

**AGENDA**

**ENGINEERING COMMITTEE MEETING  
LEUCADIA WASTEWATER DISTRICT**


Tuesday, July 11, 2017 – 8:30 a.m.  
1960 La Costa Avenue, Carlsbad, CA 92009

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1. **Call to Order**
2. **Roll Call**
3. **Public Comment**
4. **New Business**
  - A. Adopt Ordinance No. 136, an update of the Leucadia Wastewater District's Wastewater Ordinance. (Pages 2 - 25)
  - B. Authorize the General Manager to execute a proposed change order with CCL Contracting Incorporated for additional work on the Leucadia (L1) Force Main Replacement Project to install a Cured-In-Place Pipe (CIPP) liner in the force main section on the railroad bridge on La Costa Avenue for an estimated amount of \$70,000. (Pages 26 - 27)
5. **Information Items**
  - A. Update of the Village Park No. 5 (VP5) Pump Station Replacement Project (verbal)
6. **Directors' Comments**
7. **General Manager's Comments**
8. **Adjournment**

## MEMORANDUM

Ref: 18-5488

**DATE:** July 6, 2017  
**TO:** Engineering Committee  
**FROM:** Paul J. Bushee, General Manager   
**SUBJECT:** Ordinance No. 136 - Adopting the Update to the Leucadia Wastewater District's Wastewater Ordinance

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### RECOMMENDATION:

Staff requests that the Engineering Committee recommend that the Board of Directors:

1. Adopt Ordinance No. 136 - an update of the Leucadia Wastewater District's Wastewater Ordinance.
2. Discuss and take other action, as appropriate.

### DISCUSSION:

#### **FY 17 Tactical Goal: Services / Evaluate Enforcement Procedures & Potential Fines for Illegal Discharges**

Throughout the past year, District staff worked with District Counsel to update the District's core "Wastewater Ordinance", Ordinance 128 (Ord 128). The Wastewater Ordinance defines collection system rules and regulations, authorizes sewer use, protects District sewer facilities, and ensures compliance with regulations that govern sewer operations. Additionally, the State Sanitary Sewer Waste Discharge Requirements requires agencies that operate sewer collection systems to adopt ordinances that provide clear legal authority to enforce compliance with regulations to prevent Sanitary Sewer Overflows (SSO). The Wastewater Ordinance is designed to satisfy all of these requirements and should be periodically updated to be relevant and effective.

Recently, District staff has encountered many instances of illegal discharge of pool plaster into the collection system during hydro-cleaning operations and performing closed-circuit television (CCTV) inspections. As a result, staff has taken a more pro-active approach to try and minimize, if not eliminate, the number of illegal discharge occurrences. To accomplish this, staff informs and educates contractors and homeowners on the pool plaster discharge issue through a variety of correspondence and interactions. This includes newsletters, communication from DigAlerts, and informational mailings sent directly to the pool companies and contractors. However, the illegal discharge of pool plaster continues to be an issue. Therefore, staff believes a new administrative citation process allowing the District to impose fines on violators of this ordinance is needed. This modification requires an update of Ord 128, which was adopted in May 2013.

The development of Ordinance No. 136 (Ord 136) is a result. The primary goal of the District is to be SSO free. This goal is jeopardized by the illegal discharge of pool plaster into the District's sewer system from pool companies. The plaster is illegally discharged into the collection system in liquid form, settles and hardens in the gravity pipeline and obstructs flow that can cause a sewer backup or spill. Therefore, it is critical to establish administrative procedures and corresponding fines to serve as a deterrent to potential violators.

Attached Ord 136 is included for your review. The changes in this update include minor clarifying changes and additional enforcement procedures to ensure the safe and proper use of public and

private sewer facilities. The addition of Section 11.4, Administrative Citation, outlines the process, procedures, and fines for violations of physical damage, unlawful discharge into the collection system, or failing to comply with a previously issued Notice and Order.

Generally, the process is as follows:

1. The violator will receive a written Citation of the violation by the Enforcement Officer.
2. The violator will have 14 days to correct action, except when the violation is creating a health and safety concern or jeopardizing District facilities.
3. The violator will have 30 days to pay the fines.
4. If the violator challenges the Citation, a hearing officer (who is not a District employee) will be selected by the General Manager to conduct a hearing to validate and confirm the Citation.
5. The decision of the hearing officer is final.

The fines to be levied for a violation are as follows:

- Up to \$2,500 for the first offense;
- Up to \$5,000 for the second offense;
- Up to \$10,000 for the third offense.

The amounts of the fines were selected to be significant enough to be an economic deterrent to a violator or business owner. Therefore, Staff requests the Board of Directors adopt Ord 136, the updated Wastewater Ordinance.

It should be noted that adopting Ord 136 will simultaneously repeal Ord 128.

ier:PJB

Attachment

**ORDINANCE NO. 136**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE LEUCADIA WASTEWATER DISTRICT  
ADOPTING THE UPDATED LEUCADIA WASTEWATER DISTRICT  
WASTEWATER ORDINANCE**

**WHEREAS**, the Leucadia Wastewater District (LWD) is a county water district that operates as a special district in accordance with Government Code Section 56036; and,

**WHEREAS**, an updated LWD Wastewater Ordinance was adopted by the LWD Board of Directors on May 8, 2013 (Ordinance No. 128);

**WHEREAS**, the LWD Wastewater Ordinance is a comprehensive set of rules and regulations governing the design, construction, maintenance and use of public and private sewer facilities within LWD Boundaries;

**WHEREAS**, the LWD Board of Directors desires to update the LWD Wastewater Ordinance to incorporate minor clarifying changes and additional enforcement procedures to protect public health and safety and ensure the safe use of public and private sewer facilities within LWD boundaries; and,

**WHEREAS**, a public hearing to consider the adoption of the updated LWD Wastewater Ordinance attached hereto as Exhibit A was duly noticed and held in accordance with Water Code Section 31105 on the date hereof,

**NOW, THEREFORE, BE IT ORDAINED:**

1. That the LWD Board of Directors does hereby adopt the updated LWD Wastewater Ordinance attached hereto as Exhibit A and directs that it be implemented consistent with all applicable laws and related District policies.
2. That the provisions of this ordinance shall be effective immediately upon adoption.
3. That the updated LWD Wastewater Ordinance supersedes and replaces the LWD Wastewater Ordinance adopted by Ordinance No. 128.

**PASSED AND ADOPTED** this 12<sup>th</sup> day July 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Judy Hanson  
President

**ATTEST:**

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Paul J. Bushee, Board Secretary

## ARTICLE I

### (General Provisions)

1.1. Title. LWD Wastewater Ordinance.

1.2. Purpose. The purpose of this Ordinance is to protect sewer facilities within District boundaries, protect the environment, protect the public health and welfare, provide the maximum benefit to District customers and ensure compliance with regulations governing District operations and facilities.

1.3. Scope and Application of Other Laws. This Ordinance governs the design, construction, maintenance and use of sewer facilities within District boundaries. It is not a substitute for other laws and regulations governing the construction and use of sewer facilities within the District, including permitting requirements of other public agencies, such as the Encina Wastewater Authority (EWA), and the Cities of Carlsbad and Encinitas. Owners and customers are solely responsible for ensuring compliance with this Ordinance and all other applicable non-District regulations and permitting requirements.

1.4. Interpretation. The terms of this Ordinance shall be given their common or generally accepted meaning, except where specifically defined herein. Shall is mandatory. May is permissive. Conflicts or ambiguities regarding this Ordinance shall be resolved by the General Manager or District Engineer taking into consideration the context and purpose of the terms at issue and the purposes of this Ordinance.

