not done within said eight (8) hours.
- d) If a post-accident controlled substances test is not administered within 32 hours of the accident, the supervisor shall cease attempts to have the controlled substances test administered, and prepare and maintain on file a record stating the reasons the test was not done within said 32 hours.
- e) An employee subject to post-accident testing shall remain readily available for such testing, including notifying his/her supervisor of his/her location if he/she leaves the accident scene. An employee who fails to do so shall be deemed to have refused to submit to testing.
- f) An employee who knowingly, willingly, or purposely evades a post-accident alcohol or controlled substance test will be subject to termination under "Refusal to Submit" guidelines as outlined under definitions in this policy.
- g) Nothing herein shall be construed to require the delay of necessary medical attention for the injured or to prohibit an employee from leaving the accident scene for the time period required to obtain emergency assistance.
- h) In lieu of administering a post-accident test, the District may substitute a test administered by on-site police or public safety officials under

separate authority. The District may substitute a blood or breath alcohol test and a urine drug test performed by such local officials, using procedures required by their jurisdictions. The District will obtain a copy of these test results and keep them on file.

7. Manager / Supervisor Training

Supervisors and managers will receive at least 60 minutes of training on alcohol misuse and at least 60 minutes of training on controlled substances use. The training will be used by the supervisors and/or managers to determine whether reasonable suspicion exists to require an employee to undergo testing. The training will include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

XII. REFUSAL TO SUBMIT

Any employee who refuses to submit to a drug or alcohol test immediately when requested by a supervisor or law enforcement personnel will be treated in the same manner as an employee who has failed an alcohol or controlled substance test, as defined in this policy. No applicant who refuses to be tested will be extended an offer of employment. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required.

XIII. FAILURE TO APPEAR FOR TESTING

Failure to appear for testing without a deferral will be considered refusal to participate in testing, and will subject an employee to the range of disciplinary actions, including dismissal, and an applicant to the cancellation of an offer of employment. If an individual fails to appear at the collection site at the assigned time, the collector will contact the Designated Employer Representative (DER).

XIV. VIOLATION OF POLICY AND DISCIPLINARY CONSEQUENCES

An employee may be found to use illegal drugs or alcohol on the basis of any appropriate evidence including, but not limited to:

- Direct observation;
- Evidence obtained from an arrest or criminal conviction;
- A verified positive test result; or
- An employee's voluntary admission.

The District will refer an employee found to use illegal drugs or alcohol to the Substance Abuse Professional and immediately remove the employee from their position. Disciplinary action taken against an employee found to use illegal drugs or alcohol may include the full range of disciplinary actions, including termination. The severity of the action chosen will depend on the circumstances of each case.

At the discretion of the District, and as part of SAP counseling, an employee may return to duty if the employee's return would not endanger public health or safety.

The terms and conditions of the disciplinary consequences, if any, utilized by the district will not expand the rights and limitations of the employee under the "at will" provision of the employee handbook or the terms and conditions of any MOU between the District and the employee association.

A rehabilitation program may be available for those employees having a positive controlled substance and/or alcohol test. A second verified positive test under any circumstances might constitute cause for immediate termination. Failure to complete a treatment program provided by the Substance Abuse Professional (SAP) will be treated as a second positive test.

The employee will pay rehabilitation program costs and subsequent controlled substance and/or alcohol costs related to return-to-work and follow-up testing. When recommended by the SAP, participation in and completion of the rehabilitation program is mandatory. Prior to return-to-duty testing, an employee must follow the rehabilitation program recommended by the SAP and agree to sign a return-to-duty agreement. The duration and frequency of follow-up testing will be determined by the SAP but will not be shorter than one year or longer than five years.

NOTE: Health insurance plans may provide coverage for rehabilitation costs. Health benefits information can be obtained from the District's human resources contact.

XV. EMPLOYEE RIGHTS

Upon request, the employee will receive a full copy of any test results and related documentation of the testing process.

All confirmed positive samples will be retained by the testing laboratory in secure frozen storage for one year following the test or until the sample is no longer needed for appeal proceedings or litigation, whichever is longer.

XVI. REHABILITATION / RETURN-TO-DUTY

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee is immediately removed from their duties, referred to a substance abuse professional (SAP), and may be subject to disciplinary action up to and including termination.

Following a BAC of 0.02 or greater, but less than 0.04 – the employee is immediately removed from duties until the start of the next regularly scheduled duty period, but not less than 24 hours following administration of the test.

A. Rehabilitation

After a verified positive test result, a conference will be conducted between the employee and a human resources contact. If warranted, the employee will be requested to participate in a substance abuse rehabilitation program developed by a SAP chosen by the District. Details will be outlined in a Return-to-Duty Agreement.

Employees may use accumulated sick leave, vacation time, or compensatory time to participate in a rehabilitation program. Program costs and subsequent controlled substance and/or alcohol-testing costs will be paid by the employee. Failure to participate in and complete such a program may result in employment termination.

