FINANCE & INFORMATION TECHNOLOGY
BOARD OF DIRECTORS' MEETING
MOULTON NIGUEL WATER DISTRICT
27500 La Paz Road, Laguna Niguel
June 19, 2013
9:00 AM
Approximate Meeting Time: 3 Hours

THE BOARD MEETING WILL INCLUDE TELECONFERENCING AT THE FOLLOWING LOCATION:
12025 CEDAR SHORE ROAD, ELLISON BAY, WISCONSIN

1. Call Meeting to Order

2. Approve the Minutes of the May 15, 2013 Finance & Information Technology Board of Directors' Meeting - **ROLL CALL VOTE**

3. Public Comments
Persons wishing to address the Board of Directors on matters not listed on the Agenda may do so at this time. "Request To Be Heard" forms are available at the entrance to the Board Room. Comments are limited to five minutes unless further time is granted by the Presiding Officer. Submit form to the Recording Secretary prior to the beginning of the meeting.

Those wishing to address the Board of Directors on any item listed on the Agenda should submit a "Request To Be Heard" form to the Recording Secretary before the Presiding Officer announces that agenda item. Your name will be called to speak at that time.

DISCUSSION ITEMS

4. Review of Proposed FY 2013/2014 Operating and Capital Improvement Budgets

5. Contracts for Enterprise Resource Planning (ERP) Data Conversion and Implementation Services for Project Number 2010.033

6. Changes to Personnel & Salary Policy

7. Personnel - Legal Services

INFORMATION ITEMS

8. Summary of Disbursements for the Period Ending May 31, 2013

9. Late Items (Appropriate Findings to be Made)

   A. Need to take immediate action; and

   B. Need for action came to District's attention after Agenda Posting. [Requires 2/3 vote (5 members) or unanimous vote if less than 2/3 are present]

Adjournment

The Board of Directors' Meeting Room is wheelchair accessible. If you require any special disability related accommodations (i.e., access to an amplified sound system, etc.), please contact the Moulton Niguel Water District Secretary's office at (949) 643-2006 at least forty-eight (48) hours prior to the scheduled meeting. This agenda can be obtained in alternate format upon written request to the Moulton Niguel Water District Secretary at least forty-eight (48) hours prior to the scheduled meeting.

Agenda exhibits and other writings that are disclosable public records distributed to all, or a majority of, the members of the Moulton Niguel Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection at the District Office, 27500 La Paz Road, Laguna Niguel, CA ("District Office"). If such writings are distributed to members of the Board less than 24 hours prior to the meeting, they will be available in the reception area of the District Office at the same time as they are distributed except that, if such writings are distributed immediately prior to, or during the meeting, they will be available in the Board meeting room.

MINUTES OF THE REGULAR MEETING OF THE FINANCE & INFORMATION TECHNOLOGY BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT

May 15, 2013

A Regular Meeting of the Finance & Information Technology Board of Directors of the Moulton Niguel Water District was held at the District offices, 27500 La Paz Road, Laguna Niguel, California, at 9:00 AM on May 15, 2013. There were present and participating:

DIRECTORS

Brian Probolsky	Vice President/Chair
Scott Colton	Director
Richard Fiore	Director
Donald Froelich	Vice President
Gary Kurtz	Director
Larry Lizotte	Director

Also present and participating were:

STAFF MEMBERS, LEGAL COUNSEL, AND MEMBERS OF THE PUBLIC

Joone Lopez	General Manager
Matt Collings	Director of Engineering & Operations
Gina Hillary	Director of Human Resources
Michael Gomez	Acting Director of Finance
Karen Maddox	MNWD
Eva Plajzer	MNWD
Amber Leaverton	MNWD
Leslie Gray	Board Secretary
Ted Piorkowski	Chandler Asset Management

1. Call Meeting to Order

2. Approve the Minutes of the April 17, 2013 Finance & Information Technology Board of Directors' Meeting

MOTION DULY MADE BY DON FROELICH AND SECONDED BY GARY KURTZ, THE MINUTES OF THE APRIL 17, 2013 FINANCE & INFORMATION TECHNOLOGY BOARD OF DIRECTORS' MEETING WERE APPROVED AS PRESENTED.

3. Public Comments

None

DISCUSSION ITEMS

4. Investment Report for the 1st Quarter Ending March 31, 2013 - Chandler Asset Management

Ted Piorkowski stated that the District's portfolio complies fully with state law and the District's Investment Policy. The average duration of the portfolio during the period remained slightly shorter than that of the benchmark's duration.

The Board of Directors thanked Ted Piorkowski for his report.

5. Adopt Resolution No. 13-___ entitled "Resolution of the Board of Directors of the Moulton Niguel Water District Approving the Labor Terms and Job Classification Salary Schedule for Exempt Employees"

Joone Lopez explained that last month at the Special Board meeting on April 29, 2013, the Board of Directors adopted the Memorandum of Understanding (MOU) for non-exempt employees; however, due to changes in the Brown Act, discussion of compensation for exempt employees must take place at a regular meeting. To be consistent with the MOU, a resolution must be adopted which approves the labor terms that apply to the 14 exempt positions effective July 1, 2013 and will remain in full force and effect through June 30, 2017.

MOTION DULY MADE BY DONALD FROELICH AND SECONDED BY GARY KURTZ, THE BOARD OF DIRECTORS ADOPTED RESOLUTION NO. 13-05 ENTITLED "RESOLUTION OF THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT APPROVING THE LABOR TERMS AND JOB CLASSIFICATION SALARY SCHEDULE FOR EXEMPT EMPLOYEES".

6. Quarterly Budget Comparison Report

Michael Gomez presented the third Quarter Budget Comparison Report. He noted that slight changes have been made since the last report, namely the Budget Percent Committed column was added per the Board's request. An additional change was also made whereby the Water Efficiency Fund has a dedicated section. All major expense categories are tracking well with their adopted budgets. Staff anticipates expending approximately 92% of the adopted budget.

7. Summary of Disbursements for Period Ending April 30, 2013

No questions were asked regarding the Summary of Disbursements.

8. Joint Powers Authority (JPA) Budgets

Joone Lopez explained that Matt Collings will review the JPA budgets with the Board. Matt Collings reviewed the Municipal Water District of Orange County (MWDOC) and South Orange County Wastewater Authority (SOCWA) budgets with the Board of Directors.

Gary Kurtz left at 10:45 a.m.

He continued by reviewing the Joint Regional Water Supply System (JRWSS), San Juan Basin Authority (SJBA), and Santiago Aqueduct Commission (SAC) budgets. All five budgets will be brought back to the Board in August for ratification after each respective agency adopts their individual budgets.

9. Professional Services Agreement for District Auditing Services

Joone Lopez stated that Mayer Hoffman McCann has been the District Auditor for the past six years. With the Director of Finance and Controller vacancies, staff is recommending a one-year extension to the auditing services contract. Solicitation of auditing services will take place at the end of this year for the Fiscal Year 2013-2014. Mayer Hoffman McCann noted they will keep their rates the same for the additional year.

Brian Probolsky noted he will support staff's recommendation because he has confidence in the staff's management of the audit; however, he is not supportive of further extending the contract automatically with Mayer Hoffman McCann without a competitive bidding going forward.

Donald Froelich stated he has confidence in the staff's recommendation, but has difficulty supporting a unanimous vote y the Board. The Board of Directors will be asked to approve the extension of the Professional Services Agreement with Mayer Hoffman McCann for an amount not-to-exceed $42,250; and authorize the General Manager to execute all necessary documents on behalf of the District at Thursday's Board meeting.

10. Professional Services Agreement for Finance Department Support

Joone Lopez explained that the Finance Department vacancies have created a need for assistance within the Accounting Department. The District has retained the consulting services of Glenn Davison. There is a need to continue his services for an additional six months, which will exceed the General Manager's signing authority.

Adjournment

There was no further business to come before the Finance and IT Board, and the meeting was adjourned at 11:22 a.m.

Respectfully submitted,

Leslie C. Gray
Board Secretary

DRAFT

Moulton Niguel Water District

STAFF REPORT

TO: Board of Directors **MEETING DATE: June 19, 2013**

FROM: Michael Gomez, Acting Director of Finance

SUBJECT: Contracts for Enterprise Resource Planning (ERP) Data Conversion and Implementation Services Project Number: 2010.033

SUMMARY:

Issue: Staff is requesting amendments to two contracts for the ERP project.

Recommendation:

1) Authorize the General Manager to execute Amendment No. 1 to extend the Agreement for Professional Services with Denovo Ventures, LLC until July 31, 2014 and make partial payments for phase 2 work performed to date;
2) Authorize the General Manager to ratify and execute Amendment No. 1 to extend and amend the Agreement for Professional Services with Gough Systems until July 31, 2014.

Fiscal Impact: District Enterprise Resource Software Project's proposed for Fiscal Year 2013-2014 Budget of $2,263,284 from Fund 7, Rehabilitation and Replacement.

Previously Related Action: The following is a summary of the most recent actions taken by the Board of Directors on the subject project:

- November 17, 2011 – Awarded the Professional Services Agreement to Gough Systems for an amount not-to-exceed $93,200 (data conversion and temporary interface between Gough and JD Edwards)
- July 21, 2011 – Awarded a Professional Services Agreement to Denovo Ventures, LLC for an amount not-to-exceed $1,866,883 (licensing, first year maintenance implementation, training and travel)

BACKGROUND:

In May, 2013, staff provided a comprehensive update to the Board regarding the status of the ERP implementations. Based on the experience gained during the phase 1 of the implementation (financials), future efforts were reevaluated to apply

lessons learned and improve the process. The staffing, phasing and timing of the implementation for phases 2 (Utility Billing) and 3 (HR/Payroll) were modified to ensure a successful ERP transition. This staff report is a follow up to the discussions and the recommendations provided to the Board during the May update to amend contracts for Denovo and Gough in order to accommodate the revised scope and schedule.

DISCUSSION:

Since November 2012, staff has worked with Denovo to assess the implementation schedules and is ready to move forward with next phases in July 2013. Denovo estimates the scope of work for Utility Billing is approximately 60% complete and will require approximately 22 weeks to complete. Denovo estimates HR/Payroll is approximately 20% complete and will require approximately 20 weeks to complete.

Staff and Denovo plan to implement the Utility Billing and HR/Payroll separately with slight overlap. HR/Payroll implementation will restart in July 2013, and Utility Billing will begin as HR/Payroll comes to full implementation. Gough Systems will also begin data conversion assistance in July 2013 and continue until all data is tested and validated in the new system.

These schedule changes require modifications to the Gough Systems and Denovo contracts.

Gough contract amendment

Gough System's original contract ended in July 2012. There is a contract balance of $6,100 for the remaining work. The contract will need to be extended until July 31, 2014 to complete the data testing/validation.

Denovo contract amendment

Denovo's original contract will end in July 2013. There is a contract balance of $1,282,914 from the original awarded amount of $1,866,883 for the remaining work. As part of the original contract with Denovo, there is an option for the District to extend the contract for six months. However, estimates for completion of the remaining phases go beyond six months and requires an extension until July 31, 2014.

Denovo's original contract also stated that the Utility Billing phase compensation was not to be paid until phase acceptance. Denovo has completed approximately 60% of the project and has incurred expenses that have not been billed to the District yet. The original project schedule had the Utility Billing phase being completed in January 2013. The revised schedule now anticipates the Utility Billing phase being completed around January 2014. After the District evaluated the phase 1 implementation and

discussed the modified plans for phases 2 and 3, Denovo requested partial payment of $257,560 on the Utility Billing phase. Staff reviewed their work, invoice and determined that Denovo had performed a substantial amount of work to date and recommends that a partial payment be made at this time. The balance of the contracted amount will be paid upon a successful implementation of Utility Billing phase. In order to make partial payment to Denovo, the contract needs to be amended.

RECOMMENDATION:

Staff is recommending the Board of Directors take the following actions under the consent calendar at the June 20, 2013, Regular Board Meeting:

- Authorize the General Manager to execute Amendment No. 1 to amend the Agreement for Professional Services with Denovo Ventures, LLC to extend term of service until July 31, 2014 and to make partial payment of $257,560 for work performed to date;
- Authorize the General Manager to ratify and execute Amendment No. 1 to extend the term of the Agreement for Professional Services with Gough Systems until July 31, 2014.

SUMMARY OF PROJECT

The table below summarizes the project budget.

	Previously Approved	Requested Amount	Expended to Date	Balance
Project Items				
Denovo – Implementation	$1,866,883	0	$583,969	$1,282,914
Gough – Data Conversion	$93,200	0	$87,095	$6,105
NexLevel – Project Management	$566,000	0	$254,106	$311,894
Contingency	$222,792	0	$0	$222,792
District Labor & Other	$626,125	0	$186,546	$439,579
Totals	$3,375,000	0	$1,111,716	$2,263,284

Moulton Niguel Water
Leading the Way in Service

Moulton Niguel Water District
STAFF REPORT

TO: Board of Directors **MEETING DATE: June 19, 2013**

FROM: Joone Lopez, General Manager

SUBJECT: Personnel and Salary Policy

SUMMARY:

Issue: The Personnel and Salary Policy needs to be revised to be consistent with the recently agreed upon labor terms with the District employees.

