

# Leucadia Wastewater District

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## Human Resources Policy Manual

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*Photo by **Ella Hinkle** of Encinitas*

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## **Section 1 - Introduction and General Provisions**

### **1.1. Purpose of Human Resource Policy Manual (HRPM)**

The HRPM contains Human Resource policies that govern employment with the Leucadia Wastewater District (LWD). The HRPM is designed as a guide to ensure consistent, fair, and uniform treatment of all LWD employees. The LWD Board of Directors has approved the provisions contained herein. LWD reserves the right to amend, supplement or rescind any provisions of this manual, as it deems appropriate. Employees will be advised of changes in policies, benefits and procedures.

### **1.2. Scope of HRPM**

The policies and procedures contained herein supersede any and all previously issued LWD policies, procedures, rules or instructions related to human resource management at LWD.

### **1.3. Administration**

The General Manager, as Appointing Authority, shall have authority to interpret and implement the provisions contained herein. The General Manager may develop and issue procedures, consistent with the HRPM, to facilitate the HRPM's implementation.

Every LWD employee is expected to review and be familiar with the HRPM and to support and carry out the policies contained in the HRPM.

### **1.4. Distribution of Manual**

A copy of the HRPM shall be provided to each employee. A Notice of Acknowledgement Form will be signed by each employee and turned in to the Administrative Services Manager. In addition, a copy of the HRPM shall be posted on LWD's website.



## Section 2 - Definition of Terms

The following definitions shall apply throughout the HRPD unless the context requires another meaning.

### 2.1 Definition of Employee Categories

The following definitions are meant to standardize and ensure common understanding with reference to employees.

Probationary Employees - New or promoted employees who are serving a probationary period for their employment.

Regular Employees - Employees who have completed their probationary period of employment.

Full-Time Employees - Employees who are regularly scheduled to work at least thirty (30) hours per week.

Part-Time Employees - Employees who are regularly scheduled to work less than thirty (30) hours per week. Part-time employees are not eligible for any employee benefits with the exception of those benefits required by law. Part-time employees working 1000 hours or more per fiscal year are considered members of CalPERS and will be enrolled in the retirement program.

Temporary Employees - Employees hired for short-term assignments. Temporary employment can be for a specific time period, until a specific task or project is completed or until the General Manager or Administrative Services Manager otherwise determines. A temporary employee will not change from temporary status unless specifically notified of such change in writing by the General Manager or Administrative Services Manager. Temporary employees are not eligible for any employee benefits with the exception of those benefits prescribed by law.

### 2.2 Definition of Nonexempt and Exempt Employee Classifications

Nonexempt - Employee classifications that are not exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). Nonexempt employees receive overtime-premium pay in accordance with applicable federal and state regulations.

Exempt - Employee classifications that are exempt from the overtime and other provisions of the FLSA. Exempt employees do not receive overtime pay.

### 2.3 Definition of Promotion

Promotion - movement to a different job or classification at a higher pay grade.

### 2.4 Definition of Alcohol/Drug/Illegal Drug/Prescribed Drug

Alcohol - any beverage that has an alcoholic content including, but not limited to beer, wine, and distilled spirits.

Drug - any chemical substance (other than alcohol) capable of altering the coordination, reflexes, moods, perception, pain level, attention span, or judgment of the individual consuming it.

Illegal drug - any drug or substance that is illegal under federal, state, or local law to use, possess, or consume; and/or any drug or substance that is not legally obtainable; is legally obtainable but has not been legally obtained; or has been legally obtained but is being sold or distributed unlawfully.

Prescribed drug - any drug or medication lawfully prescribed for use by a licensed medical practitioner for use by the employee.

## **Section 3 - General Employment Policies**

### **3.1 Employment**

Employees are hired and serve at the pleasure of LWD. The General Manager is fully authorized to appoint and discharge all persons employed by the LWD at will. Therefore, employment at LWD is considered “at-will”, and may be terminated by either the employee or the General Manager with or without cause, and with or without notice.

#### **Section 12 does not alter the at-will nature of the employment relationship.**

This “at-will” employment relationship cannot be changed by any verbal or written representations made by any LWD employee, except by a written agreement between the General Manager and the employee. This means that, unless employees enter into a written employment contract with LWD to the contrary, employees are free to terminate their employment with LWD at any time, with or without cause. However, for an employee to resign from LWD service in good standing, the employee must provide 2 weeks’ notice before leaving employment.

LWD also has the right to terminate their employment at any time, with or without cause. Although LWD may choose to terminate employment for cause in accordance with the process outlined in Section 12 of this Manual, cause is not required.

### **3.2 Nondiscrimination/Equal Employment Opportunity**

LWD is an equal opportunity employer and makes employment decisions based on merit. LWD wants to have the best available persons in every job. It is LWD’s policy to provide equal employment opportunity for all applicants and employees, in all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, social/recreational programs and general treatment during employment.

LWD does not unlawfully discriminate on the basis of race, color, age, religion, religious creed (which includes religious dress and grooming practices), gender (which includes gender identity and gender expression national origin, ancestry, citizenship status, physical or mental disability, medical condition (including pregnancy, childbirth, HIV or AIDS related conditions), marital or domestic partner status, sexual orientation, family care leave status, veteran status, genetic information, or any other unlawful reason.

It is the responsibility of every manager and employee to conscientiously follow this policy. Employees with questions or concerns about any type of discrimination or harassment on any of the bases above in the workplace should bring these issues to the attention of their immediate supervisor, any manager or the General Manager. Employees can raise concerns and make reports without fear of reprisal. All reports of discrimination and harassment will be investigated. Upon completion of an investigation, anyone found to be engaging in any type of unlawful discrimination and/or harassment shall be subject to disciplinary action up to and including termination of employment with LWD.

To comply with applicable laws ensuring equal employment opportunities to qualified individuals with a disability, LWD will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee unless undue hardship would result. Reasonable accommodations are available when a disability affects the performance of an

essential job function. Any applicant or employee who requires an accommodation in order to perform the essential functions of their job should contact their supervisor and request such an accommodation. A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified candidate or employee with a disability to participate in the job application process, to perform essential job functions, or to enjoy the benefit and privileges of employment equal to non-disabled employees. Examples of reasonable accommodations include:

- Restructuring a job by reallocating or redistributing marginal job functions;
- Altering when or how an essential function is performed;
- Permitting use of accrued paid leave or unpaid leave for necessary treatment;
- Acquisition or modification of equipment.

The selection of a reasonable accommodation will be done on a case-by-case basis after assessment of the job, the individual, and the essential job function(s) that the otherwise qualified individual is unable to successfully perform. This interactive process involves the employer, the applicant, and often a physician as well.

LWD is not required to grant any accommodation that poses an undue hardship on LWD, which means an accommodation that is unduly costly, extensive, substantial, or disruptive, or one that would fundamentally alter the nature or operation of the business. LWD is not required to create a new position for a disabled applicant or employee.

Any questions regarding disability, the interactive process, or reasonable accommodations should be directed to the Administrative Services Manager.

### **3.3 Harassment**

LWD is committed to providing a workplace free of harassment. LWD will not tolerate harassment of employees by managers, supervisors or co-workers; nor will LWD tolerate harassment of its employees by individuals, or groups with whom LWD has a business, service, or professional relationship. LWD shall also protect employees from harassment by non-employees in the workplace.

Harassment can be based on gender (which includes gender identity and gender expression), pregnancy, childbirth or related medical condition, as well as, race, color, religion, religious creed (which includes religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding, and related conditions), national origin, ancestry, age, physical or mental disability, mental condition, marital or domestic partner status, gender identification, sexual orientation, family care leave status, veteran status, genetic information, or any other unlawful reason.

#### **A. Harassment Defined**

1. Verbal Harassment - Epithets, derogatory comments, slurs on the basis of race, religious creed, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age. Verbal harassment also includes verbal sexual advances, repeated offensive sexual flirtations or propositions, and requests for sexual favors. Additionally, continued or repeated verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, or suggestive or obscene letters, notes, or invitations, may also constitute verbal harassment.

2. Physical Harassment - Conduct such as unwanted touching, offensive or abusive contact, assault, impeding or blocking movement, physical interference with normal work or movement, and other misconduct.
3. Visual Forms of Harassment - Derogatory posters, notices, bulletins, cartoons or drawings on the basis of race, religious creed, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age. Leering, making sexual gestures, and displaying sexually suggestive objects or pictures may also constitute harassment.

These and other types of actions may also constitute harassment when: (1) submission to the conduct is an explicit or implicit condition of employment; (2) submission to or rejection of the conduct is used as a basis for any employment decision; or (3) when it causes unreasonable interference with work performance or an intimidating, hostile, or offensive working environment results.

#### B. Reporting Procedures

Any incident of harassment should be reported promptly to the employee's Department Manager, the Administrative Services Manager, or the General Manager. Supervisors who receive complaints or who observe harassing conduct shall immediately take all actions required to ensure the conduct at issue is stopped and not repeated and report the matter to their Department Manager or the General Manager. Once an employee has initially reported an incident of harassment, he/she will be asked to provide details regarding the nature of the harassment (i.e. the time, date, place and manner of harassment) and the individual(s) involved in the harassment in writing and/or in an interview with the individual investigating the matter. In those incidents where a Supervisor, Manager or the General Manager is the accused perpetrator of an incident of harassment, the complaint shall be filed with the Districts Legal Counsel, Worden Williams APC, at (858) 755-6604. The District's Legal Counsel will assume the investigatory role.

#### C. Investigation

Every reported complaint of harassment will be investigated fairly, thoroughly, and promptly, and in as confidential a manner as possible. Normally, the Department Manager to whom the complaint is made will investigate a complaint of harassment. However, investigations may also be conducted by the Administrative Services Manager, the General Manager, or qualified individuals employed or contracted by the LWD. In any event, LWD will not tolerate retaliation against any employee for making a complaint or cooperating in an investigation under this Section.

#### D. Disciplinary Action

In the case of harassment by LWD employees, disciplinary action will be taken in accordance with the process identified in Section 12 of this Policy Manual.

A violation of this policy can result in disciplinary action up to and including termination. Should harassment of LWD employees be by non-employees, LWD will take appropriate corrective action.

### **3.4 Governmental Administrative Remedies for Discrimination and Harassment**

Discrimination, harassment and retaliation for opposing harassment or participating in investigations of harassment are illegal. In addition, to notifying LWD about discrimination, harassment or retaliation complaints, affected employees may also direct their complaints to the California Department of Fair Employment and Housing (DFEH), which has the authority to conduct investigations of the facts. The deadline for filing complaints with the DFEH is three years from the date of the alleged unlawful conduct. If the DFEH believes that a complaint is valid, and settlement efforts fail, the DFEH may seek an administrative hearing before the California Fair Employment and Housing Commission (FEHC) or file a lawsuit in court. Both the FEHC and the courts have the authority to award monetary and non-monetary relief in meritorious cases. Employees may contact the nearest DFEH office or the Equal Employment Opportunity Commission (EEOC) at the locations listed in LWD's EEOC poster located in the LWD lunchroom, their respective web-sites or the state government listings in the local telephone directory. Additional information is also available on the internet at [www.dfeh.ca.gov](http://www.dfeh.ca.gov).

### **3.5 Conflicts of Interest**

LWD employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interests. Guidelines are described in LWD's Conflict of Interest Code.

If an LWD employee has an ownership interest in any company or enterprise that does business with LWD (excluding receipt of LWD wastewater collection services in the same manner as the general public) the employee should disclose the nature of the ownership interest to their Department Manager or the General Manager, so as to avoid an actual or potential conflict of interest, or so that appropriate safeguards can be established to protect all parties. LWD employees who engage in employment outside of LWD, as defined in Section 3.6 below, must disclose that employment to LWD and get written confirmation that the outside employment does not constitute a conflict of interest.

### **3.6 Outside Employment**

LWD employees may engage in outside employment, subject to Section 3.5 above, and the restrictions contained in this Section, as long as the employee meets the performance standards of the LWD job. Employees will be judged by the same performance standards and will be subject to LWD's scheduling demands, regardless of any existing outside work requirements. Full-time LWD employees are required to provide advance notice to the General Manager before accepting secondary employment. If LWD determines that an employee's outside work interferes with his/her performance or ability to meet the requirements of LWD as they are modified from time to time, the employee may be asked to terminate his/her outside employment if he/she wishes to remain employed by LWD. Employees may not receive any income or material gain from individuals outside of LWD for materials produced or services rendered while on duty or performing their jobs at LWD.

Employees are expressly prohibited from engaging in outside employment that is incompatible with, inconsistent with, or in conflict with their LWD employment. Outside employment shall be expressly prohibited where (1) outside employment conflicts with an LWD employees work schedule, duties, and/or responsibilities, (2) outside employment creates an actual conflict of interest, (3) outside employment interferes with an LWD employees work performance, (4) outside employment involves conducting business of any type during the LWD employee's actual hours of work, (5) outside employment involves the use of LWD property including but not limited to LWD premises, equipment, vehicles, supplies,

electronic communications systems (i.e. telephones, computers, computer software, voice mail, e-mail) or (6) outside employment causes discredit to the District in any manner.

For purposes of this Section, outside employment also includes self-employment, including ownership in an entity that results in a violation of this policy. Employees who violate this policy will be subject to disciplinary action up to and including termination.

### **3.7 Employment of Relatives**

LWD discourages the hiring and employment of relatives of current employees. However, LWD reserves the right to exercise appropriate discretion in each case. "Relative" in this Section means spouse, domestic partner, mother, father, stepmother, stepfather, or person who has acted in place of one of these, father-in-law, mother-in-law, child, stepchild, brother, sister, brother-in-law, and sister-in-law.

LWD may accept and consider applications for employment from relatives of a current employee, as defined above. Applicants must identify any individual who is a relative, as defined above, already employed by LWD at the time he/she applies for employment.

Applicants who are relatives of an LWD employee shall not be eligible for employment with LWD in a situation where potential problems of supervision, safety, security or morale exist. Relatives shall not be assigned to the same organizational unit. In order to enforce this policy, the General Manager may transfer one or both relatives to a different organizational unit. Should such a transfer not be feasible, one of the employees may be terminated.

### **3.8 Solicitation and Distribution**

Employees may not solicit or distribute non-work related materials or literature during working time or in working areas. This policy includes the solicitation of money, provision of services, or provision of anything of material value to aid, promote, or defeat any political committee or nomination or election of any person to public office. "Working time" includes the working time of the employee doing the solicitation and distributing and the employee to whom the soliciting or distributing is directed. Persons not employed by LWD may not solicit or distribute literature on LWD property at any time, for any purpose. Off-duty LWD employees and non-employees shall not be inside LWD facilities unless they have a legitimate business reason to be present.

### **3.9 Open Flames in the Workplace**

In the interest of safety of LWD employees and facilities, candles, incense, and other items designed to burn are prohibited in all offices. A standing exception of this shall be any work station where flames or other heat sources must be used to conduct tasks within established safety guidelines.

### **3.10 Tobacco in the Workplace**

In order to provide LWD employees with a safe and healthful work environment, tobacco use is not permitted in any LWD structure or building. This applies to any type of tobacco (including smokeless tobacco such as chewing tobacco and e-cigarettes). Tobacco use shall only be permitted in outside, designated areas only. Smoking is prohibited in LWD vehicles at all times.

On LWD's premises there are 2 designated smoking areas:

- Area 1: West of the main entrance to the Administration Building at least 20 feet from the main entrance doors.
- Area 2: Outside the closed session room on the southeast side of the Administration Building.

LWD employees, visitors, and contractors who violate this policy while on LWD premises shall be subject to appropriate action. For LWD employees, appropriate action includes disciplinary action up to and including termination.

### **3.11 Drug /Alcohol Free Workplace**

LWD has a vital interest in maintaining a safe, healthful, and efficient work environment. Being under the influence of a drug or alcohol while on the job poses serious safety and health risks to the user and to all those who work or interact with the user. The use, sale, purchase, transfer, or possession of an illegal drug in the workplace, and the use, possession, or being under the influence of alcohol also poses unacceptable risks for safe, healthful, and efficient operations.

LWD has an obligation to its officers, employees and members of the public to take reasonable steps to provide an alcohol and drug free workplace and to provide services to the public in a safe manner. Reporting for work or working under the influence of alcohol or drugs and the use, possession, transfer, purchase, or sale, or attempted use, possession, transfer, purchase, or sale of alcohol or drugs in any manner during work hours, including rest breaks and meal periods, or while on LWD premises, are strictly prohibited and constitute cause for disciplinary action up to and including termination.