B. Return-to-Duty

Employees who have violated the prohibition set forth in this policy will be required to submit to a return-to-duty test before returning to their position. The test result must indicate an alcohol concentration of less than 0.02 and/or a verified negative result on a controlled substance test.

C. Follow-Up Testing

After the return-to-duty test, employees will be subject to unannounced follow-up testing. A SAP will determine the number and frequency of tests, but at least six tests will be performed during the first 12 months following the employee's return to duty. Follow-up testing may be extended up to 60 months from the date of the employee's return to duty, but the SAP can terminate the requirement after the first six tests, if they determine that testing is no longer necessary. The SAP, in coordination with the Drug Program Administrator, will conduct tracking and monitoring of follow-up tests.

XVII. RECORDKEEPING

A. Maintenance of Records

The District will maintain records of its alcohol misuse and controlled substances use prevention programs. The records will be maintained in a secure location with controlled access. The District will maintain the records in accordance with the following schedule:

One Year – Records of negative and cancelled controlled substances test results and alcohol test results with a concentration of less than 0.02.

Two Years – Records relating to the alcohol and controlled substances collection process.

Five Years – The following records will be maintained for a minimum of five years:

- Alcohol results indicating an alcohol concentration of 0.02 or greater.
- Records of verified positive controlled substances test results.
- Documentation of refusals to take required alcohol and/or controlled substances tests.
- Driver evaluation and referrals.
- A copy of each annual calendar year summary.

B. Confidentiality

The District will maintain records of the circumstances and results of any employee testing under this policy. These records, and any other information pertaining to an employee's drug or alcohol test, will be considered confidential and will be released only to:

1. The employee who was tested or other individuals designated in writing by that employee;
2. The Medical Review Officer; or
3. Individuals who need the records or information to:
 - a. Properly supervise or assign the employee;
 - b. Determine, or assist in determining, what action the District should take in response to the test results; or
 - c. Respond to appeals or litigation arising from the drug or alcohol test or related actions.

XVIII. DEFINITIONS

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl or isopropyl alcohol.

Alcohol Concentration means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this regulation. For example, 0.02 means 0.02 grams of alcohol in 210 liters of expired deep lung air. Blood tests will not be used to determine alcohol concentration, unless administered by on-site police or public safety officials in a post accident situation.

Applicant means any individual tentatively selected—

1. For employment with the District; or
2. For a Safety-Sensitive Position, and who has not, immediately prior to the selection, been subject to random testing.

Breath Alcohol Technician (BAT) means a person trained to operate the Evidential Breath Testing (EBT) device that the technician is using in the alcohol testing procedures. BATs are the only qualified personnel to administer the EBT tests.

Chain of Custody means the procedures to account for the integrity of each urine specimen by tracing its handling and storage from point of collection to final disposition.

Collection Site means a place designated by the District where individuals present themselves for the purpose of providing a specimen of either urine and/or breath.

Confirmation Test for alcohol testing means a second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration. For controlled substances testing, it means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test, in order to ensure reliability and accuracy. Gas Chromatography/Mass Spectrometry (GC/MS) is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines, and phencyclidine.

Consortium/Third-Party Administrator (C/TPA) is a service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employer's drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members.

Controlled Substance (Drug) Test is a method of detecting and measuring the presence of controlled substances, whether legal or illegal, in a person's body. A controlled substance test may be either an initial test or a confirmation test. An initial controlled substance test is designed to identify specimens having concentrations of a particular class of drug above a specific concentration level. It eliminates negative specimens from further consideration. A confirmation drug test is a second analytical procedure to detect the presence of a specific drug or its metabolite. The confirmation procedure is conducted independent of the initial test and uses a different technique and chemical principal in order to confirm reliability and accuracy.

Controlled substances will be tested under the Department of Health and Human Service guidelines. The cutoff concentrations below are for initial and confirmation drug tests:

Initial Test Analyte	Initial Test Cutoff Concentration	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Marijuana metabolites	50 ng/mL	THCA ¹	15 ng/mL.
Cocaine metabolites	150 ng/mL	Benzoylcegonine	100 ng/mL.
Opiate metabolites			
Codeine/Morphine ²	2000 ng/mL	Codeine	2000 ng/mL.
		Morphine	2000 ng/mL.
6–Acetylmorphine	10 ng/mL	6–Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamines ³			
AMP/MAMP ⁴	500 ng/mL	Amphetamine	250 ng/mL.
		Methamphetamine ⁵	250 ng/mL.
MDMA ⁶	500 ng/mL	MDMA	250 ng/mL.
		MDA ⁷	250 ng/mL.
		MDEA ⁸	250 ng/mL.

¹Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

²Morphine is the target analyte for codeine/morphine testing.

³Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.

⁴Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

⁵To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

⁶Methylenedioxymethamphetamine (MDMA).

⁷Methylenedioxyamphetamine (MDA).

