

**INDIAN WELLS VALLEY AIRPORT DISTRICT
ADMINISTRATIVE CODE
(Adopted December 5, 2001 according to Resolution No. 01-104)**

ARTICLE 1. GENERAL PROVISIONS

1.01 **Purpose**

The purpose of this Administrative Code is to provide the members of the Board and the District's staff with a statement of instructions implementing the California Airport District Law and other laws regulating District activities.

1.02 **Amendments**

It is anticipated that from time to time amendments will be required in this Code to cover changes in procedures or new activities of the District. Such amendments will be accomplished by the Board of Directors at a duly constituted meeting through the adoption of a resolution by majority vote in which one or more sections are superseded by revised sections or new sections are added. When so adopted, the revised or new sections will be inserted in this Code and the superseded sections will be deleted. The changes or additions will be effective from the date of adoption.

1.03 **Definitions**

"Act" means the California Airport District Law, Public Utilities Code, Sec. 21,000 et seq.

"Board" means the Board of Directors of the Indian Wells Valley Airport District.

"District" means the Indian Wells Valley Airport District.

"President" means the President of the Board.

1.04 **Other Rules of Construction**

(a) Masculine words include feminine and vice versa.

(b) Officers referred to in this code are the respective officers of the District.

ARTICLE 2. BOARD OF DIRECTORS

2.01 **Election and Appointment**

(a) Directors shall be elected pursuant to the provisions of the Act.

(b) Each candidate for District office may prepare a candidate's statement of qualifications on appropriate form provided by the Clerk. Such statements shall not exceed 200 words in length. The County Clerk shall prepare and distribute said statement of qualifications in accordance with the Elections Code. The County Clerk shall bill each candidate availing himself of these services a sum not greater than the actual prorated costs of printing, handling and translating the candidate's statement, if any,

incurred by the District as the result of providing this service.

- (c) According to Government Code Section 1770, a director's position becomes vacant under certain circumstances, including but not limited to a failure to discharge the duties of office for three consecutive months.

2.02 **Oath of Office**

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

2.03 **Compensation**

Each member of the Board of Directors shall receive compensation in an amount not to exceed one hundred (\$100) for each attendance at the meeting of the Board held within the District, which amount shall be fixed from time to time by the Board. No Directors, however, shall receive pay for more than four meetings in any calendar month.

2.04 **Expenses**

Each member of the Board shall be reimbursed for necessary and actual travel and other expenses necessarily incurred in the performance of his duties, provided, a claim for the expenses is submitted within 60 days after the expenses are incurred in the same

manner as is provided herein for claims generally and further, provided, that all travel and other expenses shall receive prior approval of the Board.

2.05

Board Officers

(a) The following Board Offices are hereby established: President, Vice President, Treasurer and Secretary.

(b) All Board Officers shall be elected annually at the first regular meeting in December, and shall assume office on said date.

(c) The President shall be the Chairman of all meetings of the Board. He shall execute all resolutions and contracts adopted by the Board, appoint standing committees and perform all other acts required by law.

(d) The Vice President of the Board shall serve as Chairman at Board meetings in the absence of the President. He shall execute all resolutions and contracts adopted by the Board in the President's absence and shall perform all other acts required by law.

(e) The Treasurer shall maintain, or cause to be maintained, accurate records of the financial condition of the District and report monthly in

writing to the Board concerning investments. He shall be a member of the Finance Committee.

(f) The Secretary of the Board shall ensure that accurate minutes of all Board meetings reflecting all action taken thereat are maintained. He shall attest to the signatures of the President on all District documents required to be executed by the President. He may, but need not be, a member of the Board.

2.06 **Board Action Required**

All action of the District shall be taken by the Board. No individual board member shall represent the District's policy unless said policy has been determined by the Board.

2.07 **Meetings**

(a) Regular meetings of the Board shall be held at the Airport Office, located at 1669 Airport Road at the Inyokern Airport, Inyokern, California, or at such other place as determined by the Board upon adjournment or special call.

(b) The regular meeting of the Board shall be held on the first Wednesday of each month at the hour of 7:00 o'clock P.M. In the event a regular meeting is scheduled on a District holiday, the meeting shall be held on the next business day.

(c) Special meetings may be called from time to time as provided by the Ralph M. Brown Act (Government Code Section 54950 et seq.)

(d) Regular meetings and special meetings may be adjourned from time to time as provided by the Ralph M. Brown Act.

(e) The General Manager shall prepare the agenda for each meeting and present it to the members of the Board prior to the meeting.

(1) The agenda for a regular meeting shall be posted at least 72 hours prior to the meeting. The agenda for an adjourned meeting shall be the same as the agenda for the meeting which was adjourned not more than 5 calendar days earlier. If matters are added to the agenda for an adjourned meeting or if the adjourned meeting is held more than 5 days after the adjournment, a new agenda shall be posted at least 72 hours prior to the adjourned meeting. The agenda for a special meeting shall be posted at least 24 hours prior to the meeting.

(2) The Board shall act only on matters appearing on the agenda, unless a majority of the Board finds that an emergency

situation exists or unless 2/3's of the directors present, or if less than 2/3's are present a unanimous number, authorize an amendment to the agenda because the need to take action arose subsequent to the agenda being posted. The Board shall receive public comments on matters not appearing on the agenda but shall not act on such matters unless the Board finds an emergency situation exists or the need to take action arose subsequent to the agenda being posted as set forth above.

- (3) Any Director may request that an item of business be placed on the agenda for a future meeting.

(f) Following each Board meeting, the Manager shall transcribe the minutes thereof and forward the same to the Board Members for presentation and approval at a following meeting. A full reading of said minutes may be dispensed with by majority vote.

(g) In all matters not otherwise provided for, the proceedings of the Board shall be governed by "Robert's Rules of Order," 1970. However, no act of the Board shall be invalidated or the legality thereof affected for failure to observe said rules.

2.08

Closed Session

(a) Except for closed sessions, all meetings of the Board shall be open and public. The Board may conduct a closed session to:

(1) Consider the appointment, promotion or job performance of employees;

(2) Consider charges levied against an employee as a part of disciplinary proceedings or otherwise, unless the employee requests a public hearing;

(3) Establish the District's position concerning employee negotiations;

(4) Consider pending or potential claims or litigation;

(5) Consider property acquisition by eminent domain or otherwise; or

(6) Conduct any District business when public session is not possible due to riot or other interruption, provided members of the press shall be allowed to attend the closed session.

(7) Consider matters effecting National Security as determined by FAR 107.

(b) The agenda shall state the purpose of the closed session unless the purpose of the closed session is to:

(1) Consider charges levied against an employee in which case, the identity of the employee shall not be disclosed unless already publicly known or requested by the employee;

(2) Discuss pending or potential claims or litigation and counsel announces that disclosure of the identity of the claimant or litigant would prejudice the District; or

(3) Consider property acquisition, and counsel announces that disclosure of the identity of specific property would prejudice the District.

(c) Whenever practicable the Board shall avoid taking action in closed session. Action may be taken in closed session when necessary to avoid prejudice to the District, e.g. counsel may be given authority to negotiate settlement to a lawsuit. If, or when, the potential for prejudice to the District does not exist, action taken in closed session shall be publicly announced at the same meeting as the closed session or at the next public meeting if such action was to appoint, employ or dismiss an employee. If the action was taken by roll call vote, the vote shall be announced.

(d) After completing a closed session, Counsel shall

prepare a confidential memorandum stating the purpose of the closed session and action taken, if any. This memorandum shall be filed with the General Manager.

- (e) Information acquired in closed session shall not be disclosed to a person not authorized to receive it, unless the Board authorizes the disclosure of the confidential information. The District may take disciplinary action against any person who violates this section, including, but not limited to, referring the person to the grand jury.

ARTICLE 3. OTHER OFFICERS AND EMPLOYEES

3.01 General Manager

(a) The office of the General Manager of the District is hereby established. The General Manager shall be appointed by the Board wholly on the basis of his administrative and executive ability and qualifications and shall hold office for and during the pleasure of the Board.

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

(c) The General Manager shall be the administrative head of the government of the District under the direction and control of the Board except as otherwise provided in this Code. He shall be responsible for the efficient administration of all affairs of the District which are under his control. In addition to his general powers as administrative head, and not as a limitation thereon, it shall be the duty and he shall have the following powers:

1. To enforce all rules and regulations of the District except penal laws and to see that all franchises, contracts, permits and privileges granted by the Board are faithfully observed.
2. To control, order and give directions to subordinate officers and employees of the District under his jurisdiction.
3. To appoint, remove, promote and demote any and all employees of the District, subject to all applicable personnel resolutions, rules and regulations except the Auditor, Secretary, Treasurer and District Counsel.
4. To recommend to the Board adoption of such measures and resolutions as he deems necessary.
5. To attend all meetings of the Board unless at

his request he is excused therefrom by the President individually or the Board, except when his removal is under consideration.

6. To keep the Treasurer and Board at all times fully advised as to the financial condition and needs of the District. Monthly financial statements shall be provided to the Board.

7. To exercise general supervision over all public buildings, and all other public property which are under the control and jurisdiction of the District.

8. To periodically report upon Federal grant and aid programs in which the District may be eligible to participate. Upon order of the Board, he shall process applications on behalf of the District for such participation.

