



ORANGE COUNTY CEMETERY DISTRICT

Board Policy Manual

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ARTICLE 100

GOVERNANCE POLICY

A. DISTRICT

1. **Organization.** The Orange County Cemetery District (the “District”) is an “independent special District,” as defined in Government Code Section 56044, duly organized and existing under and by virtue of the California Public Cemetery District Law, codified in Health and Safety Code Sections 9000 et seq. (“Public Cemetery District Law”).

2. **Formation.** The District was formed in 1984 by Resolution No. 84-1150 of the Orange County Board of Supervisors.

3. **Changing Name of District.** The Board of Trustees (“Board”), by a two-thirds vote of its total membership, may adopt a resolution to change the name of the District, which must contain the words "Public Cemetery District" or "Cemetery District." The resolution shall comply with the requirements of Chapter 23 (commencing with Section 7530) of Division 7 of Title 2 of the Government Code. Within 10 days of its adoption, the Board must file a copy of the resolution with the California Secretary of State, the Orange County County Clerk, the Orange County Board of Supervisors, and Orange County’s Local Agency Formation Commission. (HC § 9043)

4. **Purposes.** The District serves the following purposes:

(a) The District has exclusive jurisdiction and control over the cemeteries it owns, and manages, operates, improves, and maintains them for the purpose of providing interment services within the District’s boundaries. (HC § 9040)

(b) The District sells interment rights in its cemeteries, columbariums, and mausoleums, subject to certain limitations set forth in the Public Cemetery District Law. (HC § 9049)

5. **Policies and Procedures.** The purpose of the Policies and Procedures (“Policies”) are to assist the Board of Trustees of the District (“Board”) as it sets policy and conducts the business and affairs of the District as the legislative body of the District. It is the intent and purpose of these Policies to help clarify and define the responsibilities of the officials of the District. These Policies supplement state law and provide more specific guidelines for the actions of the Board which are fair, fiscally responsible, and protective of the interests of the people of the District. These Policies have been approved by the Board as to matters covered, but are not intended to be exhaustive, nor are they intended to restrict the otherwise lawful authority of the Board. Notwithstanding any other term, provision or condition of these Policies, no otherwise lawful act of the Board or the officers of the District shall be invalidated by reason of any term, provision or condition of these Policies.

B. BOARD OF TRUSTEES

1. Legislative Body. The Board of Trustees (the “Board”) serves as the legislative body of District. (HC § 9020)

2. Voter. Trustees shall be and remain a registered voter in the District. (HC § 9022)

3. Length of Terms. Each trustee is appointed by the Orange County Board of Supervisors for a term of four years commencing at noon on the first Monday in January (S9024) and terminating on the first Monday in January at the end of the four-year term or until a qualified successor is appointed thereafter (HC § 9024).

4. Number of Trustees. The Board consists of five (5) Trustees appointed by the Orange County Board of Supervisors.

5. Changing Number of Trustees. The Board may adopt a resolution requesting the Board of Supervisors to increase or decrease the number of members of the Board. The resolution must specify the number of members for which the board of trustees requests the increase or decrease. (HC § 9025)

6. Oath or Affirmation. Pursuant to Government Code Section 1360, each Trustee shall take and subscribe to the oath or affirmation set forth in Section 3 of Article XX of the Constitution of California prior to assuming the responsibilities and duties as a trustee.

7. Vacancy. Pursuant to Government Code Section 1770, a trustee vacates his or her office upon the happening of any of the following events before the expiration of the term:

- (a) Death.
- (b) An adjudication pursuant to a quo warranto proceeding declaring that the trustee is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the trustee will not be able to perform the duties of his or her office for the remainder of his or her term.
- (c) Resignation, upon the delivery of a letter of resignation by the resigning trustee to County Clerk, effective on the resignation date specified in the letter.
- (d) Removal from office.
- (e) Ceasing to be an inhabitant of the District.
- (f) Absence from the state without the permission required by law beyond the period allowed by law.
- (g) Ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.
- (h) Conviction of a felony or of any offense involving a violation of his or her official duties. A person shall be deemed to have been convicted when trial court judgment is entered. “Trial court judgment” means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.
- (i) Refusal or neglect to file his or her required oath or affirmation or bond within the

time prescribed.

- (j) The decision of a competent tribunal declaring void his or her appointment.
- (k) The making of an order vacating his or her office or declaring the office vacant when the trustee fails to furnish an additional or supplemental bond.
- (l) His or her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.
- (m) The trustee is listed in the Excluded Parties List System, as defined in Government Code Section 1770, and all of the following apply:
 - (1) The office is one that the incumbent holds ex officio, by virtue of holding another office, or as an appointee.
 - (2) The appointed or ex officio office is on the governing board of a local agency that is, or may reasonably be expected to be, a participant or principal in a covered transaction, pursuant to federal law.
 - (3) A federal agency head or designee has not granted the incumbent an exception, in writing, permitting the incumbent to participate in a particular covered transaction in which the local agency is, or may reasonably be expected to be, a participant or principal.

8. Filling Vacancy. A vacancy on the Board that occurs before the expiration of a term will be filled promptly pursuant to Section 1779 of the Government Code for the balance of any unexpired term. (HC § 9024)

9. Election of Officers. The Board shall elect its officers not later than the first meeting of every calendar year. (HC § 9028)

10. Officers. The officers of the Board shall include a chair, vice chair, and a secretary. (HC § 9028)

(a) Chair. The Chair shall be a trustee. (HC § 9028)

(b) Vice Chair. The Vice-Chair shall be a trustee. (HC § 9028)

(c) Secretary. The Secretary may be either a trustee or a District employee. (HC § 9028)

11. Duties of Officers. The officers of the Board shall have the following duties and responsibilities. (HC § 9028)

(a) Chair. The Chair shall perform the duties prescribed as follows:

- (i) The Chair shall be the presiding officer at all Board meetings.
- (ii) The Chair shall preserve order and decorum consistent with the Board of Trustees Rules of Decorum.
- (iii) The Chair shall allocate the length of time for public discussion of any matter in advance of such discussion with the concurrence of

- the Board pursuant to Government Code section 54954.3.
- (iv) The Chair shall assign seating arrangements for Board Meetings.
 - (v) The Chair shall execute official documents of the District, as required by law or direction of the Board.
 - (vi) The Chair shall have other powers as may be prescribed by the Board.
- (b) Vice-Chair. The Vice-Chair shall perform the duties of the Chair in the absence of the Chair.
- (c) Secretary. The Secretary shall perform the duties prescribed as follows:
- (i) The Secretary shall attend each regular Board meeting and maintain a record of all proceedings thereof, as required by law. If the Secretary cannot attend a meeting, the General Manager shall designate someone attend the meeting and record the proceedings.
 - (j) The Secretary shall attest to all District ordinances, resolutions and other official District records and documents requiring attestation.
 - (k) The Secretary shall maintain a record of Board agendas, minutes, ordinances and resolutions.
 - (l) The Secretary shall be responsible for the publication of legal notices, appropriate action, certification and filing of documents, such as but not limited to, the District's budgets, election reports, audits, ordinances, resolutions, other legal documents, as may be required by any applicable law, rule, regulation of policy.

12. Treasurer. Except as provided in Section Health & Safety Code Section 9077, the County Treasurer shall act as the District Treasurer. ^(HC § 9028) The County Treasurer shall receive no compensation for the receipt and disbursement of money of the District. ^(HC § 9028)

13. Additional Officers. The Board may create additional officers and elect members to those positions. ^(HC § 9028) No trustee shall hold more than one office. ^(HC § 9028)

14. Establishment of Policies. The Board shall establish policies for the operation of the District. ^(HC § 9024)

15. Implementation of Policies. The faithful implementation of the District's policies shall be the responsibility of the employees of the District. ^(HC § 9020)

16. Independent Judgment. Trustees shall exercise their independent judgment on behalf of the interests of the residents, property owners, and the public as a whole in furthering the purposes and intent of the Public Cemetery District Law, by representing the interests of the public as a whole and not solely the interests of the Board of Supervisors that appointed them. ^(HC § 9020)

17. Enumerated Powers. The Board, on behalf of the District, shall have and may

exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of Public Cemetery District Law, including, but not limited to, all of the following powers: (HC § 9041)

- (a) To sue and be sued. (HC § 9041)
- (b) To acquire by purchase, eminent domain, grant, gift, lease, or other lawful means, any real property within the District or any personal property that may be necessary or proper to carry out the purposes and intent of the Public Cemetery District Law. (HC § 9041)
- (c) To sell, lease, or otherwise dispose of any real or personal property, which the Board may exchange for equivalent properties if the Board determines that the exchange is in the best interests of the District. (HC § 9041)
- (d) To donate any surplus real or personal property to any public agency or nonprofit organizations. (HC § 9041)
- (e) To engage necessary employees, to define their qualifications and duties, and to provide a schedule of compensation for performance of their duties. (HC § 9041)
- (f) To engage counsel and other professional services. (HC § 9041)
- (g) To enter into and perform all necessary contracts. (HC § 9041)
- (h) To borrow money, give security therefore, and purchase on contract, as provided in the Public Cemetery District Law. (HC § 9041)
- (i) To adopt a seal and alter it at its pleasure. (HC § 9041)
- (j) To adopt ordinances following the procedures of Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code. (HC § 9041)
- (k) To adopt and enforce rules and regulations for the administration, maintenance, operation, and use of the District's cemeteries. (HC § 9041)
- (l) To enter joint powers agreements pursuant to the Joint Exercise of Powers Act, Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code. (HC § 9041)
- (m) To provide insurance pursuant to Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code. (HC § 9041)
- (n) To provide training to trustees that will assist in the governance of the District. (HC § 9041)

(o) To appoint one or more advisory committees to make recommendations for the ownership, improvement, expansion, and the operation of cemeteries owned by the District and the provision of interment services. (HC § 9041).

(p) To take any and all actions necessary for, or incidental to, the powers expressed or implied by the Public Cemetery District Law. (HC § 9041)

C. BOARD MEETINGS

1. **Frequency.** The Board shall meet at least once every three months. (HC § 9029)

2. **Brown Act.** Board meetings shall be subject to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code. (HC § 9029)

3. **Presiding Officer.** The Chair or designee shall serve as the presiding officer at all Board meetings.

4. **Rules of Decorum.** Trustees shall conduct themselves in a manner consistent with the Board of Trustees Rules of Decorum and the presiding officer at the Board meeting shall preserve decorum consistent with the Rules of Decorum. Any trustee who violates the Rules of Decorum during a Board meeting may be subject to removal from the Board meeting upon a two-thirds vote of the trustees present at the Board meeting.

5. **Rules of Proceedings.** Rosenberg Rules of Order shall be the parliamentary procedures for Board meetings. (See Exhibit A). (HC § 9030) Any trustee who violates the Rules of Proceedings during a Board meeting may be subject to removal from the Board meeting upon a two-thirds vote of the trustees present at the Board meeting.

6. **Parliamentarian.** The Chair shall appoint a parliamentarian, which may be the Chair, another trustee, employee or legal counsel.

7. **Quorum.** A majority of the Board shall constitute a quorum for the transaction of business. (HC § 9030)

8. **Notification of Impending Absence.** If a trustee is unable to attend a meeting, the Trustee shall, if possible, notify the Chair or the General Manager, prior to the meeting, and include the reason for absence.

9. **Excused Absences.** The Board reserves the right to determine whether a trustee's absence under the circumstances at a particular Board Meeting is excused. An excused absence may include, but not be limited to, the following: (1) family illness; (2) automobile accident; (3) business commitment; (4) childcare issues; or (6) other unforeseen emergency. The absence (excused or unexcused) as determined by a four-fifths vote of the Board, shall be recorded in the minutes.

10. Voting Requirement. Except as otherwise specifically provided to the contrary in this Policy or any applicable law, a recorded vote of a majority of the total membership of the Board is required on each action. ^(HC § 9030) The Board must also publicly report any action taken and the vote on that action of each member present. ^{(GC § 54953(c))}

11. Conflict of Interest Code. Trustees shall complete and file Statements of Economic Interests (“Form 700”), as required by the District’s Conflict of Interest Code, duly adopted by the Board. (See Exhibit B.)

12. Potential Conflicts of Interest. Trustees are prohibited from making, participating in, or in any way attempting to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. ^(GC §87100) If it is determined that the trustee has a potential conflict of interest under the Political Reform Act of 1974, as set forth in Government Code Section 81000 et seq., or under the Fair Political Practices Commission Regulations (<http://www.fppc.ca.gov>) the trustee must, immediately before consideration of the decision, do the following: ^(GC § 87105; 2 Cal Code Regs § 18707):

- (a) Publicly identify in detail the financial interest that causes the conflict (except that he or she need not disclose the street address of a residence);
- (b) Recuse himself or herself from discussing and voting on the matter; and
- (c) Leave the room until after the decision has been made, unless the matter is on the portion of the agenda reserved for uncontested matters (generally understood to mean the consent calendar).

A trustee who has a disqualifying conflict of interest is not counted towards achieving a quorum on a particular vote. ^{(2 Cal Code Regs § 18705(c))}

13. Common Law Bias. A trustee should consider whether he or she has a direct, personal, or pecuniary interest, in any particular agenda item to determine whether he or she should recuse himself or herself from participating in any discussion, debate, deliberation or decision regarding the item and abstaining from voting on the item based on any actual or perceived bias.

14. Recusals. A trustee may recuse him or herself from participating in the discussion, debate or deliberation of any agenda item for any reason, but if a trustee chooses to recusal, he or she must provide a brief explanation of the recusal which shall be recorded in the minutes.

15. Abstentions. A trustee may abstain from voting on any agenda item for any reason, but if a trustee chooses to abstain from voting on an agenda item he or she must provide a brief explanation of the abstention which shall be recorded in the minutes.

16. Rule of Necessity. If there is no alternative means for the Board to take certain action on an item because the number of trustees disqualified from participating in the action

has resulted in the inability of the Board to establish a quorum of the full membership of the Board, a minimum number of disqualified trustees needed to establish a quorum of the full membership of the Board may be invited back to participate in the action.

17. No Secret Ballots. The Board may conduct only public votes, with no secret ballots. (GC § 54953 (c))

18. Types of Action. The Board may act only by ordinance, resolution, or motion. (HC § 9030)

19. Record of Actions. The Board shall keep a record of all of its acts, including financial transactions. (HC § 9030)

20. Regular Meetings. The Board shall adopt by resolution, the date and time of regular Board meetings. At least seventy-two hours in advance of the meeting, notice of the meeting and the meeting agenda must be posted in areas that are freely accessible to the public at all times and on the local agency's website, if the local agency has one. (GC § 54954(a), § 54954.2(a)) Notice of a regular meeting must be mailed at the time the agenda is posted or mailed when the agenda is distributed to all or a majority of the Board, whichever occurs first, to those who request it, including each local newspaper, radio and television station that has requested it. (GC § 54954, § 54954.1)

21. Adjourned Meetings. The Board may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. (GC § 54955) When a regular or adjourned regular meeting is adjourned, the resulting adjourned regular meeting shall be treated as a regular meeting for all purposes. (GC § 54955) Within twenty-four hours after the time of the adjournment, a copy of the order or notice of adjournment must be conspicuously posted on or near the door of the place where the adjourned meeting was held. (GC § 54955)

22. Adjournment by Secretary. If all the members of the Board are absent from any regular or adjourned regular meeting, the Secretary may declare the meeting adjourned to a stated time and place. (GC § 54955) The Secretary must give written notice of the adjournment in the same manner as is provided for special meetings. If the order of adjournment fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings. (GC § 54955) In addition, within twenty-four hours after the time of the adjournment, a copy of the order or notice of adjournment must be conspicuously posted on or near the door of the place where the adjourned meeting was held. (GC § 54955)

23. Special Meetings. A special meeting may be called by the Chair or a majority of the Board, subject to the following: (GC § 54956)

- (a) A special meeting must be conducted within the District except in limited circumstances. (GC § 54954 (b))

- (b) A special meeting, however, may not be called regarding salaries, salary schedules, or fringe benefits of any District executive; this prohibition however does not apply to discuss the local agency’s budget. (GC § 54956 (b))
- (c) At least twenty-four hours prior to the special meeting, the following must be accomplished:
 - (i) The call and notice of the meeting must be posted in a location that is freely accessible to the public at all times, and on the District’s website. (GC § 54956)
 - (ii) The call and notice of the meeting agenda must describe each item of business to be transacted or discussed. (GC § 54956) Action or discussion on any item not described in the special meeting agenda is prohibited. (GC § 54956)
 - (iii) Written notice of the special meeting must be delivered to, and received by each trustee, unless the trustee has filed a written waiver of the notice or if the trustee is actually present at the special meeting when it convenes. (GC § 54956)
 - (iv) Written notice of the meeting must be delivered to and received by each local newspaper of general circulation and each radio or television station that requested written notice. (GC § 54956)

24. Emergency Meetings. An emergency meeting may be called by the Chair or a majority of the Board, subject to the following: (GC § 54956)

- a. The Board may conduct an emergency meeting if the majority of the Board determines there is a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both. (GC § 54956.5 (a)(1))
- b. All special meeting requirements are applicable to the emergency meeting, except for the twenty-four hour notice requirement. (GC § 54956.5 (d))
- c. One hour prior to the emergency meeting, the Chair or his or her designee must notify by telephone each local newspaper of general circulation and radio or television station that has requested notice of special meetings. If telephone services are not functioning, the notice requirement is waived. As soon after the emergency meeting as possible, the media must be informed of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting. (GC § 54956.5 (b)(2))
- d. During an emergency meeting, the body may meet

in closed session if agreed to by a two-thirds vote of the trustees present, or, if less than two-thirds of the trustees are present, by a unanimous vote of the trustees present. (GC § 54956.5 (c))

e. As soon after the emergency meeting as possible, the minutes of the meeting, a list of persons who the District notified or attempted to notify, a copy of the roll call vote and any actions taken at the meeting must be posted in a public place and must remain posted for a minimum of ten days. (GC § 54956.5 (e))

25. Teleconferenced Meetings. The Brown Act provides for the audio or video teleconferencing of any Board meeting subject to the following conditions:

(a) The teleconferenced meeting must comply with all other Brown Act requirements. (GC § 54953(b)(1))

(b) All votes taken during the teleconferenced meeting must be accomplished by roll call. (GC § 54953(b)(2))

(c) The notice and agenda of the meeting must identify the teleconference location and must provide the public with the opportunity to address the members at the teleconferenced location. (GC § 54953(b)(3))

(d) A meeting agenda must be posted at the teleconferenced location. (GC § 54953(b)(3))

(e) The teleconferenced location must be accessible to the public. (GC § 54953(b)(3))

(f) During the teleconference, at least a quorum of the members of the Board must participate from locations within the District's jurisdictional boundaries. (GC § 54953(b)(3))

26. Prohibited Serial Meetings. A series of private meetings (known as "serial meetings") by which majority of Board commit themselves to decision concerning public business or engage in collective deliberation on public business violates open meeting requirement imposed by the Brown Act.

(a) There may be nothing improper about the substance of a serial meeting; the problem is the process, which deprives the public of an opportunity for meaningful participation in decision-making.

(b) The Brown Act prohibits a majority of the Board, outside a public meeting, from using a series of communications of any kind, directly or through intermediaries, "to discuss, deliberate, or take action" on any item of business within the Board's jurisdiction. (GC § 54952.2(b)(1))

(c) "Taking action" means a collective decision by a majority of the Board, a collective commitment or promise by a majority to make a decision, or an actual vote of the Board upon a motion, proposal, resolution, order or ordinance.^(GC § 54952.6)

27. One-Way Communications. The Brown Act does not prohibit the District employees or officials from engaging in separate conversations or communications with individual trustees outside of a Board meeting to answer questions or provide information regarding a matter, as long as that employee or official does not communicate a trustee's comments or position on a matter to any other trustee.^{(GC § 54952.2(b)(2))} Officials must be cognizant of the difference between informational exchanges and prohibited consensus-building; officials must take great care to neither elicit information from trustees nor share the comments or position of one trustee with other trustees outside the context of a Board meeting.

D. CLOSED SESSIONS

1. Closed Sessions. Closed sessions regarding only the subject matters set forth below may be conducted by the Board in the context of a Board meeting, subject to the following:^(GC § 54962)

a. **Litigation Matters.** The Board may convene in a closed session to discuss with legal counsel pending litigation when discussion in open session concerning those matters would prejudice the District's position in the litigation.^{(GC § 54956.9(a))}

(i) **Pending Litigation.** Litigation is pending when any of the following circumstances exist:

(1) Litigation, to which the District is a party, has been initiated formally.^{(GC § 54956.9(d)(1))}

(2) A point has been reached where, in the opinion of the Board on the advice of legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the District.^{(GC § 54956.9(d)(2))}

(3) Based on existing facts and circumstances, the Board is meeting only to decide whether a closed session is authorized under the Act.^{(GC § 54956.9(d)(3))}

(4) Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation.^{(GC § 54956.9(d)(4))}

(ii) **Party.** The District is considered to be a "party" or to have a "significant exposure to litigation" if a District officer or employee is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment. This includes litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.^{(GC § 54956.9(h))}

(iii) Facts and Circumstances. The facts and circumstances that indicate significant exposure to litigation are as follows:^{(GC § 54956.9(e))}

(1) Facts and circumstances that might result in litigation against the agency but which the agency believes are not yet known to a potential plaintiff or plaintiffs. Such facts and circumstances need not be publicly stated on the agenda or announced immediately prior to the closed session.

(2) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs. Such facts or circumstances must be publicly stated on the agenda or announced immediately prior to the closed session.

(3) The receipt of a claim pursuant to the Government Claims Act or some other written communication from a potential plaintiff threatening litigation. The claim or communication must be available for public inspection.

(4) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the Board.

(5) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the Board so long as the official or employee of the District receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting. That record must be available for public inspection. The record need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(iv) Safe Harbor Descriptions. The agenda must describe the litigation closed session matters in the following manner:^{(GC § 54954.5(e))}

- (1) Conference with Legal Counsel Re: Existing Litigation Pursuant to Government Code Section 54956.9 (1)(d)
Case Name: (Specify by reference to claimant's name, names of parties, case or claim numbers)
or
Case Name Unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

(2) Conference with Legal Counsel Re: Anticipated Litigation Significant Exposure to Litigation
Pursuant to Government Code Section 54956.9 (d)
Number of Potential Cases: (Specify number of potential cases)

(3) Conference with Legal Counsel Re: Anticipated Litigation Potential Initiation of Litigation
Pursuant to Government Code Section 54956.9 (d)
Number of Potential Cases: (Specify number of potential cases)

(v) Post Closed Session Announcements. The Board must report the following actions:

(1) Appellate Review or Relief. The Board must report if approval was granted to legal counsel to defend, or seek or refrain from seeking appellate review or relief.

(2) Amicus Curiae (Friend of the Court). The Board must report if approval was granted to legal counsel to enter as an amicus curiae in any form of litigation.

(3) Settlement Proposals. The Board must report any approval given to legal counsel of a settlement of pending litigation at any stage prior to or during a judicial or quasi-judicial proceeding after the settlement is final, as specified below: (GC § 54957.1(a)(3))

i. If the Board accepts a settlement offer signed by the opposing party, the Board shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held. (GC § 54957.1(a)(3)(A))

ii. If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the District shall disclose the fact of that approval, and identify the substance of the agreement. (GC § 54957.1(a)(3)(B))

iii. The Board's report shall identify, if known, the adverse party or parties and the substance of the litigation. If the approval is to initiate or intervene in an action, the report need not identify the action, the defendants, or other particulars, but must specify that the direction to initiate or intervene in an action was given and that the action, the defendants, and the other

particulars must be disclosed to any person upon inquiry, once the litigation is formally commenced, unless the disclosure would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or if disclosure would jeopardize its ability to conclude existing settlement negotiations to its advantage. (GC § 54957.1(a)(2))

b. **Liability Claims.** The Board may convene in closed session to discuss a claim for the payment of tort liability losses and public liability losses, subject to the following: (GC § 54956.95(a))

(i) **Safe Harbor Description.** The agenda must describe the liability claim closed session matters in the following manner: (GC § 54954.5(e))

Liability Claim

Pursuant to Government Code Section **

Claimant: (Specify name unless unspecified pursuant to Government Code Section 54961)

Agency Claimed File Against: (Specify name)

(ii) **Post Closed Session Announcements.** The Board must report the disposition of claims discussed in closed session as soon as reached in a manner that identifies the name of the claimant, the name of the agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant. (GC § 54957.1(a)(4))

c. **Personnel Matters.** The Board may convene in a closed session to discuss the appointment, employment, performance evaluation, discipline and complaints about or dismissal of a specific employee, unless the employee requests a public session. (GC § 54957(b)(1))

(i) **Employee.** The term "employee" includes an officer or an independent contractor who functions as an officer or an employee, but does not include a trustee or other independent contractors. (GC § 54957.6(b))

(ii) **Specific Complaints or Charges.** Prior to conducting a closed session on specific complaints or charges brought against an employee by another person or employee, the District must provide the employee written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session. The notice must be delivered to the employee personally or by mail at least twenty-four hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the Board against the employee based on the specific complaints or charges in the closed session is null and void. (GC § 54957(b)(2))

(iii) **Safe Harbor Descriptions.** The agenda must describe the personnel closed session matters in the following manner: (GC § 54954.5 (e))

- (1) Public Employee Appointment Title: (Specify description of position to be filled)
- (2) Public Employment Title: (Specify description of position to be filled)
- (3) Public Employee Performance Evaluation Title: (Specify position title of employee being reviewed)
- (4) Public Employee Discipline/Dismissal/Release (No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(iv) Post Closed Session Announcements. The Board must report action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session at the public meeting during which the closed session is held. The report must identify the title of the position. The report of a dismissal or of the nonrenewal of an employment contract must be deferred until the first public meeting following the exhaustion of administrative remedies, if any. (GC § 54957.1(a)(5))

e. Labor Negotiations. The Board may convene into closed session with designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation. (GC § 54957.6(a)) The closed session with the agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of the agency's available funds and funding priorities, but only insofar as those discussions relate to providing instructions to the agency's designated representative. (GC § 54957.6(a))

(i) Employee. The term "employee" includes an officer or an independent contractor who functions as an officer or an employee, but does not include elected officials, Trustees, or other independent contractors. (GC § 54957.6(b))

(ii) Open Session. Prior to the closed session, the Board must hold an open and public session in which it identifies its designated representatives. (GC § 54957.6(a))

(iii) Safe Harbor Descriptions. The agenda must describe the closed session in the following manner: (GC § 54954.5(f))

(1) CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

(2) Employee organization: (Specify name of organization representing employee or employees in question)

(3) Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(iv) Limited Purpose. The closed session must be for the purpose of reviewing the Board's position and instructing the District's designated representatives (GC § 54957.6(a)) and may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees. (GC § 54957.6(a)) The closed sessions must not include final action on the proposed compensation of one or more unrepresented employees. (GC § 54957.6(a))

(v) Post Closed Session Announcements. The Board must publicly report (orally or in writing) the action taken in closed session and the vote or abstention of every Trustee present and voting concerning the approval an agreement that concludes labor negotiations with represented employees. The report must be made after the agreement is final and has been accepted or ratified by the other party and must identify the item approved and the other party or parties to the negotiation. (GC § 54957.1(a)(6))

f. Property Negotiations. The Board may convene into closed session to discuss with the agency's identified bargaining agent, the purchase, sale, exchange or lease of real property by or for the agency. (GC § 54956.8) A lease includes renewal or renegotiation of a lease.

(i) Open Session. Prior to the closed session, the Board must hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate. Negotiators may be Trustees. (GC § 54956.8)

(ii) Safe Harbor Descriptions. The agenda must describe the closed session in the following manner: (GC § 54954.5(b))

(1) CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))
Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(ii) Post Closed Session Announcements. The Board must report its approval of an agreement concluding real estate negotiations after the agreement is final. (GC § 54957.1(a)(1)) If the Board's own approval renders the agreement final, it must report that approval and the substance of the agreement in open session at the same public meeting during which the closed session is held. (GC § 54957.1(a)(1)(A)) If final approval rests with the other party to the negotiations, the District must disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the agency of its approval. (GC § 54957.1(a)(1)(B))

g. Joint Powers Agencies. When the controlling joint powers agency agreement or the joint powers agency's regulations or bylaws permit, any person who serves as both a member of the Board of a joint powers agency (JPA) and as a Trustee may disclose information to the District's legal counsel, or to other Trustees in a closed session when the information was obtained in a JPA's closed session and has direct financial or liability implications for the District. (GC § 54956.96(a)(1))

(i) Attendance. If the controlling joint powers agency agreement or the joint powers agency's regulations or bylaws permit, any person who serves as both a designated alternate member of the JPA and as a Trustee may attend the JPA closed session in lieu of the District's primary representative. (GC § 54956.96(a)(2))

(ii) Limited Purpose. When the controlling joint powers agency agreement or the joint powers agency's regulations or bylaws permit, the Board, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a JPA closed session. (GC § 54956.96(b))

(iii) **Safe Harbor Descriptions.** The agenda must describe the closed session in the following manner: (GC § 54954.5(j))

(1) **CONFERENCE INVOLVING A JOINT POWERS AGENCY** (Specify by name).

Discussion will concern: (Specify closed session description used by the joint powers agency.) Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

h. **Other Permissible Closed Session Topics.**

(i) **Security of public buildings and services or a threat to the public's right of access to public services or facilities.** (GC § 54957(a))

(ii) **License applications for people with criminal records.** (GC § 54956.7)

(iii) **Threats to public services or facilities.** (GC § 54957(a))

2. Permitted Closed Session Attendees. Only trustees and the support staff necessary to conduct business regarding a specified item (i.e., legal counsel, consultants, and negotiators) may attend a closed session. (86 Ops. Cal. Atty. Gen. 210, 215 (2003).)

3. Confidentiality of Closed Session Discussions. No person, including a trustee, may disclose confidential information that has been acquired by being present in a closed session to a person not entitled to receive it, unless the Board specifically authorizes disclosure of that confidential information. (GC § 54963(a))

(a) **Confidential Information.** "Confidential information" is defined by the Brown Act as a communication made in a closed session that is specifically related to the basis for the Board to meet lawfully in closed session under the Act. (GC § 54963(b))

(b) **Violations.** Violations of the confidentiality provision may be addressed by the use of the remedies currently available by law, including, but not limited to the following: (GC § 54963 (c); (d))

(1) **Injunctive relief to prevent the disclosure of confidential information.**

(2) **Disciplinary action against an employee who has willfully disclosed confidential information, provided the employee in question**

has received training as to the requirements of either this section or otherwise has been given notice of the requirements of this section.

(3) Referral of a trustee who has willfully disclosed confidential information to the grand jury.

(c) Non-Violations. It is not a violation of the confidentiality prohibition for a person to do any of the following: ^{(GC § 54963 (e))}

(1) Make a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.

(2) Express an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclose information acquired by being present in a closed session that is not confidential.

4. Disclosure and Reporting of Items.

(a) Disclosure. Prior to holding a closed session, the Board must disclose, during open session, the item or items to be discussed in closed session. The disclosure may be by reference to the item as listed by number of letter on the agenda. During the closed session, the Board may consider only those items covered in the disclosure. ^{(GC § 54957.7(a))}

(b) Reporting. After the closed session, the Board must reconvene into open session and make the required reports of action taken and the vote or abstention of Trustees in closed session. ^{(GC § 54957.7(b))} The required reports may be made orally or in writing. ^{(GC § 54957.7(b))}

(c) Release of Documents. The Board shall provide to anyone who has submitted a written request within 24 hours of the posting of the agenda, or to anyone who has made a standing request for all documentation, copies of any documents that were finally approved or adopted in the closed session, if the requester is present at the time the closed session ends. ^{(GC § 54957.1(b))} If the documents require substantive amendments and retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the Board's presiding officer, or his or her designee orally summarizes the substance of the amendments for the benefit of the requester or any other person present and requesting the information. ^{(GC}

§ 54957.1(b)) Documents finalized in closed session must be made available to the public on the next business day following the meeting. If the documents require substantial amendment or retyping, copies must be made available as soon as completed.
(GC § 54957.1(c))

E. AGENDAS

The agenda must describe each item of business to be transacted or discussed and must provide the time, and location of the meeting and comply with the following: (GC § 54954.2(a)(1))

1. **Agenda Organization.** The business of each regular Board meeting shall be in the order as printed on the agenda or as directed by the Chairperson. Generally, the agenda shall be organized as follows:

- Call to Order
- Pledge of Allegiance
- Roll Call
- Public Comments
- Consent Agenda
- General Manager's Reports
- Action and Information Items
 - Unfinished Business
 - New Business
- Committee Reports
- Items for Future Agendas
- Board Comments
- Announcements
- Closed Session
- Post Closed Session Announcements
- Adjournment

2. **Agenda Item Descriptions.** Agenda item descriptions "generally" should not exceed 20 words in length. (GC §54954.2(a)(1)) However, agenda item descriptions should give enough information to permit a person to make an informed decision about whether they want to attend or participate in a discussion on an issue.