The following behavior violates LWD policy and will be grounds for discipline up to and including discharge:

- Distribution, sale, purchase, possession, or use of an illegal or controlled substance, or being under the influence of an illegal or controlled substance, while on the job;
- Driving any vehicle while performing LWD business under the influence of illegal or controlled substances or alcohol;
- Being impaired or under the influence of alcohol at the start of a work shift;
- Use of, impairment by, or being under the influence of alcohol while on the job on any LWD premises;
- An employee's conviction on a charge of illegal sale or possession of any controlled substance while off LWD property;
- Use of marijuana on LWD premises, during LWD working hours or while conducting LWD business, even if obtained through a legal prescription.

Employees will be required to submit to a drug and alcohol test if reasonable suspicion exists that an employee is under the influence of drugs and/or alcohol. Any employee who tests positive as the result of such a drug and/or alcohol test will be subject to discipline up to and including termination. This includes any employee who tests positive for marijuana, even though the employee was prescribed the marijuana for medical purposes.



Any employee who is using prescription or over-the-counter drugs that may impair the employee's ability to safely perform his/her job, or might affect the safety or well-being of others, must receive clearance from his/her physician before performing any work.

A. Definitions

1. LWD Premises – all buildings, parking lots, service yards, lunch rooms, break areas, rest rooms, LWD-owned vehicles, pump stations, and any other sites where employees perform services for LWD regardless of LWD's ownership or control of the property.
2. Reasonable Suspicion – a suspicion that is based on specific personal observations of an employee's manner, physical movement, disposition, behavior, speech, appearance, breath odor; or by information provided by the employee, another employee, law enforcement or security personnel, or by any other person believed to be reliable, that causes the person making the observations or hearing the information to reasonably believe an employee is under the influence of drugs or alcohol.
3. Under the Influence – behavior modified by alcohol or drugs, resulting in substandard or modified job performance; diminished motor reflexes, impairment of coordination, speech, or mental concentration; or conduct that poses a safety hazard to the employee, co-workers, or others. A finding that an employee is under that influence can be based upon personal observations, employee statements, witness testimony and/or the results of blood alcohol tests.

B. Pre-employment Tests

All individuals offered employment with LWD are required to submit to a pre-employment, post-offer physical examination which shall require a drug test. Positions determined to be safety-sensitive, as defined by their requirement to maintain a commercial driver's license, will also require a Department of Transportation (DOT) alcohol and/or drug test at the time of initial hire. These positions include:

1. Field Services Technicians (all levels)
2. Field Services Supervisor

C. Procedures

1. In order to promote an alcohol and drug free workplace, LWD reserves the right to search any LWD-owned or controlled articles or property in the employee's control or possession to determine the presence of alcohol or drugs. LWD expressly reserves the right to inspect LWD-owned or controlled lockers, desks, tool boxes, vehicles, packages, containers, and other articles within the work area. If the General Manager, or his/her designee has reason to believe that alcohol or drugs are present in a work area in violation of this policy, the appropriate law enforcement agency may be contacted and asked to conduct a search of the work area.
2. The reasonable suspicion of alcohol or drug use must be based upon objective factors related to the employee's appearance, conduct, speech, behavior, and/or other objective factors. If a department manager or supervisor has reason to believe an employee is under the influence of

alcohol or drugs, or has otherwise violated this policy, the manager or supervisor should carry out the following procedures:

- a. Accompany the employee to a private office, room, or other area. If possible, a witness should accompany the employee and the department manager or supervisor. Upon request, the employee may have another employee act as a witness on his/her behalf. Action regarding the employee shall not be delayed by the request for an employee-selected witness.
- b. If it is determined that this policy may have been violated, the General Manager, Department Manager, or their designee should be advised of the situation. After receiving authorization to conduct a medical examination and/or alcohol or drug test from the General Manager, or his designee, the employee should be told that his/her behavior or performance warrants a medical examination and/or alcohol or drug test. The employee should be advised that the examination and/or test will be conducted at an LWD-designated testing facility.
- c. If the employee agrees to a medical examination and/or alcohol or drug test, the following procedures should be carried out:
  - i. The General Manager, Department Manager or their designee will arrange transportation to LWD's designated testing facility.
  - ii. If the results of the medical examination and/or alcohol or drug test indicate the employee is under the influence of alcohol and/or drugs or has violated this policy, appropriate disciplinary action may be taken up to and including termination.
  - iii. If the results of the medical examination, alcohol and/or drug test indicate another cause for the employee's behavior, then appropriate actions to ensure the health and safety of the employee and others will be taken. If there is a medical reason underlying the behavior, the employee may be placed on leave and be required to provide LWD with a medical release from a physician before returning to work. LWD may require the employee to be examined and evaluated by the LWD-selected physician before being allowed to return to work.
  - iv. If the results of the alcohol or drug test are negative or inconclusive, no further action will be taken by LWD with regard to the violation of this policy. The employee may, however, be disciplined for misconduct or unsatisfactory job performance, if applicable.
- d. If the employee refuses to consent to an alcohol or drug test, the following procedures shall be carried out:
  - i. The department manager or supervisor must explain to the employee that the requested alcohol or drug test is used to establish the employee's compliance with this policy and/or fitness to perform his/her job.
  - ii. The department manager or supervisor must inform the employee that his/her refusal to consent to an alcohol or drug test will be interpreted as a deliberate failure to comply with a reasonable request and the employee will be subject to discipline up to and including termination. The employee should also be advised that s/he will

not be allowed to use evidence of alcohol or drug abuse as a mitigating factor regarding any discipline imposed for misconduct or unsatisfactory job performance, or to utilize the rehabilitation benefits described in Section 3.11(D).

- iii. The department manager or supervisor must inform the General Manager, or his/her designee of the situation. The decision to suspend the employee will be made by the General Manager or his/her designee.
- iv. If the employee is suspended, the department manager or supervisor should arrange for the employee to be transported home.

An investigation will be conducted when an incident occurs whether or not the consumption of alcohol or the use of drugs was involved. Any LWD employee involved in an incident investigated under this policy must prepare a written record of the incident within 24 hours of its occurrence or as soon as possible following the incident. For the purposes of this section, an "incident" is any action which causes physical damage to LWD property, personal injury to any person or that results in placing others (employees and public) in an unsafe condition or situation.

#### D. Rehabilitation

LWD will encourage and reasonably accommodate employees with alcohol or drug dependencies while seeking treatment or rehabilitation. Employees desiring such assistance should request a leave of absence. However, all employees must continue to comply with the requirements set forth in this policy. Approved rehabilitation leave shall be unpaid, but employees may use accumulated sick or vacation leave during the leave of absence. LWD is not obligated, however, to continue to employ any person whose performance of essential job duties is impaired because of drug or alcohol use, nor is LWD obligated to re-employ any person who has participated in treatment and/or rehabilitation if that person's job performance remains impaired as a result of dependency. Additionally, employees who are given the opportunity to seek treatment and/or rehabilitation, but fail to successfully overcome their dependency or problem, will not automatically be given a second opportunity to seek treatment and/or rehabilitation. This Policy on treatment and rehabilitation is not intended to affect treatment of employees who violate the requirements set forth in this policy. Rather, rehabilitation is an option for an employee who acknowledges a chemical dependency and voluntarily seeks treatment to end that dependency.

#### E. Drug/Alcohol Civil Convictions

As a condition of employment, employees must report any conviction under a criminal drug statute for violations occurring on or off LWD premises while employed by LWD. A report of a conviction must be made within five days after the conviction; this includes convictions of driving under the influence of alcohol.

#### F. Employee Assistance Program

Employees who need help coping with drug and/or alcohol issues are encouraged to seek assistance through their respective health insurance plan or the Employee Assistance Program (EAP) provided by LWD.

#### G. DATCO

LWD's commercial driving program is administered by DATCO Service Corporation. As LWD's service agent, DATCO administers a strict driving program to meet Department of Transportation requirements. All LWD employees that are required to maintain a commercial driver's license must comply with LWD policies and the specific requirements of the DATCO driving program.

Failure to comply with this policy, DATCO requirements and/or the LWD Substance Drug Abuse Policy shall result in disciplinary action, up to and including termination.

### **3.12 Information and Communication Systems and Equipment**

LWD's information and communication systems and equipment are LWD property and include, without limitation, all LWD telecommunication equipment, telephones, radios, facsimile machines, copiers, cellular telephones, personal communication devices, computers, Internet connections and accounts, computer network equipment, communications software, electronic mail systems, information software, and related peripheral software and hardware.

#### **A. Electronic Communication Systems Are for LWD Business**

Electronic communications systems have been established for the purpose of conducting LWD related business. All District provided electronic media resources, including e-mail systems, internet access, tablets, cell phones and voicemail, etc. are intended to be used primarily for business purposes. Any personal use must be of an incidental nature, and not interfere with business activities. Only those LWD employees who are authorized to use LWD electronic communication systems may do so. Any unauthorized use of these systems, including unauthorized use of LWD computer equipment is expressly prohibited and may result in disciplinary action, up to and including termination.

#### **B. Public Records Notice**

Information stored in LWD's information and communication systems and equipment, including emails, email attachments, and voicemail messages, may become public records subject to disclosure under the California Public Records Act (PRA). The PRA requires disclosure of public records, except in limited circumstances. Because emails, email attachments, and potentially voicemails and other records of communications using LWD's information systems can be considered public records, LWD may have a legal duty to disclose the information.

#### **C. No Right to Privacy**

There is no individual right to privacy relative to use of LWD electronic communication systems or internet systems. LWD may conduct random monitoring, inspections, and access communications to ensure that use complies with LWD policy. LWD retains a copy of all passwords; passwords unknown to LWD may not be used. System security features, including passwords and message-delete functions, do not neutralize LWD's ability to access employee communications at any time. Employees should have no expectation that any internet use or communication conducted using LWD information and communication systems and equipment are exempt from monitoring or access by LWD when LWD determines there is a business need for such access.

LWD electronic communications are considered part of LWD's business records and may be subject to disclosure to third parties for use in litigation and/or subject to disclosure under Public Records

Request as such, unnecessary electronic communications should be appropriately archived or disposed of in accordance with LWD's Record Retention Policy. It is important for employees to compose electronic communications in the same businesslike manner in which they would compose any other written communication or memoranda.

LWD employees should actively manage their email account in accordance with LWD's Record Retention Policy by limiting storage in the "general" email box and routinely deleting obsolete email to prevent system overload. Under special circumstances the General Manager may notify all users to retain documents that concern a matter that is subject to actual or potential litigation.

D. Protection of Confidential, Privileged or Sensitive Information

It is not possible to guarantee the security of electronic communications either within or outside of LWD. Therefore, care should be exercised when sending sensitive, privileged or confidential information electronically. Employees shall not make LWD network resources available, through any means, to individuals or agencies outside the network. Acts that may compromise the security of the network including revealing usernames, passwords, or IP addresses are strictly prohibited. Use of such programs that require information about the LWD network to operate is prohibited.

E. Procedures

1. General Usage

Information communicated using LWD information and communication systems should professionally represent LWD and shall not include disruptive, derogatory, defamatory, offensive, obscene, or harassing messages. Using LWD information systems to receive, store, or distribute obscene, pornographic, defamatory, harassing, or offensive material is prohibited. The LWD Harassment Policy governing discrimination and harassment applies to use of LWD information and communication systems and equipment.

All use of LWD information and communication systems and equipment is subject to LWD's right, but not duty, to monitor, inspect, and access communications to assure that use complies with this policy. Further, LWD has the right to disclose, as permitted or required by applicable law, any communications, or copies of communications, stored for any period of time in or by LWD information and communication systems or equipment.

Some messages sent, received, or stored on LWD information and communication systems and equipment will constitute confidential, privileged communications between LWD and its attorneys. Any communication sent to or received from the offices of the General Counsel or any other law firm, attorney, legal assistant, or paralegal representing LWD should not be forwarded or copied for use by another without first consulting the General Counsel, except that such communications may be forwarded within a department to LWD employees performing delegated functions with regard to the subject matter of the communication. The General Counsel should be provided a copy of all communications to a law firm, attorney, legal assistant, or paralegal representing LWD.

Most communications between LWD employees are not confidential and could be subject to public disclosure. However, many internal communications, including communications between

LWD and its consultants, may contain confidential information or otherwise be exempt from disclosure.

Systems users shall treat as confidential all information that could be considered personal (such as personnel records or medical information) or private (such as proprietary or financial information received from a third party). Systems users who possess confidential or potentially confidential information shall take reasonable steps to protect the confidentiality of the information and minimize the likelihood of inadvertent transmission of the information outside LWD or to unintended, unauthorized recipients within LWD.

Systems users should exercise caution in sending confidential information on the email system. Email is much easier than printed documents to forward or accidentally send to an unintended recipient. If employees need to send confidential information, they should consider using another method of communication that would be more secure than email.

Confidential information should not be sent or forwarded to individuals or entities not authorized to receive that information, and should not be sent or forwarded to other LWD employees not directly involved with the specific matter. Confidential information of LWD may be stored on LWD information and communications systems and equipment only.

Confidential information should not be discussed outside of the workplace, except when necessary at appropriate meetings or conferences. Confidential information should not be reproduced except when necessary. Employees shall return all tangible forms of confidential information to LWD upon termination of employment with LWD or at LWD's request.

## 2. Electronic Mail/Voicemail

Employees shall refrain from any unauthorized political advocacy and the unauthorized endorsement or appearance of endorsement by LWD of any commercial product or service. Employees shall maintain professional standards in the tone and composition of email messages.

The electronic mail system and the unified voicemail message system are intended for transmission and are generally not intended for permanent storage of LWD records. LWD may automatically purge the electronic mail system on a periodic basis. Employees are responsible for deleting and/or storing emails in accordance with the LWD's records retention policy. Emails that are retained on an LWD computer may become public records for purposes of the PRA and could be subject to public disclosure. If LWD receives a public record request under the PRA, LWD could be required to review all emails or voicemails retained on each employee's computer. It is the responsibility of each user to determine if an email message is an official record of LWD and is covered by that LWD's records retention schedule. If a user has questions about whether the document should be retained, the user should consult his/her department manager. If a user intends to retain a message in the email system for more than a short duration, the message should be stored in an appropriate email file.

If an employee needs to maintain any email as a permanent record, the email should be printed and stored with other printed material in the appropriate file, or archived in an appropriate electronic file. After the email is printed or archived, the electronic document in the email system should be deleted immediately from the inbox, sent box, or deleted box.

Employees should make sure that emails are not inadvertently sent to the wrong person, especially when using a distribution list. When relying on a distribution list, employees shall make sure the list is up-to-date and that every member is an appropriate recipient of their email.

Employees should take reasonable care to prevent introduction or spread of computer viruses into or through LWD communication and information systems and equipment.

### 3. Network Security

Attempts by employees to disable, defeat, or circumvent any LWD security facility, regardless of the success or failure of the attempts; to decrypt LWD operating system, network, application, and/or remote system passwords; the copying of LWD network security, operating system security, or configuration files; and any attempt to secure a higher level of privilege on any LWD network or system are prohibited. Any intentional attempt(s) to infiltrate, sabotage, disrupt, disable, or “crash” any network, system, or program is prohibited.

Using LWD information and communication systems or equipment to gain or attempt to gain unauthorized access to other communication systems (hacking), and using LWD information and communication systems or equipment to connect to a system in order to circumvent the physical or security limitations of another system are prohibited.

The willful introduction of computer “viruses,” “worms,” “Trojan horses,” “trapdoor code,” “denial-of-service attacks,” “spyware” or other disruptive and/or destructive programs into the LWD computer systems or network is prohibited. Employees shall not download, upload, open, or use any file, program, or email attachment from a source other than LWD until it has been scanned with an anti-virus utility.

### 4. Computer Hardware

Users must not attempt to repair or resolve hardware issues/problems, move, or alter computer units or other computer hardware. All computer repairs and resolution of hardware issues/problems must be handled by the Technical Services Manager. No LWD hardware will be removed from LWD premises without the proper approval of management.

Only LWD computer hardware is authorized to be used on LWD premises; other computer hardware, personal or contractor, is not authorized unless prior approval is given by the LWD management.

### 5. Computer Software

LWD management will coordinate the loading, removing, adjusting, and/or modifying of authorized licensed software on LWD computer hardware. LWD employees will not load or delete any software on the LWD computer systems and will not remove computer software from LWD premises unless otherwise authorized.

### 6. Internet Guidelines – Public Access

The LWD registered Internet domain name is [www.lwwd.org](http://www.lwwd.org). This domain name is the property of LWD and is maintained by authorized LWD staff. Information made available to the public on the lwwd.org web pages shall meet required technical standards and must be approved for content by the General Manager as appropriate for dissemination to the public.