⁸Methylenedioxyethylamphetamine (MDEA).

Department of Transportation (DOT) Guidelines means the controlled substances and alcohol testing procedures in all transportation industries (49 CFR, Part 40) and for the Federal Motor Carrier Safety Administration (49 CFR, Part 382).

Employee Assistance Program (EAP) means a counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.

Evidential Breath Testing Device (EBT) means the device to be used for breath alcohol testing.

Medical Review Officer means the individual responsible for receiving laboratory results generated from the District's Drug and Alcohol Program who is a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.

Illegal Drugs means a controlled substance included in Schedule I or II, as defined by section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

Performing Safety Sensitive Function means an employee is considered to be performing a safety sensitive function in any period in which they are actually performing, ready to perform, or immediately available to perform such functions.

Post Accident Alcohol and/or Controlled Substance Testing is testing performed on safety-sensitive employees following an accident involving a commercial motor vehicle where:

1. The accident involved a fatality; or
2. The driver receives a citation under state or local law for a moving traffic violation arising from an accident that involved:
 - a. injury requiring medical treatment away from the scene; or
 - b. one or more vehicles having to be towed from the scene.

Pre-Employment Controlled Substance Testing is conducted before applicants begin work, but after an offer to hire. It is also conducted when existing District employees are transferred to a safety sensitive position.

Random Controlled Substance and/or Alcohol Testing means a system of testing imposed without individualized suspicion that a particular individual is using illegal drugs. Testing is conducted on a random, unannounced basis for safety sensitive employees just before, during, or just after performing a safety sensitive function.

Reasonable Suspicion Controlled Substance and/or Alcohol Testing is conducted when a trained supervisor has a good faith belief based on specific, contemporaneous, and articulable facts or evidence that an employee may have violated the prohibitions set forth this policy.

Refusal to Submit means failing to provide an adequate breath or urine sample for testing without a valid medical explanation or engaging in conduct that clearly obstructs the testing process (i.e., verbal declarations, obstructive behavior, or physical absence resulting in the inability to conduct the test.)

Safety-Sensitive Employee is defined as an employee possessing a commercial driver's license and as a part of their job description may operate any of the following vehicles:

1. A vehicle with a gross vehicle weight rating (GVWR) of at least 26,001 pounds;
2. A vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating (GVWR) of more than 10,000 pounds;
3. A vehicle designed to transport 16 or more passengers, including the driver;
or
4. A vehicle used to transport a hazardous material that requires placards.

Substance Abuse Professional (SAP) means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker (with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders (the license alone does not authorize this), Certified Employee Assistance Professional (CEAP), or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances related disorders.

Trained Supervisor means a person in authority who received at least one hour of training on the signs and symptoms of alcohol abuse and at least one hour of training on the signs and symptoms of controlled substance abuse.

Model Drug and Alcohol Program

Appendices

- A. Alcohol and Drug Effects**
- B. Covered Positions by Job Title**
- C. Search/Evidence (Discrepancy) Documentation Form**
- D. Collection Center Locations**
- E. Request for Past Test Results**
- F. Report of Past Driver Drug and/or Alcohol Test Results**
- G. Post-Accident Drug and Alcohol Testing Decision Form**
- H. Reasonable Suspicion Documentation Form**
- I. Drug and Alcohol Testing Program Acknowledgment Form**
- J. Certificate of Receipt of DOT Drug and Alcohol Program**

APPENDIX A

ALCOHOL AND DRUG EFFECTS

Section 382.601(b)(11) FMCSR mandates that all employees be provided with training material discussing the effects of alcohol and controlled substance use on an individual's health, work, and personal life.

This attachment is intended to help individuals understand the personal consequences of substance abuse.

ALCOHOL

Although used routinely as beverage for enjoyment, alcohol can also have negative physical and mood-altering effects when abused. These physical or mental alterations in a driver may have serious personal and public safety risks.

Health Effects

An average of three or more servings per day of beer (12 ounces), whiskey (1 ounce), or wine (6 ounces) over time, may result in the following health hazards:

- * Dependency
- * Fatal liver diseases
- * Kidney failure
- * Pancreatitis
- * Ulcers
- * Decreased sexual function
- * Increased cancers of the mouth, pharynx, esophagus, rectum, breast, and malignant melanoma
- * Spontaneous abortion and neonatal mortality
- * Birth defects

Social Issues

- * 2/3 of all homicides are committed by people who drink prior to the crime.
- * 2 - 3% of the driving population are legally drunk at any one time. This rate doubles at night and on weekends.
- * 2/3 of all Americans will be involved in an alcohol-related vehicle accident during their lifetime.
- * The separation and divorce rate in families with alcohol dependency problems is 7 times the average.
- * 40% of family court cases are alcohol-related.
- * Alcoholics are 15 times more likely to commit suicide.
- * More than 60% of burns, 40% of falls, 69% of boating accidents, and 76% of private aircraft accidents are alcohol-related.