3. **Non-Agenda Items.** Action or discussion on any item not described in the agenda is prohibited, unless one of the urgency exemptions is applicable. (GC § 54954.2(a)(3), §54954.2(b)) However, trustees may briefly respond to statements made or questions asked by the public.(GC § 54954.2(a)(3)) Additionally, trustees may: (GC § 54954.2(a)(3))

- ask a question for clarification
- make a brief announcement
- make a brief report on activities

- provide a reference to staff or other sources for factual information
- request staff report to the body at a future meeting
- direct staff to place a matter of business on a future agenda

4. Urgency Items. The Board may take action on items of business not described in the agenda under any one of the following urgent conditions:

a. A majority of the Board determines that an emergency exists, such as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both.^{(GC § 54954.2(b)(1))}

b. Two-thirds of the trustees present (or all of the trustees if less than two-thirds are present) determine that there is a need to take immediate action and the need for that action came to the attention of the Board after the agenda was posted.^{(GC § 54954.2(b)(2))}

c. The item appeared on the agenda of a Board meeting held not more than five days earlier and the item was continued from that meeting.^{(GC § 54954.2(b)(3))}

5. Adding Items To Future Agendas. It is the policy of District that an item be placed on the agenda and discussed by the Board prior to having District staff and legal counsel perform extensive research on an issue. There shall be included in each regular meeting agenda a section titled “Items to be considered for Future Agendas.” Each trustee shall have the opportunity to add any item to a future agenda. Without discussing the item, the Board may provide direction to staff and legal counsel as to what level of research they should conduct prior to the Board meeting at which the item will be discussed. Since the Board only meets once a month, if a trustee becomes aware of a subject that the Trustee believes should be discussed by the Board and the trustee did not have the opportunity to request it at the previous meeting, then that Trustee may notify the General Manager of his or her request. The General Manager shall use his/her discretion as to the level of outside assistance that can be used to prepare information for the report on the item requested. However, extensive legal research or work from outside consultants shall not be conducted. The General Manager, outside counsel and/or consultants will perform limited research in order to enable the Board to have an informed discussion regarding the item once it is agendized. Preparation of resolutions or ordinances shall not take place until the Board takes action on an item unless it is a routine ordinance required by another agency. Once the draft agenda that includes the requested item is produced, the General Manager shall send a copy to the Chair. The General Manager shall then produce the full agenda packet for distribution to all trustees and prepare it for public viewing.

F. PUBLIC PARTICIPATION AT BOARD MEETINGS

1. Attendance. The Board may not require the public to register their names, provide other information, complete a questionnaire, or otherwise fulfill any condition to attend

a Board meeting. (GC § 54953.3) If an attendance list, register, questionnaire or similar document is circulated to the public present at the meeting, the document must clearly state that signing, registering or completing the document is voluntary and all persons may attend regardless of filling out the document. (GC § 54953.3) Moreover, the Board's meeting place must not prohibit the admittance of any person based on sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation and must be accessible to disabled persons. Members of the public must be able to gain admittance without making a payment or purchase. (GC § 54961)

2. Public Participation – Regular Meetings. Every regular meeting agenda must provide an opportunity for the public to address the Board on any item of interest to the public that is within the Board's subject matter jurisdiction. (GC § 54954.3(a)) At a regular meeting, the public must be provided an opportunity to address the Board concerning any item described on the meeting agenda before or during consideration of that item. (GC § 54954.3(a)) However, an agenda for a regular meeting need not provide the public with the opportunity to address the body on any item that has already been considered by a committee composed exclusively of trustees at a public meeting at which the public was given an opportunity to address the committee before or during its consideration of the item, unless the item has been substantially changed since the committee heard the item. (GC § 54954.3b)

3. Public Participation – Special Meetings. Every notice for a special meeting must provide an opportunity for the public to address the Board concerning any item described in the notice before or during consideration of that item. (GC § 54954.3(a)) At a special meeting, public comment can be limited to only those items on the special meeting agenda.

4. Reasonable Regulations. The Board may adopt reasonable regulations regarding public participation, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

5. Speaker Time Limitations. The Board must allow each speaker at a meeting at least three minutes to speak.

6. Use of Translators. The Board must provide at least twice the allotted time to a member of the public who utilizes a translator, unless the Board uses a simultaneous translation equipment in a manner that allows the Board to hear the translated public testimony simultaneously. (GC § § 54954.3(b)(1-3))

7. Access to Meeting Records. If a writing is a public record and relates to an agenda item for an open session of a regular Board meeting and the writing is distributed less than 72 hours prior to the meeting, the writing must be made available for public inspection when the writing is distributed to all, or a majority of all, of the members of the legislative body. (GC § 54957.5(b)(1)) The District must make the writing available for public inspection at the

District's office. The District must also post the writing on its website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting. (GC § 54957.5(b)(2))

8. Right to Record Proceedings. Any person attending an open and public meeting of the Board has the right to record the proceedings with an audio or video tape recorder or a still or motion camera providing the recording can proceed without noise, illumination or obstruction of views that would be a persistent disruption to the meeting. (GC § 54953.5(a)) Any person may inspect any audio or film recording of an open and public meeting of the Board. The inspection must be provided without charge on a video or tape player made available by the agency. (GC § 54953.5(b)) The agency may erase or destroy the recording thirty days after the taping or recording. (GC § 54953.5 (b)) Any inspection of an audio or video recording shall be provided without charge on equipment made available by the Agency.

9. Disorderly Conduct of the Public. The Chair may order the meeting room cleared, in the event a group or groups of individuals willfully interrupt the meeting and orderly conduct is unfeasible and cannot be restored by removal of individuals. (GC § 54957.9) News media representatives must be permitted to attend the session, except those who participated in the disturbance. (GC § 54957.9) Only matters appearing on the agenda shall be considered at a meeting which has been ordered cleared. (GC § 54957.9)

G. BROWN ACT EXCEPTIONS.

Nothing in the Brown Act prevents a majority of members of a Board from attending a function. The test is not whether a majority attends the function, but whether business of a specific nature within the subject matter jurisdiction of the agency is discussed. So long as the members do not discuss agency business, there is no violation of the Brown Act.

Following are the five exceptions that permit a majority of members of a body to gather without prompting the Brown Act meeting requirements:

(1) **Conference.** A majority of the Board may attend a public conference or similar gathering that addresses issues of general interest to the public, provided that a majority of the trustees do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the body's subject matter jurisdiction. (GC § 54952.2(c)(2))

(2) **Open and Publicized Meeting.** A majority of the Board may attend an open and publicized meeting organized by another organization to address a topic of concern to the community provided that a majority of the trustees do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the Board's subject matter jurisdiction. (GC § 54952.2(c)(3))

(3) **Another Local Agency Meeting.** A majority of the Board may attend a meeting of a Board of another local agency, or a legislative body of another local agency. A majority of trustees cannot discuss among themselves, other than as part of the scheduled meeting,

business of a specific nature that is within the Board’s subject matter jurisdiction, provided that it is an open and publicized meeting. ^{(GC § 54952.2(c)(4))}

(4) Standing Committee. A majority of the Board may attend an open and noticed meeting of a Board standing committee. The trustees who are not standing committee members may attend only as observers, meaning that they cannot speak or otherwise participate in the meeting. A majority of the trustees must not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the Board’s subject matter jurisdiction. ^{(GC § 54952.2(c)(6))}

(5) Social or Ceremonial Occasion. A majority of the Board may attend a purely social or ceremonial occasion. A majority of trustees cannot discuss business among themselves of a specific nature that is within the Board’s subject matter jurisdiction. ^{(GC § 54952.2(c)(5))}

Adopted: February 7, 2006

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Resolution No. 2022-09

EXHIBIT A



Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



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INTRODUCTION

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

First, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move ...”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

Motion to limit debate. Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

*How does this work in practice?
Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

Order. The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.



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ARTICLE 100

GOVERNANCE

CONFLICT OF INTEREST CODE POLICY

Policy:

The terms of Section 18730, “Provisions of Conflict of Interest Codes” of the Fair Political Practices Commission Regulations are hereby incorporated by this reference and shall serve as the Conflict of Interest Code for the Orange County Cemetery District (“District”). (See Exhibit A.)

Purpose:

The purpose of incorporating by reference the terms of Section 18730 along with the designation of certain positions and the formulation of disclosure categories is to adopt a local conflict of interest code as required by Government Code Section 87300.

Statement of Economic Interest (F.P.P.C Form 700):

Trustees, the General Manager and General Legal Counsel are required under the Political Reform Act, as set forth in Government Code §81000, et seq., to complete and file a Statement of Economic Interest every April on a specific day set by the Fair Political Practices Commission.

Disclosure Categories:

In addition to each trustee, the General Manager and General Legal Counsel, any person who occupies a designated position, as listed in the Appendix below, shall disclose in his or her statement of economic interests (Form 700) those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix.

| Category | General Type | Reportable | Not Reportable |
|----------|------------------------------|---|--|
| A-1 | Investments | Stocks, including those held in an IRA or 401K. Each stock must be listed. | Insurance policies, government bonds, diversified mutual funds, funds similar to diversified mutual funds. |
| A-2 | Business Entities and Trusts | Business entities, sole proprietorships, partnerships, LLCs, corporations and trusts. | Savings and checking accounts, and annuities. |

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| | | | |
|---|-----------------|---|---|
| B | Real Property | Rental property in filer’s jurisdiction, or within two miles of the boundaries of the jurisdiction. | A residence used exclusively as a personal residence (such as a home or vacation property). |
| C | Income | Non-governmental salaries. Note that filers are required to report only half of their spouse’s or registered partner’s salary. | Governmental salary (from school district, for example). |
| D | Gifts | Gifts from businesses, vendors, or other contractors (meals, tickets, etc.). | Gifts from family members. |
| E | Travel Payments | Travel payments from third parties (not including the District). | Travel paid by your government agency employer. |

Appendix - Designated Positions:

Any person who occupies any of the following designated positions, as an employee, appointee, volunteer, consultant or independent contractor, whether on a part time or full time basis, shall be required to complete and file a Statement of Economic Interest (Form 700) to disclose those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in this Appendix.

| Designated Position | Disclosure Categories |
|--------------------------------|-----------------------|
| General Manager | A-1, A-2, B, C, D & E |
| Trustee | A-1, A-2, B, C, D & E |
| Cemetery Manager | A-1, A-2, B, C, D & E |
| Finance and Accounting Manager | A-1, A-2, B, C, D & E |
| Administrative Manager | A-1, A-2, B, C, D & E |
| Attorney | A-1, A-2, B, C, D & E |

Adopted: October 7, 2014
 Last Review: September 6, 2022
 Resolution No. 2022-09

EXHIBIT A

CONFLICT OF INTEREST CODE

Fair Political Practices Commission Regulations

Section 18730

Provisions of Conflict of Interest Codes

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18730. Provisions of Conflict of Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Section 87300 or the amendment of a conflict of interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories

are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1. If a person reports for military service as defined in the Servicemember's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;

2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000;
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(B) This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

(C) Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section.

(D) This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$500.

ARTICLE 100 – GOVERNANCE: Conflict of Interest Code Policy

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$500 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(B) This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

(C) Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected

officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans from a person which, in the aggregate, do not exceed \$500 at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.

2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

a. The date the loan was made.

b. The date the last payment of \$100 or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$500 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The

fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

² See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14).
Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).

9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).
11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).
16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).

18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

19. Editorial correction of subsection (a) (Register 98, No. 47).

20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).

22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).

23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).

24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District,

nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).

25. Editorial correction of History 24 (Register 2003, No. 12).

26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).

27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).

28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).

29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).

30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).

31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of*

Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).

32. Amendment of section heading and subsections (a)-(b)(1), (b)(3)-(4), (b)(5)(C), (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) and amendment of footnote 1 filed 1-8-2013; operative 2-7-2013.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 2).

33. Amendment of subsections (b)(8.1)-(b)(8.1)(A), (b)(8.2)(E)3. and (b)(9)(E) filed 12-15-2014; operative 1-1-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations.

Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2014, No. 51).

34. Redesignation of portions of subsection (b)(8)(A) as new subsections (b)(8)(B)-(D), amendment of subsections (b)(8.1)-(b)(8.1)(A), redesignation of portions of subsection (b)(8.1)(A) as new subsections (b)(8.1)(B)-(C) and amendment of subsection (b)(9)(E) filed 12-1-2016; operative 12-31-2016 pursuant to Cal. Code Regs. tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision,

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April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 49).

35. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-12-2018; operative 1-11-2019 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2018, No. 50).

ARTICLE 100

GOVERNANCE

RULES OF CIVILITY AND DECORUM AT PUBLIC MEETINGS POLICY

POLICY:

During public meetings of the Board of Trustees, persons attending such meetings and trustees participating in such meetings who do not comply with the rules of civility and decorum as set forth in this policy may be subject to removal from the subject meeting and/or arrest.

PURPOSE:

The purpose of adopting rules of civility and decorum for public meetings of the Board of Trustees is to help ensure that civic engagement and public participation is accomplished in a peaceful, respectful and civil manner.

RULES OF CIVILITY:

Persons attending any public meetings of the Board of Trustees shall comply with the following Rules of Civility:

- (1) No person shall engage in disorderly or boisterous conduct such as, but not limited to, applauding, whistling, stamping feet, booing, yelling, shouting, or speaking out of turn or beyond their allotted time.
- (2) All public comments shall be addressed to the presiding officer and not to a single trustee or staff member or any member of the public unless the public comment is a response to a trustee's question.
- (3) All public comments should relate and be relevant and pertinent to the subject matter of the agenda item being considered at the time.
- (4) Public comment shall not exceed the allotted time set by the Board.
- (5) No signs, placards, banners, or other similar items may be displayed during a public meeting.
- (6) All public comments shall be made at the specific location designated by the Board for public comments.
- (7) All persons attending a public meeting shall remain seated in the seats provided, unless addressing the Board from the specific location designated by the Board for public comments.

- (8) No person shall lie down or sit on the floor or on any surface or object not intended for seating purposes.
- (9) All cell phones shall be placed on silent and shall not be used for speaking or calling during a public meeting.
- (10) No person shall use a radio or any other listening device not intended to aid one's hearing of the proceedings.
- (11) No person shall use any flash camera or video devices with lights.
- (12) No person shall touch any person at a meeting without their consent.
- (13) No eating or drinking is permitted in the audience at a public meeting.
- (14) No person shall engage in any other conduct, behavior or activity that unreasonably disturbs, disrupts, or otherwise impedes the orderly conduct of a public meeting.

RULES OF DECORUM:

During a public meeting of the Board of Trustees, each trustee shall comply with the "Courtesy and Decorum" provisions of Rosenberg's Rules of Order and the following Rules of Decorum which shall take precedence over any conflicting provisions set forth in Rosenberg's Rules of Order:

- (1) A trustee must first be recognized by the presiding officer before he or she speaks during a public meeting of the Board.
- (2) A trustee's comments must relate and be relevant and pertinent to the subject matter of the item under consideration or being discussed by the Board at the time.
- (3) A trustee shall not use indecorous, abusive or vulgar language and shall refrain from engaging in any personal attacks on any other trustee, staff or member of the public; nor shall any trustee publicly impugn the integrity, honesty or motives of any such individuals.
- (4) A trustee shall not interrupt any other trustee who has been recognized by the presiding officer as having the floor.
- (5) A trustee shall not leave a public meeting of the Board without first informing the presiding officer, who reserves the right to call a recess to accommodate the trustee's temporary absence if the presiding officer deems it necessary for any reason.

- (6) A trustee shall have only ten (10) minutes to speak on any item, unless otherwise extended by the presiding officer without objection by any other trustee.
- (7) All trustees shall silence all cell phones and shall not use them for speaking or calling during a public meeting.
- (8) No trustee shall engage in any other conduct, behavior or activity that unreasonably disturbs, disrupts, or otherwise impedes the orderly conduct of a public meeting of the Board.

ENFORCEMENT:

The Presiding Officer shall be responsible for enforcing the Rules of Civility and Rules of Decorum during any public meeting of the Board of Trustees.

VIOLATION:

Any person who violates any of the Rules of Civility or Rules of Decorum may be subject to removal from the venue where a public meeting of the Board is taking place, under the following circumstances:

- (1) The violator receives a verbal warning from the presiding officer that he or she has violated the Rules of Civility or Rules of Decorum;
- (2) After the first warning, if the violator violates the Rules of Civility or Rules of Decorum for a second time, the presiding officer may direct the violator to leave the venue of the public meeting; and
- (3) If the violator refuses to leave the venue after being demanded to leave the venue of the public meeting, the District may contact local law enforcement to physically remove the violator and/or arrest the violator for any applicable criminal offense, including without limitation, Penal Code Section 415 for disturbing the peace or Penal Code Section 602 for criminal trespass.

Adopted: November 5, 2019
Last Review: September 6, 2022
Resolution 2022-09

ARTICLE 100

GOVERNANCE

BOARD COMMITTEE AND SUBCOMMITTEE POLICY

PURPOSE

To set forth the purpose, roles, responsibilities and procedures of standing committees and ad hoc subcommittees established by the Board of the Orange County Cemetery District ("Board").

POLICY:

The Board may establish various committees from time to time when it is apparent that issues are either too complex or numerous to be addressed by the Board at a regular meeting. A committee may only be established by a majority vote of the Board.

(1) Standing Committees. For ongoing, significant activities, the Board shall establish standing committees. Standing committees shall meet in compliance with the Brown Act. Standing committees shall consist of two trustees. Open session standing committee meetings shall be recorded and meeting minutes must be kept. The General Manager, or his or her designee, shall serve as an ex officio member of all standing committees. Standing committee chairs are nominated by the Board Chair based on interest expressed by the committee members. Approval of a Committee chair shall be by vote of a majority of the Board. A standing committee Chair shall report any issues, recommendations, or other items of significance to the Board at its regular monthly meetings.

(2) Committees of the Whole. The Board may also create a "Committee of the Whole" consisting of all five trustees. In order for the Committee of the Whole to meet and make recommendations to the Board, at least three members must attend. If less than three attend Committee of the Whole, information may still be exchanged followed by discussion, but no recommendations can be made by the Committee of the Whole to the Board. Open session Committee of the Whole meetings shall be recorded and meeting minutes must be kept. The General Manager, or his or her designee, shall serve as an ex officio member of all Committees of the Whole. The chair of a Committee of the Whole are nominated by the Board Chair based on interest expressed by trustees. Approval a chair of a Committee of the Whole shall be by vote of a majority of the Board. The chair of Committee of the Whole shall report any issues, recommendations, or other items of significance to the Board at its regular monthly meetings.

(3) Ad Hoc Subcommittees. For short-term issues, the Board may establish ad hoc subcommittees which will remain in existence only for so long as the need exists. Ad hoc subcommittees shall meet in compliance with the Brown Act if determined to be appropriate by the Board.

(4) Advisory Role. Committees and ad hoc subcommittees shall serve in an advisory capacity to the Board and shall only make an ultimate decision if expressly authorized by a majority of the Board to do so. They do not supplant the responsibility of the Board.

(5) Contribution. Committees and ad hoc subcommittees should to use the expertise, time, commitments and general contribution offered of the trustees selected to serve on a committee or ad hoc subcommittee to benefit from the diversity of opinions of its members.

(6) Meeting Frequency. Committees and ad hoc subcommittees shall meet on an as-needed basis.

STANDING COMMITTEES ESTABLISHED BY BOARD OF TRUSTEES

Current standing committees, established by the Board, include the following:

1. FINANCE & INVESTMENT COMMITTEE

Functions of the Committee

- a. Work with Staff on the development and update of the District's Five-Year Financial Plan.
- b. Review fiscal budget prepared by staff.
- c. Assist in the development of procedures for budget preparation and connectivity to District's organization plan.
- d. Report any financial irregularities, concerns and opportunities to the Board.
- e. Recommend financial guidelines to the Board.
- f. Work with staff on the design of financial reports in a timely and accurate manner.
- g. Recommend selection of auditor.
- h. Work with auditor during annual review
- i. Advise staff on financial priorities and information systems.
- j. Oversee short and long-term investments
- k. Review and approve annual updates to Investment Policy
- l. Review and recommend investment priorities
- m. Recommend selection of outside investment firms

- n. Review and recommend fund balance transfers to outside investment firms

2. PERSONNEL COMMITTEE

Functions of the Committee

- a. Review and recommendation of personnel policies to Board for approval.
- b. Review of job descriptions, salary structures and benefits.
- c. Review and recommendation of organizational structure changes.
- d. Participate in the preparation of negotiation package with represented and unrepresented employees.
- e. Provide assistance on the General Manager's employment agreement and annual evaluation.

3. COMMUNICATION AND PUBLIC RELATIONS COMMITTEE

Functions of the Committee

- a. The Committee is to annually review and participate in the planning of events at District facilities.
- b. Review public education materials
- c. Increase awareness of the District and its events.
- d. Oversee media outreach activities.
- e. Participate in the development and monitor the Public Relations Plan.

Adopted: March 1, 2011
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 100

GOVERNANCE

LEGISLATIVE ACTION POLICY

Policy:

To track the status of legislative bills on a wide range of legislative issues of interest to Independent Special Districts and Public Cemetery Districts in particular to determine whether the Board of Trustees should actively advocate the District's support or opposition to any particular legislative bill.

Purpose:

The purpose of this policy is to establish guidelines for tracking legislation of interest to Independent Special Districts and Public Cemetery Districts and deciding when to actively advocate the District's support or opposition to any particular legislative bill through the preparation and distribution of correspondence and other material to the appropriate elected officials, decision-making bodies and government agencies seeking support of the District's position on any given legislative bill and/or through any other means deemed necessary and appropriate by the Board of Trustees ("Board").

Procedure:

District staff shall monitor, through various reliable and credible sources, any proposed legislation that could potentially impact any aspect of the operation of Independent Special Districts and Public Cemetery Districts. In particular, such reliable and credible sources, may include but not be limited to, legislative information shared through or provided by the California Special Districts Association ("CSDA"), California Association of Public Cemeteries ("CAPC"), League of California Cities, Legislative Counsel of California at www.leginfo.ca.gov, California State Legislature - Bill Information at www.legislature.ca.gov/the_state_legislature/bill_information/bill_information.html or Fair Political Practices Commission.

The General Manager or designee shall inform the Board of any proposed legislation that the General Manager reasonably believes may have a direct negative or positive effect on the District. The Board reserves the right to decide whether the District will actively support or oppose any proposed legislation, and the form and manner in which the District's advocacy should occur. However, if the General Manager determines that it is critical that the District's position on any proposed legislation be given prior to the time of the next regularly scheduled Board meeting, the General Manager may inform the appropriate elected officials, decision-making bodies and government agencies of the District's position regarding the proposed legislation. Notwithstanding

the above, the Board may rescind or modify the General Manager’s stated position at the next subsequent Board meeting.

The General Manager or designated staff shall keep the Board informed of the status of the District’s advocacy efforts regarding any particular legislation and provide the Board with copies of all related correspondence to or from the District regarding the particular legislation.

Trustees may send letters supporting or opposing any proposed legislation provided that a disclaimer is included that indicates the following: “The opinions expressed in this correspondence are mine alone and do not reflect the opinions or official positions of the Orange County Cemetery District or the District’s Board of Trustees.”

Adopted: January 3, 2012
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 110

TRANSPARENCY

PUBLIC RECORDS ACT GUIDE

1. **Fundamental Right of Access to Information.** The public has a fundamental right to access information that enables the public to monitor the functioning of the District and its affiliated agencies.
2. **Interpretation.** The Public Records Act must be broadly interpreted in a way that maximizes the public's access to information.
3. **Agencies Subject to Public Records Act.** The District and all of its affiliated agencies are subject to the Public Records Act.
4. **Public Records.** Any record that contains information relating to the conduct of the public's business, and they are prepared, owned, used, or retained by the District is considered a public record subject to the Public Records Act.
5. **Forms of Records.** Records can be in the form of electronic records (such as pdfs, jpegs, tiffs, etc.) paper, drawings, emails, texts, photographs, photocopies, and facsimile transmissions.
6. **Location of Records.** Records can be located in file cabinets, in desk drawers, in storage closets, on hard drives, on bulletin boards, on the District's server, in data bases, in email boxes, in texts messages, or stored on an employee/official's personal mobile device.
7. **Persons Who May Request Records.** Members of the public, including citizens/residents and non-citizens/non-residents, public officials, other public entities, private businesses, corporations and partnerships, have the right to inspect and copy disclosable public records. The requestor does not have to be a resident of the District or State.
8. **Local Public Officials.** Local public officials are entitled to access public records on the same basis as any other person. However, when authorized to do so as part of their official duties, local public officials may access public records of the District that are otherwise exempt.
9. **Where to Inspect Records.** Any person may inspect public records at the District's main office or other District offices, obtain copies from the District, or retrieve the requested public records from the District's website.

10. **Purpose of Inspection/Copies of Records.** The purpose of a request to inspect or copy records is irrelevant and may not be used as justification for denying records. The only time it may be relevant is if the District is trying to help the requestor identify the records needed and/or to help the requestor narrow down the request if it is overly broad.
11. **When to Inspect Records.** Any person may inspect the District's public records during the District's regular office hours.
12. **Format for Providing Records.** If a requestor does not specify the format for inspecting or obtaining a copy of the records sought, the District should seek clarification from the requester to avoid unnecessary copying costs.
13. **Posting requested records on website.** The District may post the requested record on its website and direct a member of the public to that website location. If the requestor cannot access or reproduce the records from the website, the District must provide a copy to the requestor.
14. **Providing exact copies.** If a record copy has been requested, the District must provide an exact copy that is reasonably possible.
15. **Providing electronic copies.** If the requested record is stored in an electronic format, the District must provide the requested record in its electronic format unless otherwise requested.
16. **Request for Voluminous Amount of Records.** If the request is for a voluminous number of classes of documents, the District has the following options:
 - **Narrow Request.** Ask the requester to narrow the request;
 - **Later Deadline.** Ask the requester to consent to a later deadline for responding; and/or
 - **Rolling Production.** Provide responsive records on a "rolling" basis, rather than all at once.

NOTE: Some requests may impose a substantial enough burden on the District to justify withholding the requested records on the basis that the public interest in nondisclosure clearly outweighs the public interest in disclosure, because the costs and staff time required to search and produce the documents would be excessive and burdensome.

17. **Response Time.** The District has 10 calendar days to respond to the requestor. This does not mean the District has to produce the records within 10 calendar days.

18. Extending Response Time Up to an Additional 14 Days. The District may extend the 10- day response period for up to 14 additional calendar days under the following unusual circumstances¹:

- To search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- To search for, collect, and examine a voluminous amount of separate and distinct records that are demanded by a single request;
- To consult with another agency that has a substantial interest in the determination of the request or among two or more components of the agency with substantial interests in the request; or
- To compile data, to write programming language or a computer program, or to construct a computer report to extract data.

Exercising the right to extend the response time an additional 14 days must be done in writing, stating the reasons for the extension and the anticipated date of the response within the 14-day extension period.

Consent of the requester is not required to extend the time for an additional 14 days, unless the District does not qualify for the additional 14-day extension, in which case the consent should be in writing.

19. Locating Requested Records. The District must make a reasonable effort to search for and locate requested records, including asking probing questions of District staff and consultants, but not required to perform a "needle in a haystack" search.

20. Records that May Exist on Personal Devices. Communicate the request to any employee or official who may have the requested information on his/her personal devices and ask employee or official to conduct their own searches for public records on their personal devices for the requested information.

NOTE: The District's Electronic Data Policy requires all employees and officials to use the District's official accounts to conduct District business and to copy or forward all District business related emails or text messages and their attachments to the District for official recordkeeping.

21. Redacting Records. Some records contain information that must be disclosed, along with information which may be exempt from disclosure. The District must provide a record to the requester in redacted form if the nonexempt information is "reasonably segregable" from exempt information. If exempt information is inextricably intertwined with nonexempt information, the entire record may be withheld.

¹ Cal. Govt. Code §6253(c)

22. Personnel Records – Special Considerations. Requests for personnel records shall be treated as follows:

- Subject to Disclosure:
 - Employee Names
 - Employment Contracts
 - Employee Salaries, including bonuses and overtime
 - Identities of Pensioners
 - Pension Benefits
 - Documents appointing and then rescinding a public employee appointment²

- Exempt from Disclosure:
 - Medical Records and Other Medical Information
 - Individual Medical Insurance Information
 - Individually Identifiable Health Information³
 - Physician-Patient Privileged Information⁴
 - Workers' Compensation Benefits Regarding Specific Employee
 - Trivial or groundless charges of misconduct by non-safety public employees.⁵
 - Personal information provided to a retirement system by a member or on a member's behalf, such as a member's personal email address, home address, telephone number, Social Security number, and birth date, age at retirement, benefits election, or health reports concerning a member. ⁶
 - Misc. Personnel Records. The courts weigh the harm from unwarranted disclosure against the public interest in disclosure, and consider the extent to which disclosure will shed light on the local agency's performance of its duties.

23. Personal Contact Information – Special Considerations. Individuals generally have a substantial privacy interest in their personal contact information, and a specific factual analysis is required to determine whether the public interest exemption protects the information from disclosure.⁷

² *Braun v City of Taft* (1984) 154 CA3d 332)

³ Govt C §6254(k); Govt C §6255)

⁴ Evid C §§990-1007

⁵ *American Fed'n of State, County & Mun. Employees*, 80 CA3d at 918

⁶ Govt C §§20134, 31532, 31526; *Sonoma County Employees' Retirement Ass'n v Superior Court* (2011) 198 CA4th 986; *San Diego County Employees Retirement Ass'n v Superior Court* (2011) 196 CA4th 1228; *Sacramento County Employees' Retirement Sys. v Superior Court* (2011) 195 CA4th 440

⁷ Govt C §6255(a)

24. Specific Exemptions from Disclosure. Records containing the following information shall not be produced for inspection or copying:

- Contractor payroll records.⁸
- Home address and telephone numbers in firearm license applications and permits of listed officials.⁹
- Informant identity.¹⁰
- Lawyer referral service communications.¹¹
- Library patron use records.¹²
- Licensee financial information.¹³
- Mental health detention information.¹⁴
- Official information.¹⁵
- Patient information.¹⁶
- Public official home contact information.¹⁷
- Public services recipients' information.¹⁸
- Real estate appraisals and engineering evaluations.¹⁹
- Taxpayer information.²⁰
- Test questions and examination data.²¹
- Trade secret and other proprietary information.²²
- Vendor's or contractor's unique identifying code used by public agency in public bidding or audit.²³
- Voter registration information.²⁴
- Certain child abuse reports.²⁵
- Elder abuse records.²⁶
- Juvenile police and court records.²⁷

⁸ Lab C §1776)

⁹ Govt C §6254(u)

¹⁰ Evid C §1041

¹¹ Evid C §965(d)

¹² Govt C §§6254(j), 6267

¹³ Govt C §6254(n)

¹⁴ Welf & I C §§5150, 5328

¹⁵ Evid C §1040

¹⁶ Evid C §994; CC §§56.05(g), 56.20, 56.35-56.36; Health & S C §1417 et seq.; Welf & I C §5000 et seq., §5328 et seq.; 42 USC §§1320d—1320d-9

¹⁷ Govt C §6254.21; 91 Ops Cal Atty Gen 19 (2008)

¹⁸ Welf & I C §§10850, 18909

¹⁹ Govt C §6254(h)

²⁰ Govt C §6254(i); Rev & T C §§7056, 7056.5

²¹ Govt C §6254(g)

²² Evid C §1060; Govt C §§6254(e), 6254.2, 6254.7, 6254.15, 6255; CC §3426.1

²³ Govt C §6254.33

²⁴ Govt C §§6254.4, 6253.6; Elec C §2194

²⁵ Pen C §§11165.6-11165.7, 11167.5, 11169

²⁶ Welf & I C §15633

²⁷ Welf & I C §§827, 827.9, 828

- Photographs or video recordings of the body of a deceased person taken for or by the coroner.²⁸

25. Special Exemptions. Records consisting or containing the following information are not subject to disclosure unless otherwise provided below:

- **Architectural Plans and Drawings.** Architectural plans cannot be copied without the express permission of the owner.²⁹
- **Building Plans Maintained by the District.** The official copy of building plans maintained by the District may be inspected but may not be copied without first requesting the written permission of the licensed or registered professional who signed the document and the original or current property owner.³⁰
 - This prohibition against copying building plans does not apply to interim grading documents, including geology, compaction, and soils reports, which are not exempt from disclosure.³¹
- **Code Enforcement Records – Criminal Offenses.** Code enforcement cases involving criminal sanctions may exempt from disclosure, as long as there is a concrete and definite prospect of criminal enforcement.³²
 - Records of code enforcement cases that are prosecuted administratively do not qualify for exemptions applicable to law enforcement records.³³
- **Complainant Names and Contact Information.** Names and contact information of complainants may still be exempt from disclosure.³⁴

26. Deliberative Process Privilege - Exemption. The following items are exempt from disclosure if they are not retained by the District in the ordinary course of business, as set forth in the District’s Record Retention Schedule, and the disclosure of materials would expose the District’s decision-making process so as to discourage candid discussion within the District and thereby undermine the District’s ability to perform its functions.