(d) The Board and its members shall deal with the administrative services of the District only through the General Manager, except for the purpose of inquiry, and neither the Board nor any member thereof shall give orders or instructions to any subordinates of the General Manager. The General Manager shall take his orders and instructions from the Board only when sitting in a duly convened meeting of the Board

and no individual Director shall give any order or instructions to the General Manager. It shall be the duty of all subordinate officers and the Secretary, Treasurer, District Counsel and the Auditor to assist the General Manager in administering the affairs of the District efficiently and harmoniously.

(e) The General Manager may be removed from office as follows:

(1) Removal shall be preceded by a majority vote at a Regular Meeting of the whole Board of Directors as then constituted.

(2) In the event of proposed removal, the General Manager shall be furnished with a thirty (30) day prior written notice.

(3) The Board shall provide reasons for the removal in writing within seven (7) days after requested by the General Manager and at least fifteen (15) days prior to the effective date of such removal.

(4) After furnishing the General Manager with a written notice of intended removal from office, the Board may suspend the General Manager from duty; provided, however, compensation shall continue until removal is final.

(5) The General Manager may file a written appeal and

request a hearing before the Board.

(6) In removing the General Manager, the board shall use its uncontrolled discretion, and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of such hearing being to allow the General Manager an opportunity to present to the Board grounds of opposition to his removal prior to the action of the Board of Directors.

(7) Notwithstanding any other provision of this Code, the General Manager shall not be removed from office, other than for misconduct in office, during or within a period of 90 days next succeeding any election at which a member of the Board is elected or when a new Director is appointed. The purpose of this provision is to allow any newly-elected or appointed member of the Board or a reorganized Board to observe the actions and ability of the General Manager in the performance of the powers and duties of the office. After the expiration of the 90-day period, the provisions of this code providing for the removal of the General Manager from office shall apply and be effective.

(8) On the involuntary termination from service of

the General Manager for other than willful misconduct in office, the General Manager shall receive cash severance pay in a lump sum equal to one (1) month's pay for every year of continuous service, or fraction thereof, as General Manager, up to a total of three (3) months pay. Such pay shall be computed at the highest salary received by the General Manager during service with the District. For the purposes of this section, "involuntary removal from office" shall include reductions in pay not applicable to all employees of the District.

(f) Supplementary Employment Agreements

Nothing contained in this Section shall limit the power of the Board of Directors to enter into any supplemental agreement with the General Manager delineating additional terms and conditions of employment not inconsistent with the provisions of this Section.

3.2 Assistant General Manager

There shall be in the District an assistant general manager. The Assistance General Manager shall assist the General Manager in the performance of the General Manager's duties, as determined and directed by the

General Manager. The Assistant General Manager shall be the acting general manager in the absence of the General Manager.

3.03 **Auditor**

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

3.04 **Counsel**

(a) The District Counsel shall advise the District concerning all legal matters and shall prepare resolutions, contracts and other documents requiring his review. He shall also assist the District in any litigation to which the District is a party.

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

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

3.05 **Miscellaneous**

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

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

ARTICLE 4. PERSONNEL SYSTEM

4.01 **Personnel Officer**

The General Manager shall be the Personnel Officer of the District. He shall administer the provisions of this Code as they relate to personnel practices. He shall:

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

4.02 **Appointments and Promotions**

The personnel Officer shall review all applicants for appointment to District services or promotion on the basis of merit and fitness for the particular assignment. Whenever practicable, such appointments

or promotions shall be on the basis of results of open, competitive examinations.

4.03 **Probationary Periods**

All regular appointments, including promotional appointments, shall be for a probationary period of six months. During the probationary period, the employee may be removed at any time, without cause, and without right of an appeal or hearing.

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

4.04 **Discharge, Reduction and Suspension**

(a) Whenever the General Manager believes that it may be in the best interest of the District to discharge, reduce or suspend an employee, he shall provide such employee with an unsigned written statement, setting forth the basis for such preliminary determination. The General Manager shall also invite the employee to present a statement contesting the facts alleged in the preliminary notice or the conclusions stated therein. The amount of time given to the employee to respond shall be determined on a case by case basis

after giving due consideration to the length of the employee's service, the gravity of the charges, and the proposed action. No advance notice need be given to any employee when an emergency exists for such action.

(b) The General Manager may, without cause, discharge, reduce or suspend any employee after having complied with subparagraph (a) of this section. Notice of such action shall be given in writing and shall be served personally upon the employee. The notice shall state the nature of the action taken and a summary of the reasons for such action. The notice shall be substantially the same as the unsigned notice which is provided to the employee pursuant to subdivision (a).

4.05 **Lay-Off and Re-Employment**

Whenever in the judgment of the Board, it becomes necessary in the interest of economy, or because the necessity for a position no longer exists, the Board may abolish any position of employment; the employee holding such position may be laid-off without taking disciplinary action and without the right of appeal. The order of lay-off of employees shall be established by the Personnel Officer taking into consideration the

job performance and length of service of employees in preparing a recommended lay-off list provided, however, that no regular or probationary employee shall be laid-off from his position while an emergency, temporary or provisional employee is serving in the same classification.

Employee to be laid-off shall be given at least 14 days prior notice where possible. Persons who are re-employed within one year following a lay-off shall be regarded as having been on leave of absence during the lay-off absence and entitled to all benefits accruing from such leave.

4.06 **Discrimination**

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

4.07 **Nepotism**

The District will not prohibit the employee of members of an immediate family in the same department or administrative unit, provided that one family member shall not participate in making recommendations or

decisions specifically affecting the appointment, retention, work assignments, demotion, salary or working conditions of another family member. For the purpose of this section, the term "immediate family" shall mean mother, mother-in-law, father, father-in-law, spouse, son, daughter, brother, sister, grandparent, grandchild, son or daughter-in-law, uncle or aunt.

4.08 **Drug Free Work Place**

(a) The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited at the Airport.

(b) Any District employee who violates the provisions of this section is subject to disciplinary action, including suspension, reduction in rank or salary, or termination. The lease or permit of any tenant or permittee who violates this section is subject to suspension or termination.

(c) The General Manager shall provide each employee, tenant and permittee with a copy of this provision. This notice shall include the statement that the employee will abide by the terms of the notice and notify the District of any criminal drug statute conviction for a violation occurring in the work place

no later than five (5) days after such correction.

(d) The General Manager shall notify FAA of violation of this section, including convictions as set forth above, within ten (10) days of receiving notice. Within 30 days of notice, the General Manager shall take appropriate personnel action against such employee or require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

4.09

Harassment Policy

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

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

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

(1) **Verbal Harassment** - For example, epithets,

derogatory comments or slurs on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age.

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

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

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

(d) To accommodate the unique nature of harassment

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

(1) An employee who believes he/she has been harassed, should inform his/her supervisor and at a minimum, the Personnel Committee, of the grievance, preferably in writing.

(2) The Personnel Committee will, at a minimum, perform the following:

(a) Counsel employees and outline available options; and

(b) Obtain factual written statements of the alleged harassment for review by appropriate Department head; and

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

(e) Formal grievance procedures follow and are available for resolution of complaints alleging harassment if the complaint is not concluded to the satisfaction of the employee in the pre-grievance

process described at (d). This formal process requires written notification be given the Personnel Committee regarding the initial complaint and the reason(s) final resolution reached during the pre-grievance process is not satisfactory.

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

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

(3) The General Manager shall expedite and direct investigation of complaints filed with the Personnel Committee including review of factual information collected to determine whether the alleged conduct constitutes harassment, giving consideration to the record as a whole and the totality of circumstances, including the nature of the verbal, physical, visual or sexual favor aspect of any complaint and the context in which

the alleged incidents occurred and recommend, in writing, appropriate action as soon as administratively possible but no longer than 30 calendar days from receipt of a complain in the Personnel Committee.

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

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

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

ARTICLE 5. EMPLOYEES

5.01 Positions Authorized

The positions described in a current Exhibit "A," which may be revised from time to time by the Board of Directors, attached hereto and hereby incorporated by

reference, are hereby authorized at the salary range indicated.

5.02 **Compensation**

(a) The Board shall from time to time establish starting salaries and salary ranges for authorized positions which are as near as practicable to the range and step numbers set forth on the *salary schedule* attached hereto as Exhibit "B".

(b) The Kern County Auditor disburses payroll warrants for the District. Employees shall be paid in accordance with the payroll disbursement of the Kern County Auditor. Currently, employees are paid every other Tuesday. In no event shall employees be paid less frequently than once per month.

5.03 **Fringe Benefits**

The following benefits shall accrue to all permanent employees and the General Manager upon the terms stated herein:

(a) **Vacation**

(1) Persons employed by the District, other than part-time or temporary employees, shall be entitled to a paid vacation of 5 days after one year's service; 10 days each year after two continuous years' service and 15 days each year

after five years' service. Payment during vacation shall be at the rate the employee would otherwise be paid had he worked a regular shift during his vacation.

(2) Vacations must be taken, if at all, in the calendar or vacation year immediately succeeding that in which the same is earned. Notwithstanding the foregoing, when authorized in writing by the General Manager, a vacation may be deferred for one year or more. In no event may more than four weeks of accrued vacations be deferred pursuant to this section.

(3) All time for vacation shall be scheduled with the General Manager so that such vacations will not conflict with the District's work schedule.

(4) Any person who leaves the service of the District, who immediately prior to such separation shall have been in District service for one year or more, shall be entitled to a leaving vacation. The leaving vacation shall result in a lump sum payment to the employees equal to the number of earned but unused vacation days, accrued monthly, times the employee's wage

immediately prior to termination.