Any unauthorized attempt(s) to add, remove, or alter information or other content provided on the lwwd.org web pages are prohibited. The lwwd.org pages are intended solely for the promotion of LWD's mission and public information related matters. They are not intended to promote or foster any private enterprise. They are intended as a "nonpublic forum."

External links on the lwwd.org web pages must be approved by the General Manager or his/her designee. An "external link" is a hyperlink from an lwwd.org page to another domain's page or site maintained by another party. Neither the lwwd.org pages, nor the external links list on the lwwd.org pages, constitute a forum for expressive activity by members of the public. The purpose of the lwwd.org pages is to provide information about LWD and its officials, services, programs, and mission. Parties eligible for inclusion on the external links list include other governmental entities and agencies, public educational institutions, organizations providing information relating to municipal or other local agency services, non-profit organizations serving the San Diego region, water and wastewater industries, and local news media. External links specifically excluded from eligibility include any lwwd.org pages or sites that have as their purpose the election or defeat of candidates for public office or passage or defeat of ballot measures regardless of political position, religious organization, or commercial ventures.

#### 7. Internet Guidelines—Employee Access

Employees shall not upload any software or data licensed to or owned by LWD without written approval from LWD Management. Employee use of LWD-provided Internet access for conducting private enterprise or for business purposes unrelated to LWD is prohibited. Subject to the restrictions of this policy, appropriate incidental use of LWD-provided Internet access by employees for the purpose of personal entertainment or research is allowed only during regular employee breaks and mealtimes. The use of the LWD network or Internet access to copy third-party software, files, or graphics in violation of license or copyright laws governing such materials is prohibited.

#### 8. Mobile/Cell Phones

Cell phones may be provided to specific employees on an as-needed basis as determined and authorized by the department manager. In determining need, the type of work the employee performs; the need to maintain contact with the employee during working hours (while away from the office); emergency response requirements; and/or safety issues should be considered. Employees issued cell phones are expected to be available by phone during assigned working time. All employees issued a cell phone are authorized to use this equipment while operating a vehicle only if a headset or other hands-free equipment is used. If a headset or other hands free equipment is not available, when possible, LWD employees shall pull safely over to the side of the road in order to use the cell phone. At no time will an LWD employee use a cell phone without the use of a headset or other hands free equipment while operating a vehicle. Each user will be held accountable for his/her own actions when using a cell phone. LWD issued cell phones are



for business purposes only. Personal use of LWD issued cell phones should be limited to break periods only, except for emergencies.

9. No Harassment and/or Discriminatory Communications

The LWD Harassment Policy governing discrimination and harassment applies to use of LWD information and communications systems and equipment.

F. Passwords

Passwords are an important aspect of computer security. They are the front line of protection for user accounts. A poorly chosen password may result in the compromise of LWD's entire corporate network. As such, all LWD employees (including contractors and vendors with access to LWD's systems) are responsible for taking the appropriate steps to select and secure their passwords.

**3.13 Nondisclosure of Confidential Information**

During the course of employment at LWD, employees may have access to certain confidential information, including legal information, business records, business systems, future plans and other information that LWD considers confidential. Maintaining this confidentiality is important to LWD. Employees must exercise caution and discretion in regard to keeping information confidential about LWD's business and employees. Disclosure of confidential information to other persons who do not have a right to know or who are not authorized to receive such information may result in disciplinary action.

**3.14 Handling Inquiries from Outside Sources**

From time to time, news media or the general public may contact LWD with requests for information. All inquiries concerning LWD operations and/or policies should be referred to the General Manager or his/her designee. All requests for information will be processed in accordance with LWD's Public Records Act Policy. All inquiries regarding former or current LWD employees should be referred to the Administrative Services Manager or his/her designee.

**3.15 Workplace Security and Violence Prevention**

LWD is committed to providing a work environment that is secure and free of threats of violence. All potentially violent situations are serious and all threats of violence against LWD employees will be reported to the appropriate law enforcement authorities immediately in accordance with LWD's Workplace Violence Prevention Policy. Employees are required to report:

- A. Any suspicious or unauthorized persons on or near LWD premises.
- B. Threatening communications including mail, phone calls, electronic communications and faxes, and verbal remarks.
- C. Other acts by or against employees including harassment, intimidation, stalking, or invasion of privacy.

All incidents of workplace threats should be referred to the employee's Department Manager, the Administrative Services Manager or the General Manager.

For purpose of safety and welfare of the employees, access to the facilities is restricted to those with proper authorization. Keys to the facilities, gate codes, building codes and all safes, drawers, file cabinets, etc., shall be under the control of the authorized employee. Any loss or breach of security must be reported to a Department Manager or the General Manager immediately.

### **3.16 Search and Inspection**

LWD reserves the right to conduct searches and inspections of any property on LWD premises. Employees who are found to be in possession of materials in violation of the HRPM or other LWD policies, or who are in possession of LWD property without authorization by an LWD Supervisor or Manager, shall be subject to disciplinary action, up to and including termination.

### **3.17 Safety and Health**

LWD strives to provide safe working conditions for its employees.

Safety is every employee's responsibility, and all employees are expected to exercise every reasonable means necessary to keep LWD a safe place to work.

Employees are responsible for becoming familiar with safety procedures and programs, observing them at all times. Any employee who notes safety problems, or has safety concerns, is required to inform District Management as soon as possible.

#### **A. Fires and Emergencies**

The District has an emergency procedure to follow in the event of fire or disaster. Exits, fire extinguishers, and first-aid kits are located throughout the District facilities. Exits and areas around the fire extinguishers must be kept clear at all times.

#### **B. Accidents**

No matter how insignificant an on-the-job injury or accident may seem when it occurs, the employees' supervisor must be notified as soon as possible.

#### **C. Injury and Illness Prevention Program**

The District's Injury and Illness Prevention Program defines LWD's safety practices and establishes responsibilities for the administration and coordination of the safety program. It covers the following areas: responsibilities, safety compliance, communication, hazard assessment, accident investigations, training, reporting procedures and hazard corrections.

### **3.18 Possession of Harmful Devices**

Possession of harmful devices on any LWD premises or in any LWD vehicle by anyone is strictly prohibited. Harmful devices include all implements that (1) can inflict serious bodily harm to anyone, and (2) whose normal purpose, in LWD's judgment, is to cause such serious bodily harm. LWD premises include any building and parking areas owned and/or controlled by LWD. Possession includes direct possession by an employee or within an employee vehicle or storage container located on any LWD premises.

Violation of this policy may result in disciplinary action up to and including termination.

### **3.19 Workers' Compensation**

The Administration Department serves as LWD's liaison for LWD's workers' compensation issues (i.e., work-related injury). Questions regarding worker's compensation procedures should be referred to the Administrative Services Manager.

If an employee is injured or becomes ill as a result of their employment, they must report the injury to their supervisor as soon as possible. The employer will provide the injured employee a Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility form to describe how, when, and where the injury or illness occurred.

LWD is responsible for arranging treatment with the District's selected physician or medical facility within the Medical Provider Network (MPN), or with the employee's pre-designated personal physician or medical group. The Guide to Workers' Compensation for New State of California Employees includes a pre-designation form. The employee must have provided the department written notification of the name of the physician or medical group prior to the date of injury and the physician must have indicated a willingness to provide treatment in the event of an industrial injury or illness.

It is important to inform the treating physician that the employee's injury or illness is (or may be) work related.

Employees who fail to report a work related injury/illness may be subject to disciplinary procedures outlined in Section 12 of this HRPM.

### **3.20 Exit Interview**

LWD is committed to provide a positive work environment for its employees. The Exit Interview Program provides a valuable source of information to measure LWD's success. The information obtained from exit interviews is used to enhance recruitment and retention efforts, and to assess the overall quality of work-life at LWD. The General Manager or Administrative Services Manager will make reasonable attempts to conduct exit interviews with all employees leaving LWD.

### **3.21 Parking**

LWD offers parking for employees, contractors and guests in marked spots located within Designated Parking Areas (DPA). All parking is on a "first come, first served basis". Special Needs parking spots are clearly marked with blue striping and signage. At no time shall an employee, contractor or guest park in any spot reserved for persons with certified special needs unless that vehicle prominently displays an official government issued placard certifying special needs.

## Section 4 – Hiring

### 4.1 Hiring Procedures

#### A. Job Announcements

Public notices of recruitment shall be posted on official Bulletin Boards within LWD prior to the final date for filing applications for all job vacancies. The need for further publicity and/or distribution of announcements shall be determined by the General Manager. The job announcement shall contain the following information:

1. The title and rate of pay for the position to be filled;
2. Typical duties to be performed;
3. Minimum qualifications required;
4. Method of securing application forms and final dates on which applications will be accepted;
5. Other information as may be deemed useful in the recruitment of applicants.

#### B. Application Process

All applications shall be made upon official forms furnished by LWD and submitted to the Administrative Services Supervisor on or before the final filing date specified in the job announcement. All applications and examination papers are confidential records of LWD and under no circumstances will they be returned to the applicants or displayed publicly. A separate and complete application must be filed for each recruitment unless specified otherwise in the job announcement.

#### C. Acceptance of Applications

Applications for employment with LWD shall be accepted only during the period specified in the published announcement.

#### D. Verification of Information

LWD may require proof of receipt of any diploma, license, or any other accreditation or certification required to meet the requirements for a particular position.

#### E. Screening of Applicants

Applications for a particular opening will be reviewed by the appropriate Department Manager and/or supervisors in conjunction with the Administrative Services Manager, Administrative Services Supervisor and/or General Manager. A short list of the most qualified applicants may be developed for the examination process.

## 4.2 Assessments

### A. Purpose of Assessments

The purpose of all assessments is to evaluate a candidate's skills and abilities for successful job performance. All assessments shall be designed to be competitive and impartial, and suitable to fairly test the relative capacities of the applicants to perform the duties of the position for which they seek employment. Candidates in the same assessment shall be accorded equal treatment in all phases of the assessment. Candidates requiring reasonable accommodation under state or federal law shall be afforded such accommodation.

### B. Types of Assessments

Assessments shall be of the following types:

1. Open Assessment: An assessment that is open to all individuals meeting the qualifications for the class.
2. Closed Assessment: An assessment that is limited to current regular full-time and probationary employees of the LWD who meet the qualifications for the class.

The General Manager shall determine the type of assessment, authorize the preparation of all assessments and may call upon qualified persons or companies to prepare and/or grade assessments and participate in oral interview panels. The Administrative Services Supervisor and/or Department Manager will review all questions whether for a written or oral assessment before they are given to ensure legality and conformance with District policy.

### C. Assessment Formats

Assessments may include a combination of written tests, skill tests, and oral interviews. Such tests may include assessments of intelligence, experience, technical knowledge, manual skill, physical fitness, character, education or any combination of these or any other relevant criteria that the Department Manager deems appropriate to the qualifications for a particular position. Assessments which include candidates that are current regular, full-time or probationary employees of the LWD may also include an evaluation of their performance and any other information deemed related to the qualifications for the position.

### D. Rankings Established

Upon completion of the assessment process, rankings shall be prepared consisting of the names of candidates who qualified in the assessment the numerical order of respective ratings based on assessment procedures utilized, and any other data deemed pertinent. Rankings shall be maintained in a confidential manner and remain in effect for a reasonable amount of time at the discretion of LWD. The name of a person who accepts a permanent appointment to a position shall be removed from the rankings for such position.

#### **4.3 Minimum Age Required**

All persons who are selected for employment by LWD must be at least 18 years of age. Employees may be asked to provide proof that they are at least 18 years of age at any time.

#### **4.4 Immigration Law Compliance**

In accordance with the Immigration Reform and Control Act of 1986, LWD's policy is to hire only those individuals who are authorized to work in the United States. All individuals who are offered employment shall be required to complete and sign Immigration and Naturalization Service Form I-9. This form requires the employee to attest that he/she is authorized to work in the United States and that documents submitted are genuine. This form must be completed no later than the first day of employment and strict compliance with this legal requirement will be a condition of employment.

#### **4.5 Reemployment**

Rehired employees, other than those re-employed following a lay-off, are considered new employees from the effective date of their reemployment for all purposes.

## **Section 5 - Transfers, Reassignments and Promotions**

### **5.1 Administrative Transfers**

The General Manager may transfer or reassign an employee from one department to another. The General Manager may also reassign an employee within the same department. Any employee transferred or reassigned to a different position shall possess the minimum qualifications of the job description for the respective position. The General Manager retains the authority to reassign a current employee to a position based on District needs and/or requirements or in the best interest of the District.

### **5.2 Promotions**

The General Manager may promote an existing employee to an available position without going through the hiring process in Section 4, if the General Manager determines that filling the position in that manner is in the best interests of LWD.

### **5.3 Working Out-of-Classification**

An out-of-classification assignment is a temporary assignment of a regular employee (excluding the General Manager) to an established position that requires the employee to perform the duties of another classification. Such an assignment may not exceed a period of six months, unless approved by the General Manager.

An out-of-classification assignment shall be recommended in writing by the Department Manager and submitted to the General Manager for approval prior to the effective date.

A regular employee in an out-of-classification assignment need not meet all the minimum qualifications of the higher classification.

The General Manager, at his/her discretion, may authorize a salary increase for an employee while working in the out-of-classification assignment. Employees working out of classification shall continue to receive the benefits assigned to the employee's regular position.

## **Section 6 - Probationary Period**

### **6.1 Defined**

An employee's probationary period is a minimum of 12 months. The probationary period is utilized to determine an employee's ability to satisfactorily perform the duties prescribed for the position held and to determine the employee's ability to work with other employees. An employee's probationary period may also include written conditions that must be satisfied during the probationary period, such as a specified wastewater treatment certification.

### **6.2 Probationary Period**

The length of the probationary period for all LWD employees (including original hire and promotions) is 12 months of actual service from the date of employment or promotion at LWD.

However, any probationary period may be extended by the General Manager, upon the request of the Department Manager. The length of the extension shall be at the General Manager's discretion. Approval of an extension by the General Manager shall be in writing with notification to the employee involved prior to the end of the probationary period that began at the original date of hire or promotion.

An LWD employee may be removed from a position at any time during the probationary period by the Department Manager without cause and without the right of appeal. However, the Department Manager must first notify the General Manager in writing of the recommendation to remove an employee during probation. Upon approval by the General Manager, the Department Manager shall provide prompt notification to the employee.

Prior to the completion of the probationary period, the employee's supervisor shall complete a 12 month performance evaluation report. The Department Manager shall review, and the General Manager shall approve this performance evaluation to ascertain whether the probationary employee may become a regular LWD employee.



## **Section 7 - Classification Plan**

### **7.1 Defined**

The LWD classification plan provides a complete and continuous inventory of all positions and provides descriptions and specifications for each position. It combines positions of approximately equal difficulty, responsibility, and qualifications that are compensated with the same range of pay.

### **7.2 Job Descriptions**

Each position shall have a job description that includes the position title, a description of the position duties and responsibilities, and a statement of the required minimum position qualifications.

Job descriptions are not restrictive nor do they limit the duties and responsibilities of any position. Job descriptions serve to describe and explain characteristic duties and responsibilities of positions and, as such, they are to be interpreted in their entirety and in relation to other positions in the classification plan. They are not intended to limit LWD management from modifying or assigning additional duties, nor from controlling the work of employees.

The position title is used for personnel actions including payrolls, budget estimates, official records, and reports relating to the position. However, the General Manager may authorize the use of another working title for a position for the purposes of internal administration or in contacts with the public. Department managers are responsible for periodic reviews of job descriptions in their respective departments.

### **7.3 Maintenance of the Plan**

The Administrative Services Manager is responsible for maintaining the classification plan and conducting classification studies. All changes to the classification plan are subject to approval by the LWD Board of Directors.

## **Section 8 – Compensation**

### **8.1 Salary**

The Board of Directors establishes a pay range for each position. The General Manager may set an employee's compensation at any established point within the pay range.

Increases in compensation within an employee's range are not automatic but are based on merit. Merit performance evaluations are conducted annually in accordance with Section 8.3 below. Based on the evaluation, an employee may be eligible for a merit increase within the position's pay range. All merit increases must be approved by the General Manager and will be computed based on the employees' actual base pay at the time of the performance review.

### **8.2 Anniversary Date**

An employee's anniversary date shall be their employment (or hire) date.

### **8.3 Evaluation Date**

An employee's evaluation date shall be the latter of the anniversary date, the date of promotion for promoted employees or the effective date of a salary reduction resulting from serious disciplinary action defined in Section 12.

### **8.4 Retirement Plan**

LWD participates in the California Public Employees Retirement System (CalPERS) which provides retirement benefits to regular, full-time employees.