²⁸ CCP §129

²⁹ 17 USC §102(a)(8)

³⁰ Health & S C §19851

³¹ 89 Ops Cal Atty Gen 39 (2006)

³² Govt C §6254(f); *Haynie v Superior Court* (2001) 26 C4th 1061; *State ex rel Division of Indus. Safety v Superior Court* (1974) 43 CA3d 778

³³ *Haynie*, 26 C4th 1061; *State ex rel Div. of Indus. Safety*, 43 CA3d 778

³⁴ *City of San Jose v Superior Court* (1999) 74 CA4th 1008

- Drafts and Notes - Preliminary.³⁵
- Memoranda - Interagency or Intra-Agency³⁶
- Telephone Logs of Council Members³⁷
- Telephone Logs of Staff³⁸
- Names and Background Information of Commission Applicants³⁹

27. **Public Interest Exemption/Catch-All Exemption.** Permits the District to withhold a record if the District can demonstrate that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure.⁴⁰

28. **Attorney-Client Privilege Exemption.**

- **Attorney-Client Communications/Memoranda/Opinions and Other Attorney Work Product.**
 - Records protected by Evidence Code privileges are exempt from disclosure under the Public Records Act.⁴¹
 - Attorney-client privileged communications and attorney work product and other work product prepared for use in pending litigation or claims are exempt from disclosure.⁴²
 - Attorney-client-privileged and work product information is protected from disclosure even after litigation is concluded.⁴³
- **Attorney Invoices and Attorney Retainer Agreements.**
 - Attorney billing invoices reflecting work in active and ongoing litigation are exempt from disclosure under the attorney-client privilege or attorney work product doctrine; other billing invoices are exempt only if they communicate information for the purpose of legal consultation or risk exposing information communicated for such purpose.⁴⁴

³⁵ Govt C §6254(a)

³⁶ Govt C §6254(a)

³⁷ *Rogers v Superior Court* (1993) 19 CA4th 469

³⁸ Currently Undecided

³⁹ *Wilson v Superior Court* (1996) 51 CA4th 1136

⁴⁰ Govt C §6255; *Times Mirror Co. v Superior Court* (1991) 53 C3d 1325

⁴¹ Govt C §6254(k)

⁴² *Fairley v Superior Court* (1998) 66 CA4th 1414

⁴³ *Roberts v City of Palmdale* (1993) 5 C4th 363; *Fellows v Superior Court* (1980) 108 CA3d 55, disapproved on other grounds in *Coito v Superior Court* (2012) 54 C4th 480

⁴⁴ *Los Angeles County Bd. of Supervisors v Superior Court* (2016) 2 C5th 282

- Retainer or fee agreements between local agencies and their attorneys constitute confidential communications within the scope of the attorney-client privilege.⁴⁵

29. **Pending Litigation and Claims.** Records pertaining to pending litigation to which the District is a party or to claims made filed against the District under the California Government Claims Act (Govt C §810 et seq.) until the pending litigation or claim has been finally adjudicated or otherwise settled.⁴⁶

- This exemption applies only to documents specifically prepared by, or at the direction of, the District for use in existing or anticipated litigation.⁴⁷
- Attorney billing and payment records related to ongoing litigation are not subject to the pending-litigation exemption, because such records are not primarily prepared for use in the litigation.⁴⁸
- Once litigation has concluded, previously exempt litigation-related records, including copies of depositions from closed cases, must be produced, unless covered by another exemption or statutory privilege.⁴⁹
- Documents concerning settlement of a claim must also be produced after the claim is finally settled unless other exemptions in the Public Records Act, such as the public interest exemption⁵⁰, or exemptions in other statutes, apply.⁵¹

30. **No Duty to Create Records or Privilege Logs.** The District does not have to create records that do not exist or to compile information, nor does the District have to create “privileged logs” that list which documents that are not exempt from disclosure.

31. **Waiver.** Generally, disclosure of an otherwise exempt record to any member of the public waives most of the exemptions contained in the Public Records Act for all future requests for the same record.⁵² However, disclosures to another governmental agency that agrees to treat the disclosed material as confidential.⁵³

⁴⁵ Bus & P C §6149; Evid C §§952, 954

⁴⁶ Govt C §6254(b)

⁴⁷ Fairley v Superior Court (1998) 66 CA4th 1414; City of Hemet v Superior Court (1995) 37 CA4th 1411

⁴⁸ County of Los Angeles v Superior Court (2012) 211 CA4th 57

⁴⁹ City of Los Angeles v Superior Court (1996) 41 CA4th 1083

⁵⁰ Govt C §6255)

⁵¹ Register Div. of Freedom Newspapers, Inc. v County of Orange (1984) 158 CA3d 893.

⁵² Govt C §6254.5; 86 Ops Cal Atty Gen 132 (2003)

⁵³ Govt C §6254.5

32. **Fees.** The District may charge a fee for the direct cost of duplicating a record, subject to the following.⁵⁴

- Direct cost of duplication is limited to the actual cost of reproduction, such as the cost of running a copy machine, which may not include staff time for searches, but may conceivably include staff time for actually duplicating a record.⁵⁵
- The District may require payment in advance before providing the requested copies.⁵⁶
- Some statutes specify a precise reproduction cost.⁵⁷
 - FPPC Disclosure Statements must not exceed ten cents per page, except that the District may charge an additional \$5 fee for retrieving records that are 5 or more years old.⁵⁸
 - Public Works Payroll Records must not exceed \$1 for first page, 25 cents for each page thereafter, and \$10 for handling costs.
 - Electronic Copies of Project’s Contract Documents are exempt from District fees for production.
- Retrieving Electronic Data – The District may recover all costs associated with retrieving electronic data.⁵⁹

Adopted: November 5, 2019
Last Review: September 6, 2022
Resolution 2022-09

⁵⁴ Govt C §6253(b)

⁵⁵ See North County Parents Org. for Children With Special Needs v Department of Educ. (1994) 23 CA4th 144, 148

⁵⁶ Govt C §6253(b)

⁵⁷ Govt C §6253(b); 85 Ops Cal Atty Gen 225 (2002)

⁵⁸ Govt C §81008; see also 8 Cal Code Regs §16402

⁵⁹ Govt C §6253.9(b)

ARTICLE 110

TRANSPARENCY

RECORDS RETENTION POLICY AND SCHEDULE

Policy:

This policy governs the retention and disposal of District records.

Purpose:

To provide guidelines to staff regarding the retention or disposal of records; provide for the identification, maintenance, safeguarding and disposal of records in the normal course of business; ensure prompt and accurate retrieval of records; and ensure compliance with legal and regulatory requirements.

Administration and Implementation:

Attached as Appendix A is a Record Retention Schedule (“Schedule”) that is approved as the initial maintenance, retention and disposal schedule for physical records of the District and the retention and disposal of electronic documents. Records shall only be destroyed in accordance with the Schedule. The General Manager shall be responsible for the administration and implementation of this Policy.

Procedure for the Destruction of Records:

When certain records have been retained for the required retention period, the General Manager or designee shall identify in writing the records by category and type, which are proposed for destruction, using the appropriate Records Destruction Request Form approved by the District. Such records may be destroyed, without making a copy thereof, with the consent and approval of the General Manager and General Counsel.

Reproduction of Originals:

Pursuant to Government Code Section 34090.5, the General Manager may without the approval of the Board or the written consent of General Counsel, cause to be destroyed any or all of the records, documents, instruments, books, and papers, if all of the following conditions are complied with:

- (1) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document,

ARTICLE 110 – TRANSPARENCY: Records Retention Policy and Schedule

or reproduced on film, optical disk, or any other medium in compliance with Government Code Section 12168.7 for recording of permanent records or nonpermanent records.

- (2) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one which accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images.
- (3) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are made as accessible for public reference as the original records were.
- (4) A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

No page of any record, paper, or document shall be destroyed if any page cannot be reproduced on film with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

Adopted: July 1, 2008
Last Review: September 6, 2022
Resolution 2022-09

Record Retention Schedule – Appendix A

Record Retention Legend: AC = Active AD=Adoption AU= Audit CL=Closed/Completion
 CU=Current Year DOB=Date of Birth E=Election L=Life
 P=Permanent S=Supersede T=Termination #=Years

| Record Series | Retention | Description |
|---|----------------------|--|
| <u>Audit</u> | | |
| Annual Financial Report | AU+7 ⁶⁰ | Independent auditor analysis |
| Bonds | CL + 10 | Final bond documentation |
| Budget | P | Annual operating budget approved by Board of Trustees |
| Budget Operating (copies) | S | Departmental Reference |
| Hearing or Review | AU + 2 | Documentation created and or received in connection with an audit hearing or review |
| Reports | AU + 4 | Internal and/or external |
| Reviews Internal/External Periodic | CU | Daily, weekly, monthly, quarterly or other summary review, evaluation, log, list statistics, except a report |
| <u>Fair Political Practices</u> | | |
| Administration/Campaign Statements and Conflict of Interest | CU + 5 ⁶¹ | FPPC Opinions |
| <u>Elections Historical File</u> | | |
| Statement of Economic Interest | E + 7 ⁶² | FPPC Filings |

⁶⁰ Consistent with listing for “Financial, annual” under Reports

⁶¹ Consider retaining these records only while useful. FCCP opinions are available online and are sometimes superseded/limited by new opinions, changes in regulations.

⁶² Gov. Code §81009(e)

ARTICLE 110 – TRANSPARENCY: Records Retention Policy and Schedule

Record Retention Legend: AC = Active AD=Adoption AU= Audit CL=Closed/Completion
 CU=Current Year DOB=Date of Birth E=Election L=Life
 P=Permanent S=Supersede T=Termination #=Years

| Record Series | Retention | Description |
|------------------------------------|-----------------|--|
| General Subject | | |
| Administration ⁶³ | p ⁶⁴ | |
| Biographies ⁶⁵ | CU + 2 | |
| Classifications and Appointments | p ⁶⁶ | Includes supplemental Personnel records. ⁶⁷ Wage rate tables 3⁶⁸ years. |
| Policies & Procedures Departmental | S + 5 | Retain while current |
| Reports | | |
| Departmental | CU + 2 | Special/or final summary, review or evaluation |
| Staff | CU + 2 | Non-agenda related, includes supporting documentation |
| Special Projects | CU + 2 | |
| Support Services | CU + 2 | Reproduction; printing; postal/mailing services, other internal resources |
| Travel Records | CU + 2 | |
| Grants | | |
| Federal and State | CL + 5 | Refer to grant application close-out procedure |
| Financial Records | CL + 5 | Refer to grant application close-out procedure |
| Unsuccessful | CL + 2 | Applications not entitled |

Record Retention Legend: AC = Active AD=Adoption AU= Audit CL=Closed/Completion

⁶³ Recommend greater detail of retained records

⁶⁴ Consider reducing to 10 / 20 years as a record with potential historical value

⁶⁵ Recommend greater detail of retained records

⁶⁶ Consider reducing to 3 years per Labor Code §1197.5(e) or providing greater detail as to the historical significance of these records

⁶⁷ Recommend describing records that qualify as “Supplemental Personnel Records.” Not sure why these records aren’t classified under HR Section.

⁶⁸ Labor Code §1197.5(e)

ARTICLE 110 – TRANSPARENCY: Records Retention Policy and Schedule

CU=Current Year DOB=Date of Birth E=Election L=Life
 P=Permanent S=Supersede T=Termination #=Years

| Record Series | Retention | Description |
|-------------------------------------|--|--|
| Human Resources | | |
| Benefit Plan Claims | 6 ⁶⁹ | May include dental, disability, education, health, life and vision including dependent care and Employee Assistance |
| Benefit Plan Enrollment, Denied | CL + 4 | |
| Bond, Personnel Fidelity | T + 2 | Employee Fidelity Bonds |
| Employee Handbook | S + 2 | General employee information including benefit plans |
| Employee Programs | CL + 2 | Includes EAP and recognition |
| Employee Rights - General Employees | Later of T + 5 or CL + 5 ⁷⁰ | May include Arbitration, grievances, union requests, sexual harassment and Civil Rights, complaints and disciplinary actions |
| Personnel Files | T + 6 | Does not include employees who have been exposed to toxic substances or harmful agents (T + 30) |
| Employment Eligibility Verification | Longer of 3 years or T + 1 ⁷¹ | I-9's |
| Medical Leave | T + 3 ⁷² | Confidential Records. |
| Motor Vehicle Pulls (DMV) | CL + 7 ⁷³ | Confidential Records |
| Labor Negotiation | p ⁷⁴ | Notes, notebooks, correspondence, contracts and Memorandums of Agreements |

⁶⁹ 29 USC §1027

⁷⁰ Assuming this category concerns grievances and informal complaints - 28 USC §1658 (statute of limitation for commencement of civil action)

⁷¹ 8 USC §1324a

⁷² 29 C.F.R. 825.500

⁷³ Could be reduced to 2 years

⁷⁴ Could be reduced to 10 years or other period designated for records with historical significance

ARTICLE 110 – TRANSPARENCY: Records Retention Policy and Schedule

Record Retention Legend: AC = Active AD=Adoption AU= Audit CL=Closed/Completion
 CU=Current Year DOB=Date of Birth E=Election L=Life
 P=Permanent S=Supersede T=Termination #=Years

| Record Series | Retention | Description |
|---|--|--|
| <u>Human Resources - Continued</u> | | |
| Personnel Records (transitory) | CU + 2 | Attendance; evaluations; drafts; worksheets; postings |
| OCERS, Social Security, SSI ⁷⁵ | p ⁷⁶ | EEOC/ADEA |
| Recruitment | CL + 3 | Applications, resumes, alternate lists/logs, indices; ethnicity disclosures; examination materials; examination answer sheets, job bulletins; eligibility; electronic database |
| Reports | CU + 2 | Employee statistics, benefit activity; liability loss |
| Surveys and Studies | CU + 3 ⁷⁷ | Includes classification, wage rates |
| Training Records Non-Safety | CU + 7 | Employee applications, volunteer program training, cross training materials, internships |
| Personnel (by name) | T + 7 | Paperwork documenting officers internal and external training |
| Safety | CU + 2 | Certification/designations |
| Vehicle Mileage Reimbursement Rates | S + 2 | Annual mileage reimbursement rates |
| <u>Information Services</u> | | |
| Internet, World Wide Web | S + 2 | Management/Policies and supporting documentation |
| Inventory, Information Systems | S + 2 | Hardware/Software inventory logs; system manuals |
| Network Information Systems (LAN/WAN) | CU + 4 | Configuration maps and plans |
| Program files and Directories | CU + 2, CU + 2 months, CU + 1, CU + .5 | Annual back-up; Daily back-up; Monthly back-up; weekly back-up |
| Tape Information Systems | CU + 2 | System Generation |

⁷⁵ Recommend greater detail of retained records. Are these claim files? Personnel records?

⁷⁶ Consider reducing to 10 / 20 years as a record with potential historical value

⁷⁷ Labor Code §1197.5(e)

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| Record Series | Retention | Description |
|---|-----------------|---|
| <u>Legal/Legislative</u> | | |
| Agenda | CU + 2 | Original agendas and special meeting notices, including certificates of posting, original summaries, original communications and actions agendas for Board of Trustees and Committees |
| Agenda reports (Master, Subject files) | CU + 2 | Documentation received, created and/or submitted to Board |
| Appeals, Civil | CL + 3 | |
| Applications, Boards, Commissions, Committees | CL + 2 | Not selected |
| Applications, Boards, Commissions, Committees | T + 5 | Selected |
| Articles of incorporation | P | |
| Case Log | CL + 7 | From close of cases listed; Chronological listing of cases |
| Case records - (High profile) | p ⁷⁸ | Significant cases which have importance/or set legal precedence. Includes logs, complaints, police reports, court orders, motions, notes, briefs |
| Case records | CL + 7 | Includes logs, complaints, police reports, court orders, motions, notes, briefs, closings statements (unless minors - 3 years after attaining 18) |
| Contracts and agreements | | |
| Excluding Capital Improvement | T + 5 | Includes leases, equipment, services or supplies; |
| Including Capital Improvement | P | Construction |
| Index, Attorney Case | S | Including notations on activities related to case |
| Legal Advertising | CU + 4 | Includes public notices, legal publications |
| Logs, Attorney Service Request | CU + 2 | Service request, summaries of monthly requests |

⁷⁸ Consider reducing to 10 / 20 years or other period designated for records with historical significance

ARTICLE 110 – TRANSPARENCY: Records Retention Policy and Schedule

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| Record Series | Retention | Description |
|---|----------------------|---|
| <u>Legal/Legislative Cont'd.</u> | | |
| Minutes | P | Official minutes and hearing proceedings of governing body or board, commission or committee |
| Notices, Meeting | CU + 2 | Special meetings |
| Opinions | S + 2 | Confidential |
| Ordinances | P | Charter amendments; municipal code |
| Petitions ⁷⁹ | CU + 2 ⁸⁰ | Submitted to legislative bodies |
| Resolutions | P | Legislative actions |
| Tapes, Audio/Video | CU + 3 months | When used for minute preparation and may have historical value. |
| <u>Clerk</u> | | |
| Assessment Districts | P | Original documentation ⁸¹ |
| Inventory, Records | CU + 2 | Inventory of non-current or inactive records holdings and location, indices. Tapes may be recycled. |
| Municipal Code | P | Supplements included |
| Public Records Request | CL + 2 | |
| Records Management | CL + 2 | Document includes retrieval, transfers - inactive |
| Records Mgmt. Disposition Certification | P | Documentations of final disposition or records |
| Records Retention Schedules | S + 4 | |

⁷⁹ Recommend greater detail of retained records. Are these petitions the District submits to other legislative bodies?

⁸⁰ Gov. Code §34090(d)

⁸¹ Recommend greater detail of retained records

ARTICLE 110 – TRANSPARENCY: Records Retention Policy and Schedule

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| Record Series | Retention | Description |
|---|-----------|--|
| <u>Policies/Procedures</u> | | |
| General Administrative | S + 2 | All policies and procedures |
| Policy, Board Proclamations | S + 2 | Policies, directives rendered by Board not assigned a resolution or ordinance number |
| <u>Public Financing Authority</u> | | |
| Administration ⁸² | P | |
| Financial Records ⁸³ | P | |
| Management Reports ⁸⁴ | 2 | |
| <u>Public Information</u> | | |
| Brochures, publications, newsletters, bulletins | S + 2 | |
| Calendar (District) | CU + 2 | |
| Media Relations | CU + 2 | Includes cable, newspaper, radio, message boards, presentations |
| <u>Risk Management</u> | | |
| Accident Reports - District Assets | CL + 7 | Reports and related records |
| Bonds, Insurance | P | Bonds and insurance policies insuring District property and other assets |

Record Retention Legend: AC = Active AD=Adoption AU= Audit CL=Closed/Completion

⁸² Recommend greater detail of retained records

⁸³ Recommend greater detail of retained records

⁸⁴ Recommend greater detail of retained records

ARTICLE 110 – TRANSPARENCY: Records Retention Policy and Schedule

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| Record Series | Retention | Description |
|---|-----------------|---|
| <u>Risk Management - Continued</u> | | |
| Claims, Damage | CL + 5 | Paid/Denied |
| Incident Reports | CL + 7 | Theft, arson, vandalism, property damage or similar occurrence (excluding fire/law enforcement) |
| Insurance, Certificates | p ⁸⁵ | Insurance certificates filed separately from contracts, includes insurance filed by licensees |
| Insurance, Liability/Property | p ⁸⁶ | May include liability, property, Certificates of Participation, deferred, use of facilities |
| Insurance, Workers Compensation | p ⁸⁷ | Indemnity, OCERS - working files- originals with Administrator |
| Photographs, Negatives, Film | CL + 2 | |
| Risk Management Reports | CL + 5 | Federal OSHA Form; loss analysis report; safety reports; actuarial studies |
| Workers Compensation | p ⁸⁸ | Claims files, reports, incidents (working files) originals filed with Administrator |
| <u>Development</u> | | |
| Benchmark Data | CU + 2 | Horizontal, vertical control |
| Bids & Proposals (unsuccessful) | CL + 2 | |
| Bonds, Development | CL + 10 | Housing; Industrial Development |

⁸⁵ Consider reducing to S + 10 years or other period designated for records with historical significance

⁸⁶ Consider reducing to S + 10 years or other period designated for records with historical significance

⁸⁷ Consider reducing to S + 10 years or other period designated for records with historical significance

⁸⁸ Consider reducing to later of 5 years after date of injury or date on which Workers' Compensation benefits were last provided per 8 CCR §10102; 8 CCR 15400.2 and Labor Code §6410

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| Record Series | Retention | Description |
|-------------------------------------|-----------------|---|
| <u>Development – Cont’d.</u> | | |
| Bonds, Security | CL + 2 | Documentation created and or received in connection with performance of work/services for the District |
| Code Books | S + 10 | National Electrical Code, Uniform Building, Fire, Mechanical, plumbing & supplements |
| Contractor | CU + 2 | Current listing |
| Correspondence | CU + 2 | Work documentation |
| Development Conditions | L | Mitigation measures, filed with case files |
| Development Agreements | P | Infrastructure contracts, franchises. Original maintained for 7 years. |
| Development Standards | P | Landscape mediums, parkway landscape development, public works construction |
| Drawings, Project Plan | CU + 2 | Does not include those usually filed with case or project |
| Franchises | P | Including subdivision agreements, contracts for sale or purchase of property, cable, grant of easements and/or involving construction of improvements |
| General Subject Files | CU + 2 | Internal working files including correspondence |
| Historic Preservation | 2 | Historic structures & landmarks |
| Incident files | 2 | Emergency call outs |
| Land Uses, nonconforming | P ⁸⁹ | Building or site usage which does not conform to current standards |
| | | |

⁸⁹ Consider reducing to T + 10 or other period that recognizes termination of non-conforming use

ARTICLE 110 – TRANSPARENCY: Records Retention Policy and Schedule

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| Record Series | Retention | Description |
|-------------------------------------|-----------------|--|
| <u>Development – Cont’d.</u> | | |
| Logs | CU + 5 | Logs, registers or similar records listing permits, certificates of occupancy issued; may include inspection, building activity, daily plan check, utility ⁹⁰ |
| Maps & Plans | p ⁹¹ | Engineering field notes and profiles, cross-section of roads, streets, right of ways, easements, trees, grading, base maps, etc. |
| Master Plans, Annual | S + 2 | Special or long-range program for the District - coordination of services; strategic planning |
| Permits, Construction | P | Plans, building, signs, grading, encroachment, including blueprints and specifications ⁹² |
| Permits, other | CL + 2 | Alterations, encroachment, excavation, road, street, sidewalk & curb alterations, drainage. |
| Photographs | S + 2 | Aerial photographs |
| Projects not completed or denied | CL + 2 | Building, engineering, planning |
| Reports | CU + 2 | Activity, periodic |
| Seismic Retrofit Program | p ⁹³ | Includes Certificate of Compliance |
| Studies, special projects & areas | CL + 2 | Engineering, joint powers, noise, transportation |
| Surveys | p ⁹⁴ | Recording data and maps |

⁹⁰ Consider grouping these records with the construction project file.

⁹¹ Consider reducing to S + 10 or other period that recognizes these maps and plans may be superseded

⁹² Consider splitting up this entry. Building blueprints may warrant lifetime retention with the development project file whereas grading, sign and encroachment permits may be retained for much shorter duration.

⁹³ If this is tied to a building, consider reducing to life of building + 10 / 20 years as a record with potential historical value.

⁹⁴ Consider reducing to S + 10 or other period that recognizes these maps and related data may be superseded

ARTICLE 110 – TRANSPARENCY: Records Retention Policy and Schedule

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| Record Series | Retention | Description |
|---|------------------|--|
| <u>Engineering</u> | | |
| Capital Improvement Projects | CL + 10 | Supporting documents including bidders list, specifications, reports, plans, work orders, schedules, etc. ⁹⁵ |
| Construction tracking, daily ⁹⁶ | P | Assesses value of real property |
| Drawings, traffic control plan | p ⁹⁷ | Signs, signing & stripping, road construction |
| Special Districts | P | Supporting documents regarding improvement, lighting, underground utility, bonds, taxes & construction |
| <u>Environmental Quality</u> | | |
| Asbestos | p ⁹⁸ | Documents abatement projects, public buildings |
| California Environmental Quality Act (CEQA) | p ⁹⁹ | Exemptions, Environmental Impact Report, Mitigation monitoring, negative declaration, notices of completion and determination, comments, statements of overriding considerations |
| Environmental Review | CL + 2 | Correspondence, consultants, issues, conversation |
| Pest Control | CU + 2 | Pesticide applications, inspections and sampling, documents |
| Soil | CL + 2 | Analysis, construction recommendations |
| Soil Reports | p ¹⁰⁰ | Final reports |

⁹⁵ Consider splitting up this entry. Solicitation records need only be retained for 4 years (best practices per CCP §337), whereas work orders, schedules, etc. should be retained with the project file.

⁹⁶ Not sure how daily construction tracking relates to the assessed value of real property. Daily construction project logs should be retained with the construction file. If this is the file for real estate appraisals, time could be reduced to 10 / 20 years as a record with potential historical value.

⁹⁷ Consider reducing to S + 10 or other period that recognizes these drawings and plans may be superseded

⁹⁸ Consider reducing to Life of building + 10 / 20 years

⁹⁹ If these environmental records are retained in connection with a development project, they should be retained with that development project.

¹⁰⁰ Recommend greater detail of retained records. Consider reducing to 10 / 20 years as a record with potential historical value.

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| Record Series | Retention | Description |
|--|------------------|---|
| District Facility | | |
| Capital Improvements, Construction | P | Contains records regarding planning, design, construction, conversion or modification of government-owned facilities, structures and systems |
| Facility Rentals/use | CU + 2 | Permits, contracts, diagrams, schedules, insurance binders ¹⁰¹ |
| Maintenance & Operations | CU + 2 | Service requests, invoices, supporting documentation; buildings, equipment, field engineering, public facilities including work orders and graffiti removal |
| Planning | | |
| Case files, Planning and Zoning ¹⁰² | P | Pertains to real property. May include blueprints, drawings, maps, plans, reports, evaluations, correspondence, uses, permits, variances, studies, appeals, compliance certificates, lot line adjustments or other planning-related matters |
| Certificates ¹⁰³ | L | Retain during life of structure |
| Flood Records | CU + 2 | |
| General Plan & Elements | P ¹⁰⁴ | Includes sphere of influence |
| General Plan Amendments | | |
| Approved | CL + 2 | |
| Denied | CU + 3 | |
| | | |

¹⁰¹ Recommend splitting up this entry. Assign T + 5 years retention for contracts and insurance binders, and CU + 2 years retention for diagrams, schedules, permits, etc.

¹⁰² This entry is very similar to the Permits, construction entry. Consider consolidating into one Development file entry.

¹⁰³ Recommend greater detail of retained records

¹⁰⁴ Consider reducing to S + 10 or other period that recognizes that the General Plan can be amended from time to time

ARTICLE 110 – TRANSPARENCY: Records Retention Policy and Schedule

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| Record Series | Retention | Description |
|--|------------------|---|
| <u>Planning – Cont’d.</u> | | |
| Interpretations ¹⁰⁵ | CU + 2 | |
| Maps, Plans, Drawings, Exhibits, Photos ¹⁰⁶ | P | Zoning, tentative subdivision, parcel, land use map, aerial photos, specific plans |
| <u>Property</u> | | |
| Abandonment | P ¹⁰⁷ | Buildings, condemnation, demolition |
| Acquisition/Disposition | CL + 10 | Supporting documents regarding sale, purchase, exchange, lease or rental of property by District ¹⁰⁸ |
| Annexation Case files | P | Reports, agreements, public notices |
| Appraisals | CL + 2 | Exempt until final acquisition or contract agreement |
| Deeds & Promissory Notes | P | |
| Maps, District Boundary | P ¹⁰⁹ | Recorded maps, surveys, monuments |
| Lot Split cases | P | |
| <u>Accounting</u> | | |
| Accounts payable | AU + 4 | Invoices, check copies, supporting documents |
| Accounts receivable | AU + 4 | |
| Applications | CL + 2 | Utility connections, disconnects, registers, service |

¹⁰⁵ Recommend greater detail of retained records

¹⁰⁶ It appears these are records that should be retained within a project file. Consider consolidating with the Case File entry.

¹⁰⁷ Consider reducing to life of building + 10 / 20 years as a record with potential historical value.

¹⁰⁸ Consider splitting up this entry. Real property purchase and sale records should be permanently retained, whereas the acquisition, disposition, lease or rent of personal property and equipment with nominal value are generally treated as transitory records with a relatively brief retention period.

¹⁰⁹ Consider reducing to S + 10 or other period that recognizes these maps may be superseded

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| Record Series | Retention | Description |
|---------------------------------------|-----------|--|
| <u>Accounting – Cont’d.</u> | | |
| Assessment Districts | P | Collection information |
| Bank reconciliation | AU + 5 | Statements, summaries for receipts, disbursements & reconciliation |
| Billing records | AU + 2 | Customer name, address, billing information |
| Budget | AU + 2 | |
| Budget adjustments, journal entries | AU + 2 | Account transfers |
| Checks | AU + 5 | Includes payroll, canceled and voided checks |
| Deposits, receipts | AU + 4 | Checks, coins, currency |
| Invoices | AU + 2 | Copies sent for fees owed, billing, related documents |
| Journals - Utility billing | CU + 2 | Billing including monthly activity |
| Ledger, General | P | |
| Voucher | AU + 4 | Account postings with supporting document |
| Taxes, receivable | AU + 3 | |
| Warrant register | AU + 2 | |
| <u>Administrative Services</u> | | |
| Budget operating | S | Departmental reference |
| Budget Proposed | CU + 2 | Presented to Board |
| Budget Adopted | P | |
| <u>Fixed Assets</u> | | |
| Inventory | AU + 4 | Reflects purchase data, cost, account number |
| Surplus Property | | |
| Auction | AU + 2 | Listing of property |
| Disposal | AU + 4 | Sealed bid sales of equipment |
| Vehicle Ownership & Title | L | Title transfers when vehicle is sold |

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 #=Years

| Record Series | Retention | Description |
|------------------------------------|-----------|--|
| <u>Payroll</u> | | |
| Adjustments | AU + 4 | Audit purposes |
| Employee Time sheets | AU + 6 | Signed by employee for audit & FEMA reports |
| OCERS Employee deduction reports | T + 4 | Record of deductions |
| Register | P | Labor costs by employee & program |
| Salary records | T + 3 | Deduction authorization, beneficiary designations, unemployment claims, garnishments |
| <u>Purchasing</u> | | |
| Bids, RFQ's & RFP's - successful | AU + 5 | Request for Qualifications; Requests for Proposals regarding goods and services |
| Bids, RFQ's & RFP's - unsuccessful | CU + 2 | Request for Qualifications; Requests for Proposals regarding goods and services |
| Requisitions - purchase orders | AU + 4 | Original documents |
| Requisitions - stores | CU + 2 | Completed forms for ordering |
| Vendor register | P | Alpha vendor listing of purchase orders, invoices, account numbers |
| <u>Reports</u> | | |
| Audit | P | Records of employee contributions and District payments |
| Deferred Compensation | T + 5 | |
| Federal and State Tax | AU + 4 | Forms 1096, 1099, W-4's & W-2's |
| Financial, annual | AU + 7 | Summary of transactions, inventory & earnings report |
| Investment Transactions | P | |
| Labor Distribution | AU + 2 | Costs by employee & program |
| State Controller | P | Controller may destroy after 5 years |

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| Record Series | Retention | Description |
|-------------------------|-----------|-----------------------------------|
| <u>Treasurer</u> | | |
| Bank Statements | AU+ 2 | Financing authority |
| <u>Bonds</u> | | |
| Account Statements | CL + 10 | Monthly statement of transactions |
| Administration | CL + 10 | Supporting documents |
| Bonds and coupons | CL + 2 | Paid/canceled |

ARTICLE 120

TRUSTEE BENEFITS

EXPENSE REIMBURSEMENT AND COMPENSATION POLICY

A. AUTHORIZED EXPENSES

The following types of occurrences qualify a Trustee to receive reimbursement for expenses incurred in the performance of official duties relating to travel, meals, lodging, and other actual and necessary expenses that constitute authorized expenses, provided the requirements of this policy are met:

- (1) Communicating with representatives of regional, state, and national government on issues or matters affecting the District or on District adopted policy or political positions;
- (2) Attending professional, educational, or vocational meetings, seminars, workshops, programs and conferences designed to improve the expertise and information levels, including, but not limited to, ethics training required pursuant to Government Code Section 53234;
- (3) Participating in regional, state, and national organizations whose activities or interests may affect the District's interests;
- (4) Attending District sponsored or co-sponsored events or other community events;
- (5) Implementing a District-approved strategy for attracting or retaining revenue to the District;
- (6) Attending court proceedings related to the District; and
- (7) Attending off-site District business meetings and off-site events the Trustee is required to attend on behalf of the District.

All other reimbursement expenses that are not specifically authorized by this policy shall be approved by the Board in a public meeting before the expense is incurred.

B. EXPENSE AND REIMBURSEMENT GUIDELINES

To conserve District resources and keep expenses within appropriate standards for public agencies, expenditures, whether paid directly by the District or reimbursed to a Trustee, should comply with the following guidelines. All

expenses not covered by this policy, or which are in excess of the reimbursable rates set forth in this policy, shall not be reimbursable unless approved by the Board at a public meeting before the expense is incurred.

(1) Transportation

Trustees requesting reimbursement of travel expenses should attempt to travel by the means most economical to the District consistent with scheduling needs and cargo space. In selecting a particular method of transportation, consideration shall be given for the total cost to the District that will result; including overtime, lost work, and actual transportation costs. In the event that a more expensive transportation form is used, the cost borne by the District will be limited to the cost of the most economical, direct, efficient and reasonable transportation form unless otherwise approved by the Board of Trustees. Government and group rates must be used when available.

Transportation by car may be done either with a personal vehicle or an official District vehicle. For personal vehicle travel, net mileage will be reimbursed at the current Internal Revenue Service Rates (see www.irs.gov). These rates are designed to compensate the Trustee for gasoline, insurance, maintenance, and other expenses associated with operating the Trustee's personal vehicle. Net mileage equals roundtrip mileage minus any regular commute miles. Mileage will not be reimbursed for portions of the trip made for non-business related matters.

The Internal Revenue Service rates will not be paid for District vehicles or rental vehicles; only receipted fuel and rental expenses will be reimbursed for the use of rental vehicles.

When the use of public air carrier transportation is approved, private automobile use to and from the airport shall be reimbursed for all allowable miles at the current Internal Revenue Service Rates or commercial auto rental will be allowed if necessary and alternative personal or public transportation is unavailable or unreasonable.

Bridge and road tolls are reimbursable.

Air and Ground Travel shall be subject to the following limitations:

- Reimbursement shall be made for coach air travel if the cost of such air travel is competitive with other passenger airlines' coach airfares.
- Reimbursement shall be made for coach rail travel if the cost of such rail travel is competitive with other coach rail travel fares.