Recommendation: Staff is requesting that the Board of Directors approve revisions to the Personnel and Salary Policy.

Fiscal Impact: $0

Previously Related Action: None

BACKGROUND:

By end of May 2013, labor terms for the District employees were established for four years starting Fiscal Year 2013/2014 through a Memorandum of Understanding for the non-exempt employees and a Board resolution for exempt employees.

DISCUSSION:

Following the recent labor terms agreement with all of the District employees, the Personnel and Salary Policy has been revised to reflect those terms. The proposed revisions related to labor terms were discussed extensively with the Board of Directors during the labor negotiations process. Additionally, minor housekeeping items were addressed for clarity and consistency.

Staff will continue to evaluate the Personnel and Salary Policy for improvement and bring recommendations to the Board.

RECOMMENDATION:

Staff is recommending that the Board of Directors adopt the revised Personnel and Salary Policy.

RESOLUTION NO. 13-___

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT APPROVING THE PERSONNEL & SALARY POLICY

WHEREAS, the representatives of the Board of Directors of the Moulton Niguel Water District ("District) have made adjustments to personnel rules, regulations and procedures for all employees; and

WHEREAS, the Personnel & Salary Policy prepared by said representatives has been presented to the Board of Directors for approval.

NOW, THEREFORE, the Board of Directors of the Moulton Niguel Water District **DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:**

Section 1. That this Board of Directors does hereby approve the personnel rules, regulations and procedures contained in the Personnel & Salary Policy, attached hereto as Exhibit 1, which shall be effective upon approval and remain in full force and effect until modified by the Board of Directors.

ADOPTED, SIGNED and **APPROVED** this 19th day of June, 2013.

MOULTON NIGUEL WATER DISTRICT

_____

President
MOULTON NIGUEL WATER DISTRICT
and the Board of Directors thereof

_____

Secretary
MOULTON NIGUEL WATER DISTRICT
and the Board of Directors thereof

ARTICLE V

Personnel & Salary Policy

July 1, 2013

#6.

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#6.

MOULTON NIGUEL WATER DISTRICT
PERSONNEL AND SALARY POLICY

ARTICLE I - PURPOSE

Section 1.01 General

This policy is intended to provide employees with a general understanding of the Moulton Niguel Water District's (District) basic rules and practices governing employment. It is intended to familiarize employees with important information about the District as well as information regarding their own privileges and responsibilities.

Each employee will be given a copy of the District's Personnel and Salary policy and is held responsible for reading, understanding, and being familiar with the obligations outlined within. It is important that all employees read, understand, and follow the provisions of the policy. A signed Acknowledgment of Understanding form will be placed in each employee's personnel file as evidence of the employee having read the policy and agreeing to abide by its rules and regulations. This Policy is not intended to be an employment contract or legal document.

Circumstances will undoubtedly require that guidelines, practices, and benefits described in this policy change. Accordingly, the District reserves the right to modify, supplement, rescind or revise any provision of this policy from time to time as it deems necessary. Employees will, of course, be advised of such changes as they occur.

ARTICLE II – DEFINITIONS

For the purpose of the District's policies, the following definitions shall apply:

Section 2.01 Assistant Division Head

This shall mean those employees who are directly responsible to the Director of Engineering and Operations for the supervision of the Engineering and Operations Division.

Section 2.02 Assistant General Manager

This shall mean the Assistant General Manager of the District, appointed by the General Manager of the District, and serving at the will and pleasure of the General Manager.

Section 2.03 Board of Directors

This shall mean the Board of Directors of the District and may also be referred to as "Board" or "Directors". (Directors are not considered employees for purposes of this Personnel and Salary Policy, except for health, dental, vision, life, and workers' compensation insurance benefits, medical retirement benefits, Section 125 Plan and the Deferred Compensation Plan and except where otherwise specifically included in the terms of this policy.)

Section 2.04 Delegation of Responsibility by the General Manager

This shall mean that in the absence of the General Manager, his/her designated representative shall act on his/her behalf.

Section 2.05 District

This shall mean the Moulton Niguel Water District, a California Water District, authorized under the California Water District Law, Division No. 14.

Section 2.06 Division Head

This shall mean those employees who are directly responsible to the General Manager and/or Assistant General Manager for the supervision of the Engineering and Operations, Finance, and Human Resources or any other Divisions. These employees serve at the will and pleasure of the General Manager.

Section 2.07 Domestic Partner

This shall mean a person who has validly registered as a domestic partner by filing a Declaration of Domestic Partnership with the California Secretary of State pursuant to the California Family Code, section 297.

Section 2.08 Exempt Employee

This shall mean employees who are exempt from the overtime pay requirement of the Fair Labor Standards Act (FLSA).

Section 2.09 Full-Time Employee

This shall mean all employees appointed by the General Manager for employment on a regular basis to work forty (40) hours per week or more.

Section 2.10 General Manager

This shall mean the General Manager of the District, duly appointed by and serving at the will and pleasure of the Board of Directors.

Section 2.11 Immediate Family Member

This shall mean the spouse, domestic partner, child, child of domestic partner, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, or stepfather of the employee.

Section 2.12 Non-Exempt Employee

This shall mean employees who are required to be paid overtime when they work in excess of ten (10) hours per day and/or forty (40) hours per week.

Section 2.13 Part-Time Employee

This shall mean all employees appointed by the General Manager for employment on a regular basis to work less than forty (40) hours per week. Those part-time employees who work more than thirty (30) hours per week on a monthly basis shall receive vacation, holidays, sick leave, and retirement benefits on a pro-rata basis according to the total number of hours worked, as compared to forty (40). Those part-time employees who work less than thirty (30) hours per week shall receive no benefits, except as required by law.

Section 2.14 Regular Employee

This shall mean all full-time or part-time employees who have satisfactorily completed their initial probationary period.

Section 2.15 Supervisor

This shall mean an individual who directs the work of one or more other employees and may also participate in evaluating and disciplining employees.

Section 2.16 Temporary Employee

This shall mean all employees hired by the General Manager for a limited period of time. Temporary employees are at-will and may be terminated at any time without cause and without right to appeal. As such, they are not entitled to receive District benefits and are not subject to any other provisions stipulated in this policy.

ARTICLE III - EMPLOYMENT

Section 3.01 Hiring of Employees

A. The Moulton Niguel Water District is an equal opportunity employer and makes employment decisions on the basis of merit. The District wants the best available person for each job. District policy prohibits nepotism and unlawful discrimination based on race, color, gender, religious or political affiliation, creed, citizenship status, military service status, marital status, pregnancy, age, national origin or ancestry, medical condition, physical or mental disability, gender identity and medical condition including genetic characteristics, sexual orientation, or any other consideration made unlawful by federal, state or local laws.

The District is committed to complying with all applicable laws which provide for equal employment opportunities. This commitment applies to all persons involved in the operations of the District and prohibits unlawful discrimination by any employee of the District, including Supervisors and coworkers.

To comply with the laws ensuring equal employment opportunities to qualified individuals with a disability, the District will make reasonable accommodations for the known physical or mental disabilities of an otherwise qualified individual

with a disability who is an applicant or an employee unless undue hardship would result.

Any applicant or employee who requires an accommodation in order to perform the essential functions of the job or complete the application should contact the Human Resources Division and request an accommodation. The individual with the disability should specify what accommodation he/she needs. The District will then conduct an interactive process meeting to identify possible accommodations, if any, that will help eliminate the limitation. The District will identify possible accommodations, if any, that will help eliminate the limitation. If the accommodation is reasonable and will not impose an undue hardship, the District will make the necessary accommodation.

If an employee or applicant believes he/she has been subjected to any form of unlawful discrimination, he/she must submit a written complaint pursuant to the reporting procedures set forth within these policies. The complaint should be specific and should include the names of the individuals involved and the names of any witnesses. The District will immediately undertake an effective, thorough, and objective investigation and attempt to resolve the situation.

If the District determines that unlawful discrimination has occurred, effective remedial action will be taken commensurate with the severity of the offense. Appropriate action also will be taken to defer any future discrimination. The District will not retaliate against any employee for filing a complaint and will not knowingly permit retaliation by any employee.

B. All District employees shall be appointed to their positions by the General Manager. The Board shall have the opportunity to provide input to the General Manager prior to the hiring of any Division Head. The General Manager is appointed by and serves at the will and pleasure of the Board.

C. The General Manager shall hire new employees for those positions approved and activated by the Board, pursuant to the approved Personnel and Salary Policy.

D. Without approval from the General Manager and the Board, no immediate family member of any District personnel shall be employed on a full-time, part-time, or temporary basis.

E. The District will comply to the extent applicable with the provisions of the Fair Labor Standards Act, and with any other applicable statutes and regulations regarding wages, hours, and benefits (see Article V).

F. It shall be required that all employees certify, by signature, that they have received, read and fully understand the currently adopted Personnel and Salary Policy.

G. All employees entering full-time or part-time District employment, pursuant to Chapter 8 (commencing with Section 3100), Division 4, Title 1 of the

Government Code are required to take an Oath of Allegiance to support and defend the Constitution of the United States and the Constitution of the State of California.

H. To provide a healthful working environment for all District employees, the District shall maintain Administrative Policies (and by this reference incorporates them herein), which will be updated as necessary. All employees shall be expected to comply with these Policies and failure to do so will result in implementation of the disciplinary procedures set forth in Section 3.18 of this policy.

I. It shall be required that all individuals accepting District employment provide verification of work authorization and identity pursuant to the Immigration Reform and Control Act of 1986. Completion of Form I-9, Employment Eligibility Verification, U.S. Department of Homeland Security, is mandatory within seventy-two (72) hours of hiring.

J. The District shall not consider a person who has been convicted of a felony or a misdemeanor involving moral turpitude eligible for employment except that such conviction may be disregarded if it is determined that mitigating circumstances exist, or that the conviction is not related to the employment in question.

Consequently, all employee applicants must submit to a criminal background check prior to being eligible for employment. All criminal background checks will be completed in compliance with state and federal law, and the results of any investigation shall be confidential. The District will provide each applicant with a copy of any information received from state or local law enforcement, or any other criminal history source, if requested.

Section 3.02 Probationary Period

A. All employees entering full-time or part-time District employment, with the exception of the General Manager, Assistant General Manager, and Division Heads, shall serve a probationary period of twelve months during which time the employee must demonstrate his/her ability to successfully fill the job requirements and establish effective working relationships with co-workers.

B. Prior to the completion of the twelve-month probationary period an employee will be evaluated by his or her immediate Supervisor, Division Head, the General Manager or a designee thereof and, at the will and pleasure of the General Manager, may have his or her probationary period extended for an additional six months upon written notice to the employee that an additional period of appraisal is required.

C. Passing the probationary period with a satisfactory rating is a requirement for continued employment with the District.

D. A new employee shall be hired at Step 1 of the established Range for his/her job classification. Upon the approval of the General Manager, a new employee may be hired at a higher Step, not to exceed the maximum Step established for the job classification.

E. A new employee who successfully passes his/her probationary period shall be eligible for a pro-rated lump sum non-base building merit incentive payment of 2.5% of base bi-weekly earnings based on the number of pay periods remaining between the conclusion of the probationary period and the end of the last pay period in a fiscal year. For example, a new employee making $2,000 per pay period who completes his/her probationary period ending 3/22/14, shall receive a merit incentive payment of $350 ($2,000 x 2.5% x 7 pay periods = $350). Any merit incentive payment awarded pursuant to this section shall not be considered as reportable compensation to CalPERS.

F. All full-time or part-time employees serving their probationary period shall receive applicable benefits (as defined herein).

G. Employees serving a probationary period are not entitled to due process in discipline or termination, and may be terminated at-will, without cause and without right to appeal.

Section 3.03 Annual Employee Appraisal

A. The Supervisors, Division Heads, Assistant Division Heads, Assistant General Manager, and General Manager shall annually evaluate the performance of employees under their supervision. This appraisal will occur after the completion of the probationary period and then at least annually thereafter.

B. An employee may complete a Pre-Appraisal Form prior to his or her employee appraisal. Attached to the form is a copy of the Job Classification Statement for the employee to review and make any necessary changes. All changes need to be approved by his or her Supervisor and Division Head.

C. The Employee Performance Appraisal Form will be reviewed by the employee together with his or her Supervisor and signed by both.

Section 3.04 Workweek

The term "workweek" is defined as beginning at 12:00 a.m. on Saturday and ending at midnight the following Friday. All full-time employees will be assigned a four or five-day, eight, nine or ten-hours per day schedule as may be desirable from time to time, in regard to their respective job functions. The employee's designated work schedule will be determined by his or her Division Head, subject to approval by the General Manager.

Section 3.05 Outside Employment

A. Any full-time employee of the District engaging in outside employment must inform the General Manager by completing an Employee Action Form.

B. It is understood that all employees represent the District and their actions shall not be in conflict with the mission of the District.

Section 3.06 Military Leave of Absence

Military leaves of absence shall be granted in accordance with state and federal law.

