



Midpeninsula Regional  
Open Space District

## LEGISLATIVE, FUNDING, AND PUBLIC AFFAIRS COMMITTEE

R-16-158  
December 20, 2016

### AGENDA ITEM 2

#### AGENDA ITEM

Approval of Amendments to the Personnel Policies and Procedures Manual

#### GENERAL MANAGER'S RECOMMENDATION

Review and discuss proposed amendments to the Personnel Policies and Procedures Manual which is intended to supersede the Board's previously version adopted in 2007 and amended in 2009. Recommend approval to the Board of Directors after incorporating the Committee's input.

#### SUMMARY

The Board adopted its existing Personnel Policies and Procedures Manual in 2007. It was last revised in 2009. The existing policy applies to all District employees (except for portions that do not apply to those represented by the Field Employees Association). The recommended changes will correct outdated job titles; ensure compliance with new federal and state employment and leave laws; ensure compliance with rules and policy changes that impact employee benefits such as procedures related to the California Public Employees' Retirement System (CalPERS); and incorporate changes to the FEA Memorandum of Understanding ("MOU") that are intended to apply to all District employees, especially those related to compensation and benefits.

#### MEASURE AA

This is not a Measure AA project.

#### DISCUSSION

The Personnel Policies and Procedures Manual ("Personnel Manual") was adopted in 2007, and amended in 2009. The purpose of the document is "to provide a system of personnel administration based upon fairness, reasonableness, uniformity and equity to help ensure that the District utilizes sound management practices, complies with applicable Federal, State and local laws and operates efficiently and effectively; and to protect and clarify the rights and responsibilities of both the employees and the District."

The Personnel Manual applies to all employees except as to those members of the Field Employees Association (FEA) who entered into new Memorandum of Understanding (MOU) which was approved by the Board in July of 2015, to the extent that the Personnel Manual differs from or conflicts with the MOU, in which case the MOU prevails. The District's past practice is to update the Personnel Manual to include policy changes in the FEA MOU which may apply to all employees. This practice is an effort to promote fairness, equity and uniformity in policies,

administrative procedures and benefits. The Personal Manual is not current and therefore staff undertook a process to review and revise document.

The process included thorough review and editing by Human Resources (HR) staff and General Manager's Office, in conjunction with the Legal Department. The Personnel Manual was also reviewed by outside legal counsel, Liebert Cassidy Whitmore (LCW), to ensure that all changes comport with current employment and leave laws.

Generally, proposed revisions fall into the following categories:

- **General Clean Up:** Clean-up of non-substantive language including headings and job titles.
- **MOU Related:** Edits to ensure that applicable changes to the FEA MOU are implemented for non-represented employees.
- **Clarification:** Clarifying procedures, policies and benefits.
- **Comport with New Law:** Edits to ensure that policies and procedures are lawful and updated.
- **CalPERS Recommendations:** Edits implemented to comply with rules, regulations and recommendations from CalPERS and the result of recent audit findings in May of 2016

## **FISCAL IMPACT**

No fiscal impact.

## **PUBLIC NOTICE**

Public notice was provided as required by the Brown Act.

## **CEQA COMPLIANCE**

This item is not a project subject to the California Environmental Quality Act.

## **NEXT STEPS**

If approved by the Legislative, Funding, and Public Affairs Committee, the Personnel Manual would be forwarded to the full Board for review and approval.

The Personnel Manual will likely be amended again in 2018 when the FEA MOU is next scheduled to be updated.

### **Attachments**

1. Summary of Proposed Revisions
2. Draft Resolution Adopting the Amended Personnel Policies and Procedures Manual

Responsible Department Head:

Stefan Jaskulak, Chief Financial Officer/Director of Administrative Services

Prepared by:

Candice Basnight, Human Resources Supervisor

## Midpeninsula Regional Open Space District Personnel Policies & Procedures 2016 Summary of Proposed Revisions

<u>Section /Subject</u>	<u>Type of Change/ Reason for Change</u>	<u>Summary of Change</u>
	<b>General Clean-up</b>	Clean up non-substantive language including headings and job titles.
	<b>MOU related edits</b>	Ensure that applicable changes to the 2015 FEA MOU are implemented for non-represented employees.
	<b>Clarification</b>	Clarify procedure, policy or benefit.
	<b>Comport w/ new law</b>	Ensure policies and procedures are lawful.
	<b>PERS recommendation</b>	Recommended change as result of recent PERS audit.
<b>➤GENERAL CLEAN UP</b>		
<b>1.4 Administration/Records/Forms/Procedures</b>	General Clean Up	Entire document updated with appropriate job titles/changed job titles.
<b>4.4 Probationary Status-At Will Employment</b>	General Clean Up	Clarify procedure around probationary periods.
<b>5.8 B Severance Pay</b>	General Clean Up	More specific description of official misconduct/comport with law.
<b>6.4 Uniform Compensation for Field Supervisory Staff</b>	General Clean Up	Uniform Benefits dates corrected to match new District fiscal year
<b>7.1 Holidays</b>	General Clean Up	Definition to match current law.
<b>8.4 Second Level Discipline</b>	General Clean Up	Clarify suspension procedure.
<b>1.6 Reasonable Accommodation</b>	General Clean Up/ Comport with law	Incorporate lawful description of Reasonable Accommodation.
<b>1.5 Non-Discrimination</b>	MOU related/ General Clean Up	Edited to match the language agreed to in Article 3 of the MOU.
<b>➤MOU RELATED</b>		
<b>1.7 Memoranda of Understanding</b>	MOU related/ General Clean Up	Edit reference to the MOU.
<b>5.3 Pay After Promotion/ 5.4 Acting Assignments</b>	MOU related/ General Clean Up	Moved previous Section 4.6 into this section (Clarify pay after promotion from point system to percentages—matches cleanup terminology that was incorporated into MOU).
<b>5.7 Longevity Pay Program</b>	MOU related/ Clarify	Clarify criteria for receiving longevity pay.
<b>5.9 Shift Differential/Call back Pay for Field Supervisory</b>	MOU related	Shift Diff to match MOU.
<b>6.1 Benefits Plans</b>	MOU related/ Comport w/ new law	Increase Benefits- Cafeteria Plan Description of CalPERS to comport with PEPRA.
<b>6.3 Professional Development</b>	MOU related/ General Clean Up	Match MOU regarding professional development benefit (Section 6.3(A)(4)).
<b>7.5 B (5) Usage</b>	MOU related/comport with new law	Change family sick leave hours to match MOU.
<b>APPENDIX A Catastrophic Leave Program</b>	MOU related/ Clean Up	Catastrophic leave program now matches MOU.

<u>Section /Subject</u>	<u>Type of Change/ Reason for Change</u>	<u>Summary of Change</u>
<b>➤ CLARIFICATION</b>		
<b>4.6 Promotion</b>	Clarification	Procedure for promotion. “Pay after promotion” section moved to section discussing salaries (Section 5.3).
<b>4.4 Probationary Status-At Will Employment</b>	Clarification	Clarify procedure around probationary period.
<b>4.5 Performance Evaluation Program</b>	Clarification/Clean Up	Clarify evaluation procedure for probationary employees.
<b>4.6 Promotion</b>	Clarification	Procedure for promotion clarified. “Pay after promotion” section moved to section discussing salaries (Section 5.3).
<b>4.13 Off Duty Employment</b>	Clarification	Clarifies that procedure also applies to outside business ownership.
<b>4.14 Notice of Resignation</b>	Clarification	Clarify procedure for resignation.
<b>4.17 Paid Administrative Leave</b>	Clarification	Clarifies GM’s authority to place an employee on administrative leave.
<b>6.2 Industrial Injury or Illness</b>	Clarification of existing practice	Clarify description of Workers Comp benefit
<b>7.2 Personal Leave Accrual; 7.3 Administrative Leave Accrual</b>	Clarification/change in payroll practice	Change accrual from quarterly to pro-rated throughout the year on each paycheck.
<b>7.4 Vacation cash out</b>	Clarification	Clarify vacation cash out procedure.
<b>7.10 Time Off to Vote</b>	Clarification	Clarify time off for voting procedure.
<b>APPENDIX E.5 Salaried Employees Policy</b>	Clarification for timecards	Salaried Employee/ FLSA procedures edited to reflect electronic timecard submittal procedure.
<b>➤ COMPORT WITH NEW LAW</b>		
<b>3.2 Equal Opportunity Employer/Applicant Reasonable Accommodation</b>	Comport with new law/ General Clean Up	Incorporate lawful description of Reasonable Accommodation.
<b>7.5 Sick Leave</b>	Comport with new law/ Clarification/	Changes in Sick Leave benefits under California “Kin Care” and paid sick leave laws.
<b>APPENDIX B SECTIONS B.6 and B.7 Family and Medical Leave</b>	Comport with new law/ Clean up	Family and medical leave procedures updated to follow updated California law (California Family Rights Act). Clarification re: payment of health care insurance premiums.
<b>APPENDIX C Prohibition Against Discrimination, Harassment and Retaliation</b>	Comport with new law/ Clean up	Include new definitions/protected classifications to match new state regulations. Added procedure for handling complaints; removed outdated EEOC contact information.
<b>APPENDIX D Pregnancy Disability Leave</b>	Comport with new law/ Clean up	Pregnancy disability leave definitions and procedures to match leave laws under CFRA and FMLA and State Disability law.
<b>➤ PERS REQUIREMENTS</b>		
<b>5.8 A Merit Pay</b>	Clarify in response to PERS audit	More specific description of Meritorious Pay to clearly adhere to CalPERS guidelines
<b>6.4 A Uniform Compensation</b>	Clarify in response to PERS audit	District will report monetary value of uniform compensation to CalPERS and will report District’s total fiscal year costs annually to CalPERS (not to exceed \$1,500 per year).

RESOLUTION NO. 16-\_\_

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA  
REGIONAL OPEN SPACE DISTRICT APPROVING AMENDMENTS TO THE  
DISTRICT'S PERSONNEL POLICIES AND PROCEDURES MANUAL**

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WHEREAS, the purpose of the District's Personnel Policies and Procedures Manual ("Personnel Manual") is to provide a system of personnel administration based upon fairness, reasonableness, uniformity and equity; to help ensure the District utilizes sound management practices, complies with applicable Federal, State and local laws and operates efficiently and effectively; and to protect and clarify the rights and responsibilities of both the employees and the District, and

WHEREAS, the Board of Directors of Midpeninsula Regional Open Space District, upon recommendation by the General Manager, may amend the Personnel Manual; and

WHEREAS, the General Manager recommends amendments to the Personnel Manual in order to correct job titles, clarify procedures, policies and benefits, and ensure that the Personnel Manual comports with changes in state and federal benefits and employment laws.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Midpeninsula Regional Open Space District approves the amended Personnel Manual as fully set forth in Exhibit A, attached hereto and incorporated herein by this reference.

\* \* \* \* \*

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on \_\_\_\_\_, 2017, at a regular meeting thereof, by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

**ATTEST:**

**APPROVED:**

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Secretary  
Board of Directors

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President  
Board of Directors

**APPROVED AS TO FORM:**

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General Counsel

I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

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District Clerk

Exhibit A: Personnel Policies and Procedures Manual



**Midpeninsula Regional Open Space District**

# **PERSONNEL POLICIES & PROCEDURES MANUAL**

ADOPTED BY THE BOARD OF DIRECTORS  
JUNE 27, 2007

AMENDED MAY 13, 2009  
AMENDED DECEMBER 16, 2009

AMENDED JANUARY XX, 2017

# Midpeninsula Regional Open Space District

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***POLICY 1 GENERAL PROVISIONS***

This document is entitled Personnel Policies and Procedures Manual, herein known as the Personnel Manual. This Personnel Manual applies to all employees of the Midpeninsula Regional Open Space District, herein known as the District, except as otherwise indicated.

***Section 1.1 Purpose***

The purpose of the Personnel Manual is as follows:

To provide a system of personnel administration based upon fairness, reasonableness, uniformity and equity; to help ensure that the District utilizes sound management practices, complies with applicable Federal, State and local laws and operates efficiently and effectively; and to protect and clarify the rights and responsibilities of both the employees and the District.

***Section 1.2 Adoption and Amendment of the Manual***

The Personnel Manual shall be approved by the Board of Directors, herein called the Board, and may be amended by the Board of Directors upon recommendation of the General Manager.

In the event that any part of this policy is found to be in conflict with state or federal law or the rules of a higher authority, that portion of such policy is automatically null and void without Board action.

***Section 1.3 Term of Personnel Manual***

This Personnel Manual takes effect when adopted by the Board of Directors of the District. The Personnel Manual shall remain in effect unless amended or repealed, in whole or in part, by the Board.

***Section 1.4 Administration/Records/Forms/Procedures***

The General Manager shall administer the Personnel Manual and may delegate certain authority to the head of Human Resources or other designee(s). The General Manager shall have the authority, at his/her discretion, to make exceptions to or modify the strict application of any provision of this Personnel Manual when such application would create undue hardship for the District or the employee and/or when the General Manager determines that such variance is necessary and appropriate for the efficient operation of the District. Any such exception or modification shall not become a provision of these policies nor shall it create a past practice to the detriment of the District.

***Section 1.5 Non-Discrimination***

All District employees must comply with the District's Nondiscrimination and Sexual Harassment Policy and applicable Federal and California laws.

***Section 1.6 Reasonable Accommodation***

The District will provide reasonable accommodation to enable all employees who are disabled, as defined under State and federal anti-discrimination laws, to perform the essential functions of the job. A number of exceptions can apply, including, in part, whether the accommodation would result in "undue hardship" on the District; the employee is unable to perform job without

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endangering health or safety of himself/herself or others; or the employee is unable to perform essential job functions even with accommodation.

***Section 1.7 Memoranda of Understanding and Employment Agreements***

To the extent that these policies are inconsistent with provisions of any applicable Memorandum of Understanding (MOU) with a recognized bargaining unit or Employment Agreements (such as those applicable to Board Appointees), the respective provisions of the MOU or Agreement(s) shall prevail for those employees covered by the aforementioned Agreement(s).

***Section 1.8 Department Procedures and Practices***

Department Managers may implement procedures and practices as deemed necessary for the efficient and orderly administration of their respective Departments. However, such procedures or practices shall not conflict with or supersede this Personnel Manual. Department procedures and practices shall be consistent with and supplementary to this Personnel Manual.

***Section 1.9 Distribution of HR Policies***

Copies of the Personnel Manual shall be distributed to each employee of the District and to any recognized employee organization and bargaining unit at the time of adoption or amendment. Each new employee shall receive a copy of the Personnel Manual prior to or during orientation and shall sign a statement indicating that he/she has received and read the manual. Employees may access the Personnel Manual at any time on the District's computer network or by requesting a copy from Human Resources.

***Section 1.10 Savings Clause***

If any provision or the application of any provision of this Personnel Manual, as implemented, is rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions of this Personnel Manual shall remain in full force and effect, unless and until amended by the Board.

***Section 1.11 Violation of Personnel Manual***

Any violation of this Personnel Manual may constitute grounds for rejection of applicants, and may result in disciplinary action for employees, up to and including termination, pursuant to the applicable disciplinary procedures.