1.5. Authority. This Ordinance is adopted pursuant to the authority granted to county water districts by the California Water Code § 30000 *et seq.* including §§ 31016, 31027, 31105 and 31106, which provide for adoption and enforcement of regulations governing sewer service and facilities.

## ARTICLE II

### (Definitions)

2.1. **Applicant.** Any person or entity that applies for sewer service and the owner of the property or building that is the subject of the application.

2.2. **Backflow Prevention Device.** A device designed to prevent or minimize the possibility that wastewater will back up into any structure, including but not limited to, backwater overflow devices and backwater check valves, pressure relief devices and shutoff systems.

2.3. **Best Management Practices (BMPs).** Maintenance procedures, activities, limitations, and other management practices designed to prevent or reduce the introduction of fats, oils and grease ("FOG") or any substance that may damage or harm the collection system or sewage treatment and disposal facilities. BMPs may be based upon industry standards, federal or state regulations or standards and procedures established by the District.

2.4. **BOD (Biochemical Oxygen Demand).** The quantity of oxygen, utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degree centigrade(C) expressed in milligrams per liter.

2.5. **Board.** The Board of Directors of the Leucadia Wastewater District.

- 2.6. **Building sewer.** Private Sewer Facilities that convey wastewater from the premises of a Customer to the Public Sewer System.
- 2.7. **Collection line.** The District's sewer pipeline to which private laterals are connected.
- 2.8. **Customer.** Any person or entity lawfully receiving sewer service from the District.
- 2.9. **Developer.** Same as Owner.
- 2.10. **Discharger.** Any person or entity that discharges or causes a discharge of wastewater directly or indirectly into the Public Sewer System.
- 2.11. **District.** The Leucadia Wastewater District.
- 2.12. **District Engineer.** A registered engineer appointed by the Board to act directly, or through properly authorized agents, on behalf of the District.
- 2.13. **Domestic wastewater.** The liquid and solid water born waste derived from the ordinary living processes of humans of such character as to permit discharge, without special treatment, into the Public Sewer System.
- 2.14. **EDU (Equivalent Dwelling Unit).** The common standard used to quantify sewer system use and to calculate capacity and sewer use charges. The wastewater discharge of one single-family home is considered one EDU or one EDU Factor. The discharge of other uses is given an EDU Factor, which could be higher or lower than a single-family dwelling. For example, the EDU Factor for a restaurant is generally higher than a single-family home. EDU Factors are approved by ordinance.
- 2.15. **EWA (Encina Wastewater Authority).** The Joint Powers Agency providing wastewater treatment and disposal facilities for the District, the Cities of Carlsbad, Encinitas and Vista, the Buena Sanitation District, and the Vallecitos Water District.
- 2.16. **EWA Pretreatment Ordinance.** The Pretreatment Ordinance adopted by EWA, which requires Industrial Discharge Permits for certain non-domestic users.
- 2.17. **FOG (Fats, Oils and Grease).** Any substance, such as a vegetable or animal product, that is used in, or is a byproduct of, the cooking or food preparation process, and that turns or may turn viscous or solidify with a change in temperature or other conditions.
- 2.18. **Food establishment.** Facilities defined in California Uniform Retail Food Services Establishments Law (CURFFL, California Health & Safety Code section 113789), and any commercial entity operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by Type I or Type II hoods. A limited food preparation establishment is not considered a food services establishment when engaged only in reheating, hot holding or assembly of ready to eat food products and as a result, there is no wastewater discharge containing a significant amount of FOG. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food.
- 2.19. **Food establishment wastewater.** Wastewater discharged by a food establishment.
- 2.20. **Food grinder.** Any device connected to sewer facilities that grinds food waste or food preparation products that are then allowed to flow into the sewer system.

2.21. **Garbage.** Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

2.22. **General Manager.** The General Manager of the District or his/her authorized representative

2.23. **Grease control device.** Any grease interceptor, grease trap or other mechanism, device, or process, which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap or collect or treat FOG prior to it being discharged into the sewer system. Grease Control Devices may also include other proven methods to reduce FOG, subject to the approval of the District.

2.24. **Grease interceptor.** A multi-compartment device that is constructed in different sizes and is generally required to be located according to the California Plumbing Code, underground between a food establishment and the connection to the sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment to the next.

2.25. **Grease trap.** A grease control device used to serve individual fixtures, and is not an approved substitute for a grease interceptor.

2.26. **Infiltration.** Water or wastewater entering the public sewer system from the ground through such means as defective pipes, pipe joints, connection of manhole walls or from unauthorized drains or connections to the Public Sewer System.

2.27. **Industrial wastewater.** All wastewater that is not domestic wastewater, septage or food establishment wastewater.

2.28. **Interference with Public Sewer Facilities.** Any discharge which, alone or in conjunction with a discharge or discharges from other sources:

- a. inhibits or disrupts Public Sewer Facilities, including those owned and operated by EWA;
  - b. causes Infiltration into Public Sewer Facilities;
  - c. creates a public nuisance;
  - d. causes a violation of any permit or law governing the Public Sewer Facilities;
- or
- e. causes a violation of the EWA Pretreatment Ordinance.

2.29. **Island Area Plan.** The Island Area Collection System Plan adopted by the District as may be updated from time to time. The Island Area Plan provides sewer facility planning and design guidance for the area within the District's sphere of influence in the City of Encinitas commonly referred to as the "Island Area" that is generally located west of Interstate 5, east of Highway 101, south of La Costa Avenue and north of Encinitas Boulevard. A copy of the Island Area Plan is available for inspection at the District office.

2.30. **Medical Waste.** Infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

2.31. **National Pollution Discharge Elimination System (NPDES) Permit.** The permits issued to or administered by U.S. Environmental Protection Agency (EPA) or other regulatory agencies pursuant to Section 402 of the Clean Water Act (33 U.S.C. § 1342).

2.32. **Nuisance.** Any violation of this Ordinance involving Public Sewer Facilities constitutes a public nuisance. The following shall also constitute a public nuisance: Any use or circumstance that endangers or inhibits the proper operation of Public Sewer Facilities, causes a spill or discharge of wastewater into the environment, causes or creates a risk of environmental harm or harm to the Public Sewer System, causes or creates a risk of harm to District employees or Customers, members of the public and/or public and private property. A public nuisance also includes a finding by the District that Wastewater Constituents of any user, or combination of users, creates a serious health and safety risk or risk of harm to Public Sewer Facilities.

2.33. **Owner.** Any Owner of property or structures within District boundaries or Owner of property or structures that discharge wastewater into or are the subject of an application for use of Public Sewer Facilities, including applications for annexation into the District. For District purposes, an Owner is a District Customer, Applicant, Developer and Discharger, regardless of whether there are other non-owners, such as lessees, that utilize Owner's property and/or are parties to a sewer service permit.

2.34. **Ownership Transfer.** Any sale or ownership conveyance, other than a transfer into a trust or other entity owned entirely by an existing owner, of a real property, structure, building, facility, suite, room or premises, that discharges wastewater into the Public Sewer System.

2.35. **Person.** Any individual, partnership, firm, company, public agency, association, group, society, corporation or other entity.

2.36. **pH.** The reference to both acidity and alkalinity, on a scale ranging from zero to 14, that is a logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. A pH of 7 represents neutrality. Numbers less than 7 represent an increase in acidity, and numbers greater than 7 represent an increase in alkalinity.