(b) **Sick Leave**

(1) Officers and employees, who have been employed continuously by the District for 6 months or more, may utilize sick leave without loss of pay when compelled to be absent because of sickness or injury. For the purpose of this section, termination and re-employment within 30 days shall not be deemed a break in service. Officers and employees not eligible for sick leave pursuant to the provisions of this section are those employed for less than 6 months, those employed on an hourly basis and those employed for less than one-half (1/2) time.

(2) After 6 months' employment, eligible employees shall be entitled to 6 days of sick leave and shall accrue 1 day of sick leave for each month of continuous service thereafter. Such accrued sick leave shall not exceed 90 days of total leave at full pay at his then current salary.

For the purpose of this Section, an employee's continuous service shall be deemed to begin on the first of the month in the event his

actual continuous service begins on or before the fifteenth of the month, and shall be deemed to begin on the first of the following month in the event his actual continuous service begins on or after the sixteenth of the month.

(3) Sick leave may be utilized for any of the following purposes:

(i) Emergency or non-emergency medical or dental care;

(ii) Sickness or accidental illness, provided, employees sick for more than 3 days may be required to provide the General Manager with a doctor's certificate indicating the fact of the sickness and that the employee is fit to return to work;

(iii) Illness or death of an employee's immediate family, including parents or grandparents, not to exceed 5 days of such leave per year.

(iv) Pregnancy, childbirth or related medical condition.

(4) Employees receiving worker's compensation benefits need not utilize accrued sick leave. If such employee chooses to utilize accrued sick

leave, he shall receive as sick leave pay the difference between his daily worker's compensation benefits and his regular compensation.

(5) An employee who retires and the estate of an employee who dies while employed shall be compensated for one-half of the employee's accumulated sick pay. No other termination shall result in payment of accumulated sick pay.

(c) **Health and Accident Insurance**

All permanent full time employees and their dependents shall be eligible for membership in the District's group health and accident plan.

(d) **Worker's Compensation Insurance**

All employee shall receive the benefit of Worker's Compensation Insurance as provided by law.

(e) **Holidays**

The following Holidays are hereby established as District holidays:

- * January 1;
- * Martin Luther King Day;
- * President's Day;
- * Memorial Day;
- * Independence Day;

- * Labor Day;
- * Thanksgiving Day;
- * The Day after Thanksgiving Day;
- * Veterans Day;
- * Noon to closing on December 24;
- * December 25;
- * Noon to closing of December 31.

In the event that any of the foregoing holidays fall on Saturday, the immediately preceding Friday will be observed as District holiday. In the event that any of the foregoing holidays fall on Sunday, the next succeeding Monday will be observed as a District holiday.

(f) **Leave Without Pay**

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

(i) **Court Duty**

1. An employee may receive his regular pay while serving as a juror provided his jury

fees are paid to the District.

2. An employee may receive his regular pay while serving as a witness in a court proceeding, provided, his witness fees are paid to the District.

5.04 **Step Raises**

Each employee, other than a probationary employee, who receives a satisfactory annual performance evaluation shall receive an annual step raise consisting of a step increase for his or her position as set forth in Exhibit B of this part. The step raise shall not be considered a promotion unless the work description for the class of service is also changed.

5.05 **Merit Raises**

(a) Raises for meritorious service may be granted by the Board upon recommendation of the General Manager.

(b) The Board may authorize changes in compensation based on cost of living.

5.06 **Working Hours**

(a) "Regular" working hours for permanent employees consists of five 8 hour days.

(b) "A split shift" consists of work by a permanent employee for five nonconsecutive days or 40 nonconsecutive hours per week.

(c) At the discretion of the General Manager a flexible schedule may be permitted.

5.07

Overtime

(a) A permanent employee, other than a supervisory employee, shall be paid at a rate of one and one-half times his normal hourly salary for each hour worked in excess of 8 hours per day or 40 hours per week.

(b) An employee, other than a supervisory employee, who is required to return to work unscheduled overtime after normal shift has ended shall be compensated at the rate set forth above and shall receive not less than two hours work of compensation regardless of the amount of time actually worked.

(c) All overtime shall be approved by the General Manager before such work is performed.

(d) Any employee, with the exception of supervisory employee, who is required to work on a District holiday or for more than 12 consecutive hours shall be compensated at a rate of twice his normal hourly salary for each hour worked.

(e) As used herein, "supervisory employees" are: the General Manager

5.08

Mileage

(a) An employee who is required by the General

Manager to utilize a personal vehicle for District business shall receive reimbursement at the rate published by the Internal Revenue Service for deductible mileage for each mile of use.

(b) An employee who is required to return to work in his own vehicle at other than normal working hours shall receive reimbursement at the rate published by the Internal Revenue Service for deductible mileage for each mile traveled to perform such duties.

ARTICLE 6. BLANK

ARTICLE 7. CONFLICTS OF INTEREST

7.1 Conflicts of Interest Code

The Political Reform Act (Government Code Section 81000 et seq) requires state and local government agencies to adopt and promulgate a conflicts of interest code. The Fair Political Practices Commission has adopted a regulation - 2 Cal Code of Regs. 18730 - that contains the terms of a standard conflict of interest code. After public notice and hearing, it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby

incorporated into the conflict of interest code of the District by reference. This section, and those designating officials and employees, and establishing economic interest disclosure categories, shall constitute the conflict of interest code of the District.

7.2 **Designated Employees**

- (a) Directors, the general manager, assistant general manager and legal counsel are designated employees, as defined by the Political Reform Act. They shall disclose financial interests for all categories.
- (b) Consultants shall disclose pursuant to the broadest disclosure category. Notwithstanding the foregoing, the general manager may determine in writing that a particular consultant, although a "designated employee", is hired to perform a range of duties that are limited in scope and, thus, is not required to comply with the disclosure requirements described herein. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure required. The determination of the general manager is a public record and shall be retained for public inspection in the same manner and location as this conflicts of interest code. Nothing herein excuses any

such consultant from any other provision of this conflict of interest code.

7.3 **Filing of Disclosure Statements**

- (a) All official and employees required to submit a statement of economic interest shall file their statement with the general manager, or his or her designee. The District shall make and retain a copy of all statements filed by its Board Members and General Manager, and forward the originals of such statements to the Executive Office of the Board of Supervisors of Kern County.
- (b) The District shall retain the originals of statements for all other designated positions named in the conflict of interest code. All retained statements, original or copies, shall be available for public inspections and reproduction pursuant to Government Code Section 81008.

ARTICLE 8. RECORDS

8.01 **Inspection of District Records**

(a) This section provides criteria and procedure for the public inspection of District records as required by the California Public Records Act.

(b) As used in this section:

1. "Public Records" means any writing containing information relating to the conduct of District business prepared, owned, used or retained by the District regardless of physical form or characteristics.

2. "Writing" means any handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, works, pictures, sounds or symbols, or combinations thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums

or other documents.

(c) District records are open to public inspection at all times during the office hours of the District and every citizen has a right to inspect any District record except as herein provided.

(d) Nothing contained in this section shall be construed to require disclosure of records that are:

(1) Preliminary drafts, notes or intra or interagency memoranda which are not retained by the District in the ordinary course of business, provided, that public interest in withholding such records clearly outweighs the public interest and disclosure;

(2) Records pertaining to pending litigation to which the District is a party or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;

(3) Personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

(4) Geological or geophysical data, plant production data and similar information relating

to utility systems development which are obtained in confidence from any person;

(5) Test questions, scoring keys, and other examination data used to administer examinations for employment;

(6) The contents of real estate appraisals, engineering or feasibility estimates and evaluation made for or by the District relative to the acquisition of property, or to prospective supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;

(7) Records, the disclosure of which is exempted or prohibited pursuant to provisions of Federal or State Law, including but not limited to, provisions of the Evidence Code relating to privilege.

(e) Notwithstanding the foregoing, every employment contract between the District and any public official or public employee is a public record which must be disclosed and an itemized statement of the total expenditures and disbursements of the District

provided for in Article VI of the California Constitution shall be open for public inspection.

(f) The District shall justify withholding any records by demonstrating that the record in question is exempt under the express provisions of this section or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by the disclosure of the record.

(g) A person may receive a copy of any identifiable District record, upon request. An exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the District. A request for a copy of an identifiable public record or information produced therefrom or a certified copy of such record shall be accompanied by payment of a fee in the amount from time to time established by the Board.

In those cases where the applicant is unable to identify the record to be copied, a charge from time to time established by the Board, shall be paid to the District for time spent by District personnel in attempting to locate such record.

The General Manager may require any person who

desires to obtain a copy of a District record to deposit an amount equal to the estimated fees for copying and, if applicable, charges for searching the required information. That portion of the deposit which is not required to cover the costs of such fees and charges will be refunded to the person desiring to obtain the information. If such deposit is insufficient to cover the costs of such fees and charges, an additional deposit will be required.

(h) Notwithstanding any other provision in this section to the contrary, all records of the District, including records excluded from public inspection, shall be made available for inspection by any member of the Board at all reasonable times. No fee or charge shall be imposed upon any Board member for obtaining a copy of such record or for any search relating to the location of such record.