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***POLICY 2    JOB CLASSIFICATIONS******Section 2.1    Classification Plan***

The General Manager shall recommend a Position Classification Plan to the Board of Directors for General Manager appointed positions. The Position Classification Plan shall consist of salary ranges and Class Specifications, which include class titles, purpose of positions, job requirements, and general job duties. The Board of Directors shall approve the Classification Plan. The General Manager shall be responsible for keeping the Classification Plan current through periodic analysis of the positions within the organization. The General Manager shall have the authority to amend the Class Specifications when such changes do not substantially change the general job duties of the Class Specification and do not affect the salary range assigned to that Specification. Upon recommendation by the General Manager, the Board may create new classifications, divide, combine, revise, reclassify, or abolish existing classes, and may reassign a class from one salary range to another, or to a new salary range.

***A.    Regular Positions***

Regular Positions are Board-authorized, continuous positions and may be full-time or part-time, but do not include temporary positions. Each regular employee of the District shall be allocated a class specification as well as specific duties for his/her particular employment assignment within the District.

***B.    Temporary Positions***

Temporary Positions are positions filled for a limited period of time. The General Manager may establish duties and rates of pay necessary to secure qualified people for needed temporary positions when doing so does not exceed the District-wide fiscal year budget for salaries and benefits. Temporary positions are not required to have Class Specifications.

***Section 2.2    Reclassification***

The process of reclassification is intended as a means of properly classifying and compensating employees, based upon the needs of the District. Reclassification is the combining of two or more classifications, or the material change in duties of an existing position, which requires a change in the classification of the employee. In the event that changes in the District's staffing needs require a reclassification of an employee, the General Manager may approve such reclassification. However, if the reclassification requires the creation of a new Class Specification and/or salary range, or the change alters the positions approved in the budget and the Classification Plan, the Board shall approve the new specification, salary range, or budget amendment. Reclassification shall not be used for the purpose of circumventing the competitive hiring process.

***A.    Position Upgrade- Effects of Incumbent in the Position***

If the reclassification of a position requires that the position be upgraded to a higher classification, the incumbent may be reclassified if the incumbent has met all of the following criteria:

- 1) Has the minimum qualifications for the new classification;
- 2) Has a satisfactory (or meets standards) overall rating on his/her most recent evaluation;

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- 3) Has demonstrated the knowledge, skills, and abilities to satisfactorily perform the full scope of duties in the new classification and;
- 4) Has been in the existing position for a minimum of one year

***B. Position Downgrade***

If the reclassification of a position requires that the position be downgraded to a lower classification, the incumbent shall be reclassified to the lower position within the District, or at the discretion of the General Manager, may be allowed to fill any similar vacant position within the District for which that employee is qualified, without a competitive process.

***C. Applicable Pay Following Reclassification***

In a position upgrade, the General Manager shall assign the employee to a salary step within the new classification salary range that is appropriate, based upon the employee's experience and qualifications. In no case, however, will the new salary step be less than the employee's current salary. In the case of a position downgrade, the General Manager shall assign a salary within the new range that is closest to, but not more than, the incumbent's salary in the existing range. In the event that the employee's existing salary already exceeds the salary range of the new position, that employee's salary shall be "Y" rated. (**Y-Rating** - The maintenance of an employee's existing salary/wage until the newly assigned salary range increases beyond the retained salary of the employee.)

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***POLICY 3 RECRUITMENT AND SELECTION******Section 3.1 Vacancies***

The Board is the appointing authority for all Board-appointed positions, which includes the General Manager, General Counsel and Controller. The General Manager is the appointing authority for all other positions in the District. When a vacancy occurs in an authorized position, the District shall normally conduct a competitive recruitment process.

***Section 3.2 Equal Opportunity Employer/Applicant Reasonable Accommodation***

The District is an Equal Opportunity Employer. The District's recruitment program will be designed to appeal to the broadest segments of the population, and the selection process for employment shall not be influenced by race, religion, creed, political affiliation, color, national origin, ancestry, sex (including pregnancy, childbirth, medical conditions related to same, and gender), sexual orientation, age, marital status, medical condition or physical or mental disability, or any other class protected by law. The District will provide reasonable accommodation to qualified applicants with disabilities to ensure equal opportunity in the application process, subject to certain exceptions, including, but not limited to, whether the requested accommodation will create an undue hardship on the District.

***Section 3.3 Qualification of Applicants***

No person shall be employed in or appointed to any position unless said person meets the required qualifications, education, or experience designated for that classification. However, in order to meet the needs of the District, when a recruitment has been unsuccessful or has not resulted in candidates that meet all designated criteria, exceptions may be granted by the General Manager. Applicants are subject to any employment contingencies established for the position including, but not limited to, a satisfactory medical/physical exam, background investigation, reference check, driving record check, and knowledge/skills/leadership style tests. Failure to satisfy contingencies may result in the District withdrawing an offer of employment, or if employee has already begun working for the District, termination of employment.

***Section 3.4 Disqualification of Applicants***

An applicant may be disqualified for employment for any of the following reasons:

- 1) The applicant is physically or psychologically unfit for the performance or safe performance of the essential duties of the position and such unfitness cannot be reasonably accommodated.
- 2) The applicant has been dismissed for cause from previous employment.
- 3) The applicant has used an unethical personal or political influence to attempt to obtain employment or promotion with the District.
- 4) The applicant has been convicted of a felony or misdemeanor, which was of such a nature as to adversely affect the applicant's ability to perform the duties of the position.



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- 5) The applicant has practiced or attempted to practice any deception, fraud or omission of material fact in the application or interview, or in securing eligibility for employment.
- 6) The application or supplement is incomplete or received after the announced closing date.
- 7) The applicant has not yet reached his/her 18<sup>th</sup> birthday.
- 8) The applicant has a relative, including a spouse, working for the District and the position for which the applicant is applying, would require either applicant or relative to render supervisory authority over the other and/or has the potential to create a conflict of interest in carrying out either party's District duties. See Section 4.7 below.

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***POLICY 4    TERMS OF EMPLOYMENT******Section 4.1    Safety and Health***

The personal safety and health of each employee of the District is of primary importance. The District has an Injury-Illness Prevention Program (IIPP) and a Safety Manual, which shall be made available to each employee. An employee is expected to read the IIPP and Safety Manual, shall be safety conscious, use good judgment in performing job duties, and follow all rules and procedures in the IIPP, the Safety Manual, and other procedures or directives given by his/her supervisor.

***Section 4.2    Workday***

The regularly scheduled eight-hour workday for full-time employees at the Administrative Office shall be set by the General Manager and shall include the core office hours of 9:00 a.m. to 4:00 p.m. The applicable Department Manager shall set the regularly scheduled eight-hour workday for field staff employees. Individual employee workday schedules are to be approved by the Department Manager or appropriate supervisor, but must fall within the core hours specified for each work site by the General Manager or applicable Department Manager.

***A.   Meal Breaks***

An employee's one-half hour to one hour unpaid meal break is not a part of the eight-hour workday, except for the paid lunchtime provided to Supervising Rangers.

***B.   Rest Breaks***

Employees are entitled to take a short rest period of up to ten minutes within each half-day worked. Such rest periods should be taken at a time and in a manner which does not interfere with the efficiency of operations.

***C.   Alternate Work Schedules***

Supervisors and office staff may be eligible to participate in alternate work schedules, including telecommuting, in accordance with administrative guidelines for the program. Designated hours and work sites may be changed from time to time and may include weekends, holidays and evenings to accommodate the needs of the District. See Administrative Guidelines for Flexible Work Schedules for Office, Supervisory, and Management Employees.

***Section 4.3    Attendance***

Employees shall be in attendance and ready to work at their designated work sites at the hours arranged and approved by the employee's supervisor. Any unauthorized absence from the employee's work duties or work site may be designated as absence without pay and may be cause for disciplinary action.

***A.   Reporting Late-to-Work or Absence***

Employees are required to follow department procedures in reporting a late-to-work or unplanned absence. When a department procedure does not exist, employees shall make every effort to report an absence or late-to-work to his/her supervisor as soon as possible, but prior to the beginning of that employee's scheduled workday.

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***B. Time Cards***

Each employee is responsible for keeping accurate records of his/her attendance and absences, and will fill out and sign his/her time card. Each supervisor will approve the employee's time cards after verifying the accuracy of the hours reported by the employee. Employees who are classified as "exempt" under the Fair Labor Standards Act shall follow the time card procedures set out in the District's Salaried Employees Policy. (See Appendix E)

***Section 4.4 Probationary Status- At Will Employment***

The probationary period is part of the selection and testing process and is designed to ensure that employees are able to satisfy requirements of the position for which they were hired or promoted. Newly hired or promoted employees are "at- will" which means they are subject to dismissal at any time, without cause, without advance notice, and without the right of hearing or appeal. The General Manager shall approve all extensions of probation or failure to pass probation. "At-will" status continues until a probationary employee has completed the minimum probationary period specified, including any extension thereof, and receives an approval for regular status from the Department Manager.

***A. Probationary Period***

The probationary period for newly hired employees shall be twelve (12) months and may be extended up to three (3) months. The probationary period of employees promoted or transferred to a new classification shall be six (6) months and may be extended up to three (3) months. In addition, an employee who is absent from duty or unable to perform the essential functions of his/her job in excess of a total of four (4) weeks during the probationary period shall have his/her probationary period extended for the duration of the absence (which may exceed the 3-month extension period described above) to allow the District an adequate period of time in which to determine if the employee is able to satisfy the requirements of the position. A probationary employee will receive written notice of any extension of probation.

***B. At-Will Status for Upper Management***

"At-Will Managers" are Assistant General Managers, the Chief Financial Officer/Director of Administrative Services, Division Managers of the Administrative Services Department (Information Technology Division, Human Resources Division, and Finance Division), and Department Managers. These "at-will" employees serve at the will and pleasure of the General Manager throughout their employment, and may be terminated at any time without cause, without advance notice, and without the right of hearing or appeal. See Severance Pay for At-Will Managers, Section 5.8(b).

***Section 4.5 Performance Evaluation Program***

The District will provide performance evaluations for the purpose of:

- 1) Recognizing each employee's achievements and contributions to the organization.
- 2) Providing developmental feedback including identification of deficiencies and providing specific action plans to improve.
- 3) Establishing training needs.

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- 4) Providing a basis for salary recommendations and promotions.

***A. Forms and Frequency***

The District will provide a form and format for written employee evaluations. Managers and Supervisors will complete such evaluation forms at least once annually, except as otherwise provided in this Personnel Manual, and may provide more frequent evaluations as may be needed and/or beneficial.

***B. Procedures***

Employees will be asked to sign the evaluation and will be given up to fifteen (15) calendar days to include any comments in the appropriate section of the form. Employee comments are optional. If the employee refuses to sign acknowledging receipt of the evaluation, the supervisor will make a notation on the form of the date the evaluation was given and that the employee has failed to sign the evaluation.

***C. Overall Below Standard Evaluation***

If an employee receives an overall below standard performance evaluation and has not reached the maximum salary step in the applicable salary range, that employee will not be eligible for a step increase until the next annual evaluation. If the employee's performance during the next evaluation period has been consistently standard or above, the step increase will be given at that time.

(The definition for an "Overall Below Standard Evaluation" is: a sufficient number of Below Standard ratings on the employee's performance evaluation to render that employee's overall performance to be Below Standard, and/or a Below Standard rating in any one category which is egregious, chronic, or impairs the employee's ability to perform the essential functions of the position. Furthermore, in no case shall an employee receive an Overall Standard Evaluation with three or more Below Standard ratings.)

An Overall Below Standard Evaluation must be written by or approved by the Department Manager. An employee in good standing is one who was rated "Meets Standard" or "Exceeds Standard" in his or her most recent performance evaluation.

***D. Not Subject to the Appeal or Grievance Process***

The performance evaluation is not subject to any appeal or grievance process.

***E. "At-Will" Managers***

"At-will" Managers as defined herein, will receive regular feedback from the General Manager or respective supervisor. They are not subject to the written evaluation process described above, but shall, at the discretion of the General Manager, receive periodic written evaluations.

***F. Probationary Evaluations***

The District will provide written evaluations for probationary employees as deemed necessary by the employee's immediate supervisor during the probationary period.

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***Section 4.6 Promotion***

It is the policy of the District to fill authorized position vacancies with the most qualified individuals available. The District also endeavors to provide promotional opportunities for qualified employees. The probationary period for a newly promoted District employee, or an

employee transferred to a new classification, shall be six (6) months, and may be extended as set out in Section 4.4.

Promoted employees failing to complete probation will be returned to their former position or a similar position in a similar pay grade provided that such a position is available. However, if no such position is available, the employee may be laid off, or may, at the discretion of the General Manager, be offered a lower position if a vacant position is available and if the employee is qualified for that position.

***Section 4.7 Employment of Relatives***

To avoid any potential for a conflict of interest or favoritism, it is necessary to restrict the employment of relatives of elected officials, appointed officials, and employees of the District. Relatives, as defined in this section, shall include spouse or domestic partner, child, stepchild, parent, siblings, aunts/uncles, grandparents, mothers/fathers-in laws, any other relative living in the employee's home. The following restrictions will apply:

- 1) Relatives shall not be employed in a position, which exercises supervisory authority over another relative, if the employment has the potential for creating an adverse impact upon supervision, safety, security, or morale.
- 2) If two (2) District employees become relatives after employment, and their employment conflicts with the provisions of Subsection (1) of this section, and the conflict cannot be resolved by a transfer or other reasonable accommodation, the two employees will be given a choice of which employee will resign. If neither chooses to resign, the District may discharge one of the employees based upon seniority, overall experience, and/or overall impact on the District, without appeal.
- 3) In no event shall an employee participate in decision-making aspects of the recruitment, selection, or determination of compensation process for a position in which that employee's relative has applied.
- 4) No District employee or elected official shall attempt to intervene in or influence a District decision concerning any aspect of the employment of his or her relative (as defined in this section).

***Section 4.8 Political Activity***

District employees are public officials and as such are subject to numerous laws, regulations and court decisions regulating incompatible activities and conflicts of interest. Therefore, the following are prohibited activities:

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- 1) An employee may not participate in personal political activities of any kind while in uniform or during his/her working hours, or during such time when the public may reasonably assume that the employee is acting as a representative of the District. (Examples would include wearing of campaign buttons, soliciting support for a candidate or legislation, or soliciting donations for political causes.)
- 2) While in uniform or during his/her working hours, or during such time when the public may reasonably assume that the employee is acting as a representative of the District an employee may not directly or indirectly solicit or receive political funds or contributions, knowingly, from other District officers, employees or the public. An employee may not use any District contact or mailing lists to solicit such contributions at any time.
- 3) An employee may not utilize any District resources for the purpose of personal political activity, nor use District resources to support or oppose any qualified ballot measure or candidate for elective office.
- 4) An employee may not use his/her influence or official authority to secure any appointment of any person or prospective appointment of any person to any position in the service of the District as a reward or return for personal or partisan political service.

Any employee who is not sure if his/her activity may be in violation of this Section should consult with the head of Human Resources or the District's General Counsel.

***Section 4.9 Conflict of Interest***

No employee of the District shall have a personal financial interest of any kind in any District contract, sale or transaction. Any participation by an employee in the process by which such a contract is developed, negotiated, recommended or executed is a violation of this Section.