- * Over 17,000 fatalities occurred in 1993 in highway accidents, which were alcohol-related. This was 43% of all highway fatalities.
- * 30,000 people will die each year from alcohol-caused liver disease.
- * 10,000 people will die each year due to alcohol-related brain disease or suicide.
- * Up to 125,000 people die each year due to alcohol-related conditions or accidents.

Workplace Issues

- * It takes one hour for the average person (150 pounds) to process one serving of alcohol from the body.
- * Impairment can be measured with as little as two drinks in the body.
- * A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

ALCOHOL'S TRIP THROUGH THE BODY

Mouth and Esophagus: Alcohol is an irritant to the delicate linings of the throat and food pipe. It burns as it goes down.

Stomach and Intestines: Alcohol has an irritating effect on the stomach's protective lining, resulting in gastric or duodenal ulcers. This condition, if it becomes acute, can cause peritonitis, or perforation of the stomach wall. In the small intestine, alcohol blocks absorption of such substances as thiamine, folic acid, fat, vitamin B1, vitamin B12, and amino acids.

Bloodstream: 95% of the alcohol taken into the body is absorbed into the bloodstream through the lining of the stomach and duodenum. Once in the bloodstream, alcohol quickly goes to every cell and tissue in the body. Alcohol causes red blood cells to clump together in sticky wads, slowing circulation and depriving tissues of oxygen. It also causes anemia by reduction red blood cell production. Alcohol slows the ability of white cells to engulf and destroy bacteria and degenerates the clotting ability of blood platelets.

Pancreas: Alcohol irritates the cells of the pancreas, causing them to swell, thus blocking the flow of digestive enzymes. The chemicals, unable to enter the small intestine, begin to digest the pancreas, leading to acute hemorrhagic pancreatitis. One out of five patients who develop this disease dies during the first attack. Pancreatitis can destroy the pancreas and cause a lack of insulin, thus resulting in diabetes.

Liver: Alcohol inflames the cells of the liver, causing them to swell and block the tiny canal to the small intestines. This prevents bile from being filtered properly through the liver. Jaundice develops, turning the whites of the eyes and skin yellow. Each drink of alcohol increases the number of liver cells destroyed, eventually causing cirrhosis of the

liver. This disease is eight times more frequent among alcoholics than among non-alcoholics.

Heart: Alcohol causes inflammation of the heart muscle. It has a toxic effect on the heart and causes increased amounts of fat to collect, thus disrupting its normal metabolism.

Urinary Bladder and Kidneys: Alcohol inflames the lining of the urinary bladder making it unable to stretch properly. In the kidneys, alcohol causes increased loss of fluids through its irritating effect.

Sex Gland: Swelling of the prostate gland caused by alcohol interferes with the ability of the male to perform sexually. It also interferes with the ability to climax during intercourse.

Brain: The most dramatic and noticed effect of alcohol is on the brain. It depresses brain centers, producing progressive lack of coordination: confusion, disorientation, stupor, anesthesia, coma, death. Alcohol kills brain cells and brain damage is permanent. Drinking over a period of time causes loss of memory, judgment and learning ability.

DRUGS

Marijuana

Health Effects

- * Emphysema-like conditions.
- * One joint of marijuana contains cancer-causing substances equal to 1/2 pack of cigarettes.
- * One joint causes the heart to race and be overworked. People with heart conditions are at risk.
- * Marijuana is commonly contaminated with the fungus *Aspergillus* which can cause serious respiratory tract and sinus infections.
- * Marijuana lowers the body's immune system response, making users more susceptible to infection.
- * Chronic smoking causes changes in brain cells and brain waves. The brain does not work as efficiently or effectively. Long-term brain damage may occur.
- * Tetrahydrocannabinol (THC) and 60 other chemicals in marijuana concentrate in the ovaries and testes.
- * Chronic smoking of marijuana in males causes a decrease in testosterone and an increase in estrogen, the female hormone. As a result, the sperm count is reduced, leading to temporary sterility.
- * Chronic smoking of marijuana in females causes a decrease in fertility.
- * A higher than normal incidence of stillborn babies, early termination of pregnancy, and higher infant mortality rate during the first few days of life is common in pregnant marijuana smokers.

- * THC causes birth defects including brain damage, spinal cord, forelimbs, liver and water on the brain and spine in test animals.
- * Prenatal exposure may cause underweight newborn babies.
- * Fetal exposure may decrease visual functioning.
- * User's mental function can display the following effects:
 - delayed decision making
 - diminished concentration
 - impaired short-term memory
 - impaired signal detection
 - impaired tracking
 - erratic cognitive function
 - distortion of time estimation

Workplace Issues

- * THC is stored in body fat and slowly released.
- * Marijuana smoking has long-term effects on performance.
- * Increased THC potency in modern marijuana dramatically compounds the side effects.
- * Combining alcohol or other depressant drugs with marijuana increases the impairing effects of both.