2.37. **Pollutant.** Any substance or constituent which causes an impairment (reduction) of water quality to a degree that may have an adverse affect on any beneficial use of the water, including, but not limited to, dredged soil, solid waste, incinerator residue, sewage, garbage, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, industrial, municipal and agricultural waste and certain characteristics of waste water, such as excessively high or low pH, temperature, TSS, turbidity, color, BOD, toxicity or odor, and includes any chemical or substance on which a discharge limit is or may be imposed by regulatory bodies or laws governing Public Sewer Facilities.

2.38. **Private Sewer Facilities.** Sewer facilities that are privately constructed and not dedicated and accepted as a Public Sewer Facility by the District. Private Sewer Facilities generally include sewer facilities within a privately owned building, private laterals, private pump stations, grease interceptors, and all other facilities located between the sewer customer and the connection to the collection line, including the integral wye fitting that connects the lateral to a collection line. Sewer facilities intended for dedication to the District are Private Sewer Facilities until such time as they are accepted by the District.

2.39. **Properly shredded garbage or food waste.** The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in size.



2.40. **Public Sewer Facilities.** Sewer facilities owned and maintained by the District, including facilities designed and constructed by the District and facilities that have been dedicated and accepted by the District. Public Sewer Facilities also include sewer treatment facilities owned and operated by EWA. Private Sewer Facilities constructed for dedication to the District do not become Public Sewer Facilities until they have been accepted by the District.

2.41. **Public Sewer System.** Same as Public Sewer Facilities.

2.42. **Reimbursement Fee.** A construction reimbursement fee for sewer service made available by a prior Developer that was required to construct oversized and/or additional sewer facilities for the benefit of other properties. A Reimbursement Fee is in addition to the Standard Capacity Fee and other fees required by the District.

2.43. **Saddle.** A private lateral connection made to a collection line by cutting or drilling a hole into the public collection line and thence attaching an adaptor (saddle) curved to the shape of the collection pipe lateral. The saddle is often attached to the collection line with stainless steel pipe bands and then concrete backfilled and encased.

2.44. **Septage.** Any liquid and solid material removed from a septic tank, cesspool, portable toilet or other similar storage or treatment device that receives wastewater.

2.45. **Service connection.** The point at which Private Sewer Facilities connect to the Public Sewer System, generally the connection of a private lateral to a collection line.

2.46. **Private lateral or lateral.** Sewer pipeline from the plumbing of a building to a collection line, including portions that extend across public rights-of-way and the Saddle, wye or other physical connection to the collection line. Private laterals are privately owned and maintained.

2.47. **Sewer.** Same as sewer facilities.

2.48. **Sewer facilities.** All facilities, public or private, used for the transfer, storage and treatment of wastewater, including, without limitation, building sewers, private laterals, collection lines, force mains, pump stations, plant headworks, grease interceptors, treatment plants and related appurtenances.

2.49. **Sewer service permit.** Permits issued by the District that authorize discharge into the Public Sewer System, including permits issued prior to adoption of this Ordinance.

2.50. **Slug discharge.** Any discharge of wastewater with a concentration of any given constituent or in quantity of flow that exceeds, for any measurable period, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation, and/or any accidental or non-routine discharge that could cause a violation of EWA Pretreatment Ordinance standards.

2.51. **Standard Spec.** The Standard Specifications and Procedures for Wastewater Facility Projects adopted by the District as may be amended from time to time. A copy of the Standard Spec is available for inspection at the District office.

2.52. **Storm drain** (sometimes termed "**storm sewer**"). A facility that carries storm and surface waters and drainage, which must be separate and not connected to the Public Sewer System.

2.53. **Surface waters.** Water from streets, sidewalks and open areas that generally flows into storm drains or onsite detention basins and is not permitted in the public sewer system.

2.54. **Suspended solids.** Solids that either float on the surface of, or are in suspension in, water, wastewater, or other liquids and which are removable by laboratory filtering.

2.55. **Tenant.** The lessee or authorized occupant of a building, facility, suite, room or premises that discharges wastewater into the public sewer system.

2.56. **Tenant Transfer.** Any transfer of the right to use or occupy real property, building, facility, suite, room or premises that discharges wastewater into the Public Sewer System, including new or assumed leases or subleases.

2.57. **TSS (Total Suspended Solids).** The residue retained on a standard glass-fiber filter after drying to a constant weight at 103 to 105 degrees Centigrade, as set forth in Method Number 2540 D of the current approved edition of the Standard Methods for the Examination of Water and Wastewater or other comparable EPA approved methods found in 40 CFR Part 136.

2.58. **Wastewater.** Any liquid and water-carried waste and all constituents thereof, whether treated or untreated, discharged into or permitted to enter the Public Sewer System.

2.59. **Wastewater constituents and characteristics.** The individual chemical, physical, bacteriological, and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.

### ARTICLE III

#### (Sewer Service Permits)

3.1. Permit Requirement. No person shall uncover, discharge into, make any connections with, openings into, alter, disturb or use any Public Sewer Facilities without first obtaining a sewer service permit from the District.

3.2. General Permit Classes.

3.2.1 There shall be three general classes of sewer service permits:

- a. Industrial Wastewater;
- b. Food Establishment Wastewater; and
- c. Domestic Wastewater.

3.2.2 For purposes of this Ordinance, existing permits that allow discharge of only domestic wastewater are considered Domestic Wastewater Permits. Existing permits for food establishments are considered Food Establishment Wastewater Permits. All other existing permits are considered Industrial Wastewater Permits.

3.2.3 A Master Permit covering one or more permit classes may be issued for properties with multiple units and/or uses, such as commercial centers. Master Permits may be issued at the discretion of the District and shall include a recorded Master Sewer Service Permit Agreement that documents the wastewater permit rights granted. See the Standard Spec for a model Master Sewer Service Permit Agreement

3.3. Supplemental Permits. A supplemental sewer permit shall be required for the following uses, which may be disallowed if the District determines they would be inconsistent with applicable rules and regulations or otherwise pose an unacceptable risk to the Public Sewer System:

- a. Private pump stations; and
- b. Multi-unit laterals.

3.4. Permit Amendments.

3.4.1 Permit amendments and/or new sewer service permits are required in

the following circumstances:

a. Amendment of Domestic Wastewater Permits. A permit amendment is required for: (i) any construction or change in use that increases sewer discharge beyond what is authorized by an existing permit (i.e. beyond authorized EDU's), or (ii) a change in use from residential to any other use. A permit amendment is not required for changes in ownership or tenant transfers.

b. Amendment of Food Establishment and Industrial Wastewater Permits. A permit amendment is required for: (i) an increase in sewer discharge beyond what is authorized by an existing permit (i.e. beyond authorized EDU's), (ii) all ownership or tenant transfers, (iii) a change in use, or (iv) construction or tenant improvements that require city approval.

c. Amendment to Address Violations. The District may require a permit amendment to address violations of this Ordinance, including but not limited to, failure to comply with a permit condition and/or circumstances giving rise to Interference with the Public Sewer System or a public nuisance.

3.4.2 Failure to obtain a permit amendment or new sewer service permit when required shall subject the Owner and any other responsible party to enforcement procedures set forth in this Ordinance which may include, among other things, revocation of the existing sewer service permit.