***Section 4.10 Transfer***

Employee requests for transfer to another District work area or department may be considered, if the position is in the same or comparable classification as the employee's existing position, the employee has attained regular status, and the employee meets the minimum qualifications of the new position. Such transfer requests shall be made in writing and submitted to the Department Manager. If the Department Manager approves, the transfer request will be submitted to the General Manager for his/her approval. All transfer requests are subject to the approval of the General Manager.

The General Manager may initiate employee transfers when the transfer is in the best interest of the District. Such transfers shall be to a position in the same or comparable class with the same or comparable salary range. The employee shall remain at the same salary step and shall retain the same anniversary date. The employee's preferences regarding the transfer will be considered to the greatest extent possible. Such transfers are not subject to any appeal or grievance procedure.

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***Section 4.11 Keys and Security Codes***

Keys to the District gates, facilities, and vehicles shall be issued only to employees so designated by the Department Manager or his/her designee(s). These are the property of the District, and employees shall not duplicate or loan keys, except when directed to do so by the Department Manager or designee, and shall surrender them to the District upon separation from the District. Employees shall immediately report lost or stolen keys to their supervisors who shall then report the loss to the Department Manager. Employees shall protect District assets by keeping access codes confidential, except when following procedures for contractor access to preserves.

***Section 4.12 Postings on Bulletin Boards/District Property***

For the purpose of maintaining a professional, non-political and harassment free work environment, the District will review all items to be posted on public or community areas of District property such as bulletin boards, vehicles and common area walls, doors or equipment. The Department Managers for the Administrative Office and the Area Superintendents for the field offices shall approve any items before they are posted.

***Section 4.13 Off-Duty Employment and Business Ownership***

The District reserves the right to restrict off-duty employment/business ownership by District employees for the purpose of ensuring safe, efficient and effective performance of duties at the District. Any District employee engaged in, or wishing to engage in outside or self-employment must notify his/her Department Manager or immediate supervisor in writing. The Department Manager or supervisor shall discuss the nature and hours of the off-duty employment with the employee. The Department Manager or supervisor shall have the right to limit, deny, or withdraw approval of such employment at any time, with a minimum of two weeks' advance notice, in the event the employee is working an off-duty job. Any permission to engage in off-duty employment or business ownership must be in writing. District employees are permitted to work off duty or own a business after receiving District approval, when all of the following conditions are met:

- 1) Such employment/business ownership does not conflict with department schedules, duties and/or responsibilities; and
- 2) Such employment/business ownership does not create a conflict of interest or an incompatibility with District employment, (e.g. working on a District contract or receiving money for performing any act that would be part of the employee's regular duties); and
- 3) Such employment/business ownership does not create a detrimental effect upon the employee's performance of District duties and responsibilities or involve time demands that render the employee's performance less efficient; and
- 4) Work performed in such employment/business ownership is not regulated or inspected by any District employee; and
- 5) Such employment/business ownership does not involve conducting private business during hours of District employment or the use of any district resources or uniforms; and

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- 6) The employee agrees that he/she is not entitled to receive District-provided Worker's Compensation benefits if he/she sustains an injury or illness during the course of off-duty or self-employment not related to his/her District employment.

***Section 4.14 Notice of Resignation***

Employees who wish to voluntarily terminate employment with the District shall provide a minimum of two (2) weeks' written notice to their immediate supervisor, unless an emergency

situation prevents such notice or upon agreement of the General Manager. The resignation shall be accepted upon submission and deemed effective on the date stated in the resignation.

***Section 4.15 Exit Interview***

The head of Human Resources or designee shall hold an exit interview with each regular separating employee. The interview shall include apprising the exiting employee of any employee benefits (such as retirement) due him/her and providing information or referrals on how to receive such benefits. All District equipment, keys, credit cards etc. shall be collected at or before the exit interview.

***Section 4.16 Employment Reinstatement***

Former employees who have voluntarily left the District service shall have no right to reinstatement. Any reinstatement into a vacant position (of the same classification) shall be at the sole discretion of the General Manager as long as the request for such reinstatement occurs within 6 months of the employee's separation in good standing from District employment. The rate of pay for the reinstated employee shall be determined by the General Manager, but shall not exceed the rate of pay the employee was earning prior to leaving District employment, and may be less if the employee is reinstated to a lower position. For the purpose of attracting and retaining experienced and qualified personnel, the General Manager, at his/her sole discretion, may determine the amount of leave time accrual and other "time-in-grade" benefits the reinstated employee may earn upon reinstatement.

***Section 4.17 Paid Administrative Leave***

The General Manager may place an employee on paid administrative leave for any reason, whether or not related to discipline.



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***POLICY 5    COMPENSATION***

The District endeavors to establish pay for their employees that allow it to attract and retain competent, qualified staff, and is equitable internally. The General Manager shall recommend a Compensation Plan to the Board of Directors for General Manager appointed positions, which meets these general guidelines. Upon recommendation of the General Manager, the Board of Directors shall approve the Compensation Plan. The Compensation Plan may include Administrative Guidelines, which shall be supplemental to this policy. The General Manager shall periodically review the compensation received by District employees, utilizing such tools as the Consumer Price Index and review of salary plans of similar positions in the related job market. See Board Policy 2.03, *Employee Compensation Guiding Principles*.

***Section 5.1    Starting Salaries***

A starting salary shall normally be at the first step of the salary range. However, the General Manager, at his/her discretion, shall determine starting salaries for individual employees within the compensation plans, commensurate with the new employee's experience, knowledge, education, skills and abilities.

***Section 5.2    Step Increases***

If a salary step program is being utilized, new employees hired at a rate of pay that is not at the maximum of the pay range shall be eligible for a salary increase upon successful completion of the probationary period, or any extension thereof. Thereafter, employees shall be eligible for salary increases at twelve-month intervals, up to the top of the pay range. A completed performance evaluation with an overall rating of satisfactory or above shall be required for all salary increase recommendations.

***Section 5.3    Pay After Promotion***

An employee who has successfully competed for a position in the District which has a higher salary range than his/her existing position shall be assigned the beginning step of the new salary range or a five (5) percent increase in his/her existing regular rate of pay, whichever is greater. An additional increase of up to five (5) percent of the new salary may be added to compensate for the length of time since the employee's last step increase, unless the employee was at the top of the salary range (see promotional chart below).

In an instance in which the incumbent employee's knowledge and experience are such that a promotional starting salary as noted above would create internal inequity, the General Manager may make an adjustment to the starting salary which is commensurate with that employee's experience, knowledge, education, skills and abilities, including the length of time that employee may have served in an "Acting" capacity for the newly promoted position, not to exceed the top of the salary range.

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<b>Months* Worked Since Last Annual Evaluation</b>	<b>Merit Increase</b>
1 through 6 months	1 step (2.5 percent)
7 through 12 months	2 steps (5 percent)

\*Month is equivalent to a calendar month irrespective of how many days are in each month.

#### ***Section 5.4 Acting Assignments***

The General Manager may assign an employee to perform the duties of and assume the responsibilities of a higher-level classification due to a position vacancy, or to meet the temporary needs of the District. In consideration of the Acting Assignment, the employee shall be paid at least five (5) but not more than ten percent more than his or her current salary, beginning on the first day of the assignment, subject to the minimum and maximum time periods noted below. The need for acting assignments shall be evaluated on a case-by-case basis. Assignment of some duties of a higher classification during the temporary absence of an employee without assignment of the full responsibilities of the higher classification may be made without additional compensation paid to the employee.

##### ***A. Salaried Employees***

Salaried employees are those District employees whose position is classified as exempt from the overtime compensation requirements of the Fair Labor Standards Act. Acting pay for salaried employees shall apply only if the Acting Assignment exceeds fifteen (15) working days.

##### ***B. Hourly Employee***

Hourly employees are those District employees whose position is classified as non-exempt from the overtime compensation requirements of the Fair Labor Standards Act. Acting pay for an hourly employee shall apply only if the Acting Assignment exceeds five (5) working days. In the event an hourly employee is assigned to Act for a salaried position, the employee shall continue to be paid hourly for the purposes of overtime and will therefore not be eligible for any Administrative Leave time.

##### ***C. Duration***

An acting appointment shall normally not exceed six months, however, the General Manager may authorize an extension of the period due to extenuating circumstances and to meet the needs of the District.

#### ***Section 5.5 Overtime***

When it is necessary for the operation of the District, hourly employees may work overtime, but must obtain authorization from their immediate supervisor or Department Manager prior to commencement of overtime. Supervising Rangers and Maintenance Supervisors are pre-authorized for overtime if needed to complete an emergency incident. The Supervising Ranger or Maintenance Supervisor shall contact his/her Area Superintendent, Area Manager, or Department Manager immediately if the event is going to take an extended amount of time.

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In compliance with the Fair Labor Standards Act, as it applies to public sector employers, any employee of the District required to work overtime shall be compensated at time and one-half his/her regular hourly rate of pay for time actually worked in excess of forty (40) hours within the seven-day work week, (exclusive of non-paid meal breaks). For field supervisory employees, overtime pay shall apply for time worked in excess of the scheduled workday or in excess of the forty-hour workweek. Holiday, sick, and vacation paid leave time shall be counted toward the calculation of hours worked for the purpose of overtime compensation.

***A. Alternate Work Schedules***

Overtime rules for employees authorized to work Alternate Work Schedules (such as 9/80) shall be those set out in the Administrative Guidelines for Flexible Work Schedules for Office, Supervisor, and Management Employees regarding overtime rules for flex schedules.

***B. Salaried Employees***

Employees of the District designated as salaried shall not be subject to the provisions of this section. (See Salaried Employee Policy- Appendix E)

***Section 5.6 Compensatory Time***

An hourly employee may elect compensatory time in lieu of overtime pay. Compensatory time is subject to a maximum accrual of 50 hours (33 and 1/3 hours worked computed at time-and-one-half to a total of 50 hours). Supervisor approval is required for use of compensatory time and shall normally be granted if the employee provides reasonable advance notice and if the granting of the time off does not unduly disrupt District operations. Use of compensatory time is not considered hours worked in a week for the purpose of calculating overtime. Unused compensatory time shall be paid at termination.

***Section 5.7 Longevity Pay Program***

An Office, Supervisory and Management employee is eligible for Longevity Pay if all of the following apply:

1. Employee has worked for the District for a minimum of ten (10) consecutive years, and
2. Employee is currently at the top of his/her salary range, and
3. Employee has no below standard rating on his/her last annual performance evaluation.

Such employees will receive a one percent (1%) lump sum payment of annual salary each year after completion of the annual performance evaluation. This benefit applies to both full-time and part-time District employees. The lump sum payment will not adjust the salary range and will not count toward the calculation of annual salary for the purpose of computing life insurance coverage or long-term disability (LTD) wages. At-Will Managers are not eligible for Longevity Pay. See Section 5.8 below.

***Section 5.8 Meritorious Pay for "At-Will" Managers******A. Meritorious Pay***

"At-Will Managers," defined above as Assistant General Managers, the Chief Financial Officer/Director of Administrative Services, Division Managers of the Administrative

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Services Department (Information Technology Division, Human Resources Division, and Finance Division), and Department Managers, are eligible for Meritorious Pay as described in this section. For “At-Will” Managers who have reached the top of their salary range as of the beginning of the District’s Fiscal Year (beginning July 1, 2016), the General Manager may award meritorious performance pay of 1% to 5% of the employee’s annual salary at the end of that fiscal year, based upon overall performance, including, but not limited to, completion of items on the annual Action Plan as well as performance in response to unanticipated projects and exceptional professional and managerial achievement. The manager’s evaluation shall reflect that meritorious pay is awarded for superior performance. This meritorious pay if awarded, is a lump sum payment, will not adjust the salary range, and will not be added to the individual’s base salary for the purpose of computing life insurance coverage or LTD wages.

***B. Severance Pay***

Department Managers and the Assistant General Manager are “at-will” employees and will be given a severance payment equal to 90 days of their current base salary if they are terminated from District employment at the will and pleasure of the General Manager, except in cases of misconduct, including but not limited to, conviction of a crime involving an abuse of his/her office or position with District. (See Gov. Code, § 53243 et seq.)

***Section 5.9 Shift Differential/Call Back Pay for Supervising Rangers and Maintenance Supervisors******A. Night Shift***

Hourly Supervising Rangers and Maintenance Supervisors will receive a differential of \$3.00 per hour for each hour actually worked after 2:00 p.m. when at least four (4) hours of an assigned work schedule, or additional work approved by a supervisor, occurs after 5:00 p.m. and before 6:00 a.m. The differential shall apply to overtime hours the same as straight time hours.

***A. Split Shift***

Hourly Supervising Rangers and Maintenance Supervisors assigned to work a split shift will receive a differential of \$40.00 per workday for each split shift actually worked.

***B. Call Back Time***

Any hourly Supervising Rangers or Maintenance Supervisors not residing in District housing will receive a minimum of 3 hours of call-back time paid at time-and-one half (1-1/2 time), commencing upon arrival at the employee’s work station.

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***POLICY 6 BENEFITS******Section 6.1 Benefit Plans******A. Medical Insurance***

The District participates in the CalPERS Health Insurance Program, which offers a choice of several medical plans available to District employees. The District will contribute \$350.00\* per month toward the cost of medical insurance for regular, full-time employees (\*See Section B below).

The District will provide same-sex domestic partner medical coverage in the CalPERS Health Program plans as provided for in this section to the extent and in the manner in which the CalPERS Health Program allows for the domestic partner's enrollment. Unless the domestic partner qualifies as a dependent under Section 152 of the Internal Revenue Code, domestic partner coverage cannot be paid on a pre-tax basis under the Cafeteria Plan or paid for with contributions under the Cafeteria Plan. The fair market value of the domestic partner coverage, less any amount paid by the employee for that coverage, must be taxed to the employee as income.

***B. Cafeteria Plan***

The District will continue to provide a Section 125 Cafeteria Plan that employees may use to pay for the cost of medical, dental, and vision insurance as well as Dependent Care and Medical Reimbursements on a pretax basis. The District will provide a contribution into the Cafeteria Plan sufficient to pay for dental and vision insurance, plus an additional amount toward medical insurance as described below. The Cafeteria Plan contribution will be adjusted as described below.

1. Effective the first pay period at the beginning of August 2015, the District will provide monthly contributions to the Cafeteria Plan in the following amounts for each coverage tier:

Employee Only: \$810.00  
Employee Plus One: \$1,375.00  
Employee Plus Two or More: \$1,715.00

If the employee selects a plan with a greater premium cost than the District contribution, the employee will pay the additional premium cost.

2. Effective July 1, 2016, the District Cafeteria Plan contribution will be adjusted according to the San Francisco Area Consumer Price Index for All Urban Consumers for the year preceding the adjustment from February to February. The July 1, 2016 Cafeteria Plan adjustment shall be not less than 2.0 percent or greater than 3.0 percent.
3. Effective July 1, 2017, the District Cafeteria Plan contribution will be adjusted according to the San Francisco Area Consumer Price Index for All Urban Consumers for the year preceding the adjustment from February to February. The

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July 1, 2017 Cafeteria Plan adjustment shall be not less than 2.0 percent or greater than 3.0 percent.