- Charges for taxi service or other private transportation service such as, but not limited to Uber and Lyft, are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances. The actual cost of tips up to 15% shall be reimbursable, if a tip was in fact provided to the driver.
- Charges for shuttle service are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.
- charges for bus service are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.

Actual fuel charges for vehicle rental are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances. Charges for rental vehicles may be reimbursed under this provision if more than one District Trustee is attending an authorized event, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. When determining the type of rental car to be used, consideration should be given to the economic standards set forth in this policy and the appropriate use and stewardship of District funds, including but not limited to, the cost of the rental vehicle, parking and gasoline as compared to the combined cost of such other forms of transportation. Government and group rates must be used when available. Rental rates that are equal or less than those available through the State of California's website <http://www.dgs.ca.gov/travel/Programs/CarRentals.aspx> shall be considered the most economical and reasonable for purposes of reimbursement under this policy.

Reimbursement for fuel and other out-of-pocket expenses incurred as a result of the use of a District owned vehicle is permissible provided that use of the District owned vehicle is the most economical, practicable and efficient mode of transportation available under the circumstances.

Use of chartered travel shall be reimbursable only if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.

Airport parking is reimbursable used during travel related to attending an authorized event. Long-term parking must be use when attending an authorized event that involves travel exceeding 24 hours.

(2) Lodging

Lodging costs will be reimbursed or paid for when travel on official District business reasonably requires an overnight stay. Government and group rates offered by a provider of lodging services shall be used when available.

(3) Meals

Meal expenses and associated gratuities should be moderate, taking into account community standards and the prevailing restaurant costs of the area. Actual meal expenses and associated gratuities will be reimbursed or paid when incurred by the Trustee in the performance of official duties. Receipts are required to substantiate the expenses. Trustees may receive a reimbursement of \$80.00 per day for meals, plus taxes and up to 20% in gratuities. Trustees shall not be reimbursed for alcohol consumption.

(4) Telephone and Facsimile Expenses

Trustees will be reimbursed for actual telephone and facsimile expenses incurred on District business. Telephone bills should identify which calls were made on District business. For cellular calls when the Trustee has a particular number of minutes included in the plan, the Trustee can identify the percentage of calls made on public business.

(5) Internet Access

Trustees will be reimbursed for internet access connection and/or usage fees away from home, if internet access is necessary for District-related business.

(6) Materials and Memberships

Trustees will be reimbursed for business-related reading and educational materials and organizational memberships will be reimbursed.

(7) Non-Reimbursable Expenses

The following personal expenses shall not be reimbursed:

- Attendance or travel related to an unauthorized event;
- Barber and/or beauty shop charges;
- Fines for traffic violations;
- Private automobile repairs unless needed due to damage being caused by use while attending or participating in an authorized event;
- Purchase of personal items, unless needed while attending or participating in an authorized event;
- Pet accommodations and pet services, unless pet is sharing the same accommodations as the Trustee while attending or participating in an authorized event;
- Fitness/Health Facilities or Massages;

- Political or charitable contributions or events;
- Alcohol;
- Personal losses incurred while on District business;
- Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events or other cultural events unless it is a part of the scheduled program of an authorized event;
- Laundering unless it is immediately necessary while attending or participating in an authorized event; and/or
- Guests, including without limitation, spouses, friends and relatives who are not employed by the District.

A spouse and/or other family member(s) may accompany a Trustee, if their presence does not detract from the performance of District duties. The attendance at the meetings and conferences by such family members of District Trustees is to be considered the sole responsibility of the individual Trustee, and all differences in costs brought about by the attendance and/or accompanying travel of a family member shall not be borne, paid or reimbursed by the District.

C. EXPENSE REPORT CONTENT AND SUBMISSION DEADLINE

Expense reports must document that the expense in question meets the requirements of this policy.

Trustees must submit their expense reports within 60 days of an expense being incurred, which shall be accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.

Pursuant to state law, expense reimbursement report forms are public records subject to disclosure under the California Public Records Act.

D. BRIEF REPORTS TO BOARD

At the following meeting of the Board, Trustees shall briefly report on any meetings attended at the District's expense. If multiple Trustees attended the meeting at District expense, a joint report may be made to the Board.

E. COMPENSATION

(1) Board Meetings

- a. Trustees shall be entitled to \$100 per Board meeting, not to exceed four (4) Board meetings per month, which may be increased only by ordinance pursuant to the applicable provisions of the Health and Safety Code.

- b. A Board meeting shall include regular meetings, special meetings, closed sessions, emergency meetings, Board field trips, district public hearings, at which a majority of the Board is in attendance or meetings of a committee of the Board.
- c. A committee of the Board shall mean a committee consisting of two or more trustees or a committee that has continuing jurisdiction over a particular issue.
- d. Trustees shall not be entitled to reimbursement for traveling or any other incidental expenses for attending a Board meeting.

(2) Conferences

- a. Trustees shall only be entitled to the same amount compensated for attending a Board meeting for attending a conference approved by the Board for attendance, despite the number of days the conference lasts.
- b. The District shall pay the actual and necessary traveling and incidental expenses for a trustee’s attendance at a conference.

(3) Educational and Vocational Activities

- a. Trustees shall be entitled to same amount compensated for attending a Board meeting for participating in any educational and vocational activities approved by the Board, including without limitation the mandatory biennial Ethics Training.
- b. The District shall pay the actual and necessary traveling and incidental expenses for a Trustee’s participation in any education and vocational activities.

(4) Other District Related Activities

- a. Trustees shall be entitled to same amount compensated for attending a Board meeting for attending the District’s Memorial Day, Veterans Day and Angel of Hope observances and activities or functions conducted by or sponsored by the California Association of Public Cemeteries (CAPC), California Special District Association (CSDA) and Independent Special District of Orange County (ISDOC). To receive compensation in the same amount as set forth herein for attending any other District related activity or function on behalf of the Board, such attendance must be authorized by the Board prior to attendance.

- b. The District shall pay the actual and necessary traveling and incidental expenses for a Trustee’s attendance at any District related activity of function.

(5) Limitation

Compensation for attending any non-Board meeting activities or functions as described herein above shall be limited to four (4) per month. This is in addition to the four (4) Board meetings that are subject to compensation.

Adopted: April 4, 2006
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 120

TRUSTEE BENEFITS

BOARD MEETINGS & SPECIAL GATHERINGS REFRESHMENTS POLICY

Policy:

As may be approved by the Chair, Board or General Manager, refreshments, which include meals and non-alcoholic drinks, may be provided for trustees, staff and special guests attending special and regular Board meetings and special gatherings wherein the District, Board, individual trustees and/or staff members are expected to receive an award, commendation or special recognition in their official District capacities, provided the costs of such refreshments are within the District's approved budget.

Purpose:

The purpose of providing refreshments during Board meetings is to make Board meetings more efficient and productive by avoiding the need to call recesses for the Trustees and staff to take meal breaks during Board meetings that span the traditional lunch and dinner hours.

The purpose of providing refreshments at certain special gatherings is to celebrate and acknowledge the special accomplishments the District, Board, individual trustees and/or staff members have been recognized for in their official District capacities, which encourages productivity and efficiencies that directly benefits the District and the public it serves.

Note:

This policy is not intended in any way to be a substitute for Board meeting compensation authorized under Health and Safety Code Section 9031.

Adopted: March 6, 1991
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 130

Risk Management

INCIDENT REPORT POLICY

Purpose:

The purpose of this policy is to create uniform procedures to preserve necessary documentary evidence in the event of incidents which could give rise to liability against the District due to personal bodily injury or property damage.

Policy:

District employees responding or witnessing incidents which could give rise to liability against the District due to personal bodily injury or property damage shall immediately complete a District-approved Incident Report form.

Incident Report:

- (1) Use of Incident Report.** Whenever an incident occurs which involves bodily injury or property damage, the employee who responds to or witness to the incident shall immediately complete the attached District-approved Incident Report.
- (2) Witnesses.** All persons who witnessed the subject incident or who have any information related to the subject incident should be requested to complete the “Witnesses” portion of the Incident Report at the earliest possible time. Persons who should complete the “Witnesses” section include District employees, as well as any third party witnesses who are willing to provide any witness statements.
- (3) Completion of “Witnesses” Section.** An employee who completes the “Witnesses” of an Incident Report or who assists a third-party witness with completing the Witnesses section should attempt to gather as much relevant information as possible about the subject incident, which may require additional pages to be attached to the Incident Report if necessary. Questions which may assist a witness in providing a complete account of the subject incident include the following:
 - a. What were you doing at the time of the incident?
 - b. Where were you when the incident occurred?
 - c. Who was involved in the incident?
 - d. Describe the weather conditions at the time of the incident (if the incident took place outdoors).

- e. What did you see happen?
- f. What was the injured party doing?
- g. Did you notice any other witnesses?
- h. Was anyone hurt or was any property damaged? If so, please describe.
- i. Are you affiliated with any of the people involved in the incident? If so, please explain.
- j. Did you notice anything else you feel is important or is there anything else you would like to add?

(4) No Knowledge. If a witness has no knowledge of a particular matter contained in the Incident Report, he or she should be requested check the “No Knowledge” box.

(5) Signature and Date. Witnesses should be asked to sign and date the portions of the Incident Report they completed.

(6) Third-Party Witnesses. Third party witnesses shall not be compelled to complete the “Witnesses” portion of the Incident Report form against their will.

(7) Viewing of Incident Report by Witnesses. In order to ensure impartiality when completing an Incident Report, witnesses should only be given a copy of the portion of the Incident Report they completed.

(8) Chain of Custody. Following completion and signing of the Incident Report, the Incident Report is to be delivered directly to the District’s General Manager. The General Manager shall maintain the original for a period of at least five (5) years and shall distribute copies to the Board of Trustees and the District’s legal counsel.

(9) Privileged Information.

The information in the Incident Report and any attachments are for the sole purpose of assisting the District’s legal counsel to respond to the incident. The attorney-client privilege and the attorney work product doctrine therefore apply, and the Incident Report and all attachments may not be disclosed to anyone other than individuals specified in this Policy.

ADOPTED: December 3, 2019
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 130 – RISK MANAGEMENT: Incident Report Policy

Board of Trustees

Noel Hatch
Maribel Marroquin
William E. Nelson
Kelly Rivers
Cynthia Ward



District Office
25751 Trabuco Road
Lake Forest, CA 92630-4348
Phone: (949) 951-9102
Fax: (949) 951-0236
www.occemeterydistrict.com

Tim Deutsch
General Manager

ORANGE COUNTY CEMETERY DISTRICT

INCIDENT REPORT

Name of injured: _____

Age: _____ Sex: _____

Address: _____

Date of birth: _____

City, State, ZIP: _____

Home phone: _____

Work phone: _____

Date of the accident: _____ Time: _____ A.M. / P.M.

Location of the accident: _____

Description of the injury/part(s) of the body involved:

What was the injured person doing at the time the accident occurred:

Who was notified: _____ Relationship: _____

Was the injured person taken: Home ____ Hospital ____ Doctor ____ Other ____

If other, where:

Was 911 called? Yes ____ No ____ Was first aid provided? Yes ____ No ____

If Yes, who administered the first aid:
Name: _____

CEMETERY LOCATIONS

Anaheim Cemetery
1400 E. Sycamore St.
Anaheim, CA 92805
(714) 535-4928

El Toro Memorial Park
25751 Trabuco Road
Lake Forest, CA 92630
(949) 951-8244

Santa Ana Cemetery
1919 E. Santa Clara Ave.
Santa Ana, CA 92705
(714) 953-2959

Address:

If injured person was taken to a hospital, give name and address of hospital:

Was injured participating in a District sponsored activity? Yes ____ No ____

Name of person in charge:

Was there any property damage? Yes ____ No ____

If yes, describe:

Was a police or fire report filed? Yes ____ No ____

Was a citation issued? Yes ____ No ____

If yes, by whom: _____

CEMETERY LOCATIONS

Anaheim Cemetery
1400 E. Sycamore St.
Anaheim, CA 92805
(714) 535-4928

El Toro Memorial Park
25751 Trabuco Road
Lake Forest, CA 92630
(949) 951-8244

Santa Ana Cemetery
1919 E. Santa Clara Ave.
Santa Ana, CA 92705
(714) 953-2959

WITNESSES

Witness Name: _____

Home Phone: _____

Address: _____

Work Phone: _____

City, State, ZIP: _____

District Employee: Yes ____ No ____ No knowledge of the incident

Comments:

Witness Signature: _____ Date: _____

Witness Name: _____

Home Phone: _____

Address: _____

Work Phone: _____

City, State, ZIP: _____

District Employee: Yes ____ No ____ No knowledge of the incident

Comments:

Witness Signature: _____ Date: _____

CEMETERY LOCATIONS

Anaheim Cemetery
 1400 E. Sycamore St.
 Anaheim, CA 92805
 (714) 535-4928

El Toro Memorial Park
 25751 Trabuco Road
 Lake Forest, CA 92630
 (949) 951-8244

Santa Ana Cemetery
 1919 E. Santa Clara Ave.
 Santa Ana, CA 92705
 (714) 953-2959

Witness Name: _____

Home Phone: _____

Address: _____

Work Phone: _____

City, State, ZIP: _____

District Employee: Yes ____ No ____ No knowledge of the incident

Comments:

Witness Signature: _____ Date: _____

COMPLETED BY:

Print Name: _____

Title: _____

Signature: _____

Date: _____

REVIEWED BY:

Print Name: _____

Title: _____

Signature: _____

Date: _____

CEMETERY LOCATIONS

Anaheim Cemetery
 1400 E. Sycamore St.
 Anaheim, CA 92805
 (714) 535-4928

El Toro Memorial Park
 25751 Trabuco Road
 Lake Forest, CA 92630
 (949) 951-8244

Santa Ana Cemetery
 1919 E. Santa Clara Ave.
 Santa Ana, CA 92705
 (714) 953-2959

ARTICLE 130

Risk Management

TORT CLAIMS POLICY

Policy:

To inform members of the public that before they may sue the District or various tort claims, a claimant must first file a tort claim against the District that meets the requirements of the California Tort Claims Act (Government Code §§ 810-996.6).

Purpose:

To provide the District the opportunity to settle a tort claim before a lawsuit is filed and to investigate the tort claim so that the District can properly defend itself, or to correct the conditions or practices that led to the tort claim.

Claims Procedure:

(1) Types of Tort Claims. Before suing the District for any of the following tort claims, a person must first file a Tort Claim against the District:

- (a) Personal injuries
- (b) Damage to personal property
- (c) Wrongful death
- (d) Breach of contract
- (e) Damage to real property
- (f) Equitable estoppel

(2) Filing Timeframes. The California Tort Claims Act provides that tort claims must be filed as follows:

(a) Within 6 months of the incident for the following tort claims:

- i. Personal injury
- ii. Damage to personal property
- iii. Wrongful death

(b) Within 1 year of the incident for the following tort claims:

- i. Breach of contract
- ii. Damage to real property
- iii. Equitable estoppel

(3) Tort Claim Form. The District provides Tort Claim forms, but a claimant may report their claim in writing without using the District’s Tort Claim form provided the claimant provides the following information in its claim

- (a) Claimant’s name and address;
- (b) Address where Claimant wants to receive notices;
- (c) Date, location, and circumstances surrounding the specific tort claim;
- (d) General description of the tort (i.e., injuries, damages, etc.);
- (e) Name of the employee allegedly causing the injury, if known;
- (f) If asking for less than \$10,000, the dollar amount claimed and how the amount was calculated; and
- (g) If asking for more than \$10,000, indicate whether the lawsuit will be a limited case (under \$25,000 and not asking for non-monetary relief) or an unlimited case (over \$25,000, or asking for nonmonetary relief).

(4) Independent Legal Advice. The District does not provide legal advice to any potential, prospective or existing claimants. Claimants are encouraged to seek independent legal advice regarding their specific claims.

(5) Filing Claim. Claims must be filed in person or sent via mail to the attention of the General Manager at Orange County Cemetery District, 25751 Trabuco Road, Lake Forest, CA 92630.

(6) Late Claims. If a claim is not filed pursuant to the timeframes set forth in this Policy, it may bar the claimant from filing a lawsuit against the District.

(7) After Filing a Claim. The District has 45 days after receiving a claim to take action.

- (a) The District will typically conduct an investigation of the claim.
- (b) If the District’s findings support the allegations set forth in the claim, the District may attempt to settle the claim with the claimant.
- (c) If the District rejects the claim, the District may notify the claimant in writing that the claimant can pursue the matter in court pursuant to the applicable statute of limitations set forth below.
 - a. This written notification is often called a “right to sue letter.”
- (d) If the District takes no action within 45 days, the claim is deemed denied and the claimant may sue the District in court pursuant to the applicable statute of limitations set forth below.

(8) Statute of Limitations. Under California Government Code § 945.6, a claimant must sue the District within 6 months from the date of the postmark or personal delivery of a “right to sue” letter. However, if the District does not provide any written notice rejecting a claim, the claimant has two years from the date of injury or damage to sue the District in court.

Government Immunities:

Important to note that government employees are liable only if there is a statutory basis for the liability and government employees are also protected by a variety of immunities from lawsuits. The District does not provide legal advice to any potential, prospective or existing claimants regarding the scope or application of any government immunities that may or may not be applicable to a claimant's claims; as such, claimants are encouraged to seek independent legal advice on such matters.

Civil Penalty for Presenting Fraudulent Claim:

Pursuant to Government Code §12651, a civil penalty of not less than (\$5,500) and not more than (\$11,000) may be imposed on a claimant for each fraudulent claim a claimant presents against the District.

Criminal Penalty for Presenting Fraudulent Claim:

Pursuant to Penal Code §72, a claimant who presents a fraudulent claim against the District may be subject to imprisonment in the county jail for a period of not more than one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both imprisonment and a fine.

Adopted: February 5, 2008
Last Review: September 6, 2022
Resolution No. 2022-09

| | | |
|-------------------|---|--|
| File With: | ORANGE COUNTY CEMETERY DISTRICT TORT CLAIM FORM | RECEIVED DATE STAMP |
| | | <hr/> Method of delivery office use only: <input type="checkbox"/> US Mail (postmark date: _____) <input type="checkbox"/> Hand –delivered (date: _____) <input type="checkbox"/> Delivery service (please list: _____) <input type="checkbox"/> Other (please list: _____) |

If additional space is needed to provide your information, please attach separate sheets which identify the paragraph(s) being answered. Sign, date and number all attachments to the claim form.

1. Name and Post Office address of the Claimant:

Name of Claimant:

Post Office Address:

Telephone:

2. Post Office address to which the person presenting the claim desires notices to be sent:

Name of Addressee:

Relationship to Claimant:

Post Office Address:

Telephone:

3. Claimant date of birth, Social Security Number and gender:

Date of Birth:

Social Security Number:

Gender:

4. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

Date of Occurrence:

Time of Occurrence:

Location:

Circumstances giving rise to this claim:

ARTICLE 130 – RISK MANAGEMENT: Tort Claims Policy

5. General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the claim.

6. The name or names of the public employee or employees causing the injury, damage, or loss, if known.

7. **If amount claimed totals less than \$10,000:** If the amount claimed totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Amount Claimed and basis for computation:

8. **If amount claimed exceeds \$10,000:** If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, exclusive of attorney fees, interest and court costs, does not exceed \$25,000. An unlimited civil case is one in which the recovery sought is more than \$25,000. See California Code of Civil Procedure §86.

Limited Civil Case Unlimited Civil Case

9. Name, address and telephone number of any witness (es) to the occurrence or transaction which gave rise to the claim asserted:

10. If the claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctor(s) or hospital(s) providing treatment:

If applicable, please attach any medical records or reports, medical bills or similar documents supporting your claim.

11. If the claim relates to an automobile accident:
-

ARTICLE 130 – RISK MANAGEMENT: Tort Claims Policy

| | |
|------------------------------|-----------------------|
| Claimant(s) Auto Ins. Co.: | Telephone: |
| <hr/> | |
| Address: | |
| <hr/> | |
| | Insurance Policy No.: |
| <hr/> | |
| Insurance Broker/Agent: | Telephone: |
| <hr/> | |
| Address: | |
| <hr/> | |
| Claimant's Veh. Lic. No.: | Vehicle Make/Year: |
| <hr/> | |
| Claimant's Drivers Lic. No.: | Expiration: |
| <hr/> | |

If applicable, please attach any repair bills, estimates or similar documents supporting your claim.

Civil Penalty for Presenting Fraudulent Claim:

Pursuant to Government Code §12651, a civil penalty of not less than (\$5,500) and not more that (\$11,000) may be imposed on a claimant for each fraudulent claim a claimant presents against the District.

Criminal Penalty for Presenting Fraudulent Claim:

Pursuant to Penal Code §72, a claimant who presents a fraudulent claim against the District may be subject to imprisonment in the county jail for a period of not more than one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both imprisonment and a fine.

Signature of the Claimant or Person acting on the Claimant's behalf

Date

ARTICLE 140

FINANCE

BUDGET MONITORING POLICY

Policy:

To require the preparation of a monthly financial statement that compares the approved budget's estimated year-to-date revenues and expenditures with the actual year-to-date revenues and expenditures to monitor the District's financial performance on a periodic basis.

Purpose:

To establish a formal set of procedures for comparing the District's approved budget to actual revenue and expenditures results for the purpose of monitoring the District's financial performance on a periodic basis.

Procedure:

On a monthly basis, the Finance & Accounting Manager shall prepare a financial statement that compares the Board-approved budget's estimated year-to-date revenues and expenditures with the District's actual year-to-date revenues and expenditures to monitor the District's financial performance. The financial statement shall be submitted with an accompanying staff report and relevant financial documents to the Board for its review and consideration. The financial statement and staff report shall identify, describe and explain any significant variances in revenues and expenditures.

During the fiscal mid-year and year-end budget reviews, the General Manager shall determine if any expenditure adjustments are necessary in order to balance the budget. However, if the General Manager determines that expenditure adjustments are necessary in the categories of Salaries & Benefits, Services & Supplies, or Equipment, the General Manager may make any necessary adjustments without prior Board approval provided that any such adjustments do not exceed the total budget previously approved by the Board. If the General Manager makes any such adjustments, the General Manager or designee shall prepare a budget memo authorizing the use of the Economic Uncertainty Fund and submit it to the Board for informational purposes only; any other expenditure adjustments however shall be subject to the Board's consideration and approval.

Adopted: September 5, 2006
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 140

FINANCE

SCHEDULE OF FEES AND COSTS POLICY

Purpose:

The purpose of this Policy is to establish and maintain a current schedule of fees and costs for interment sites/spaces, interment services, additional services, interment goods and endowment fees.

Policy:

The District shall charge the amounts set forth in the District's Schedule of Fees and Costs as duly adopted by the Board of Trustees from time to time and which the Board shall review at least once per year or as frequently as the Board deems necessary.

Authority:

The following Health & Safety Code sections authorize the Board to set certain fees and costs for the sale of interment sites/spaces, interments services and accessory and replacement objects that are necessary or convenient to interments, including but not limited to burial vaults, liners, and flower vases, but excluding monuments or markers.

- (1) Section 9053 authorizes the District to sell accessory and replacement objects that are necessary or convenient to interments, including but not limited to burial vaults, liners, and flower vases, but excluding monuments or markers.
- (2) Section 9068 authorizes the District to adopt a schedule of fees for interments in cemeteries owned by the District and for other necessary and convenient services.
- (3) Section 9068 further authorizes the District to charge a nonresident fee of at least 15 percent more than the fees charged to the District's residents or taxpayers.
- (4) Section 9083 authorizes the District to charge a fee to cover the cost of any other service that the District provides, or the cost of enforcing any regulation for which the fee is charged, provided that no such fees charged exceed the costs reasonably borne by the District.

- (5) Section 9083 further provides that the District charge any fees authorized by this policy to other public agencies.
- (6) Section 9083 also provides that the District may charge residents or persons who pay property taxes on property located in the District less than the fees the District charges to nonresidents or nontaxpayers.
- (7) Section 9083 finally provides that the Board may authorize District employees to waive the payment, in whole or part, of any fee authorized by this policy if the Board determines that payment would not be in the public interest, provided the Board has adopted a resolution that specifies the policies and procedures governing waivers.

Interment Sites/Spaces:

The District's Schedule of Fees and Costs shall include the amounts charged to purchase the following interment sites/spaces in each District cemetery, if available:

- (1) In-Ground Interment Sites/Spaces for Caskets, Cremains and Infants, based on location.
 - These interment sites/spaces can accommodate up to two burials. For two casket interments, the first burial occurs at the lower level and the second burial occurs at the upper level.
- (2) Above Ground Inurnment Sites/Spaces (Urn Niche Spaces) for Cremains, based on level of niche in columbarium.
 - These inurnments sites/spaces (which measure approximately 9 $\frac{3}{4}$ " x 9 $\frac{3}{4}$ " x 9 $\frac{3}{4}$ ") can accommodate two standard rectangular urns (which measure approximately 3" x 6" x 9").

Interment Services Fees:

The District's Schedule of Fees and Costs shall include the amounts charged for the following interment services for each District cemetery, if available:

- (1) In-Ground Interment Services, which include setting up of a shade canopy, twelve chairs, a 2'x4' table (tablecloth not included) and opening and closing of a grave, based on the following interment sites/spaces and day of services:
 - Caskets Site/Space
 - Weekday Services
 - Weekend Services
 - No Set-Up/No Services

- Cremains Site/Space
 - Weekday Services
 - Weekend Services
 - No Set-Up/No Services
- Infants Site/Space
 - Weekday Services
 - Weekend Services
 - No Set-Up/No Services

(2) Niche Interment Services, which include setting up of a shade canopy, twelve chairs, a 2'x4' table (tablecloth not included) and opening and closing of a niche, based on the following interment sites/spaces and day of services:

- Cremains Site/Space
 - Weekday Services
 - Weekend Services
 - No Set-Up/No Services

(3) Direct Cremation Interment Services, which include placement of cremated remains directly in the soil of one of the District's cemeteries' Rose Gardens, based on the following interment sites/spaces and day of services:

- Cremains Site/Space
 - Weekday Services
 - Weekend Services
 - No Set-Up/No Services

Additional Services Fees:

The District's Schedule of Fees and Costs shall include the amounts charged for the following additional services for each District cemetery, if available:

- (1) Memorial Marker Installation;
- (2) Memorial Niche Plate Installation;
- (3) In-ground Flower Vase Installation;
- (4) Niche Plate Flower Vase and Vase Block Installation;
- (5) Memorial Name Strip Installation;
- (6) Memorial Marker Replacement;
- (7) Infant Grave Liner Setting and Installation if purchased from a third party;
- (8) Vault Setting and Installation if purchase from a third party; and
- (9) Vault Disposal.

Interment Goods:

The District’s Schedule of Fees and Costs shall include the amounts charged to purchase the following interment goods from the District for each District cemetery, if available:

- (1) Vaults – Standard Size, which includes setting and installation for Casket Site/Space.
 - A vault shall be required for each adult full body in-ground burial.
- (2) Vaults – Large which includes setting and installation for casket Site/Space.
 - A vault shall be required for each adult full body in-ground burial.
- (3) Infant Grave Liners for Infant Site/Space.
 - A grave liner shall be required for each infant full body in-ground burial.
- (4) Urn Vaults
 - An urn vault shall be required for each in-ground cremation interment for Cremains Site/Space.

Eligible Nonresident Fees:

These fees apply if the decedent was not a resident of Orange County at the time of death. (See District’s Eligible Nonresident Policy for further information.)

The District’s Schedule of Fees and Costs shall include the amounts of the Eligible Nonresident Fees charged for each of the following interment sites/space for each District cemetery, if available:

- (1) Casket Site/Space
- (2) Cremains Site/Space
- (3) Infant Site/Space

Eligible Non-Taxpaying Resident Fees:

These fees apply if the decedent lived in an area of Orange County that is a non-tax paying area.

The District’s Schedule of Fees and Costs shall include the amounts of the Eligible Non-Taxpaying Resident Fees charged for each of the following interment sites/space for each District cemetery, if available:

- (1) Casket Site/Space
- (2) Cremains Site/Space
- (3) Infant Site/Space

Endowment Care Fees:

The District's Schedule of Fees and Costs shall include the amounts of the applicable Endowment Care Fee charged for each of the following interment sites/space for each District cemetery, if available:

- (1) Casket Site/Space
- (2) Cremains Site/Space
- (3) Infant Site/Space

Disinterment Fee:

The District's Schedule of Fees and Costs shall include the amounts of the disinterment fees for each type of interment site/space, which includes Casket Sites/Spaces, Cremains Sites/Spaces and Infant Sites/Spaces, for each District cemetery.

Disinterment & Re-interment Fee:

The District's Schedule of Fees and Costs shall include the amounts of the re-interment fees for each type of interment site/space, which includes Casket Sites/Spaces, Cremains Sites/Spaces and Infant Sites/Spaces, for each District cemetery.

Space Transfer/Space Exchange Fee:

The District's Schedule of Fees and Costs shall include the amounts charged for a transferring an interment site/space exchanging interment sites/spaces.

Late Hour Burial Fee:

The District's Schedule of Fees and Costs shall include the amount charged per hour as a late burial, which are burials which commence on or after 2:00 p.m. on a weekday, 1:00 p.m. on a Saturday or 12:00 pm on a Sunday.

Weekend Service Fee:

The District's Schedule of Fees and Costs shall include the amount charged for weekend services which shall be based on the additional staffing needed, as deemed necessary by the District.

Vaults Purchased from Third Party:

The District’s Schedule of Fees and Costs shall include the amounts charged to set and install a vault purchased from a third party, such as a mortuary, based on the day of week the vault is set and installed.

The District’s Schedule of Fees and Costs shall also include the hourly rate charged for late hour vault setting and installation.

Vault Disposal Fee:

The District’s Schedule of Fees and Costs shall include the amounts charged to remove and dispose of a vault based on the day of week the vault is removed and disposed.

Memorial Service Set-up:

The District’s Schedule of Fees and Costs shall include the amounts charged for a memorial set-up which consists of setting up of a shade canopy, twelve chairs, a 2’x4’ table (tablecloth not included).

Pre-Need Contract Service Charge:

The District’s Schedule of Fees and Costs shall include the amount that will be charged for a 2 Month Pre-Need Contract Service Charge. (See District’s Pre-Need Policy for further information.)

Guidelines for Setting Fees and Charges:

The following factors shall serve as guidelines for setting the following fees and charges:

(1) Service-Related Fees

- Fee amounts for services should be proportional to the costs associated with providing the service.
- The full cost of providing the services should be factored into the fee and should include both direct and indirect costs.
- “Direct Costs” are the costs incurred directly by providing a specified service. These costs are associated with staff time spent performing service related duties and include employee salary and benefits. In general, direct costs are any costs that can be traced directly to the service.
- Indirect costs should include overhead rates, energy costs, lost opportunity costs, incremental increase in costs of employee benefits, etc.

- Whether services' costs are covered by revenues collected by the District.
- A comparison of fee levels for similar services provided in other jurisdictions with similar levels of labor and cost of living costs.

(2) Interment Goods

- Whether costs will generate additional revenue that supplement other District services.
- An analysis of all relevant costs involved including direct and indirect costs.
- "Direct Costs" are the costs incurred directly by producing, purchasing or providing the subject good. In general, direct costs are any costs that can be traced directly to the production of a given good.
- Scarcity of construction material that makes up the good.
- Whether services' costs are covered by revenues collected by the District.
- Wholesale costs plus markup charged to District.
- Shipping and delivery costs incurred by District.
- A comparison of the costs of the same goods provided in other jurisdictions with similar levels of labor and cost of living costs.
- Level of demand for the particular goods.
- Prices for similar goods offered by the private funeral/mortuary industry.

(3) Interment Sites/Spaces

- The nature and quality of the facilities
- Level of demand for the interment sites/spaces.
- Scarcity of alternatives.
- Desirability of the particular interment site/space due to location, views, proximity to parking and other facilities, access, aesthetics, etc.
- A comparison of the costs of the same type of interment sites/spaces offered in other jurisdictions with similar cost of living costs.
- Prices for similar type of interment sites/spaces goods offered by the private cemetery industry.
- Avoid gifts of public funds situation.

Nonresident Surcharges:

Pursuant to section 9068 of the Health & Safety Code, the District may charge a nonresident fee of at least 15 percent more than the fees charged to the District's residents or taxpayers. In addition, pursuant to section 9083 of the Health & Safety Code, the District may charge residents or persons who pay property taxes on property located in the District less than the fees the District charges to nonresidents or nontaxpayers.

Periodic Review:

The District's Schedule of Fees and Charges shall be reviewed at least once per year or as frequently as the Board deems necessary to ensure that the fees and charges keep pace with changes in the cost-of-living, changing levels of demands, and any other changes over time related to the factors the District used as guidelines for initially setting the District's fees and charges.

Adoption of Fees and Charges:

All fees and charges shall be subject to approval by the Board at a regular Board meeting via the adoption of a resolution approved by a majority of the total membership of the Board.

Effective Date of New Fees and Charges:

All newly adopted or amended fee increases shall not take effect until 30 days after the effective date of the resolution that approved such increases. Any fee decrease, however, shall take effect immediately upon the effective date of the resolution approving any such decrease.

Additional Fees and Charges:

The Board may adopt any other fees and charges for any other goods or services as it deems appropriate from time to time.

Adopted: February 5, 2003
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 140
FINANCE INVESTMENT POLICY

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1.0 POLICY:

The purpose of this Investment Policy (“Policy”) is to establish cash management and investment guidelines for the General Manager or designee, who is responsible for the administration of the Orange County Cemetery District (“District”) Investment Program. Each investment transaction and the entire portfolio must comply with the California Health and Safety Code Section 9066, California Government Code, Sections 53600 and 53635 et seq. and this Policy. It is the policy of the District to meet the short and long-term cash flow demands of the District in a manner which will provide for the safety of principal and sufficient liquidity, while providing an optimum investment return.