Section 3.07 Vehicle Responsibility

A. Employees entering District employment may be required to operate District vehicles on a regular or semi-regular basis. Therefore, District offers of employment are contingent upon employees furnishing the District with a current Department of Motor Vehicles (DMV) report reflecting a safe driving record.

B. Employees operating District vehicles are responsible for the safe operation of the vehicle in accordance with the law. Most job classifications require daily or periodic operation of District vehicles. Employees who are required to operate District vehicles in the performance of their job, either on a regular or semi-regular basis, are required to be in possession of a valid California driver's license for the class vehicle being operated. The revoking of that license by the State of California for any reason may be sufficient cause for termination. Traffic citations, except due to faulty equipment, are the employee's responsibility.

C. It is the responsibility of the employee to notify his or her Supervisor and Director of Human Resources or designee immediately upon receipt of any suspension or revocation of his or her California driver's license. Failure to comply with this provision shall be grounds for disciplinary action up to and including termination.

D. Any employee who is required to use a private vehicle in the discharge of his or her duties for the District shall receive mileage reimbursement at the rate set forth annually by the Internal Revenue Service.

E. An employee who receives mileage reimbursement, as described in Section 3.07.D, shall furnish the District a copy of his or her proof of automobile insurance coverage including public liability, bodily injury, and property damage, minimum coverage $100,000, $300,000 and $100,000. This insurance certificate shall remain on file with the District.

F. Use of a District or private vehicle by an employee while conducting District business is governed by the District's Vehicle and Equipment Policy, Article X, of the District's Administrative Policies, and by this reference is incorporated herein.

Section 3.08 Safety–California Occupational Safety and Health Act (CAL/OSHA)

A. The District will furnish the employee a place of employment which is safe and healthful. First-aid kits are furnished by the District and are located at the Main Office, Operations Building and District vehicles.

B. The employee's personal appearance, including attire and hair, shall not present a safety hazard or prevent full and proper utilization of safety equipment.

C. The District shall maintain Safety Rules and Regulations and an Injury and Illness Prevention Program. These policies shall be updated as necessary, to comply with all federal and state regulations (see Articles VII and XXVIII of the District's Administrative Policies, which are incorporated by reference herein).

D. The District requires that safety meetings be held on a regularly scheduled monthly basis and requires all District field personnel to attend. Administrative (non-field) personnel will attend those regularly scheduled meetings as directed by the General Manager.

E. It shall be required that all employees certify, by signature, that they have received, read and fully understand the currently adopted Safety Rules and Regulations and Injury and Illness Prevention Program, Article VII and Article XXVIII, of the District's Administrative Policies.

F. All employees shall be expected to comply with all Safety Rules and Regulations and failure to do so shall be considered as grounds for dismissal.

Section 3.09 Dress and Grooming Standards

It is important that all District personnel strive to maintain a professional appearance while taking into account the nature of their jobs. The District's public image is an important aspect of our relationship with our customers.

A. Apparel – Employees shall report to work in neat and clean attire, including those employees provided with District uniforms. For those employees provided a uniform, the uniform shirt shall be buttoned and tucked in during working hours. This applies equally to the "golf" shirt worn by some employees.

B. Hair – Hair shall be kept clean, combed, and neatly trimmed or arranged. This also pertains to male facial hair. Additionally, no employee shall have facial hair that will conflict with the District's policy regarding confined spaces as noted in the District's Safety Rules and Regulations. Immoderate hairstyle, unnatural color, or unkempt hair is unacceptable for District business.

C. Tattoos and Piercings – No tattoos are allowed on the head, face or neck. Any visible tattoos must not be obscene, sexually explicit, discriminatory to sex, race, religion or national origin, and/or gang related. No visible tattoo shall be larger

than four (4) inches. Any non-conforming tattoos must be covered by clothing or a bandage while at work. All jewelry worn by employees must be appropriate, not detract from a professional appearance and not pose any safety hazards. Visible piercings other than ears are prohibited. Any non-conforming piercing must be removed, covered with a bandage, or replaced with a clear, plastic spacer during work hours.

D. Personal Hygiene – Good personal hygiene habits must be maintained.

E. Supervisors and managers are responsible for adhering to and enforcing these standards within their departments. In applying these guidelines, supervisors and managers must:

1. Make reasonable accommodations as required by applicable law for dress or grooming directly related to employees' religion, ethnicity, or disabilities. Employees should discuss any accommodation needs with their manager or the Director of Human Resources or designee.

2. Specify any additional or alternative requirements necessary for reasons of employee safety or public health.

Section 3.10 District Tools and Facilities

Employees may not engage in personal work in District shops or other facilities or use District equipment on or off District property for personal purposes.

Section 3.11 E-mail/Fax

All electronic mail (e-mail) and fax messages are official District records and are the property of the District. The District reserves the right to access, monitor, search, read, inspect and disclose all messages sent over its e-mail/fax system for any purpose.

All messages transmitted over the e-mail/fax system should be those involved in the District business activities for the accomplishment of business related tasks or any communication directly related to District business. The District discourages personal use of e-mail. However, incidental and occasional personal use of the e-mail system is subject to the access and disclosure statement set forth in the policy above. As such, it is recommended that any personal communication be limited to "light personal" communication. E-mail is an important method of distributing information to employees and it is an employee's responsibility to check it frequently and read its contents.

Section 3.12 Personal Cell Phones and Texting

During working hours, personal cell phone use and texting should be limited to meal and rest breaks.

Section 3.13 Internet

Access to the Internet has been provided to employees for the benefit of the District. It allows employees to connect to information resources around the world. Employees accessing the Internet are representing the District. Employees are responsible for seeing that the Internet is used in an effective, ethical, productive, and lawful manner. To ensure that all employees are responsible, productive Internet users and are protecting the District's public image, the following guidelines have been established.

A. Unacceptable Use of the Internet - The Internet should not be used for personal gain or advancement of individual views. Solicitation of non-District business, or any use of the Internet for personal gain is strictly prohibited. Use of the Internet must not disrupt the operation of the District network or the networks of the other users. It must not interfere with your productivity. Personal usage of the Internet should be kept at a minimum. Any unlawful or inappropriate use of the Internet is strictly prohibited. While it is not possible to provide an exhaustive list of every type of inappropriate use of the Internet, the following examples should offer employees some guidance:

1. Harassment and discrimination
2. Offensive and defamatory conduct
3. Sexually-suggestive material
4. Gambling
5. Trademark, copyrights and licensing stipulations
6. Proprietary and confidential information
7. No solicitation
8. No personal sites

B. Communications - Each employee is responsible for the content of all text, audio or images that he/she place or send over the Internet. Fraudulent, harassing or obscene messages are prohibited. All messages communicated over the Internet should have your name attached. No messages should be transmitted under an assumed name. Users may not attempt to obscure the origin of any messages. Information published on the Internet should not violate or infringe upon the rights of others. No abusive, profane or offensive language should be transmitted through the system.

Employees are reminded that, under some circumstances, communications sent by e-mail may be subject to disclosure under the Public Records Act or during litigation. Therefore, it is important not to compromise themselves or the District under these circumstances.

C. Software - To prevent computer viruses from being transmitted through the system, there will be no unauthorized downloading of any software. All software downloads will be done by the District's Management Information System personnel.

D. Security - All messages created, sent, or retrieved over the Internet are the property of the District and should be considered public information. Any confidential information should be conducted from home. The District intends to access and monitor all messages and files on the computer system, including e-mail originated outside of the District, as deemed necessary and appropriate. All communications including text and images can be disclosed to law enforcement or other third parties without prior consent of the sender or receiver.

E. Violations - Violations of any guidelines listed above may result in disciplinary action up to and including termination. If necessary the District will advise appropriate legal officials of any illegal violations.

Section 3.14 Address Change

It is important that the District maintain current home addresses and telephone numbers for all employees. There may be occasions when it is imperative that the District reach an employee when the employee is at home. The District should also be able to contact the employee's family in case of an accident or illness at work. An employee should notify his/her Supervisor and the Director of Human Resources or designee of any change of address or telephone number by updating the Employee Information/Address Change portion in the Employee Action Form (EAF) program.

Section 3.15 Use of Confidential Information

No persons, whether presently or previously employed by the District, shall utilize confidential information gained in the course of their employment in their dealings with the District or in soliciting or representing clients who desire District services. Persons violating this provision shall be subject to appropriate disciplinary action or discharge or to such civil actions as may be permitted by law.

Section 3.16 Policy Against Harassment and Discrimination

The District strictly prohibits harassment or discrimination of an individual because of that individual's sex, race, religious creed, color, age (over forty), national origin, ancestry, marital status, medical condition, sexual orientation, physical or mental handicap or disability, or membership in any other protected classification under applicable law. Such harassment by employees and non-employees is not only unlawful, but it may result in high turnover, absenteeism, low morale and productivity, and an uncomfortable work environment. Therefore, the District will not tolerate any such harassment of its employees and will take affirmative steps to stop it.

A. Application

1. This policy applies to all phases of the employment relationship, including recruitment, testing, hiring, upgrading, promotion/demotion, transfer, layoff, termination, rates of pay, benefits, and selection for training.

2. This policy applies to all officers, directors, and employees of the District, including persons working under contract for the District.

B. Harassment Defined

1. Harassment may consist of offensive verbal, physical or visual conduct when such conduct is based on, or related to, an individual's sex and/or membership in one of the above-described protected classifications, and:

   (a) Submission to the offensive conduct is an explicit or implicit term or condition of employment;

   (b) Submission to, or rejection of, the offensive conduct forms the basis for an employment decision affecting the employee; or

   (c) The offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment.

2. Examples of what may constitute prohibited harassment include, but are not limited to, the following:

   (a) Kidding or joking about sex or membership in one of the protected classifications;

   (b) Hugs, pats and similar physical contact;

   (c) Assault, impeding or blocking movement, or any physical interference with normal work movement;

   (d) Cartoons, posters and other materials referring to sex, or membership in one of the protected classifications;

   (e) Threats intended to induce sexual favors;

   (f) Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome;

   (g) Degrading words or offensive terms of a sexual nature or based on the individual's membership in one of the protected classifications;

   (h) Prolonged staring or leering at a person;

(i) Similar conduct directed at an individual on the basis of race, color, ancestry, religious creed, handicap or disability, medical condition, age (over 40), marital status, sexual orientation, or any other protected classification under applicable law; or

(j) Other examples include threats of reprisals; implying or actually withholding support for appointments, promotion or transfer; change of assignment; or suggestion that a poor performance report will be prepared if requests for sexual favors are not met.

C. Reporting Procedure

1. Internal Reporting Procedure

(a) Any employee who believes that he or she is the victim of harassment by co-workers, Supervisors, visitors, vendors or others should immediately report the incident to his or her Supervisor, or in the alternative, the Director of Human Resources or designee, depending on which individual the employee feels most comfortable contacting. In the event that the complaint is against the General Manager, the employee may report the incident directly to the President of the Board of Directors.

(b) In addition to reporting the incident to District management, employees are encouraged to recognize the importance of informing the harasser that his or her behavior is unwelcome, offensive, in poor taste and inappropriate.

2. External Reporting Procedure

Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by coworkers, Supervisors, clients or customers, visitors, vendors or others may file a complaint with the California Department of Fair Employment and Housing (DFEH). The phone number for DFEH is in the government pages of the phone book.

D. Investigation

1. Internal Investigation

(a) Upon the filing of a complaint with the District, the employee will be provided with a copy of this policy. The Director of Human Resources or designee is the person designated by the District to investigate complaints of harassment. The Director of Human Resources or designee may, however, delegate the investigation at his or her discretion. In the event the harassment complaint is against the Director of Human Resources or designee, an investigator shall be appointed by the General Manager (or the

Board President, in the event that the complaint is against the General Manager).

(b) When an allegation of harassment or discrimination is made by an employee, the Director of Human Resources or designee or other party to whom the complaint is made shall immediately prepare a report of the complaint.

(c) The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of harassment or discrimination, witnesses interviewed during the investigation, the person against whom the complaint of harassment was made, and any other person contacted by the investigator in connection with the investigation. The investigator's notes shall be made at the time the verbal interview is in progress. Any other documentary evidence shall be retained as part of the record of the investigation. Upon completion of the investigation, the results shall be given to the complainant, the alleged harasser, and the Director of Human Resources or designee (or the General Manager, in the event the complaint involves the Director of Human Resources or designee). If the compliant is against the General Manager, the Board President shall also be provided the results of the investigation.

(d) All records and information related to the investigation of any alleged harassment and resulting disciplinary action shall be confidential, except to the extent disclosure is required by law, as part of the investigatory or disciplinary process, or as otherwise reasonably necessary.

(e) Based on the report and any other relevant information, the Director of Human Resources or designee (or General Manager) shall, within a reasonable period of time, determine whether the conduct of the person against whom a complaint has been made constitutes harassment. In making that determination, the Director of Human Resources or designee (or General Manager) shall look at the record as a whole and at the totality of the circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining of harassment. The determination of whether harassment occurred will be made on a case-by-case basis by the Director of Human Resources or designee (or the General Manager). (If the complaint is against the General Manager, the Board will determine whether the complaint constitutes harassment as set forth above.)

2. External Investigation

Charges filed with the DFEH are investigated by the DFEH.