4. **Cash Back:** In the event CalPERS offers a medical insurance plan with lower premiums than the District contribution, an employee selecting such a plan will have contributions remaining in the Cafeteria Plan and may apply the remaining contribution to other qualified benefit costs, or receive the difference in cash.
5. **Waiver:** If an employee provides evidence (e.g. insurance ID card) that he/she is covered under a non-District medical plan, he/she may elect to waive such coverage through the District. Employees waiving medical coverage will receive contributions under the Cafeteria Plan equivalent to one-half of the District Employee Only contribution, and may elect to apply such contribution toward other qualified benefit costs or receive the difference in cash.

If the District determines, before or during any Cafeteria Plan year, that the Cafeteria Plan may fail to satisfy any requirements of the Internal Revenue Code for such plan year, the District shall take such action as the District deems appropriate and necessary to ensure that the Cafeteria Plan satisfies the requirements of the IRS Code.

***C. Dental Insurance***

The District will make available the Delta Dental Plan that is provided to the District as a subgroup of Santa Clara County. The District will provide a similar plan if the Delta Dental Plan becomes unavailable. The District will pay the full premium cost of the dental plan coverage for employees and dependents as a contribution to the Cafeteria Plan.

If an employee is currently covered under a non-District provided dental plan, basically equivalent to that provided by the District, the employee may elect to waive such coverage through the District. An employee who elects to waive dental coverage will receive the cash equivalent of one-half (1/2) of the dental premium, and may elect to use it for other benefit costs or receive it in cash.

The District agrees to provide same-sex domestic partner coverage in the dental plan, if the plan allows for the domestic partner's enrollment.

***D. Vision Insurance***

The District will make available the Vision Service Plan as provided to the District as a subgroup of Santa Clara County. The District will provide a similar plan if the Vision Service Plan becomes unavailable. The District will pay the full premium cost of the vision plan coverage for employees and dependents as a contribution to the Cafeteria Plan.

An employee may elect to waive vision plan coverage through the District. An employee who elects to waive vision coverage may elect to apply the full amount of the vision plan premium toward other benefit costs or receive it in cash.

The District agrees to provide same-sex domestic partner coverage in the vision plan, if the plan allows for the domestic partner's enrollment.

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***E. Basic Life and Accidental Death & Dismemberment (AD&D) Insurance***

The District will provide basic life insurance coverage equivalent to two times (2x) the employee's annual salary and AD&D plan coverage equivalent to two times (2x) the employee's annual salary at no cost to the employee. Note: the two times (2x) the employee's annual salary may be subject to benefit reductions required by the carrier for employees age 70 and older.

***F. Optional Supplemental Life Insurance Benefits***

The District shall offer the option of electing Supplemental Life Insurance to employees at the employee's cost.

***G. Part-Time Employees***

Medical, dental and basic life insurance benefits for regular part-time (one-half time or greater) employees shall be provided on a pro-rata basis unless greater employer contributions are required by law.

***H. State Disability Insurance (SDI)***

The District agrees to continue payroll deduction of State Disability Insurance (SDI) premiums for all employees.

***I. Employee Assistance Program***

The District shall provide an Employee Assistance Program for all regular employees of the District and shall pay the full cost of the program.

***J. Long-Term Disability Plan (LTD)***

The District will provide a Long-Term Disability Plan, requiring 100% employee participation. This is an employee paid plan.

***K. Retirement***

The District contracts with the California Public Employees' Retirement System (CalPERS) to provide pension benefits for employees. The pension formula for "classic" employees is the local Miscellaneous 2.5% at age 55 Retirement Plan. "Classic" employees pay 8% of pensionable salary to pay the employee CalPERS contribution. The pension formula for "new" CalPERS member employees is the local Miscellaneous 2.0% at age 62 Retirement Plan. "New" employees pay one-half of the normal cost of their pension plan to pay the employee CalPERS contribution.

***L. Dependent Care and Medical Expense Reimbursement***

The District will provide a Dependent Care Plan and Medical Expense Reimbursement Plan in accordance with Internal Revenue Code Section 125. Such plans enable employees to deposit funds into the plan and to pay for dependent care and unreimbursed medical, dental, or other health care expenses on a pre-tax basis.

***M. Retiree Medical Coverage***

An employee who retires from the District and who begins receiving CalPERS retirement benefits within one hundred twenty (120) days of separation from District employment will

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be eligible to continue his/her CalPERS medical plan coverage during retirement. The District will contribute Three Hundred Fifty Dollars (\$350.00) per month toward the cost of such employee's retiree medical plan premium.

***Section 6.2 Workers' Compensation/Industrial Injury or Illness***

If, during the performance of assigned duties, an employee sustains an industrial injury or illness covered by Workers' Compensation, the District shall augment Workers' Compensation, long term disability, and other benefits in order to provide for full pay for the disabled employee up to a maximum of ninety (90) days in a twelve month period without use of the employee's accrued leave time; except that the employee must use accrued leave time to cover the three (3) day waiting period for Workers' Compensation temporary disability payments, unless the employee is hospitalized as an inpatient or unable to work more than fourteen (14) days. All industrial injuries or illnesses must be immediately reported to the employee's supervisor or Human Resources personnel so that appropriate report forms can be completed.

Temporary disability benefit coverage will also apply to follow-up medical appointments that occur during work time as a result of an industrial injury or illness covered by Workers' Compensation. The employee must notify the supervisor of all such medical appointments that occur during work time in the same manner as Section 7.5 B. Sick Leave Usage.

Temporary disability benefit coverage will not be provided if the District offers the employee a modified duty assignment within the employee's medical limitations and the employee declines the modified duty assignment.

***A. Modified Duty***

In cases of injury or illness, or pregnancy, an employee may return to work for modified duty upon approval of District administration and in consultation with the employee's treating physician. The length of modified duty will vary depending upon the situation, but modified duty is a temporary, not permanent, assignment. The employee shall continue to receive his/her pre-injury or illness base pay during the modified duty. Approval for modified duty shall be based upon the District's ability to provide work consistent with the employee's qualifications, medical limitations, and the length of time of the limitations. The District may consult its own physician in determining the employee's work limitations.

The District follows general principles of reasonable accommodation for determining temporary modified duty assignments. Modified duty requests shall be made to the employee's immediate supervisor with appropriate documentation from the treating physician specifying the nature and duration of the work limitations. The supervisor will review the request and the documentation for completeness and immediately forward them to the Department Manager, who will then consult with Human Resources to determine if appropriate work is available at the employee's workstation before assigning the employee to another workstation. An employee on modified duty will be required to accept any modified duty assignment, schedule and/or work location within the District that is consistent with his or her limitations. The decision of the District with respect to modified duty assignments, schedule or work location is final, and is not subject to any grievance or appeal process. The duration, number and nature of modified duty assignments are subject



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to the needs of the District. No employee has any entitlement to any modified duty assignment of any kind or of any length. If at any point it is determined that the employee is permanently prevented from returning to his or her usual and customary occupation, the District will initiate the interactive process to the extent required by law.

***Section 6.3 Professional Development******A. Educational Opportunities***

- 1) All District employees are encouraged to pursue educational opportunities that directly relate to their work, as well as other opportunities that will add to the employee's education and/or skill level and are intended to prepare the employee for future job assignments with the District.
- 2) Employees who register for courses that are determined by the District to be of direct and significant benefit to the District may receive reimbursement for tuition, fees and book expenses incurred while taking approved courses. Application shall be made on forms provided by the District and must be approved in advance of taking the course by the department manager and the head of Human Resources.
- 3) The limit to the amount of tuition and book reimbursement, which may be made per fiscal year per employee, is determined by the Board of Directors and is currently \$800.00. The amount approved by the department manager is subject to department budgetary limits.
- 4) All approved reimbursements shall be made upon the satisfactory completion of course work and the obtaining of a minimum passing grade of "B" or an equivalent passing rating.
- 5) Employees shall not be compensated for time spent in attendance at educational opportunity courses.

***B. Training***

Hours spent in a required training that results in an hourly employee working in excess of the normal forty-hour workweek, will be compensated in accordance with FLSA regulations.

***C. Conference/Convention Attendance***

Decisions concerning an employee's request to attend a conference, convention, or other meeting at the District's expense shall be authorized in advance by the Department Manager. Permission shall be granted on the basis of the employee's participation in or the direct relation of the employee's work to the subject matter of the conference.

Members of professional organizations and/or societies may be permitted to attend regular meetings of the organization and/or society when such attendance is considered to be in the best interest of the District.

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***D. Professional Dues and Memberships***

See Administrative Policy – Request for Partial Reimbursement of Professional Dues/Memberships.

***Section 6.4 Uniform Compensation for Field Supervisory Staff******A. New Hires***

Newly-hired employees working in the classifications of Visitor Services Manager, Land and Facilities Manager, Area Superintendent, Supervising Ranger, Area Manager, and Maintenance Supervisor will receive their initial regular uniform items from the District at no cost to the employee as outlined by the regular uniform items list per the job classification. The General Manager or designee may authorize additional uniform items if he/she desires.

The District will report the uniform allowance on an annual basis to CalPERS in July each year for the preceding fiscal year. The uniform allowance amount reported to CalPERS will derive from the District's total fiscal year costs for providing and maintaining the employee's uniforms, not to exceed \$1,500 per year, per employee.

***B. Allowance Amount***

The General Manager shall set the annual allowance for replacing worn-out regular or optional uniform items by the beginning of the fiscal year (i.e., July 1<sup>st</sup> of each year). The District will pay any additional cost for oversized uniform items that are commercially available (not custom or tailored items).

***C. Eligibility/Prorating***

Employees will become eligible to use the uniform allowance at the completion of their probationary period. With respect to the time between the probationary period completion date and the next July 1, the allowance will be prorated based on a full year's allowance.

***D. Full Allowance***

Employees will have access to a full year's uniform allowance on July 1 following their probationary period completion date and every July 1 thereafter.

***E. Direct Use and Responsibility***

Employees will use the uniform allowance directly with vendors, without prior approval from supervisors. It will be the employees' responsibility to monitor the use of their own allowance; any expenditure that exceeds the allowance must be reimbursed to the District.

***F. Provided Items (No Cost)***

As set out in the Field Employees Association Memorandum of Understanding, in addition to the uniform allowance items referred to in the regular uniform list in the job classification, the District provides District-owned items to field employees (e.g., coveralls) at no cost to the employees. All items covered by this section remain the property of the District and will be returned to the District upon separation from District employment.

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***G. Boots, Coveralls, Raincoats and Rainpants***

In addition to the uniform allowance items referred to in the regular uniform list, the District will provide work boots, coveralls, and adequate rainpants and adequate hooded raincoats to the employees. These items will be replaced at the request of the employee, on approval of his/her immediate supervisor. The District will provide steel-toed work boots at the employee's request. All items covered by this section, with the exception of work boots and optional raingear purchased all or in part with uniform allowance money, remain the property of the District.

***H. Boot Replacement***

This policy will be the same as set out in the Field Employees Association Memorandum of Understanding then in effect.

***I. Bicycle Patrol Uniforms***

The District will provide to each Supervising Ranger who participates in the Bicycle Patrol Program one pair of long bicycle pants and one bicycle jacket.

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***POLICY 7 LEAVE TIME***

The General Manager sets the holiday schedule annually for all District employees.

***Section 7.1 Holidays******A. Administrative Office Staff, Area Superintendents and Area Managers***

Annual holidays shall normally consist of:

New Year's Day  
Martin Luther King Jr. Day  
Presidents' Day  
Memorial Day  
Independence Day  
Labor Day  
Veterans' Day  
Thanksgiving  
The day after Thanksgiving  
Last workday preceding the Christmas Day observance  
Christmas Day

***B. Supervising Rangers and Maintenance Supervisors***

Annual holidays shall normally consist of:

New Year's Day  
Martin Luther King Jr. Day  
Presidents' Day  
Cesar Chavez Day  
Memorial Day  
Independence Day  
Labor Day  
Veterans' Day  
Thanksgiving  
The day after Thanksgiving  
Last four hours of last workday preceding the Christmas Day observance  
Christmas Day

***C. Regular part-time employees*** are eligible for the same paid holidays on a pro rata hour basis according to the average number of hours they work, unless greater employer contributions are required by law.

***D. Usage***

- 1) If a paid holiday falls on Saturday, the holiday shall be observed on the preceding Friday. If a paid holiday falls on Sunday, the holiday shall be observed on the following Monday. For employees scheduled to work Saturday and Sunday, holidays will be observed on the actual day they occur.

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- 2) Holidays, which occur during an employee's vacation, shall not be charged against vacation time.
- 3) An hourly employee who is assigned to work on a scheduled holiday has three choices for compensation:
  - a) One and one-half times his/her regular rate of pay plus a replacement holiday within the following two weeks, provided the supervisor and the employee can reach mutual agreement on the replacement day; or
  - b) One and one-half times his/her regular rate of pay plus the corresponding number of hours added to his/her holiday bank; or
  - c) Two and one-half times his/her regular rate of pay.
- 4) When a holiday falls on a regularly assigned day off, an hourly employee will receive the corresponding number of hours in his/her holiday bank.
- 5) The holiday bank will be administered according to the following provisions:
  - a) Employees who wish to schedule time off covered by the holiday bank shall submit requests to their supervisor. Such requests shall be approved with due consideration for the desires of the staff and for the requirements of the work location. Holiday time off requests shall normally consist of 8-hour increments.
  - b) Any time remaining in the holiday bank at the end of the calendar year shall be paid to the employee in cash at the current rate of pay by December 31st of the same calendar year subject to subsection d below.
  - c) Employees who terminate during the calendar year shall be paid for all time remaining in their holiday bank at the current rate of pay.
  - d) Employees assigned to work the last four hours of the workday preceding Christmas Day and/or Christmas Day or whose regular days off occur on the holidays may convert up to twelve (12) unused holiday hours to vacation.
- 6) Only an employee who is in paid status five (5) days before and five (5) days after a holiday shall be eligible for paid holiday benefits as described herein; this requirement will not be applied to the annual closure of the District's Administrative office during the winter holiday week.

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***Section 7.2 Personal Leave******A. Allotment***

Regular full-time employees shall earn thirty-six (36) hours Personal Leave time each calendar year. Notwithstanding the above, regular full-time Supervising Rangers and Maintenance Supervisors shall earn thirty-two (32) hours personal leave time each calendar year. Regular part-time employees shall earn a pro-rated number of hours of personal leave time according to the average number of hours worked.

***B. Accrual***

Employees shall accrue Personal Leave throughout the year, pro-rated for each pay period.

***C. Usage***

- 1) Supervisor approval is required for use of Personal Leave and shall normally be granted if the employee provides reasonable advance notice, and if the granting of the time off does not unduly disrupt District operations. Except in emergency situations in which reasonable advance notice could not be given, no reason for use of personal leave need be given.
- 2) Personal Leave hours must be taken in one-half hour minimum increments.
- 3) Should an employee terminate his/her employment with the District, any Personal Leave the employee has remaining in his/her leave bank shall be paid to the employee at his/her current hourly rate of pay.