- 1.1 Government Code Section 53646 previously mandated that annual investment policies and quarterly reports be rendered to the legislative body. AB2853 amended the Government Code Section 53646 to remove the requirements; the rendering of these documents is permissive rather than mandated.
- 1.2 Although the Annual Investment Policy and Quarterly Reports are no longer required, we believe it prudent to continue to provide the legislative bodies with these documents. In addition, Government Code Section 53607 has not been repealed that requires an annual delegation of investment authority to the General Manager and the submission of reports that include investment transactions by month. Consequently, the General Manager will annually render to the Board of Trustees (“Board”) a statement of investment policy. The policy shall be reviewed on an annual basis by the Finance & Investment Committee and the Board.

2.0 SCOPE:

This investment policy applies to all investment activities and financial assets of the District with the following exception:

- 2.1 Investments in the District’s Defined Contribution Plans (Deferred Compensation).
- 2.2 To the extent possible, it is the District’s policy to pool funds for investment purposes to provide efficiencies and economies of scale. Investing through a pooled account will provide for greater use of funds by allowing for a more efficient cash flow, a reduction in transaction costs, and a greater access to the market.
- 2.3 The General Pool consists of all the funds of the District and its component units. Currently, the District has no component units. The funds are accounted for in the District’s Comprehensive Annual Financial Report and include, but are not limited, to the following:

- a) General Funds
- b) Endowment Principal Funds
- c) Endowment Income Funds
- d) Preneed Funds
- e) Any new funds created by the Board

Health and Safety Code Section 9065(e) - The Board cannot spend the Endowment Principal Fund.

- 2.4 The District's General Pool will be referred to as the "Portfolio" throughout the remainder of this document. The General Manager and staff will observe, review and react to changing conditions that affect the Portfolio.

3.0 DELEGATION OF AUTHORITY:

- 3.1 The General Manager or designee, has the authority to invest or reinvest the District's funds, to sell or exchange securities so purchased, and to deposit securities for safekeeping in accordance with Health and Safety Code Section 9066 and Government Code Sections 53600, 16429.1 and 53684, et seq. as further limited by this Investment Policy.
- 3.2 The General Manager or designee shall establish written procedures for the operation and management of the District's investment program consistent with this investment policy, including appropriate written agreements with financial institutions.
- 3.3 No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the General Manager. The General Manager may delegate all, or a portion of his or her investment authority to subordinates pursuant to Government Code Section 41006, or engage the services of one or more external investment managers to assist in the management of the District's investment portfolio in accordance with the District's Investment Policy. Such delegation and/or engagement by the General Manager shall not remove or abridge his or her investment responsibility.
- 3.4 Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution of the investment program or which could impair their ability to make impartial investment decisions. All investment personnel shall comply with the reporting requirements of the Fair Political Practices Committee and include an annual filing of a Statement of Economic Interests.

4.0 PRUDENCE AND STANDARD OF CARE:

- 4.1 Government Code Section 53600.3 states that "...all governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character, and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law."
- 4.2 Investment officials in the management of the District's funds shall use the "Prudent Investor" standard. Investment officers acting in accordance with this Policy, written portfolio guidelines and procedures, and exercising due diligence shall be relieved of personal responsibility for individual security's credit risk or market price changes, provided deviations from expectations are reported in the monthly investment reports to the Board, and appropriate action is taken to control adverse developments.
- 4.3 The General Manager, employees involved in the investment process, and the members of the Finance & Investment Committee shall refrain from all personal business activity that could conflict with the management of the investment program. All individuals involved with the investment of District funds, or review of investment transactions, will be required to report all gifts and income in accordance with state law. When investing and managing District funds, the General Manager, and employees shall act with the care, skill, prudence and diligence to meet the aims of the investment objectives listed in order in Section 5.0, Investment Objectives.

5.0 INVESTMENT OBJECTIVES:

- 5.1 The primary objectives, in priority order, of the District's investment activities shall be:
- A. **Safety:** Safety of principal is the foremost objective of the investment program. The District's investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.

- B. **Liquidity:** The District’s investment portfolio will remain sufficiently liquid to meet all operating requirements that might be reasonably anticipated within six months.
 - C. **Yield:** The District shall manage its funds to optimize the return on investments consistent with the two primary objectives of safety and liquidity. The rate of return on investment should be designed to attain a market rate of return through budgetary and economic cycles consistent with the risk limitations, prudent investment principles and cash flow requirements identified by the District’s Investment Policy.
- 5.2 It is the District’s policy to hold investments until the investment matures or is called. However, the General Manager or designee may elect to sell a security prior to its maturity and record a capital gain or loss in order to improve the credit quality, liquidity, or rate of return of the portfolio in response to market conditions and/or the District’s risk preferences.
- 5.3 In pursuing the safety of principal investment of District funds, the District’s investment program will review and mitigate Credit risk and Market risk.
- A. **Credit Risk -** Credit risk is defined as the risk of loss due to the failure of an issuer to redeem the outstanding debt at the stated maturity date. Within this concept, Credit risk also applies to the overall market perception of the financial strength and capacity of the issuer. Diversification of the investment portfolio by issuer, maturity date and amount invested will ensure that in the event of a failure of any one issuer, the event will not unduly harm or compromise the District’s cash flow.
 - B. **Market or Interest Rate Risk –** Market or Interest Rate risk is the risk that the market value of investment securities in the portfolio may decline due to changes in general interest rates. Market rate risk can be mitigated by diversifying the investment of funds by maturity date and by investing funds to meet a specific cash requirement that would reduce the need to sell the security prior to maturity to meet immediate District cash flow needs.

6.0 INVESTMENT PROCEDURES:

The General Manager or designee shall establish written investment procedures for the operation of the investment program consistent with this policy. As needed, procedures include references to custodial safekeeping, master repurchase agreements, security lending agreements, wire transfer agreements, banking service contracts and collateral/depository agreements.

No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the General Manager.

7.0 INTERNAL CONTROLS:

- 7.1 The General Manager or designee shall establish internal controls to provide reasonable assurance that the investment objectives of the District's Investment Policy are met and to ensure that the assets are protected from loss, theft, or misuse. The General Manager shall be responsible for ensuring that all investment transactions comply with the District's Investment Policy and the Government Code.
- 7.2 Investment activity and holdings are verified monthly by the District's General Manager and annually by the external auditor. These reviews provide internal control by assuring compliance with policies and procedures.

8.0 FINANCE & INVESTMENT COMMITTEE:

The Finance & Investment Committee was established to provide general oversight and act in an advisory capacity. The General Manager acts as liaison and staff support to the Committee. The Investment Policy is reviewed and approved by the Finance & Investment Committee prior to remittance to the Board.

9.0 CUSTODY AND SAFEKEEPING OF SECURITIES AND DISTRICT FUNDS:

In accordance with Government Code Section 53601 all securities owned by the District shall be held in safekeeping by the District's custodial bank or a third-party bank trust department, acting as agent for the District under the terms of a custody agreement.

- 9.1 All securities will be received and delivered using standard Delivery-versus-Payment procedures which ensures that securities are deposited with the third-party custodian prior to the release of funds. Securities will be held by a third-party custodian as evidenced by safekeeping receipts. Investments in the State Pool or other approved Pool(s) or money market mutual funds are not subject to delivery or third-party safekeeping.
- 9.2 On a monthly basis, the custodial asset statement is reconciled with the month-end portfolio holdings. On an annual basis, the external auditor confirms investment holdings.
- 9.3 For investments in Repurchase Agreements, securities and collateral shall be purchased and maintained for the benefit of the District in the Trust Department or safekeeping department of a bank as established by a written third-party safekeeping agreement between the District and the bank.
- 9.4 Funds deposited by the District shall be secured by a Depository in compliance with the requirements of the Government Code Section 53652. Such collateralization shall be designated and agreed to in writing.

- 9.5 Investment securities in bearer form such as, but not limited to, Negotiable Certificates of Deposit and Banker's Acceptances shall be held in a qualified safekeeping institution.

10.0 AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS:

10.1 To minimize the risk to the District's overall cash and investment portfolio, prudence and due diligence as outlined below shall be exercised with respect to the selection of financial institutions in which the District's funds are deposited and invested.

- A. In selecting Depositories pursuant to Government Code, Section 53600, et seq., the credit worthiness, financial stability, and financial history of the institution, as well as the cost and scope of services and interest rates offered shall be considered. No funds will be deposited in an institution unless that institution has been evaluated by a nationally recognized independent rating service as satisfactory or better.
- B. Deposits of \$250,000 or less which are insured pursuant to federal law (12 CFR Part 330) by the Federal Deposit Insurance Corporation (FDIC), or the National Credit Union Administration (NCUA) may be excluded from the independent rating service evaluation requirement above and from the collateralization requirements of Section 9.3 of this Policy, at the General Manager's discretion.
- 10.2 In selecting external broker-dealers, past performance, stability, financial strength, reputation, area of expertise, and willingness and ability to provide the highest investment return at the lowest cost to the District within the parameters of this Investment Policy and the Government Code shall be considered. External investment managers must be registered with the Securities and Exchange Committee (SEC) under the Investment Advisor Act of 1940.
- 10.3 Pursuant to Government Code Section 53601.5, the District and its investment staff shall only purchase statutorily authorized investments either from the issuer, from a broker-dealer licensed by the state, as defined in Section 25004 of the Corporations Code, from a member of a federally regulated securities exchange, a national or state-chartered bank, a federal or state association (as defined by Section 5102 of the Financial Code), or from a brokerage firm designated as a primary government dealer by the Federal Reserve Bank of New York.
- A. Investment staff will only purchase or sell securities from broker-dealers defined in this section of the District's Investment Policy and

meet the minimum requirements of being registered and licensed by the National Association of Securities Dealers (NASD) and possess an active Series 7 license, an active Series 66 license (or Series 63), submission of a NASD form U4 (employment history) and a current NASD form U5 Disclosure Statement and have completed the District's broker-dealer questionnaire.

- B. Investment staff will only use broker-dealers that have a minimum of three years continuous experience working for a primary dealer or five years continuous experience working for a non-primary dealer.
- 10.4 The General Manager or designee will maintain a list of financial institutions authorized to provide investment services to the District. An annual review of the financial condition and registrations of qualified bidders will be conducted by the General Manager. A current audited financial statement is required to be on file for each financial institution and broker/dealer with which the District invests.
- 10.5 However, if the interaction with the broker-dealer is limited to investment trades through an electronic trading platform, then the broker/dealer is exempt from completing a questionnaire.
- 10.6 Depositories, broker-dealers, who do business with the District, shall sign a Certification of Understanding and shall acknowledge receipt of the District Investment Policy (Attachment B).

11.0 AUTHORIZED INVESTMENTS:

The District is governed by the Health and Safety Code Section 9066 and Government Code, Sections 53600, 16429.1 and 53684, et seq.

- 11.1 The District's Investment Policy specifically **prohibits** the investment of any funds subject to this policy in the following securities:

Derivative securities, as defined in Government Code Section 53601.6, as any security that derives its value from an underlying instrument, index, or formula, are prohibited. The derivative universe includes, but is not limited to, structured and range notes, securities that could result in zero interest accrual if held to maturity, variable rate, floating rate or inverse floating rate investments, and mortgage derived interest or principal only strips.

District Investment Policy further restricts the permitted investments to those listed below.

ARTICLE 140 – FINANCE: Investment Policy

| # | Type of Investment | Cal Gov Code % of Funds Permitted | District % Funds Authorized** | Cal Gov Code Maximum Final Maturity | District Maximum Final Maturity |
|-------|--|-----------------------------------|---|-------------------------------------|---------------------------------|
| 11.2 | Bonds issued by the District or agency of the District | 100 % | 100% | 5 Years | 20 Years |
| 11.3 | United States Treasury notes, bonds, bills or certificates of indebtedness | 100 % | 100% 30 % of a single issue | 5 Years | In excess of 5 years |
| 11.4 | Registered State (CA) warrants or treasury notes or bonds | 100 % | 100 % 40 % of a single issuer 10% of a single issue | 5 years | 10 years |
| 11.5 | California and Other States' Local Agency bonds, notes, warrants or other evidence of indebtedness | 100 % | 100 % 40 % of a single issuer 10% of a single issue | 5 years | 20 years |
| 11.6 | Federal Agency or U.S. government sponsored enterprise (GSE) obligations | 100 % | 100 % 40 % of a single issuer 10% of a single issue | 5 years | In excess of 5 years |
| 11.7 | Banker's Acceptances, | 40 % 30% of a single issuer | 40 % 5% of a single issuer | 180 days | 180 days |
| 11.8 | Commercial Paper of "Prime" quality | 25% 10% of a single issuer | 25% 5% of a single issuer | 270 days | 270 days |
| 11.9 | Negotiable Certificates of Deposits | 30 % | 30 % 5% of a single issuer | 5 years | 10 years |
| 11.10 | Repurchase Agreements | 100 % | 20 % | 1 year | 1 year |
| 11.11 | Reverse Repurchase Agreements | 20%* | 20%* | 92 days | 92 days |
| 11.12 | Securities Lending | 20%* | 20%* | 92 days | 92 days |
| 11.13 | Medium Term Corporate Notes | 30 % | 30 % 5% of a single issuer | 5 years | 10 years |
| 11.14 | Shares of beneficial interest, Mutual Funds | 20 % 10% of a single fund | 20 % 10 % of a single fund | N / A | N / A |

| # | Type of Investment | Cal Gov Code % of Funds Permitted | District % Funds Authorized** | Cal Gov Code Maximum Final Maturity | District Maximum Final Maturity |
|---------|--|-----------------------------------|-------------------------------|-------------------------------------|---------------------------------|
| 11.15 | Any mortgage pass through security | 20% | 20% | 5 years | In excess of 5 years |
| 11.16.1 | State of California Local Agency Investment Fund | 100% | 100% | N / A | N / A |
| 11.16.2 | Orange County Investment Pool | 100% | 100% | N / A | N / A |
| 11.16.3 | Investment Trust of California (CalTRUST) | 100% | 100% | N / A | N / A |

* Reverse Repurchase Agreements and Securities Lending Programs are limited to a maximum cumulative amount of 20% of portfolio funds.

** All percentage limitations will be valued/calculated at the time of purchase based on the most recently Board approved report of investment balances.

For investments in Bankers Acceptances, Commercial Paper, Negotiable Certificates of Deposit, and Medium Term Corporate Notes, the policy limitation of 5% per single issuer applies to the aggregate amount of funds invested in all category investments to a single issuer, including subsidiary companies.

The following is a summary of description and respective District Investment Policy limitations to each asset class or security:

- 11.2 Bonds issued by a District or agency of a District are defined as “including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.”
- 11.3 United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.
- 11.4 Registered State (CA) warrants, notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or a department, board, agency, or authority of the state.
- 11.5 California and Other States’ Local Agency bonds, notes, warrants or other evidence of indebtedness of any local agency within this state, including

bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

- 11.6 Federal Agency or U.S. government sponsored enterprise (GSE) obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.
- 11.7 Banker's Acceptances (BA) otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank. The District's Investment Policy restricts purchases to a maximum of 180 days to maturity, 40% of the book value of the portfolio funds and 5% of the book value of the portfolio funds in a single issuer.
- 11.8 Commercial Paper (CP) of "Prime" quality is defined as having the highest ranking or the highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO). The issuer must meet the following:
- A. Is organized and operating in the United States as a general corporation, has total assets in excess of five hundred million dollars (\$500,000,000), has debt other than commercial paper, if any, that is rated "A" or higher by a NRSRO;
 - B. Is organized within the United States as a special purpose corporation, trust, or limited liability company, has programmable credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond, has commercial paper rated "A-1" or higher, or the equivalent, by a NRSRO.

The District's Investment Policy restricts purchases to a maximum maturity of 270 days, 25% of the book value of portfolio funds and 5% of the book value of the portfolio funds to a single issuer.

- 11.9 Negotiable Certificates of Deposits (NCD). Defined as issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a state –licensed branch of a foreign bank. The District's Investment Policy restricts purchases to a maximum maturity of ten years, 30% of the book value of the portfolio funds and 5% of the book value of the portfolio funds to a single issuer.
- 11.10 Repurchase Agreements. Investments are authorized when the term of the agreement does not exceed one year. The market value of securities underlying a repurchase agreement shall be valued at 102% or greater of

the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102% no later than the next business day. The District's Investment Policy restricts purchases to a maximum amount of 20% of the book value of the portfolio and further restricts purchases with a single broker/dealer to 20% of the book value of the portfolio funds, with a maximum maturity limit of one year.

11.11 Reverse Repurchase Agreements. Reverse repurchase agreements or securities lending agreements may be utilized only when the following condition is met:

The security to be sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security. Purchases in this category shall not exceed 20% of the cost value (base value) of the Portfolio and will be restricted to transactions with primary dealers.

11.12 Securities Lending Program

The General Manager or designee is authorized to engage contractors to perform securities lending activities or to permit custodian banks to subcontract for securities lending services. The securities lending agreement is an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

The base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

In addition, the security to be sold on reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

1. The security to be sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.
2. The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20% of the base value of the portfolio.
3. The agreement does not exceed a term of 92 days.
4. Investments in reverse repurchase agreements and securities lending agreements will only be made with primary dealers of the Federal Reserve Bank of New York, or with a nationally or state-chartered bank that has or has had a significant banking relationship with the District.
5. “Significant banking relationship”, is defined as follows:
 - a. Involvement in the creation, sale, purchase, or retirement of a local agency’s bonds, warrants, notes or other evidence of indebtedness
 - b. Financing of a local agency’s activities
 - c. Acceptance of a local agency’s securities or funds as deposits.

11.13 Medium Term Corporate Notes (MTN), defined as all corporate and depository institution debt securities with a maximum remaining maturity of ten years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this category shall be rated “A” or better by: Moody’s, Standard & Poor’s or Fitch, and shall not include other instruments authorized in Section 11.6 of the Policy (i.e. “Federal Agency” Medium Term Notes are classified as “Federal Agencies”). Purchases in this category shall not exceed ten years to maturity or 30% of the book value of the Portfolio. Purchases in a single issuer in this category shall not exceed 5% of the book value of the Portfolio.

- 11.14 Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Committee under the Investment Company Act of 1940. The company shall have met either of the following criteria:
- A. Attained the highest ranking or the highest letter and numerical rating provided by not less than two of the following: Moody’s, Standard & Poor’s or Fitch.
 - B. Retained an investment adviser registered or exempt from registration with the Securities and Exchange Committee with not less than five years’ experience managing money market mutual

funds with assets under management in excess of five hundred million dollars (\$500,000,000).

The purchase price of shares of beneficial interest, (mutual funds) purchased pursuant to this subdivision shall not include any commission that these companies may charge.

Investments in this category shall be restricted to money market mutual funds that seek to maintain a Net Asset Value of \$1. Money market mutual funds provide daily liquidity; therefore, there is no final stated maturity for this investment category. Investments in mutual funds shall be restricted to Funds that have the highest ranking or the highest letter and numerical rating provided by not less than two of the following nationally recognized statistical rating organizations: Moody's, Standard & Poor's or Fitch. Purchases in this category shall not exceed 20% of the book value of the Portfolio. Purchases in a single mutual fund shall not exceed 10% of the book value of the Portfolio.

11.15 Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five year's maturity. Purchase of securities may not exceed 20% of the agency's surplus money that may be invested.

11.16 State & Local Pool - Local Agency Investment Fund, the Orange County Investment Pool and the Investment Trust of California (CalTRUST) Pool. The District may invest in the Local Agency Investment Fund (LAIF) established by the State Treasurer under Government Code Section 16429.1 for the benefit of local agencies. The District may also invest in the Orange County Investment Pool as permitted under the Government Code Section § 53684 and in the CalTRUST Pools as permitted under Government Code Section § 53601.

LAIF provides daily liquidity; therefore, there is no final stated maturity for this investment category.

1.1 Additional Investments-Local Agency Investment Fund (LAIF)

Government Code Section 16429.1 further provides for investment in the Local Agency Investment Fund. The District may invest in the Local Agency Investment Fund administered and managed by the State of California, as stated and defined in § 16429.1.

(a) Any monies deposited in the State Treasury for investment pursuant to this section are not subject to impoundment or

seizure by any state official or agency while the funds are so deposited.

1.2 Additional Investments-Orange County Treasury, County of Orange

Government Code Section 53684 allows local agencies to deposit excess funds into the Orange County Treasury for purposes of investment by the Orange County Treasurer. See Government Code Section 53684 Alternative Procedure for investment of excess funds.

- (a) Unless otherwise provided by law, if the Treasurer of any local agency, or other official responsible for the funds of the local agency, determines that the local agency has excess funds which are not required for immediate use, the Treasurer or other official responsible for the funds of the local agency, determines that the local agency has excess funds which are not required for immediate use, the Treasurer or other official may upon the adoption of a resolution by the legislative or governing body of the local agency authorizing the investment of funds pursuant to this section and with the consent of the County Treasurer, deposit the excess funds in the county treasury for the purpose of investment by the county treasurer pursuant to Government Code Sections 53601 or 53635.
- (b) The County Treasurer shall, quarterly, apportion any interest or other increment derived for the investment of funds pursuant to this section in an amount proportionate to the average daily balance of the amounts deposited by the local agency and district.
- (c) In conjunction with the monthly report required to be prepared pursuant to subdivision (b) of Government Code Section 53646, the County Treasurer shall provide the information described in that subdivision to the Treasurer or other official responsible for the funds of any local agency which has funds on deposit in the county treasury and that information shall, except as otherwise provided in paragraph (4) of subdivision (b) of Government Code Section be included by the Treasurer or other official in a monthly report to the legislative or governing body of the local agency.
- (d) The Treasurer or other official responsible for the funds of the local agency may withdraw the funds of the local agency at any time but shall give the county treasurer 30 days written notice of his or her intent to withdraw the funds.

- (e) Any monies deposited in the County Treasury for investment pursuant to this section are not subject to impoundment or seizure by any county official or agency while the funds are so deposited.
- (f) This section is not operative in any county until the board of supervisors of the county, by majority vote, adopts a resolution making this action operative in the county.
- (g) It is the intent of the Legislature in enacting this section to provide an alternative procedure to Government Code Section 51301 for local agencies to deposit money in the County Treasury for investment purposes. Nothing in this section shall, therefore, be construed as a limitation on the authority of a county and an agency to contract for the County Treasurer to perform treasury functions for an agency pursuant to Government Code Section 51301.

The District may invest in the Orange County Investment Pool-Money Market Fund administered and managed by the Orange County Treasurer in accordance with the provisions of Government Code Section 53684.

12.0 MASTER REPURCHASE AGREEMENTS:

A master repurchase agreement will be entered into prior to any repurchase or reverse repurchase agreement transaction. The agreement must specify the terms of the transaction, and in the case of reverse repos, may be entered into only with a primary dealer.

13.0 COLLATERALIZATION:

Government Code, Sections 53652, et seq., requires depositories to post certain types and levels of collateral for public funds above the FDIC insurance amounts. The collateral requirements apply to bank deposits, both active (checking and savings accounts) and inactive (non-negotiable time certificates of deposit).

Collateral is also required for repurchase agreements. The market value of securities used as collateral for repurchase agreements shall not be allowed to fall below 102% of the value of the repurchase agreement and shall be valued daily by the tri-party custodial agent. Securities that can be pledged for collateral shall consist only of securities permitted in Government Code Section 53601. If there is a default of the broker, the collateral securities can be sold. Since the securities are valued daily, it is likely that the sale proceeds will equal or exceed the value of the repurchase agreement amount.

14.0 DIVERSIFICATION:

The District will diversify its investments by security type, issuer and maturity dates. Concentration limits are indicated in the Authorized Investments section 11.0 for all investment categories except Treasury securities.

15.0 MAXIMUM MATURITIES:

To the extent possible, the District will attempt to match its investments with anticipated cash flow requirements. Generally Government Code Section 53601 limits maximum maturities to five years unless the legislative body grants express authority to increase the maturity either specifically or as part of an investment program. Given that the District's Endowment Care Fund cannot be spent it would be prudent to increase the maturities for in excess of five years.

16.0 REPORTING:

As previously discussed, Government Code Section 53646 has been amended to remove the requirement that monthly reports be submitted to the legislative body. We believe that it is prudent to continue the submission of such reports. Consequently, the General Manager shall render a quarterly report within 30 days of quarter end, to the Board, and Finance & Investment Committee containing detailed information on all securities, investments, and monies of the District.

The report will contain at a minimum the following information on the District Portfolio that is subject to this investment policy: the type of investment, name of the issuer, date of maturity, par value and cost of each investment, any investments, including loans and security lending programs that are under the management of contracted parties, the market value and source of the valuation, funds placed in LAIF and CalTRUST, FDIC-insured accounts and/or in the Orange County investment pool the report may be replaced by copies of the latest statements from the institutions. Description of the compliance with the statement of investment policy, and a statement denoting the District's ability to meet its anticipated expenditure requirements for the next six months.

17.0 POLICY REVIEW:

The General Manager and Finance & Investment Committee shall review the Policy, at least annually, to ensure its consistency with the overall investment objectives of preservation of principal, liquidity, and return on investments. The Board shall adopt the Policy annually. The General Manager and Finance & Investment Committee shall also consider relevance to current law, financial and economic trends, and the cash flows needs of District.

An Investment Policy shall be rendered to, and adopted by the Board, annually.

This Investment Policy shall become effective March 5, 2024.

SUBMITTED BY:



Tim Deutsch, General Manager

3-5-24

Date

CONCURRED BY THE FINANCE & INVESTMENT COMMITTEE ON FEBRUARY 27, 2024:



Noel Hatch, Committee Chair

ADOPTED AND APPROVED:

By:  _____

Cynthia Ward
Chair of the Board of Trustees
Orange County Cemetery District

GLOSSARY

AGENCIES: Federal agency securities and/or Government sponsored enterprises.

BANKERS ACCEPTANCE (BA): A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

BASIC FINANCIAL REPORT: The official annual report for the District. It includes combined statements for each individual fund and account group prepared in conformity with GAAP. It also includes supporting schedules as necessary to demonstrate compliance with GAAP.

BROKER: A broker brings buyers and sellers together for a Committee.

CALLABLE SECURITIES: A security that can be redeemed by the issuer before the scheduled maturity.

CERTIFICATE OF DEPOSIT (CD): A time deposit with a specific maturity evidenced by a certificate. Time certificates of deposit are collateralized in accordance with the State code. Large-denomination CD's are typically negotiable and non-collateralized.

COLLATERAL: Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

COUPON: (a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to a bond evidencing interest due on a payment date.

CUSTODIAL TRUST: A service to customers rendered by banks for a fee whereby assets are held in a protected form and cannot be attached by creditors of the bank.

DEALER: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

DEBENTURE: A bond secured only by the general credit of the issuer.

DELIVERY VERSUS PAYMENT: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt. Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt of the securities.

DERIVATIVES: (1) Financial instruments whose return profile is lined to or derived from, the movement of one or more underlying index or security, and may include a leveraging factor, or (2) financial contracts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities or commodities).

DISCOUNT: The difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

DISCOUNT SECURITIES: Non-interest bearing money market instruments that are issued a discount and redeemed at maturity for full face value, e.g. US Treasury Bills.

DIVERSIFICATION: Dividing investment funds among a variety of securities offering independent returns.

FEDERAL CREDIT AGENCIES: Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): A federal agency that insures bank deposits, currently up to \$250,000 per deposit.

FEDERAL FUNDS RATE: The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

FEDERAL HOME LOAN BANKS (FHLB): Government sponsored wholesale banks (currently 12 regional banks) which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies. The mission of the FHLB is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA): FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

FEDERAL OPEN MARKET COMMITTEE (FOMC): Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

FEDERAL RESERVE SYSTEM: The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae): Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the US Government. Ginnie Mae securities are backed by the mortgages, including FHA and VA mortgages. The term “pass-throughs” is often used to describe Ginnie Maes.

ISSUER: A legal entity that has the power to issue and distribute securities. Issuers include corporations, municipalities, foreign and domestic governments and their agencies, and investment trusts.

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

LOCAL GOVERNMENT INVESTMENT POOL (LGIP): The aggregate of all funds from political subdivisions that are placed in the custody of the County or State Treasurer for investment and reinvestment.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

MASTER REPURCHASE AGREEMENT: A written contract covering all future transactions between the parties to repurchase or reverse repurchase securities that establishes each party’s rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MONEY MARKET: The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

OPEN MARKET OPERATIONS: Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

PORTFOLIO: Collection of securities and investments held by an investor.

PRIMARY DEALER: A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Committee (SEC) registered securities broker-dealers, banks and a few unregulated firms.

PRUDENT PERSON RULE: An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state. In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

QUALIFIED PUBLIC DEPOSITORIES: A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the Committee eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Committee to hold public deposits.

RATE OF RETURN: For fixed-rate securities, it is the coupon or contractual dividend rate divided by the purchase price which is also the current yield.

REPURCHASE AGREEMENT (RP OR REPO): A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money that is, increasing bank reserves.

REVERSE REPO: An agreement whereby a dealer agrees to buy securities and the investor agrees to repurchase them at a later date.

SECONDARY MARKET: A market made for the purchase and sale of outstanding issues following the initial distribution.

SEC RULE 15C301: See Uniform Net Capital Rule.

SECURITIES & EXCHANGE COMMITTEE: Agency created by Congress to protect investors in securities transactions by administering securities legislation. Securities Lending Program - similar to reverse repurchase activity where the local agency uses a third party to administer the program.

STRUCTURED NOTES: Notes issued by Government Sponsored Enterprises (FHLB, FNMA, SLMA, etc.) and Corporations which have imbedded options (e.g., call features, step-up coupons, floating rate coupons, and derivative-based returns) into their debt structure.

Their market performance is impacted by the fluctuation of interest rates, the volatility of the embedded options and shifts in the shape of the yield curve.

TREASURY BILLS: A non-interest bearing discount security issued by the US Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

TREASURY BONDS: Long-term coupon-bearing US Treasury securities issued as direct obligations of the US Government and having initial maturities of more than 10 years.

TREASURY NOTES: Medium-term coupon-bearing US Treasury securities issued as direct obligations of the US Government and having initial maturities from two to 10 years.

UNIFORM NET CAPITAL RULE: Securities and Exchange Committee requirement that member firms as well as non-member broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15:1; also called *net capital rule* and *net capital ratio*. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

YIELD: The rate of annual income return on an investment, expressed as a percentage: (a) Income Yield is obtained by dividing the current dollar income by the current market price for the security; (b) Net Yield or Yield to Maturity is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

Attachment A
ORANGE COUNTY CEMETERY DISTRICT
BANK/SAVINGS AND LOAN QUESTIONNAIRE AND CERTIFICATION

1. Name of Firm _____
2. Address _____
3. Telephone No. () _____ (Local) () _____ (National Headquarters)
4. Primary Representative: Manager:
Name _____ Name _____
Title _____ Title _____
Telephone No. () _____ Telephone No. () _____
E-mail _____ E-mail _____
5. What is your Community Reinvestment Act (CRA) Rating? _____
6. What are the Total Assets of the Bank/Savings and Loan? _____
7. What is the current Net Worth Ratio of your institution? _____
8. What was the Net Worth Ratio for the Previous Year? _____
9. What are your required Capital Ratios:
 - A. Tangible Capital Ratio _____
 - B. Core Capital Ratio _____
 - C. Risk-Based Capital Ratio _____
10. What are your Ratings (i.e. S&P, Moody's, Thompson) _____
11. What is the date of your Fiscal Year-End? _____

Has there been a year during the past three years in which the Bank/Savings and Loan did not make a profit? _____
12. Have you read the Government Code Section 53630, et seq., pertaining to the State's requirements governing the deposit of monies by Local Agencies that include districts?
[] YES [] NO

13. Amounts above the FDIC insurance coverage must be collateralized as specified in the Government Code. Where is the collateral for deposits held?

Has there ever been a failure to fully collateralize? If YES, please attach explanation.

14. What is the education level of the Primary Contact(s)? _____

15. How many years of related experience does the Primary Contact(s) have?

16. What other banking services would you be interested in providing the District?

17. What transaction documents and reports would we receive? _____

18. What information would you provide to our General Manager? _____

19. Describe the precautions taken by your Bank/Savings and Loan to protect the interest of the public when dealing with government agencies as depositors or investors.

20. Please provide any signature cards that you may require, as well as, three sets of your Contract of Deposit of Moneys pre-signed and sealed by your institution.

21. Please provide your Wiring Instructions. _____

22. Please provide your most recent certified financial statement. In addition, an audited financial statement must be provided within 120 days of your fiscal year-end.

Bank and Savings & Loan

CERTIFICATION

I hereby certify that I have personally read the District’s Investment Policy and the Government Code sections pertaining to investments and deposits of the District, and have implemented reasonable procedures and a system of controls designed to preclude imprudent investment activities arising out of transactions conducted between our firm and the District. **I understand, however, that our firm is not obligated to monitor the percentage limits on the investments as described in the policy.** All sales personnel will be routinely informed of the District’s investment objectives, horizon, outlook, strategies and risk constraints whenever we are so advised. We pledge to exercise due diligence in informing the District’s Investment Officers of all foreseeable risks associated with financial transactions conducted with our firm. I attest to the accuracy of our responses to your questionnaire.

NOTE: Completion of the questionnaire is only part of the District’s certification process and DOES NOT guarantee that the applicant will be approved to do business with the District.