3.5. Permit Process. Applicants for all permit types shall complete the application form furnished by the District and pay all permit processing fees at the time the application is submitted. A schedule of fees, which are established by separate ordinance, is available for inspection at the District office. The permit application shall include all plans, specifications or other information required by the District. The Standard Spec includes detailed application requirements for applications that involve new sewer facilities or annexation of properties into the District service area. Information required for an application will vary depending upon the proposed sewer use, and additional information may be required by the District if it is deemed necessary after the initial application review. Applications must be signed by the Owner and all other non-owner Applicants or Developers.

3.6. Payment of Outstanding Fees Prior to Permit Issuance. The Applicant shall pay any outstanding permit processing fees and pay all applicable capacity and reimbursement charges prior to issuance of the sewer service permit.

3.7. Permit Conditions.

3.7.1 General Permit Conditions. The following terms and conditions apply to all permits, of any type, issued by the District:

a. All existing and future permit holders shall comply with the written conditions of their Sewer Service Permit, all associated agreements or contracts, and the terms and conditions of this Ordinance.

b. Permit conditions for new facilities shall also include compliance with the conditions set forth in the Standard Spec.

c. Permit conditions may include additional conditions the District deems necessary to comply with current regulations governing its operations and to properly protect the Public Sewer System.

3.7.2 Food Establishment Wastewater Permit Conditions. The following additional conditions shall apply:

a. FOG Discharge Limits. Discharge of FOG, at any point in time, shall not exceed 100 milligrams per liter.

b. Grease Control Devices. Grease interceptors and/or other appropriate grease control devices shall be required. The District Engineer shall determine the appropriate grease control devices for a particular permit. Grease traps shall only be allowed in those cases where the District Engineer finds that use of a grease interceptor or other more effective grease control device is impossible or impracticable and that the proposed grease trap would not create a serious risk of harm to the public sewer system. The District may require existing permit holders to install new or updated Grease Control Devices when deemed necessary to protect the Public Sewer System, address violations, comply with new regulatory requirements, or as part of a permit amendment process.

c. BMP's. Conditions shall include BMPs that are tailored to the specific permit use and are designed to minimize discharge of FOG and other hazardous or harmful substances into the Public Sewer System. The District Engineer shall approve and/or design appropriate BMPs. Permit holders shall comply with new or updated BMPs as required by the District Engineer.

d. Maintenance. Grease Control Devices shall be maintained in efficient operating condition by periodic removal of the accumulated FOG. The discharging party and Owner shall be responsible for the proper removal and disposal by appropriate means of the material captured by a grease control device. No such materials may be released into the Public Sewer System.

e. Record Keeping. The District shall require the Owner to keep records of grease control device maintenance and FOG disposal by a licensed waste hauling company and to report on these maintenance activities to the District. The District may also require the Owner to maintain and report the results of periodic measurements of its discharge that is to include chemical analysis of oil and grease content. The Owner shall allow the District, and its representatives, ready access at reasonable times to all parts of the premises for purposes of sampling and inspections.

3.7.3. Industrial Wastewater Permit Conditions. The following additional condition shall apply:

a. Conditions shall be tailored to the specific use for which sewer service is being provided. District conditions shall be in addition to any imposed as part of an EWA Industrial Discharge Permit, where one is required. If wastewater proposed for discharge into the Public Sewer System contains substances or possesses wastewater constituents or characteristics that in the judgment of the District Engineer or General Manager may cause or create a risk of Interference with the Public Sewer System or a Public Nuisance, the District may:

1. Refuse to allow connection to the Public Sewer System;
2. Require pre-treatment of the wastewater and compliance monitoring, at the Customer's expense, to an acceptable condition for discharge to the Public Sewer System;
3. Require control and compliance monitoring, at the customer's expense, over the quantities and rates of wastewater discharge;
4. Require facilities to equalize and/or minimize flows, facilities to pretreat and/or remove grease, oil, sand or other solid materials. The design and installation of such facilities and equipment shall be subject to the review and approval of the District Engineer and subject to the requirements of all applicable codes, resolutions, ordinances and laws and shall be constructed at the Owner's expense;

5. Require installation of a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observations, sampling and measurement of the wastes. Such manholes, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the District. The manhole shall be installed by the owner or customer at their expense and shall be maintained by the Owner so as to be safe and accessible at all times.

6. Require payment to the District to cover the added cost of monitoring, handling and treating the industrial wastewater.

3.7.4. Supplemental Permit Conditions. A supplemental permit for a multi-unit lateral shall require execution and compliance with the District standard Private Sewer Agreement for Multi-Unit Lateral. A supplemental permit for a private pump station shall require execution and compliance with the District standard Private Sewer Agreement for Private Pump Stations. Additional terms and conditions for private pump stations and multi-unit laterals are set forth in the Standard Spec.

3.7.5. Permit Amendment Conditions. Permit amendments shall include conditions appropriate for new facilities and additional conditions deemed necessary to address any violations, new circumstances or to bring existing Private Sewer Facilities into compliance with current regulations, such as retrofitting or replacement of obsolete facilities. Permit amendments for ownership or tenant transfers shall, at minimum, include a written acknowledgment by the new owner and, if applicable, new tenant that they understand and agree to abide by all permit conditions.

3.8. Permit Conditions Are Binding On Successors and Run With The Land. Permit conditions, including those requiring issuance of permit amendments, are binding on the original Owner/Applicant and their successors and assigns. In addition, permit conditions run with the land and are binding on all future Owners and/or tenants of the land or premises benefitted by the permit.

3.9. EWA Industrial Discharge Permits. Industrial Permit applicants that fall within the permit standards set forth in the EWA Pretreatment Ordinance will be required to obtain an EWA Industrial Discharge Permit as a condition of obtaining a sewer service permit from the District. The District Engineer will refer applicants that require an Industrial Discharge Permit to EWA for permit processing. Applicants are solely responsible for completion of the EWA permit process.

## **ARTICLE IV**

### **(Design, Construction and Maintenance of Sewer Facilities)**

4.1. Design and Construction. The Design and Construction of Sewer facilities shall comply with all rules and regulations adopted by the District, including, among others, this Ordinance, the Standard Spec and the Island Area Plan.

4.2. Policies Governing New Facilities. The availability of Public Sewer Facilities to accommodate new users is not guaranteed, and the public interest guides the review and approval of new sewer facilities. The following policies shall apply to the review and approval of applications for new sewer facilities:

a. The District does not construct additional Public Sewer Facilities to accommodate private development, and sewer service will be furnished only when adequate sewer facilities have been installed by the Owner.

b. Each Owner is responsible for the design, construction and cost of all new Public and Private Sewer Facilities required to accommodate their use;

c. Sewer facilities shall be of a size, slope, and depth necessary to serve both on-site real property and all potential properties that may need to connect to the sewer facilities in the future;

d. Sewer facilities shall be extended to adjacent properties as required by the District Engineer pursuant to the Standard Spec:

e. Each Owner shall obtain and/or provide all easements necessary to accommodate connection of their sewer facilities and connection of upstream properties to the Public Sewer System;

f. Sewer facilities intended for dedication to the District shall be constructed in the public right of way whenever feasible;

More specific policies, standards and procedures for new sewer facilities can be found in the Standard Spec.

4.3. Excavations and Work in Public Property. All excavations for sewer facilities shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, sewer easements and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the District and any other regulatory agency with jurisdiction over the work area. Required encroachment permits shall be obtained and appropriate traffic control measures shall be utilized, including those required by the City in which the work is performed.