E. Remedies

1. Corrective Action

(a) The District will take whatever corrective action is deemed necessary, including but not necessarily limited to, disciplining or discharging any individual who is believed to have violated this prohibition against harassment. The District does not tolerate harassment or discrimination of any kind and will take appropriate disciplinary action whenever such harassment or discrimination is demonstrated. Other steps may be taken to the extent reasonably necessary to prevent recurrence of the harassment and to remedy the complainant's loss, if any. Any individual who engages in conduct that is contrary to this policy may be personally liable in any legal action brought against him or her.

(b) Corrective action shall be consistent with the nature and severity of the offense, the rank of the harasser, and any other factors relating to the fair and efficient administration of the District's operations.

2. External Remedies

(a) In the event a complaint is filed with the DFEH, and the DFEH finds that the complaint has merit, the DFEH will attempt to negotiate a settlement between the parties.

(b) If not settled, DFEH may prosecute the charging party's case before the Fair Employment and Housing Commission ("FEHC"). Legal remedies available through DFEH and FEHC for a successful claim by an applicant, employee or former employee include possible reinstatement to a former job, award of a job applied for, back pay, front pay, attorneys' fees, and, under appropriate circumstances, actual damages and/or administrative fines.

(c) In the alternative, where the DFEH determines that a complaint lacks merit, or within 150 days after filing a complaint with the DFEH, the DFEH shall inform the alleged victim of his or her right to request a right-to-sue notice. Upon request by the alleged victim, the DFEH may grant permission to withdraw the case and pursue a court action.

F. Retaliation

No employee will be disciplined or otherwise retaliated against for complaining about such harassment or discrimination, for opposing prohibited conduct, or for participating in any investigation, proceeding, or hearing conducted by the District, DFEH, FEHC, Equal Employment Opportunity Commission, or any other state or federal agency.

G. Employee Obligation

1. Employees are not only encouraged to report instances of harassment or discrimination, they are obligated to report instances of harassment. Reports are to be made to the Employee's Supervisor or the Director of Human Resources or designee.

2. Employees are obligated to cooperate in every investigation of harassment or discrimination, including, but not limited to:

   (a) Coming forward with evidence, both favorable and unfavorable, to a person accused of harassment or discrimination; and

   (b) Fully and truthfully making a written report or verbally answering questions when required to do so during the course of the District's investigation of alleged harassment or discrimination.

3. Knowingly and falsely accusing someone of harassment or discrimination or otherwise knowingly giving false information in an investigation of harassment or discrimination shall be grounds for disciplinary action up to and including termination.

Section 3.17 Grievance Procedure

A. Purpose of Grievance Procedures

1. Promotes improved employer/employee relations by establishing an appropriate means for determining the validity of grievances, i.e., claims by an employee that the District has violated, misinterpreted or misapplied an obligation to the employee as such obligation is expressed and written in this policy.

2. Provides a method of resolving such claims as closely as possible to the point of origin and as informally as possible.

3. Encourages free communication between Supervisors and employees.

4. Grievances regarding discipline or discharge must be handled under Section 3.18. All other grievances, except as noted under Section 3.18, must be handled as outlined in Item B below.

B. Grievance Procedure Steps:

1. Step One: Supervisor: Employees who have a grievance shall first take it up informally with their immediate Supervisor within five (5) working days after they knew or reasonably should have known of the occurrence of the cause of the grievance. The Supervisor shall record, in writing, the grievance and any action taken.

2. Step Two: Division Head: If the grievance is not resolved within five (5) working days after its submission in Step One, employee may submit the grievance in writing to his or her Division Head within five (5) working days thereafter. The Division Head shall meet with the employee within two (2) working days after submission of the grievance and shall deliver his or her answer, in writing, to the employee within five (5) working days after such meeting. At this and all subsequent steps in the grievance procedure, employee has the right to present their grievance with or without a representative at his or her option.

3. Step Three: General Manager: If the grievance is not resolved in the second step, the aggrieved employee may submit it in writing to the General Manger, within five (5) working days after the Division Head's answer is received. The General Manager shall meet with the employee within five (5) working days after receiving the grievance and shall deliver his/her answer to them in writing within five (5) working days after such meeting. The decision of the General Manager shall represent the final decision of the District with respect to the grievance. At the discretion of the General Manager, in unusual or extenuating circumstances, it may be requested that the General Manager refer the matter to the Personnel and Salary Committee of the Board of Directors.

4. Step Four: If the General Manager determines to offer referral to the Personnel and Salary Committee of the Board of Directors (hereinafter, the "P & S Board"), the grievant may, within five (5) working days from the date of the General Manager's written response at Step Three, file a written request with the General Manager for a hearing before the P & S Board. The P & S Board may, at its sole discretion, decide to:

   (a) Limit its review of the grievance to the documentation developed at prior levels of this grievance procedure;

   (b) Hold a hearing at which both the grievant and the General Manger shall be afforded the opportunity to present evidence, testimony and oral argument regarding their respective positions as to the grievance;

   (c) Direct that the matter be heard by a subcommittee or designee of the P & S Board, other than the General Manager.

5. If the matter is heard by a subcommittee or designee of the P & S Board, written findings of fact and an advisory decision shall, within a reasonable period of time, be presented for consideration by the P & S Board at a regularly scheduled or special P & S Board meeting. The decision of the P & S Board shall be final and binding on all parties.

6. In the event that a grievance hearing is convened, the grievant must be personally present at the hearing or his or her grievance will be deemed forever waived.

7. A grievant's failure to follow the timelines for addressing his or her grievance at the next progressive Step, as set forth above, will constitute the grievant's consent that the matter was resolved at the previous Step.

Section 3.18 Discipline and Discharge Procedures

A. Disciplinary Action

1. Employee Representatives Permitted. Regular employees are permitted an employee representative at any meeting in which they may be subject to disciplinary action by the District. Such regular employees may have an employee representative when there is probable cause to believe that disciplinary action may be taken as the result of the meeting; if a significant purpose of the meeting is to investigate facts in relation to a contemplated disciplinary action; or if there is a potential for disciplinary action.

2. Disciplinary Action Subject to Notice and Hearing Procedures. Upon compliance with procedures set forth in the section entitled, "Disciplinary Procedures for Regular Employees," Section 3.18.B, the following disciplinary actions may be taken against a regular employee either by the General Manager or such management personnel as he or she may designate:

(a) Termination: Discharge from District service.

(b) Demotion: Reduction from a position in one classification to a position in another classification effected for disciplinary purposes. An employee who is demoted shall be placed on a Step of the Range established for the classification to which the employee is demoted that is closest to his/her current pay rate, which does not result in a pay increase. In the event the employee's current pay rate exceeds the maximum of the new Range, the employee's pay rate shall be reduced to the maximum Step of the Range established for the classification to which the employee is demoted. (Demotions resulting from an employee's inability to perform required duties for medical reasons, organizational

changes, or layoffs are not disciplinary in nature and are not subject to the appeal process.)

(c) Salary Reduction: A reduction in pay from the employee's current pay range to any lower amount within that same range, as such range is recorded in the District's current salary schedule.

(d) Suspension from Duty: An ordered interruption of duties for five (5) or more days without pay.

3. Disciplinary Actions Not Subject to Notice and Hearing Procedures. The following disciplinary actions may be taken against any employee by the General Manager, Assistant General Manager or Division Head, without compliance with the procedures referred to in Section 3.18.A.2:

(a) Counseling statements.

(b) Written or oral warnings.

(c) Reprimand, which may be oral, or in writing, or both.

(d) Change in working hours.

(e) Reassignment not entailing a salary reduction or demotion.

(f) Suspension for four (4) days or less without pay. (The General Manager must be notified prior to implementing a suspension without pay).

4. Causes for Disciplinary Action. It is intended that discipline be imposed primarily for corrective purposes and to address deficiencies in work performance. The following is a non-exclusive list of the more common reasons for disciplinary action:

(a) Actions contrary to the rules and policies of the District.

(b) Inefficiency, incompetence, inattention to or dereliction of duty, failure to perform assigned duties in a satisfactory manner.

(c) Insubordination or failure to comply with District rules and policies.

(d) Accepting gratuities or tips in violation of the District's Ethics Policy or applicable law.

(e) Dishonesty.

(f) Theft or unauthorized use of District property.

(g) Fighting while on duty or on District premises.

(h) Frequent or habitual tardiness, unexcused absences or unsatisfactory attendance.

(i) Conducting non-District business activities during working hours.

(j) Harassment and/or discrimination in any form.

(k) Consumption of alcoholic beverages while on duty or on District premises.

(l) Being under the influence of alcohol while on duty.

(m) Use of, possession of, and/or transfer or sale of, non-prescribed drugs or narcotics while on duty or on District premises.

(n) Disorderly, indecent or immoral conduct while on duty or while in District uniform.

(o) Discourteous treatment of the public or other District employees.

(p) Conviction of any felony or of a misdemeanor involving moral turpitude, dishonesty or immoral conduct.

(q) Unauthorized absence from work.

(r) Neglect of duty.

(s) Failure to follow safe working practices.

(t) Failure to report an injury promptly.

(u) Failure to report significant unsafe working practices to Supervisor.

(v) Misrepresentations in obtaining employment with or promotion within the District.

(w) Misuse of District monies.

(x) Falsification of forms, records, or reports; including, but not limited to, time sheets, employment applications and District documents.

(y) Possessing or bringing firearms or weapons onto District property.

(z) Destroying or willfully damaging District or employee property, records, or other materials.

(aa) Unauthorized opening or tampering with locks in desks, doors, cabinets, etc., or unauthorized use or duplication of keys.

(bb) Failure to immediately report the loss of a California driver's license due to suspension, withdrawal, forfeiture or confiscation by any court of law or by the California Department of Motor Vehicles by employees who must maintain such a license as a condition of employment.

(cc) Failure to call in to the employee's Supervisor prior to the start of employee's work shift if employee will be absent or tardy without prior approval.

5. Recordation of Disciplinary Action in Employee's Personnel File. The disciplinary action taken, along with the reasons for such action, will be recorded in an employee's personnel file.

B. Disciplinary Procedures for Regular Employees

1. Purpose. This section sets forth the procedure to ensure that all regular employees are fairly treated when subjected to disciplinary actions described in Section 3.18.A.2, "Disciplinary Action Subject to Notice and Hearing Procedures". These procedures do not apply to the General Manager, Assistant General Manager, Division Heads or employees in their probationary period who may be discharged, suspended or otherwise disciplined without any reason or cause.

2. Notice of Proposed Action. Prior to taking disciplinary action subject to notice and hearing procedures, as outlined in Section 3.18.A.2, the Division Head shall deliver to the employee a written notice of its intention to dismiss or otherwise discipline the employee. Such notice shall be personally served on the employee, or if the employee is not available, it shall be sent by registered or certified mail to the employee's place of residence, as shown on the records of the District. The notice shall be served or mailed not less than seven (7) calendar days prior to the proposed disciplinary action and shall contain the following:

(a) The proposed disciplinary action and the date said action becomes effective.

(b) The specific charges upon which such action has been proposed and the reasons why such action is being taken. Such charges shall contain any information essential to give the employee a fair opportunity to answer the charges made. Such information shall

include, but is not limited to, names, times, dates, places or numbers that may be pertinent to the charges made.

(c) If such charges are based upon documents or materials, the notice shall inform the employee of this fact, and shall inform the employee as to the location of such documents and materials. If available and subject to duplication, copies of such documents and materials shall be furnished to the employee with the notice.

(d) A time and date by which the employee may file a written response and for presentment of any oral response, which date shall not be less than seven (7) days after the notice is served on or mailed to the employee, whichever occurs first.

Pre-disciplinary procedures are not required for suspension of four (4) days or less. For suspensions of four (4) days or less, the notice procedures of Section 3.18.B.2. and the response and determination procedures for Section 3.18.B.3. through Section 3.18.B.5. may be provided to the employee during the suspension or within a reasonable time thereafter.

3. Response of Employee. The employee shall have the right to respond, either orally or in writing, or both, no later than the time and date provided in the notice to the employee. The time for response may be extended by the Division Head for a reasonable period if the Division Head determines it is necessary to provide the employee with a fair opportunity to answer the charges made. Written responses shall be delivered to the Division Head.

If the employee desires to make an oral response, the employee shall give written notice to the Division Head of this fact at least two (2) working days before the time and date stated in the notice for presentment of the oral response. Failure of the employee to give such notice shall constitute a waiver by the employee of any right to present an oral response. At this time, the employee should also advise the Division Head if the employee's legal or other representative will be present during the oral response.

4. Oral Response. If the employee gives the notice described, the oral response of the employee shall be presented to the Division Head. At the time of the employee's oral response, the employee shall have the right to be represented by counsel or other representative.

5. Determination by Division Head. Upon expiration of the period of time set forth in the District's notice to the employee, or if an oral response is presented, upon completion of the response, whichever is later, the Division Head shall review the matter, including any response of the employee and his/her representatives and any evidence presented, and shall make a determination whether to discharge or otherwise discipline the employee. The Division Head shall notify the employee in writing of

the determination. Such notice shall be personally served on the employee or shall be sent by registered or certified mail to the employee's place of residence as shown in the records of the District.