Temporary and part-time employees who work less than 1000 hours per year are not eligible for membership, nor can they participate in the CalPERS system, unless they have previously worked in the CalPERS system and are vested with CalPERS. Those temporary and part-time employees who have previously worked within the CalPERS system, are vested, and who wish to participate in CalPERS retirement will be required to pay an employee contribution equal to the amount paid by regular, full-time employees.

### **8.5 Social Security**

All employees, hired after June 9, 1980, are covered by the Federal Social Security Act. A percentage of salary, specified by current law, is deducted from paychecks to pay the employee's portion of social security benefits. Social Security provides for retirement, disability, death, and survivor benefits.

### **8.6 Medicare**

Medicare is our country's health insurance program for people age 65 or older. The program helps with the cost of health care, but it does not cover all medical expenses or the cost of most long-term care. A percentage of salary, specified by current law, is deducted from paychecks to pay the employee's portion for these future Medicare benefits.

## **8.7 Deferred Compensation Plan**

LWD employees are eligible to participate in a Deferred Compensation program established by LWD. The District makes available to all regular full-time employees voluntary deferred compensation plans established in accordance with the provisions of Section 457 of the Internal Revenue Service Code. Employees may choose from among plans offered by the District. However, the District retains the right to determine which plans to offer.

## Section 9 - General Conditions of Work

### 9.1 Normal Hours of Work

LWD shall establish hours of work and work schedules for employees consistent with the needs of LWD. The following provisions are intended to define the normal hours of work. They shall not be construed as a guarantee of the number of work hours per day, per week, or of the number of days of work per week.

#### A. Workday

The workday is eight hours of work in a twenty-four consecutive hour period, except in cases of emergencies. Employees not specifically exempt from the provisions of the Fair Labor Standards Act are expected to be at their work station, ready to begin work, at the beginning of their assigned shift. If they expect to be absent or tardy on any given day, employees shall notify their supervisor as early as possible, but no later than thirty minutes before the beginning of their workday/shift.

#### B. Work shift

A work shift is defined as the hours of work assigned on a daily basis. Employees shall be scheduled to work on regular work shifts having regular starting and quitting times. Except for emergencies, employees' work shifts shall not be changed without forty-eight hours' prior notice to the employee. Call-out or overtime does not constitute a change in the work shift. The General Manager retains authority to make changes to employee work shifts based on the needs of LWD.

#### C. Fair Labor Standards Act (FLSA) Compliance: Workweek

For purposes of calculating overtime and complying with the FLSA, LWD's workweek is defined as 12:01 p.m. Friday through 12:00 p.m. on the following Friday.

The LWD workweek is distinct from the LWD payroll period and LWD payday.

#### D. Alternative Work Schedules

The General Manager retains authority to authorize alternative work schedules and to make changes to these schedules based on the needs of the LWD.

### 9.2 Meal and Rest Periods

All nonexempt employees will be provided a duty-free, unpaid meal period of a minimum of 30 minutes each day they work more than five hours, except that if the total work period per day is no more than six hours, the meal period may be waived by mutual consent of the District and the employee. Supervisors may schedule meal periods according to operational needs. However, employees must commence the meal period before completing the fifth hour of work. A second meal period of not less than 30 minutes is also required whenever an employee works more than ten hours in a workday. Employees must commence the second meal period before completing the tenth hour of work. Employees are free to leave the premises during meal periods.

All nonexempt employees are authorized, permitted, and strongly encouraged to take a ten-minute rest period for every four hours worked or major fraction thereof. Ordinarily, this amounts to two ten-minute rest periods per eight-hour workday. Supervisors may schedule rest periods according to operational

needs. However, the first rest period should be taken roughly in the middle of the four-hour work period prior to lunch, and the second rest period should be taken roughly in the middle of the four-hour work period following lunch, when practicable. Employees do not need to record the times of these rest periods and will be paid for the time spent on rest periods.

During meal periods and rest periods, employees may not work at all and are excused from all duties. In addition, employees may not join together required meal or rest periods in order to take a longer break. Also, employees may not miss a required meal or rest period in order to start work later or leave work earlier.

In the rare event that an employee cannot take a meal or rest period, or is unable to take a full meal or rest period pursuant to District policy, the employee must notify his/her supervisor as soon as possible.

### **9.3 Lactation Accomodation**

LWD supports the legal right and necessity of employees to have a private place in the workplace for lactation. LWD expects employees and management to have a positive and supportive attitude toward employees who need to express milk for an infant child during the work day.

#### **A. Time to Express Milk**

Employees are entitled to a reasonable amount of break time for lactation.. If possible, lactation breaks shall run concurrently with the employee's regular break times. This may not always be feasible because the timing and duration of lactation breaks will likely vary for each employee based upon their individual needs. When necessary, lactation breaks may extend beyond the normal break times or be taken at different times altogether. However, such additional break periods shall be unpaid, except where an employee elects to utilize accumulated Vacation or Sick Leave to cover the additional time. The frequency of periods needed for the purpose of lactation on a daily basis, as well as duration of each individual period, will likely vary for each employee.

#### **B. Lacatation Spaces**

The District will provide an appropriate, clean, private space for employees to express milk. The private space shall have the ability to be locked, be shielded from view, and free from intrusion from co-workers and/or the public. If the space is used for multiple purposes, the purpose of lactation will take precedence over other uses. The District will make reasonable efforts to find a location in close proximity to the employee's work area. The space must be equipped with an electrical outlet, sufficient surface space, comfortable seating and be in close proximity to a water supply and a refrigerator or other suitable cooling device. The location may be the place where the lactating employee normally works if there is adequate privacy and meets the other above requirements. Restrooms are prohibited from being utilized for lactation purposes.

#### **C. Discriminiation and Harassment Related to Lactation**

Federal and state laws expressly prohibit harassment of and/or discrimination against lactating employees because they request accommodations to express milk at work for their infant child and/or

any employees suffering from a medical condition related to lactating. It is also prohibited to retaliate against lactating employees who request a reasonable amount of break time at work for lactation and/or who lodge a complaint related to the right to lactation accommodations. Any incident of harassment, discrimination and/or retaliation against a lactating employee will be addressed in accordance with the District's Anti-Harassment/Discrimination Policy and in accordance with state law.

D. Procedures:

To request reasonable accommodations for lactation, affected employees shall advise their supervisor of their request either verbally or in writing, ideally prior to taking leave, or upon returning to work. Newly hired employees requiring lactation accommodations shall request accommodations upon or soon after hire.

Supervisors who receive a request for lactation accommodations will notify the Administrative Services Supervisor or their designee, who will work with the supervisor to make appropriate accommodations in accordance with this policy and in a timely manner.

The timing, duration and frequency of lactation breaks shall be based upon the employee's determination of what is necessary, subject to oversight by the employee's Supervisor who may impose reasonable limitations deemed necessary for proper management of the District. The employee shall be responsible for documenting any lactation break time that is in addition to the employee's normal break periods and shall notify their supervisor and/or Administrative Services Supervisor of their election to utilize available Vacation or Sick Leave to cover the additional break periods or have it treated as unpaid leave.

Employees have the right to file a complaint with the labor commissioner for any violation of rights provided under Chapter 3.8 of the California Labor Code regarding lactation accommodations.

#### **9.4 Emergency Assignments**

Nothing herein shall be construed to limit or restrict the authority of LWD to make temporary assignments to different or additional locations, shifts, or duties for the purpose of meeting the needs of the District during an emergency. For purposes of this provision, emergency shall mean an unanticipated circumstance that requires an immediate response. Such emergency assignments shall not extend beyond the period of the emergency.

#### **9.5 Overtime**

LWD has the right to require the performance of overtime work.

All nonexempt employees who are eligible for overtime shall receive overtime pay in accordance with applicable state and federal regulations. Overtime pay will be calculated at one and one-half times their base rate of pay in accordance with the Fair Labor Standards Act (FLSA) for all hours worked in excess of their regularly scheduled daily hours. Overtime hours shall be paid to the nearest quarter-hour of time worked. For purposes of calculating overtime, the District's workweek begins on Friday at 12:01 p.m. and ends on the following Friday at 12:00 p.m.

Paid leave such as sick leave, vacation and official LWD holidays shall be considered as time worked for purposes of computing overtime eligibility.

Overtime must be authorized by the employee's supervisor prior to being worked. All employees not specifically exempt from the provisions of the FLSA shall not begin work more than fifteen (15) minutes before their established schedule begins nor work longer than fifteen minutes after it ends, unless specifically authorized by the appropriate supervisor.

#### **9.6 Call Back**

Call back work is defined as work required by LWD of a nonexempt employee who, following completion of the employee's work shift or work week and departure from the employee's work site, is unexpectedly ordered to report back to duty to perform necessary work. Employees who are called back shall receive a minimum of 2 hours of pay as described in the Resolution of the Board of Directors Adopting Salary, Benefits, and Other Working Conditions or hours actually worked, whichever is greater.

Hours worked shall be calculated beginning at the time the call back is received by the employee and ending when the employee is relieved of duty.

If an employee, who was called back to work and completed the assignment, then left again, is again called back to work, he/she shall not receive additional call back minimum pay (2 hours) if the time of return is within the previous call back minimum period.

#### **9.7 Standby /On-Call Duty**

Standby/On-Call duty shall be defined as that circumstance that requires an employee assigned by LWD to:

- A. Be ready to respond immediately to a call for service;
- B. Be readily available at all hours by telephone or other agreed-upon communication equipment; and
- C. Not engage in activities that might impair the performance of assigned duties upon call. Use of alcohol, illegal drugs, and/or any substance that would affect duty performance is prohibited while on standby/on-call duty.

The supervisor may assign an employee or employees to standby/on-call duty. Employees assigned to standby duty shall receive standby pay in addition to their base rate of pay. Standby/on-call pay will be calculated on a daily basis and will be included in the base rate of pay for the purposes of calculating overtime compensation in accordance with the FLSA. The amount of the stand-by pay is documented in the current Resolution of the Board of Directors Adopting Salary, Benefits, and Other Working Conditions.

#### **9.8 Virtual Callouts**

Virtual call-outs are computer notifications that clear themselves within 30 minutes. These notifications require on-call personnel to monitor computer indicators from their on-call residence without returning to LWD. On-call staff, responding to virtual call-outs, will receive a minimum of 1 hour's compensation at the prescribed overtime rate of pay for each virtual call-out. Multiple callouts received within a 1 hour period are limited to 1 hour of compensation at the prescribed overtime rate of pay.

**9.9 Shift Differential Pay**

Employees assigned to a work shift other than the day shift shall receive a shift differential in addition to their base rate of pay. The amount of the differential is documented in the current Resolution of the Board of Directors Adopting Salary, Benefits, and Other Working Conditions. Shift differential pay shall be added to the base rate of pay for the purposes of calculating overtime compensation.

**9.10 Meal Allowance**

If a non-exempt employee is required to work more than two hours immediately preceding or following his/her normal work shift and conditions do not allow the employee to go home for a meal, LWD shall either provide a meal, or the employee may submit an approved receipt and be reimbursed for food and non-alcoholic beverages. Reimbursement for meal allowance expenses will be in accordance with the current Resolution of the Board of Directors Adopting Salary, Benefits, and Other Working Conditions.

If LWD provides a meal, employees may not leave the work site to eat unless specifically authorized by their supervisor.

**9.11 Uniforms, Safety Boots and Protective Equipment**

Uniforms will be furnished to each Field Services employee without cost and will be laundered at the District's expense. Employees are expected to wear the furnished uniforms during work hours.

Employees in the Field Services Department as well as certain other supervisors and administrative staff are eligible for an annual safety boot allowance. Any amount spent for the purchase of safety shoes/boots over the employee's annual allowance shall be the responsibility of the employee.

When, in the supervisor's opinion, special protective equipment is required to be worn, it will be provided at District expense. Upon termination, all issued uniforms and equipment must be returned to LWD.

The specific annual allowance for uniforms and safety boots will be as described in the Resolution of the Board of Directors Adopting Salary, Benefits and Other Working Conditions. For CalPERS classic employees, the uniform allowance will be considered compensation in accordance with California Public Employees' Retirement Law.

**9.12 Holidays**

The following days shall be recognized as official LWD holidays:

<u>Holiday</u>	<u>Day Observed</u>
New Year's Day	Jan 1
Martin Luther King Birthday	Third Monday in Jan
President's Day	Third Monday in Feb
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in Sep
Columbus Day	Second Monday in Oct
Veteran's Day	Nov 11
Thanksgiving Day	Fourth Thursday in Nov



Day after Thanksgiving  
Christmas Day  
One Floating Holiday

Day after Thanksgiving  
Dec 25  
See Below

If one of the holidays listed above falls on a Sunday, then it shall be observed on the Monday following the holiday. If one of the holidays listed above falls on a Saturday, then it shall be observed on the Friday preceding the holiday.

The Floating Holiday shall be equivalent to eight hours paid time off and may be used, with proper approval, on any scheduled workday and shall be paid at a base rate of pay. Floating holiday hours shall be provided to each full-time employee on July 1<sup>st</sup> of each year and not again until the following year. Floating holiday hours may be accrued as vacation from year to year if not used. If an employee is hired on or after July 2<sup>nd</sup>, he/she will not qualify for the Floating Holiday until July 1 of the following year.

LWD may designate alternate dates within the same pay period that shall be recognized as official LWD holidays for employees assigned to continuous shift duties. Alternate dates designated as official LWD holidays for continuous shift employees shall be, for compensation purposes, treated as any of the holidays listed above.

If a holiday does not fall within an employee's normal workweek, the employee shall be paid eight (8) hours of holiday time at his/her base rate of pay.

If a holiday falls on an employee's regular workday and the employee is given the day off or if the employee is on vacation, he/she shall be paid for his/her regular shift at his/her base rate of pay.

Employees required to work on any of the holidays listed above, except Christmas Day, July 4<sup>th</sup>, Labor Day, Memorial Day, Thanksgiving Day and New Year's Day, shall be compensated on the basis of time and one-half the FLSA regular rate of pay for all hours worked in addition to holiday pay for the holiday being celebrated.

Employees who work on Christmas Day, July 4<sup>th</sup>, Labor Day, Memorial Day, Thanksgiving Day or New Year's Day shall be compensated on the basis of two times the FLSA regular rate of pay for each hour worked in addition to holiday pay for the holiday being celebrated.

### **9.13 Educational Assistance**

LWD recognizes the need to maintain an optimum level of professional staff competency to meet evolving industry requirements and ensure a high level of service to its customers. This goal can be partially accomplished by District employees pursuing formal education opportunities in specific disciplines that benefit both the District and its employees.

LWD has developed an Educational Assistance Program to provide employees assistance to participate in such professional development. The Educational Assistance Program is intended to reimburse pre-approved out-of-pocket expenses for tuition, books, supplies and other incidental expenses specifically associated with an employee's course of study. The educational assistance annual allowance is as described in the Resolution of the Board of Directors adopting salary, benefits and other working conditions.

## **9.14 Natural Disaster**

All employees shall make every attempt to report to work during a natural disaster, unless there is an imminent threat to self or family.

Depending on the specific events/conditions of the natural disaster, the General Manager or his/her designee may authorize time off (release time) for natural disasters.

## **9.15 Mileage Reimbursement**

### **9.15.1 Mileage Reimbursement**

Employees may be eligible for mileage reimbursement if they use their own vehicles for LWD business after receiving permission from their supervisor. Employees who begin or end their workday at a location other than their normal work site will be reimbursed only for the mileage in excess of their normal commute miles.

Employees who use their own vehicles for LWD business shall be reimbursed at the prevailing IRS standard business mileage rate in effect at the time the mileage occurred.

### **9.15.2 Valid Driver's License and Vehicle Insurance**

All employees are required to maintain a valid California Driver's License (CDL) and remain insurable by LWD's insurance carrier. Employees must possess the valid CDL required by the California Department of Motor Vehicles to lawfully operate the class of vehicle(s) they operate in the course and scope of their employment. LWD is a member of the California Sanitation Risk Management Authority (CSRMA) and is covered under CSRMA's automobile liability program. Employees failing to meet the standards as set forth in the CSRMA policy and procedure guidelines shall be excluded from coverage under the CSRMA pooled auto liability coverage. Employees are subject to transfer, demotion, and disciplinary action up to and including termination when either: 1) their CDL becomes invalid or is suspended for any reason; or 2) that employee is no longer insurable under CSRMA pursuant to its Employee Driving Standards Policy and Procedure.

Employees required to possess a Class A or B driver's license as part of their job descriptions shall be required to maintain their license in a current status. LWD will provide at its expense an annual physical for the employee for the purpose of renewing a Class A or B license required by LWD. It is the employee's responsibility to forward the results of the physical to the DMV and ensure that the license is renewed prior to expiration.