4.4. Inspection and Connection to the Public Sewer. Physical connections to the Public Sewer System must be preapproved by a District inspector. The District inspector shall inspect sewer facilities prior to their connection to the Public Sewer System and may require that the physical connection to the Public Sewer System be made with an inspector present. The Owner must schedule an appointment with the District inspector, and provide at least 48 hours notice of the desired inspection time. Connection to the Public Sewer System shall conform to the requirements of the building and plumbing code and other applicable rules and regulations of the District. All connections shall be made gas tight and watertight. Upon inspection and approval, notification will be given by the District that the Customer may use the sewer facilities. No use of sewer facilities is permitted prior to District approval pursuant to this section.

4.5. Unauthorized Connections. Any connection made to the Public Sewer System without prior approval of the District is unauthorized and a violation of this Ordinance. If, for any reason, a connection is improperly made, it shall be the responsibility of the Owner, at the Owner's expense, to dig up or otherwise re-expose the connection so that an inspection may be made, and the Owner at the Owner's expense shall make any corrections or alterations required by the District. In the event that the Owner, for any reason, fails to take appropriate action, the District reserves the right to dig up and inspect the connection and make any corrections necessary, at the Owner's expense; or, in the alternative, to disconnect service to the unauthorized connection. Any costs incurred by the District in taking such corrective action shall be billed to the Owner. The District may also seek recovery of costs from any other responsible party.

4.6. Maintenance Responsibility. It is the responsibility of the Owner to maintain all Private Sewer Facilities, including but not limited to, the building sewer, private laterals, private pump stations, and grease removal devices, in a properly operating and free flowing condition. Responsibility for maintenance of Private Sewer Facilities includes maintenance of service lateral portions extending beyond the property of an Owner, including any portions within other private or public properties or rights-of-way, up to and including the Saddle or other physical connection to the Public Sewer System. The District is responsible for maintenance of all Public Sewer Facilities.

4.7. Private Lateral Maintenance, Video Inspection and Repair. The following requirements apply to all private laterals:

4.7.1 Owners shall ensure private laterals are in good operating condition at all times and shall undertake all necessary repairs, including replacement of dilapidated and worn out components;

4.7.2 Owners shall abate any condition that could cause a spill or failure, such as root intrusion, separated joints, pipe cracks and FOG buildup;

4.7.3 Owners shall ensure backflow prevention devices are inspected and maintained on a regular basis to ensure their uninterrupted function for the purpose for which they were designed;

4.7.4 The District may require an Owner to have a private lateral video inspected if there are reasonable grounds to suspect that the private lateral is damaged, has root intrusion, has contributed to a sanitary sewer overflow, or has other structural defects. The following procedures and requirements shall apply to private lateral video inspections:

i. Video inspections shall be completed within fourteen (14) days of written notice from the District, unless a different time is specified, be completed by a licensed plumbing contractor and include a recorded copy of the video inspection and a written report that describes the contractor's findings and recommendations;

ii. The Owner is not required to use the video inspection contractor for any repairs or corrective work. Further, the Owner may consult with additional contractors regarding their private lateral condition and the need for any repairs;

iii. Within twenty-one (21) days of written notice from the District, unless a different time is specified, the Owner shall provide District with a copy of the recorded video inspection and contractor's written report, and if problems were identified, a written description of the corrective action that will be taken to address the problems. If contractor recommendations for repair or replacement are not being followed, the Owner shall provide a written explanation of the reasons why;

iv. After receipt of the recorded video inspection and contractor's written report, the District may request additional information, request additional corrective action, or take no further action. No action taken by the District shall not relieve the Owner of the ongoing responsibility to ensure that their private lateral remains in good operating condition at all times and responsibility to make necessary repairs, even if they were not required by the District.

v. When corrective action is to be completed, the Owner shall provide a schedule for completion and provide the District with written notice when the corrective work is complete. An on-site verification by District staff while corrective work is in progress may be required. The Owner shall ensure corrective work is completed in compliance with all applicable regulations, including City building and right-of-way regulations and the Standard Spec;

4.7.5 The District may waive the video inspection requirement and approve or direct an alternative process to address private lateral concerns if the District finds that lateral deficiencies have already been corrected or can be addressed without a video inspection;

4.7.6 If an Owner refuses to conduct a video inspection, fails to take corrective action requested by the District, fails to take corrective action within the time specified, or if the District has reason to believe an Owner is otherwise not properly maintaining a private lateral, the District may, at its option:

i. Declare the private lateral a public nuisance and proceed with necessary repairs or replacement pursuant to Section 11.3 of this Ordinance; and/or

ii. Proceed with a civil enforcement proceeding pursuant to Section 11.2 of this Ordinance.

4.8 Backflow Prevention Devices. In addition to any other applicable law, the following rules and regulations apply to backflow prevention devices:

4.8.1 Owners shall comply with local building code requirements and the Standard Spec with regard to new construction and installation of backflow prevention devices.

4.8.2 In addition, the District may require Owners to retroactively install backflow devices in existing private laterals if:

i. Current building code or Standard Spec requirements would require installation of a backflow prevention device if the private lateral were part of a new construction project; and

ii. The General Manager determines, based upon specific site and/or facility conditions, that installation of a backflow prevention device is necessary to minimize the possibility of damage to property or persons.

4.8.3 The installation and maintenance of all backflow devices within private laterals shall be at the sole cost and expense of the Owner.

4.8.4 Any Owner that fails to install a backflow prevention device in violation of this Ordinance, the Standard Spec or other law or regulation, or fails to properly inspect, maintain and repair an existing backflow prevention device shall be responsible for all damage that results from the lack of a device or failure of a device to function as designed. The District shall not be liable for damage resulting from sewer overflows to a property for which a required backflow prevention device was not installed or was not properly maintained as required by this Ordinance or any other law or regulation.

## **ARTICLE V**

### **(General Prohibitions and Limits on Discharge)**

5.1. No person shall cause or contribute to a Public Nuisance or Interference with Public Sewer Facilities.

5.2. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontained cooling water or unpolluted industrial process waters to any sanitary sewer.

5.3. No person shall make connection of roof downspouts, exterior foundation drains or other sources of surface runoff or groundwater to a building drain, which in turn is connected directly or indirectly to a public sanitary sewer.

5.4. Swimming pool drainage shall not be discharged to the Public Sewer System without prior approval of the General Manager.

5.5. Septage shall not be discharged into the Public Sewer System, except pursuant to a permit issued by EWA.

5.6. No person shall discharge or cause to be discharged any of the following pollutants or substances into the Public Sewer System:



a. Any pollutants which create a fire or explosion hazard, including, but not limited to, waste stream with a closed cup flashpoint of less than 140° Fahrenheit using the test method specified in 40 CFR 261.21;

b. Any solid or viscous pollutants (i.e. concrete, concrete-like material, pool plaster) in any amounts that could cause obstruction to the flow in the Public Sewer System;

c. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity or strength, either individually or by interaction with other wastes to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant;

d. Any acids, alkalis or other corrosive liquids, gas or substances of sufficient strength to damage sewers, manholes, pumping stations or sewer treatment plants, but in no case discharges with a pH lower than 5.0 or greater than 12.5;

e. Any ashes, cinders, wood, sand, earth, coal, rubbish or metal of any kind;

f. Any water or waste containing FOG in excess of one hundred (100) mg/1 (milligram per liter) or that results in the deposit of solid or viscous substances onto pipes;

g. Any garbage or food waste that has not been properly shredded to one half inch or less;

h. Any greases, oils, solvents and sludges from service stations, garages, repair shops, machine shops, cleaning establishments or other industries or establishments;

i. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the District or applicable State or Federal regulations;

j. Any noxious or malodorous liquids, gasses, or solids which either singly or by interaction with other waste are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the Public Sewer System for maintenance and repair;

k. Any trucked or hauled wastewater, unless expressly approved by the District;

l. Any wastewater that creates excessive discoloration not removed or in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

m. Any waste water that creates excessive foaming in the Public Sewer Facilities;

n. Any wastewater that has a BOD that the District Engineer determines does or may cause interference with the Public Sewer System;

o. Any slug discharges;

p. Any wastewater with constituents, such as TSS, TDS, Medical Waste, or other substance that the District Engineer determines poses a significant public safety risk or risk of Interference or harm to the Public Sewer System; and

q. Any discharge that would, on its own, or in combination with other discharges result in a violation of the EWA NPDES permit, EWA Pretreatment Ordinance, or otherwise create a violation of rules or regulations governing the Public Sewer System.