(i) This section is adopted for the purpose of implementing the provisions contained in Chapter 3.5 (commencing with Section 6250) of Title 1 of the Government Code. Nothing herein contained shall be deemed to abridge or otherwise modify said provisions.

8.02

Retention of District Records

(a) This section provides criteria and procedure for the retention or destruction of District records.

(b) The following original records shall be maintained in perpetuity in the District's files:

(1) The certificate of incorporation of the District;

(2) Any certificate of annexation proceedings;

(3) Any certificate of the Secretary of State reciting the filing of annexation papers by the District in his office;

(4) Any certification by the Secretary of State that detachment papers have been received and that he has excluded area from the District;

(5) Resolutions and Ordinances;

(6) Minutes of meetings of the Board of Directors;

(7) Certificate of assessed valuation prepared by the Auditor of Kern County;

(8) Documents received from the tax assessor detailing District taxes collected;

(9) Ballot arguments pro or contra on bond issues;

(10) Results of bond propositions received from the canvassing bodies;

(11) Results of elections for the office of member of the Board of Directors received from the canvassing body;

(12) Records of securities acquired with surplus District monies;

(13) Receipts for securities from banks;

(14) Documents received relating to claims brought against the District;

(15) Documents received pursuant to eminent domain proceedings brought by the District;

(16) Records that are determined by the Board of Directors to be of significant and lasting historical, administrative, legal, fiscal or research value; and

(17) Records required by law to be filed and preserved.

(c) The following original records, or a microfilmed copy of such original record, shall be maintained in perpetuity in the District's files:

(1) Financial records summarizing the financial status of the District other than reports prepared pursuant to Article 9 (commencing with Section 53891) of Part 1 of Division 2 of the Government Code;

(2) Records affecting title to land or liens thereon;

(3) Oaths of office and related materials depicting the authenticity of the appointment of any director or officer of the District;

(4) Paid vouchers with attached documents, summary of collections, registers of demands issued and journals of warrants paid, provided, the original thereof has been maintained in the District's files for a period of five years;

(5) Reports of the District in correspondence not covered in any other portion of this section; and

(6) Records received pursuant to State statute which are not expressly required by law to be filed and preserved.

(d) The following original records may be destroyed after the passage of time; as indicated, without the maintenance of a microfilm copy thereof:

(1) Unaccepted bids or proposals for construction may be destroyed without microfilming after two years;

(2) Work orders or in-house records of time spent on various District work assignments may be

destroyed without microfilming after two years;

(3) Records created for a specific event or action may be destroyed without microfilming after five years following the end of the fiscal year in which the event or action was completed, unless there is pending litigation involving the records;

(4) Canceled checks for the payment of bond interest and redemption may be destroyed by an executive officer without microfilming after ten years;

(5) Tapes and records of the minutes of the Board of Directors may be erased after six months; and

(6) Any record, paper or document which is more than two years old and which was prepared or received in any manner other than pursuant to state statute.

(e) The following records may be destroyed at any time, without maintenance of a microfilm copy thereof:

(1) All duplicates, the original or a permanent photostatic record of which is on file;

(2) Rough drafts, notes and working papers accumulated in the preparation of a

communication, study or other document, unless of a formal nature contributing significantly to the preparation of the document representing the work of any department of the District, including but not limited to meter books after the contents thereof have been transferred to other records;

(3) Cards, listings, non-permanent indices, other papers used for controlling work and transitory files including letters of transmittal, suspense letters, and tracer letters;

(4) Canceled coupon sheets from registered bonds; and

(5) Shorthand notebooks, telephone messages and inter-departmental notes.

(f) The provisions of this article are intended to implement the provisions of Chapter 7 (commencing with Section 60200) of Division 2, Title 6 of the Government Code. Nothing herein contained shall be deemed to abridge or amend said provisions.

8.03

Notices

All notices required to be posted shall be posted at the following places:

(a) Bulletin board in the lobby and front window of the Administrative Building of the District.

ARTICLE 9. OPERATION RULES AND REGULATIONS

Article 9 is contained following the last 12.

ARTICLE 10. ENVIRONMENTAL REVIEW

PART 1. GENERAL

10-1.101 **General**

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

(b) This article applies to:

(1) Activities directly undertaken by the District,

(2) Activities financed in whole or in part by the District, or

(3) Private activities which require approval from the District.

(c) This article applies in situations where the District can use its judgment in deciding whether and how to approve a project.

(d) When the District is a "lead agency," it is responsible for preparing environmental documents, the District will normally take up to three separate steps in deciding which document to prepare under this

article.

(1) In the first step the District examines the project to determine whether the project is subject to CEQA at all. If the project is exempt, the process proceeds no further. The District may prepare a notice of exemption.

(2) If the project is subject to the CEQA process, the District takes the second step and conducts an initial study to determine whether the project may have a significant effect on the environment.

(3) If the initial study shows that the project will not have a significant effect, the District will undertake the third step and prepare a negative declaration. If the initial study shows that the project may have a significant effect, the District will undertake the third step and prepare an environmental impact report (EIR).

(e) When another agency is the lead agency and required to prepare the environmental documents, the District is a "responsible agency". As a responsible agency, the District will normally use the environmental documents prepared by the lead agency during the District's decision-making process.

10-1.102 **Time of Preparation**

(a) Before approving a project subject to CEQA, the District shall consider a final EIR or negative declaration or another document authorized by these guidelines to be used in the place of an EIR or negative declaration.

(b) The environmental document preparation and review should be coordinated in a timely fashion with the existing planning, review, and project approval processes being used by each public agency.

10-1.103 **Delegation of Responsibilities**

(a) The General Manager shall:

- (1) Determine whether a project is exempt.
- (2) Conduct an initial study.
- (3) Prepare a negative declaration or EIR.
- (4) Determine that a negative declaration has been completed within a period of 105 days.
- (5) Prepare responses to public comments.
- (6) Certify that a final EIR complies with CEQA.
- (7) Certify that the decision-making body has reviewed and considered an EIR or negative declaration.
- (8) File notices.
- (9) Respond to requests for consultation by lead

agencies.

(c) The Board shall:

(1) Approve, certify, review and consider a draft or final EIR or negative declaration prior to approving a project.

(2) Make findings as required by this article.

PART 2. LEAD AGENCY

10-2.101 General

This part describes the ways in which the lead agency for a particular project will be identified.

10-2.102 Lead Agency Concept

(a) Where a project is to be carried out or approved by more than one public agency, one public agency shall be responsible for preparing an EIR or negative declaration for the project. This agency shall be called the lead agency.

(b) Except as provided below, the decision-making body of each responsible agency shall consider the lead agency's EIR or negative declaration prior to acting upon or approving the project.

(c) The determination of the lead agency of whether to prepare an EIR or a negative declaration shall be final and conclusive on all persons, including responsible agencies, because only one EIR or negative

declaration will be prepared for the project unless;

(1) The decision is challenged as provided in Section 21167 of the Public Resources Code.

(2) Circumstances or conditions change as provided below, or

(3) A responsible agency becomes a lead agency as provided below.

10-2.103 **Criteria For Identifying The Lead Agency**

(a) Where two or more public agencies will be involved with a project, the determination of which agency will be the lead agency shall be governed by the criteria set forth in the State Guidelines.

(b) Where a responsible agency is called on to grant an approval for a project subject to CEQA for which another public agency was the appropriate lead agency, the responsible agency shall assume the role of the lead agency only when conditions set forth in the State Guidelines are found to exist.

(c) If there is a dispute over which of several agencies should be the lead agency for a project, the disputing agencies shall resolve the dispute in accordance with the State Guidelines.

PART 3. INITIAL REVIEW OF PROJECTS

10-3.101 **General**

This Part describes the process used by the District when acting as a lead agency in analyzing a project before the District had decided whether to prepare an EIR or negative declaration.

10-3.102 **Step One: Review for Exemption**

(a) As part of the preliminary review, the District shall determine whether a particular activity is exempt from CEQA.

(b) Possible exemptions from CEQA include:

(1) The activity is not a project as defined herein.

(2) The project has been granted an exemption by statute or by categorical exemption.

(3) The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

(c) The District shall prepare a list of the project often handled by the District that the District has determined to be exempt. This listing shall be used in preliminary review.

(d) After determining that a project is exempt, the District may prepare a notice of exemption as provided herein.

10-3.103 **Preliminary Review**

(a) After accepting an application as complete and determining that the project is subject to CEQA, the District shall begin the formal environmental evaluation of the project. Accepting an application as complete does not limit the authority of the District to require the applicant to submit additional information needed for environmental evaluation of the project.

(b) If the District can determine that an EIR will be required for a project, the District may skip further initial review of the project and begin work directly on the EIR process described below. In the absence of an initial study, the District shall still focus the EIR on the significant effects of the project and indicate briefly its reasons for determining that other effects would not be significant or potentially significant.

10-3.104 **Step Two: Initial Study**

(a) Unless an exemption applies (or unless the District can determine that the project will clearly have a significant effect), as determined on the first step in the CEQA process, the District shall conduct an initial study to determine if the project may have a significant effect on the environment. All phases of project planning, implementation, and operation must be considered in the initial study of the project. To meet the requirements of this section, the District may use an initial study or a similar analysis prepared pursuant to the National Environmental Policy Act. If any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, the District shall either:

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

(b) The purposes of an initial study are to:

- (1) Identify whether a project may have any

potential environmental impacts thereby enabling the lead agency to decide whether to prepare an EIR or negative declaration;

(2) Enable an applicant or District to modify a project, mitigating adverse impacts before the EIR is written; and

(3) Assist the preparation of an EIR.