SIGNED: _____

DATE: _____

COUNTERSIGNED: _____

DATE: _____

Attachment B

ORANGE COUNTY CEMETERY DISTRICT

BROKER/DEALER QUESTIONNAIRE AND CERTIFICATION

1. Name of Firm _____
 2. Address _____
 3. Telephone No. () _____ () _____
(Local) (National Headquarters)
 4. Primary Representative: Manager:
Name _____ Name _____
Title _____ Title _____
Telephone No. () _____ Telephone No. () _____
E-mail _____ E-mail _____
 5. What is your Community Reinvestment Act (CRA) Rating? _____
 6. What are the Total Assets of the Bank/Savings and Loan? _____
 7. What is the current Net Worth Ratio of your institution? _____
 8. What was the Net Worth Ratio for the Previous Year? _____
 9. What are your required Capital Ratios:
A. Tangible Capital Ratio _____
B. Core Capital Ratio _____
C. Risk-Based Capital Ratio _____
 10. What are your Ratings (i.e. S&P, Moody's, or Thompson)? _____
 11. What is the date of your Fiscal Year-End? _____
- Has there been a year during the past three years in which the Bank/Savings and Loan did not make a profit? _____

12. Have you read the Government Code Section 53630, et seq., pertaining to the State's requirements governing the deposit of monies by Local Agencies that include districts? YES NO

13. Amounts above the FDIC insurance coverage must be collateralized as specified in the Government Code. Where is the collateral for deposits held?

Has there ever been a failure to fully collateralize? If YES, please attach explanation.

14. What is the education level of the Primary Contact(s)? _____

15. How many years of related experience does the Primary Contact(s) have?

16. What other banking services would you be interested in providing the District?

17. What transaction documents and reports would we receive? _____

18. What information would you provide to our General Manager? _____

19. Describe the precautions taken by your Bank/Savings and Loan to protect the interest of the public when dealing with government agencies as depositors or investors.

20. Please provide any signature cards that you may require, as well as, three sets of your Contract of Deposit of Moneys pre-signed and sealed by your institution.

21. Please provide your Wiring Instructions. _____

22. Please provide your most recent certified financial statement. In addition, an audited financial statement must be provided within 120 days of your fiscal year-end.

Broker / Dealer

CERTIFICATION

I hereby certify that I have personally read the District's Investment Policy and the California Government Code sections pertaining to investments and deposits of the District, and have implemented reasonable procedures and a system of controls designed to preclude imprudent investment activities arising out of transactions conducted between our firm and the District. **I understand, however, that our firm is not obligated to monitor the percentage limits on the investments as described in the policy.** All sales personnel will be routinely informed of the District's investment objectives, horizon, outlook, strategies and risk constraints whenever we are so advised. We pledge to exercise due diligence in informing the District's Investment Officers of all foreseeable risks associated with financial transactions conducted with our firm. I attest to the accuracy of our responses to your questionnaire.

NOTE: Completion of the questionnaire is only part of the District's certification process and DOES NOT guarantee that the applicant will be approved to do business with the District's.

SIGNED: _____

DATE: _____

COUNTERSIGNED: _____

DATE: _____

(Person in charge of government securities operations.)

Last Review: September 6, 2022

ARTICLE 140

FINANCE

DEBT MANAGEMENT POLICY

Policy: The Orange County Cemetery District (“District”) considers it prudent to establish a policy for debt issuance and management. The Debt Management Policy (this “Policy”) will assist with effective development of capital project financing, and promote clear communications with the general public, staff, and administration. The elements of the policy are created by the District for its own purposes and may, therefore, be revised by the District as needed in the future.

It is the intention that this Policy be informed by best practices and advisories developed by organizations such as the Government Finance Officers Associate (“GFOA”) and the California Special Districts Association (“CSDA”); however the Policy must also reflect the objectives and tolerances of the District. The GFOA recommends that all state and local governments adopt comprehensive written financial management policies, including a formal debt management policy. This Policy has been drafted with reference to the guidance of the GFOA and the CSDA as of the date of adoption. The General Manager will periodically review the GFOA Best Practices and Advisories and any guidance issued by CSDA and recommend conforming modifications to this Policy as warranted.

This Debt Management Policy establishes parameters and provides guidance governing the issuance, management, continuing evaluation of, refunding, and reporting on all debt obligations of the District. This Debt Policy shall guide the issuance and management of all debt funded through the capital markets, including the selection and management of related financial and advisory services and products. The District hereby recognizes that fiscally prudent debt policy is required in order to:

- Maintain the District’s sound financial position.
- Ensure the District has the flexibility to respond to changes in future service priorities, revenue levels, and operating expenses.
- Protect the District’s credit-worthiness.
- Ensure that all debt is structured in order to protect both current and future taxpayers, customers and constituents of the District.

- Ensure that the District's debt is consistent with the District's planning goals and objectives, and capital improvement program or budget, as applicable.

Purpose: The purpose of this Policy is to set standards for incurring debt and managing existing debt. This Policy is intended to comply with Government Code Section 8855(i) and Health and Safety Code Section 9082.

Specific Requirements:

A. Purposes for Which Debt May be Issued

- a. Long-term debt may be issued to finance the construction, acquisition, and rehabilitation of capital improvements and facilities and equipment to be operated by the District.
- b. Long-term debt financings are appropriate when the following conditions exist:
 - i. When the project to be financed is necessary to provide basic services.
 - ii. When the project to be financed will provide benefit to constituents over multiple years.
 - iii. When total debt does not constitute an unreasonable burden to the issuer and its taxpayers and customers.
 - iv. When the debt is used to refinance outstanding debt in order to produce debt service savings or to realize the benefits of a debt restructuring.
 - v. Long-term debt financings will not generally be considered appropriate for current operating expenses and routine maintenance expenses.
- c. The District may use long-term debt financing subject to the following conditions:
 - i. The project to be financed must be approved by the Board of Trustees.
 - ii. The maturity of the debt (or the portion of the debt allocated to the project) will not exceed the average useful life of the project to be financed.
 - iii. The General Manager estimates that sufficient revenues will be available to service the debt through its maturity.
 - iv. The District determines that the issuance of the debt will comply with the applicable state and federal laws.

- d. Short-term debt. Short-term debt may be issued to finance short-lived capital projects; for example, the District may undertake lease-purchase financing for equipment.

B. Type of Debt

- a. The District may issue all such types of debt as are permitted by the State Constitution, applicable State Statutes, and the District's ordinances, and may include, but are not limited to:
 - i. Bank or Agency Loans
 - ii. General Obligation Bonds
 - iii. Certificates of Participation (COP)
 - iv. Revenue Bonds
 - v. Lease-Purchase Financing
 - vi. Special Assessment/Special District Debt
 - vii. Line of Credit
 - viii. Refunding and Refinancing Obligations

C. Relationship of Debt to Capital Improvement Program and Budget

New debt issues, and refinancing of existing debt, should be analyzed for compatibility with the District's Capital Improvement Plan. The District shall strive to fund the upkeep and maintenance of its infrastructure and facilities due to normal wear and tear through the expenditure of available operating revenues. The District shall seek to avoid the use of debt to fund infrastructure and facilities improvements that are the result of normal wear and tear. The District shall seek to issue debt in a timely manner to avoid having to make unplanned expenditures for capital improvements or equipment from its general fund.

D. Policy Goals Related to Planning Goals and Objectives

The District is committed to long-term financial planning, maintaining appropriate reserve levels, and employing prudent practices in governance, management and budget administration. The District intends to issue debt for the purposes state in this Policy and, in doing so, to implement policy decisions incorporated in the District's long-term capital plans and its annual operating budget.

E. General Debt Guidelines

- a. Purposes of Issuance: The District will utilize debt obligations only after giving due consideration to all available funding sources, including available cash reserves, available current revenues, potential future revenue sources, potential grants, and all other financing sources legally available to be used for such purposes. Long-term debt will not be issued for operations or maintenance costs. Expenditure of bond proceeds should be limited to major, non-recurring expenditures/expenses, including but not limited to: the financing costs related to capital project planning and design, land acquisition, real property, and equipment acquisition; the construction or renovation of buildings and permanent structures and the equipping thereof; financing costs related to the issuance of securities, necessary or financially prudent debt service reserves; or other costs as permitted by law. Refunding bond issues designed to restructure currently outstanding debt are an acceptable use of bond proceeds.
- b. Approval by the Board of Trustees: All long-term financing transactions shall be approved by the Board of Trustees. The Board of Trustees shall comply with all public hearing requirements applicable to the specific type of debt being approved.
- c. Maximum Maturity: All debt obligations shall have a maximum maturity of the earlier of: i) the estimated useful life of the capital improvements being financed, ii) 30 years or, iii) in the event obligations are being issued to refinance outstanding debt obligations, the final maturity of the debt obligations being refinanced unless a longer term is approved by the District.
- d. Debt Limitations: All long-term financings will comply with applicable statutory regulations and District policy. Specifically, the District will maintain compliance with California Government Code Section 43605 limiting applicable indebtedness to 15% of the District's assessed all real and personal property valuation. Other debt limitations will be established for specific issuances to ensure all debt covenants can be met and operations can be maintained.
- e. Debt Structures: The District is not restricted in the structure of the debt that it issues, which includes issuing variable rate debt. Should the District issue variable rate debt, the annual debt service should be budgeted at 1.5 times the prior year's actual debt service to ensure adequate funds are available should interest rates rise materially.
- f. Bond Covenants and Laws: The District shall comply with all covenants and requirements of applicable bond resolutions,

indentures, trust agreements, and other financing documents, as well as applicable state and federal laws authorizing and governing the issuance and administration of debt obligations.

- g. Method of Sale: Bonds will be sold on a competitive basis unless it is in the best interest of the District to conduct a negotiated sale or private placement. Negotiated sales may occur when selling bonds to refund existing debt, for land-secured debt, for variable interest rate debt or for other appropriate reasons. Private placements may occur when economically advantageous for capital requirements too small to bear the costs of a public debt issuance, for debt obligations with short amortization schedules or for other valid reasons. Staff shall evaluate the cost-effectiveness of alternative financing methods before the district conducts a private placement of debt. The Board of Trustees should seek the advice of its professional managers, special legal counsel, and/or qualified municipal advisors in making the determination of the appropriate method of bond sale.
- h. Derivatives: Derivative products may have application to certain District borrowing programs. In certain circumstances these products can reduce borrowing costs and assist in managing interest rate risk. However, these products carry with them certain risks not faced in standard debt instruments. The General Manager shall evaluate the use of derivative products on a case-by-case basis to determine whether the potential benefits are sufficient to offset any potential costs.
- i. Refunding: The District shall review its outstanding debt for the purpose of determining if the financial marketplace will afford the District the opportunity to refund an issue and lessen its debt service costs. For refunding undertaken to achieve debt service savings, the sum total of all savings (net of expenses and funds contributed by the issuer at the time closing), discounted to the present at the bond's true interest cost, should at a minimum produce net present value savings equal to at least 3% of the par amount of refunding bonds to be sold. Refunding may be undertaken for reasons other than to achieve debt service savings, such as to remove restrictive covenants or restructure debt payments. Such restructuring refunding does not need to achieve 3% net present value savings.
- j. Municipal Code and state and Federal Laws: All debt issued must be in conformance with applicable sections of the Municipal Code, as well as with state and federal laws in effect at the time of issuance.

- k. Use of Public Financing Authorities: Depending upon the nature of the debt being issued, the District may elect to create a public financing authority should doing so be to the District's advantage.
- l. Arbitrage Rebate Monitoring: Staff will comply with the arbitrage rebate and monitoring requirements as set forth by the U.S. Treasury Department. Should staff determine that it is advisable to do so, arbitrage rebate analysis reports may be performed more frequently than once every five years as is required by the U.S. Treasury Department.
- m. Investment of Debt Proceeds: Bond proceeds will be invested only in investments as permitted by the applicable governing document of the bond issue. When placing such investments, staff will ensure that there is sufficient liquidity to meet the underlying needs (i.e., construction funds or debt service reserve funds) of the funds being invested. Staff will give due consideration to credit risk and counterparty risk when investing such funds.
- n. Continuing Disclosure: The District will remain in compliance with Title 17 Code of Federal Regulations 5240 15c2-12, Municipal Securities Disclosure, by filing our annual financial statements and other financial information for the benefit of our bondholders no later than the last day of the seventh month following the close of the fiscal year and file material event notices in a timely manner.
- o. Use of Debt Proceeds: The General Manager and other appropriate District personnel shall:
 - i. Monitor the use of Debt proceeds and the use of debt-financed assets (e.g., facilities, furnishings or equipment) throughout the term of the debt (and in some cases beyond the term of the debt) to ensure compliance with covenants and restrictions set forth in applicable District resolutions.
 - ii. Maintain records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of debt.
 - iii. Consult with Bond Counsel and other professional expert advisors in the review of any contracts or arrangements involving use of debt-financed facilities to ensure compliance with all covenants and restrictions set forth in applicable District resolutions and Tax Certificates.
 - iv. Maintain records for any contracts or arrangements involving the use of debt-financed facilities as might be necessary or appropriate to document compliance with all

covenants and restrictions set forth in applicable District resolutions and Tax Certificates.

- v. The District, whenever reasonably possible, and for the purpose of ensuring that proceeds of debt will be used for its intended purpose, proceeds of debt will be held by a third-party trustee or fiscal agent and the District will submit written requisitions for such proceeds. The District will submit a written requisition signed by the General Manager after it has been approved by the Board of Trustees. If it is not reasonably possible for debt proceeds to be held by a third-party, the General Manager shall ensure that written records are kept about the use of the debt proceeds through the final payment date of the debt.

Policy Review and Revision:

This Debt Management Policy shall be reviewed annually by the General Manager and the Finance Committee, and may be amended by the Board as conditions warrant. This Debt Management Policy was approved by the Board of Trustees on July 5, 2022.

Adopted: July 5, 2022

ARTICLE 140

FINANCE

RESERVES AND FUND BALANCE POLICY

Policy: The Orange County Cemetery District (“District”) considers it prudent to establish a policy for its reserves and fund balances. The Reserves and Fund Balance Policy will assist with effective development of annual budgets, and promote clear communications with the general public, staff, and administration. The elements of the policy are created by the District for its own purposes and may, therefore, be revised by the District as needed in the future.

It is the intention that this Policy be informed by best practices and advisories developed by organizations such as the Government Finance Officers Associate (“GFOA”) and the California Special Districts Association (“CSDA”); however the Policy must also reflect the objectives and tolerances of the District. The GFOA recommends that all state and local governments adopt comprehensive written financial management policies, including a formal policy on the level of fund balance maintained in the general fund. This Policy has been drafted with reference to the guidance of the GFOA and the CSDA as of the date of adoption. The General Manager will periodically review the GFOA Best Practices and Advisories and any guidance issued by CSDA and recommend conforming modifications to this Policy as warranted.

This Fund Balance Policy will set guidelines for the appropriate level of fund balance, so as to mitigate current and future risks. The Policy is intended to enhance the quality of decisions about budgeting and net asset management. Through this Policy, the Board of Trustees (“Board”) will oversee the process by which the District will manage for revenue volatility, maintain adequate liquidity, manage and mitigate financial market risk, ensure stable tax rates, and anticipate District commitments and assignments.

Purpose: The purpose of this Policy is to promote financial stability of the District by setting guidelines for fund balance. In accordance with Generally Accepted Accounting Principles, the term fund balance refers to the difference between assets and liabilities under the modified accrual basis of accounting for governmental funds. Unrestricted fund balance refers to the categories of fund balance that include only resources without a constraint on spending or for which the constraint on

spending is imposed by the government itself. Unrestricted fund balance is a measure of economic stability, and adequate levels of unrestricted fund balance will assure liquidity and will mitigate the risks associated with revenue volatility and unanticipated expenditures.

Fund Balance Considerations Under GASB 54:

The Governmental Accounting Standards Board (“GASB”) issued Statement No. 54 for implementation effective for fiscal years beginning on or after June 15, 2010. GASB 54 establishes fund balance classifications that comprise a hierarchy based primarily on the extent to which a government is bound to honor constraints imposed upon the use of the resources reported in governmental funds. In addition, GASB 54 requires the identification of the authorization level and type of action for Committing or Assigning fund balances.

F. Nonspendable Fund Balance

Resources that are inherently nonspendable. The amounts may be in a nonspendable form (such as inventory or prepaid expense) or the amounts may be required by legal or contractual provisions to be maintained intact (such as a revolving fund or principal of an endowment).

G. Restricted Fund Balance

Resources that are subject to externally enforceable legal restrictions; these restrictions are either externally imposed by creditors, grantors, contributors, or laws and regulations of other governments or imposed by law through constitutional provisions or enabling legislation. Examples of restricted fund balance for the District include the income from the endowment principal fund, grants, and funds restricted for debt service.

H. Unrestricted Fund Balance

(i) Committed fund balance:

Resources that are constrained to specific purposes by a formal action of the highest level of decision-making authority. Action to commit funds must occur within the fiscal reporting period while the amount committed may be determined subsequently. Examples include contracts already executed but not yet spent, specific agreements that have not yet been executed, and minimum fund balance reserves

Authority to Commit – The highest level of decision-making authority for the District is the Board of Trustees and the commitment must be made by a formal action (defined as either resolutions or minute actions approved by the Board at a noticed public meeting). The

constraint remains binding unless removed in the same formal manner by the Board.

(ii) Assigned fund balance:

Resources that are intended for a specific purpose as evidenced by the District's adopted budget and/or long-term financial plan, or to eliminate a projected deficit in the subsequent year's budget. Assignments may be made after the end of the fiscal year but prior to financial statement issuance.

Authority to Commit – Upon action by the Board, the General Manager shall assign amounts to be used for specific purposes. Such assignments cannot exceed the available (spendable, unrestricted, uncommitted) fund balance in any particular fund.

(iii) Unassigned fund balance:

Any residual net resources, in excess of the amounts in the foregoing categories. These amounts are available for any purpose, and are reported only in the general fund.

I. Rainy Day or Contingency Funds

GASB Statement No. 54 further classifies rainy day funds or contingency funds as "stabilization arrangements" and places specific restrictions on what qualifies for such designation. The formal action of a governing body that imposes the parameters for these arrangements must identify and describe the specific circumstances under which a need for funding would arise. Those circumstances should be such that they would not be expected to occur routinely. The intended purpose must be sufficiently detailed and reported as either restricted or committed, depending on the source of the constraint.

District Fund Summary:

The following describes the District's major governmental funds:

General Fund – Use to account for all financial resources except those required to be accounted for in other funds. By definition, unassigned fund balance is reported only in the General Fund.

Special Revenue Fund for Pre-Need Trust – Used to account for resources collected in advance of District services.

Special Revenue Fund for Endowment Care Income – Used to account for the earnings of the Endowment Care Principal Permanent Fund. These

resources are restricted for the maintenance and care of cemeteries in accordance with the provisions of the Health and Safety Code.

Permanent Fund for Endowment Care Principal – Used to account for resources that are collected with the sale of interment spaces and that is legally restricted per the Health and Safety Code. Resources are restricted to the extent that only earnings, and not principal, may be used for purposes that support the District's programs.

Policy Directives:

The GFOA recommends, at a minimum, that general purpose governments, regardless of size, maintain aggregate unrestricted fund balances in their general fund of no less than two months of regular general fund operating revenues or expenditures, whichever is most predictable. The CSDA recommends that special districts should consider the unique circumstances associated with the District's operational environment when setting a target level of reserves (factors include capital improvement plans, frequency of one-time revenues and expenditures and key operating benchmarks).

In accordance with best practices, and legal and accounting guidelines, the District hereby adopts the following fund balance policies:

- A. The District will make an annual determination as to its target unrestricted fund balance level. In determining this level of fund balance, the District will give consideration to revenue volatility and predictability, perceived exposure to significant one-time outlays, liquidity pressures, and ongoing commitments and assignments. It is understood that there will be discrepancies between GAAP fund balance and budgetary fund balance, and this parameter shall refer to the GAAP determined fund balance. Notwithstanding other requirements and fund balance designations as described herein, it shall be the policy of the District to seek to maintain a minimum, unassigned General Fund balance equal to 50% of projected annual operating expenditures.
- B. The District establishes the following usage flow of fund balance. If there is an expenditure incurred for purposes for which both restricted and unrestricted fund balance is available, the District will consider restricted fund balance to have been spent before unrestricted fund balance. Further, if there is an expenditure incurred for purposes for which committed, assigned, or unassigned fund balance classifications could be used, then the District will consider committed fund balance to be spent before assigned fund balance, and consider assigned fund balance to be spent before unassigned fund balance.

- C. The District may choose to balance its annual budget by assigning a portion of existing unassigned fund balance, or by reassigning funds in an amount no greater than the projected excess of expected expenditures over expected revenues.
- D. The District will make an annual determination of allotting funding to the existing Economic Uncertainties Account. In determining the need, the District will give consideration of any withdrawals from the fund in the previous fiscal year. The Economic Uncertainties Account was established to fund any unforeseen, unbudgeted operational needs.

Policy Review and Revision:

This Reserve and Fund Balance Policy shall be reviewed annually by the General Manager and the Finance Committee, and may be amended by the Board as conditions warrant. This Reserve and Fund Balance Policy was initially presented to the Finance Committee on May 29, 2013 and approved by the Board on June 4, 2013 and replaces any previous fund balance and contingency reserve policies of the District.

Adopted: June 4, 2013
Last Review: September 6, 2022
Resolution 2022-09

ARTICLE 140

FINANCE

DEPRECIATION OF CAPITAL ASSETS POLICY

Policy:

The District shall depreciate all capital assets pursuant to Government Accounting Standards Board Statement No. 34 (“GASB 34”).

Purpose:

To provide the District with a consistent method for calculating the depreciation of the District’s capital assets.

Procedure:

All fixed assets and improved real property, but not including any vacant unimproved vacant real property, owned by the District and costing \$5,000 or more shall be identified on a fixed asset log as capital assets and depreciated on an annual basis. The amount of depreciation taken on each asset shall be determined by the following factors:

- 1) Cost of the asset,
- 2) The recovery period or useful life, and
- 3) The method used

For purposes of this policy, the District shall depreciate all capital assets using the straight-line method of depreciation.

Adopted: November 5, 2019
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 140

FINANCE

PUBLIC WORKS CONTRACTS POLICY

A. Policy:

This shall be known as the Orange County Cemetery District Public Works Contracts Policy (“Policy”).

B. Purpose:

The purpose of this Policy is to provide guidelines for implementing the District’s public bidding procedures for public works projects in a manner that provides all qualified bidders with a fair opportunity to participate in the bidding process, and to eliminate favoritism, fraud, and corruption in awarding contracts for the District’s public works projects.

C. California Uniform Construction Cost Accounting Procedures Adopted:

The District has elected to use the California Uniform Construction Cost Accounting Procedures referred to in the Uniform Public Construction Cost Accounting Act (the “Act”, Public Contract Code Sections 22000 et seq.) as non-binding guidelines for bidding and awarding of public works contracts. Any references to the Act and relevant Public Contract Code sections are meant to provide suggestive guidelines which the District may follow, and does not bind the District to the prescriptions promulgated by the Act.

The terms referred to herein shall have the meanings assigned to them in the Act. Notwithstanding the foregoing, should the terms, definitions, or procedures of the Act conflict with any terms, definitions, or procedures provided herein, the latter shall be controlling.

D. Definition of Public Works Projects:

For purposes of this Policy, the definition provided in Labor Code §1720 to “public works” shall be the same as “Public Works Project”, “Public Work”, or “Project(s)” as used in this Policy.

E. Projects Valued at \$60,000 or Less:

Reference: Public Contract Code §22032(a)

Projects valued at sixty thousand dollars (\$60,000) or less may be performed by the employees of the District by force account, by negotiated contract, or by purchase order, as determined by the General Manager.

F. Projects Valued at \$200,000 or Less:

Reference: Public Contract Code §22032(b)

Projects valued at two hundred thousand dollars (\$200,000) or less may be let to contract by informal procedures as set forth in this Policy.

G. Projects Valued at More Than \$200,000:

Reference: Public Contract Code §22032(c)

Projects valued at more than two hundred thousand dollars (\$200,000) shall, except as otherwise provided in this Policy, be let to contract by formal bidding procedures as set forth in This Policy.

The District will adopt plans, specification, and working details for all Public Projects exceeding two hundred thousand dollars (\$200,000).

H. Staff to Consult the Act for Current Limitations:

For each public works project, the District shall review Section 22032 of the Public Contract Code to determine whether the dollar limitations set forth in this Policy have been revised.

I. Preparation of Bid Documents by Outside Design Professionals:

The District may, at its sole discretion, require that bid documents for certain Public Works Projects be prepared by outside design professionals, such as architects or engineers. When outside design professionals are hired, said design professional shall be required to complete the bid documents in time for legal review and approval before the notice inviting bids is published.

J. Award of Informal Contracts by General Manager:

The General Manager or designee shall have the authority to award informal contract bids in accordance with this Policy.

K. Bid Documents:

Only essential documents — those required in order for the District to make a determination as to which bidder is the lowest responsible bidder — shall be required of bidders in the bid instructions. The District shall consult with

the District's Legal Counsel when making the determination as to whether documents are essential. All supplemental information shall be required from the lowest bidder after the bid, upon request by the District.

All bid documents submitted by interested bidders shall be submitted to the General Manager or designee. All inquiries by interested bidders pertaining to the Project shall be submitted in writing to the General Manager or designee. The District shall respond to said written inquiries in a written addenda issued to all known plan-holders. Bidders shall confirm receipt of each addendum. Staff and consultants shall refrain from providing any informal responses to bidders.

L. Bidding Procedures for Informal Contracts:

Reference: Public Contract Code Section 22034

(1) Mailed Notice. All contractors on the list for the category of work being bid and/or all construction trade journals specified by the California Uniform Construction Cost Accounting Commission (the "Commission") shall be mailed a notice inviting informal bids. Additional contractors and/or construction trade journals may be notified at the discretion of the District. If there is no list of qualified contractors maintained by the District for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.

(2) Proprietary Products or Services. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

(3) Completion of Mailing. All mailing of notices to contractors and construction trade journals inviting informal bids shall be completed not less than ten days before bids are due.

(4) Contents of Notice. The notice inviting informal bids shall describe the project in general terms, describe how to obtain more detailed information about the project, and shall state the time and place for the submission of bids. If the project is one for which prevailing wages will not be paid, the notice shall also include a statement to that effect.

M. Acceptance of Informal Bids in Excess of Two Hundred Thousand Dollars:

Reference: Public Contract Code §22034(f)

If all informal bids received are in excess of two hundred thousand dollars (\$200,000), the Board of Trustees ("Board") may, by passage of a resolution by a four-fifths vote, award the contract at two hundred twelve thousand five

hundred dollars (\$212,500) or less to the lowest responsible bidder if it determines the cost estimate prepared by District staff was reasonable.

N. Bidding Procedures for Formal Contracts:

Reference: Public Contract Code §22037

(1) Mailed Notice. At least thirty days before bids are opened, mailed notice inviting formal bids shall be provided to all contractors on the list for the category of work being bid and/or all construction trade journals specified by the California Uniform Construction Cost Accounting Commission (the "Commission"). Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting the bids. If there is no list of qualified contractors maintained by the District for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.

(2) Published and Posted Notice. The notice inviting formal bids shall be published or posted at least fourteen (14) calendar days prior to the date of the bid opening, as provided by Public Contract Code Section 22037.

(3) Contents of Notice. The notice inviting formal bids shall state the time and place for the receipt and opening of sealed bids and shall distinctly describe the project. If the project is one for which prevailing wages will not be paid, the notice shall also include a statement to that effect.

O. Opening, Evaluating and Awarding of Bids:

Reference: Public Contract Code §22038

(1) Award of Bid to Lowest Responsible Bidder. At the time provided in the notice inviting bids, all bids timely received shall be opened, evaluated and, unless all bids are rejected, the contract shall be awarded to the lowest responsible bidder.

(2) Award When Two or More Bids are the Lowest and the Same. If two or more bids are the same and the lowest, the District may accept the one it chooses. If no bids are received through the formal or informal procedure, the project may be performed by employees of the District by force account or by negotiated contract.

P. Rejection of Bids; Waiver of Irregularities; Abandon Project; Performance by Force Account:

Reference: Public Contract Code §22038

The District may, in its sole discretion, waive immaterial bid irregularities, or reject all bids presented, as detailed by Public Contract Code Section 22038. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the Board may elect to either abandon the project, re-advertise the project, or by passage of a resolution by a four-fifths majority of the Board declaring the project can be performed more economically by its employees, the District may have the project done by force account.

Q. Emergency Contracting Procedures:

Reference: Public Contract Code §22035

In cases of emergency when repair or replacements are necessary, the District may proceed to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the District, by contractor, or by a combination of both.

Contracts may be awarded without competitive bidding if the Board determines by a four-fifths vote that an emergency exists that requires the immediate expenditure of public money to safeguard life, health, or property, as set forth in Public Contract Code Sections 1102, 20168, 22035 and 22050.

R. Splitting:

Reference: Public Contract Code §22033

Splitting or separating projects into smaller work orders or projects any project for the purpose of evading the provisions of the Act requiring work to be done by contract after competitive bidding shall be prohibited.

S. Bid Protest:

Any bid protest must be in writing and received by District at 25751 Trabuco Road, Lake Forest, California 92630 before 5:00 p.m. no later than two working days following bid opening (the “Bid Protest Deadline”) and must comply with the following requirements:

1. General. Only a bidder who has actually submitted a Bid Proposal is eligible to submit a bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest. If required by District, the protesting bidder must submit a non-refundable fee in the amount specified by District, based upon District’s reasonable costs to administer the bid protest. Any such fee must be submitted to District no later than the Bid Protest deadline, unless

otherwise specified. For purposes of this Section R, a “working day” means a day that District is open for normal business, and excludes weekends and holidays observed by District.

2. Availability of Bids. Staff shall make the bids available for inspection and copying as soon as possible after the bids are opened, in compliance with the Public Records Act, and to make the copies available immediately to each requesting bidder. All bidders shall have equal access to the bids.
3. Protest Contents. The bid protest must contain a complete statement of the basis for the protest and all supporting documentation. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the bid documents upon which the protest is based. The protest must include the name, address, email address, and telephone number of the person representing the protesting bidder if different from the protesting bidder.
4. Copy to Protested Bidder. The protesting bidder shall cause a copy of the protest and all supporting documents to be concurrently transmitted by fax or by email, by or before the Bid Protest Deadline, to the protested bidder and any other bidder who was a reasonable prospect of receiving an award depending upon the outcome of the protest.
5. Response to Protest. The protested bidder may submit a written response to the protest, provided the response is received by District before 5:00 p.m., within two working days after the Bid Protest Deadline or after actual receipt of the bid protest, whichever is sooner (the “Response Deadline”). The response must include all supporting documentation. Material submitted after the Response Deadline will not be considered. The response must include the name, address, email address, and telephone number of the person representing the protested bidder if different from the protested bidder.
6. Copy to Protesting Bidder. The protested bidder shall cause a copy of the response and all supporting documents to be concurrently transmitted by fax or by email, by or before the Response Deadline, to the protesting bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.
7. Public Hearing. Upon districts receipt of a bid protest claiming the awarded bidder is non-responsible, prior to rejecting the bidder as non-responsible, the protested bidder shall be entitled to a public hearing to present evidence to the contrary.

8. Legal Review. A detailed legal opinion detailing why the protest was either rejected or accepted based on the evidence and applicable law shall be prepared and disseminated to both the protesting bidder and the protested bidder. Should the protest be withdrawn, no further action shall be required. If the protest is not withdrawn, it shall be submitted to the Board to act on, pursuant to the appropriate provisions set forth by this Policy, herein.
9. Exclusive Remedy. The procedure and time limits set forth in this section are mandatory and are the bidder's sole and exclusive remedy in the event of bid protest. A bidder's failure to comply with these procedures will constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.
10. Right to Award. The District reserves the right to award the Contract to the bidder it has determined to be the responsible bidder submitting the lowest responsive bid, and to issue a notice to proceed with the work notwithstanding any pending or continuing challenge to its determination.

Adopted: August, 4, 2015
Reviewed: September 6, 2022
Resolution No. 2022-09

ARTICLE 140

FINANCE

PURCHASING PROCEDURES POLICY

INTRODUCTION

The General Manager, or his authorized designee, may purchase or contract for any materials, supplies, goods, equipment and contractual services in accordance with the provisions of this Purchasing Procedures Policy (“Policy”).

No purchase order or contract shall be approved unless the General Manager has first certified that there exists an adequate unencumbered balance of the appropriation(s) to be charged with the cost of order or contract.

PURCHASING CATEGORIES

The District classifies purchases into six (6) purchasing categories. These categories are based on the dollar amount and type of purchase. Each category establishes a separate purchasing limit, authorization level and procurement procedure.

| | Category | Amount | Approval Required |
|----|--|-------------------------------|-------------------------------|
| A. | Petty Cash Purchase | \$100 or less | General Manager or designee |
| B. | Minor Purchases (not requiring a Purchase Order) | \$Below 3,000 | General Manager or designee |
| C. | Purchase Order Required Purchases | \$3,000 or more | General Manager |
| D. | Minor Contracts | Below \$25,000 | General Manager |
| E. | Purchases Requiring Board Approval | \$25,000 or more | Board |
| F. | Professional Services | Follows Above based on amount | Follows Above Based on Amount |

A. Petty Cash Purchases (\$100.00 or less)

The petty cash fund may be used to pay reimbursement to District employees for the direct and immediate purchase of goods and services needed for District operations including:

- Purchase of materials, goods, supplies, equipment or services needed for “immediate use;” and

- Reimbursement of employee travel/meeting expenses.

Such purchases are limited to \$100.00 per transaction. A “detailed petty cash accounting form” must be completed and approved by the General Manager or his designee. A detailed receipt itemizing each charge must support all expenditures. Advances of petty cash are not permitted. Petty cash reimbursements should be requested in a timely fashion but no later than two weeks after the purchase date.