## **ARTICLE VI**

### **(Standards for Measurement and Analysis of Discharges)**

6.1 All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, the American Water Works Association, and Water Environment Federation and shall be taken at a designated control manhole if available or a more appropriate location designated by the District Engineer. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Owners shall be responsible for the cost of measurements, tests and analysis of their discharge.

## **ARTICLE VII**

### **(Prohibition Against Damage)**

7.1. No person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the Public Sewer System.

## **ARTICLE VIII**

### **(Authority to Inspect and Take Corrective Action)**

8.1. The General Manager, or his or her designee, bearing proper credentials and identification shall be permitted to enter all properties utilizing Public Sewer Facilities for the purpose of inspection, observation, measurement sampling and testing in accordance with the provisions of this Ordinance.

8.2. The General Manager, or his or her designee, bearing proper credentials and identification shall be permitted to enter all private properties through which the District holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, replacement and maintenance of any portion of the sewer facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement pertaining to the property involved.

8.3. Further, it is a condition of continuing use and connection to the Public Sewer System that the owners, tenants and all permit holders allow physical inspection of private laterals and monitoring of the constituents of the wastewater discharge entering the Public Sewer System for purposes of ensuring that the private lateral and wastewater discharge are not creating a risk of a spill, overflow or damage to the Public Sewer System.

8.4 The inspection rights in this Article are in addition to all other rights of inspection and entry provided by an individual permit, easement, contract, agreement or other law or regulation.

## **ARTICLE IX**

### **(Capacity Fees)**

9.1 Capacity Fees are set by ordinance of the Board and are assessed in accordance with the EDU Factors that are also established by ordinance.

9.2 An EDU Factor is applied to each customer use. A full capacity fee is charged for each EDU Factor applied to a use, and a partial capacity fee is charged for each EDU portion applied to a use.

9.3 A change in use that increases sewer discharge above the EDUs authorized by an existing sewer use permit shall require payment of an additional capacity fee for the new EDUs.

9.4 The District may make periodic inspection of a premises, and if an unauthorized increase sewer discharge is found, the owner shall be notified in writing. Upon receipt of this notice, there shall become due, owing and payable, all capacity fees resulting from the increased sewer discharge. Such fees shall become delinquent 60 days following the date they become due. Delinquent payments shall subject the Owner to an enforcement action pursuant to Article XI of this Ordinance.

9.5 Capacity fees run with the land and may not be transferred to other property. Capacity fees may be applied to new uses on the same property, provided such use is approved by the District and all necessary permits have been obtained.

9.6 The Board, in its discretion, may waive payment of all or a portion of capacity fees upon such terms and conditions as the Board may determine if the applicant is a public agency, the sewer connection is for a facility owned or operated by the public agency, and the public agency demonstrates to the satisfaction of the Board that the waiver of payment would be in the public interest or a benefit to the District.

9.7 Capacity fees may be refunded in cases where the right to use the Public Sewer System is relinquished by a customer or change in the use of a property eliminates the need for all of the EDU's authorized by a sewer service permit. Refunds shall be limited to the actual fee paid, without interest, and shall be proportional to the amount of EDU's reduced or relinquished. A reduction in the District's capacity fee is not grounds for refund. The following procedures and conditions apply to refund requests:

9.7.1 Any person seeking a refund shall file a written application with the District;

9.7.2 The refund application shall include information requested by the District, and shall at minimum, include documentary evidence demonstrating that the sewer service being relinquished is not being used or documentary evidence of the change in property use that reduces the EDUs required;

9.7.3 Refunds may only be permitted if the General Manager finds all of the following:

a. Granting the refund request will not unduly prejudice the District's financial position;

b. The applicant has provided satisfactory evidence that the sewer use at issue has been relinquished or reduced;

c. The applicant is the owner of the property benefitted by the sewer service permit for which a refund is being sought;

d. In the case of applications involving a non-Owner lessees: (i) the lessee paid the capacity fee, (ii) the record owner of the property, in writing, concurs with the refund request and waives any claim to the refund; and (iii) the lessee executes an agreement to indemnify and defend the District against third party claims if requested by the General Manager; and

e. Sewer service fees for the property that is the subject of the refund request are not delinquent.

9.7.4 Sewer service permits for which a reduction is granted shall be amended to reflect the reduced EDU's authorized, and permits that have been relinquished entirely shall be cancelled.

9.7.5 Sewer service fees shall be reduced or discontinued after a reimbursement request is approved in proportion to the EDU's for which reimbursement was granted. Where such fees are collected on the tax roll, collection will continue until the next annual assessment, and the District shall reimburse the excess fees collected in advance at the time the refund request is granted or at the end of the annual assessment period. Sewer service fees accrued prior to a refund approval are not reimbursable under any circumstances.

9.7.6 Customers who relinquish a sewer service permit or voluntarily reduce EDUs may, at any time, apply for new or amended permits to connect to the Public Sewer System or increase EDUs. Such applications shall be processed in the same manner as all other applications.

## **ARTICLE X**

### **(Sewer Service Fees)**

10.1. Sewer service fees are set by ordinance of the Board and are assessed on a monthly basis. Except as provided below, sewer service fees are collected from all properties benefitted by a sewer service permit. Sewer use consistent with an approved sewer service permit is presumed unless the permit has been relinquished or amended.

10.2. Sewer service fees owed for the fiscal year in which a sewer service permit is issued are collected at the time of permit issuance. Thereafter, sewer service fees are collected on the tax roll in the same manner as other property taxes.

10.3. To allow time for construction of new sewer facilities, the first 6 months after a permit is issued are not billed. Thereafter, sewer service fees are automatically billed, regardless of whether construction of sewer facilities is complete. The District may delay the commencement of sewer service fees to allow additional time for construction of sewer facilities if a written request is submitted to the District and is approved by the General Manager. The General Manager shall have full discretion to approve or disapprove the request, taking into consideration the timing of the request, reasons given, impact on District operations and any other factors the General Manager deems relevant. Extensions of time for construction of new sewer facilities shall not exceed 18 months.

10.4. Sewer service fees are collected from all properties benefitted by a sewer service permit, and fees are in accordance with the EDU's authorized. Sewer service fees may only be reduced or discontinued by cancellation or amendment of a sewer service permit, either as part of the refund process authorized by Section 9.7 of this Ordinance, or a separate process approved by the District. Fees shall be discontinued entirely if a sewer service permit is cancelled or reduced in proportion to the EDU reduction authorized by a permit amendment. Where such fees are collected on the tax roll, collection will continue until the next annual assessment, and the District shall reimburse the excess fees collected in advance at the time the permit amendment or cancellation is approved or at the end of the annual assessment period.