(c) An initial study shall contain in brief form;

(1) A description of the project including the location of the project;

(2) An identification of the environmental setting;

(3) An identification of environmental effects by use of a checklist, matrix, or other method;

(4) A discussion of ways to mitigate the significant effects identified, if any;

(5) An examination of whether the projects would be consistent with existing zoning, plans, and other applicable land use controls;

(6) The name of the person or persons who prepare or participate in the initial study.

(d) If the project is to be carried out by a private person or private organization, the person or organization carrying out the project shall submit

data and information which will enable the District to prepare the initial study.

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

10-3.105 **Determining Significant Effect**

(a) In evaluating the significance of the environmental effects of a project, the District shall consider both primary or direct and secondary or indirect consequences. Social and economic changes resulting from a project by themselves shall not be treated as significant effects on the environment. If physical changes cause or result from adverse economic or social changes, the economic or social changes may be used as the basis for determining that the physical changes are significant.

10-3.106 **Mandatory Findings of Significance**

The District shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where

any of the following conditions occur:

(a) The project has the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.

(b) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

(c) The project has possible environmental effects which are individually limited but cumulatively considerable. As used in the subsection, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(d) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

PART 4. NEGATIVE DECLARATION PROCESS

10-4.101 **General Contents**

This part describes the process for preparing and processing a negative declaration when the District is acting as the lead agency.

10-4.102 **Step Three (alternative): Decision to Prepare a Negative Declaration**

A proposed negative declaration shall be prepared for a project subject to CEQA when either:

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

(b) The initial study identifies potentially significant effects but the project applicant has revised the project proposal to avoid the effects or to mitigate the effects to a point where clearly no significant effects would occur. Changes in a project which will allow use of a proposed negative declaration shall be limited to:

(1) Revisions in the project plans made by the applicant, or

(2) An enforceable commitment from the applicant to include the mitigation measures in the project.

(c) Where a negative declaration is prepared under

subsection (b), the District shall make a finding that the project as approved will not have a significant effect on the environment.

10-4.103 **Consultation**

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

10-4.104 **Contents**

A negative declaration circulated for public review shall include:

- (a) A brief description of the project, including a commonly used name for the project if any;
- (b) The location of the project preferably shown on a map and the name of the project proponent;
- (c) A proposed finding that the project will not have a significant effect on the environment;
- (d) An attached copy of the initial study documenting reasons to support the finding; and
- (e) Mitigation measures, if any, included in the project to avoid potentially significant effects.

10-4.105 **Public Notice**

- (a) Notice that the District purposes to adopt a

negative declaration shall be provided to the public within a reasonable period of time prior to adoption by the District of the negative declaration. Notice shall be given to all organizations and individuals who have previously requested such notice and shall also be given by at least one of the following procedures:

(1) Publication at least one time by the District in a newspaper of general circulation in the area affected by the proposed project.

(2) Posting of notice by the District on and off site in the area where the project is to be located.

(3) Direct mailing to owners of property contiguous to the project as such owners are shown on the latest equalized assessment roll.

(b) The alternatives for providing notice specified in subsection (1) shall not preclude the District from providing additional notice by other means if the District so desires, nor shall the requirements of the section preclude the District from providing the public notice at the same time and in the same manner as public notice required by any other laws for the project.

(c) The noticed review period shall be long enough to provide members of the public with sufficient time to respond to the proposed finding before the negative declaration is approved.

10-4.106 **Consideration of Comments**

Prior to approving the project, the Board of the District shall consider the negative declaration together with any comments received during the public review process. The Board shall approve the negative declaration if it finds on the basis of the initial study and any comments received that there is no substantial evidence that the project will have a significant effect on the environment.

10-4.107 **Notice of Determination**

(a) After deciding to carry out or approve a project for which a negative declaration has been approved, the District shall file a notice of determination.

(b) The notice of determination shall include:

(1) An identification of the project including its common name where possible and its location.

(2) A brief description of the project.

(3) The date on which the District approved the project.

(4) The determination of the District that the

project will not have a significant effect on the environment.

(5) A statement that a negative declaration has been prepared pursuant to the provisions of CEQA.

(6) The address where a copy of the negative declaration may be examined.

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

PART 5. EIR PROCESS

10-5.101 General

This part describes the procedure to be followed by the District as a lead agency in preparing an EIR for a project. To the extent possible, the EIR process should be combined with the existing planning, review, and project approval process used by each public agency.

10-5.102 Step Three (Alternative): Decision to Prepare an EIR

If the District determines that there is substantial evidence that the project may have a significant effect on the environment, the District shall prepare

or cause to be prepared an environmental impact report.

10-5.103 **Determination of Scope of EIR**

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

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

(a) Description of the project.

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

(c) Probable environmental effects on the

project.

(2) The notice of preparation shall be sent by the District as either certified mail or any other method of transmittal which provides it with a record that the notice was received.

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

(b) Within 45 days after receiving the notice of preparation under subparagraph (c), each responsible agency shall provide the District with specific detail about the scope and content of the environmental information related to the responsible agency's area of statutory responsibility which must be included in the draft EIR. The response at a minimum shall identify the significant environmental issues and possible alternatives and mitigation which the responsible agency will need to have explored in the

draft EIR. If a responsible agency fails by the end of the 45 day period to provide the District with either a response to the notice or a well justified request for additional time, the District may presume that the responsible agency has not response to make.

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

(d) When one or more state agencies will be a responsible agency or a trustee agency, the District shall send a notice of preparation to each state responsible agency and each trustee agency with a copy to the State Clearinghouse in the Office of Planning and Research. The State Clearinghouse will ensure that the State responsible agencies and trustees reply

to the lead agency within the required time.

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

10-5.104 **Early Public Consultation**

Prior to completing the draft EIR, the District may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project. This early consultation may be called scoping. Scoping will be necessary when preparing an EIR/EIS jointly with a federal agency.

10-5.105 **Preparing the Draft EIR**

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

(b) The District may require the project applicant to supply data and information both to determine whether the project may have a significant effect on the

environment and to assist the District in preparing the draft EIR. The requested information should include an identification of other public agencies which will have jurisdiction by law over the project.

(c) Any person, including the applicant, may submit information or comments to the District to assist in the preparation of the draft EIR. The submittal may be presented in any format, including the form of a draft EIR. The District must consider all information and comments received. The information or comments may be included in the draft EIR in whole or in part.

(d) The District may choose one of the following arrangements or a combination of them for preparing a draft EIR.

(1) Preparing the draft EIR directly with its own staff.

(2) Contracting with another entity, public or private, to prepare the draft EIR.

(3) Accepting a draft prepared by another entity, either the applicant, a consultant retained by the applicant, or any other person. In this third situation, the District may not use the draft as its own without independent review and analysis.

(4) Using a previously prepared EIR.

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

10-5.106 **Notice of Completion**

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

(b) The notice of completion shall include:

(1) A brief description of the project.

(2) The proposed location of the project.

(3) An address where copies of the draft EIR are available, and

(4) The period during which comments will be received on the draft EIR.

(c) A form for the notice of completion is included in the appendices.

(d) The notice of completion will provide the basis for information published by the Secretary for Resources in an EIR Monitor. Where the EIR will be reviewed through the state review process handled by the State Clearinghouse, the cover form required by the State Clearinghouse will serve as the notice of

completion, and no notice of completion need be sent to the Resources Agency.

10-5.107 **Consultation Concerning Draft EIR**

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

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

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

10-5.108 **Public Review of Draft EIR**

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

- (1) Publication at least one time by the District in a newspaper of general circulation in

the area affected by the proposed project.

(2) Posting of notice by the District on an off the site in the area where the project is to be located.

(3) Direct mailing to owners of property contiguous to the project as those owners are shown on the latest equalized assessment roll.

(b) The alternative for providing notice specified in subsection (a) shall not preclude District from providing additional notice by other means if the District so desires, nor shall the requirements of this section preclude the District from providing the public notice required by this section at the same time and in the same manner as public notice otherwise required by law for the project.

(c) In order to provide sufficient time for public review, review periods for draft EIRs should not be less than 30 days nor longer than 30 days except in unusual situations. The review period for draft EIRs for which a state agency is a responsible agency shall be at least 45 days unless a shorter period is approved by the State Clearinghouse.

(d) The District shall use the State Clearinghouse to distribute draft EIRs and negative declarations to

state agencies for review and should use areawide clearinghouses to distribute the documents to regional and local agencies.

(e) To make copies of EIRs available to the public, the District should furnish copies of draft EIRs to appropriate public library systems. Copies should also be available in offices of the District.

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

(g) Public hearings may be conducted on the environmental documents, either in separate proceedings or in conjunction with other proceedings of the public agency. Public hearings are encouraged, but not required as an element of the CEQA process.

10-5.109 **Evaluation of and Response to Comments**

(a) The District shall evaluate comments received from persons who reviewed the draft EIR and shall prepare a written response.

(b) The written response shall describe the

disposition of significant environmental issue raised. In particular, the major issues raised when the District's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.

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

10-5.110 **Final EIR**

(a) The District shall prepare a final EIR before approving the project. The contents of a final EIR are specified herein.

(b) The District may provide an opportunity for review of the final EIR by the public or by commenting agencies.