***Section 7.3 Administrative Leave – Salaried Employees******A. Allotment***

Administrative Leave time will be granted to salaried employees as follows:

- 1) The At-Will Managers will receive sixty-four (64) hours of Administrative Leave time per calendar year.
- 2) Salaried employees who are required to regularly attend night and/or weekend meetings, training, or other activities shall be eligible to receive a minimum of sixteen (16) hours and a maximum of forty (40) hours of Administrative Leave per calendar year. The General Manager, upon Department Manager recommendation, shall determine the amount of Administrative Leave allotted to each salaried employee by January 1<sup>st</sup> each year. Adjustments to the allotment can be made on a quarterly basis if the amount of night and/or weekend work requirements of the District change during the course of the year.
- 3) All other salaried employees will receive sixteen (16) hours of Administrative Leave per year.

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- 4) Employees who are in unpaid leave status during any quarter will receive a prorated amount of Administrative Leave in the next quarter.
- 5) An annual payroll memo listing the number of administrative leave hours will be sent to each employee in the first pay period of each calendar year.

#### ***B. Accrual***

Each regular District employee shall accrue Administrative Leave throughout the year, pro-rated for each pay period.

Employees may accrue a maximum of the total amount of Administrative Leave for which they are eligible each calendar year. Employees who reach this limit will not accrue any additional Administrative Leave unless and until the amount of their accrued Administrative Leave falls below the accrual limit. In that event, the employee will commence Administrative Leave accrual until the maximum amount of their accrued Administrative Leave reaches the maximum total annual accrual limit.

#### ***C. Usage***

- 1) Supervisor approval is required to use Administrative Leave.
- 2) Administrative Leave time must be taken in one-half hour minimum increments.

### ***Section 7.4. Vacation***

#### ***A. Accrual***

- 1) Each regular District employee shall earn vacation time according to his/her years of service as noted in the chart below and the number of hours paid to the employee during any given pay period. All regular part-time District employees shall earn vacation time on a pro-rata basis in accordance with the number of hours paid, exclusive of overtime.

<b>Years of Service</b>	<b>Earnings per Hour Paid</b>	<b>Equivalent 8-Hour Days per Year (Full-time)</b>
1-9	0.05769 hr.	15
10 – 14	0.07692 hr.	20
15 – 19	0.08077 hr.	21
20 – 24	0.08846 hr.	23
25+	0.09615 hr.	25

- 2) Employees may accrue up to two times the amount of their annual vacation. Employees who reach this accrual limit will not earn any additional vacation days unless and until the amount of their accrued vacation time falls below the accrual limit.

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***B. Usage***

- 1) Vacation shall be taken in minimum increments of one-half hour.
- 2) Department Managers or their designee shall approve vacation requests from their respective staff members with due consideration for the desires of the entire staff and for the work requirements of the department or field office. Vacation schedules may be altered to allow the department or field office to meet emergency or unanticipated situations.
- 3) An employee who has a minimum of 120 hours vacation leave balance on either June 1 or December 1 of each year may elect to cash out up to forty (40) hours of such leave twice per year, in June and December. Such requests must be received in writing by June 15 or December 15 of each calendar year and shall be paid to the employee on or before June 30<sup>th</sup> or December 30<sup>th</sup>.
- 4) Upon termination, an employee shall be paid at his/her current hourly rate of pay for any vacation accrued but not used.



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***Section 7.5 Sick Leave******A. Accrual***

All regular full-time District employees shall earn sick leave at a rate of 0.04615 hours per paid hour for a total of 12 days per calendar year. A calendar year is defined as the District's payroll calendar year (January – December). Sick leave shall accrue from the date of employment and may be accumulated on an unlimited basis.

This Section 7.5 is intended to comply with the California Paid Sick Leave Law and Labor Code section 233 ("Kin Care").

***B. Usage***

- 1) Sick leave is leave from duty which may be granted by the District to an employee because of his or her own illness or injury, or for the reasons specified below. Employees are eligible to use sick leave for the following reasons:
  - a) Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee.
  - b) Personal illness or physical disability.
  - c) Quarantine by a physician.
  - d) Health care appointments including medical, dental, vision or Employee Assistance Program.
  - e) Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee's immediate family member, subject to subsection 5 below.
  - f) Being a victim of domestic violence, sexual assault, or stalking.
  - g) Worker's Compensation.
  - h) For any other reason the law may permit.
- 2) Sick leave shall be taken in minimum increments of one half hour.
- 3) Any employee who is unable to report to work because of any of the reasons noted above shall report the reason for absence to his/her supervisor as soon as reasonably possible, and no later than the designated starting time each day he/she is unable to report to work unless physically unable to do so. In the event the employee is physically unable to report the absence prior to the employee's start time, the employee should report the absence to the supervisor as soon as reasonably possible. Sick leave with pay may not be authorized for compensation unless such a report is made. For a prolonged illness, special arrangements regarding notifying a supervisor may be made.
- 4) Upon resignation, separation from service, or retirement from District employment, employees in good standing with ten (10) or more years of District employment will receive a cash payment of the equivalent cash value of accrued sick leave as follows:

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Years of Employment	Percentage of Equivalent Cash Value of Accrued Sick Leave
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10 – 15	20%
16 – 20	25%
21 or more	30%

An employee hired before August 9, 2006 who retires from the District shall receive a cash payment of the percentage of equivalent cash value of accrued sick leave based on years of employment as described above, and apply the remainder of the equivalent cash value toward his/her cost of retiree medical plan premiums and/or other qualified medical expenses. Upon retirement, the amount qualified and designated for retiree medical costs shall be deposited in the Retiree Health Savings (RHS) plan, set up by the District. The cost for maintaining the retiree's RHS account and the annual fee for the reimbursement process of qualified medical expenses will be paid for by the retiree.

An employee hired on or after August 9, 2006 who retires from the District may elect to receive only a cash payment of the percentage of equivalent cash value of accrued sick leave based on years of employment as described above.

In all cases the equivalent cash value of accrued sick leave will be based on current rate of pay as of the date of separation from District employment.

- 5) An employee may use up to 80 hours per calendar year for the diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee's immediate family member. An employee's immediate family member shall consist of the employee's:
  - Spouse or registered domestic partner
  - Child (including a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the child stands in loco parentis)
  - Parent (including biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child)
  - Grandparent
  - Grandchild, or
  - Sibling
- 6) If an employee is ill on a designated paid holiday, the holiday shall be charged as holiday time and shall not be charged against sick leave.
- 7) An employee who is injured or becomes ill while on pre-approved vacation leave may submit a request in writing to the head of Human Resources to modify the approved leave from vacation to sick leave provided that the employee meets the

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requirements for usage of sick leave under this section, and presents a supporting statement indicating the employee's need for sick leave signed by a health care provider covering the period for which sick leave is claimed.

- 8) An employee absent on paid sick leave five (5) days or more may be required to submit to the appropriate supervisor verification from a health care provider of his/her illness or injury and ability to return to work. An employee absent on paid sick leave five (5) days or more in order to care for an immediate family member as defined in this section will be required to submit (to the appropriate supervisor), verification from a health care provider of the family member's illness or injury and the inability of that person to care for his/her needs independently.
- 9) If an employee uses all of his or her accrued sick leave, the employee may request his or her accrued vacation leave be deducted for each day absent due to illness or injury. The employee may also consult with Human Resources to determine whether he or she is eligible for Family and Medical Leave, disability leave, or an advance of sick leave in accordance with subsection 10 below.
- 10) If an employee has exhausted or will exhaust his or her accrued sick leave, up to 10 days of sick leave may be advanced to an employee by the General Manager or designee on a case-by-case basis to cover the employee's absence. The employee must submit the request in writing to his/her supervisor in advance of the absence for which the sick leave is requested. The General Manager or designee may request supporting statements from the employee's health care provider. Upon termination, the employee must reimburse the District for any advanced sick leave not covered by subsequent leave accrual.

***Section 7.6 Bereavement Leave***

A leave of absence with pay not to exceed three consecutive working days will be granted a regular District employee in the event of the death of a member of the employee's immediate family. The head of Human Resources may allow the use of accrued sick leave for up to two days to supplement the three days of bereavement leave when travel to distant locations or other circumstances require the employee's absence in excess of three days.

For purposes of bereavement leave, "immediate family" shall mean the employee's spouse or domestic partner (as defined in the Sick Leave section), parents, grandparents, step-parents, mother or father-in-law, grandmother or grandfather-in-law, children, step children, grandchildren, son or daughter-in-law, brother or sister, brother or sister-in-law, aunt or uncle of the employee or spouse/domestic partner, or any relative living in the immediate household of the employee.

***Section 7.7 Witness/Jury Duty***

A leave of absence with pay will be granted a regular District employee subpoenaed as a witness in a matter related to an event or transaction involving the employee which occurred in the course of his/her duties or called for jury duty as long as any compensation the employee receives for

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such duty, except for meal and mileage reimbursements, is waived or signed over to the District. Regularly scheduled work time lost because of such duty shall not affect the employee's accrual of vacation, sick, or personal holiday time.

#### ***Section 7.8 Military Leave***

##### ***A. Re-Employment Rights of Employees Returning from Military Service***

Employees returning from military leave may be reinstated provided that:

- 1) The employee was a regular District employee prior to taking military leave;
- 2) The employee gave advance written or verbal notice to the District of the leave;
- 3) The cumulative length of absence and of all previous absences of employment with the District because of military service does not exceed 5 years;
- 4) Reinstatement would not pose an undue hardship on the District;
- 5) The returning employee must report back to work in accordance with the provisions of the United States Employee and Employment Rights Act (USEERA):
  - a) Employees returning from military leave of less than 31 days must report for employment no later than the beginning of the first full regularly scheduled work period on the first full calendar day following completion of service;
  - b) Employees returning from leave of more than 30 days but less than 181 days must report for employment no later than 14 days after completion of service;
  - c) Employees returning from leave of more than 180 days must seek reinstatement within 90 days after completion of service.

***B.*** Employees taking leave for military service for active duty or training may be entitled to pay as described by the Military and Veteran's Code sections 395.02 and 395.05.

#### ***Section 7.9 Leave of Absence***

##### ***A. Family Medical Leave Act (FMLA)/California Family Rights Act (CFRA) Pregnancy Disability Leave (PDL)/Catastrophic Leave Program***

Please see Appendix B for information regarding Leave of Absence under FMLA and/or CFRA; or information regarding Pregnancy Disability Leave (PDL) see Appendix D; and for information regarding the Catastrophic Leave Program see Appendix A.

##### ***B. General Unpaid Leave***

- 1) A leave of absence without pay and benefits for a period of at least six days but not to exceed four (4) months may be granted a regular District employee who has been in the service of the District for at least one year and who has no more than two weeks of vacation accrued at the time of the commencement of the leave, provided such a leave can be scheduled without adversely affecting the operations of the District. Request for such a leave shall be directed in writing to the General Manager and shall contain justification for the leave.
- 2) A short-term leave of absence without pay for up to five (5) days per fiscal year may

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be granted a regular District employee who has successfully completed the probationary period and who has no more than two weeks of vacation accrued at the time of the commencement of the leave, provided such a leave can be scheduled without adversely affecting the operations of the District. Requests for such a leave shall be approved by the employee's department manager.

- 3) If the approved leave of absence is more than five (5) working days but less than four (4) weeks, the employee will be required to reimburse the District for the pro-rata share of the employee's benefit costs. If the approved leave of absence exceeds four (4) weeks, the employee may, to the extent available under the applicable plan, elect to continue health, dental, life insurance, and other insurance benefits, in which case premiums for such extended coverage shall be paid fully by the employee.
- 4) Adjustment of Anniversary Date/Vacation Accrual: If an employee is on leave of absence without pay in excess of twenty working days, the employee's anniversary date for purposes of evaluation, pay increases and vacation accrual shall be extended by the number of days included in the period of leave without pay.

***Section 7.10 Time Off To Vote***

If an employee does not have sufficient time outside of working hours to vote in a statewide election, he/she may, without loss of pay, take off up to two hours of working time to vote. Unless otherwise approved in advance by the employee's supervisor, such time must be at the beginning or the end of the regular working shift, whichever allows the most free time for voting and the least time off from working. Employees must notify the District at least two working days in advance to arrange a voting time. In addition, an employee may serve as an election official on Election Day by taking unpaid time off or utilizing, unused accrued vacation leave time.

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***POLICY 8 EMPLOYEE CONDUCT AND DISCIPLINE******Section 8.1 Purpose/Procedure***

Discipline is action taken by the District designed to modify and improve employee conduct or performance, except in the case of termination. The objective of the disciplinary program includes educating employees about the type of conduct or performance expected of them, providing appropriate and equitable consequences for inappropriate or below standard conduct or performance and providing a record of corrective action taken by the District. Whenever appropriate, District Supervisors will utilize counseling and coaching of an employee to improve conduct or performance prior to disciplinary action. The District has discretion to select a disciplinary penalty, in light of the severity of the offense, and/or the number, frequency and length of time since the previous acts of misconduct or performance deficiencies.

***Section 8.2 Conduct Subject to Discipline***

Disciplinary action, up to and including termination, may be imposed for behavior including, but not limited to, the following:

- 1) Fraud or deception in securing employment or promotion, including, but not limited to, giving false or misleading information on an application form, application supplement, or interview;
- 2) Violating safety rules or practices, conducting one's self in an unsafe manner, or failure to report unsafe situations or creating unsanitary conditions;
- 3) Damaging District property through negligence or misconduct and/or failure to report damage;
- 4) Misuse of District work time, or theft or misuse of District property, funds or equipment, including use for personal purposes;
- 5) Rude, discourteous offensive or abusive treatment of others, including the public, failure to maintain cooperative and effective working relationships with others, disrupting the work of others, or threats of any kind;
- 6) Incompetence, inefficiency, inattention or negligence in the performance of duties;
- 7) Below standard work performance or failure to maintain the minimum qualifications for the position, including any required licenses;
- 8) Misusing or failing to use delegated authority in the performance of duties and/or unauthorized use of District badges, identification or uniforms;
- 9) Maintaining personal appearance in a manner not appropriate for the job or job safety, or in a manner which discredits the District;

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- 10) Abuse or misuse of leave or un-excused, unauthorized, excessive or patterned absenteeism, failure to comply with absence or leave reporting procedures, or leaving duty or assigned work location without proper approval or appropriate reason;
- 11) Failure to keep required work hours, including tardiness in reporting to work or returning from meal or rest breaks or to meetings or other assignments;
- 12) Conduct unbecoming an employee of the District either on or off duty, where such behavior discredits the District;
- 13) Violation of District and/or department rules, regulations, procedures and policies or ordinances;
- 14) Failure to exercise good judgment in the performance of one's job;
- 15) Unauthorized access, possession, destruction, and/or duplication of District records, including the unauthorized release of confidential records;
- 16) Insubordination (failure or refusal to follow directions);
- 17) Dishonesty, fraud or deception including falsification of District records or documents;
- 18) Any conviction by a court which would be incompatible with the work performed for the District, including an offense committed off duty.