B. Minor Purchases (Below \$3,000)

The General Manager or his designee may initiate purchases for materials, goods, supplies, equipment or services costing less than \$3,000, without processing a requisition form and initiating a purchase order. The General Manager is required to ensure the availability of budgeted funds prior to making any approved minor purchases. All original invoices and/or receipts for such purchases should be authorized, documented, and processed by the District’s Assistant to the General Manager. Purchases under \$3,000 do not require a requisition form except for:

- Recurring purchases: for vendors who provide materials, goods, supplies, equipment or services on a regular basis (monthly, quarterly, etc.), submittal of a requisition form and issuance of a purchase order is required even if the anticipated individual purchases may not meet the minimum \$3,000 level requiring purchase orders, as more fully described below.

The General Manager or designee shall reserve the right to submit a requisition to a specific provider whose multiple invoices exceed \$3,000 annually.

Open Accounts

Open purchase orders are created and reviewed annually to allow for open account billing from vendors for items such as: office supplies, building maintenance supplies, vehicle fuel, meeting refreshments, etc. Open accounts are used for the sole convenience of replenishing or purchasing low dollar routine items and are not intended to be used to circumvent the requisition and approval process as outlined in this Policy. Open accounts range from \$1,000 to \$5,000 monthly (fuel, maintenance supplies), however, individual transactions may not exceed \$500 per item or \$3,000 per total transaction.

C. Purchases Requiring Purchase Orders (\$3,000 or more)

The General Manager shall initiate the purchases of materials, goods, supplies, equipment and/or services of \$3,000 or more by processing a purchase order, which shall require preparing a requisition form. The General Manager shall not order goods or services from a vendor before a purchase order is processed. Each requisition requiring a purchase order must be approved by the General Manager.

Purchase Order Exemptions

The following disbursements are exempt from Purchase Order requirements:

- Emergency purchases due to urgent need of material or service, when purchase order cannot be processed until next working day.
- Disbursements for refundable deposits.
- Disbursements for payroll, payroll liabilities, and employee benefits.
- Disbursements for refunds of District fees collected.
- Disbursements for debt service payments and payments on approved loan agreements.
- Litigation related agreements.
- Insurance Payments.
- Workers compensation payments for medical and related expenses.
- Public utility purchases of water, power and related services when no competition is available.
- Specialized seminar, training, educational classes, meetings and travel.
- Contracts for employment and public employee labor agreements.
- Non-profit funding and sponsorship agreements.
- District membership with multi-agency organizations.

For purchases of goods, services or construction services over \$3,000 and up to \$25,000, the General Manager or designee shall solicit

and document price quotes in writing (via mail, email, or fax) from a minimum of three (3) vendors. The solicited price quotes shall be attached to the requisition as back up support. If the vendor price quotes are not attached, the General Manager must submit written justification as to why the transaction should be exempt from this requirement, which requires Board approval.

D. Minor Contracts (Below \$25,000)

Purchases of materials, goods, supplies, equipment or services less than \$25,000 do not require a contract. However, if the General Manager elects to enter into such a contract, or if a contractor or vendor requires that the District enter into such a contract, the General Manager shall use the contract approved by the District's General Counsel. Contracts for less than \$25,000 must be approved by the General Manager.

Waiving Insurance Requirements

Due to the variety of services provided to the District, there is occasionally the need to waive insurance requirements. For all contracts of less than \$25,000, the General Manager may waive insurance requirements based on a recommendation from the District's General Counsel.

Contract Exemptions

Contracts are not required for general office supplies (however, purchase orders and bids are required based on the dollar thresholds outlined in this policy).

E. Major Contracts (\$25,000 or more)

Purchases of materials, goods, supplies, equipment or services of \$25,000 or more ("major contracts") shall be awarded by contract and require contracts reviewed by General Counsel. Unless otherwise stated in the Formal Proposal Procedures Section of this Policy, major contracts require formal proposal procedures (i.e. Request for Proposals) and also require the approval of the Board. After Board approval, the General Manager will execute the contract on behalf of the Board, approved as to form by the District's General Counsel and attested by the District's Secretary. The purchase order will not be processed until the contract is fully executed.

Waiving Insurance Requirements

Due to the variety of services provided to the District, there is occasionally the need to waive insurance requirements. For all contracts over \$25,000 the Board must approve the waiver of insurance requirements based on recommendation from the General Manager and General Counsel.

Contract Exemptions

Contracts are not required for general office supplies (however, purchase orders and bids are required based on the dollar thresholds outlined in this policy).

Multi-Year Contracts Amounting to \$25,000 or More

In some cases, the District may wish to enter into multi-year contracts, the total value of which amount to \$25,000 or more. The District shall endeavor to make all multi-year contracts subject to annual renewal at the District's discretion.

For all multi-year contracts which are made subject to annual renewal at the District's discretion, where the projected value of the contract for the annual period to which the renewal would apply is less than \$25,000, the General Manager shall have the authority and discretion to determine whether or not to renew the contract. However, if the projected value of the contract for the annual period to which the renewal would apply amounts to \$25,000 or more, the determination of whether or not to renew the contract shall be subject to Board approval.

F. Professional Services (Any Amount)

Definition: For purposes of this policy, "Professional Services" shall mean and refer to any specialized service or any other service which requires the consultant or entity providing said service to possess a state-issued or other official license to perform the services.

The selection of Professional Services is to be based on demonstrated competence and on professional qualifications for satisfactory performance. After a qualified firm is selected, the General Manager may negotiate a satisfactory contract with a price determined to be fair and reasonable. The emphasis for selection is therefore based upon qualifications rather than the lowest price (the District must follow the dollar thresholds established in this Policy).

Professional Liability Insurance Requirement

Prior to entering into any agreement under which an individual or entity will provide Professional Services for or on behalf of the District, the General Manager is responsible for ensuring that all such individuals and/or entities have valid current professional liability insurance covering the Professional Services to be rendered pursuant to the agreement. This requirement shall be subject to waiver by the General Manager with the consent of the District's General Counsel.

Automobile Insurance Requirement

Definition: For purposes of this Policy, "Driving Services" shall mean and refer to any services which directly require or include, as part and parcel of the performance of such services, the operation of a motor vehicle by any person in the course of performing such services.

Prior to entering into any agreement with a vendor under which the vendor or an agent of the vendor will provide Driving Services for or on behalf of the District, the General Manager is responsible for ensuring that all such vendors and/or agents have valid current automobile insurance covering all vehicles that will be used to provide the Driving Services to be rendered pursuant to the agreement. This requirement shall be subject to waiver by the General Manager for Driving Services that are limited to deliveries of materials, goods, supplies or equipment to or from the District.

Change Orders

When a change in the scope of service(s) is necessary and causes additional work that is required to continue the progression of an authorized purchase or amend a contract, the following shall apply:

Purchase orders or contract amendments resulting from a change in the scope of services shall require the following authorizations:

- Change in scope that cause the total purchase or contract amount to remain under \$25,000, and within the appropriated budget, must be authorized by approvals outlined above. If actual expenses are in excess of 10% of the original purchase order or contract amount, a supplemental purchase order will be required.
- Cumulative changes in scope which cause the original authorized purchase or contract that was less than \$25,000 to become \$25,000 or more must be approved by the Board.
- For original purchases of \$25,000 or more that are a result of formal proposal procedures (Requests for Proposals), cumulative changes

in scope necessitating additional payment(s) by the District of less than \$25,000 may be approved by the General Manager. Cumulative changes in scope necessitating additional payment(s) by the District of \$25,000 or more must be approved by the Board.

Emergency Purchases

In certain situations, it may be necessary to make emergency purchases, which shortcut the pre-approvals, as outlined above. An emergency purchase may be made when there is an immediate need to acquire particular goods or services not already available to District staff to deal with an emergency.

For purchasing purposes, an emergency situation is one in which there is an immediate threat to life or District property or a substantial disruption of a vital District service. Such emergency purchases must be approved by the General Manager and reported to the Board at the next regularly scheduled Board meeting.

Sole Source

The proposal provisions of this policy may be waived by the General Manager. If the General Manager determines that there is only a single source that provides the needed materials, goods, supplies, equipment or contractual services, the General Manager must provide a memo outlining the reasoning. If the amount exceeds \$25,000, the General Manager must present it to the Board for approval. Note: The use of the sole source provision is rare and infrequent due to the requirements to qualify for the use of this provision.

Conflict of Interest Disclosure

A conflict of interest arises whenever the personal interests of a purchaser and/or approver of any transaction are potentially at odds with the best interests of the District. Any person purchasing and/or approving any purchase shall disclose any personal conflict of interest to the General Manager prior to any purchase and/or approval. The General Manager shall disclose any personal conflict of interest to the Board. The General Manager and the Board will determine the proper steps to resolve the conflict of interest.

FORMAL PROPOSAL PROCEDURES

Request for Proposals (required for purchases of \$25,000 or more)

A formal bidding procedure (“Request for Proposals” or “RFP”) shall be utilized for all contracts of \$25,000 or more, subject to the “piggy backing” process noted below. The use of formal proposal procedures does not guarantee the award of contracts for materials, goods, supplies, equipment, services, and/or Professional

Services to the lowest bidder, but in most instances, the contract does get awarded to the lowest bidder.

The formal bidding procedure is as follows:

- The General Manager is responsible for initiating and administering purchases for materials, goods, supplies, equipment and/or services under his control. The General Manager may coordinate with others as necessary.
- A RFP will be sent to potential vendors (a number within reason, but a minimum of three) of which the General Manager has knowledge. In addition to the District's website, other means of advertisement are strongly encouraged for contracts of \$25,000 or more. A list of proposals received shall be maintained.
- The General Manager has the responsibility to ensure that the proposal package will adequately and accurately describe the scope of services. Proposers shall be advised of any performance bond requirements, insurance requirements, minority business enterprise requirements, affirmative action requirements, business license requirements, contract requirements and other requirements as applicable.
- The General Manager will compile the proposals and prepare a recommendation to the Board. For contracts of \$25,000 or more, after Board approval the General Manager or his designee will prepare a summary staff report.
- The General Manager may reject all proposals and re-advertise at his or her discretion.
- If two or more proposals are received and are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay or re-advertising for proposals, the General Manager may elect to accept one as he or she chooses.
- The District's Assistant to the General Manager shall receive and maintain all proposal documents necessary to support the proposal process and vendor selection in accordance with the records retention schedule and funding source of the purchase.

Exemptions from Formal Bidding Procedures

The following financial disbursements are exempt from formal bidding procedures:

- Disbursements for refundable deposits.
- Disbursements to Public Agencies for which the District collects fees on behalf of the Agency.
- Disbursements for payroll, payroll liabilities, and employee benefits.
- Disbursements for refunds of District fees collected.
- Disbursements for debt service payments and payments on approved loan agreements.
- Litigation related agreements.
- Workers compensation payments for medical and related expenses.
- Public utility purchases of water, power and related services when no competition is available.
- Specialized seminar, training, educational classes, meetings and travel.
- Contracts for employment and public employee labor agreements.
- Non-profit funding and sponsorship agreements.
- District membership with multi-agency organizations.

Notwithstanding the foregoing, the District may dispense with the RFP procedures in procurement of materials, goods, supplies, equipment and services, and avail itself of another public agency's contract prices obtained through that agency's own RFP process, so long as such prices are lower than the prices that can be obtained by the District's RFP process, and so long as certain findings are made by the General Manager.

This "piggy-backing" process provides the District with greater flexibility to obtain the most competitive prices, reduces staff time, avoids the expense of soliciting contracts, and results in lower prices, due to economies of scale which often allows agencies larger than the District to obtain lower unit prices.

The findings that must be made by the General Manager are as follows:

- The contract with the party awarded the contract ("Contractor") is the result of competitive bidding or negotiation and is made in compliance with the competitive bid or proposal requirements of the agency whose prices the District desires to "piggy back" off ("Participating Public Agency") devoid of fraud perpetrated to any public official or staff, or collusion or fraud among the Contractor or any subcontractor, all of which determination is solely based on a thorough and complete investigation and review of all relevant documents, including but not limited to all bid documents and specifications, staff reports and approved minutes, it being understood that certain evidence extrinsic to such documents may not be readily available nor accessible to the General Manager; and

- The contract awarded by the Participating Public Agency was awarded to the lowest responsive bidder, in compliance with the Participating Public Agency’s RFP; and
- The purchase conforms to the District’s contract specifications; and
- The estimated price of the purchase is lower than that estimated for the purchase if made directly by the District pursuant to other sections of this Policy.

Adopted: August 4, 2015
Reviewed: September 6, 2022
Resolution No. 2022-09

ARTICLE 140

FINANCE

PETTY CASH

Purpose:

To establish a policy and a set of procedures pertaining to the use and replenishment of petty cash funds.

Policy:

Petty Cash shall be managed pursuant to the provisions of this policy to ensure accountability, transparency and accuracy.

Procedure:

Petty Cash may be used for the following purposes:

- 1) For purchases less than \$100 from vendors who do not accept credit card payment.
- 2) For purchases less than \$100 from vendors with whom the District does not have an open account.
- 3) For making change in cash transactions with customers subject to the following:
 - (a) There are sufficient funds in the subject location's petty cash fund.
 - (b) The amount of change does not exceed \$95.

The Cemetery Manager at each location shall be responsible for documenting its location's petty cash expenditures. All expenditures must be accompanied with the appropriate backup documentation before any petty cash may be used to pay for the subject expenditure. Each location shall maintain a written log of petty cash expenditures and retain receipts for all expenditures.

A request for replenishment of a petty cash fund may be submitted to the General Manager when the amount in the subject petty cash fund declines to (a) \$40 or less at individual cemetery locations or (b) \$300 or less at the District office. A request for replenishment must be accompanied by corresponding receipts and backup documentation for all expenditures made from the subject petty cash fund. All replenishment requests are subject to the approval of the General Manager.

At least once a quarter, or more often as needed, the Cemetery Manager of each location shall submit a replenishment request to the Finance and Accounting Manager. Upon receipt of all replenishment requests and approval of the replenishment requests, the Finance and Accounting Manager shall prepare a combined log of petty cash expenditures and submit a total petty cash claim to the General Manager for approval and then to the County of Orange Auditor/Controller for payment. Upon receipt of payment from the Auditor/Controller, the funds requested to replenish each petty cash fund shall be distributed accordingly based on the amounts approved by the Auditor/Controller.

The total amount of petty cash per location shall be as follows:

| | |
|---------------------------------|------------|
| District office. | \$500 |
| Anaheim Cemetery | 100 |
| El Toro Memorial Park | 100 |
| Santa Ana Cemetery | <u>100</u> |
| Total Petty Cash Fund | \$800 |

Adopted: March 16, 2009
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 150

EMPLOYEE POLICIES

EMPLOYEE RECRUITMENT AND SELECTION

Policy:

The District shall recruit and select qualified applicants for employment with the District in an objective manner to ensure that all applicants are treated fairly.

Purpose:

To establish a set of procedures and guidelines that will provide a consistent fair and objective method for recruiting and selecting qualified applicants for employment with the District, consistent with all applicable state and federal laws and regulations.

Procedure:

Recruitment may be open or promotional. The General Manager shall make the determination if the recruitment is open or promotional.

The General Manager or designee shall prepare and distribute job announcements with information about the position including, without limitation, the classification and base rate of pay, primary responsibilities and duties, minimum and other qualifications, where and when to apply, and the last date that applications will be accepted. Notice of recruitment shall be posted at the District and Cemetery offices and on the District's website. The notice may also be posted or published in any newspapers, newsletters or on the internet as the General Manager may deem is appropriate or necessary in order to recruit applicants with particular skills and/or experience.

Applications for employment or promotion shall be submitted on District-provided forms to the District office. All applicants shall provide and certify the truth of all information required by the application. Any material false statement or omission on the application shall be cause for disqualification of the applicant and/or may be cause for termination if the applicant becomes an employee and the error/omission is discovered after the applicant is offered employment. Resumes and other supplementary information and material may be submitted to the District and attached to the application but will not be considered by the District as a substitute for the application.

The General Manager and Cemetery Manager shall review each application to determine if the applicant possesses the minimum requirements for the position.

Selection techniques may include personal interviews, practical tests, performance tests, evaluation of work performed, work samples, review and references. Examinations shall be designed so that results reasonably represent an objective assessment and comparison of merits, skills and abilities of applicants in terms of essential job duties of the classification.

As soon as the examination process is complete, the General Manager or designee shall prepare an eligibility list, which consists of the names of the applicants who successfully completed the process, arranged in order of their final overall rating. An eligibility list shall remain in effect for twelve (12) months or until all eligible applicants have been appointed. The General Manager however has the right to terminate or discontinue the eligibility list at any time.

The appointment process shall begin with a conditional offer of employment sent to the eligible applicant who was recommended for appointment. The conditional offer of employment shall specify the medical, background and other examinations that the applicant is required to successfully complete prior to and as a condition of appointment. The appointment shall be final when the applicant has satisfied all of preconditions to employment and is approved by the General Manager.

Nothing in this policy shall be interpreted, construed or applied in any manner that is inconsistent with any applicable state or federal law or regulation.

Adopted: November 3, 2009
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 150
EMPLOYEE POLICIES
SEXUAL HARASSMENT POLICY

Policy:

The District prohibits any form of sexual harassment by any District official, trustee, manager, employee, consultant, independent contractor, member of the public against any District official, trustee, manager, employee, job applicant, unpaid intern, volunteer, consultant, independent contractor, or member of the public.

Purpose:

The purpose of this policy is to create, cultivate and maintain a professional, productive and efficient work environment free from the discomfort, intimidation or fear of any form of sexual harassment.

The District also undertakes this obligation for the purpose of striving to fulfill its obligation to prevent sexual harassment in all District workplaces and its goal of conducting itself in an exemplary manner with respect to its status as a California Special District.

Application:

This policy shall apply to situations involving same-sex, opposite-sex and gender-based sexual harassment.

Definition:

Sexual harassment consists of any unwanted sexual advances, or visual, verbal or physical conduct of a sexual nature, including but not limited to the following:

- Unwanted physical, verbal, electronic or graphic sexual advances or propositions;
- Offering employment benefits in exchange for sexual favors;
- Making or threatening reprisals after a negative response to sexual advances;
- Visual conduct such as leering, making sexual gestures, displaying or showing suggestive or offensive objects, pictures, cartoons, posters, or other material;
- Verbal conduct such as making or using derogatory or offensive comments, epithets, slurs, and jokes;

- Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations;
- Physical conduct such as touching, assaulting, or impeding or blocking movements; or
- Distributing potentially offensive pictures or words in written, pictorial, or electronic form.

Publicizing:

All employees shall be informed of the District's sexual harassment policy and complaint process upon commencing employment with the District, and again when any complaint is filed. Also, said policy and complaint process shall be readily available to all employees and members of the general public utilizing the District's facilities and services.

- a) All new employees shall be given a copy of the sexual harassment policy at the time of hiring and said policy's contents shall be discussed with said employee at that time by the employee's supervisor.
- b) Within three (3) working days after any complaint has been filed in accordance with this policy, a bulletin shall be prepared and distributed to all employees re-informing them of the District's sexual harassment policy.

Training Requirement:

In accordance with California law, all supervisors and managers will receive mandatory sexual harassment awareness training within 6 months of becoming a supervisor or manager, and every 2 years thereafter. The District shall pay for the costs of the mandatory sexual harassment awareness training. Newly hired or promoted supervisory employees shall receive the mandatory sexual harassment awareness training within six months of the date of assuming the supervisory position, or within such other time period as set forth in the California Fair Employment Housing Act as amended from time to time.

Information Distribution Requirement:

In accordance with the California Fair Employment and Housing Act, the District shall distribute a copy of the most current version of the sexual harassment information pamphlet made available by the California Department of Fair Employment and Housing ("DFEH"), or an equivalent document which meets the standards set forth by the DFEH, to all employees. The District shall also post in all District workplaces the most current version of the poster regarding sexual harassment made available by the DFEH.

Complaint Process:

Any trustee, officer, agent, or employee of the District who believes they are the victim of sexual harassment may file a formal or informal confidential complaint without fear of reprisal or embarrassment.

An informal complaint is a complaint made verbally by the complainant to his/her immediate supervisor. Although filing the complaint with said immediate supervisor is preferred, the complainant is free to file his/her formal complaint with any supervisorial employee.

Complaint Response Process:

All complaints of prohibited sexual harassment will be investigated thoroughly and promptly. The District will take appropriate remedial action to stop any prohibited sexual harassment and prevent future sexual harassment. This can include discipline of the harasser up to and including termination. The District will communicate the results of the investigation to the complaining individual.

Any supervisory employee who receives a formal or informal sexual harassment complaint shall fully inform the complainant of his or her rights or shall direct the complainant to the information necessary to become fully advised of such rights, and shall take immediate and appropriate action in accordance with the requirements of the California Fair Employment and Housing Act and other applicable law. The supervisory employee shall at all times maintain the confidentiality of the complainant and the supervisory employee shall personally deliver said complaint immediately and directly to the responsible managing employee, or directly to the General Manager if the responsible managing employee is unavailable or personally involved in said complaint. The investigation will be kept as confidential as possible, although complete confidentiality cannot be guaranteed.

The following requirements shall be adhered to by all trustees, officers, employees and agents of the District:

- a) Within twenty-four (24) hours of the filing of a formal or informal complaint, even if it is withdrawn, an investigation shall be conducted by the General Manager or other responsible managing employee.
- b) A written record of any investigation of any alleged sexual harassment shall be maintained. Findings will be sent to the General Manager.
- c) All discussions resulting from said investigation shall be kept as confidential as possible.

- d) The complainant has the right to be accompanied by an advocate(s) when discussing alleged incidents. The complainant shall be advised of this right prior to the commencement of such discussions.

Disciplinary Procedures and Sanctions:

Upon conclusion of the investigation of any alleged sexual harassment, appropriate action shall be taken by the General Manager or the Board of Trustees against the harasser, in the event the investigation results in a determination that sexual harassment has occurred. Whatever punishment is meted out to the harasser shall be made known to the victim of the harassment.

- a) Appropriate action shall be taken to remedy the victim's loss, if any, resulting from the harassment. Making the victim whole may involve reinstatement, back pay, promotion, restitution, or other measures as deemed appropriate by the Board of Trustees.
- b) Action to remedy a sexual harassment situation shall be taken in a manner so as to protect the privacy of the complainant and potential future victims.
- c) Sexual harassment complainants shall not be subjected to any form of reprisal or retaliation by the District in any form or manner whatsoever.

Adopted: March 4, 1998
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 150
EMPLOYEE POLICIES
SUBSTANCE ABUSE POLICY

Applicability:

This Substance Abuse Policy (“Policy”) shall apply to all trustees, officers, employees, independent contractors, and agents of, and applicants to, the Orange County Cemetery District (“District”).

Policy:

The District is committed to protecting the safety, health and well-being of all employees and other individuals in all District workplaces. To that end, it is the policy of the District to maintain all of its workplaces as environments that are free of alcohol and illegal drugs.

1. Prohibited Conduct

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, as listed in the Schedules I-V of the federal Controlled Substances Act, while in the course of performing District business or duties, or while in or on District property, is strictly prohibited. The unauthorized consumption of alcohol while in the course of performing District business or duties, or while in or on District property, is also prohibited.

All individuals who perform work for the District are expected to report for work with no residue or metabolite of any controlled substance in the body, and with a blood alcohol level of no greater than .02%. No individual to whom this Policy applies shall be permitted to have any residue or metabolite of any controlled substance in the body or a blood alcohol level of greater than .02% at any time while on the job. Compliance with this Policy considered an essential job qualification for all individuals performing work for or on behalf of the District.

2. Reasonable Suspicion Testing

When the District has a reasonable suspicion that an individual to whom this Policy applies, is, has been, or may be, impaired or affected on the job by alcohol or any controlled substance, or that alcohol or controlled substances are, or may be, present in such individual’s body in violation of the rules set forth in this Policy, the individual shall be required to submit to drug or alcohol screening test immediately upon demand by the District.

All tests for drugs or alcohol that are conducted by the District shall be done in the manner that is the least invasive of the privacy of the individual being tested while still producing reliable results. The General Manager and the Board of Trustees shall have authority to determine the types of tests that meet these criteria. All testing shall comply with applicable provisions of the Americans with Disabilities Act.

Reasonable suspicion of controlled substance or alcohol use may be based on objective factors including excessive absenteeism or attendance problems, poor work performance or erratic behavior coupled with one or more of the following signs: bloodshot or watery eyes, very large or very small pupils, runny nose, excessive perspiration, nausea and vomiting, lack of coordination, slurred speech or unpredictable responses to ordinary requests. The factors that gave rise to reasonable suspicion resulting in a drug or alcohol screening test shall be documented.

If an individual to whom this Policy applies develops a reasonable suspicion that another individual to whom this Policy applies is, has been, or may be impaired or affected on the job by alcohol or any controlled substance, he or she may report this suspicion to his or her supervisor, who will have authority to make a decision as to whether to require a drug or alcohol screening test. Only supervisory employees, including the General Manager, and the board of trustees shall have the authority to implement a drug or alcohol screening test based on reasonable suspicion.

Refusal to submit to a test based on reasonable suspicion amounts to insubordination and shall be sufficient grounds for dismissal. Any individual who fails such a test, or who tampers with the test specimen, shall be subject to dismissal from the District.

3. Inspections

Subject to the rights conferred upon public employees under the Fourth Amendment of the U.S. Constitution, and in order to ensure the safety of the District's workplace and workforce, and to protect and preserve the District's property, the District may from time to time inspect District vehicles, tool boxes, lockers, desks, file cabinets and other District property. These inspections may be unannounced and trustees, officers, employees and agents should have no expectation of privacy above any beyond the rights to which they are entitled under the Fourth Amendment of the U.S. Constitution with respect to items brought onto District property and/or stored in District facilities.

4. Effective Date and Distribution of Policy

This Policy is effective immediately upon notice to each individual to whom it applies. Each individual to whom this Policy applies shall be furnished a copy of this Policy and shall sign a receipt for same. Later-hired, appointed, elected or retained trustees, officers, employees and/or agents of the District shall be furnished a copy of the Policy before, upon, or within a reasonable time after commencing performance of duties for the District.

5. Consequences of Failure to Comply with Policy

Violation of this Policy, including the employee's refusal to consent to testing or interference with the accuracy of such testing, may result in disciplinary action, up to and including, termination, even for a first time offense, as determined in the sole Discretion of the District acting through its Board of Trustees or authorized officers, provided that if the individual suspected of violating the Policy is a trustee or authorized officer of the District, such individual shall be precluded from participating in the decision-making process with regard to determination of whether the individual violated the Policy and the disciplinary action to be taken.

6. Random Testing

The District is aware of the constitutional limitations imposed on random drug testing of public employees, and shall at all times observe those limitations. However, consistent with such limitations, that District reserves its right to randomly test employees who are in safety or security sensitive positions. The District also reserves its right to test applicants for job positions for which some safety or security concern is present without individualized suspicion.

7. Results of Drug and Alcohol Tests

The District shall at all times maintain the confidentiality of the results of drug and alcohol testing conducted by the District. Results of testing of employees shall be maintained in a separate file from the employee's personnel file.

8. Prohibition of Substance Abuse by Members of the Public on District Property

Any member of the public who is found consuming alcohol or using illegal drugs, or who is or reasonably appears to be under the influence of alcohol or illegal drugs while on District property will be immediately asked and required to leave the Property. The District will contact local law enforcement when and if necessary.

9. Drug-Related Convictions

All individuals who are subject to this Policy shall, if convicted of a crime related to unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, notify the District of such conviction within five (5) calendar days of the date of the conviction. The convicted individual shall be subject to discipline in the District's discretion, including but not limited to termination, suspension or required participation in drug abuse assistance or rehabilitation programs. The District reserves the right to provide notification of the conviction as required by law or as necessary in order to preserve any applicable government grants or other funding.

Adopted: December 6, 2005
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 150

EMPLOYEE POLICIES

MILITARY LEAVE POLICY

Policy:

To increase the morale, level of performance, and career motivation of District employees who concurrently serve in the United States Military, are veterans of the United States Military or who have certain family members who serve in the United States Military.

Purpose:

The purposes of this policy is to acknowledge the positive contributions of employees who concurrently serve in the United States Military, are veterans of the United States Military or who have certain family members who serve in the United States Military and to reduce their stress and anxiety over taking leave to attend to various personal matters related to military service.

Leave for Spouses of Military Personnel:

Eligible employees may take up to ten days of leave, without pay, when the employee's spouse is on leave from deployment during a period of military conflict. Eligible employees include employees who work at least an average of 20 hours per week and whose spouse is a member of the United States Armed Forces, National Guard, or Army Reserve on active duty in an area of military conflict. This kind of leave does not count against an employee's 12-week or 26-week leave entitlements under the FMLA or the CFRA.

Employees must provide notice to the District Manager within two business days of receiving official notice that his or her spouse will be on a leave from deployment. Employees must also provide written documentation to the District Manager certifying that the military member will be on military leave from deployment. Employees may utilize accrued vacation time and any unused personal time off and compensatory time (if provided in the Employee Handbook) during this leave.

Military Caregiver Leave:

Employees are eligible for unpaid Military Caregiver Leave if they have been employed by the District for at least 12 months (consecutive or nonconsecutive months), and they worked at least 1,250 hours during the 12-month period immediately preceding commencement of the leave.

Military Caregiver Leave may be taken by an employee who is the child, parent, spouse, or next of kin of a "covered service member," that is, a current member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness incurred in the line of duty on active duty. A "covered service member" also includes a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness incurred in the line of duty on active duty and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Military Caregiver Leave may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the covered service member. If an employee needs leave intermittently for planned medical treatment of a covered service member, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the District's operations. The minimum leave increment for intermittent leave or leave on a reduced leave schedule is the shortest period of time the District's payroll system uses to account for absences.

The "12-month period" in which 26 work weeks of Military Caregiver Leave may be taken begins on the first day of Military Caregiver Leave and ends 12 months after that date. If an employee does not take all of his or her 26 work weeks of leave entitlement during this 12-month period, the remaining part is forfeited. However, the employee would be entitled to additional leave to care for a different covered service member or to care for the same service member with a subsequent serious injury or illness, except that, in the case of overlapping 12-month periods, no more than 26 work weeks of leave may be taken within any single 12-month period.

In the case of leave that qualifies as both Military Caregiver Leave and FMLA/CFRA leave to care for a family member with a serious health condition during a single 12-month period, the District will designate such leave as Military Caregiver Leave.

Military Qualifying Exigency Leave:

Employees are eligible for unpaid Military Qualifying Exigency Leave if they have been employed by the District for at least 12 months (consecutive or nonconsecutive months), and they worked at least 1,250 hours during the 12-month period immediately preceding commencement of the leave.

Unpaid Military Qualifying Exigency Leave may be taken for "any qualifying exigency" arising out of the fact that the employee's spouse, son, daughter, or

parent is on "covered active duty" or has been notified of an impending call to "covered active duty" status.

"Covered active duty" means: (i) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and (ii) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under 10 USC §§688, 12301(a), 12302, 12304–12305, or 12406; 10 USC chap 15; or any other provision of law during a war or during a national emergency declared by the President or Congress.

Military Qualified Exigency Leave may be taken for one or more of the following "qualifying exigencies":

A. Short-notice deployment.

To address any issue that arises from the fact that a covered military member is notified of an impending call or order to covered active duty seven or fewer calendar days before the date of deployment. Leave taken for this purpose can be used for a period of seven calendar days beginning on the date a covered military member is notified of an impending call or order to covered active duty.

B. Military events and related activities.

To attend any official ceremony, program, or event sponsored by the military that is related to the active duty or call to active duty status of a covered military member to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member.

C. Childcare and school activities.

1. To arrange for alternative childcare when the active duty or call to active duty status of a covered military member necessitates a change in the existing childcare arrangement.
2. To provide childcare on an urgent, immediate need basis (but not on a routine, regular, or everyday basis) when the need to provide such care arises from the active duty or call to active duty status of a covered military member.

3. To enroll in or transfer to a new school or daycare facility when enrollment or transfer is necessitated by the active duty or call to active duty status of a covered military member.
4. To attend meetings with staff at a school or a daycare facility, such as meetings with school officials regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors when such meetings are necessary due to circumstances arising from the active duty or call to active duty status of a covered military member

D. Financial and Legal Arrangements.

1. To make or update financial or legal arrangements to address the covered military member's absence while on active duty or call to active duty status, such as preparing and executing financial and health care powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System (DEERS), obtaining military identification cards, or preparing or updating a will or living trust.
2. To act as the covered military member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the covered military member is on active duty or call to active duty status, and for a period of 90 days following the termination of the covered military member's active duty status.

E. Counseling.

1. To attend counseling provided by someone other than a health care provider for oneself, for the covered military member, or for the biological, adopted, or foster child, a stepchild, or a legal ward of the covered military member, provided that the need for counseling arises from the active duty or call to active duty status of a covered military member.

F. Rest and recuperation.

1. To spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during the period of deployment. Eligible employees may take up to 5 days of leave for each instance of rest and recuperation.

G. Post-deployment activities.

1. To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status.
2. To address issues that arise from the death of a covered military member while on active duty status, such as meeting and recovering the body of the covered military member and making funeral arrangements.

H. Other additional activities.

1. To address other events that arise out of the covered military member's active duty or call to active duty status, provided that the District Manager and employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.

Military Qualifying Exigency Leave will run concurrently with FMLA/CFRA leave to care for a spouse, parent, or child with a serious health condition to the extent permitted by federal law.

Military Qualifying Exigency Leave may be taken intermittently or on a reduced leave schedule basis. However, the employee must make a reasonable effort to schedule leave so as not to unduly disrupt the District's operations. The minimum leave increment for intermittent leave or leave on a reduced leave schedule is the shortest period of time the District's payroll system uses to account for absences.