(c) The final EIR shall be presented to the Board of Directors to certify that the final EIR has been completed in compliance with CEQA and that the Board of Directors has reviewed and considered the information contained in the EIR prior to approving

the project.

10-5.111 **Findings**

(a) The District shall not approve or carry out a project for which an EIR has been completed which identifies one or more significant effects of the project unless the District makes one or more written findings for each of those significant effects, accompanied by a statement of the facts supporting each finding. The possible findings are:

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

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the District.

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

(b) The findings required by subsection (a) shall be supported by substantial evidence in the record.

(c) The finding in subsection (a) (2) shall not be made if the District has concurrent jurisdiction with

another agency to deal with identified feasible mitigation measures or alternatives.

(d) The District shall not approve or carry out a project as proposed unless the significant environmental effects have been reduced to an acceptable level.

(e) As used in this Section, the term "acceptable level" means that:

(1) All significant environmental effects that can feasibly be avoided have been eliminated or substantially lessened as determined through findings as described in subsection (a), and

(2) Any remaining, unavoidable significant effects have been found acceptable under the following section.

10-5,112 **Statement of Overriding Considerations**

Where the decision of the District allows the occurrence of significant effects which are identified in the final EIR but are not mitigated, the District must state in writing the reasons to support its action based on the final EIR and/or other information in the record. This statement may be necessary if the agency also makes a finding under Section 10-5.111(a)(2) or (a)(3). If the District makes a

statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination.

10-5.113 **Notice of Determination**

(a) The District shall file a notice of determination following each project approval for which an EIR was considered. The notice shall include:

(1) An identification of the project including its common name where possible and its location.

(2) A brief description of the project.

(3) The date when the District approved the project.

(4) The determination of the District whether the project in its approved form will have a significant effect on the environment.

(5) A statement that an EIR was prepared and certified pursuant to the provisions of CEQA.

(6) Whether mitigation measures were made a condition of the approval of the project.

(7) Whether a statement of overriding considerations was adopted for the project.

(8) The address where a copy of the EIR and the record of project approval may be examined.

10-5.114 **Disposition of a Final EIR**

(a) The District shall include the final EIR as part of the regular project report which is used in the existing project review and budgetary process if such a report is used.

(b) The District shall retain one or more copies of the final EIR as public records for a reasonable period of time.

(c) The District shall require the applicant to file a copy of the certified, final EIR with each responsible agency.

10-5.115 **Later EIR**

(a) Where an EIR has been prepared for a program, plan, policy or ordinance, the lead agency for a later project for which a subsequent EIR is otherwise required may examine the significant effect of the later project by using a tiered EIR if the later project is consistent with the prior project and land use plans and zoning.

(b) The tiered EIR need not examine effects which the lead agency determines were mitigated or avoided or which were examined in sufficient detail in the prior EIR to enable mitigation or avoidance by the site specific revisions or condition in connection with the

approval of the later project.

(c) An initial study shall be prepared to determine whether the later project may cause significant effects not examined in the prior EIR.

PART 6. RESPONSIBLE AGENCY

10-6.101 General

This part describes the activities of the District when acting as a responsible agency.

10-6.102 Consultation

(a) The District shall respond to consultation by the lead agency in order to assist the lead agency in preparing adequate environmental documents for the project.

(1) In response to consultation, the District shall explain its reasons for recommending whether the lead agency should prepare an EIR or negative declaration for a project. Where the District disagrees with the lead agency's proposal to prepare a negative declaration for a project, the District should identify the significant environmental effects which it believes could result from the project and recommend either that an EIR be prepared or that the project be modified to eliminate the

significant effects.

(2) As soon as possible, but not longer than 45 days after receiving a notice of preparation from the lead agency, the District shall send a written reply by certified mail. The reply shall specify the scope and content of the environmental information which would be germane to the District's statutory responsibilities in connection with the proposed project. The lead agency shall include this information in the EIR.

(b) The District shall designate employees or representatives to attend meetings requested by the lead agency to discuss the scope and content of the EIR.

(c) The District shall review and comment on draft EIRs and negative declarations for projects which the District would later be asked to approve. Comments should focus on any shortcomings in the EIR, the appropriateness of using a negative declaration, or on additional alternative or mitigation measures which the EIR should include. The comments may deal with any aspect of the project or its environmental effects. Comments should be as specific as possible.

(d) If the District believes that the final EIR or

negative declaration prepared by the lead agency is not adequate for use by the District, the District must either:

(1) Take the issue to court within 30 days after the lead agency files a notice of determination.

(2) Be deemed to have waived any objection to the adequacy of the EIR or negative declaration, or

(3) Prepare a subsequent EIR if permissible under the State Guidelines.

(e) Prior to reaching a decision on the project, the District must consider the environmental effects of the project as shown in the EIR or negative declaration. A new or supplemental EIR can be prepared only as provided in the State Guidelines.

(f) When an EIR has been prepared for a project, the District shall not approve the project as proposed if the District finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen any significant effect the project would have on the environment. When considering alternatives and mitigation measures, the District is more limited than a lead agency. The District has responsibility for mitigating or avoiding

only the environmental effects of those activities which it decides to carryout, finance, or approve.

(g) The District shall make the findings required by the State Guidelines for each significant effect of the project and shall make the required findings if necessary.

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

PART 7. TIME LIMITS

10-7.101 **General**

This part describes the limits in the CEQA process.

10-7.102 **Review of Application for Completeness**

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

10-7.103 **Initial Study**

When the District acts as the lead agency, the

District shall determine within 45 days after accepting an application as complete, whether it intends to prepare an EIR or a negative declaration.

10-7.104 **Response to Notice of Preparation**

When the District acts as a responsible agency, the District shall provide a response to a notice of preparation to the lead agency within 45 days after receipt of the notice.

10-7.105 **Convening of Meeting**

When the District acts as the lead agency, the District shall convene a meeting with agency representatives to discuss the scope and content of the environmental information a responsible agency will need in the EIR within 30 days after receiving a request for the meeting. The meeting may be requested by the lead agency, a responsible agency, a trustee agency, or by the project applicant.

10-7.106 **Public Review**

(a) The public review period for a draft EIR should not be less than 30 days nor longer than 90 days except in unusual circumstances.

(b) The public review period for a negative declaration shall be a responsible period of time sufficient to allow members of the public to respond

to the proposed findings before the negative declaration is approved.

(c) When a draft EIR or negative declaration is submitted to the State Clearinghouse for review, the normal review period is 45 days for draft EIRs and 30 days for negative declarations. The State Clearinghouse may set shorter review periods when requested by the lead agency due to exceptional circumstances.

10-7.107 **Completion of Negative Declaration**

With a private project, the negative declaration must be completed and ready for approval within 105 days from the date when the lead agency accepted the application as complete. The negative declaration may be approved at a later time when the permit or other entitlement is approved.

10-7.108 **Completion and Certification of EIR**

With a private project, the lead agency shall complete and certify the final EIR within one year after the date when the lead agency accepted the application as complete.

10-7.109 **Suspension of Time Periods**

An unreasonable delay by an applicant in providing information requested by the lead agency for the

preparation of a negative declaration or an EIR shall suspend the running of the time periods described herein for the period of the unreasonable delay.

10-7.110 (a) At the request of an applicant, the lead agency may waive the one year time limit for completing and certifying a final EIR or the 105 day period for completing a negative declaration if:

(1) The project will be subject to CEQA and to the National Environmental Policy Act.

(2) Additional time will be required to prepare a combined EIR-EIS or combined negative declaration-finding of no significant impact as provided herein, and

(3) The time required to prepare the combined document will be shorter than the time required to prepare the documents separately.

(b) The time limits for taking a final action on a permit for a development project may also be waived where a combined EIR-EIS will be prepared.

(c) The time limits for processing permits for development projects under Government Code Section 65950-65960 shall not apply if federal statutes or regulations require time schedules which exceed the state time limits.

10-7.111 **Projects With Short Time Periods For Approval**

(a) An application for a project not received for filing under a permit statute or ordinance until such time as the environmental documentation required by CEQA has been completed. This section will apply where all of the following conditions are met:

(1) The enabling legislation for a program, other than Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, requires the District to take action within a specified period of time that is six months or less, and

(2) The enabling legislation provides that the project will become approved by operation of law if the District fails to take any action within such specified period, and

(3) The project involves the issuance of a lease, permit, license, certificate, or other entitlement for use.

(b) In any case described in this section, the environmental document shall be completed or certified and the decision on the application shall be made within one year from the date on which an application requesting approval of such project has been received

and accepted as complete for CEQA processing by such agency. This one-year time limit may be extended for a period not to exceed 90 days upon consent of the District and the applicant.

PART 8. CONTENTS OF ENVIRONMENTAL IMPACT REPORTS

10-8.101 **General**

This part describes the subjects which must be addressed in EIRs.

10-8.102 **General**

(a) Environmental Impact Reports shall contain the information outlined in this part, but the format of the document may be varied. Each element must be covered, and when these elements are not separated into distinct sections, the document shall state where in the document each element is discussed.

(b) The EIR may be prepared as a separate document, or as part of a project report. If prepared as a part of the project report, it must still contain one separate and distinguishable section providing either analysis of all the subjects required in an EIR or as a minimum, a table showing where each of the subject is discussed.