***Section 8.3 First Level Discipline***

First Level discipline shall be administered by the Supervisor under the direction of the Department Manager or Area Superintendent. First Level discipline is not subject to the notification or appeal process described in this policy. Failure on the part of the employee to show sufficient improvement at each step of the disciplinary process could result in further disciplinary action, up to and including termination. First Level discipline consists of the following:

- 1) ***Oral Warning*** is an oral notice advising the employee that his/her behavior or performance must be improved and that the notice is an Oral Warning under the discipline policy. The supervisor will record the date and content of the oral warning.
- 2) ***Warning Notice*** is a written warning to the employee describing the employee's behavior or performance which must be improved, and shall be retained in the employee's personnel file. Upon written request of the employee, the warning notice will be purged from the employee's file after one (1) year, if the employee shows consistent improved behavior as determined by the employee's Supervisor, and acknowledged by the Department Manager or Area Superintendent.
- 3) ***Written Reprimand*** is a written notice to the employee to immediately correct or improve behavior or performance. Whenever appropriate, the Written Reprimand will

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include a written Plan-for-Improvement. The written reprimand becomes a permanent part of the employee's personnel file.

***Section 8.4 Second Level Discipline***

Second Level discipline may be recommended by the Supervisor or Department Manager. If a Supervisor recommends Second Level Discipline, it must be approved by the Department Manager. The head of Human Resources or designee will approve and administer Second Level Discipline. Second Level discipline becomes a permanent part of the employee's personnel file. Second Level discipline is subject to Notice to Employees in Section 8.5. An employee receiving a Second Level discipline may also utilize the Appeal Process set out in Section 8.6. Second level discipline consists of the following:

- 1) ***Suspension Without Pay and Benefits*** is the temporary removal of an employee from the employee's duties without pay and without benefits. Failure on the part of the employee to show immediate and sufficient improvement upon return to duty could result in further disciplinary action, up to and including termination. Unless expressly approved by the General Manager, an employee suspended without pay and benefits cannot use vacation, personal, administrative, sick or CTO time during the suspension period.
- 2) ***Demotion/Reduction in Pay Step*** is the temporary reduction in the classification and/or pay of an employee for a specified period of time and a specified amount of pay. Demotion can also be a reduction in pay step of the employee for a specified period of time and specified amount of pay.
- 3) ***Termination*** of employment.

***Section 8.5 Notice to Employees of Second Level Disciplinary Action***

Prior to imposing a Second Level disciplinary action, the District shall provide a written Notice of Proposed Disciplinary Action informing the employee of his/her right to a pre-disciplinary hearing.

***A. The Notice of Proposed Disciplinary Action*** shall include:

- 1) A description of the discipline proposed;
- 2) A statement of the reasons for which the action has been proposed and the policies, procedures or rules that are alleged to have been violated; and, if applicable, a list of any previous disciplinary actions, counseling, evaluations or other relevant actions which support the proposed discipline;
- 3) Copies of any documents the District relied upon in reaching a decision to propose the discipline action;
- 4) A statement advising the employee that he/she may make a written request for pre-disciplinary meeting regarding the proposed disciplinary action, before it takes effect;



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- 5) The name of the person to whom the request is to be made, and the last date upon which a request may be made, which shall be no less than seven (7) days from the delivery of the Notice of Proposed Disciplinary Action to the employee.

***B. Response to Notice of Proposed Disciplinary Action***

Failure by the employee to respond to the Notice of Proposed Disciplinary Action within the period allowed (See A. 5 above) shall result in disciplinary action taking effect as proposed. In lieu of a pre-disciplinary meeting, the employee can submit a written statement in response to the Notice of Proposed Disciplinary Action within the time period allowed in the Notice.

***C. Pre-disciplinary Meeting***

Provided the employee makes a timely request, the Assistant General Manager, CFO/Director of Administrative Services, or head of Human Resources will hold a pre-disciplinary meeting. The purpose of the meeting is to allow the employee to respond to the Notice of Proposed Disciplinary Action, and to present any relevant information or mitigating circumstances. The employee may have a representative present.

The Assistant General Manager, CFO/Director of Administrative Services, or head of Human Resources may affirm, revoke or modify the proposed disciplinary action upon any of the following:

- 1) After considering the employee's response at the pre-disciplinary meeting, or
- 2) After considering a timely pre-disciplinary written response, or
- 3) After expiration of the employee's time to respond to the Notice of Proposed Disciplinary Action without receipt of a timely response.

A decision to affirm or modify the proposed discipline will be reflected in a subsequent written Notice of Disciplinary Action. The Notice of Disciplinary Action will notify the employee of his or her right to appeal the discipline under the provision of Section 8.6 if the Assistant General Manager or CFO/Director of Administrative Services decides to impose second level disciplinary action, or if the employee is entitled to appeal the discipline under Section 8.9.

***Section 8.6 Post Discipline Appeal Process***

Any regular non-probationary and non at-will employee shall have the right to appeal any Second Level disciplinary action. The following shall apply:

- 1) A Request for Appeal shall be made in writing, signed by the employee and filed with the head of Human Resources within ten (10) business days of the Notice of Disciplinary Action.

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- 2) Upon receiving a timely Request for Appeal, the head of Human Resources shall arrange for an appeal hearing with the General Manager and shall notify the employee of the date and time of the hearing. The General Manager may appoint a Hearing Officer to hear the appeal and to recommend a decision to the General Manager.
- 3) The employee shall appear personally before the General Manager or Hearing Officer and may be represented by a representative or counsel of his/her choice. In the event that the employee fails to personally appear, without satisfactory proof of a good cause, the appeal shall be deemed waived.
- 4) All parties and witnesses to be heard at the hearing shall be sworn and shall testify under oath. The hearing shall be recorded. The District Clerk has the authority to issue subpoenas in the name of the District. Each party is responsible for serving its own subpoenas. All parties have the right to: introduce evidence; present witnesses; cross-examine opposing witnesses; impeach any witness; rebut evidence against him or her; and to be represented by counsel at their own expense.
- 5) The hearing shall not be conducted according to formal rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule, which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be admitted, but it may not be the sole basis upon which a finding is made. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon the request of either party. The District has the burden of proof of the basis, by a preponderance of the evidence, for the disciplinary action. The hearing will be closed to the public unless the employee requests it to be open.
- 6) Upon conclusion of a hearing and completion of the administrative record, the General Manager shall prepare his/her decision in writing within forty-five (45) working days.
- 7) In the event a Hearing Officer was used, the following steps shall apply:
  - a) The Hearing officer shall prepare his/her advisory findings and recommendations to the General Manager within forty-five (45) working days following the conclusion of the hearing and completion of the administrative record.
  - b) The General Manager shall review the Hearing Officer's advisory findings and recommendation(s), the evidence and transcripts of the hearing, and the briefs of the parties, if any. The General Manager shall then prepare his/her decision on the appeal within forty-five (45) working days following receipt of the Hearing Officer's written recommendation.
  - c) The General Manager may accept, reject or modify the Hearing Officer's recommendation(s) and shall include the reasons for rejection or modification, if

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applicable. The employee is entitled to a copy of the Hearing Officer's Recommendations.

- d) The decision of the General Manager is final and binding. The General Manager shall send his or her written decision, along with a proof of service of mailing, to each of the parties and the parties' representatives. Pursuant to Civil Code Section 1094.6 the parties have 90 days from the date of proof of service of mailing of the written decision to appeal the decision to the Santa Clara County Superior Court.

***Section 8.7 Waiver of Time Limits or Other Provisions of the Appeal Process***

Understanding that extenuating circumstances can occur for either party, any time limits or procedures specified in this Policy 8 may be waived upon mutual written consent of the District and the employee.

***Section 8.8 No Interruption of Work***

Reasonable District work time shall be provided the employee to meet with his/her representative. The employee shall give his/her Supervisor reasonable prior notice of the date and estimated time needed. The Supervisor shall document such requests and the actual time taken.

***Section 8.9 Peace Officer Bill of Rights***

The Appeal Process set out in Section 8.6 shall constitute the administrative appeal required by Section 3304(b) of the Public Safety Officers Procedural Bill of Rights (POBR). An employee who is the subject of punitive action that entitles him or her to an administrative appeal under POBR may appeal such action by use of the process set out in Section 8.6.

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***POLICY 9    GRIEVANCE PROCEDURE***

**A.** The General Manager, after appropriate actions described below, shall promptly consider employee grievances relating to employment conditions and take action, which he or she deems appropriate. This process excludes disciplinary appeals which are governed by Policy 8 above. However, informal resolution of all grievances between the employee or employees and immediate supervisor(s) is encouraged. This policy and procedure applies to unrepresented employees only.

**B.** The following steps shall be followed in submitting and processing a grievance, which has not been informally resolved:

Step 1. If the aggrieved employee or group of employees is not satisfied with their immediate supervisor's reply to their oral grievance, they shall present their oral grievance to each supervisory level in their work unit, including the Department Manager if necessary. At each step up to and including the Department Manager, replies shall be given the aggrieved employee(s) within five (5) working days of the grievance's presentation date.

Step 2. If the oral grievance is not settled in Step 1, it shall be put in writing, dated, and signed by the aggrieved employee or group of employees and presented to the head of Human Resources within five (5) working days after the Department Manager's oral reply was given, not including the day on which the answer was given. The head of Human Resources shall reply in writing to the grievance within five (5) working days of the date of the presentation of the written grievances, not including the day of its presentation. The Administration and Human Resources Manager may consult with intermediate supervisors as necessary during the grievance procedure.

Step 3. If the written grievance is not settled in Step 2, it shall be put in writing, dated and signed by the aggrieved employee or group of employees and presented to the General Manager within five (5) working days after the head of Human Resources' written reply was issued, not including the day on which the answer was given. The General Manager shall reply in writing to the grievance within five (5) working days of the date of presentation of the written grievance, not including the day it was presented. The General Manager may conduct whatever research and/or hearings he or she deems necessary or be required by other applicable law before rendering a decision. If such a hearing is called, it shall be conducted with a recording or written summary of the proceeding.

**C.** The decision of the General Manager shall be final and binding on the employee or the group of employees.

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***D.*** Any grievance not taken to the next step within five (5) working days after receipt of a decision in the previous step shall constitute an action of acceptance, and the grievance shall be considered settled.

***E.*** The time limits prescribed in this section for the initiation and completion of the steps of the grievance procedure may be extended by mutual consent of the parties involved. Likewise, any step in the grievance procedure may be eliminated by mutual consent. Mutual consent shall be indicated in writing, and shall be signed by all parties involved.

***F.*** Employees are free to use this Grievance Procedure without fear of retaliation.

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***APPENDIX A CATASTROPHIC LEAVE PROGRAM******Section A. 1 Purpose***

The Catastrophic Leave Program is designed to assist District employees (called receiving employees) who have exhausted paid time credits due to a serious, catastrophic or debilitating illness, injury or condition of the employee or of a member of the employee's immediate family (as defined in the Policies and Procedures). This program allows other District employees (called donating employees) to make grants of time to a bank maintained by Human Resources so that qualified employees can remain in a paid status for a longer period of time, thus partially reducing the financial impact of the illness, injury or condition. The grants of time donated are converted to sick leave for use by qualified employees.

***Section A. 2 Conditions for Receiving Employees***

There are four criteria for eligibility as a receiving employee. The receiving employee must:

1. Be a regular full- or part-time District employee;
2. Exhaust all available paid leave time, including sick leave\*<sup>1</sup>, vacation, personal leave, holiday or holiday bank time, and compensatory time off;
3. Have a sustained, serious or debilitating illness, injury or condition which may need to be verified by a doctor's report, or have a member of the immediate family with a sustained, serious or debilitating injury, illness or condition which requires the employee's absence from work to care for the family member;
4. Be prevented from returning to work for at least thirty (30) days and have applied for a disability or family care leave of absence without pay.

To apply to be a receiving employee under the Catastrophic Leave Program, an employee completes an Application for Catastrophic Leave. The application is submitted to Human Resources for approval.

An employee may be asked to submit supporting medical documentation (i.e., a statement from his/her doctor) with the application. Approval or rejection for participation must be made by Human Resources within two (2) weeks after the completed application is submitted. An employee may be asked to verify his/her status for continuing eligibility for the program.

Human Resources will periodically distribute a Donation of Accrued Time Credits form to all District employees so they can specify donations they wish to make to the bank.

Benefits available to a receiving employee participating in the program will be treated as though the additional sick leave credited to him/her belongs to him/her. For as long as a receiving

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\*1 In the event the General Manager has refused to extend the eighty (80) hour limit on sick leave usage for care of a family member, such refusal shall render this criterion fulfilled, even if the Receiving Employee retains sick leave on the books.

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employee remains in a paid status, seniority, sick leave and vacation accrual and all benefits will continue as though the sick leave were his/hers.

The total credits received by the employee shall not exceed the amount of time the employee is required to be absent from work because of his/her medical condition and shall normally not exceed three (3) months; however, if approved by the General Manager, the total leave credits received may be up to a maximum of six (6) months.

***Section A. 3 Conditions for Donating Employees***

Donations must be made to the bank on a form signed by the donating employee and submitted to the Human Resources Supervisor. The District will not identify donors.

Employees may donate the following types of accrued time credits:

- Vacation time
- Personal paid leave time
- Holiday bank time
- Compensatory time off (non-exempt employees)
- Sick leave -- one hour of accrued sick leave may be donated for every two (2) hours of other types of accrued leave time

Donations must be made in one-hour increments. The Human Resources Supervisor may utilize appropriate and reasonable mechanisms in administering the donations to assure that:

1. The employee receiving donations does not receive an excessive amount beyond his/her need;
2. Employees donating leave have sufficient sick leave time remaining.

These objectives shall be accomplished by requiring that any donating employee has a minimum of forty (40) hours of sick leave balance after the donation is made. The donations will be converted to sick leave time and credited to the receiving employee's sick leave time balance on an hour-for-hour basis. The pay the receiving employee receives will be at his/her own rate of pay.

Donations, once credited to the bank, are forfeited forever by the donating employee.

In order to donate, an employee must submit a Donation of Accrued Time Credits form to Human Resources for processing.

The District does not assume any tax liability for donated or received leave, and employees should confer with their own tax advisors for the tax implications for either donating or receiving leave under this provision.

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***APPENDIX B FAMILY AND MEDICAL LEAVE***

The District will authorize a leave of absence for eligible employees as Family and Medical Leave as required by the Federal Family and Medical Leave Act of 1993 (“FMLA”) and/or the California Family Rights Act (“CFRA”). The following provisions set forth certain rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the FMLA, and the California regulations implementing the CFRA. Unless otherwise provided by this policy, leave under this policy shall mean leave pursuant to the FMLA and CFRA.

***Section B. 1 Eligibility requirements***

An employee is eligible for Family and Medical Leave under this policy if the employee:

- a) Has been employed by the District for at least twelve (12) months; and
- b) Has actually worked for at least 1,250 hours during the twelve- (12) month period immediately preceding the beginning of the leave.
- c) “12-month period” means a rolling twelve- (12) month period measured backward from the date leave is taken and continuous with each additional leave day taken.