Employees must report the following to LWD immediately upon their occurrence: loss or suspension of driver's license; all traffic violations; and all accidents concerning LWD vehicles in which the employee is involved regardless of the employee's fault or the severity or location of the accident. Failure to comply with the reporting requirements of this Section may result in disciplinary action up to and including termination. A copy of CSRMA's Employee Driving Standards Policy and Procedure is available on the CSRMA website or from LWD's Administrative Services Manager.

Employee's privately owned vehicles (POV) are covered for liability only under CSRMA's insurance policy. Therefore, employees are encouraged to use District vehicles for LWD business.

## **9.16 Medical Examinations**

### **9.16.1 Pre-employment Medical Examination**

Pre-employment inquiries are made only regarding an applicant's ability to perform the job related functions of the position being considered. After a conditional offer of employment has been made, medical examinations are required for positions in which there is a bona fide job-related physical requirement or when state or local regulations require such an examination. LWD's medical examinations and inquiries are: 1) designed to determine if an applicant will be able to perform essential functions of the job offered; 2) limited in scope to what is job-related and consistent with business necessity; and 3) are given to all persons entering the same position. The content and scope of the medical examination shall be determined by the requirements for safe and effective performance of the employee's prospective duties. The post-offer medical examination will include a drug screen for all LWD classifications. A physician selected by LWD, at its sole expense, shall provide the medical examination and drug screen. Any medical examination and drug screen required by the LWD will be in accordance with federal and state laws.

False or omitted information on medical questionnaires or during medical exams or inquiries may prevent employment or result in termination of employment, whether discovered before or after employment begins. Falsification and non-disclosure of material medical information and/or authority documentation is strictly prohibited.

### **9.16.2 Reemployment - Medical Examination**

Employees who are rehired following separation from LWD service may be required to complete the medical examination process, as defined above.

### **9.16.3 Medically Fit for Duty**

LWD may require a medical examination of an employee for any reasonable cause that is job related and in accordance with applicable state and federal laws. A physician selected by LWD, at its sole expense, shall provide the medical examination. The scope of the medical examination shall be determined by the requirements for safe and effective performance of the employee's prospective duties.

### **9.16.4 Confidentiality**

The results of all medical examinations will be confidential and will be maintained separately from the employee's personnel file.

### **9.16.5 Reasonable Accommodation**

Reasonable accommodations will be extended to disabled employees in accordance with Section 3.2.

### **9.16.6 Disqualification**

LWD can lawfully disqualify applicants who are unable to perform the essential functions of the job with reasonable accommodation, and can also disqualify applicants who would cause a real threat to the health and safety of themselves or others (and no reasonable accommodation exists that would

eliminate or sufficiently reduce this risk). Rejected applicants will be made aware of the basis for any disqualification decision. In addition, before a final determination is made, the applicant will be allowed to submit independent medical opinions for consideration, at his/her own expense.

#### 9.16.7 Independent Medical Exam

If, as the result of an LWD medical exam, a current employee is determined to be unable to perform the essential functions of his/her job with reasonable accommodation, and no vacant position exists for which the employee is qualified, the employee may submit an independent medical opinion for consideration prior to final disqualification. Any cost incurred as a result of an independent medical opinion will be paid by the employee.

### **9.17 Payment of Wages and Compensation**

#### 9.17.1 Regular Paydays

Employees are paid biweekly, every other Wednesday. If a payday falls on a holiday, paychecks will be available on the preceding non-holiday workday. If an employee is absent when paychecks are distributed, the employee may claim the paycheck from the Administration Department upon return.

Regular paydays are distinct from LWD's workweek. For additional information refer to Section 9.1, Normal Hours of Work.

#### 9.17.2 Resignation

For an employee to resign from LWD service in good standing, the employee must provide 2 weeks' notice before leaving employment. Failure of the employee to comply with this provision may be cause for denying future employment with LWD.

#### 9.17.3 Final Paycheck

Employees shall receive their final paycheck on their last day of work or as otherwise agreed upon if they have been involuntarily discharged from LWD service or they are separating voluntarily and have provided at least 72 hours' notice. Employees voluntarily separating from LWD service without 72 hours' notice will receive their final paycheck within 72 hours of separation. Employees shall return LWD property, such as keys, tools and equipment prior to the final paycheck being released.

### **9.18 Personnel Files**

LWD will maintain an employment history for each regular employee in LWD service. Information contained in the personnel file is the permanent property of LWD and shall be maintained in a confidential manner.

The personnel file of an employee will be available for reasonable inspection by the employee, or his/her authorized representative, during business hours by appointment. The employee will have access to all contents of his/her file.

Certain employee records contain information that is confidential and/or sensitive and shall be handled with discretion. Such records, as enumerated below, shall be kept in a separate confidential file:

- Medical records
- EEO records
- I-9 (immigration) forms
- Background/reference checks
- Benefits records
- Discrimination complaints to local, state or federal agency (whistle blowing, etc.)
- Investigation of possible criminal offenses and security files
- Notices of garnishment
- Workers' Compensation claims

All other documents pertaining to LWD employment, such as work history, performance evaluations, and compensation information, will be maintained in a basic personnel file.

Each employee has the responsibility to keep personal data up-to-date and must notify LWD of a change in current address, telephone number and person(s) to notify in case of emergency.

#### **9.19 Performance Evaluations**

All employees serving a probationary period shall have their performance evaluated, in writing, prior to the conclusion of their probationary period. Thereafter, all LWD employees at a minimum shall have their performance evaluated by their immediate supervisor every twelve (12) months on a cycle determined by their evaluation date. The Department Manager and General Manager shall review all performance evaluations.

A supplemental evaluation may be conducted at any time as determined by the Department Manager. The General Manager shall review supplemental evaluations.

Neither the content of performance evaluations nor the performance evaluation process shall be subject to Section 13, Complaint Resolution Procedure.

#### **9.20 Personal Telephone Use**

Employees are encouraged to keep all personal phone calls to a minimum. Personal calls should be made during break periods or lunch whenever possible. Fees for personal long distance or toll calls may be charged to the employee at the District's discretion. This policy also applies to cellular telephones. By California law, employees who use cellular phones while driving an LWD vehicle must use a hands-free system.

#### **9.21 Mail**

To the maximum extent possible, personal mail (including UPS, FED EX, etc.) should not be delivered to LWD or LWD-operated facilities. All business-related mail shall be opened and date stamped, unless it is marked confidential, in which case it shall be delivered to the employee unopened. Mail including a reference to LWD in the address that is opened but clearly personal will be forwarded to the employee.

## **9.22 Dress and Grooming Standards**

Employees, when at work, are expected to utilize good judgment in determining their dress and appearance. Clothing and appearance should be neat, clean, in good business taste, and not constitute a safety hazard. Attire with bare backs or midriffs, or any other revealing or extreme attire is not appropriate. If an employee arrives wearing inappropriate attire, he/she will be asked to return home to change into appropriate attire and report back to work. Repeat offenses of inappropriate attire may result in disciplinary action.

Certain positions within LWD require that a uniform be worn. The uniform identifies the individual as an LWD employee and provides certain sanitary protection. Uniforms should always be neat and clean. Uniforms furnished by LWD are to be worn during regular working hours only and are not to be worn to and from work unless specifically authorized.

## Section 10 – Leave of Absence

### 10.1 Authorized Administrative Leave

The General Manager may place any LWD employee on paid or unpaid Administrative Leave as a result of a safety violation and/or pre-disciplinary investigation.

### 10.2 Vacation Leave

#### A. Vacation Leave Entitlement

Full-time employees earn paid vacation on the following basis:

<u>Full Years of LWD Service</u>	<u>Hours of Vacation Earned Per Pay Period</u>
1 through 3	3.08
4 through 10	4.62
11+	6.16

#### B. Vacation Accrual

Vacation may be accrued up to a maximum of 300 hours. However, the General Manager, at his discretion, may authorize vacation accruals in excess of 300 hours if circumstances warrant such an extension. Once the employee's vacation time reaches the maximum, further accrual of vacation time is suspended until the employee has reduced their vacation time balance below this limit. If the employee later uses enough vacation time to fall below the maximum, the employee will resume earning paid vacation time from that date forward. In such a case, no vacation time will be earned for the period in which the employee's vacation time was at the maximum.

#### C. Vacation Pay

Vacation shall be paid at the base hourly rate of pay of the employee at the time the employee is on vacation leave.

Employees who terminate their employment for any reason will be paid for any accrued, unused vacation time in accordance with this policy. Vacation time is paid at the employee's final base hourly rate of pay at the time of the employee's separation.

#### D. Vacation Usage

Vacation is intended to be used for personal time off. It is not to be used in lieu of sick leave. Accrued vacation hours may also be used in conjunction with sick leave after all sick leave has been used.

### 10.3 Sick Leave

#### A. Sick Leave Entitlement

Full-time employees shall accrue eight hours of paid sick leave for each full month of employment.

All other employees (part-time and/or temporary) who work more than 30 days within a year from commencement of employment, on or after July 1, 2015, shall accrue sick leave at the rate of one hour per every 30 hours worked beginning at the commencement of employment.

B. Sick Leave Accrual

Full-time employees may accrue a maximum of 272 hours of sick leave. Part-time and/or temporary employees may accrue a maximum of 48 hours or six days of sick leave.

Once the employee's sick leave reaches the maximum, further accrual of sick leave is suspended until the employee has reduced their sick leave balance below this limit. If the employee later uses enough sick leave to fall below the maximum, the employee will resume earning sick leave from that date forward. In such a case, no sick leave will be earned for the period in which the employee's sick leave was at the maximum. Sick leave does not accrue during unpaid leaves of absence.

C. Sick Leave Rate of Pay

Sick leave for full-time employees shall be paid at the employee's regular base rate of pay at the time the employee is on sick leave.

Sick leave for part-time and temporary employees shall be compensated at the employee's normal rate during regular hours of work. If the employee, in the 90 days of employment before taking accrued sick leave, had different hourly pay rates or was a nonexempt salaried employee, then the rate of pay shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

D. Sick Leave Use

Sick leave for all LWD employees must be used only for absences due to illness or injury of the employee or immediate family member. For the purposes of this Section "Immediate family" shall be defined as: spouse, domestic partner, parent, grandparent, foster-parent, stepparent, father-in-law, mother-in-law, child, stepchild, grandchild, brother, sister, brother-in-law, or sister-in-law. Employees who are going to be absent from work due to illness or injury must notify their supervisor of their intended absence as soon as possible, but no later than one-half hour before the start of their workday.

Sick leave for full-time employees may be used as sick time is accrued.

Sick leave for part-time and/or temporary employees may be used beginning on the 90<sup>th</sup> day of employment, after which it may be used as it is accrued.

E. Sick Leave Certification

LWD may request medical certification from the employee upon return from sick leave. Medical certification must be from a licensed health care provider and state the reason the employee needed to miss work (i.e., due to an illness, injury or for treatment) and state that the employee is fit to return to duty with or without restrictions. The employee may authorize his/her health care provider to provide such medical certification directly to LWD. Such certification generally will not be requested



unless the employee has been absent from work for more than three consecutive days or LWD has reason to suspect, either because of a questionable pattern of sick leave or otherwise, that the employee has been abusing sick leave. Any such certification will be kept in the strictest confidence. Sick leave that also constitutes a Pregnancy Disability Leave under Section 10.11 or FMLA Leave under Section 10.12 of the HRPM shall be subject to the mandatory health care provider certification requirements set forth in those policies.

F. Sick Leave Abuse

Sick leave is a privilege and any abuse of sick leave by an employee is considered a violation of the HRPM. Abuse of sick leave privileges or the failure to comply with any of the requirements of this provision may result in disciplinary action up to and including termination. Employees shall not take sick leave in conjunction with any overtime worked in order to qualify for the overtime rate of pay.

G. Annual Sick Leave Payoff

Annually, during November, full-time employees who have accumulated more than 176 hours of sick leave shall be paid for any sick leave accumulated in excess of 176 hours at 75% of the employee's base rate of pay at the time of the sick leave payoff.

Part-time and/or temporary employees are not eligible for this annual sick leave payoff provision.

H. Sick Leave Pay Upon Termination

Full-time employees whose employment with LWD terminates shall be paid for all accumulated sick leave hours at the rate of 75% of the employee's final rate of pay at the time of the employee's separation. Refer to Section 9.16 concerning termination of employment.

Part-time and/or temporary employees will not be compensated for unused sick days upon termination of employment. However, LWD must reinstate the previously unused balance if they rehire the employee within one year. In that instance, the rehired employee shall be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring.

I. Personal Hardship

Employees who have exhausted all accrued leave (sick, administrative, vacation) may request sick leave donations. The Sick Leave Sharing Policy applies to employees suffering from a catastrophic illness or experiencing hardship due to a personal disaster.

**10.4 Sick Leave Sharing**

A. Eligibility

Employees who are experiencing financial hardship due to the employee's or a family member's catastrophic illness or injury and who have exhausted all accrued leave (including sick leave, administrative leave, and vacation leave) are eligible to request and receive donations of accrued sick leave from other employees.

B. Requests for Donations

A written request for donations of sick leave shall be submitted to the eligible employee's department Manager, then to the Administrative Services Supervisor. Any employee may submit a sick leave donation request on behalf of an eligible employee. The Administrative Services Supervisor shall verify the employee's eligibility. The Administrative Services Supervisor shall state his/her determination of eligibility in writing and shall state all the evidence relied upon to determine the employee's eligibility. The General Manager will review the request and the written determination of eligibility and will determine whether to grant the request. The Administrative Services Supervisor shall notify the requesting employee in writing of the General Manager's determination.

C. Donations of Sick Leave

Employees who have more than 40 hours of accrued sick leave and who wish to donate sick leave to an eligible employee shall complete a Sick Leave Donation Form indicating the number of sick leave hours to be donated and the employee who shall receive the donation. All such donations are voluntary.

Donating employees must maintain a minimum of 40 hours of accrued sick leave after reducing their accrued leave balance to effect the donation. In any 12-month period, no employee may donate more than 40 hours to any one eligible employee or more than a total of 100 hours to multiple employees. Voluntary donations of accrued sick leave are final upon submission of a signed Sick Leave Donation Form that satisfies the conditions established by this Policy. The donating employee's accrued sick leave balance account shall thereupon be reduced by the hours donated.

Donated hours not used by the receiving employee during the hardship period shall remain in the eligible employee's accrued sick leave account balance. The names of donating employees, hours donated, and the value of such donations shall be kept confidential.

D. Valuation of Donated Accrued Sick Leave

The value of the donated sick leave shall be determined by multiplying the number of hours donated by the donating employee's current hourly rate to determine the value of the donation in dollars ("Donation Value"). The Donation Value shall then be divided by the eligible employee's current hourly rate to determine the number of sick hours to be added to the eligible employee's sick leave balance account. The Administrative Services Supervisor shall periodically notify the eligible employee of donations made pursuant to this policy. The eligible employee may then request to receive payment for these hours as part of any subsequent regularly scheduled payroll. No employee shall receive a payroll check for more than 80 hours of sick leave, whether accrued or donated, during any regular bi-weekly pay period unless required by state or federal law.

**10.5 Time Off to Vote**

Employees may, without loss of pay, take up to two hours of time off to vote in government elections (federal, state, county). Time off for voting shall be only at the beginning or the end of the regular work shift, whichever allows the most free time to vote and the least amount of time off from work, as approved by the employee's supervisor.

## **10.6 Bereavement Leave**

This leave of absence is available for the purpose of bereavement, and for the arranging of and attendance at, the funeral or memorial service of an immediate family member. For the purposes of this Section "Immediate family" shall be defined as: a current spouse, domestic partner, parent, grandparent, foster-parent, stepparent, father-in-law, mother-in-law, child, stepchild, foster child, grandchild, brother, sister, brother-in-law, or sister-in-law.

The Department Manager or supervisor must verbally approve a request for bereavement leave time off in advance. When the employee returns to work following bereavement leave, the request must be documented in writing to the Department Manager. The employee may be required to submit proof of a relative's death before final approval of leave with pay is granted.

Employees may be authorized up to three workdays' absence with pay if one-way travel is 500 miles or less. If travel is more than 500 miles one-way, or the destination is difficult to reach (i.e., due to weather conditions, remoteness etc.), up to five workdays' absence with pay may be authorized. The amount of time allotted is at the sole discretion of LWD.

Bereavement leave shall only be paid for regularly scheduled workdays. Employees will be paid for hours they would normally work at their current base hourly rate of pay. With the consent of the Department Manager, accrued sick, accrued vacation, administrative leave or floating holiday leave may be used to augment and extend the authorized bereavement leave.

Bereavement leave shall not be included when calculating overtime compensation.