6. Appeal of Decision of Division Head. An employee or former employee dissatisfied with the determination made by the Division Head may appeal the determination to the General Manager, provided that a written notice of appeal is filed with the Director of Human Resources or designee of the District no later than fifteen (15) calendar days after the date of personal service or mailing of the notice of the Division Head's determination, whichever is sooner.

   If a timely appeal is filed with the Director of Human Resources or designee of the District, the General Manager shall schedule a hearing within thirty (30) calendar days of the date of filing of the notice of appeal, and the Director of Human Resources or designee of the District shall notify the employee or former employee of the time and date fixed for the hearing. At the hearing, the employee shall have the right to be represented by counsel or other representative, or both. The General Manager or such management personnel as he/she may designate, may extend the time to schedule the hearing upon a determination of good cause.

   The employee shall have the right to present evidence and to examine adverse witnesses. The employee shall, at least five (5) working days before the scheduled hearing, file a written request with the Director of Human Resources or designee requesting the presence of such persons at the hearing. If such persons can be made available without unduly interfering with the operations of the District, the Director of Human Resources or designee shall cause such persons to be present at the time of the hearing. The General Manager or such management personnel as he/she may designate, may continue the hearing for a reasonable period until such persons can be present. The hearing shall be recorded.

7. Determination of Appeal. Upon conclusion of the hearing, the General Manager shall review the matter, including any evidence presented at the hearing, and shall make a final determination whether to confirm the determination of the Division Head.

8. Status of Employee. During the period prior to the determination of the matter by the Division Head as set forth in Section 3.18.B.5, the employee may be suspended from performance of his or her duties with pay or may be reassigned to other duties. If the final determination of the Division Head is to discharge an employee, the effective date of the discharge shall be the date that the notice of the Division Head's determination is personally served or mailed pursuant to Section 3.18.B.5, whichever occurs first.

9. Judicial Review. Judicial review of any decision of the District, or of any commission, committee, board, officer or agent thereof dismissing or otherwise disciplining an employee, which decision is subject to review under Code of Civil Procedures section 1094.5, may be had pursuant to this section only if a petition for writ of mandate is filed in Superior Court within the time limits specified in Code of Civil Procedure section 1094.6.

C. Layoff or Reduction in Force

A layoff or reduction in force is not a disciplinary measure. Notwithstanding any other provisions of these rules, nothing provided herein shall prohibit the District from discharging, suspending or transferring an employee upon a determination by the District that the needs of the District do not require continuance of the employee's position.

Section 3.19 Resignation

An employee who resigns should submit his or her resignation in writing to his or her Supervisor and indicate date of resignation. Such notice should be submitted at least two (2) weeks before the effective date of resignation and given to the Director of Human Resources or designee.

Section 3.20 Exit Interview

Upon leaving District employment, the employee shall be given an exit interview. During this interview, the employee will be given a check for all monies due as computed to termination date. This review, while not limited to, will also include a discussion of all benefits, including accrued sick leave, accrued vacation, California Public Employees' Retirement System, health insurance, life insurance and disability insurance.

Section 3.21 Medical Coverage for Terminated Employees and their Dependents

Medical coverage for employees, whose employment terminates for any reason, and their eligible dependents can continue at the option of the employee pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA). The District will not bear the cost of such coverage. Details concerning this provision may be obtained from the Director of Human Resources or designee.

Section 3.22 Anti-Violence/Weapons

A. The District has adopted a Zero Tolerance Policy against workplace violence and weapons. Consistent with this policy, acts or threats of physical violence, including intimidation, harassment, and/or coercion, which involve or affect the District or which occur on District property will not be tolerated.

B. Acts or threats of violence include conduct which is sufficiently severe, offensive, or intimidating to alter the employment conditions at the District or to create a

hostile, abusive, or intimidating work environment for one or several District employees.

Examples of workplace violence include, but are not limited to, the following:

1. All threats or acts of violence occurring on the District premises, regardless of the relationship between the District and the parties involved in the incident.

2. All threats or acts of violence occurring off the District premises involving someone who is acting in the capacity of a representative of the District.

3. All threats or acts of violence occurring off the District premises involving an employee of the District if the threats or acts affect the legitimate interests of the District.

C. Any acts or threats resulting in the conviction of an employee or agent of the District, or of an individual performing services for the District on a contract or temporary basis, under any criminal code provision relating to violence or threats of violence which adversely affect the legitimate interests and goals of the District

Specific examples of conduct which may be considered threats or acts of violence include, but are not limited to, the following:

1. Hitting or shoving an individual

2. Threatening an individual or his or her family, friends, associates, or property with harm

3. The intentional destruction or threat of destruction of District property

4. Harassing or threatening phone calls

5. Harassing surveillance or stalking

6. The suggestion or intimation that violence is appropriate

7. Unauthorized possession or inappropriate use of firearms or weapons

D. The District's prohibition against threats and acts of violence applies to all persons involved in the District's operation, including but not limited to District personnel, contractors, and temporary workers and anyone else on District property. Violations of this Policy by any individual on District property, by any individual acting as a representative of the District while off District property, or by any individual acting off of District property when his or her actions affect the District's business interests will lead to disciplinary action (up to and including termination) and/or legal action as appropriate.

E. Possession while on duty or bringing onto District property unauthorized material, such as explosives, weapons (including, but not limited to, firearms and knives), or other similar items, is strictly prohibited. (This Policy does not preclude employees from possessing District-issued knives which are used as tools for their job.)

F. Every employee and every person on District property is required to report incidents of threats or acts of physical violence or any other violation of this policy of which he or she is aware. The report should be made to the Director of Human Resources or designee, the reporting individual's immediate Supervisor, or another supervisory employee if the immediate Supervisor is not available. Nothing in this Policy alters any other reporting obligation established in District policies or in state, federal, or other applicable law.

ARTICLE IV - BENEFITS

Section 4.01 Annual Vacation

A. Vacation leave will begin to accrue from the date of employment. All full-time employees working forty (40) hours per week shall earn the following amount of vacation hours with pay:

1. Non-management employees:

   (a) First year through fifth year of continuous employment, 80 hours per year.

   (b) Sixth year through tenth year of continuous employment, 120 hours per year.

   (c) After ten years of continuous employment, 160 hours per year.

2. Management employees:

   (a) General Manager and Assistant General Manager

      i. First year of continuous employment, 80 hours per year.

      ii. Second year through fifth year of continuous employment, 120 hours per year.

      iii. After six years of continuous employment, 160 hours per year.

   (b) Division Heads:

      i. First year through third year of continuous employment, 80 hours per year.

ii. Fourth year through tenth year of continuous employment, 120 hours per year.

iii. After ten years of continuous employment, 160 hours per year.

B. Vacation hours will be computed proportionately for those employees working thirty (30) hours per week or more. Part-time employees who work less than thirty (30) hours per week shall not accrue vacation leave.

C. Perfect attendance (i.e., the employee has not utilized sick leave or used other paid leave on the same day notice is given) for a four-month period earns a forty (40) hour per week employee an additional eight (8) hours of vacation. The four-month periods are as follows: January 1 through April 30, May 1 through August 31, and September 1 through December 31. Vacation hours for employees working thirty (30) hours or more per week will be calculated proportionately.

D. No vacation time shall be taken without prior approval of the employee's Supervisor and Division Head.

E. Vacation requests shall be submitted no less than two weeks prior to commencement of the requested vacation.

F. Vacation duration is limited to no more than 120 continuous hours without special approval of an employee's Division Head and General Manager or Assistant General Manager.

G. Any employee separating from the District who has not taken accrued vacation shall receive pay for each day of accrued vacation according to the base pay for such employee on the last regular pay period.

H. An employee is eligible to transfer up to 80 hours of accrued vacation into his/her deferred compensation plan offered by the District, provided the employee has used at least 40 vacation hours during the fiscal year and provided that the employee maintains 40 hours of accrued vacation following the transfer, or has taken 80 hours of vacation within the fiscal year.

I. The District will pay out vacation hours, provided the employee has used at least 40% of his or her annual vacation accrual during the 12 months preceding May 30. Vacation cash outs are paid once per year in June. The maximum amount of vacation that an employee is able to cash out per calendar year is 120 hours. Employees must present their irrevocable vacation cash out request to the Finance Division prior to January 1st for the following year. In addition, if an employee who is within 40 hours of the vacation ceiling is denied vacation because of District needs, the employee may cash out up to 40 hours irrespective of the limitation set forth above.

J. An employee cannot accrue more than 200% of his/her annual vacation accrual (for example, an employee accruing 120 hours per year can accrue up to 240 hours before the employee ceases to accrue vacation until the employee uses vacation to reduce it below the ceiling). Every effort shall be made by the employee to schedule at least one continuous forty (40) hour (one week) vacation during the year.

Section 4.02 Holidays

A. The District observes the following eleven (11) holidays:

New Year's Day (January 1)
Washington's Birthday (third Monday in February)
Memorial Day (last Monday in May)
Independence Day (July 4)
Labor Day (First Monday in September)
Veteran's Day (November 11)
Thanksgiving Day
Thanksgiving Holiday (Friday after Thanksgiving Day)
Christmas Day (December 25)
Two (2) Floating Holidays

Employees will be granted leave with pay for all holidays observed by the District. For the purposes of holiday compensation, a day shall equal the number of hours that the employee would have normally worked if not for the holiday.

Floating holidays are accrued according to the following schedule: employees accrue one floating holiday on July 1 and one floating holiday on January 1. The employee must be employed on those dates in order to accrue the holiday.

Each floating holiday will be selected by the employee and approved by the employee's Supervisor at least two (2) weeks in advance of taking the day off. Each floating holiday must be used prior to the last day of the fiscal year (June 30).

B. For those employees assigned to an eight-hour, five-day work schedule, when the holiday falls on a Saturday or Sunday, either the preceding Friday or the following Monday shall be observed as the holiday. The General Manager or Assistant General Manager shall determine which day will be used.

C. For those employees assigned to a ten-hour, four-day work schedule, when the holiday falls on the employee's regularly scheduled day off, a floating holiday will be given for the observed holiday.

D. Holiday compensation and floating holiday credit will be computed proportionately for those employees working thirty (30) hours or more per week. Part-time employees who work less than thirty (30) hours per week shall not receive any type of holiday pay.

E. All employees who are required to work on a holiday shall be entitled to compensation pursuant to overtime pay (as defined in Section 5).

Section 4.03 Sick Leave

A. Sick leave will begin to accrue from the date of employment. Paid sick leave for full-time employees working forty (40) hours per week is accrued on the basis of eight (8) hours per calendar month completed. Sick leave will be computed proportionately for those employees working thirty (30) or more hours per week. Part-time employees who work less than thirty (30) hours per week shall not accrue sick leave.

B. One-half of an employee's annual accumulation of sick leave may be used for family illness or kin care. An Employee Action Form is required when using sick leave to care for a family member.

The definition of kin for purposes of this section includes an employee's child, parent, spouse or domestic partner. A "child" means your biological, adopted or foster child, stepchild, legal ward, a child of a domestic partner, or a child you have accepted the responsibility for raising, such as a grandchild. A "parent" means your biological parent, foster parent, adoptive parent, stepparent and/or legal guardian. Other relatives, including grandparents and in-laws, are not covered.

C. Upon request from the Division Head, Assistant General Manager or General Manager, a doctor's certificate may be required if an employee is absent from work for ten (10) or more consecutive working hours. If an employee is absent thirty (30) consecutive working hours, a doctor's certificate shall be mandatory in order to return to work.

D. The same conditions placed on use of sick leave by an employee also apply to kin care, as described above in Section 4.03.C.

E. On January first of each year, an employee may carry over a maximum of one hundred seventy-six (176) accumulated sick leave hours. An employee who has accumulated hours greater than one hundred seventy-six (176) will receive compensation for seventy-five percent (75%) of those hours over one hundred seventy-six (176).

F. Upon retirement or termination of employment that is not deemed "for cause," the employee will be paid for any accrued sick leave according to the following schedule: (a) fifty percent (50%) of accrued sick leave after ten full years of continuous service; (b) seventy-five percent (75%) of accrued sick leave after 15 full years of continuous service; or (c) one hundred percent (100%) of accrued sick leave after 20 or more full years of continuous service.

G. When an employee has utilized his or her total accumulated sick leave, accrued vacation may be taken to the extent available. If an employee does not elect to utilize or does not have sufficient accrued vacation time to cover the entire absence, the employee shall not receive compensation. The District may deny the use of vacation for sick leave purposes in cases of suspected sick leave abuse.

Section 4.04 Family and Medical Leave

A. General

In accordance with state and federal laws, the District shall provide up to twelve (12) workweeks a year of unpaid family leave to any "eligible" employee who requests leave for any of the following reasons:

1. The birth or adoption of a child by the employee or placement of a child in foster care with the employee (all family leave taken for one of these purposes must be concluded within one year of the event);

2. To care for his or her child, parent, spouse, domestic partner or the child of a domestic partner who has a serious health condition; or

3. For an employee's own serious health condition which makes the employee unable to perform any of the essential functions of the employee's position.

It is the District's responsibility to determine, based on information provided by the employee, whether leave qualifies as family leave.