***Section B. 2 Reasons for Leave***

Family and Medical Leave is permitted for the following reasons:

- a) The birth of a child or to care for a newborn of an employee;
- b) The placement of a child with an employee in connection with the adoption or foster care of a child;
- c) Leave to care for a child, parent, domestic partner or a spouse who has a serious health condition;
- d) Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;
- e) Leave for a “qualifying exigency” arising out of the fact that an employee’s spouse, son, daughter, or parent is on covered active duty or call to active duty status (under the FMLA only, not the CFRA); or
- f) Leave (military caregiver leave) to care for a spouse, son, daughter, parent, or “next of kin” covered service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or which existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (this leave can run up to twenty-six (26) weeks or unpaid leave during a single twelve- (12) month period) (under the FMLA only, not the



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CFRA). Single twelve- (12) month period means a twelve- (12) month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends twelve (12) months after that date.

Family and Medical leave under CFRA is not available for leave for serious health conditions due to pregnancy or childbirth. Instead, California identifies a separate leave for this purpose as pregnancy disability leave. See the District's Pregnancy Disability Leave policy (Appendix D) for more information or contact Human Resources.

***Section B. 3 Duration of Leave***

An eligible employee is entitled to Family and Medical Leave as follows: Up to sixteen (16) workweeks of leave (or up to twenty-six [26] workweeks to care for a covered service member) during any twelve- (12) month period. This leave may be taken intermittently or as a reduced schedule, only with documentation of medical necessity for such leave.

Upon the employee's written request, and on a case-by-case basis, the General Manager may grant an extension of up to an additional eight (8) months for an employee's own serious health condition.

For birth, adoption or foster care placement bonding leave, leave must be concluded within one year of the birth or placement of the child. In addition, the minimum duration of leave is two (2) weeks. However, an employee is entitled to leave for at least one day, but less than two (2) weeks' duration, on any two (2) occasions.

Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

***Section B. 4 Spouses Both Employed by District***

- a) In any case in which spouses are employed by the District and qualify for leave, the aggregate number of workweeks of leave to be shared between spouses may be limited to sixteen (16) workweeks during any twelve- (12) month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave).
- b) In any case in which spouses work for the District and qualify for leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to twenty-six (26) workweeks during any twelve- (12) month period if leave is taken to care for a covered service member.

Except as noted above, these limitations do not apply to any other type of leave under this policy.

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#### ***Section B. 5 Request for Leave/Required Documentation***

An eligible employee requesting such leave is ***required*** to:

- a) Make the request in writing to the General Manager a minimum of 30 (thirty) days prior to a foreseeable need for leave, or as soon as possible for unforeseeable needs for leave.
- b) Supply supporting documentation from the attending health care provider to certify the need for leave before the requested leave date, or within 15 (fifteen) days after the request if it was not possible to provide certification earlier.
- c) Obtain all necessary certification forms or related documentation through Human Resources.

If the District has reason to doubt the validity of a certification, the District may require a medical opinion of a second health care provider chosen and paid for by the District. If the second opinion is different from the first, the District may require the opinion of a third provider jointly approved by the District and the employee, but paid for by the District. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.

#### ***Section B. 6 Pay and Benefits While on Family and Medical Leave***

1. Family and Medical leave is unpaid. However, the District requires an employee to use accrued sick leave if:
  - a) The leave is for the employee's own serious health condition; or
  - b) The leave is for the employee to take care of the employee's spouse, domestic partner, child, or parent who has a serious health condition, but in such circumstance, the amount of paid sick leave substituted for unpaid leave will be subject to the limitations set forth in Section 7.5 for Sick Leave and may run concurrently with any sick leave entitlements under Labor Code section 233 and/or the California Paid Sick Leave law (Labor Code section 245, et. seq.); or
  - c) The leave is for another reason mutually agreed upon between the District and the employee.
2. District's Right to Require an Employee to Use Paid Leave When Using FMLA/CFRA Leave

Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA leave, with two exceptions:

1. Employees will be allowed to maintain up to 40 (forty) hours of unused, accrued paid leave while the employee is on family and medical leave.

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2. Employees will only be required to use sick leave concurrently with FMLA/CFRA leave if the leave is for the employee's own serious health condition or another reason mutually agreed upon between the District and the employee, as indicated above in subsection (a).

An employee receiving supplemental paid benefits (such as State Disability Insurance or Paid Family Leave benefits) while on FMLA/CFRA leave is not on "unpaid leave." Therefore an employee may, but is not required to, integrate any accrued leave, e.g. sick or vacation leave with supplemental paid benefits. The District and employee may mutually agree to coordinate such benefits with any available and applicable accrued leave up to the amount of compensation the employee would have received otherwise if working.

3. Accrual of Benefits:

- a) When an employee uses paid accrued leave hours (e.g. vacation, sick, holiday bank, personal, or administrative leave), benefit hours (sick, vacation, etc.) will continue to accrue at the same rate that applies if the employee was working those hours. Benefit hours will not accrue when an employee is in unpaid status.
- b) An employee will continue to be covered by the District's group health insurance plan (medical, dental, vision, life and long-term disability) to the same extent that coverage is provided as if working, for a period of up to twelve (12) weeks, unless for military caregiver leave, then up to twenty-six (26) weeks, during the twelve- (12) month period.
- c) If the employee is disabled by pregnancy, the District's group health insurance coverage will continue for up to four (4) months, or 17-1/3 weeks, per pregnancy. In the event an employee is disabled by pregnancy and also uses leave under the CFRA, the District will maintain the employee's health benefits while the employee is disabled by pregnancy (up to four [4] months, or 17-1/3 weeks) and during the employee's CFRA leave (up to an additional twelve [12] weeks) per pregnancy. The District will cease making paycheck deductions for non-health benefit plans [i.e., life insurance, ADD, and LTD] at the end of 17-1/3 weeks. Employees may make the appropriate contributions for continued coverage under non-health benefit plans by making payments to the District.
- d) Where an employee continues on approved family and medical leave past twelve (12) weeks (or twenty-six [26] weeks for military caregiver leave), and is not otherwise eligible for Pregnancy Disability Leave or CFRA leave (if applicable), an employee can continue such health insurance benefits for the duration of the leave by paying the full premiums of these benefits. Extensions of coverage will be subject to any restrictions in the applicable benefit policy or plan.
- e) If an employee is unable to return after exhausting his or her leave entitlement, the employee can continue such benefits by paying for COBRA continuation coverage.
- f) If an employee does not return to work or returns to work for less than thirty (30) days after the expiration of his or her leave entitlement, the District will have the right to recover its share of health plan premiums paid on behalf of the employee while in unpaid status unless the failure to return to work is because of the continuation, recurrence, or onset of a serious health condition of the employee/family member as defined in this Appendix. In the event of an extenuating circumstance beyond the employee's control, (as defined by FMLA and CFRA, including retirement within

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thirty (30) days of returning to work), the right to recover the health plan premiums does not apply.

- g) If an employee is on leave of absence without pay in excess of two (2) complete pay periods, his/her anniversary date for purposes of probationary time, evaluation, pay increases and vacation/sick/personal/administration time accrual shall be extended by the number of days included in the period of leave without pay. Also, if an employee is on leave of absence with pay, for the purposes of probationary time and related evaluation periods and pay, such probationary time will be extended by the number of days included in the period of leave.
- h) State Disability Insurance (SDI): An employee who applies and qualifies for SDI may receive benefits based upon wages paid during a specific twelve- (12) month base period, determined by the date an SDI claim begins. This benefit is for non-work related disabilities and can be coordinated with an employee's paid leave time. The first seven days are considered a "waiting period" and no SDI benefits are paid until after the employee has been absent from work for seven (7) calendar days. If employee has accrued paid sick leave, employee may use sick leave for the first seven days, before SDI payments begin. If employee has no accrued sick leave, employee may elect, but is not required, to use any accrued vacation (or other accrued leave) during this waiting period.
- i) Paid Family Leave (PFL): An employee may contact the Employment Development Department (EDD) to apply for PFL benefits within the SDI program for the care of seriously ill children, parents, parents-in-law, grandparents, grandchildren, sibling, spouse, or domestic partner or to bond with a new child or child in connection with adoption or foster care placement. PFL offers up to six weeks of benefits (in a twelve-[12] month period). If employee is absent for a reason that qualifies him/her for PFL payments, and employee has not yet accrued or have vacation available, employee may use any accrued and unused sick leave during the seven- (7) day waiting period before PFL benefits begins. An employee receiving Paid Family Leave is not on "unpaid leave." Therefore, the District may not require the employee to use any accrued leave, e.g. sick or vacation leave, during Paid Family Leave.
- j) Military Spouse Leave (Military and Veterans Code section 395.10). An employee who works more than twenty (20) hours a week can take an unpaid leave of up to ten (10) days while the employee's spouse is on leave from deployment.

#### ***Section B. 7 Reinstatement Upon Return from Leave***

1. Upon the expiration of the Family and Medical Leave, an employee will be returned to the same position or to an equivalent position with equivalent pay, benefits and terms and conditions of employment held prior to the leave. However, the employee has no greater rights to reinstatement, benefits or other conditions of employment than if the employee had been continuously employed during the leave period. If the reinstatement date differs from the original agreement of the employee and the District, the employee will be reinstated within two (2) business days, where feasible, after the employee notifies the employer of his/her readiness to return.
2. Employees are encouraged to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

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3. All employees taking leave for their own serious health condition will be required to present a return to work certification from the attending health care provider as a condition of reinstatement.

***Section B. 8 Relationship of Family and Medical Leave to Other Leaves***

Family and Medical Leave runs concurrently with other leaves taken for any reason that is FMLA/CFRA qualifying; for example, sick leave or leave for an on-the-job injury. However, CFRA leave does not run concurrently with Pregnancy Disability Leave, but is in addition to it. CFRA leave is not available for Qualifying Exigency or Military Caregiver leaves under the FMLA.

**Additional Information**

For more detailed explanation or answers to questions, employees should contact the Human Resources department.

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***APPENDIX C PROHIBITION AGAINST DISCRIMINATION,  
HARASSMENT AND RETALIATION***

It is the policy of the Midpeninsula Regional Open Space District to promote an employment environment free of discrimination, harassment, or retaliation as defined in this policy. Discrimination or harassment on the basis of an individual's actual or perceived protected classification is prohibited and will not be tolerated by the District. This policy also prohibits discrimination or harassment because of an individual's association with a member of a protected classification.

"Protected classification" includes: race, religion, creed, color, national origin, ancestry, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), sexual orientation (including heterosexuality, homosexuality, and bisexuality), age (over 40), marital status, citizenship status, medical condition, genetic characteristics or information, military and veteran status, and mental or physical disability.

The District forbids any form of discrimination or harassment by its elected or appointed officials, employees, volunteers, interns, contractors or members of the public, and has enacted these regulations to identify and eliminate this conduct. The District also forbids any form of retaliation against any individual for filing a harassment or discrimination complaint or for participating in the complaint resolution process. Any employee, including managers, supervisors, volunteers, interns, contractors, or appointed or elected officials, who engages in any harassing, discriminatory or retaliatory conduct may be subject to censure, disqualification, or disciplinary action, up to and including discharge. Conduct need not rise to the level of a violation of law to violate this policy.

This policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, reinstatement, transfer, leave of absence, compensation, and training.

***Section C.1 Harassment***

Harassment may include, but is not limited to, the following types of behavior that are taken because of an individual's actual or perceived protected classification:

1. Offensive verbal conduct, including epithets, derogatory comments, slurs, demeaning jokes, nicknames, innuendoes, whistling, propositions, threats, or profanity; or
2. Physical conduct including touching, assault, impeding or blocking movement, interference with normal work, gestures, leering, or making explicit or implied job threats; or
3. Offensive visual conduct, including display of posters, calendars, cartoons, drawings, e-mails, computer websites or pictures.

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***Section C. 2 Sexual Harassment***

Sexual harassment is a form of sex discrimination and will not be tolerated by the District. Sexual harassment includes unwelcome sexual advances, requests for sexual favors or promises in return for submission to sexual acts, and other verbal, visual, or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile, or offensive work environment.

***Section C. 3 Discrimination***

This policy prohibits treating an individual differently on the basis of the individual's actual or perceived protected classification, or association with a person who has or is perceived to have a protected classification.

***Section C. 4 Retaliation***

This policy prohibits the taking of any adverse conduct against an applicant, employee, volunteer, intern, contractor, or elected or appointed official who has reported harassment or discrimination, or who has participation in the complaint and investigation process described below. "Adverse conduct" includes, but is not limited to: taking sides because an individual has reported harassment or discrimination, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment or discrimination, or making real or implied threats of intimidation to prevent an individual for reporting harassment or discrimination.

The following individuals are protected from retaliation: any person making a request for or receiving an accommodation for a disability; any person making a request for or receiving accommodation for religious beliefs or practices; any person making or supporting a complaint under this Policy, opposing violations of this Policy, or participating in an investigation pursuant to this Policy.

***Section C. 5 Complaint Procedure***

The goal of this complaint procedure is to stop discriminatory or harassing behavior in a prompt and effective manner, while still maintaining a good working relationship among the District's employees. All District applicants, employees, volunteers, interns, contractors, and elected and

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appointed officials have the right to file complaints of alleged violations of this policy. The procedure for filing such complaints is as follows:

1. Informal Complaint: Any employee who believes that a policy violation has occurred may, but is not required to, attempt immediately to resolve the problem informally by expressing his/her discomfort with the behavior of the offender in a constructive manner, and by requesting the offender to stop the behavior. *This procedure is not a prerequisite to the filing of a formal complaint.*
2. Formal Complaint: Any applicant, employee, volunteer or contractor who believes that he or she has personally suffered unlawful harassment or discrimination, or retaliation or who has learned of or is aware of such conduct, shall promptly report the conduct, either orally or in writing to any of the following listed below. There is no need to follow any established chain of supervision, so long as the matter is reported to any of the following:
  - a. Immediate supervisor
  - b. Head of Human Resources
  - c. Any supervisor or manager within or outside of the department
  - d. General Counsel
  - e. Any Department head
  - f. Board President (for complaints against the General Manager or other Board member)
3. Any supervisor or department head who receives a harassment complaint should notify the head of Human Resources immediately.
4. A complaint may be referred to a person designated by the General Manager or General Counsel to investigate such complaints, as appropriate.
5. Investigation of Complaint: Upon receipt of a complaint of discrimination, the head of Human Resources will:
  - Provide the complainant with a timely response indicating that the complaint has been received and that a fair, timely, and thorough investigation will be conducted.
  - Timely supervise a fair and thorough investigation of the complaint by impartial and qualified personnel. The investigation will afford all parties with appropriate due process and include interviews with the complainant, the accused harasser, and other persons who have relevant knowledge concerning the allegations in the complaint.
  - Review the factual information gathered through the investigation to reach a reasonable conclusion as to whether the alleged conduct constitutes harassment, discrimination, or retaliation, giving consideration to all factual information and the totality of the circumstances.



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- Timely report a summary of the determination as to whether harassment occurred to the appropriate person(s) including the complainant, the alleged harasser, the supervisor, and the department head. If discipline is imposed, the level of discipline will not be communicated to the complainant.
- 6. Resolution: Once the investigation is complete, the responsible manager will make a determination of the appropriate corrective action, if any. The District will take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation, including retaliation as a result of communicating the complaint.
- 7. Confidentiality: Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. Materials pertaining to the complaint, which do not form a basis for discipline, shall be maintained in a file separate from the personnel files of the participants. The District will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.
- 8. Dissemination of Policy: Copies of this policy shall be provided to all employees of the District when updated, and to all new employees at the time of hiring. The District will also provide periodic training for its employees to assist them in learning how to recognize, avoid and respond to behavior prohibited by this policy.