10-8.103 **Draft EIR: Contents**

Each draft EIR shall contain the following:

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

10-8.104 **Draft EIR: Limitations**

The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity and any significant

irreversible environmental changes which would be involved in the proposed action should it be implemented need be included only in EIRs prepared in connection with any of the following activities:

(a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency.

(b) The adoption by a local agency formation commission of a resolution making determinations.

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

10-8.105 **Final EIR: Contents**

The final EIR shall include:

(a) The Draft EIR or a revision of the draft.

(b) Comments and recommendations received on the Draft EIR either verbatim or in summary.

(c) A list of persons, organizations, and public agencies commenting on the Draft EIR.

(d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.

PART 9. CONSIDERATIONS IN PREPARING EIRS

10-9.101 **General**

The State Guidelines set forth general principles and factors to guide in the preparation of EIRs. Such principles and factors shall be utilized by the District.

10-9.102 **Incorporation of Other Documents**

To the extent feasible, the District shall permit an EIR to incorporate all or portions of other public records including previous EIRs discussing all or a portion of the project.

PART 10. SPECIAL SITUATIONS

10-10.101 **General**

The District shall utilize special provisions of the State Guidelines in dealing with the following types of projects:

- (a) Redevelopment projects,
- (b) Housing and neighborhood commercial facilities in urbanized area,
- (c) Residential projects pursuant to a specific plan,
- (d) Residential projects consistent with a community plan or zoning; and
- (e) State mandate local projects.

**PART 11. REVIEW AND EVALUATION OF EIRs
AND NEGATIVE DECLARATIONS**

10-11.101 **General**

This part describes basic considerations and procedures involved in the review of draft EIRs and negative declarations.

10-11.102 **Purposes of Review**

The purposes of review of EIRs and negative declarations include:

- (a) Sharing expertise,
- (b) Disclosing agency analyses,
- (c) Checking for accuracy,
- (d) Detecting omissions,
- (e) Discovering public concerns, and
- (f) Soliciting counter proposals.
- (g) Encouraging public participation.

10-11.103 **Public Hearings**

(a) The District shall approve, certify and review a negative declaration of a duly convened public meeting. A public hearing need not be conducted with respect to the adoption of a negative declaration.

(b) The District shall approve, certify, review and consider a draft EIR at a duly convened public meeting. A public hearing shall be conducted to receive comments concerning a draft EIR. A public hearing need not be conducted concerning the adoption of a final EIR.

(c) When a public hearing is required, the hearing shall be preceded by at least 15 days prior notice. Such notice shall be given by posting in at least three public places within the District and by publication at least once in a newspaper of broad circulation within the District.

10-11.104 **Review and Comment**

(a) The District shall allow other public agencies and members of the public at least 14 days within which to comment upon any negative declaration which the District proposed to adopt.

(b) The District shall allow other public agencies and members of the public at least 30 days within which to comment upon any draft EIR which the District proposes to adopt.

(c) The General Manager may establish a longer period or receipt of comments when, in his judgment, a longer period will facilitate the purpose of this article, provided, in no event shall the period for comment cause the entire review process to exceed the maximum time limits set forth herein.

(d) When an EIR or negative declaration is submitted to the State Clearinghouse for review, the review period set by the District shall be at least as long

as the period provided in the state review system operated by the State Clearinghouse. In the state review system, the normal review period is 45 days for EIRs and 30 days for negative declarations. In exceptional circumstances, the State Clearinghouse may set shorter review periods when requested by the lead agency. The number of copies of an EIR or negative declaration submitted to the State Clearinghouse shall not be less than ten unless the State Clearinghouse approves a lower number in advance. While the lead agency is encourage to contact the regional and district offices of state responsible agencies, the lead agency must, in all cases, submit documents to the State Clearinghouse for distribution in order to comply with the review requirements of this section.

10-11.105 **Review as Responsible Agency**

(a) The General Manager shall review environmental documents prepared by other agencies as a lead agency and shall submit comments to the lead agency within the time limits established by the lead agency.

(b) Such review by the General Manger shall center upon the possible impacts of the project insofar as the District's operations area concerned. The General Manager shall also comment upon the appropriateness of

using a negative declaration rather than an EIR.

10-11.106 **Projects of Statewide, Regional or Areawide Significance**

(a) Projects meeting the criteria in this section shall be deemed to be of statewide, regional, or areawide significance. A draft EIR or negative declaration prepared by the District on a project described in this section shall be submitted to the State Clearinghouse and should be submitted also to the appropriate metropolitan area council of governments for review and comment.

(b) The District shall determine that a proposed project is of statewide, regional, or areawide significance if the project meets any of the following criteria:

(1) A proposed local general plan, element, or amendment thereof for which an EIR was prepared. If a negative declaration was prepared for the plan, element, or amendment, the document need not be submitted for review.

(2) The project has the potential for causing significant effects on the environment extending beyond the city or county in which the project would be located. Examples of the effects

include generating significant amounts of traffic or interfering with the attainment or maintenance of state or national air quality standards. Projects subject to this subsection include:

(a) A proposed residential development of more than 500 dwelling units.

(b) A proposed shopping center or business establishment employing more than 1,000 persons or encompassing more than 500,000 square feet of floor space.

(c) A proposed commercial office building employing more than 1,000 persons or encompassing more than 250,000 square feet of floor space.

(d) A proposed hotel/motel development of more than 500 rooms.

(e) A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or encompassing more than 650,000 square feet of floor area.

(3) A project which would result in the cancellation of an open space contract made

pursuant to the California Land Conservation Act of 1965 (Williamson Act) for any parcel of 100 acres or more.

(4) A project located in and substantially impacting on an area of critical environmental sensitivity for which an EIR and not a negative declaration was prepared.

(5) A project which would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for rare and endangered species as defined by Fish and Game Code Section 903.

(6) A project which would interfere with attainment of regional water quality standards as stated in the approved areawide waste water management plan.

(7) A project which would provide housing, jobs, or occupancy for 500 or more people within 10 miles of an nuclear power plant.

10-11.107 **Failure to Comment**

If any public agency or person who is consulted with regard to an EIR fails to comment within a reasonable time as specified by the lead agency, it shall be

assumed, absent a request for a specific extension of time, that such agency or person has no comment to make.

10-11.108 **Retention and Availability of Comments**

Comments received through the consultation process shall be retained for a reasonable period and available for public inspection at an address given in the final EIR. Comments which may be received independently of the review of the draft EIR shall also be considered and kept on file.

10-11.109 **Comments on Initiative of Public Agencies**

Every public agency may comment on environmental documents dealing with projects which affect resources with which the agency has special expertise regardless of whether its comments were solicited or whether the effects fall within the legal jurisdiction of the agency.

PART 12. PROJECTS ALSO SUBJECT TO THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

10-12.101 **General**

The District shall use the special provisions on the subject contained in the State Guidelines.

PART 13. EXEMPTIONS

10-13.101 **General**

This part describes exemptions from CEQA granted by the legislature and/or State Clearinghouse.

10-13.102 **Notice of Exemption**

(a) When the District decides that a project is exempt from CEQA and the District approves or determines to carry out the project, the District or the applicant may file a notice of exemption with the County Clerk. The notice shall be filed, if at all, after approval of the project. Such a notice shall include:

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

10-13.103 **Ongoing Project**

The District shall use the special provisions of the State Guidelines dealing with projects approved prior to November 23, 1970, December 5, 1972 or April 5, 1973.

10-13.104 **Feasibility and Planning Studies**

A project involving only feasibility or planning studies for possible future actions which the District

has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors.

10-13.105 **Ministerial Projects**

(a) Ministerial projects are exempt from the requirements of CEQA.

(b) In the absence of any discretionary provision contained in the relevant local ordinance, it shall be presumed that the following actions are ministerial:

(1) Issuance of building permits.

(2) Issuance of business licenses.

(3) Approval of final subdivision maps.

(4) Approval of individual utility service connections and disconnections.

(5) Leasing of City owned, existing property where the use of the premises is not significantly changed.

(6) Any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal or demolition of an existing pipeline. For the purpose of this subsection, 'pipeline' includes

subsurface facilities but does not include any surface facility related to the operation of the underground facility.

(c) Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

10-13.106 **Emergency Project**

The following emergency projects are exempt from the requirements of CEQA.

(a) Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Government Code Section 8550.

(b) Emergency repairs to public service facilities necessary to maintain service.

(c) Specific actions necessary to prevent or mitigate an emergency.

10-13.107 **Project Which Are Disapproved**

CEQA does not apply to projects which a public agency

rejects or disapproves.

10-13.108 **Rates, Tolls, Fares, and Charges**

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

(1) Meeting operating expenses, including employee wage rates and fringe benefits,

(2) Purchasing or leasing supplies, equipment, or materials,

(3) Meeting financial reserve needs and requirements, or

(4) Obtaining funds for capital projects, necessary to maintain service within existing service area.

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

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

10-13.109 **Response to Revenue Shortfalls**

(a) CEQA does not apply to actions taken prior to

January 1, 1987 by the District:

(1) To implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution (Proposition 13), or

(2) To respond to a reduction in federal funds.

(b) This exemption is limited to projects directly undertaken by any public agency and to projects which are supported in whole or in part through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies where the projects:

(1) Initiate or increase fees, rates, or charges charged for any existing public service, program, or activity, or

(2) Reduce or eliminate the availability of an existing public service program, or activity, or

(3) Close publicly owned or operated facilities, or

(4) Reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

PART 14. CATEGORICAL EXEMPTIONS

10-14.101 **General**

This part lists certain types of projects which are exemptions from further environmental review by the State Guidelines.