10.5. It is the Customer's responsibility to apply for an amendment or cancellation of a sewer service permit, and until a permit has been cancelled or amended by the District, sewer service fees shall be collected in accordance with the approved permit.

## **ARTICLE XI**

### **(Enforcement)**

11.1 Prosecution as Misdemeanor or Infraction. A violation of this Ordinance is a misdemeanor in accordance with California Water Code § 31106. The prosecuting officer shall have discretion to prosecute a violation as an infraction. Each person shall be guilty of a separate offense for each and every day in which any violation of the Code is committed, continued or



permitted by person and shall be punished accordingly. ~~In lieu of, or in addition to, criminal prosecution, the District may pursue the civil enforcement options set forth in this Article.~~

~~11.2—Civil Enforcement Proceedings. In lieu of, or in addition to, criminal prosecution, the District may pursue the following civil enforcement process:~~

~~11.2.1~~ 11.2. Notice and Order

a. Whenever the District determines that a violation of this Ordinance, Standard Spec, District Contract or other Agreement with the District has occurred or exists, the General Manager (~~or his or her designee~~) may issue a written notice and order to the Owner and violating party ("Notice and Order").

b. The Notice and Order shall refer to the regulation or agreement terms violated and describe all violations.

c. The Notice and Order shall describe the actions required to correct a violation. Corrective action may include, among other things, immediately ceasing improper activities, and thereafter repairing or restoring sewer facilities and/or property.

d. The Notice and Order shall require full compliance by a certain date. A reasonable time shall be allowed, taking into consideration the difficulty of compliance and harm from delay. In the absence of extenuating circumstances, the Notice and Order shall provide at least 14 calendar days for compliance. If the District determines that health and safety or other extenuating circumstances cannot allow 14 days for compliance, a shorter time may be prescribed.

e. The Notice and Order may provide for termination or suspension of sewer service (including severing or blocking pertinent connections to the Public Sewer System) if a violation is not corrected as directed or if necessary to prevent or stop actual or imminent harm to the public, environment or Public Sewer Facilities.

f. The Notice and Order shall include an assessment of costs incurred by the District as a result of the violation, including staff, legal and engineering time incurred to address the violation. Costs shall also include all damages or losses suffered by the District as a result of the violations. Costs assessed may include those already incurred and any additional costs incurred to complete the compliance process, such as inspections. Notice of additional costs shall be provided as soon as reasonably practical, generally within 14 days of full compliance with a Notice and Order. All cost assessments shall be writing and describe the date, time and cost of items assessed.

g. The Notice and Order and all cost notices shall be served upon the violators and Owners by any one of the following means:

- i. Personal service;
- ii. Certified mail, postage pre-paid, return receipt requested;
- iii. Federal Express, United Postal Service, Express Mail or other delivery service that includes confirmation of delivery; or
- iv. Posting the Notice and Order conspicuously on or in front of the property in which the violation is located; and
- v. If the Owner is not personally served and is not the occupant of the property in which the violation is located, then a copy of the Notice and Order shall also be delivered to the record owner of the property shown upon the last equalized assessment roll of the County of San Diego.



Service is complete on the date of personal service, posting or delivery to the specified address. The failure of any person with an interest in the property to receive such notice shall not affect the validity of any proceedings taken under this Section.

#### ~~11.2.2~~ 11.2.1. Appeal of Order

a. When a Notice and Order provides less than 10 days for compliance, it is final on the date it is served and no administrative appeal is permitted, except for appeals of any costs assessed as provided below. When a Notice and Order provides at least 14 days for compliance, the recipient may submit a written appeal to the General Manager within seven days of service of the Notice and Order. Appeals shall be in writing and shall set forth any objections and/or requests for modification of the Notice and Order and provide written and documentary evidence in support of the request. The General Manager shall then issue a written decision in response to the appeal. Compliance with the Notice and Order shall be stayed pending the General Manager's determination.

b. A written decision of the General Manager shall be final 10 days after it was mailed or delivered to the appellant unless, within the 10-day period, a written notice of appeal to the Board is filed at the District office. The notice of appeal may simply state that the appellant appeals the General Manager's determination or may include additional written descriptions of the specific determinations appealed and the reasons why. If a timely appeal is filed, the matter shall be set at the next available meeting of the Board. Compliance with the Notice and Order shall be stayed pending a final decision on the appeal by the Board. The proceedings before the Board shall include an opportunity for the General Manager to present the basis of his or her determination and an opportunity for the appellant to present his or her response.

c. The Board may render its decision at the conclusion of the testimony, or if desired, may continue the matter to the next regularly scheduled meeting for further testimony and/or deliberations. The decision of the Board shall be final.

#### ~~11.2.3~~ 11.2.2. Appeal of Costs.

a. Cost assessments may be appealed as part of a general appeal or separately. Cost appeals must be filed within 7 days of receiving the cost assessment. Cost appeals shall be handled in the same manner as Notice and Order appeals.

#### ~~11.2.4~~ 11.2.3. Failure to Comply With a Notice and Order.

a. Failure to comply with a Notice and Order is a violation of the Ordinance, and the District shall pursue all legally available enforcement remedies.

11.3. Abatement of Public Nuisance. In addition to all other civil and criminal penalties provided herein, any violation of this Ordinance that causes or permits the existence of public nuisance may be abated by the District as follows:

a. The District may provide for abatement of a public nuisance using the Civil Enforcement process provided above. The Civil Enforcement Notice and Order may provide that the District will enter property and abate a nuisance if the Owner does not correct the problem within the required time limit. In addition, a civil action to abate, enjoin or otherwise compel cessation of such nuisance may also be taken by the District.

b. Where necessary to correct an existing or imminent threat to public safety, the environment or Public Sewer Facilities, such as a sewer line failure or spill, the District may immediately enter property and take those actions necessary to prevent further harm. Further, when deemed necessary for the preservation of public health or safety or for the protection of public or private property, the District may immediately suspend sewer service to any property and sever all pertinent connections to the Public Sewer System.



shall be:

c. All costs, including attorney's fees, incurred by the District to abate a nuisance

- i. A personal obligation of the person who created, caused, committed or maintained the nuisance;
- ii. A personal obligation of the Owner; and
- iii. A special assessment against the subject Property or a lien against the subject Property.

11.4. Administrative Citation. For violations of this Ordinance that involve physical damage to District facilities, the unlawful discharge of prohibited materials into the wastewater system or failure to comply with a Notice and Order, the District may issue an administrative citation to the responsible party pursuant to the procedures set forth below.

a. Administrative citations shall be issued by a designated Enforcement Officer. The General Manager shall act as the Enforcement Officer or designate one or more District employees to act as Enforcement Officers.

b. Each administrative citation shall contain the following information:

- i. The date of violation;
- ii. The address or a definite description of the location where the violation occurred;
- iii. The provision(s) violated and a description of the violation;
- iv. The amount of the fine for the violation;
- v. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
- vi. An order prohibiting the continuation or repeated occurrence of the violation described in the administrative citation;
- vii. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the procedure for requesting a hearing; and
- viii. The name and signature of the Enforcement Officer.

c. Service of Administrative Citation. Administrative citations shall be served in the same manner as a Notice and Order.

d. Administrative Fines. The following fines may be imposed for each individual violation:

- i. Up to \$2,500 for the first offense;
- ii. Up to \$5,000 for the second offense;
- iii. Up to \$10,000 for the third offense.