***Section C. 6 Obligation of District Employees and Officers***

The District officer responsible for ensuring the District's compliance with this policy is the CFO/Director of Administrative Services, and head of Human Resources.

Each non-manager or non-supervisor and each elected or appointed official is responsible for following the District's policy against discrimination and harassment; refraining from discriminatory, harassing or retaliatory behavior, reporting incidents of discrimination, harassment or retaliation in a timely fashion; cooperating in any investigation concerning alleged violations of this policy; and responding fully and truthfully to all questions posed during the investigation.

In addition, managers and supervisors are responsible for ensuring that their employees are aware of the District's policy against discrimination, harassment, and retaliation; enforcing the District's policy among those they supervise; taking prompt, appropriate corrective action when discriminatory behavior is found; informing those who complain of harassment or discrimination of their option to contact the U.S. Equal Employment Opportunity Commission ("EEOC") or the California Department of Fair Employment and Housing ("DFEH"); and attending harassment prevention training provided by the District.

All employees are also encouraged to communicate with one another to assist co-employees to avoid harassing, discriminatory, or retaliatory behavior.

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***Section C. 7 Option to Report to Outside Administrative Agencies***

An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission ("EEOC") or the California Department of Fair Employment and Housing ("DFEH"). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check the posters that are located on District bulletin boards for office locations and telephone numbers.

***Section C. 8 Dissemination of Policy***

All employees and elected and appointed officials shall receive a copy of this Policy when they are hired or elected or appointed into office. The Policy may be updated from time to time and redistributed.

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***APPENDIX D PREGNANCY DISABILITY LEAVE***

The District will authorize a Leave of Absence for Pregnancy Disability for employees in accordance with state and federal law. This policy summarizes employees' leave rights and obligations for conditions related to pregnancy and childbirth under the California Pregnancy Disability Leave Act (PDL), but is not intended to be exhaustive. Rights and obligations which are not specifically set forth below are contained in the California regulations implementing the PDL, and if applicable, under the Department of Labor regulations implementing the Family and Medical Leave Act (FMLA).

***Section D. 1 Eligibility requirements***

1. Any employee who is disabled by conditions relating to pregnancy or childbirth is eligible for Pregnancy Disability Leave under this policy.
2. Eligibility does not depend on length of employment.
3. Full and part-time employees are eligible.
4. The employee must be unable to perform one or more essential functions of her job without undue risk to herself, other persons, or to her pregnancy's successful completion.

***Section D. 2 Reasons for Leave***

Pregnancy Disability Leave is permitted when an employee is disabled by her pregnancy, childbirth, or a related medical condition, as certified by her Health Care Provider. Examples include time off for:

1. Health Care Provider ordered prenatal or postnatal care;
2. Severe morning sickness;
3. Health Care Provider ordered bed rest;
4. Childbirth and recovery from childbirth; and/or
5. Any pregnancy-related, disabling medical condition, including but not limited to, gestational diabetes, preeclampsia, post-partum depression.

This is a non-exclusive list of qualifying conditions.

***Section D. 3 Duration of Leave***

Pregnancy Disability Leave is available for:

1. Up to six months of unpaid leave for the period the employee is disabled by pregnancy.
2. Leave does not have to be taken all at once and can be taken as intermittent or reduced schedule leave with medical certification.

The General Manager, upon written request, and on a case-by-case basis, may grant an extension on a month-to-month basis of up to an additional six (6) months.

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***Section D. 4 Request for Leave/Required Documentation***

Eligible employees requesting such leave are required to:

1. Make the request in writing or orally to the General Manager at least 30 days in advance of the need for foreseeable leave, and as soon as practicable for leave that is not foreseeable.
2. Supply supporting documentation from the attending health care provider.
3. All forms are available through Human Resources.

***Section D. 5 Pay and Benefits While on PDL***

Pregnancy Disability Leave is generally unpaid. During disability leave an employee may use accrued leave. If an employee elects not to use accrued sick leave prior to beginning her leave of absence without pay, the District may require an employee to use any unused, accrued sick leave after four (4) months (or 17-1/3 weeks) of disability leave under this policy. An employee may request to use accrued CTO during the period she is on leave.

State Disability Insurance (SDI): An employee who is absent because of pregnancy disability may be eligible for State Disability Insurance (SDI) benefits. Employee must contact the Employment Development Department (EDD) to apply. SDI payments do not begin until after the employee has been absent from work for seven calendar days. If employee has accrued paid sick leave, employee may use sick leave for the first seven days, before SDI payments begin. If employee has no accrued sick leave, employee may elect, but is not required, to use any accrued vacation (or other accrued leave) during this waiting period.

When an employee uses paid accrued leave hours (e.g. sick, vacation, etc.), benefit hours (sick, vacation, etc.) will continue to accrue at the same rate that applies if the employee was working those hours. Benefit hours will not accrue in any other circumstance or when an employee is in unpaid status.

Employees will continue to be covered by the District's insurance plans (medical, dental, vision and life) to the same extent that coverage is provided and paid for while working for a period of up to 17 1/3 weeks during a twelve (12)-month period. Where an employee continues on approved PDL leave past four (4) months, or 17-1/3 work weeks, and is not otherwise eligible for CFRA leave, an employee can continue such insurance benefits for the duration of the leave by paying the full premiums of these benefits.

If an employee is on leave of absence without pay in excess of two (2) complete pay periods his/her anniversary date for purposes of probationary time, evaluation, step pay increases and vacation/sick/personal/administration time accrual shall be extended by the number of days included in the period of leave without pay.

***Section D. 6 Reinstatement Upon Return from Leave***

1. Employees returning from a PDL within six (6) months will be returned to the same position held prior to the leave, unless the position has ceased to exist because of

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business necessity. If the position ceases to exist, the employee will return to a comparable position. However, the employee has no greater rights to reinstatement, benefits or other conditions of employment than if the employee had been continuously employed during the leave period. If the employee takes a CFRA leave for bonding or other CFRA-qualifying reason, in addition to her pregnancy disability leave, she has a right to return to either her original position or comparable position.

3. All employees taking leave for their own medical condition will be required to present a return to work certification from the attending health care provider as a condition of reinstatement.

***Section D. 7 Relationship of Pregnancy Disability Leave (PDL) to the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA)***

Employees who are eligible for leave under the FMLA will have this leave run concurrently with the Pregnancy Disability Leave (PDL).

CFRA will not run concurrently with Pregnancy Disability Leave, but will be in addition to Pregnancy Disability Leave if the employee is eligible for CFRA leave.

Employees could take up to six (6) months of unpaid pregnancy disability leave for pregnancy disability and if eligible for CFRA, could also be entitled to up to twelve (12) weeks of unpaid CFRA leave to bond with the baby or for other CFRA qualifying reasons. Please contact Human Resources for more detailed information.

***Section D. 8 Reasonable Accommodation***

The District will provide reasonable accommodation requested by an employee, with the advice of her health care provider, related to her pregnancy, childbirth, or related medical conditions. Reasonable accommodation may include, but is not limited to, making facilities readily accessible and usable; job restructuring; modifying work schedules; reassigning to a vacant position; modifying test, training materials and policies; and/or acquisition or modification of equipment or devices. This list is not exhaustive. Refer to Reasonable Accommodation Policy for more detailed information.

***Section D. 9 Additional Information***

For more detailed explanation or answers to questions, employees should contact the Human Resources department.

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#### ***APPENDIX E SALARIED EMPLOYEES POLICY***

The Fair Labor Standards Act (“FLSA”), which is administered by the U.S. Department of Labor Wage and Hour Division (“DOL”), permits an employer to designate particular employees as “exempt” or “salaried” and establishes particular standards for paying exempt or salaried employees.

##### ***Section E. 1 Purpose***

The purpose of this Policy is:

1. To assure that salaried employee pay procedures are based upon fairness, reasonableness, uniformity and equity; and
2. To assure that the District’s policies and procedures regarding salaried employees are in compliance with the FLSA and the DOL regulations; and
3. To set out the benefits and responsibilities of being a salaried employee; and
4. To clarify the District’s policy that: a) salaried employees will not have their salaries reduced except as permitted by the FLSA; and b) that, except as set out in this Policy, the District will not require salaried employees to use their paid leave for partial day absences, but will require them to receive approval prior to deviating from their established work schedules.

##### ***Section E. 2 Salaried Employees Defined***

A salaried employee of the District is one who is paid on a salaried basis, meets the duties test criteria set out by the FLSA and the DOL for exempt employees, and is therefore exempt from FLSA overtime compensation requirements. An employee is paid on a salaried basis if she/he regularly receives a pre-determined amount of compensation that is not subject to reduction because of variations in the quality or quantity of work performed in the workweek.

##### ***Section E. 3 Core Work Hours, Permitted Salary and Paid Leave Reductions, Overtime, and Administrative Leave Accrual***

1. Core Hours and Work Schedules: The General Manager shall establish core work hours in which all employees are expected to be on duty. Core work hours shall be Monday through Friday, 9:00 a.m. to 4:00 p.m. unless the General Manager sets other core hours. This assures a minimum number of hours for communication opportunities among staff, availability to the public during business hours, and promotes efficiency and effectiveness. The Department Manager, after notification and/ or review with the Management Team as appropriate, will determine each salaried employee’s work schedule, which shall ordinarily include the core hours, and shall document that schedule in writing. The General Manager must approve any work schedule that does not cover

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the core hours. Work schedules for full-time salaried employees shall provide for 40 hours of work per week, unless altered by an approved flexible schedule such as 9/80 or an Adjustment as provided for in Section E.4 of this Policy. The General Manager, Department Manager, Area Superintendent, Area Manager, or Supervisor may direct additional hours to be worked, and may approve a salaried employee's absence from his/her work schedule. The employee may actually work more than 40 hours per week. The Supervisor is responsible for monitoring employees' attendance.

2. Deductions from Salary or Paid Leave Time:

- a. Except as provided below, the District shall not deduct from a salaried employee's accrued leave (vacation, sick, personal or administrative) for any time the employee is absent during a portion of the employee's scheduled workday.
- b. Paid leave, or if there is no available and appropriate paid leave, then salary will be reduced for absences in the following circumstances:
  1. An absence from work of one or more full days for personal reasons, sickness or disability.
  2. To offset amounts employees receive as jury or witness fees, or for military pay. The District will not, however, reduce salary for time missed from work except as allowed by the FLSA.
  3. Any full work week in which the employee performs no work.
  4. In the initial and terminal weeks of employment if the employee only works a portion of the week. In this case, the District will pay the employee for only the portion of the week worked.
  5. Absences due to unpaid leave the employee takes under the Family and Medical Act Leave.

3. Accrual of Paid Leave Time: Salaried employees shall accrue Vacation, Sick and Personal Leave time in accordance with the District's Personnel Policies and Procedures Manual and will similarly receive paid Holidays.

Salaried employees directed to work a full day on a District observed holiday shall receive a work schedule adjustment to replace the holiday within 30 days of the observed holiday worked.

4. Overtime: Salaried employees shall not be eligible for overtime compensation.

5. Administrative Leave Accrual: Salaried employees shall accrue Administrative Leave, which is a benefit not provided to non-exempt hourly employees. As stated in Personnel Policies & Procedures Manual Section 7.3A, the General Manager, upon Department Manager recommendation, shall determine the amount of Administrative Leave allotted to each salaried employee by January 1<sup>st</sup> each year. Adjustments to the allotment can be made on a quarterly basis if the amount of night and/or weekend work requirements of the District change during the course of the year. To assure fairness in allocation of Administrative Leave, the General Manager will review specific work

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projects/assignments of each salaried employee with the Department Managers and shall set an amount of Administrative Leave that is appropriate for the number of assignments that are anticipated to require work beyond the typical 40-hour workweek.

***Section E. 4 Work Schedule Adjustments***

1. Adjustments to Work Schedules: No salaried employee may deviate from his or her work schedule without first requesting and receiving advance approval from his or her supervisor. If the supervisor is unavailable, the General Manager, Department Manager or Area Superintendent may approve such a request. A salaried employee's failure to request and receive advance approval may result in discipline.

The General Manager, Department Manager, or Area Superintendent may authorize, in advance, occasional single-event work schedule adjustments for salaried employees. Such adjustments could occur when the affected employee's work duties require him/her to work excessively late evenings, to work excessive numbers of hours in a given week, to work multiple weekend days, is directed to work a full day on a District observed holiday, or under other extenuating circumstances.

2. Flexible Work Schedules: Salaried employees shall be eligible for flexible work schedules in accordance with the "Administrative Guidelines for Flexible Work Schedules for Office, Supervisory, and Management Employees," except that no overtime provisions will be applicable.

***Section E. 5 Time Card Procedures***

An employee's time card must designate total hours worked, the category of leave time to be used, or leave without pay. If the employee is absent from a portion of his/her scheduled workday, and an Adjustment to the work schedule under Section E.4 has not been authorized, the employee shall be paid for the full day, but may be subject to discipline. The selection of accrued leave hours shall be in accordance with provisions of the Personnel Policies regarding use of accrued leave. If the employee has no leave time available for a full day's absence as described in Section E3.2, and when time off has been approved, the employee shall indicate "Leave Without Pay". In such a case, and in only the circumstances set out in Section E.3. 2 of this Policy, the employee shall have his/her salary reduced by an amount equal to the number of hours designated. The daily pay rate used for any pay reductions made pursuant to this Policy shall be based upon the employee's annual salary.

***Section E. 6 Disciplinary Deductions***

Under no circumstances shall a salaried employee have any salary rate reduction imposed as a disciplinary measure. In all other respects, the District's discipline and grievance procedures set out in its Personnel Policies and Procedures Manual shall apply to salaried employees, except as provided in this Policy.

A salaried employee may be suspended from work and his or her salary reduced for the time away from work in any of the circumstances described below



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- a. For less than a full work week if the District has a good faith belief that the employee committed an infraction of a safety rule of major significance, such as rules relating to the prevention of serious danger to other employees; or
- b. For a violation of a workplace conduct rule listed in the District's Personnel Policies and Procedures Manual, a suspension shall not be for a time increment of less than one workday. The term "workplace conduct rule" includes, but is not limited to, inappropriate conduct, including harassment, insubordination, violation of District policies, rules, regulations, or procedures, violence, drug or alcohol violations, or violations of state or federal laws, but does not include performance or attendance issues.

***Section E. 7 Safe Harbor***

The District prohibits any reductions from a salaried employee's pay that are contrary to FLSA requirements. Any salaried employee, who believes that his or her salary has been reduced in violation of the FLSA, can file a written complaint with the General Manager or his/her designee. The complaint must be dated, signed, and describe the specific pay reduction at issue. The General Manager or his/her designee will review the complaint. If a reduction in violation of the FLSA is found, the District will promptly reimburse the employee for the amount of the pay reduction, and institute good faith measures to insure that the error does not occur in the future.

***Section E. 8 Controlling Policies***

In the event there is a conflict between this Policy and any other District rules, regulations, policies, or practices, including other provisions of the Manual, the specific provisions of this Policy shall prevail.