B. Serious Health Condition

"Serious health condition" means an illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care and involves either (a) inpatient care in a hospital, hospice, or residential health care facility; or (b) continuing treatment or continuing supervision by a qualified health care provider.

C. Eligibility

An employee is eligible for family leave if, at the time leave commences, <u>all</u> of the following are satisfied:

1. The employee has worked for the District for at least twelve (12) months (not necessarily consecutive months),

2. The employee has worked at least 1,250 hours during the twelve (12) months immediately preceding the leave period,

3. Employees who are "exempt" under the Fair Labor Standards Act are presumed to have worked for the required number of hours provided they have been employed by the District for at least twelve (12) months; and,

4. If a husband and wife or domestic partners are both employed by the District, family leave taken may be limited to a combined total of twelve (12) weeks leave for the birth, adoption or placement of a child, or to care for the employee's parent(s).

D. Notification Requirement – Employee

The employee must notify the employee's immediate Supervisor, preferably in writing, of the requested leave at least thirty (30) calendar days before the leave is to begin if the leave is foreseeable. If the leave is not foreseeable, the employee must give as much notice as practicable (usually within two (2) business days).

An employee must consult with his or her Supervisor regarding any planned medical treatment and make a reasonable effort to schedule leave not to unduly interfere with the District's operations, subject to the employee's health care provider's approval. Failure to comply with these notice requirements may result in deferral of the requested leave until compliance. When an employee requests leave because of his or her own, child's, spouse's, domestic partner's, child of a domestic partner's or parent's serious health condition, an employer may require an employee to provide medical certification from the health care provider, supporting need for leave.

The certification shall contain the following:

1. The date on which the condition began;

2. The probable duration of the condition;

3. If for the employee's own health condition, a statement that due to the serious health condition the employee is unable to work or to perform at least one of the essential functions of his or her position; and,

4. If for care of a family member, a statement that the health condition warrants participation of a family member to provide care.

E. Pay and Benefits Continuation

1. Family leave is unpaid, however, employees may use their available sick and vacation leave.

2. Employees may continue group health, life, or other insurance while on family leave. Before the leave begins, the Director of Human Resources or designee shall provide the employee with the amount and due dates of any copay premiums that become due during the employee's leave.

3. Family leave is not a break in service for seniority purposes; however, the period of the leave does not count as accrued service for retirement plan purposes and the District will not make retirement plan contributions during the period of unpaid leave.

4. Employees returning from family leave generally have a right to reinstatement to the same or equivalent position held immediately before leave; however, employees returning from leave have no greater right to reinstatement than if they had been on-the-job continuously during the same period.

Should you have any questions about your rights and responsibilities in connection with family leave, contact the District's Director of Human Resources or designee.

Section 4.05 Servicemember Family and Medical Leave

The federal Family and Medical Leave Act (FMLA) entitles eligible employees to take leave for a covered family member's service in the Armed Forces. This policy supplements the District's FMLA policy and provides general notice of employee rights to this leave. Except as stated below, such rights and obligations for Servicemember FMLA are governed by our existing FMLA policy. Servicemember FMLA runs concurrent with other leave entitlements provided under federal, state and local law.

A. Employee entitlement to Servicemember FMLA

Servicemember FMLA provides eligible employees unpaid leave for any one, or combination, of the following reasons:

1. A "qualifying exigency" arising out of a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan; and/or,

2. To care for a covered family member who has incurred an injury or illness while in the Armed Forces provided that such injury or illness renders the family member medically unfit to perform duties of the member's office, grade, rank or rating and is certified by the servicemember's health care provider.

B. Duration of Servicemember FMLA

1. When leave is due because of a "Qualified Exigency" concerning the military duty of a family member, an eligible employee may take up to 12 workweeks of leave during any 12-month period.

2. When leave is to care for an injured or ill servicemember, an eligible employee may take up to 26 workweeks of leave during a single 12-month period to care for the servicemember. Leave to care for an injured or ill servicemember, when combined with other FMLA-qualifying leave, may

not exceed 26 workweeks in a single 12-month period.

3. Where spouses are both employed by the District, they may take up to, in aggregate, 26 workweeks of Servicemember FMLA, provided that any portion of the aggregate leave that is not for care of a family servicemember does not exceed 12 workweeks.

C. Notice of Intent to take Servicemember FMLA

1. In any case where it is foreseeable that an employee will need servicemember FMLA, that employee must provide notice of his or her intent to take leave as soon as reasonably possible and provide certification of either the "qualified exigency" or family servicemember's medical condition as soon as practicable.

Section 4.06 Military Leave

A. Employees may take military leave to serve in the uniformed military services in accordance with the federal laws, including the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as well as the California Military and Veterans Code, sections 394, *et seq.* "Military services" means service in the Armed Forces, the National Guard, the Public Health Service or any other category designated by the U.S. President during time of war.

B. If an employee is called to military active duty for more than 30 days, the employment relationship will be terminated, and the employee will be required to submit an application for re-employment.

C. For any pay differential provided by the District to the employee during military leave, it will be the employee's responsibility to make estimated quarterly estimated tax payments as appropriate. These payments will be reported on Form 1099-MISC for tax purposes. The employee has all rights regarding benefits and re-employment as described by California and federal law.

D. The District prohibits the discharge or denial of initial employment, reemployment, promotion or any benefit of employment to any person because of the person's membership, application for membership, performance of service, application for performance of service or obligation to perform service in a uniformed service. Any employee who performs service in the uniformed services will be granted an unpaid leave of absence (except where paid leave is permitted as noted below by District policy) and reinstatement privileges as prescribed by applicable law, namely USERRA.

E. Employees who have received orders should contact Director of Human Resources or designee for information about their rights before and after such leave.

F. In most cases, employees are entitled to reinstatement upon completion of military service provided they return or apply for reinstatement within the time periods allowed for by law. If they are re-employed under this policy, they are entitled to all the rights and benefits that they would have attained, just as if they were not on a leave of absence as outlined in this policy.

1. The employee shall give advance notice of military activation at least thirty days prior to military duty, unless the Secretary of Defense determines that giving notice is precluded by military necessity.

2. A copy of the employee's military activation orders shall be given to the employee's Supervisor and a copy forwarded to Human Resources.

G. Temporary Military Leave

Temporary Military Leave, not exceeding 180 calendar days, shall be governed in conformity with USERRA and the applicable California law. Any employee who has worked for the District not less than one year immediately prior to the day on which the leave begins shall be entitled to receive his or her salary or compensation for the first 30 calendar days of any such absence, in accordance with California Military and Veterans Code sections 395.01 and 395.02.

1. Annual Encampments or Military Training (10 business days or less)

Employees who are members of an active reserve unit of a U.S. military service or a state National Guard will be given the necessary time off to fulfill the federal or state minimum annual training requirements. Included in military leave is reasonable time to and from military service and time for physical examinations. The employee may use vacation hours for this type of duty. The vacation hours paid cannot exceed the number of hours the employee would have worked had they not taken a military leave.

2. Extended Leaves (more than 10 business days)

Extended military leave shall be governed in conformity with USERRA and the applicable California law.

Section 4.07 Disability Leave

Employees who are not eligible for FMLA or PDL, may request a leave of absence without pay for medical reasons. Such leave of absence may be granted for no longer than four (4) months, in any consecutive twelve (12) month period, unless otherwise required by applicable law.

Section 4.08 Pregnancy Disability Leave

Under the California Fair Employment and Housing Act (FEHA), if an employee is disabled by pregnancy, childbirth, or related medical conditions, the employee is eligible to take a pregnancy disability leave (PDL) of up to four (4) months. If an employee is affected by pregnancy or related medical condition, the employee is also eligible to transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties, if this transfer is medically advisable.

A PDL does not need to be taken in one continuous period, but can be taken on an as-needed basis. Time off needed for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, and recovery from childbirth are all covered by a PDL. During a PDL, the District will continue to maintain coverage in its group health plan for any eligible female employee. The District may recover from the employee the premium that the District paid if the employee fails to return from the leave after the period of leave to which the employee is entitled has expired and the employee's failure to return from leave is for a reason other than taking CFRA leave or a continuation, recurrence or onset of a health condition that entitles the employee to pregnancy disability leave or other circumstance beyond the control of the employee.

Section 4.09 Voluntary Leave of Absence

Upon approval from the General Manager or Assistant General Manager in response to a written request, an employee may be granted an unpaid leave of absence. The District shall comply with all applicable state and federal regulations for unpaid leave. Employee benefits will not accrue or be paid during a voluntary leave of absence with the exception of insurance coverage, which will remain in effect for the first thirty (30) calendar days of leave. Upon approval of the General Manager or Assistant General Manager, employees may take a voluntary leave of absence under this section after exhausting family medical leave or pregnancy disability leave. In no event may the total leave of absence of an employee exceed six (6) months, unless otherwise mandated by law.

Section 4.10 Bereavement Leave

Whenever any full-time employee is compelled to be absent from duty for reason of death of a member of his or her immediate family, the employee shall be entitled to a maximum of forty (40) hours leave with pay. This absence with pay shall not affect any employee benefits. Bereavement leave will be computed proportionately for those employees working thirty (30) hours or more per week. Part-time employees who work less than thirty (30) hours per week are not eligible for bereavement leave.

Section 4.11 Jury Duty

A. When required to serve on a jury, all full-time employees shall be allowed time off up to a maximum of fifteen (15) working days for the actual period of service required on such jury. Upon return to work, employee will present his or her Supervisor or Division Head with a proof of service for the actual days served and

have it duly authorized by the court bailiff. A copy of the proof of service will be placed in the employee's personnel file.

B. Such employee shall be paid his/her regular salary while serving on jury duty up to a maximum of fifteen (15) working days. Any jury duty beyond fifteen (15) days will have to be served under the voluntary leave of absence criteria set forth in Section 4.09. of this policy. Part-time employees who work less than thirty (30) hours per week are not eligible for paid jury duty.

Section 4.12 Victims of Crime

A. All employees who are victims of a "violent felony" (as defined by section 667.5 of the California Penal Code), a "serious felony" (as defined by section 1192.7 of the California Penal Code) or a crime of theft or embezzlement, shall be allowed time off to attend judicial proceedings related to that crime. The employee may use his or her accrued paid vacation time, sick leave time, compensatory time off that is otherwise available to the employee, unpaid leave time or a leave of absence as set forth in this Policy.

B. All employees who have an "immediate family member," a domestic partner, or child of a domestic partner who has been the victim of a violent felony, a serious felony or a crime of theft or embezzlement shall be allowed time off to attend judicial proceedings related to that crime. The employee may use his or her accrued paid vacation time, sick leave time, compensatory time off that is otherwise available to the employee, unpaid leave time or a leave of absence as set forth in this Policy.

C. Before the employee may be absent from work pursuant to this provision, the employee shall provide written documentation in advance to the District from the court or government agency setting the judicial proceedings, the district attorney or prosecuting attorney's office or the victim or witness office that is advocating on behalf of the victim, unless advance notice is not feasible. If advance notice is not feasible, the employee shall provide written documentation of the judicial proceedings to the District within a reasonable time.

Section 4.13 Educational Reimbursement

A. In order to encourage employees to improve their job-related skills and opportunity for advancement through continuing education, the District has established a plan of tuition assistance for employee education.

B. The District will refund tuition fees and educational material costs spent by employees who have received prior approval from the General Manager. Reimbursement for tuition and registration costs will be based on the actual cost of tuition and fees, and will be limited to the cost of tuition and fees of the California State University, Fullerton fee schedule. If an employee chooses to attend an accredited institution whose tuition is higher than the state university system, the employee will not be reimbursed for the difference between the two.

C. Funds received from outside sources, such as scholarship grants or veterans' educational benefits, must be applied toward the cost of the course before the District's reimbursement is applied.

D. Courses must be related to the employee's work or be required for a degree related to their work and must be taken at an accredited institution. Expenses eligible for reimbursement include tuition, parking, registration fees, laboratory/materials fees and books.

E. Employees are required to submit a "Request for Approval of Work-Related Education" to their Division Head before starting courses for which the tuition refund is requested. The request will outline the curriculum and projected costs that will be involved and must be approved by the employee's Division Head and the General Manager or Assistant General Manager.

F. An employee is eligible for reimbursement if the employee is on the District payroll at the time he or she starts, takes, and successfully completes the course with a "C" or better grade or a "pass" for courses graded on a pass/fail basis.

G. Evidence of successful completion of the course and receipts for the allowable expenses must be submitted to the Director of Human Resources or designee, prior to reimbursement. Upon verification that all courses and expenses were previously approved, the Director of Human Resources or designee will submit a check request for the reimbursement of expenses/fees to the employee.

H. If an employee voluntarily terminates employment with the District within 12 months of completing a course in which educational reimbursement has been paid, the employee shall repay those funds to the District.

Section 4.14 Personal Computer Purchase Plan

A. This program is offered to employees to encourage the use of home computers and software.

B. Any full-time employee who has competed one (1) year of service with the District and has satisfactorily completed the probationary period is eligible for a loan to purchase a personal computer system.