## **10.7 Jury Duty**

An employee shall be granted leave with pay for actual time spent on mandatory jury duty. Pay for the jury duty service shall not exceed the employee's regularly scheduled number of work hours.

The employee shall deposit any fees paid by the court, exclusive of mileage, with LWD. A copy of the time card from the court must also be provided to LWD. The employee shall report for work during the employee's regularly scheduled work shift any time that the employee is relieved from jury duty. If an employee is required to spend six (6) or more hours at jury duty during any single day, he/she is excused from the remainder of his/her normal LWD workday shift.

No compensation will be paid by LWD for jury duty served on an employee's regularly scheduled day off.

The employee shall submit, upon receipt, the summons for jury duty to his or her supervisor, who shall forward a copy to the Administrative Services Supervisor. The employee shall receive a confirmation letter, including a summary of instructions, from the Administration Department prior to the first day of jury duty.

## **10.8 Witness Duty**

An employee who is required by law to appear in court or at another legal proceeding as a witness shall be provided time off for that purpose.

If the employee's presence as a witness is compelled by a properly issued subpoena and provides LWD with at least seven days' notice of the date and time of the required appearance, the employee shall receive such time off without loss of compensation to comply with such subpoena. If the employee fails to provide the required notice without good cause, leave shall be granted for the appearance, but without pay. Also, if the employee is a party to the proceeding or an expert witness receiving pay for services rendered, then the employee must take unpaid leave or vacation leave to appear as a witness. To receive paid time as provided above, the employee must provide to LWD a copy of the subpoena and any witness fees actually received, except mileage.

An employee who serves as a witness within the course and scope of his/her employment, on a day that is a regularly scheduled day off, shall be paid at the employee's regular base rate of pay or at time and one-half, if the employee otherwise qualifies for overtime compensation, for all hours the employee actually is required to be in court.

No compensation shall be paid by LWD for witness service on an employee's regularly scheduled day off if that service is not related to LWD business or the employee's LWD job duties.

### **10.9 Military Leave**

Military leaves of absence will be granted for a period of up to five years consistent with state and federal law. In order to be eligible, employees must submit written verification from the appropriate military authority. Recognized military service shall mean active military service or military reserve duty by a person in the armed services, to include the National Guard, during a state of national security emergency, a militia emergency, or to combat terrorism.

The employee shall submit, upon receipt, the active duty orders to his/her supervisor, who shall forward a copy to the Administrative Services Supervisor. The employee shall receive a leave confirmation letter from the Administration Department prior to the first day of military leave.

An employee who has successfully completed a 12-month probationary period at LWD and who is called to active military duty or military reserve duty shall be eligible for leave with partial pay for 30 calendar days each fiscal year. LWD will provide temporary partial pay equal to the difference between the amount of the employee's base pay, excluding overtime, and the employee's military pay. After 30 calendar days, the employee will be placed on an unpaid military leave of absence. Health insurance and leave accrual benefits will continue for the employee and family, with the employee continuing to pay his/her respective portion (if any) of the benefit programs during his/her military leave of absence. For purposes of determining whether an employee has served one year with LWD, all of an employee's service in the recognized military service shall be counted as service with LWD.

LWD will reinstate employees returning from military leave to their same position or one of comparable seniority, status and pay if they meet the following three conditions:

- Have a certificate of satisfactory completion of service;
- Apply within 90 days after release from active duty or within such extended period, if any, as their rights are protected by law; and
- Are qualified or able to become re-qualified with reasonable efforts to fill their former position.

Exceptions to this policy shall be made whenever necessary to comply with applicable federal and state laws and policies.

#### **10.10 Personal Leave of Absence**

All full-time and part-time employees are eligible to request a personal leave of absence. A personal leave of absence may be granted, in LWD's sole discretion, for a reasonable period of time, which shall generally not exceed 12 weeks. Personal leaves are entirely discretionary, and shall only be given where it is determined that granting the leave will not unduly interfere with LWD's operations.

Any accrued vacation or administrative leave may be used during the personal leave of absence. However, the use of such vacation or administrative leave will not extend the length of the personal leave (i.e., time covered by vacation or administrative leave will be counted as part of the personal leave).

The General Manager shall, in his or her sole discretion, decide whether or not to grant a personal leave of absence in any given case. The General Manager's decision shall be final. The personal leave of absence shall be without pay (unless accrued vacation or administrative leave is used for part of the leave). No benefits shall accrue during unpaid leave. Available sick and vacation balances shall be calculated as of the preceding pay period. Sick and vacation leave accruals will stop immediately upon entering personal leave without pay status. If personal leave without pay is less than one full month for the employee, to the extent permitted by LWD's insurance carrier, the employee may maintain health, dental, vision, life and disability benefits during the remainder of the personal leave of absence by paying the premiums to LWD for such coverage prior to commencement of the leave. For leaves of longer than one month, premiums shall be paid no later than the 15th of the month prior to the month being covered. If premiums have not been received by the deadline, coverage shall be terminated for all unpaid months and continuation or reinstatement of coverage must be made in accordance with Consolidated Omnibus Budget Reconciliation Act (COBRA) guidelines. If an employee wishes to continue coverage, the employee must pay all employer-paid and employee-paid premiums for the duration of the personal leave of absence.

Any employee desiring a personal leave of absence must submit a written request using LWD's Absence Report Form along with any supporting documentation that would improve the chances that the request would be granted. The request should be submitted to the employee's Department Manager before being forwarded to the General Manager for approval or disapproval.

An employee who is granted a personal leave of absence for more than ten days must file an official mailing address, phone number, and email address, if available with the Administrative Services Supervisor for the purpose of contacting him/her during the approved leave of absence. If the General Manager determines, in his/her sole discretion, to fill the position formerly held by the employee on the approved leave of absence, LWD shall give at least ten (10) days written notice to the employee at the previously filed mailing address that the employee must return from the leave of absence. Failure by the employee to return to work on the date designated in LWD's written notice shall authorize LWD to fill the position on a permanent basis. LWD encourages employees and their supervisors to maintain email/phone communications during a leave of absence.

## 10.11 Pregnancy Disability Leave (PDL)

### A. General Information

LWD provides PDL to eligible employees who are temporarily disabled and unable to work due to pregnancy, childbirth or related medical conditions. LWD will also make a good faith effort to provide reasonable accommodations and/or transfer requests when such a request is medically advisable based on the certification of a healthcare provider. When an employee's healthcare provider finds it is medically advisable for an employee to take intermittent leave or leave on a reduced work schedule and such leave is foreseeable based on planned medical treatment because of pregnancy, LWD may require the employee to transfer temporarily to an available alternative position.

PDL may only be taken so long as the eligible employee is actually disabled, up to a maximum of four months (17-1/3 weeks or 693 hours) leave per pregnancy. If an employee wishes to stay home to care for her newborn after her disability has ended, she must apply for a FMLA/California Family rights Act (CFRA) leave as soon as possible (may apply before the birth of her child). For more information, please refer to Section 10.12.

Any portion of the leave that occurs after all sick leave has been exhausted shall be without pay unless the employee has available and chooses to use accrued vacation or administrative leave. However, the use of such vacation, sick leave or administrative leave will not adjust the start date of the leave (i.e., time covered by vacation, sick leave or administrative leave will still count as part of the PDL).

### B. Procedures

Whenever possible a PDL must be requested at least 30 calendar days prior to the requested start date. The employee should submit a written request using the Absence Report Form used by LWD. The request must also include medical certification from the employee's physician that verifies the disability and the anticipated duration of the disability. The certification indicating disability should contain:

- The date on which the employee became disabled due to pregnancy;
- The probable duration of the period or periods of disability, and
- A statement that, due to the disability, the employee is unable to perform one or more of the essential function of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons.

Any changes in this information should be promptly reported. The request should be submitted to the Administrative Services Supervisor via the employee's supervisor. The Administrative Services Supervisor shall forward the request to the General Manager for approval/disapproval. If an employee must unexpectedly take PDL, she should notify her supervisor as soon as possible.

C. Benefits

1. Health Benefits

During a Pregnancy Disability Leave taken under this policy, group health plan benefits (i.e., medical, dental and vision) are continued on the same basis as coverage would have been provided had the employee been continuously actively employed, for up to four months.

The employee is required to pay the share of any premium cost that she would have paid if continuously actively employed. If the Pregnancy Disability Leave is paid leave (i.e., the employee is taking accrued sick leave, vacation or administrative leave), the premium costs will be deducted from the sick leave, vacation or administrative leave benefits paid, on the same basis as the cost was deducted from the employee's pay before commencement of the leave. If the Pregnancy Disability Leave is unpaid, the employee will be required to pay the share of any premium cost for insurance to ensure continuous coverage. Premiums must be paid no later than the 15th of the month prior to the month being covered. If premiums have not been received by the deadline, coverage shall be terminated for all unpaid months and continuation or reinstatement of coverage must be made in accordance with COBRA guidelines.

2. Non-Health Benefits

During unpaid Pregnancy Disability Leave, the LWD will maintain life and disability insurance for full-time employees for the following periods depending on the employee's length of employment:

- Less than– two years full-time employment: 1 month
- Two to five years full-time employment: 2 months
- Five or more years full-time employment: 3 months

Sick leave may be used to pay the difference between the short-term disability payments and the employee's regular biweekly pay until the sick leave benefits have been exhausted, so long as provisions of the short-term disability program are not violated.

D. Integration with the California Family Rights Act (CFRA) Leave Benefits.

Continuation of benefits under PDL is in addition to those required by CFRA. The employee can potentially receive 29 1/3 weeks of coverage (17-1/3 under PDL and 12 under CFRA).

E. Return from Leave

As a condition of reinstating an employee after a Pregnancy Disability Leave, the employee must obtain and present a medical certification indicating that the employee is able to resume work. The employee must report to her Department Manager.

If the employee fails to return from PDL/CFRA leave on the first work day following the expiration of the approved PDL or any approved extension, the employee shall be considered as having voluntarily resigned without notice.

If the employee wishes to return to work prior to the established expiration date of the Pregnancy Disability Leave, the employee must contact her Department Manager and provide verification from her healthcare provider that she is eligible to return to work.

If the employee is unable to return to work when the Pregnancy Disability Leave expires, the employee may request an extension of the leave from her Department Manager in accordance with this policy.

Extensions of PDL may be granted, provided the employee has not used the total maximum leave entitlement provided for in this policy. A request to extend a PDL is subject to the same criteria as the initial request for leave.

#### F. Reinstatement

LWD shall reinstate an employee returning from a Pregnancy Disability Leave in accordance with the approved terms of the leave to the same position, unless the position has ceased to exist because of legitimate reasons unrelated to the employee's Pregnancy Disability Leave. An employee has no greater right to reinstatement to the same position or to other benefits and conditions of employment than if she had been continuously employed in this position during the pregnancy disability leave or transfer.

If the employee's position does not remain available, the employee will be returned to a "comparable position," if a comparable position exists. However, if no comparable position exists, the employee may be terminated.

A "comparable position" means a position which has equivalent pay, benefits and working conditions, with substantially similar duties and responsibilities, and, ordinarily, with the same shift or work schedule and geographic location, as the position occupied by the employee before her Pregnancy Disability Leave.

"Equivalent pay" includes any unconditional pay increases which occurred during the Pregnancy Disability Leave period, such as a general adjustment, and includes any pay increases conditioned upon total career hours or length of service that may be due taking into consideration any portion of the Pregnancy Disability Leave period that is paid leave (i.e., when the employee is using accrued vacation, sick or administrative leave), but not any portion that is unpaid leave. "Equivalent pay" also includes the same or equivalent pay premiums and the equivalent number of scheduled hours of work.

"Equivalent benefits" includes all benefits provided or made available to employees by the LWD, including but not limited to group life insurance and health insurance. Employees are not required to meet any qualifications, such as taking a physical examination, in order to re-qualify if such coverage lapsed during the Pregnancy Disability Leave. "Equivalent benefits" also includes all of the employee's accrued vacation and sick leave benefits to the extent not used during the employee's Family and Medical leave.

An employee on Pregnancy Disability Leave retains the length of service that exists when the leave commences, and is credited with additional seniority service during the leave except that probation periods may be extended by the same time increment as the duration of the leave. An employee does not accrue any additional benefits including leave balances during an unpaid Pregnancy Disability Leave (i.e., when the employee is not using accrued vacation, sick or administrative leave).



## 10.12 Leaves Under the Family and Medical Leave of Act and California Family Rights Act

### A. Policy

LWD grants leave under Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA) to eligible employees consistent with the Federal and State law.

### B. Definitions

1. For the purpose of this Section, "employee" is any full-time, part-time, or temporary employee with 12 months of service with LWD, which need not be consecutive, who has worked for at least 1250 hours in the 12 month period immediately preceding the commencement of leave.
2. "Family/Medical Leave of Absence" or "FMLA/CFRA leave" is defined as leave for any one or more of the following:
  - a. Birth of the employee's child (so long as the leave commences within one year of birth) (referred to in this policy as "Birth/Adoption Leave");
  - b. Placement of a child with the employee for adoption or foster care, so long as the leave commences within one year of placement (referred to in this policy as "Birth/Adoption Leave");
  - c. The employee's need to care for an immediate family member with a serious health condition (referred to in this policy as "Family Member Medical Leave");
  - d. The employee's own serious health condition (referred to in this policy as "Employee Medical Leave");
  - e. The employee, as the "spouse, son, daughter, parent, or next of kin" of a military member may take up to 26 workweeks of leave to care for a "member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness."
  - f. The National Defense Authorization Act (NDAA) also permits an employee to take FMLA leave for "any qualifying exigency (as the Secretary [of Labor] shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation." A qualifying exigency includes: 1) short-notice deployment; 2) military events and related activities; 3) childcare/school activities; 4) financial/legal arrangements; 5) counseling; 6) rest/recuperation; and 7) post-deployment activities.
3. "Immediate family member", for the purposes of this Section, is defined as the parent, spouse, or child (son or daughter), domestic partner or child of a domestic partner.
4. "Parent" is defined as the biological, foster or adoptive parent; a stepparent; a legal guardian; or other person who stood in place of a parent to the employee when the employee was a child.
5. "Spouse" is defined as the employee's current husband or wife under California law.

6. "Child" is defined as the biological, adopted or foster child; a stepchild; a legal ward; or a child of a person standing in place of a parent, who is either:
  - under the age of 18 years, or
  - an adult dependent child.
7. "Domestic Partner" is defined as a current registered domestic partner under California Law
8. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
  - a. In-patient care in a hospital, hospice, residential medical care facility or any subsequent treatment in connection with the inpatient care; or
  - b. Any period of incapacity requiring absence from work, school, or other regular daily activities for more than three calendar days, and continuing treatment by, or under the supervision of, a health care provider; or
  - c. Continuing treatment by, or under the supervision of, a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or
  - d. Any period of incapacity due to pregnancy, prenatal care or chronic health condition.
9. "Medically necessary" means there is a medical need for leave as certified by the health care provider of the employee or family member, as distinguished from voluntary or cosmetic treatments and procedures.
10. "Health care provider" means any person listed in Section 10.12(H) of this policy.

### C. Duration

1. Basic Time Periods
  - a. Generally, an eligible employee will be granted up to 12 weeks of leave during any 12 month period on a rolling year formula that is measured backward from the date of any FMLA/CFRA leave usage. The remaining entitlement would be any balance of the 12 weeks that was not used during the preceding 12-month period, for the following types of leave or any combination of the following types of leave:
    - Birth/Adoption/Baby Bonding Leave;
    - Family Member Medical Leave;
    - Employee Medical Leave. (For a female employee disabled because of pregnancy, childbirth or related medical conditions, refer to Section 10.11.)
  - b. Spouses or registered domestic partners who are both employees of LWD are permitted to take only a combined total of 26 workweeks in a single 12-month period if the leave is to care for a covered service member or veteran with a serious injury or illness, and to a combined total of 12 weeks in a 12-month period if the leave is taken for the birth and care of a newborn

child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition. (If the spouses/partners each take leave of less than 12 weeks for these purposes, they each remain eligible for other types of leave in an amount which when added to the leave so taken, totals 12 weeks).

- c. The employee may not carry forward any unused leave from one 12-month period to the next 12-month period.

#### Minimum Duration of Leave

- a. Birth/Adoption Leave

Must be at least two weeks in duration, except that on two occasions during the applicable 12-month period LWD will authorize such leaves for a duration of less than two weeks.

- b. Employee or Family Medical Leave

As short as medically necessary. These leaves may be taken "intermittently" (in separate blocks of time) or on a "reduced schedule leave" (reducing the usual number of hours the employee works each workday) when "medically necessary." Intermittent leave can also be taken for any qualifying exigency.