Cocaine

Used medically as a local anesthetic. When abused, it becomes a powerful physical and mental stimulant. The entire nervous system is energized. Muscles tense, heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

Health Effects

- * Regular use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing damage to critical nerve cells. Parkinson's disease could also occur.
- * Cocaine causes the heart to beat faster, harder, and rapidly increases blood pressure. It also causes spasms of blood vessels in the brain and heart. Both lead to ruptured vessels causing strokes and heart attacks.
- * Strong dependence can occur with one "hit" of cocaine. Usually mental dependency occurs within days for "crack" or within several months for snorting coke. Cocaine causes the strongest mental dependency of all the drugs.
- * Treatment success rates are lower than with any other chemical dependency.
- * Extremely dangerous when taken with other depressant drugs. Death due to overdose is rapid. Fatal effects are usually not reversible by medical intervention.

Workplace Issues

- * Extreme mood and energy swings create instability. Sudden noise causes a violent reaction.
- * Lapses in attention and ignoring warning signals increases probability of accidents.
- * High cost frequently leads to theft and/or dealing.
- * Paranoia and withdrawal may create unpredictable or violent behavior.
- * Performance is characterized by forgetfulness, absenteeism, tardiness, and missing assignments.

Opiates

Narcotic drugs which alleviate pain and depress body functions and reactions.

Health Effects

- * IV needle users have a high risk of contracting hepatitis or AID when sharing needle.
- * Increased pain tolerance. As a result, people may more severely injure themselves and fail to seek medical attention as needed.
- * Narcotic effects are multiplied when combined with other depressants causing an increased risk for overdose.
- * Because of tolerance, there is an ever increasing need for more.
- * Strong mental and physical dependency occurs.
- * With increased tolerance and dependency combined, there is a serious financial burden for the users.

Amphetamines

Central nervous system stimulant that speeds up the mind and body.

Health Effects

- * Regular use causes strong psychological dependency and increased tolerance.
- * High doses may cause toxic psychosis resembling schizophrenia.
- * Intoxication may induce a heart attack or stroke due to increased blood pressure.
- * Chronic use may cause heart or brain damage due to severe constriction of capillary blood vessels.
- * Euphoric stimulation increases impulsive and risk taking behavior, including bizarre and violent acts.
- * Withdrawal may result in severe physical and mental depression.

Workplace Issues

- * Since the drug alleviates the sensation of fatigue, it may be abused to increase alertness during periods of overtime or failure to get rest.
- * With heavy use or increasing fatigue, the short-term mental or physical enhancement reverses and becomes impairment.

Phencyclidine (PCP)

Often used as a large animal tranquilizer and abused primarily for its mood altering effects. Low doses produce sedation and euphoric mood changes. Mood can rapidly change from sedation to excitation and a blank stare. Sudden noises or physical shocks may cause a "freak out" in which the person has abnormal strength, violent behavior, and an inability to speak or comprehend.

Health Effects

- * The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body.
- * PCP, when combined with other depressants, including alcohol, increases the possibility of an overdose.
- * If misdiagnosed as LSD induced, and treated with Thorazine, can be fatal.
- * Irreversible memory loss, personality changes, and thought disorders may result.

Workplace Issues

- * Not common in workplace primarily because of the severe disorientation that occurs.
- * There are four phases to PCP abuse:
 - Acute toxicity causing combativeness, catatonia, convulsions, and coma. Distortions of size, shape, and distorted perception are common.
 - Toxic psychosis with visual and auditory delusions, paranoia, and agitation.
 - Drug induced schizophrenia.
 - Induced depression which may create suicidal tendencies and mental dysfunction.

APPENDIX B

Covered Positions by Job Title

APPENDIX D

Collection Center Location for Random Testing

ABC Center
123 A Street
Anywhere, CA
(888) 555-1212

Collection Center Location for Post Accident Testing (Open 24 hours)

DEF Center
456 B Street
Anywhere, CA
(888) 555-1313

REQUEST FOR PAST TEST RESULTS

To:
From:
Subject: **Request to Obtain Past Drug and Alcohol Test Results**
Date:

_____ (Insert applicant's name) has advised us that he/she worked for your company as a driver, or that he/she applied to your company for work as a driver, during the previous two (2) years.

Regulations of the Federal Motor Carrier Safety Administration (FMCSA) require us to obtain from your company, and require your company to provide to us, information concerning the above-named driver's past drug and alcohol test results (including refusal to be tested).

In accordance with FMCSA regulations, therefore, we are providing you with the driver's written authorization directing your company to provide us with the following information concerning this driver:

- (1) Alcohol tests with a result of 0.04 or higher alcohol concentration;
- (2) Verified positive drug tests;
- (3) Refusals to be tested (including verified adulterated or substituted drug test results);
- (4) Other violations of DOT agency drug and alcohol testing regulations; and
- (5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests).