C. Loan applications are available from the Director of Human Resources or designee. The completed application will be reviewed by the Director of Human Resources or designee. A written loan agreement is also required between the District and the employee.

D. The maximum amount of the loan is two thousand dollars ($2,000). The loan is interest free and repayment will be calculated over a twenty-four (24) month period. Loan payments will be made through biweekly payroll deductions.

E. Proceeds from an approved loan must be used for the purchase of a personal computer (including any upgrades, software and peripheral equipment).

F. Loans are due and payable in full upon departure from the District. Any remaining balance will be deducted from the employee's final paycheck, upon written approval from the employee. An outstanding balance still owed after the final paycheck is due and payable in full within ten (10) days of leaving employment with the District for any reason.

Section 4.15 Travel and Meeting Expenses

A. Employees shall be reimbursed for reasonable travel expenses pursuant to Article XXIV, Travel and Expense Reimbursement Policy, as authorized by the General Manager or Division Head for activities related to District business. This shall include payment of expenses associated with meetings, seminars, or conferences.

B. It is the responsibility of the employee to provide receipts of charges for approval of payment within two weeks of the time of the meeting, seminar or conference. Substantiating receipts will be needed for expenses related to transportation, lodging, meals, and miscellaneous expenses. Miscellaneous expenses may include cab fares, parking fees, tips, telephone calls, and so forth.

Section 4.16 Uniforms and Safety Equipment

The District shall provide all appropriate field personnel with uniforms to be worn while on duty and the necessary District-owned safety equipment.

Section 4.17 Insurance

The District provides major health, dental, vision, life, and disability insurance to eligible employees and dependents. A Section 125 Plan is available which will cover both the employee monthly insurance deduction as well as a Flexible Spending Account (FSA) for medical and/or dependent care expenses through payroll deductions. Employees will receive information during the employee orientation from the Human Resources Department.

An employee may elect, in writing, not to participate in the District's health, dental, and vision insurance plans, provided the employee submits written proof of comparable coverage elsewhere. Employees (excluding the Board of Directors) electing not to participate in the District's health, dental and vision insurance plans pursuant to this section shall be entitled to a monthly payment equal to $300.

Eligible dependents are defined as set forth in the insurance enrollment materials.

For an eligible dependent to be eligible for coverages, a copy of a marriage license, State of California Declaration of Domestic Partnership form (NP/SF DP-1), birth certificate, or other identifying paperwork will be required.

A. Group insurance plan booklets will be provided to all full-time employees.

B. It is the employee's responsibility to notify the Director of Human Resources or designee upon marriage, divorce, implementation or termination of Domestic Partnership, birth or adoption of child, over-age dependent, or any event that changes the status of dependency.

C. Health Insurance: Full-time and part-time employees working 30 hours or more per week and their dependents are covered by a group health insurance plan. Eligibility for participation begins the first of the month following thirty (30) days of regular employment with the District.

D. Dental Insurance: Full-time and part-time employees working 30 hours or more per week and their dependents are covered by a group dental insurance plan. Eligibility for participation begins the first of the month following thirty (30) days of regular employment with the District.

E. Vision Insurance: Full-time and part-time employees working 30 hours or more per week and their dependents are covered by a group vision insurance plan. Eligibility for participation begins the first of the month following thirty (30) days of regular employment with the District.

F. Life Insurance: Full-time and part-time employees working 30 hours or more per week and their eligible dependents are covered by a group life insurance plan. The life insurance benefit for employees is equal to two (2) times their annual salary. Eligibility begins the first of the month following thirty (30) days of regular employment with the District.

G. Disability Insurance: Full-time and part-time employees working 30 hours or more per week are covered by short and long-term disability plan. Eligibility begins the first of the month following thirty (30) days of regular employment with the District.

H. Flexible Spending Account (FSA): A FSA allows an employee to set aside a portion of his or her earnings to pay for qualified medical and/or dependent care expenses. Money deducted from an employee's pay into an FSA is not subject to payroll taxes.

I. Workers' Compensation Insurance: All employees are covered by workers' compensation insurance for injuries or disability resulting from employment. Workers' compensation insurance provides medical, surgical, and hospital treatment in addition to payment for loss of earnings that result from work-related injuries. Compensation payment begins from the first day of hospitalization or after the third day following the injury, if the employee is not hospitalized. Accumulated sick leave and or accrued vacation time may be used for the three-day waiting period, and to bring the employee's compensation up to, but not greater than, the employee's regular gross pay.

It is the employee's responsibility to report immediately to his or her Supervisor or Division Head any injury, regardless of severity, and to complete an injury report.

J. Unemployment Insurance: All employees are provided unemployment insurance by the District. To apply for benefits or to determine eligibility, employees should contact their nearest Employment Development Department (EDD) office.

K. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) Insurance: Any employee/eligible family member who loses regular group eligibility because of a qualifying event is eligible for enrollment under COBRA.

Section 4.18 Physical Examination

Employees entering District employment may be required to take, at the District's expense, a physical examination prior to appointment.

Section 4.19 Medical Retirement Benefits

A. Full-time employees who are at least 55 years old with a minimum of ten (10) years of continuous employment, upon retirement of active employment with the District, may request early retirement and be eligible to continue to receive medical insurance benefits until eligible for Medicare. Employees hired after July 1, 2008, must have fifteen (15) years of continuous employment and be age sixty (60) to receive this benefit. (This benefit is only available to employees who retire from the District in good standing and is not available for employees who are terminated for cause.) If the employee's dependent is not eligible for Medicare, at the time the employee reaches Medicare age, the dependent may apply for continued medical coverage pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA). The District will not bear the cost of such coverage. (Pursuant to Government Code Section 53201, Board of Directors first elected to a term of office that began on or after January 1, 1985, are not eligible for District paid retiree medical benefits.)

B. When an eligible retired employee attains Medicare age, the District will provide a cash allotment up to $235 per month towards a supplemental Medicare policy. This benefit applies to eligible retired employees only.

Section 4.20 California Public Employees' Retirement System (CalPERS)

The District participates in the California Public Employees' Retirement System (CalPERS).

A. Employees hired prior to July 28, 2009 will make increasing contributions in the first pay period of each fiscal year with a total employee contribution as follows: 3% in FY2013/14; 3% in FY 2014/15; 4% in FY 2015/16 and 7% in FY 2016/17.

B. Employees hired after July 28, 2009 will pay 100% of the "Employee's share" of CalPERS contributions, currently 7%. Under no circumstances would the employee be asked to contribute an amount in excess of that set forth in applicable law (currently 7%).

C. Employees who become new members of CalPERS for the first time on or after January 1, 2013 are required to pay at least 50% of the normal cost, currently 6.5%.

D. The District's contract with CalPERS includes the following items: Level I 1959 Survivor Benefit, Military Service Credit as Prior Service, Annual Cost-of-Living Allowance Increase up to 3%, Credit for Unused Sick Leave, and Pre-Retirement Optional Settlement 2 Death Benefit.

E. Employees hired prior to July 28, 2009 are enrolled in the CalPERS 2% @ 55 benefit formula with one year final compensation, and Employer Paid Member Contribution Converted to Payrate During the One Year Final Compensation Period. (Employees hired after July 28, 2009, are not eligible for the Employer Paid Member Contribution (EPMC) Converted to Payrate During the One Year Final Compensation Period benefit).

F. Employees hired after July 28, 2009 are enrolled in the CalPERS 2% @ 55 benefit formula with one year final compensation.

G. Employees hired after January 1, 2013 who are new members of CalPERS are enrolled in the CalPERS 2% @ 62 benefit formula with three year final compensation.

H. A leave of absence up to fifteen (15) days will not result in loss of time credited to an employee for his/her service years utilized to compute retirement benefits.

I. CalPERS benefits booklets will be provided to all employees.

Section 4.21 Social Security Medicare Coverage

Employees hired after March 31, 1986, are covered under the Medicare portion of the Social Security Retirement System. The District and the employee each contribute the 1.45% mandatory contribution.

Section 4.22 Credit Union

All full-time or part-time employees are eligible to participate in the credit union program offered by the District. Members of the employee's immediate family are also eligible for membership in this program.

Section 4.23 Deferred Compensation Plan

A. The 457 deferred compensation plan is a tax deferred retirement plan that allows employees to defer compensation on a pre-tax basis through a payroll deduction. This pre-tax advantage allows employees to defer federal and state income taxes until assets are withdrawn.

B. All full-time employees are offered one (1) deferred compensation plan from which to choose a wide variety of investment options for added retirement funding. Employees may enroll at any time throughout the year.

Deferred compensation plans are regulated by the Internal Revenue Code Section 457 and participation in these plans offers many advantages:

1. Increasing your retirement savings while reducing your current tax liability.

2. Earnings accumulate tax deferred

3. Savings may be moved to another public agency's qualified plan

You may participate in the plan, but you cannot exceed your maximum annual contribution. This amount is determined annually by the Internal Revenue Service. For additional information, please see the plan document.

C. Employees may also be eligible to participate in the District's 401(a) Money Purchase Plan. The District will match a portion of the employee's deferred compensation 457 contribution and those funds will be contributed directly to a 401(a) Money Purchase Plan.

D. To enroll or make changes in the deferred compensation plan(s), please contact the Human Resources Department to schedule an appointment.

ARTICLE V - COMPENSATION

Section 5.01 Employee Compensation

A. All full-time employees shall receive compensation in accordance with the Job Classification Salary Schedules approved by the District's Board of Directors.

B. Pay periods are on a biweekly basis, every other Thursday, and employees may elect direct deposit.

Section 5.02 Merit Increase within the Salary Range

A. Merit Increase is defined as an increase in the base pay rate of an employee from his/her current Step to a higher Step in the salary Range established for his/her job classification. The amount of the merit increase is awarded based on the

employee's overall performance rating as documented on the annual "Performance Appraisal" form.

B. The advancement of an employee within a classification shall be dependent on the employee exhibiting increased knowledge, skills and abilities, coupled with meritorious performance. The employee's supervisor shall evaluate the employee's performance and if merited, recommend a merit increase. The General Manager shall have the authority to approve or deny merit increases. The amount of each merit increase will be determined by the overall performance rating as documented on the annual "Performance Appraisal" form.

C. An employee who receives an overall performance rating of Meets Standards shall receive a 1 step merit increase, and an employee who receives an overall performance rating of Exceeds Standards shall receive a 2 step merit increase.

D. The General Manager may authorize a 3 step merit increase in extenuating circumstances.

E. The pay rate shall not exceed the maximum Step of the Range established for the job classification, except for employees who are eligible for and are receiving the employer paid member contributions converted to pay rate benefit during the one year final compensation period.

F. An employee at the maximum Step of the Range established for his/her job classification, who receives an overall rating of Exceeds Standards, may receive a lump sum non-base building merit incentive payment of 3% of annual base earnings, which shall not be considered as reportable compensation to CalPERS.

G. All merit increases shall be awarded effective with the first day of the first pay period in each fiscal year.

H. An employee who receives an overall rating of Below Standards shall not receive a merit increase.

I. An employee who receives an overall rating of Below Standards may appeal the rating to his/her Division Head.

J. Performance appraisals will be done at the same time for all employees on an annual basis.

Section 5.03 Overtime Pay

A. All employees who are classified as "non-exempt employees," as defined under applicable laws or regulations, will be eligible for overtime pay.

B. Overtime is defined as hours worked by non-exempt employees in excess of ten (10) hours in a work day or forty (40) hours in a work week.

C. In order to be eligible for overtime pay, an employee must have management approval before working overtime.

D. All vacation and holiday hours (but not sick leave) shall be considered as hours worked toward the 40 hours in a week for qualifying for overtime.

E. Overtime pay shall be paid at the rate of one and one-half times the employee's rate of pay for hours worked in excess of ten (10) hours per day and two times the employee's rate of pay for hours worked in excess of 12 hours per day. If an employee works on a holiday, the employee shall be paid at the rate of one and one-half times the employee's rate of pay.

F. Paid compensatory time off (CTO) may be given to non-exempt employees at a rate of one-and-one-half (1 ½) hours for each hour of overtime, if the employee and the District agree to the time off from work in lieu of earned overtime pay. By law, the employee must request in writing a desire for compensatory time off in lieu of overtime monies. If the employee desires to take compensatory time, a written request for the time off must be submitted and approved by the Supervisor and/or Division Head in advance of the time requested. The total accrued CTO shall not exceed forty (40) hours and will be cashed out completely on June 30 of each year.

G. For the purpose of computing overtime pay, the formula shall be as follows: monthly salary multiplied by twelve (12) months; divided by 2080 hours; equals hourly rate; multiplied by 1.5 for overtime pay or 2.0 for double-time pay. The calculation of monthly salary shall include all rates and pay as required by Section 7(e) of the Fair Labor Standards Act.

H. When a non-exempt employee is required to work for four (4) hours or more beyond his or her regular daily work schedule, or when a non-exempt employee is called out for work after completing his or her regular work schedule and his or her meal period occurs during such work, he or she will be given a reasonable meal allowance or furnished a meal and reasonable work time to eat it. Additional meal allowances or meals will be provided at four-hour intervals thereafter, during the continuous work period.