An employee needing intermittent Employee Medical/Family Member Medical Leave or leave on a reduced schedule must attempt to schedule the leave so as not to disrupt LWD operations.

LWD may temporarily assign an employee to an alternative position with equivalent pay and benefits that better accommodates a reduced or intermittent leave schedule.

#### D. Procedure

- 1. Request for Leave of Absence

The employee submits a fully completed Absence Report Form to his/her Department Manager. In addition, LWD may place an employee on FMLA/CFRA leave if the medical condition as determined by a doctor meets the FMLA/CFRA requirements.

In consultation with the Administrative Services Supervisor, the Department Manager shall determine if the employee is eligible and submit the request to the General Manager for approval/disapproval. The Administrative Services Supervisor shall give the employee a copy of the "Notice to Employee Requesting Family/Medical Leave" letter which will contain LWD's decision and indicate that approval is conditioned upon the receipt of a certification from a health care provider.

- 2. Notice by Employees

At least 30 days advance written notice should be given if:

- the need is foreseeable and
- the request is for

- a Birth/Adoption Leave or
- planned medical treatment for a serious health condition leave (Employee or Family Member Medical Leave).

If the employee gives less than 30 days' notice for a clearly foreseeable leave without reasonable excuse, the General Manager may delay the commencement of the leave until medical certification of the need for family medical leave is provided.

If 30 days' notice is not practical because of a lack of advance knowledge of approximately when the leave shall begin, a change in circumstances, or a medical emergency, the employee should give written notice to the Department Manager as soon as practical. It is expected that employees will give notice to the Department Manager within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances.

In the case of a medical emergency, advance written notice is not necessary for Employee Medical Leave or Family Member Medical Leave. The employee, or his/her representative, should give verbal notice as soon as practical.

When FMLA/CFRA leave is requested on an intermittent or reduced leave schedule basis, the employee must consult with the Department Manager to work out a schedule that does not unduly disrupt the operations of the LWD, subject to approval of the health care provider of the employee or immediate family member.

LWD shall respond to the request for leave as soon as possible and in any event no later than ten days after receiving the request. Where notice can only be given less than ten days prior to the date upon which the leave is to begin, LWD will attempt to respond to the leave request before the date the leave is to begin.

### 3. Medical Certification

Requests for Family Member or Employee Medical Leave must be supported by a certification issued by the health care provider of the employee or the employee's ill immediate family member. Written notice of this requirement is set forth in the Notice to Employee Requesting Family/Medical Leave.

The employee is responsible for obtaining the medical certification on the Certification of Health Care Provider Form. This completed form must be returned to LWD within 15 calendar days after the employee receives the Notice to Employee Requesting Family/Medical Leave, unless it is not practicable to do so despite diligent, good faith efforts.

If the request is for intermittent or reduced schedule leave, the certification must provide information that such leave is medically necessary or needed to care for the immediate family member.

The Department Manager will review the certification and forward it to the Administrative Services Supervisor. The Administrative Services Supervisor will forward the request to the General Manager.

In the case of a FMLA/CFRA leave, if the General Manager, in consultation with the Administrative Services Manager, Administrative Services Supervisor and Department Manager, has reason to doubt the validity of a medical certification, the General Manager may obtain a second opinion at LWD's expense. The General Manager shall designate a health care provider who is not employed, regularly contracted with, or otherwise regularly utilized by LWD, to furnish the second opinion. If LWD's designated health care provider's opinion differs from that of the employee's health care provider, the General Manager, in consultation with the Administrative Services Manager, Administrative Services Supervisor, and Department Manager, may require a third opinion from another health care provider, at LWD's expense. The General Manager and the employee must designate or approve jointly the third health care provider. The third opinion shall be final and binding.

If the employee's health care provider is a Christian Science practitioner, the General Manager may request that the employee submit to examination (although not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner. If an employee objects to the above request, the General Manager may deny continuation of leave.

For Employee Medical Leaves, LWD may require medical re-certification at reasonable intervals (not more often than every 30 days) when the employee requests an extension of leave, when circumstances described in the original certification have changed significantly, or when LWD receives information that casts doubt upon the continuing validity of the certification.

For Family Member Medical Leaves, LWD may require the employee to obtain re-certification when additional leave is requested upon expiration of the leave, if the time period extends beyond that during which the health care provider originally estimated that the employee would be needed to take care of the child, parent, or spouse.

## E. Benefits

### A. Sick Leave and Vacation Benefits

An employee who is granted an Employee or Family Member Medical Leave may utilize all accrued sick leave during the initial period of the leave or the employee (Employee Medical Leave only) has the option to use short-term disability insurance in conjunction with their accrued sick leave, as long as payments do not exceed the employee's regular salary or wage. Thereafter, vacation, and any other accrued administrative leave may be used during the leave, at the discretion of the employee. Any portion of a leave that occurs after all sick leave has been exhausted shall be without pay unless the employee has available and chooses to use accrued vacation or administrative leave. However, the use of such vacation, sick or administrative leave will not adjust the start date of the leave; i.e., time covered by vacation, sick or administrative leave will still count as part of the FMLA/CFRA leave.

The period of time during which the employee utilizes accrued sick, vacation or administrative leave benefits is considered paid FMLA/CFRA leave. Once the sick leave and/or other accrued leave benefits (if elected) are exhausted, the employee is considered to be on unpaid FMLA/CFRA leave. The 12 weeks of leave to which the employee is entitled includes both paid and unpaid leave.

Eligible employees shall accrue additional sick leave and vacation while on paid FMLA Leave (i.e. while using accrued sick leave, vacation, or administrative leave), but not while on unpaid FMLA Leave.

## 2. Health Benefits

Group health plan (i.e., medical, dental, and vision) benefits are continued during FMLA/CFRA leaves with regard to this policy, on the same basis as if the employee had been continuously actively employed, for up to 12 weeks during any 12 month period for all employees.

The employee is required to pay the share of any premium cost that he/she would have paid if continuously actively employed. If the FMLA/CFRA leave is paid leave (i.e., the employee is taking accrued sick leave, vacation or administrative leave), the premium costs will be deducted from the sick leave, administrative leave or vacation benefits paid, on the same basis as the cost was deducted from the employee's pay before commencement of the leave. If the FMLA/CFRA leave is unpaid, the employee will be required to pay the share of any premium cost for insurance to ensure continuous coverage. Premiums must be paid no later than the 15th of the month prior to the month being covered. If premiums have not been received by the deadline, coverage will be terminated for all unpaid months and continuation or reinstatement of coverage must be made in accordance with COBRA/Cal-COBRA guidelines.

## 3. Non-Health Benefits

During unpaid FMLA/CFRA leave, LWD will also maintain life and disability insurance for full-time employees for the following periods depending on the employee's length of employment:

- Less than two years full-time employment: 1 month
- Two to five years full-time employment: 2 months
- Five or more years full-time employment: 3 months

Sick leave may be used to pay the difference between the short-term disability payments and the employee's regular biweekly pay until the sick leave benefits have been exhausted, so long as provisions of the short-term disability program are not violated.

## F. Return From Leave

The employee must report to his/her supervisor Manager on the first work day following the expiration of the approved Family/Medical Leave or any approved extension, or the employee will be considered as having voluntarily resigned without notice.

If the employee wishes to return to work prior to the established expiration date of the FMLA/CFRA leave, the employee must contact his/her supervisor.

If the employee is unable to return to work when the FMLA/CFRA leave expires, the employee may request an extension of the leave from the employee's Department Manager in accordance with this policy.

Extensions of FMLA/CFRA leave are granted provided the employee has not used the total maximum leave entitlement provided for in this policy.

As a condition of reinstating an employee after an Employee Medical Leave, the employee must obtain and present medical certification from a health care provider certifying that the employee is able to resume work.

G. Reinstatement

LWD shall reinstate an employee returning from a FMLA/CFRA leave in accordance with the approved terms of the leave to the same position, unless the position has ceased to exist because of legitimate reasons unrelated to the employee's FMLA/CFRA leave.

If the employee's position does not remain available, the employee will be returned to a "comparable position," if a comparable position exists. However, if a comparable position does not exist, the employee may be terminated.

A "comparable position" means a position which has equivalent pay, benefits and working conditions, with substantially similar duties and responsibilities, and, ordinarily, with the same shift or work schedule and geographic location, as the position occupied by the employee before the FMLA/CFRA leave.

"Equivalent pay" includes any unconditional pay increases which occurred during the FMLA/CFRA leave period, such as cost of living increases, and includes any pay increases conditioned upon total career hours or length of service that may be due taking into consideration any portion of the FMLA/CFRA leave period that is paid leave (i.e., when the employee is using accrued vacation, sick or administrative leave), but not any portion that is unpaid leave. "Equivalent pay" also includes the same or equivalent pay premiums and the equivalent number of scheduled hours of work.

"Equivalent benefits" include all benefits provided or made available to employees by the LWD, including but not limited to group life insurance and health insurance. Employees are not required to meet any qualifications, such as taking a physical examination, in order to re-qualify if such coverage lapsed during the FMLA/CFRA leave. "Equivalent benefits" also includes all of the employee's accrued vacation and sick leave benefits to the extent not used during the employee's FMLA/CFRA leave.

An employee on FMLA/CFRA leave retains the length of service that exists when the leave commences, and is credited with additional seniority service during the leave except that probation periods may be extended by the same time increment as the duration of the leave. An employee does not accrue any additional benefits including leave balances during an unpaid FMLA/CFRA leave (i.e., when the employee is not using accrued vacation, sick or administrative leave).

H. Definition of Health Care Provider

Doctors of medicine or osteopathy who are authorized to practice medicine or surgery by the State of California;

Podiatrists, dentists, clinical psychologists, and optometrists who are authorized to practice in the State of California and performing within the scope of their practice as defined under California law;

Chiropractors, limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, who are authorized to practice in the State of California and performing within the scope of their practice as defined under California law;

Nurse practitioners and nurse-midwives who are authorized to practice under California law and who are performing within the scope of their practice as defined under California law; and

Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

#### I. Questions and/or Complaints about FMLA/CFRA Leave

The FMLA/CFRA makes it unlawful for employers to: 1) interfere with, restrain, or deny the exercise of any right provided under FMLA/CFRA; or 2) discharge or discriminate against any person for opposing any practice made unlawful by FMLA/CFRA or involvement in any proceeding under or relating to FMLA/CFRA. If employees believe their FMLA/CFRA rights have been violated or have questions regarding FMLA/CFRA leave, they should contact the Administrative Services Manager immediately. Any FMLA/CFRA complaints will be investigated and prompt and appropriate remedial action will be taken to address and/or remedy any FMLA/CFRA violation.

#### **10.13 Leave for Domestic Violence and Sexual Assault Victims**

If an employee is a victim of domestic violence or sexual assault, she/he may take unpaid time off to help ensure the health, safety, or welfare of him/herself and/or his/her child. Specifically, the employee may take such leave for the following reasons:

- To obtain a temporary or permanent restraining order or other court assistance;
- To seek medical attention for injuries caused by domestic violence or sexual assault;
- To obtain services from a shelter, program, or rape crisis center as a result of domestic violence or sexual assault;
- To obtain psychological counseling related to an experience of domestic violence or sexual assault; or
- To participate in safety planning and take other actions to increase safety from future domestic violence or sexual assault, including temporary or permanent relocation.

If the employee needs to take time off for any of the above reasons, he/she should notify his/her supervisor in advance, if possible. If the absence is unscheduled, the individual may be asked to provide documentation, such as a police report, court order, or other evidence that the person appeared in court, or documentation from a counselor or domestic violence advocate. Although this leave is unpaid, the employee may use her/his accrued vacation if she/he wishes to receive compensation for this time off. However, the individual is not required to do so.

The employee may also take unpaid time off to recover from domestic abuse or sexual assault. The amount of leave taken for this reason cannot exceed 12 weeks in a rolling 12-month period. The District will maintain the confidentiality of requests for time off due to domestic violence or sexual assault, to the extent possible and as allowed by law.



## **Section 11 - Lay-off and Re-employment**

### **11.1 Authorization**

The General Manager may lay off any employee because of lack of appropriate funds, curtailment or lack of work, or other reasons. Such lay-off shall take effect ten business days after the receipt by the employee of a notice in writing of the proposed layoff action. The decision of the General Manager to lay off employees is not subject to the complaint resolution process.

### **11.2 Order of Layoff**

When it becomes necessary because of lack of work, lack of funds or other reasons to reduce the number of employees within a given employee classification, the General Manager, or designee, shall prepare a lay-off list. Lay-offs shall be made by job classification within each department. Within each classification, employees shall be selected for layoff based on a combination of merit factors, including but not necessarily limited to: past performance and productivity, qualifications, attitude and unauthorized absences. In cases where the LWD determines that performance and other factors are essentially equal between two or more employees, seniority will be the deciding factor. For purposes of this provision, seniority shall be defined as the total number of months of LWD service.

### **11.3 Request for Return to Former Class**

The selection of employees for lay off is determined on merit factors; therefore, no “employee bumping rights” exist at LWD. However, in the event of a lay-off, an employee may be transferred to a vacant position formerly held by the employee. Such requests shall be granted at the sole discretion of the General Manager.

### **11.4 Order of Re-employment**

For each classification in which layoffs occur, LWD shall maintain a list. The list shall order the employees by date of lay-off from first employee laid off to most recent employee laid off. Employees appearing on the list shall be eligible for re-hire for one year following lay-off, provided the employee is qualified to perform the essential functions of the position offered. Employees appearing on the list shall be offered re-employment in the inverse order of lay-off. If more than one employee was laid-off on the same day, the employee with the greatest seniority at LWD shall be offered re-employment first. Seniority shall be defined as the total number of months of LWD service. It is the responsibility of the employee to keep the LWD apprised of his/her availability to work, including a current address at which the employee may be reached.

### **11.5 Notice of Re-employment**

LWD shall notify the laid off employee of the opportunity for re-employment verbally (in person or via phone), by personal service, by delivery of written notice to the last known address of the employee and/or certified mail, signed receipt requested. Written Notice of Re-employment shall be sent to the address provided to the LWD by the employee. The notice provided shall specify the date and time the employee’s re-employment is scheduled to begin. An employee must notify the LWD of his/her intent to accept re-employment within 72 hours of receiving the Notice of Re-employment. Failure to accept the offer of re-employment within 72 hours, and/or failure to report for work on the date and time specified in the Notice of Re-employment, shall be considered the employee’s resignation from LWD.

### **11.6 Benefits for Employees Re-hired After Lay-off**

Employees re-hired following lay-off will retain the level of seniority that was present when laid off. For purposes of this provision, seniority shall be defined as the total number of months of LWD service.

## Section 12 - Employee Discipline

### 12.1 Policy Statement

LWD's discipline process includes, but is not limited to, verbal counseling, written warnings, suspensions, demotions, alteration of work schedules or duties, mandatory education or training, transfers, and termination. LWD reserves the right to impose any of these forms of discipline as it deems appropriate, given the circumstances, at its sole discretion.

All regular, full-time employees, except the General Manager, have the benefit of certain disciplinary processes specified in this Section. All employees have a responsibility to read and understand this section which defines the types of discipline that may be imposed and specifies the processes associated with each type of discipline.

Employee discipline is intended to be corrective in nature with the objective of obtaining compliance with rules, orders, procedures, standards of conduct, and competent job performance. Disciplinary action shall be commensurate with the alleged violation(s) and the past record of the employee. LWD may administer a progressive discipline process including verbal counseling, written warning, suspension, demotion, transfer, or termination. However, LWD reserves the right to impose or forego any of these forms of discipline as it deems appropriate in its absolute and sole discretion.

Nothing contained in the HRPM shall preclude the immediate administrative removal of an employee with or without pay pending a disciplinary hearing. An administrative removal requires the approval of the General Manager. When an administrative removal is imposed and serious disciplinary action follows, the employee shall be afforded the hearing process set forth in this HRPM.

Violation of LWD rules, policies or performance standards may result in disciplinary action. Any LWD employee may be disciplined in accordance with the rules and provisions prescribed herein. Any employee who has not completed his/her initial probation period may be disciplined without recourse to any of the complaint procedures in Section 13. All disciplinary actions shall become a part of the employee's personnel record.

The following are examples of behavior that may constitute grounds for disciplinary action, up to and including termination. The list is intended to provide examples only and is not meant to be all-inclusive. Other behaviors not included here that are determined to be detrimental to LWD or inconsistent with proper employee conduct may also constitute just cause for disciplinary action.