Please send this information to:

The information which you furnish will be treated as strictly confidential. Thank you for your cooperation.

Sincerely,

REPORT OF PAST DRIVER DRUG AND/OR ALCOHOL TEST RESULTS

INSTRUCTIONS: Motor carriers for whom a driver previously worked are required to provide the following information concerning the results of a driver's drug and alcohol tests to a motor carrier to whom the driver has applied for work, if provided with the driver's written authorization to release those results:

- (1) Alcohol tests with a result of 0.04 or higher alcohol concentration;
(2) Verified positive drug tests;
(3) Refusals to be tested (including verified adulterated or substituted drug test results);
(4) Other violations of DOT agency drug and alcohol testing regulations; and
(5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests).

(i) all verified positive and negative drug and alcohol tests during the previous two (2) years; (ii) all alcohol test results of 0.04 or greater during the previous two (2) years; (iii) all alcohol test results of 0.02 or greater but less than 0.04 during the previous two (2) years; (iv) all instances in which the driver refused to submit to a drug and/or alcohol test during the previous two (2) years. This form should be used for that purpose.

To: _____ (name of Company requesting results)

In accordance with your Company's request, the following are the results of drug and alcohol tests conducted by _____ during the period _____ to _____. These test results are being provided to you as a result of your Company having provided us with the written authorization of the driver to release these test results for the period of time specified above.

Past Drug Test Results: No Drug Test Conducted During Period Specified

Date of Test: _____ Negative Positive Refused to be Tested
Date of Test: _____ Negative Positive Refused to be Tested
Date of Test: _____ Negative Positive Refused to be Tested
Date of Test: _____ Negative Positive Refused to be Tested

Past Alcohol Test Results: No Alcohol Test Conducted During Period Specified

Date of Test: _____ Negative 0.04 or greater Refused to be Tested
Date of Test: _____ Negative 0.04 or greater Refused to be Tested
Date of Test: _____ Negative 0.04 or greater Refused to be Tested
Date of Test: _____ Negative 0.04 or greater Refused to be Tested

Date Name of Person Completing Form Title

Post-Accident Drug and Alcohol Testing Decision Form

Accident Information:

Date of Accident _____ Time of Accident: _____

Location of Accident _____

Employee Name: _____

Decision Questions:

1. Was the employee operating a commercial motor vehicle? Yes _____ No _____

If NO, the test should not proceed under FMCSA testing rules. Local administrative rules may apply.

2. Was there a **fatality**? Yes _____ No _____

If yes, DOT drug and alcohol testing required

If there was **NO fatality**, answer the following questions:

3. Did the person performing safety-sensitive functions with respect to the vehicle **receive a citation** under State or local law for a moving traffic violation arising from the accident?

Yes _____ No _____

4. Did the accident involve **bodily injury** to any person who, as a result of the injury, immediately received medical treatment away from the scene of the accident?

Yes _____ No _____

Did one or more motor vehicles incur **disabling damage** as a result of the accident **requiring transportation away from the scene** by a tow truck or other motor vehicle?

Yes _____ No _____

• **If there was NO fatality AND you checked YES for QUESTION 3 AND either or both of the answers to QUESTION 4, a FMCSA Post-Accident DRUG and ALCOHOL test IS REQUIRED.**

• **If there was NO fatality AND you checked NO for QUESTION 3, a FMCSA Post-Accident DRUG and ALCOHOL test should not be administered.**

If ALCOHOL testing is not conducted within 2 hours after the accident, document the reason for the delay on the reverse side of this form. If no alcohol test is administered within 8 hours, cease all efforts to have the test administered and update the documentation.

If DRUG test is not conducted within 32 hours after the accident, cease all efforts to administer the drug test and document the reason why the test was not administered.

Reason the ALCOHOL test was not conducted within 2 hours of the accident. Update this statement if no test conducted within 8 hours.

Reason the DRUG test was not conducted within 32 hours of the accident.