10-14.102 **Limitations**

(a) Classes 3, 4, 5, 6 and 11 set forth below are qualified by consideration of where the project is to be located. A project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant, for example, annual additions to an existing building under Class 1.

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

10-14.103 **Categorical Exemption**

The following categorical exemption class is established as set forth in the State Guidelines:

(a) Class 1: Consists of operation, repair, maintenance or minor alteration of existing facilities involving negligible or no expansion of use.

(b) Class 2: Consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.

(c) Class 3: Consists of construction and location of limited number of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

(d) Class 4: Consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of mature, scenic trees except for forestry and agricultural purposes.

(e) Class 5: Consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density.

(f) Class 6: Consists of basic data collections, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.

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

(h) Class II: Consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:

(1) On-premise signs;

(2) Small parking lots;

(3) Placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable rest rooms, or similar items in generally the same location from time to time in publicly owned parks, stadiums, or other facilities designed for public use.

(i) Class 12: Consists of sales of surplus

government property except for parcels of land located in an area of statewide, regional, or areawide concern. However, even if the surplus property to be sold is located in any of those areas, its sale is exempt if:

(1) The property does not have significant values for wildlife habitat or other environmental purposes, and

(2) Any of the following conditions exists:

(a) The property is of such size or shape that it is incapable of independent development or use; or

(b) The property to be sold would qualify for an exemption under any other class of categorical exemption in these guidelines; or

(c) The use of the property and adjacent property has not changed since the time of purchase by the public agency.

(j) Class 13: Consists of the acquisition of lands for fish and wildlife conservation purposes including preservation of fish and wildlife habitat, establishing ecological reserve under Fish and Game Code Section 1580, and preserving access to public lands and waters where the purpose of the acquisition

is to preserve the land in its natural condition.

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

(l) Class 19: Consists of only the following annexations:

(1) Annexations to the district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictive, provided, however, that the extension of utility service to the existing facilities would have a capacity to serve only the existing facilities.

(2) Annexations of individuals small parcels of the size for facilities exempted by State

Guidelines Section 15103, New Construction of Small Structures.

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

(n) Class 23: Consists of the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose. For the purpose of this section, "past history" shall mean that the same or similar kind of activity has been occurring for at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility. Facilities included within this exemption include, but are not limited to, racetracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools, and amusement parks.

(o) Class 25: Consists of the transfers of ownership of interests in land in order to preserve open space. Examples include but are not limited to:

(1) Acquisition of areas to preserve the existing natural conditions,

(2) Acquisition of areas to allow continued agricultural use of the areas.

(3) Acquisition to allow restoration of natural conditions.

(4) Acquisition to prevent encroachment of development into flood plains.

(p) Class 27: Consists of the leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency where the local governing authority determined that the building was exempt from CEQA. To be exempt under this section, the proposed use of the facility:

(1) Shall be in conformance with existing state plans and policies and with general, community, and specific plans for which an EIR or negative declaration has been prepared,

(2) Shall be substantially the same as that originally proposed at the time the building permit was issued,

(3) Shall not result in traffic increase of greater than 10% of front access road capacity, and

(4) Shall include the provision of adequate employee and visitor parking facilities.

Examples of Class 27 include, but are not limited to:

(1) Leasing of administrative offices in newly constructed office space.

(2) Leasing of client service offices in newly constructed retail space.

(3) Leasing of administrative and/or client service offices in newly constructed industrial parks.

PART 15. DEFINITIONS

10-15.101 General

The definitions contained in the State Guidelines apply to terms used throughout these guidelines unless a term is otherwise defined in a particular section.

ARTICLE 11. FINANCIAL

11.01 Claims and Demands

(a) Purpose and Scope

The provisions of this Section apply to all claims filed against this District for money or damages which are excepted by Government Code Section 905 from Chapter 1 (Commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of the Government Code of the State of California

and which are not governed by any other statutes or regulations expressly relating thereto, including but not limited to claims filed by local governmental agencies.

(b) **Filing of Claim Required**

A claim shall be presented in accordance with the provisions of this Section in all cases described in Subsection (a) hereof.

(c) **Presentation of Claim**

A claim, or nay amendment thereto, shall be presented to the District by delivering it to the Clerk or Secretary of the District or by mailing it to the Clerk, Secretary or governing body of the District at its principal offices.

(d) A claim presented pursuant to this Section shall be presented by the Claimant or by a person acting on his behalf and shall show:

(1) The name and post office address of the claimant;

(2) Post office address to which the person presenting the claim desires notice to be sent;

(3) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted;

(4) The general description of the indebtedness, obligation, injury, damage or loss incurred so far as may be known at the time of presentation of the claim;

(5) The name or names of the public employees or employees causing the injury, damage or loss if known;

(6) The amount claimed as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage or loss insofar as it may be known at the time of presentation of the claim, together with the basis of computation of the amount claimed; and

(7) The signature of the claimant or some person on his behalf.

(e) **Time for Presentation of Claims**

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

after the accrual of said cause of action.

(f) Leave to Present Late Claim

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

(g) Time for Action by Board

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

(h) Notice of Rejection of Claim

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

(i) Claim as Prerequisite to Suit

No suit for money or damages may be brought against the District on a cause of action for which a claim is

required to be presented in accordance with this Section until the written claim therefor has been presented to the District and has been acted upon by the Board.

(j) **Limitations**

No suit may be brought against the District on any cause of action for which a claim is required to be presented in accordance with this subsection unless such suit is commenced within six months after the date the claim is acted upon by the Board, or is deemed to have been rejected by the Board.

11.02

Purchasing Procedures

(a) **Contracts Amounting to \$1,000.00 or Less**

The General Manager may execute contracts for the obtaining of goods or services and authorized payment therefor without prior board approval if the contract involves not more than \$1,000.00 in expense to the District.

(b) **Contracts Amounting to More than \$1,000.00**

Any contract for the obtaining of good or services involving more than \$1,000.00 in expense to the District shall not be entered into without prior Board approval in accordance with the following procedures:

- (1) The General Manager shall solicit such

proposals as he deems necessary for contracts for obtaining goods or services involving between \$1,000.00 and \$1,500.00 expense.

(2) The General Manager shall solicit at least three informal bids from vendors known to be capable of providing the goods or services solicited which are anticipated to cost more than \$1,500.00 but less than \$5,000.00, provided, if the General Manager is unable to secure three informal bids he shall submit to the Board an explanation of why additional proposals were not received.

(3) All contracts for the performance of a public work or improvement, the value of which is estimated to be \$5,000.00 or more shall be awarded the following open comparative bidding. Contracts for the obtaining of goods, services or supplies which are estimated to cost more than \$5,000.00 shall be awarded in accordance with the procedures set forth in Section (2) hereinabove.

11.03

Revenue

(a) **Aeronautical**

All revenue accruing to the District from the utilization of the District's aeronautical facilities

shall be used to improve and maintain the District's aeronautical facilities.

(b) **Non-aeronautical**

All revenue accruing to the District from the utilization of the District's non-aeronautical facilities shall be used to improve and maintain the District's aeronautical facilities.

11.04

Budget

(a) **Preparation and Presentation**

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

(b) **Hearing and Adoption**

The Board shall review the proposed budget for the District at its first regular meeting in June of each fiscal year. The meeting may be continued from time to time but shall at all times be open to the public.

(c) **Transmission of Budget to Kern County**

On or before September 1 of each year, the Secretary shall file with the County Auditor of Kern County a copy of the District's Budget. If the District has not adopted a formal budget, the Secretary shall file

a listing of anticipated revenues, together with the District's expenditures and expenses for the fiscal year in progress.

11.05 **System of Accounts**

(a) **General**

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

(b) **Fund Accounts**

The following fund accounts are hereby established for the purposes set forth herein.

(1) General Fund - For purposes not set forth in the remaining funds.

(2) Indebtedness Fund - To retire indebtedness resulting from borrowed funds.

(3) Revolving Fund - For District payroll including, but not limited to, compensation, State and Federal taxes, Worker's Compensation, fringe benefits.

(4) Petty Cash Fund - For miscellaneous purchases not to exceed \$100 each or \$400 in the

aggregate.

(5) Special Fund(s) - For such incidental purposes as from time to time established.

ARTICLE 12. SECURITY

12.01 Security Committee

(a) The 'Indian Wells Valley Airport District Security Committee' is hereby established. The Committee shall review and monitor security at the Inyokern Airport and advise the Board as to improvements in the security system for the Airport.

(b) The Security Committee shall be composed of members appointed by the Board to serve until replaced by the Board. The Committee members shall be appointed on the basis of special expertise and interest in the affairs of the Airport.

(c) The following entities or departments may nominate Committee members:

- (1) Kern County Sheriff's Department
- (2) China Lake Naval Weapons Center
- (3) City of Ridgecrest Police Department
- (4) California Highway Patrol
- (5) FAA

(6) 1 representative from each airline at Inyokern.

- (7) USN EOD

(8) Board Member

(9) Manager

(10) Airport tenants as designated.

(d) Committee meetings shall comply with the provisions of the Ralph M. Brown Act unless the Committee determines that compliance with the Brown Act conflicts with federal regulations. The Committee may meet in closed session under the Brown Act to discuss security matters.