Section 5.04 Standby

A. Standby duties are assigned to qualified employees on a rotating basis for a one-week period of time several times each year. In order to be eligible to perform standby duties, employees are required to complete training that will provide them with the knowledge and current information about District facilities.

B. When personnel are designated standby duties after their normal working day, the compensation shall be three hundred dollars ($300) per week in addition to their regular pay and any other compensation earned such as overtime (see Section 5.03). Any call that physically requires personnel to respond to the District shall earn a minimum of two (2) hours of overtime compensation for that particular

response provided that response does not take them into their normal working day. For any response that extends into their normal working day, staff shall be compensated with overtime up to the start of the normal working day. Any calls that do not require personnel to physically respond shall earn thirty (30) minutes of overtime compensation.

C. Standby duties require an employee to be available within the District upon thirty (30) minutes notification of the need to respond, on a twenty-four (24) hour basis. Water Distribution staff must be able to respond to alarms or other system notifications via the Supervisory Control and Data Acquisition (SCADA) system within fifteen (15) minutes.

D. Standby personnel shall have the ability to respond during non-working hours during the work week, weekends, and on holidays. Additional standby duties may be required as designated by the Division Head or his or her designee. Standby personnel will be compensated for all overtime earned while on standby duty.

E. The Division Head or his or her designee shall determine when standby responsibilities should be transferred among personnel. An employee requesting to transfer standby duties must get approval from his or her supervisor prior to the start of the standby shift.

F. District personnel on standby are permitted to utilize the District's designated standby vehicles during non-working hours to allow for emergency response provided those vehicles remain within a thirty (30) minute response distance.

Section 5.05 Time Sheets

Each employee is responsible completing a time attendance record. The use of time sheets assures proper cost accounting. Time sheets must be signed, approved by his or her Supervisor and/or Division Head and submitted biweekly and they are the official payroll records from which pay is computed.

Section 5.06 Wage Garnishments

A garnishment is a court order requiring the District to remit part of an employee's wages to another party in payment of a just debt. Because garnishments involve the District in its employees' private financial affairs, it is requested that employees handle their finances appropriately.

Section 5.07 Promotions

A. Promotion is defined as the movement of an employee to a supervisory or management level classification. An employee who is promoted shall be placed on Step 1 of the Range established for the classification to which the employee is promoted, or shall receive a pay increase equivalent to the employee's current pay rate multiplied by 5% followed by placement on the closest Step in the new pay

Range, whichever is greater. Under no circumstances shall the pay rate exceed the maximum Step of the Range established for the job classification.

B. It is District's desire to promote from within whenever practicable. However, the District's policy is to fill all positions with the best qualified individual. When opportunities occur within the organization, promotions and transfers will be based upon an employee's qualifications and performance. In general, only employees who have been at their present job assignment for at least six (6) months will be considered.

C. It is the District's desire to provide internal employment to qualified candidates through intra or interdepartmental promotion whenever practicable. The criteria used when considering employees' qualifications for promotion must be fair and unbiased, and all District employment policy requirements must be fully met and documented. Employees are to be considered for promotion regardless of age, sex, race, color, religion, national origin, sexual orientation, gender identity, disability or membership to any other protected classification under applicable law.

Section 5.08 Reclassification

A reclassification is defined as the conversion of a position, through an increase in job duties and responsibilities coupled with a history of meritorious performance, to a different classification and/or pay Range within the same job family. A job family is defined as a grouping of positions which are sufficiently similar in duties, responsibilities and working conditions which share common standards of selection. An employee who is reclassified shall be placed on Step 1 of the Range established for the classification to which the employee is reclassified, or shall receive a pay increase equivalent to the employee's current pay rate multiplied by 2.5% followed by placement on the closest Step in the new pay Range, whichever is greater.

Section 5.09 Transfer

A transfer is defined as the movement of an employee from one job family to another job family in a comparable classification which does not qualify as a promotion or reclassification. A transfer may occur to meet the needs of the District or through an internal competitive process. An employee who is transferred shall be placed on a Step of the Range established for the classification to which the employee is transferred that is closest to his/her current pay rate, which does not result in a decrease in pay.

Section 5.10 Severance Policy

A. In the event of an involuntary termination due to a reduction in force/layoff, or job elimination due to change in District operating procedures and organizational structure, Moulton Niguel Water District may provide a severance benefit for the eligible employees. This does not apply to terminations for cause, refusal to be reassigned, voluntary resignations, and employees that have not passed their

probationary period. To be eligible for a severance payment, the employee must sign a general release of all claims.

B. The rate of severance is based upon length of service with Moulton Niguel Water District (or as adjusted through acquisition or consolidation). This policy applies to all exempt and non-exempt, full-time employees.

Length of Service	Number of Weeks
Two years - less than four	2
Four years - less than six	3
Six years - less than eight	4
Eight years - less than ten	5
Ten years or more	6

C. The maximum allowed severance is six weeks. Severance is calculated on base pay only, which excludes overtime, bonuses, uniform allowances, and vehicle allowances. Employees may choose to receive it as a salary continuation benefit (continue payments on scheduled paydays) or in a lump sum.

D. Holidays, vacation and sick leave will not accrue during salary continuation. Accrued, but unused, vacation will be paid out to the employee in accordance with the Personnel and Salary Policy in the final paycheck. Sick leave will be paid in accordance with the schedule outlined in the Personnel and Salary Policy.

E. Medical, dental and vision insurance coverage, if applicable, will end on the last day of the month in which the employee receives the severance benefit. Upon termination of coverage, COBRA notification will be forwarded to the employee.

Moulton Niguel Water
Leading the Way in Service

Moulton Niguel Water District
STAFF REPORT

TO: Board of Directors **MEETING DATE: June 19, 2013**

FROM: Joone Lopez, General Manager

SUBJECT: Personnel Legal Services

SUMMARY:

Issue: Staff is requesting a service agreement with Liebert Cassidy Whitmore (LCW) for an amount not to exceed $50,000 for Fiscal Year (FY) 2013/2014 for legal services relative to personnel matters.

Recommendation: Authorize the General Manager to enter into a contract with LCW for personnel legal services for an amount not to exceed $50,000 for FY 2013/2014.

Fiscal Impact: $50,000

Previously Related Action: The prior contract was within the General Manager's signing authority.

BACKGROUND:

In July, 2012, the District entered into an agreement with Liebert Cassidy Whitmore to provide legal services pertaining to employment relations matters. The total not-to-exceed amount of the current agreement is $44,000.

DISCUSSION:

The District may need to consult with legal counsel relative to personnel matters. This Fiscal Year, the District has spent approximately $30,000 for personnel legal services. During FY 2011/2012, the District spent $151,530 for personnel legal services. Staff has been very satisfied with LCW and they have provided responsive assistance on a variety of personnel related issues. Additionally, the District has taken advantage of the training consortium offered through LCW. Based on their performance during FY 2012/2013, staff recommends entering into a contract for FY 2013/2014 for an amount not to exceed $50,000. The draft agreement is included as Exhibit 1.

RECOMMENDATION:

Staff is recommending that the Board of Directors authorize the General Manager to enter into a contract with Liebert Cassidy Whitmore for personnel legal services for an amount not to exceed $50,000 for FY 2013/2014.

EXHIBIT 1

AGREEMENT FOR SPECIAL SERVICES

This Agreement is entered into between the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation ("Attorney"), and the MOULTON NIGUEL WATER DISTRICT ("District").

1. Conditions

This Agreement will not take effect, and Attorney will have no obligation to provide services, until District returns a properly signed and executed copy of this Agreement.

2. Attorney's Services

Attorney agrees to provide District with consulting, representational and legal services pertaining to employment relations matters, including representation in negotiations and in administrative and court proceedings, as requested by District or otherwise required by law.

3. Fees, Costs, Expenses

District agrees to pay Attorney the sums billed monthly for time spent by Attorney in providing the services, including reasonable travel time. District agrees to pay and Attorney agrees to accept payment, according to the Public Agency Fee Schedule and Cost Schedules attached, for all of the services required by this agreement provided that the total compensation for services shall not exceed the sum of $50,000.00. The current range of hourly rates for Attorney time is from One Hundred Eighty to Three Hundred Dollars ($180.00 - $300.00), and from Seventy to One Hundred Forty Dollars ($70.00 - $140.00) for time of paraprofessional and litigation support staff. Attorney reviews its hourly rates on an annual basis and, if appropriate, adjusts them effective July

1. Attorney will provide the District with written notification of any adjustment in the range of rates. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour. Communications advice (telephone, voice-mail, e-mail) is billed in a minimum increment of three-tenths (.30) of an hour.

District agrees to reimburse Attorney for necessary costs and expenses incurred by Attorney on behalf of District. Attorney bills photocopying charges at Fifteen Cents ($0.15) per page and facsimile charges at Fifty Cents ($0.50) per page. A Public Agency Fee Schedule is attached to this Agreement.

Payment by District against monthly billings is due upon receipt of statements, and is considered delinquent if payment is not received within thirty (30) days of the date of the invoice.

The California Business & Professions Code requires us to inform you whether we maintain errors and omissions insurance coverage applicable to the services to be rendered to you. We hereby confirm that the firm does maintain such insurance coverage.

4. Arbitration of Professional Liability or Other Claims

Disputes. If a dispute between District and Attorney arises over fees charged for services, the controversy will be submitted to binding arbitration in accordance with the rules of the California State Bar Fee Arbitration Program, set forth in California Business and Professions Code, sections 6200 through 6206. The arbitrator or arbitration panel shall have the authority to award to the prevailing party attorneys' fees, costs and interest incurred. Any arbitration award may be served by mail upon either side and personal service shall not be required.

If a dispute arises between District and Attorney over any other aspect of the attorney-client relationship, including, without limitation, a claim for breach of professional duty, that dispute will also be resolved by arbitration. It is understood that any dispute as to any alleged breach of professional duty (that is, as to whether any legal services rendered under this agreement were allegedly unnecessary, unauthorized, omitted entirely, or were improperly, negligently or incompetently rendered) will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. **Both parties to this agreement, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration.** Each party is to bear its own attorney's fees and costs.

5. <u>File Retention</u>

After our services conclude, Attorney will, upon District's request, deliver the file for the matter to District, along with any funds or property of District's in our possession. If District requests the file for the matter, Attorney will retain a copy of the file at the District's expense. If District does not request the file for this matter, we will retain it for a period of seven (7) years after this matter is closed. If District does not request delivery of the file for this matter before the end of the seven (7) year period, we will have no further obligation to retain the file and may, at our discretion, destroy it without further notice to District. At any point during the seven (7) year period, District may request delivery of the file.

6. <u>Assignment</u>

This Agreement is not assignable without the written consent of District.

7. **Independent Contractor**

It is understood and agreed that Attorney, while engaged in performing the terms of this Agreement, is an independent contractor and not an employee of District.

8. **Authority**

The signators to this Agreement represent that they hold the positions set forth below their signatures, and that they are authorized to execute this Agreement on behalf of their respective parties and to bind their respective parties hereto.

9. **Term**

This Agreement is effective July 1, 2013 through June 30, 2014, and may be modified by mutual agreement of the parties. This agreement shall be terminable by either party upon thirty (30) days written notice.

LIEBERT CASSIDY WHITMORE, A Professional Corporation	MOULTON NIGUEL WATER DISTRICT
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

I. PUBLIC AGENCY FEE SCHEDULE

Hourly Rates (As of Agreement Effective Date)

Partners	$300.00
Of Counsel	$265.00
Associates	$180.00 - $245.00
Paraprofessionals & Litigation Support	$70.00 - $140.00

II. COST SCHEDULE

1. Photocopies	$0.15 per copy
2. Facsimile Transmittal	$0.50 per page

MOULTON NIGUEL WATER DISTRICT
SUMMARY OF DISBURSEMENTS
FOR THE MONTH OF MAY 2013

GENERAL FUND TOTAL		$ 3,888,369
RESTRICTED FUNDS		
SELF INSURANCE FUND	$ 110	
WBBRS EFFICIENY FUND	122,031	
REPLACEMENT & REFURBISHMENT FUND	78,831	
WATER SUPPLY RELIABILITY FUND	11,668	
PLANNING & CONSTRUCTION FUND	93,137	
1995 DWR LOAN	1,000	
TOTAL RESTRICTED FUNDS		306,777
TOTAL DISBURSEMENTS ALL FUNDS		$ 4,195,146

The major expenditures for May 2013 include the following:

1. Municipal Water District of Orange County (MWDOC)	
March Water Purchases AF 2229.5	$ 1,896,747
January 2013 Reclaimed Rebates AF 147.6	(22,730)
February 2013 Reclaimed Rebates AF 136.9	(21,083)
March Capacity Charge	22,913
March RTS Charges	123,183
March SCP Operation Surcharge	10,468
	$ 2,009,498
2. Crosno Construction, Inc.	
C#2011.038 E Aliso Creek Reservoir Recirculation PP#1	$ 66,358
3. Paulus Engineering, Inc.	
Pacific Island PID Zone Repair	$ 54,139
4. South Coast WD/JRWSS	
O&M Expenses Forth Quarter 2012-2013	$ 111,644
5. Watereuse Research Foundation	
Support of the California DPR Initiative	$ 54,000