Supervisor Name: _____

Supervisor Signature: _____

Date: _____

Testing Clinic Location: _____

Date Arrived At Clinic: _____ Time: _____

APPENDIX H
REASONABLE SUSPICION DOCUMENTATION FORM

Agenda Item 6

Employee is reporting for duty

Employee is already on duty

EMPLOYEE NAME:		DATE OF OBSERVATION:	
LOCATION:		TIME OF OBSERVATION AM PM	
FROM		TO	
OBSERVED PERSONAL BEHAVIOR (CHECK ALL APPROPRIATE ITEMS)			
BREATH: (Odor of alcoholic beverage)	<input type="checkbox"/> Strong <input type="checkbox"/> None	<input type="checkbox"/> Faint	<input type="checkbox"/> Moderate
EYES:	<input type="checkbox"/> Bloodshot <input type="checkbox"/> Clear <input type="checkbox"/> Dilated Pupils	<input type="checkbox"/> Glassy <input type="checkbox"/> Heavy Eyelids	<input type="checkbox"/> Normal <input type="checkbox"/> Fixed Pupils
SPEECH:	<input type="checkbox"/> Confused <input type="checkbox"/> Slurred <input type="checkbox"/> Stuttering <input type="checkbox"/> Not Understandable	<input type="checkbox"/> Mumbling <input type="checkbox"/> Good <input type="checkbox"/> Cotton Mouthed	<input type="checkbox"/> Thick Tongued <input type="checkbox"/> Fair <input type="checkbox"/> Mush Mouthed
ATTITUDE:	<input type="checkbox"/> Excited <input type="checkbox"/> Indifferent <input type="checkbox"/> Care Free <input type="checkbox"/> Cooperative	<input type="checkbox"/> Combative <input type="checkbox"/> Talkative <input type="checkbox"/> Cocky <input type="checkbox"/> Profane	<input type="checkbox"/> Hilarious <input type="checkbox"/> Insulting <input type="checkbox"/> Sleepy <input type="checkbox"/> Polite
UNUSUAL ACTION:	<input type="checkbox"/> Hiccoughing <input type="checkbox"/> Fighting <input type="checkbox"/> Other:	<input type="checkbox"/> Belching <input type="checkbox"/> Crying	<input type="checkbox"/> Vomiting <input type="checkbox"/> Laughing
BALANCE:	<input type="checkbox"/> Falling <input type="checkbox"/> Swaying	<input type="checkbox"/> Needs Support <input type="checkbox"/> Other:	<input type="checkbox"/> Wobbling
WALKING:	<input type="checkbox"/> Falling <input type="checkbox"/> Swaying	<input type="checkbox"/> Staggering	<input type="checkbox"/> Stumbling
TURNING:	<input type="checkbox"/> Falling <input type="checkbox"/> Swaying	<input type="checkbox"/> Staggering <input type="checkbox"/> Hesitant	<input type="checkbox"/> Stumbling
ANY OTHER UNUSUAL ACTIONS OR STATEMENTS:			

SIGNS OR COMPLAINTS OF ILLNESS OR INJURY:

SUPERVISOR'S OPINION		
EFFECTS OF ALCOHOL/DRUG INTOXICATION	<input type="checkbox"/> NONE <input type="checkbox"/> EXTREME	<input type="checkbox"/> SLIGHT <input type="checkbox"/> OBVIOUS
OPERATION OF EQUIPMENT	<input type="checkbox"/> YES <input type="checkbox"/> NO	COMMENTS:
ADDITIONAL COMMENTS:		

Reasonable Suspicion Test Refused Yes No Date _____ Time _____
 Reasonable Suspicion Test Performed Yes No Date _____ Time _____

Clinic: _____

Supervisor: _____ Signature of Supervisor _____
 Date _____ Time _____

Witness: _____ Signature _____
 (if available and trained in Reasonable Suspicion)
 Date _____ Time _____

APPENDIX I

**DRUG AND ALCOHOL TESTING PROGRAM
ACKNOWLEDGMENT FORM**

I, _____, have received a copy, read and understand the Drug and Alcohol Testing Program policy and its supporting documents. I consent to submit to the drug and alcohol testing program as required by the Drug and Alcohol Program policy, its supporting documents and the law.

(FOR SAFETY-SENSITIVE CLASSIFICATIONS) I hereby certify that I have received, read and understand the materials listed above regarding the DOT/FMCSA 49 CFR Part 40 & Part 382 Regulations on Controlled Substances and Alcohol Use and Testing and all other applicable operating administration rules.

ANY EMPLOYEE WHO REFUSES TO COMPLY WITH THE REQUIREMENTS OF THE DRUG & ALCOHOL TESTING POLICY MAY BE SUBJECT TO DISCIPLINARY ACTION UP TO AND INCLUDING TERMINATION.

DO NOT SIGN THIS ACKNOWLEDGEMENT FORM UNTIL YOU HAVE READ, UNDERSTAND, AND AGREE TO COMPLY WITH THE POLICY PROVISIONS LISTED ABOVE.

Employee's Signature: _____ Date:
____/____/____

APPENDIX J

CERTIFICATE OF RECEIPT OF DOT DRUG AND ALCOHOL PROGRAM

I certify that I have received, read and understand [agency's] policies, procedures and education materials required by the Department of Transportation. Specifically, I certify that I have received detailed information setting forth:

- (1) The identity of the person designated to answer questions about these materials;
- (2) Who is covered by the regulations;
- (3) Information on what period of the work day I am required to be in compliance with the regulations;
- (4) Specific information concerning what is prohibited by the regulations and by [agency] policy;
- (5) The circumstances under which I will be tested for alcohol and/or controlled substances under the regulations;
- (6) The procedures that will be used to testing for the presence of alcohol and controlled substances;
- (7) The requirement that I must submit to alcohol and/or controlled substances testing as required by the regulations and [agency] policy;
- (8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the consequences for refusing to submit to testing;
- (9) The consequences under the regulations and the consequences as a matter of [agency] policy if I violate the regulations, refuse to be tested and/or test positive, including the requirement that I be removed immediately from safety-sensitive functions;
- (10) The consequences if I test positive for alcohol at the level of 0.02 or greater but less than 0.04; and
- (11) Information concerning the effects of alcohol and controlled substances use on my health, work and personal life, and signs and symptoms of alcohol or controlled substances problems.