- A. Fraud in securing employment;
- B. Performing the duties of the position in an unsatisfactory manner. Satisfactory work is work which is competently performed in an efficient and timely manner and which achieves the expected result;
- C. Performing the duties of the position in a negligent, careless or reckless manner;
- D. Failure to possess and/or utilize the minimum qualifications required for the position;

- E. Dishonesty in the performance of the duties of the position, including, but not limited to fraud, theft, lying or misrepresentation, either written or oral;
- F. Unauthorized absence: failure to be present at assigned places and times, unless the absence is approved;
- G. Insubordination;
- H. Failure to treat other LWD employees, officials or the public with respect and courtesy;
- I. Violation of LWD's Substance Abuse Policy;
- J. Violation of LWD's Harassment Policy;
- K. On or off duty, behavior that tends to cause discredit to LWD;
- L. Any on-duty illegal behavior;
- M. Conviction of a crime which relates to dishonesty, or the qualifications, functions, or duties required of the employee in the assigned position;
- N. Misuse of LWD owned property, equipment or material;
- O. Failure to fully comply with all LWD rules, regulations and policies;
- P. Failure to comply with any safety rules, standards and regulations

LWD reserves the right to maintain some or all documents related to the disciplinary process in the employee's personnel file.

## **12.2 Disciplinary Investigation**

When a Department Manager or supervisor believes that an employee has violated an LWD policy, procedure, rule, regulation, directive, order or applicable law, the Department Manager or his/her designee shall promptly initiate an investigation. The purpose of the investigation is to establish the facts behind disciplinary allegations and to ensure that employees are dealt with fairly. The extent of the investigation will be determined, on a case-by-case basis, by the Department Manager or his/her designee. For matters involving Corrective Counseling only, an investigation is not required but may be conducted if the Department Manager or supervisor finds that an investigation is necessary to resolve factual disputes or otherwise assist in determining the appropriate level of discipline.

If the results of the investigation indicate that disciplinary action is appropriate, the Department Manager or his/her designee shall proceed according to guidelines established below for the appropriate level of discipline.

## **12.3 Types of Discipline**

There are three different types of discipline: "corrective counseling", "lesser discipline" and "serious discipline".

A. Corrective Counseling

“Corrective counseling” is defined as initial actions taken by a Department Manager or supervisor to identify unsatisfactory work performance or behavior. Corrective counseling is not considered lesser discipline or serious discipline as defined below.

B. Lesser Discipline

"Lesser discipline" is defined as discipline that is not serious discipline, as defined below, including such actions up to suspensions without pay of five days or less.

C. Serious Discipline

"Serious discipline" is defined as discipline ranging from suspensions without pay for more than five days, up to termination of employment. This can include demotion and reduction in pay for disciplinary reasons.

Nothing contained in this Section, shall preclude the immediate administrative removal of an employee with or without pay pending completion of an investigation into potential misconduct or completion of a disciplinary process, if initiated. An administrative removal requires the approval of the General Manager. When an administrative removal is imposed and serious disciplinary action follows, the employee shall be afforded the hearing process set forth in this HRPM.

**12.4 Corrective Counseling Disciplinary Process**

Corrective counseling should be done as soon as the Department Manager or supervisor becomes aware of an employee’s work performance or behavior problems and completes any necessary investigation. Corrective counseling should be done informally, with the Department Manager/supervisor meeting with the employee to be certain that the employee realizes that his or her work performance or behavior is unsatisfactory and what is expected in terms of improvement is understood. A written plan of improvement, containing specific expectations and time frames to accomplishment them, may be simultaneously implemented as a component of the corrective counseling session. Ideally, corrective counseling is conducted before the misconduct or work performance deficiency reaches the level of lesser or serious discipline.

Department Manager or supervisor notes detailing the corrective counseling session should be maintained by the Department Manager or supervisor with a copy provided to the Administrative Services Supervisor for inclusion in the employee’s personnel file.

There is no right to respond to this corrective counseling nor is there a right to representation during the corrective counseling disciplinary process. Corrective counseling discipline is not subject to the hearing process identified in this section.

**12.5 Lesser Disciplinary Process**

When the lesser disciplinary process is imposed, there is no employee right to representation during the lesser disciplinary process. Lesser discipline is not subject to the hearing process identified in this section.

A. Disciplinary Actions for Lesser Discipline

Any of the following disciplinary actions may be taken as corrective measures for conduct that warrants lesser discipline. In addition, work schedules and/or work duties may be altered by the employee's supervisor or Department Manager depending upon the discipline imposed.

1. Written Reprimand

A Department Manager or his/her designee may reprimand an employee by providing a written statement outlining the problem. A written reprimand shall be provided to the employee and made a part of the employee's personnel record. The employee may respond in writing to the written reprimand. If the employee responds with a written statement, it will be included in the personnel record along with the written reprimand.

2. Suspensions Without Pay for Up to Five Business Days

The Department Manager may suspend an employee from work without pay for up to five (5) business days.

B. Notice of Lesser Discipline

In the case of lesser discipline, a Notice of Lesser Discipline shall be issued and that notice of discipline shall contain the following:

1. A statement of the reason(s) for imposing discipline;
2. A statement of the discipline to be imposed, including the date the discipline is to begin and end, where applicable;
3. A description of the evidence, upon which the proposed action is based and a statement that such evidence is available to the employee upon request;
4. A statement that the employee may respond in writing to the Notice of Lesser Discipline within 10 business days and that the employee's written response will be maintained in his/her personnel file.
5. A statement that the Notice of Lesser Discipline has been approved by the General Manager or his/her designee.

**12.6 Serious Disciplinary Process**

"Serious discipline" is defined as discipline ranging from suspensions without pay for more than five business days, up to termination of employment; this includes demotions and reductions in salary which are carried out for disciplinary reasons.

A. Disciplinary Actions for Serious Discipline

LWD may take any of the following corrective measures that it deems appropriate at any time to maintain the efficiency and effectiveness of the LWD for conduct that warrants serious discipline.

1. Suspension Without Pay. The employee may be suspended for more than five days.
2. Salary Reduction. A reduction in salary shall be within the salary range of the position held by the employee. A new anniversary date shall be established in accordance with these rules unless otherwise approved by the General Manager.
3. Disciplinary Demotion/Transfer. The employee may be demoted to any position with a lower salary grade provided the employee meets the minimum qualifications for the lower-level position. The demoted employee shall not be eligible for promotion for a period of one year unless otherwise approved by the General Manager.
4. Termination. The General Manager may terminate the employment of an employee.

B. Notice of Serious Discipline

Before serious discipline is imposed, the employee will receive a written Notice of Proposed Serious Discipline prepared by the Department Manager or his/her designee. The Notice of Proposed Serious Discipline shall be approved by the General Manager and shall contain the following:

1. A statement that clearly defines the intended action and the proposed date of the action. In cases of suspension, the proposed beginning and ending dates will be included;
2. The reason for the discipline, including a statement of any rule or regulation that allegedly has been violated;
3. A description of the evidence upon which the proposed action is based and a statement that the evidence is available to the employee upon request;
4. A statement that the employee has five business days from the date of receipt to respond either in writing or orally. Prior to the conclusion of the five business day period the employee or representative, or LWD, may request an extension for good cause for up to an additional ten business days.
5. A statement that failure to respond within the prescribed time following receipt of the Notice of Proposed Serious Discipline shall result in imposition of the proposed discipline and a waiver of all further pre-disciplinary procedural rights.

C. Pre-Disciplinary Hearing and Review Process

If the employee responds to a Notice of Proposed Discipline within the prescribed time, the following pre-disciplinary process shall apply.

1. Right to Respond Options
  - a. Written. If the employee provides a written response, the Department Manager shall review the response and provide a written decision as set forth in Section 12.6(C)(3).
  - b. Oral. If the employee requests an opportunity to respond orally, a pre-disciplinary hearing pursuant to Section 12.6(C)(2) shall be conducted within five business days after the request is made.

2. Hearing Officer's Review

The Department Manager or his/her designee shall act as Hearing Officer and shall schedule, coordinate and conduct the pre-disciplinary hearing.

The hearing shall be informal. The employee may not be represented at the informal hearing. The employee shall have the opportunity to personally respond to the charges and to challenge the proposed disciplinary action. The Hearing Officer may question and seek clarification from the employee regarding the charges and grounds submitted in opposition to the proposed disciplinary action.

3. Hearing Officer's Decision and Written Response

Within five business days after the hearing or receipt of the employee's written response, the Hearing Officer shall notify the employee in writing as to whether the proposed serious discipline shall be imposed. In rendering the decision, the Hearing Officer must consider the employee's pre-disciplinary written or oral response and LWD's legitimate authority to impose the proposed discipline in question.

4. Discipline Imposed

If discipline is to be imposed, the employee shall be provided a written Notice of Disciplinary Action specifying the discipline and the date(s) upon which the disciplinary action shall be effective. The notice shall also include the cause for disciplinary action and the evidence upon which the disciplinary action is based.

The Notice of Disciplinary Action will be prepared by the Hearing Officer and approved by the General Manager.

An employee who fails to submit a written response or to appear for a pre-disciplinary hearing (in the case of an oral response) shall have waived his/her right to do so, and the proposed discipline shall be imposed.

The employee may challenge the discipline imposed in a post-disciplinary hearing as set forth below.

D. Post-Disciplinary Hearing

Following the imposition of serious discipline, pursuant to the procedures set forth above, a regular employee may request a post-disciplinary hearing to challenge the discipline imposed. A representative of the employee's choosing including an attorney may represent the employee at his or her post-disciplinary hearing.

The employee or a designated representative must request a post-disciplinary hearing ("Hearing") within twenty calendar days from receipt of the Hearing Officer's notification that discipline shall be imposed or, if there was no Pre-Disciplinary Hearing and Review Process, twenty calendar days from the date serious discipline was imposed pursuant to the Notice of Proposed Serious Discipline. The Hearing shall be held on the LWD's premises or other location designated by the General Manager, at



a mutually convenient time, but in all events, shall be held within thirty calendar days of the Hearing request unless a later date is mutually agreed upon.

1. The following procedures will be followed:

- a. The General Manager shall appoint an impartial Hearing Officer from among LWD's Management employees or a qualified professional who is not an LWD employee. The Hearing Officer shall schedule, coordinate and conduct the Hearing in accordance with the time limits set forth in this section. The Hearing Officer shall not be the individual who directly supervises the employee, nor shall it be someone responsible for the original decision to propose discipline.
- b. Each side may present witness testimony or other evidence in support of its position at the hearing. Each side must submit a written list of the witnesses it intends to call to the Hearing Officer at least three business days in advance of the hearing. No witness shall be allowed to testify unless his/her name is on a timely submitted witness list. LWD shall use its best efforts to produce witnesses if called to testify during working time but operational needs shall take precedence. LWD employees are free to testify truthfully in a post-disciplinary hearing under this procedure and no employee will be discriminated or retaliated against in any way because of truthful testimony in such a hearing.

2. The post-disciplinary hearing shall be conducted as follows:

- a. The Hearing Officer shall be responsible for administering the hearing. His/her responsibility shall include: (a) taking evidence, i.e., exhibits and testimony; and (b) swearing in witnesses using the following oath:

“Do you solemnly swear that the evidence you shall give in this matter pending between Leucadia Wastewater District and \_\_\_\_\_ shall be the truth, the whole truth, and nothing but the truth?”
- b. The Hearing Officer should ask the witness to raise his/her right hand and respond “I do” if he/she agrees with the above oath. If the witness does not agree with the oath, no testimony shall be taken and the witness will be excused. The Hearing Officer should rule on procedural issues raised by the parties and on the relevancy and admissibility of evidence.
- c. The Hearing Officer is not expected to follow the formal rules of evidence or any particular set of rules, but to rule on matters raised in a fashion that the Hearing Officer believes to be fair and equitable. The Hearing Officer may ask questions of witnesses or representatives, if the Hearing Officer wishes, but the Hearing Officer is not required to do so. The Hearing Officer shall run the audio recording device upon which the Hearing will be recorded. Each side shall be given a reasonable amount of time within the discretion of the Hearing Officer.
- d. An assistant, appointed by the Hearing Officer, may be present to support the Hearing Officer in the execution of his/her responsibilities.
- e. The Hearing will follow the following order:

- i. LWD will present its case against the employee, the employee or his representative may cross-examine LWD's witnesses, and LWD's representative may redirect the witness;
  - ii. The employee shall present his/her case, LWD may cross-examine the employee's witnesses, and the employee may redirect the witness;
  - iii. Each party may present a closing argument if they wish;
  - iv. Each party may submit post-hearing briefs which shall not exceed 20 pages and be due to the Hearing Officer by no later than the close of business on the 10<sup>th</sup> calendar day, or next following business day, after the hearing.
- f. The Hearing Officer shall render a recommended decision regarding the following issue: Did the LWD have adequate reason to impose the discipline in question upon the employee? In making this decision, the Hearing Officer should address the following issues: (a) does the evidence produced at the post-disciplinary hearing support the stated reason(s) for imposing discipline against the employee? (b) if so, is the recommended disciplinary action appropriate under the circumstances? LWD must demonstrate by a preponderance of the evidence, that it had adequate reason to impose discipline.
- g. In rendering a decision, the Hearing Officer has the following responsibilities: (a) review all evidence including testimony and exhibits produced at the Hearing and make written findings of fact; and, (b) produce a written recommendation on the issues presented and present the written recommendation and findings of fact to the General Manager and the parties by no later than the close of business on the 20<sup>th</sup> calendar day, or next following business day, after the Hearing. The Hearing Officer shall present his/her recommended decision to the General Manager who shall render a final written decision within five calendar days, or the next following business day, after receiving the Hearing Officer's recommended decision. The General Manager may uphold the discipline imposed, follow an alternate recommendation of the Hearing Officer or impose alternate disciplinary action. However, the General Manager may not impose discipline that is more severe than the discipline that was the subject of the Hearing. The General Manager's written decision is final and shall be distributed to all parties. There shall be no further review.
- h. The administrative record of the post-disciplinary hearing shall include the Notice of Proposed Serious Discipline and any exhibits to it; the written decision from the pre-disciplinary review; all evidence, written, oral, photographic or otherwise and all exhibits submitted by both parties during the Hearing; the audio recording of the Hearing; and the decision of the Hearing Officer.
- i. If the employee fails to appear for the post-disciplinary hearing, the discipline shall be sustained and imposed.

LWD reserves the right to maintain all documents related to the disciplinary process in the employee's personnel file.

## Section 13 - Complaint Resolution Procedure

### **13.1 Purpose of Complaint Resolution Procedure**

This procedure shall be used to resolve employee complaints of alleged violations of the express terms of this HRPM. Employee complaints concerning alleged harassment shall be governed by the procedures set forth in Section 3.3.

### **13.2 Complaint Resolution Procedure for Non-Disciplinary Complaints**

#### **A. Informal Discussion of Complaint**

When an employee has a complaint, the employee shall first informally discuss the matter with his immediate supervisor within five business days from the date of the incident or decision generating the complaint. If, after such a discussion, the complaint has not been satisfactorily resolved, the employee shall have the right to discuss the complaint informally with his supervisor's immediate supervisor. If, after such a discussion, the complaint has not been satisfactorily resolved, the employee shall have the right to file a formal complaint.

#### **B. Formal Complaint Procedure**

The formal complaint procedure shall be used to resolve an employee's complaint not satisfactorily resolved by informal discussions.

An employee shall have the right to present a formal complaint, in writing, within ten business days after the occurrence of the event that gave rise to the complaint. All formal complaints shall state the specific provision of the HRPM that the employee claims has been violated and the employee's requested relief.

The formal complaint shall be presented to the Department Manager or his/her designee who shall discuss the complaint with the employee. Employees are required to represent themselves in the complaint process. There is no right to representation. Delivery of the formal written complaint and the discussion of the complaint with the employee shall constitute receipt of the formal complaint. Within ten business days after receipt of the formal complaint, the Department Manager or his/her designee shall render a written decision regarding the complaint.

An employee may appeal the Department Manager's (or designee's) decision to the General Manager, in writing, within ten business days after the receipt of the decision. The formal appeal shall be presented in writing to the General Manager. The General Manager or his/her designee shall discuss the appeal with the employee and shall make a reasonable effort to render a written decision regarding the complaint within ten business days after the General Manager received the formal complaint.

The decision of the General Manager or his/her designee shall be final.

The time limits set forth in this procedure may be extended by written agreement between the LWD and the employee. Failure on the part of an employee to comply with the time limits of this procedure or any extension thereto shall constitute a withdrawal of the complaint without further recourse to

re-submittal under this procedure. Failure on the part of LWD to comply with prescribed time limits or extensions thereto shall result in the complaint being advanced to the next step in the procedure.

LWD shall not institute actions against any employee resulting from the proper use of this procedure. However, the processing of frivolous or false complaints may result in disciplinary action.

Correspondence related to this complaint resolution process shall not be maintained in an employee's personnel files.