For continuing violations, the district shall provide at least 14 days to correct the violation before imposing additional fines, except where the violation is creating a health and safety concern or jeopardizing District facilities. Violations not corrected within the time specified, shall be subject to separate fines for each day the violation continues.

e. Payment of Fines.

- i. Fine shall be paid directly to the District within thirty days from the date of the administrative citation.



- ii. Payment of a fine under this Section shall not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the administrative citation.

f. Hearing Request.

- i. Any recipient of an administrative citation may contest that there was a violation or that they are the responsible party by filing with the District a written request for a hearing within fifteen calendar days from the date of the administrative citation.
- ii. The person requesting the hearing shall be notified in writing of the time and place set for the hearing at least ten calendar days prior to the date of the hearing.
- iii. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture and a failure to exhaust their administrative remedies.

g. Administrative Citation Hearing.

- i. An administrative citation hearing shall be held by the hearing officer in the manner and form set forth in this section.
- ii. The General Manager shall designate the hearing officer for the administrative citation hearing. The hearing officer shall not be a District employee.
- iii. The administrative citation and any additional documents submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.
- iv. At least three days prior to the hearing, the recipient of an administrative citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the enforcement officer. No other discovery is permitted.
- v. Formal rules of evidence shall not apply. The hearing officer shall have authority and discretion to decide when oral and documentary evidence may or may not be introduced, and to rule on questions which are raised during the hearing pertaining to matters of procedure.
- vi. The hearing shall be recorded by tape recording or court reporter service.
- vii. The District shall have the burden of proving the violations cited by a preponderance of the evidence.
- viii. The person contesting the citation and the District shall have the opportunity to present documentary evidence and to cross examine witnesses in support of their position.

h. Hearing Officer Decision.

- i. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall state in the decision the reasons for that decision. The decision of the hearing officer shall be final.
- ii. If the hearing officer determines that the administrative citation should be upheld, the hearing officer shall determine the amount of the fine to be imposed, and shall specify a date by which the fine is to be paid to the District.



- iii. The recipient of the administrative citation shall be served a copy of the hearing officer's written decision by certified mail, return receipt requested.

11.4. 5. Judicial Review.

a. Any party aggrieved by a hearing officer decision regarding an administrative citation may obtain review by filing a petition for review with the superior court in accordance with the timelines and provisions set forth in Government Code Section 53069.4.

b. Judicial review of all other civil enforcement orders or determinations, including any determinations regarding a Notice and Order, cost assessment or abatement of a public nuisance, shall be made pursuant to Section 1094.5 of the Code of Civil Procedure and only if the petition for writ of mandate is filed no later than the 90<sup>th</sup> day following the date on which the decision becomes final.

11.5-6. Administrative Complaint. In accordance with Government Code § 54740.5, the District may issue an administrative complaint against any user that has violated the terms of this Ordinance.

11.6-7. Remedies not Exclusive. The administrative enforcement actions and any other remedies provided in this Ordinance are not exclusive, and are in addition to any other administrative, civil or criminal remedy established by law which may be pursued by the District or other state or federal regulatory agencies to address violations of this Ordinance and federal and state law. Among other things, the District may petition the Superior Court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of any District Ordinance, agreement or regulation, ordering the cessation of illegal discharges, or ordering the disconnection of service entirely for a violation of this Ordinance, for non-payment of sewer fees or when necessary to protect Public Sewer Facilities or the public health and welfare.

## ARTICLE XII

### (General Terms)

12.1 Severability. If any provision of this Ordinance is held unconstitutional or otherwise invalid, only that provision shall be invalidated, and the validity of the entire Ordinance or any of its remaining provisions shall not be affected.

## MEMORANDUM

Ref: 18-5496

**DATE:** July 6, 2017  
**TO:** Engineering Committee  
**FROM:** Paul J. Bushee, General Manager   
**SUBJECT:** Leucadia (L1) Force Main West Section Replacement Project Proposed Change Order

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### RECOMMENDATION:

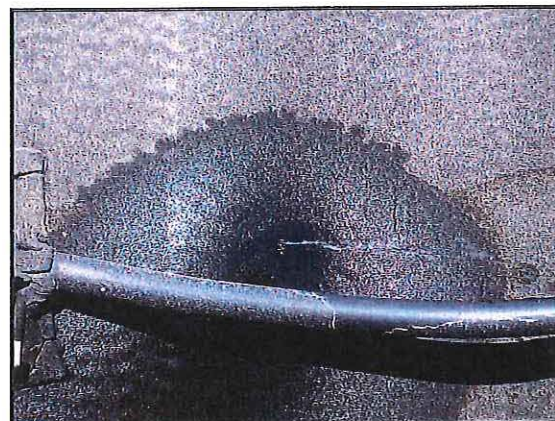
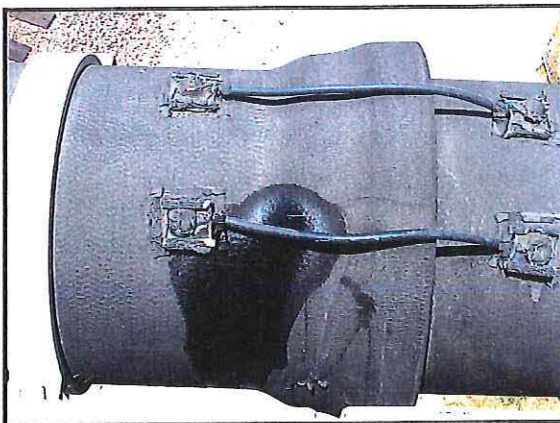
Staff requests that the Engineering Committee recommend that the Board of Directors:

1. Authorize the General Manager to execute a proposed change order with CCL Contracting Incorporated for additional work on the Leucadia (L1) Force Main Replacement Project to install a Cured-In-Place Pipe (CIPP) liner in the force main section on the railroad bridge on La Costa Avenue in an amount not to exceed \$70,000.
2. Discuss and take other action as appropriate.

### DISCUSSION:

#### **Tactical Goal: Infrastructure and Technology / L1 Force Main West Section Replacement**

In May 2017, CCL Contracting Incorporated (CCL) commenced construction of the L1 West Section Force Main Replacement Project. CCL recently completed the construction component of the project. As part of its work, CCL was required to hydrostatically test the pipeline to ensure proper installation and this work was conducted on June 23<sup>rd</sup>. Potable water was used to test the new pipe and the pipe was pressurized to 50 pounds per square inch (psi). Upon reaching 50 psi, a pinhole leak was discovered at the top of the pipe in the ductile iron pipe (DIP) section attached to the railroad bridge, pictured below:





Please note that the section of pipe on the railroad bridge was not included for replacement under the L1 Project because it was replaced in 1998 and considered to be in good condition. Typically, DIP has a much longer life than 19 years.

Although during normal operations, this section of pipe is subjected to a pressure significantly below 50 psi, staff believes that it is in the best interest of LWD to repair the railroad bridge section now to ensure the long-term integrity of the pipe. The picture below shows the bridge section prior to the pressure test.



The repair consists of disconnecting the flex couplings at each end of the bridge and CIPP lining the bridge section of the pipe. Staff had negotiated a repair cost not to exceed \$70,000. Staff believes that this cost is fair and reasonable based on the repair work to be done.

#### **FISCAL IMPACT:**

To date, one (1) change order has been approved for a total of \$5,710. The approval of this change order will result in a new change order total of approximately \$75,710 which is 5.5% of the original contract amount of \$1,387,731.

There are sufficient funds in the L1 Force Main West Section Replacement Project construction account to cover this change order.

rym:PJB