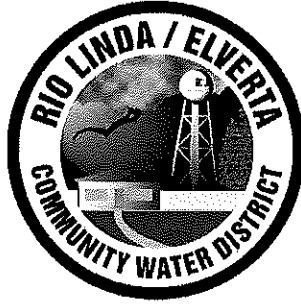
I understand that if I am concerned about my use of alcohol and controlled substances or the use of alcohol or controlled substances by a co-worker, I can and should seek assistance from [agency's] EAP or from any assistance program in my community. I further certify that as a condition of employment, I will comply with and abide by [agency's] policies, including the substance-abuse prevention policies and materials which I have received. I understand that I may have a copy of this Certificate if I so request.

Employee's Signature

Employee's Printed Name

Witness' Signature

Witness' Printed Name



**Finance /Administrative Committee
Agenda Item: 7**

Date: July 09, 2018

Subject: Discussion of Means for Changes to GM Contract

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

Discuss the methods for revising and subsequent authorization of changes to the General Manager Employment Agreement.

Current Background and Justification:

The process of negotiating changes in an employment agreement with a non-represented existing employee are allowed by the Ralph M. Brown Act. However, the specific means provided in the act include:

- Governing body providing direction to its designated negotiator (no such designation has been made by Board action).
- Ad hoc committee appointed with a scope and duration to enable GM contract revision discussion. (no such ad hoc appointment pursuant to recently adopted District Policy 2.01.065).

Note: The Negotiations Ad Hoc Committee appointed by the Board President at the beginning of her term of office has been deemed dissolved via the Board's adoption of the revisions to Policy 2.01.065, wherein ad hoc committees are dissolved after 6-months and after not reporting to the Board for three consecutive meetings.

Conclusion:

If the Committee and the Board wish to engage in closed session discussions in support of revising the GM contract, the Board needs to either designate negotiator(s) or appoint an ad hoc. There is no preclusion for discussing the matter in open session.

RLECWD Policy 2.01.065
Adopted 6-18-2018

2.01.065 Committees and Other Assignments. The Board President shall appoint such standing and/or ad hoc committees as may be deemed necessary or advisable. The creation of ad hoc committees and new standing committees initiated by the Board President must be approved by action of the full Board of Directors per Policy 2.01.180. The President of the Board shall make all appointments of Board Members to ad hoc and standing Committees with the cooperation of the Board Member(s) nominated for the assignment(s). In addition, the President of the Board may designate Board Members to represent the Board as needed. Board Member participation in meetings and attendance by Board Members at organized events shall not be considered sanctioned by the RLECWD Board of Directors unless such attendance/participation is in accordance with this policy. Announcement to authorize attendance/participation retroactively is acceptable to accommodate insufficient time available for a Board meeting prior to the event. Retroactive announcement must be approved by the Board of Directors per Policy 2.01.180.

1. The duties of a new standing committee shall be determined at the time of appointment, proposed at a regular Board meeting and subject to confirmation by the Board of Directors per Policy 2.01.180. Standing committees shall only be dissolved by majority vote of the Board.
2. The duties of an ad hoc committee shall be determined and announced at a regular meeting of the Board of Directors. Ad hoc committees shall be considered dissolved when any of the following occur:
 - a. The ad hoc committee submits its final report to the Board of Directors.
 - b. Upon the sixth regular meeting of the Board of Directors following the announcement that the ad hoc committee had been created, the Board Secretary shall announce, and the minutes shall reflect, the ad hoc committee dissolution.
 - c. The ad hoc committee has failed to report to the Board of Directors for three consecutive regular Board meetings. The Board Secretary shall announce, and the minutes shall reflect, the absence of reporting and indicate the ad hoc committee has been dissolved.
3. Board Members assigned by the Board President to serve on standing committees or to participate in sanctioned events shall serve in such capacity for the remainder of the President's term of office. Such assignments are to be announced at the regular Board meeting in January each year. However, assignments may be changed via announcement at a subsequent Board meeting to accommodate Board Member availability, incompatibility of offices, or other circumstances. The Board President may also authorize temporary substitutions of Board Members for a single meeting to accommodate the anticipated absence of the regularly assigned Board Member.
4. All meetings of standing committees shall conform to all open meeting laws (e.g., Ralph M. Brown Act) that pertain to regular meetings of the Board. Board Members assigned to ad hoc committees and other assignments shall report their findings and observations to the Board of Directors at regular Board meetings.