Reinstatement after Military Leave:

After Military Leave, an employee will be entitled to any reinstatement rights with regard to position, seniority, salary and retirement benefits to the extent required by applicable state or federal laws and regulations.

Adopted: December 3, 2019
Las Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 150
EMPLOYEE POLICIES
USE OF DISTRICT VEHICLES

Purpose:

To provide employees with guidelines for use of District vehicles.

Policy:

District vehicles shall be used only for official District business pursuant to the provisions of this policy and they shall be driven, operated, stored, parked or otherwise used in accordance with all applicable state and local laws.

Permitted Use of District Vehicles:

Driving, operating, storing parking or otherwise using a District vehicle off-site is permitted only if prior approval is granted first by the General Manager or such use is permitted by a duly approved written District policy in order for the employee to perform or execute his or her prescribed or assigned job duties and responsibilities.

Off-Site Use Requirements and Restrictions:

- (1) **Commuting Between Home and Work.** Use of a District vehicle to commute between home and work ~~is~~ shall not be permitted unless otherwise provided for the following purposes:
 - (a) **Security.** Where there is no secure facility available on-site and the General Manager or designee determines in his or her own discretion that storage of the subject vehicle at or on the premises of the employee's personal residence is a reasonable alternative for securing the subject vehicle home and protecting it from loss or damage.
 - (b) **Ready Standby Status.** Those periods during which the General Manager or designee and the employee mutually agree that it is more efficient to allow the employee to store the District vehicle at the employee's personal residence when the employee must be available for off-duty call on an immediate and continuous basis for District business.

- (c) **Odd Hour Duty.** When the employee must use the District vehicle for official District business outside the normal work schedule, such as, but not limited to, night and weekend security patrol.
 - (d) **Remote Job Location.** When the employee must proceed directly from home to a remote job location to perform duties which require use of a District vehicle.
 - (e) **Occasional overnight.** When returning the District vehicle to its normal on-site storage location is reasonably impractical and notice is provided to the General Manager or designee as soon as reasonably feasible.
- (2) **Storage.** District vehicles shall be stored within secured locations unless the General Manager determines alternative storage of the subject vehicle off-site is reasonably sufficient under the circumstances for securing the subject vehicle and protecting it from loss or damage.
- (3) **Cell Phone and Wireless Devices.** Employee shall be prohibited from driving or operating a District vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking and is used in that manner while driving. Employee shall also be prohibited from driving or operating a District vehicle while using an electronic wireless communications device to write, send, or read a text-based communication, unless the device is designed and configured to allow for voice-operated, hands-free operation to dictate, send, or listen to a text-based communication.
- (4) **Valid California Driver's License.** Employee shall be prohibited from driving or operating a District vehicle on a suspended driver's license and shall always have in his or her possession while operating a District vehicle valid proof of a current driver's license.

Income Reporting Requirements:

Personal use of a District vehicle that the employee has been authorized in writing by the General Manager to utilize for continuous use pursuant to this policy may be considered a form of compensation that is reportable as income on the employee's W-2 statement. In light of the foregoing, each affected employee is required to maintain and submit a "Report of Days Used to Commute" to the District office by the 8th day following the end of the calendar quarter. The report will be reviewed and certified by the General Manager or designee and then forwarded to the County of Orange Auditor/Controller who will calculate whether there is an annual benefit that must be reported as taxable income on the employee's W-2 statement.

Violation:

Any violation this Policy by an employee may result in disciplinary action, including without limitation, termination.

Adopted: December 6, 1989
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 150

EMPLOYEE POLICIES

EMPLOYEE EXPENSE REIMBURSEMENT POLICY

Policy:

The District will pay for or reimburse employees for certain registration fees, conference fees, tuition, and other actual and necessary travelling, lodging and incidental expenses such as meals, incurred while on official District business such as but limited to attendance at professional, educational, or vocational meetings, seminars, workshops, programs and conferences, with prior authorization of the General Manager.

Purpose:

The purpose of this policy is to provide a uniform and consistent method for administering the District's expense reimbursement procedures for District employees in a manner that encourages employees to use the most economical means for travel, lodging, meals and other incidentals while performing official District business outside the employee's normal employment venue or area.

Authorized Events:

The District will pay or reimburse employee under this policy for the following authorized events with prior authorization of the General Manager:

- (1) Attending professional, educational, or vocational meetings, seminars, workshops, programs and conferences;
- (2) Attending court proceedings related to the District; and
- (3) Attending off-site District business meetings and off-site events the employee is required to attend on behalf of the District.

All arrangements for an employee's attendance at an authorized event shall be made by the District.

Travel Authorization:

Prior travel authorization shall be required as follows:

A. General Area

The General Area consists of the counties of Orange, Santa Barbara, Kern, Los Angeles, Riverside, San Diego, San Bernardino and Ventura.

Requests for travel within the General Area to attend an authorized event shall be subject to the approval of the General Manager.

B. Outside the General Area

Requests for travel beyond the General Area to attend an authorized event shall be subject to the approval of the Board of Trustees (“Board”) shall be required for all personnel to travel outside of the General Area.

The Chair (or Vice-Chair in the absence of the Chair) is authorized, but not required, to approve an employee’s request to travel outside the General Area to attend an Authorized Event if the Authorized Event is scheduled to take place prior to the next regular meeting of the Board, and provided the costs to attend the subject Authorized Event is within the approved budget. Approval of such travel shall be placed on the following month’s regular Board meeting agenda as an informational item.

Authorized Expenses:

Unless otherwise provided in this Policy, the District will pay for or reimburse employees for registration fees, conference fees, tuition, and other actual and necessary travelling, lodging and incidental expenses such as meals, for an employee’s attendance at an authorized event.

Reimbursement Rates:

Unless otherwise provided in this Policy, reimbursement rates shall coincide with rates set by Internal Revenue Service Publication 463 or its successor publication(s). Any and all expenses that do not fall within the adopted reimbursement policy or the IRS reimbursable rates are required to be approved by the Board of Trustees in a public meeting prior to the expense(s) being incurred. Expenses that do not adhere to this policy shall not be eligible for reimbursement.

Cash Advances and District Credit Card:

Cash advances or use of District credit cards by employees shall not be permitted, without prior authorization of the General Manager.

Lodging:

If lodging is necessary, such lodging costs shall not exceed the maximum group rate published by the entity organizing the authorized event. If the published group rate is unavailable, employees shall be reimbursed for comparable lodging at government or IRS rates. Lodging is reimbursable only if the lodging is necessary because the venue of Authorized Event is located outside the County of Orange.

Transportation:

Employees requesting reimbursement of travel expenses should attempt to travel by the means most economical to the District consistent with scheduling needs and cargo space. In selecting a particular method of transportation, consideration shall be given for the total cost to the District that will result; including overtime, lost work, and actual transportation costs. In the event that a more expensive transportation form is used, the cost borne by the District will be limited to the cost of the most economical, direct, efficient and reasonable transportation form unless otherwise approved by the General Manager. Government and group rates must be used when available.

(1) Personal Vehicle

Transportation by car may be done either with a personal vehicle or an official District vehicle. For personal vehicle travel, net mileage will be reimbursed at the current Internal Revenue Service Rates (see www.irs.gov). These rates are designed to compensate the employee for gasoline, insurance, maintenance, and other expenses associated with operating the employee's personal vehicle. Net mileage equals roundtrip mileage minus any regular commute miles. Mileage will not be reimbursed for portions of the trip made for non-business related matters.

(2) District Vehicle

Reimbursement for fuel and other out-of-pocket expenses incurred as a result of the use of a District owned vehicle is permissible provided that use of the District owned vehicle is the most economical, practicable and efficient mode of transportation available under the circumstances.

(3) Rental Vehicle

The Internal Revenue Service rates will not be paid for rental vehicles.

Actual fuel charges for vehicle rental are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances. Charges for rental vehicles may be reimbursed under this provision if more than one District employee is attending an authorized event, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. When determining the type of rental car to be used, consideration should be given to the economic standards set forth in this policy and the appropriate use and stewardship of District funds, including but not limited to, the cost of the rental vehicle, parking and gasoline as compared to the combined cost of

such other forms of transportation. Government and group rates must be used when available. Rental rates that are equal or less than those available through the State of California's website <http://www.dgs.ca.gov/travel/Programs/CarRentals.aspx> shall be considered the most economical and reasonable for purposes of reimbursement under this policy.

(4) Private Transportation Services

Charges for taxi service or other private transportation service such as, but not limited to Uber and Lyft, are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances. The actual cost of tips up to 15% shall be reimbursable, if a tip was in fact provided to the driver.

(5) Shuttle Service

Charges for shuttle service are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.

(6) Bus Service

Charges for bus service are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.

(7) Tolls

Bridge and road tolls are reimbursable.

(8) Airport Parking

Airport parking is reimbursable when used during travel related to attending an authorized event. Long-term parking must be used when attending an authorized event that involves travel exceeding 24 hours.

(9) Air Travel

Air Travel shall be made for coach air travel on an airline with airfares that are competitive with other passenger airlines' coach airfares.

(10) Rail Travel

Reimbursement shall be made for coach rail travel with a rail service that provides rail service fares that are competitive with other coach rail travel fares.

(11) Chartered Travel

Use of chartered travel shall be reimbursable only if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.

Meals:

Meal expenses and associated gratuities should be moderate, taking into account community standards and the prevailing restaurant costs of the area. Actual meal expenses and associated gratuities will be reimbursed or paid when incurred by the Employee in the performance of official duties. Receipts are required to substantiate the expenses. Employees may receive a reimbursement of \$80.00 per day for meals, plus taxes and up to 20% in gratuities. Employees shall not be reimbursed for alcohol consumption.

Telephone and Facsimile Expenses:

Employees will be reimbursed for actual telephone and facsimile expenses incurred on District business. Telephone bills should identify which calls were made on District business. For cellular calls when the Employee has a particular number of minutes included in the plan, the Employee can identify the percentage of calls made on public business.

Internet Access:

Employees will be reimbursed for internet access connection and/or usage fees away from home, not to exceed \$15.00 per day, if internet access is necessary for District-related business.

Miscellaneous Items:

Employees will be reimbursed for business-related reading and educational materials and organizational memberships will be reimbursed.

Non-Reimbursable Expenses:

The following personal expenses shall not be reimbursed:

- Attendance or travel related to an unauthorized event;

- Barber and/or beauty shop charges;
- Fines for traffic violations;
- Private automobile repairs;
- Personal telephone calls;
- Purchase of personal items;
- Pet accommodations and pet services;
- Fitness/Health Facilities or Massages;
- Political or charitable contributions or events;
- Alcohol;
- Personal losses incurred while on District business;
- Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events or other cultural events;
- Laundering and/or
- Guests, including without limitation, spouses, registered domestic partners, friends and relatives who are not employed by the District.

Expense Reimbursement Report:

Employees must submit completed expense reimbursement report forms to the General Manager if they incurred reimbursable expenses pursuant to this policy. Receipts shall be submitted in conjunction with an expense reimbursement report forms. Expenses without receipts or other proper documentation shall not be reimbursed.

Expense reimbursement report forms shall be submitted within a reasonable time, but not more than 10 days after returning to work from an authorized event. Failure to submit such forms in a timely manner may not be reimbursed.

Expense reimbursement reports and any accompanying documentation shall be submitted to the General Manager, and they must be approved by the General Manager before the employee is reimbursed.

Pursuant to state law, expense reimbursement report forms are public records subject to disclosure under the California Public Records Act.

Non-Attendance:

If the District has prepaid for an employee's attendance at an authorized event, the employee shall attend the authorized event. In the event the employee is not able to attend the authorized event, the employee shall immediately notify the General Manager. If the District cannot obtain a refund of fees paid, then the District shall bill the employee for reimbursement for all amounts paid, unless the employee's failure to notify the General Manager arises from circumstances beyond the control of the employee.

Pending Resignation:

Employees will not be reimbursed to attend any events if the event occurs after they have announced their pending resignation.

Adopted: November 5, 2019
Last Review: September 6, 2022
Resolution 2022-09

ARTICLE 150
EMPLOYEE POLICIES
TELECOMMUTING POLICY

Policy:

It is the policy of District to provide a telecommuting program as an alternative to the traditional work location. The program is designed to achieve increased productivity and effective use of staff work time, promote efficient use of resources, and assist in reducing traffic and air quality hazards.

Telework refers to a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.

There are three types of telework.

1. Routine telework in which telework occurs ONE day a week as part of an ongoing, regular schedule.
2. Situational telework that is approved by the employees Manager on a case-by-case basis, where the hours worked were NOT part of a previously approved, ongoing and regular telework schedule. Situational telework should only be used seldomly for the cases of doctors' appointments, road hazards, inclement weather, sick family members, or emergencies. Situational telework may also be occasionally used to promote staff and resource efficiency, particularly for offsite meetings or appointments where telework would increase staff efficiency. Situational telework is allowed at a maximum of five (5) days a month unless an emergency situation arises.
3. Management telework in which management employees notify their staff that they are working off site for the day(s).

A. Applicability

It is essential that each cemetery be staffed during normal business hours Monday thru Friday.

The selected employees must have job duties appropriate for telecommuting. Certain positions may be ineligible for participation due to business necessities. The District holds the final determination of an employee's position being appropriate for telecommuting and if the employee meets the telecommuting eligibility standards.

Telecommuting is not an employee right but may be offered by the District based upon business needs. If at any time the District determines the work schedules and/or workweek periods offered must be changed, affected employees will be notified of the change at least one pay period in advance of the change.

B. Telecommuting Eligibility

Eligibility to participate in the telecommuting program is subject at all times to the needs of the District and may be modified as those needs dictate.

This policy shall be applicable to selected employees who meet specific work standards and the employees' job duties are appropriate for telecommuting. Meeting one or more of the eligibility requirement does not guarantee approval of telecommuting. The District holds the final determination of an employee's position being appropriate for telecommuting and if the employee meets the specific work standards. Minimum work standard eligibility requirements include, but are not limited to:

1. Regular status full time employees who have worked at the District for at least one (1) year (exception when an emergency situation arises)
2. Prior annual job performance evaluation and/or job performance that meets or exceeds standards across all listed performance measures and demonstrates employee ability to work independently;
3. Employee is self-motivated and demonstrates high dependability;
4. Job duties and requirements allow the employee to be away from the District's worksite for a period of time during the work week;
5. Telecommuting does not impede other employees or work groups from performing their job duties, impact the District's business needs, or diminish the operations of the District or specific cemetery;
6. Telecommuting does not reduce service to internal or external customers; and
7. Supervisor is able to manage the employee remotely.

C. Participation Guidelines

1. Employee Wages and Benefits

The duties, obligations, responsibilities, and conditions of a District employee are not changed by telecommuting. Employee's wage, retirement, benefits, and insurance coverage remain unchanged.

The telecommuting employee remains obligated to comply with all District rules, policies, practices, and instructions. Violations may result in preclusion from telecommuting and/or disciplinary action, up to and including termination of employment. The District's worker's compensation liability for job-related accidents will continue to apply during the employee's telecommuting work hours.

Work hours, overtime compensation, and vacation schedule will conform to District policies and practices, Fair Labor Standards Act (FLSA), and to any other terms agreed upon by employee supervisor, except that, those terms may not violate the laws/provisions stated above. Hours of work can be arranged flexibly with the supervisor.

Employee will work at a designated location during hours agreed upon. Arrangements for flexible work schedules are subject to supervisor's approval.

2. Performance Expectations

Expectations must be pre-established between telecommuters and supervisors regarding work assignment(s), productivity level, and productivity measurements to be used when employee is telecommuting. Timeliness, quality, and quantity of work must be maintained.

Attendance and punctuality that is observant of scheduled hours on a regular basis is an essential function of each classification and must be maintained during telecommuting, unless otherwise approved in advance.

Employee agrees not to engage in employment activities other than District assignments during telecommuting hours.

3. Equipment

District provided equipment is not an entitlement for telecommuters. The District may provide equipment, but are not obligated to do so. Office supplies needed by the telecommuter will be provided by the District. All requests must be pre-approved by the responsible supervisor. The District retains ownership of all equipment and/or licenses provided.

Use of District equipment and supplies is limited to authorized persons for purposes relating to District business. The employee is responsible for ensuring that equipment is used properly. The District will provide for maintenance and repairs to District equipment.

When employee uses his/her own equipment for telecommuting, employee is responsible for maintenance and repair of equipment.

The District is not responsible for the payment of utilities (heat, electricity, etc.) or home maintenance costs. Telephone charges related to District business will be paid by the District.

In the event of delay in repair or replacement of equipment or any other circumstance under which it would be ineffective for the employee to telecommute, the employee will return to the District work place.

4. Remote Work Location

Employee must designate a work space at home or another location that is maintained in a safe condition, free from hazards. Telecommuter will be responsible for completing a work space safety review. Any accident must be brought to the immediate attention of the supervisor.

As part of telecommuting responsibilities, the telecommuter must ensure that safety and ergonomic standards are met in your work space. Although the work space does not have to be a separate room, it must have adequate lighting, ventilation, and furniture that is ergonomically comfortable and safe to use.

Telecommuters must have a method for expediently receiving and responding to communications (phone calls, messages, mail, etc.) from other staff, supervisors, and when applicable, clients and/or the public. Communication method(s) will be incorporated into the written agreement between the supervisor and the employee.

Telecommuter remains solely liable for injuries to third persons and/or members of employee's family on employee's premises. The District is not liable for damage to the employee's real property.

Telecommuter will take all reasonable precautions necessary to secure District information and equipment in his/her work space, prevent unauthorized access to any District system or information. Data and information used by telecommuters must be treated with the same caution and respect that confidential material is given in the office. In some cases, telecommuters will need to take a few added precautions.

D. Request for a Telecommuting Schedule

Employees who would like Routine and/or Situational Telework must submit a Telecommuting Request form to their immediate supervisor for approval. The employee's Manager and the General Manager must approve a request for a telecommuting work schedule. This request form will be held in the employees personnel file and will cover any and all future telecommuting work.

In the case of Situational Telecommuting, employees who anticipate using Situational Telecommuting, in addition to the (one time) request form, need to send an email request to their Manager for every situational telecommuting occurrence.

Management must reply back by email with their approval or denial before staff can telecommute that day(s).

Telecommuting Request Form

A telecommuting work schedules will be considered for full-time employees of Orange County Cemetery District. Management reserves the right to establish work schedules based upon District business necessity and to approve, deny, modify or terminate a telecommuting work schedule, at any time. Employees are required to complete this form in order to request a telecommuting work schedule and must be approved by the employee’s Manager and the General Manager.

Requested Telecommuting Work Schedule

Day requested: Monday Tuesday Wednesday Thursday Friday

Weekly Bi-Weekly Situationally as needed (5 max)

Telecommuting schedule become effective the first day of the pay period beginning:___

Acknowledgement: I agree to work the approved telecommuting work schedule and will be available to work these hours unless otherwise approved in advance by my manager(s). I agree to maintain a safe and secure work space, protect District information/date and equipment, if provided. I understand this telecommuting work schedule may change due to unforeseen circumstances. I acknowledge that this request form will be placed in my personnel file.

Employee Signature

Employee’s Name (Please print)

Date

Approve Telecommuting Work Schedule

Approved Disapproved

Manager's Signature

Date

Approved Disapproved

General Manager's Signature

Date

Adopted: April 7, 2020 - Emergency Order, dated March 24, 2020

Last Review: September 6, 2022
Resolution 2022-09

ARTICLE 150

EMPLOYEE POLICIES

WORKPLACE VIOLENCE PREVENTION PLAN

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- B. Workplace Violence Prevention Hazard Assessment & Correction Form
- C. Workplace Violence Emergency Response Scenarios & Procedures
 - Workplace Violence Act or Threats
 - Active Shooter
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Policy

The Orange County Cemetery District is committed to providing a work environment that is free of disruptive, threatening, or violent behavior involving any employee, appointed or elected official, volunteer, contractor, client, or visitor. Our policy is to establish, implement, and maintain an effective Workplace Violence Prevention Plan (Plan) that addresses the hazards known to be associated with four types of workplace violence as defined by Labor Code Section [6401.9](#). Our written Plan is located at the District office at 25751 Trabuco Road, Lake Forest, CA 92630. Copies of the Plan are also located at each office of the cemetery locations.

The following employers, employees, and places of employment are exempt from these requirements:

- Employees teleworking from a location of the employee's choice, which is not under the control of the employer.

Definitions

“Emergency” shall mean unanticipated circumstances that can be life threatening or pose a risk of significant injuries to employees or other persons.

“Employee” shall mean every person employed by the District, whether part-time or full-time, and shall include trustees of the Orange County Cemetery District's Board of Trustees for purposes related to the administration, implementation and development of the Plan.

“Engineering Controls” shall mean an aspect of the built space or a device that removes a hazard from the workplace or creates a barrier between the employee and the hazard.

“Log” shall mean the violent incident log required (Appendix A).

“Plan” shall mean the Workplace Violence Prevention Plan.

“Serious Injury or Illness” shall mean any injury or illness occurring in a place of employment or in connection with any employment that requires inpatient hospitalization for other than medical observation or diagnostic testing, or in which an employee suffers an amputation, the loss of an eye, or any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by an accident on a public street or highway, unless the accident occurred in a construction zone.

“Threat of Violence” shall mean any verbal or written statement, including, but not limited to, texts, electronic messages, social media messages, or other online posts, or any behavioral or physical conduct, that conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm or to place someone in fear of physical harm, and that serves no legitimate purpose.

“Trustee” shall mean each person duly appointed by the Board of Supervisors of the County of Orange to be a member of the Orange County Cemetery District’s Board of Trustees, which serves as the legislative body of the District.

“Work Practice Controls” shall mean the procedures and rules which are used to effectively reduce workplace violence hazards.

“Workplace Violence” shall mean any act of violence or threat of violence that occurs in a place of employment. Includes, but is not limited to the following:

- The threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.
- An incident involving a threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury.
- The following four workplace violence types:
 - **Type 1 violence** - Workplace violence committed by a person who has no legitimate business at the worksite and includes violent acts by anyone who enters the workplace or approaches employees with the intent to commit a crime.
 - **Type 2 violence** - Workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors.
 - **Type 3 violence** - Workplace violence against an employee by a present or former employee, supervisor, or manager.
 - **Type 4 violence** - Workplace violence committed in the workplace by a person who does not work there but has or is known to have had a personal relationship with an employee.
 - **NOTE:** Workplace violence does not include lawful acts of self-defense or defense of others.

Responsibility and Authority

Workplace Violence Prevention Plan Administrator

The General Manager, is the designated Workplace Violence Plan Administrator and has the authority and responsibility for developing, implementing, and maintaining this Plan.

Managers and Supervisors

Responsibilities include:

- Implementing the Plan in their respective work areas.
- Providing input to the Administrator regarding the Plan.
- Participating in investigations of workplace violence reports.
- Answering employee questions concerning this Plan.

Employees

Responsibilities include:

- Complying with the Plan.
- Maintaining a violence-free work environment.
- Attending all training.
- Following all directives, policies, and procedures.
- Reporting suspicious persons in the area and alerting the proper authorities when necessary.

Employee Active Involvement

The District ensures the following policies and procedures to obtain the active involvement of employees and authorized employee representatives in developing and implementing the Plan.

- Management will work with and allow employees and authorized employee representatives to participate in:
 - Identifying, evaluating, and determining corrective measures to prevent workplace violence. This includes, but is not limited to, periodic safety meetings with employees and their representatives to discuss the identification of workplace violence related concerns and hazards, and to evaluate the concerns to identify corrective action.
 - Designing and implementing training by encouraging employees to provide feedback and suggestions to help customize the training materials and sessions.

ARTICLE 150 – EMPLOYEE POLICIES: Workplace Violence Prevention Plan

- Reporting and potentially assisting in the investigating of workplace violence incidents.
- Management will ensure that all workplace violence policies and procedures within this Plan are clearly communicated and understood by all employees. Managers and supervisors will enforce the rules fairly and uniformly.
- All employees will follow all directives, policies, and procedures, as outlined in this Plan, and assist in maintaining a safe work environment.
- The Plan shall be in effect at all times and in all work areas and be specific to the hazards and corrective measures for each work area and operation.

Compliance

The Administrator is responsible for ensuring the Plan is clearly communicated and understood by all employees. The following techniques are used to ensure all employees understand and comply with the Plan:

- Informing all employees of the Plan during new employee safety orientation training and ongoing workplace violence prevention training.
- Providing comprehensive workplace violence prevention training to managers and supervisors concerning their roles and responsibilities for Plan implementation.
- Evaluating employees to ensure their compliance with the Plan, and recognizing employees who demonstrate safe work practices that promote the elements of the Plan.
- Disciplining employees for failure to comply with the Plan in accordance with the compliance requirements outlined in our District's Injury & Illness Prevention Program.

Communication

We recognize that open, two-way communication between our management team, staff, and other employers, about workplace violence issues is essential to a safe and productive workplace. The following communication system is designed to facilitate a continuous flow of workplace violence prevention information between management and staff in a form that is readily understandable by all employees, and consists of the following:

- New employee orientation includes workplace violence prevention policies and

procedures.

- Workplace violence prevention training, at least annually.
- Regularly scheduled meetings that address security issues and potential workplace violence hazards.
- Effective communication between employees and supervisors about workplace violence prevention and concerns.
- Posted or distributed workplace violence prevention information.
- Encouraging employees to inform their supervisors about any threats of violence or workplace violence. Employees may use the Workplace Violent Incident Log (Appendix A) to assist in their reporting of incidents. No employee will be disciplined for reporting any threats of violence or workplace violence.
- Employees will not be prevented from accessing their mobile or other communication devices to seek emergency assistance, assess the safety of a situation, or communicate with a person to verify their safety. Employees' concerns will be investigated in a timely manner and they will be informed of the results of the investigation and any corrective actions to be taken.

Coordination with Other Employers

The District will implement the following effective procedures to coordinate implementation of our Plan with other employers to ensure those employers and their employees understand their respective roles:

- All employees will be trained in workplace violence prevention.
- Workplace violence incidents involving any employee are reported, investigated, and recorded.
- At a multiemployer worksite, the District will ensure that if our employees experience a workplace violence incident, we will record the information in the Violent Incident Log and provide a copy to the controlling employer.

Workplace Violence Incident Reporting Procedures

Employees should report all threats or acts of workplace violence to their supervisor or manager. The supervisor or manager will be required to inform the Administrator. In the event a supervisor or manager is not available, the employee can report an incident directly to the Administrator or Human Resources. A strict non-retaliation policy is in place.

Emergency Response Procedures

In the event of an actual or potential workplace violence emergency, the employee should determine the best immediate reporting option based on the situation and circumstances. The methods of reporting emergencies include, but are not limited to:

- Dialing 911.
- Immediately notifying the manager, supervisor, Administrator, or Human Resources.

Upon being notified of a workplace violence emergency, the Administrator or designated “person-in-charge” will determine if emergency procedures should be activated and if evacuation or shelter-in-place procedures should be implemented.

Refer to Appendix C for procedures on how to respond to specific workplace violence emergency scenarios.

Workplace Violence Hazard Assessment

A Workplace hazard assessment will be conducted by the Administrator, and other selected employees, utilizing the Workplace Violence Prevention Hazard Assessment & Correction Form (Appendix B). An annual review of the past year’s workplace violence incidents will be conducted.

Inspections are performed according to the following schedule:

- When the Plan is first established.
- Annually.
- When new, previously unidentified workplace violence/security hazards are recognized.
- After each workplace violence incident or threats occur.

Workplace Violence Hazard Correction

Workplace violence hazards will be evaluated and corrected in a timely manner. The Administrator will implement the following procedures to correct the identified workplace violence hazards:

- If an imminent workplace violence hazard exists that cannot be immediately abated without endangering employee(s), all exposed employee(s) will be

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removed from the situation except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition will be provided with the necessary protection, depending on the exposure.

- All corrective actions taken will be documented and dated on the appropriate forms. Such as the Workplace Violence Hazard Assessment and Correction form (Appendix C), or other tracking measures.

Post Incident Response and Investigation

After a workplace incident, the Administrator or their designee will implement the following post-incident procedures:

- Visit the scene of an incident as soon as safe and practicable.
- Interview involved parties, such as employees, witnesses, law enforcement, and/or security personnel.
- Review security footage of existing security cameras if applicable.
- Examine the workplace for security risk factors associated with the incident, including any previous reports of inappropriate behavior by the perpetrator.
- Determine the cause of the incident.
- Take corrective action to prevent similar incidents from occurring.
- Complete the Violent Incident log (see Appendix A) for every workplace violence incident and ensure corrective actions are taken.
- Obtain any reports completed by law enforcement.

Training & Instruction

All employees, including managers and supervisors, will have training and instruction on general and job-specific workplace violence practices.

Training will occur:

- When the Plan is first established.
- When hired.

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- Annually to ensure all employees understand and comply with the Plan.
- When a new or previously unrecognized workplace violence hazard has been identified.

Employee training on workplace violence will include:

- A review of the Plan, how to obtain a copy of the Plan, and how to participate in the development and implementation of the Plan.
- How to report workplace violence incidents or concerns to the District or law enforcement, without fear of reprisal.
- Workplace violence risks that employees may encounter in their jobs.
- How to recognize the potential for violence and escalating behavior.
- General and personal safety measures.
- Strategies to de-escalate behaviors and to avoid physical harm.
- The District's alerts, alarms, or systems that are in place to warn of emergencies.
- Information about the District's Employee Assistance Program.
- Information about the Violent Incident Log and how to obtain copies of records pertaining to completed logs, hazard identification, evaluation and correction, and training records.

Employees will always have opportunities for interactive questions and answers with the Administrator or a person knowledgeable about the District's Plan.

Recordkeeping

Records of violent incidents (Violent Incident Log), workplace violence hazard identification, evaluation and correction, and incident investigations will be maintained for (5) five years. No records shall contain medical information.

Training for each employee, including the employee's name and job title, training dates, contents or a summary of the training sessions, and names/qualifications of persons conducting the training, will be maintained for a minimum of three years.

Cal/OSHA Reporting of Work Related Fatalities and Serious Injuries

The District will immediately, but no later than 8 hours after awareness, report to Cal/OSHA any work-related death or serious injury or illness, including any due to

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workplace violence, of an employee occurring at the workplace or in connection with any employment.

A serious injury or illness (CCR330) is defined as:

- Any inpatient hospitalization for more than observation
- Amputation
- Loss of an eye
- Serious degree of permanent disfigurement.

It does not include any injury or illness or death caused by an accident on a public street or highway unless the accident occurred in a construction zone.

Annual Review

The District's Workplace Violence Prevention Plan will be reviewed for effectiveness:

- At least annually.
- When a deficiency is observed or become apparent.
- After a workplace violence incident.
- As needed.

Review of the Plan will include measures outlined in the Employee Active Involvement section as well as the following:

- A review of the incident investigations and violent incident log.
- Assessment of the effectiveness of security systems, including alarms, emergency response, and available security personnel, if applicable.
- Review if violence risks are being properly identified, evaluated, and corrected.
- Any revisions should be made promptly and communicated to all employees.

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Appendix A

WORKPLACE VIOLENT INCIDENT LOG

This form must be completed for every record of violence in the workplace.

| | | |
|-------------------------|-----------------------------------|--------------------|
| Incident ID # *: | Date and Time of Incident: | Department: |
|-------------------------|-----------------------------------|--------------------|

** Do not identify employee by name, employee #, or SSI. The Incident ID must not reflect the employee's identity.*

Describe Incident (provide detailed description and information on the violence incident type. Include additional pages if needed):

Specific Location(s) of Incident & Workplace Violence Type (see definitions, enter 1, 2, 3 or 4)

| | | | | |
|--|----------------------------|----------------------------|----------------------------|----------------------------|
| | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 | <input type="checkbox"/> 3 | <input type="checkbox"/> 4 |
| | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 | <input type="checkbox"/> 3 | <input type="checkbox"/> 4 |

Where Incident Occurred:

| | | | |
|------------------------------------|--------------------------------------|--|---|
| <input type="checkbox"/> Workplace | <input type="checkbox"/> Parking lot | <input type="checkbox"/> Outside of Building | <input type="checkbox"/> Outside of workplace |
|------------------------------------|--------------------------------------|--|---|

Type of Incident (check as many apply):

| | | |
|--|---|--|
| <input type="checkbox"/> Robbery | <input type="checkbox"/> Grabbed | <input type="checkbox"/> Pushed |
| <input type="checkbox"/> Verbal threat/harassment | <input type="checkbox"/> Kicked | <input type="checkbox"/> Scratched |
| <input type="checkbox"/> Sexual threat/harassment/assault | <input type="checkbox"/> Hit with an object | <input type="checkbox"/> Bitten |
| <input type="checkbox"/> Animal attack | <input type="checkbox"/> Shot (or attempted) | <input type="checkbox"/> Slapped |
| <input type="checkbox"/> Threat of physical force | <input type="checkbox"/> Bomb threat | <input type="checkbox"/> Hit with fist |
| <input type="checkbox"/> Threat of use of weapon or object | <input type="checkbox"/> Vandalism (of victim's property) | <input type="checkbox"/> Knifed (or attempted) |
| <input type="checkbox"/> Assault with a weapon or object | <input type="checkbox"/> Vandalism (of employer's property) | <input type="checkbox"/> Arson |
| <input type="checkbox"/> Robbery | <input type="checkbox"/> Other: | |

Workplace violence committed by:

| | | |
|--|---|---|
| <input type="checkbox"/> Family or friend | <input type="checkbox"/> Client | <input type="checkbox"/> Coworker |
| <input type="checkbox"/> Partner/Spouse | <input type="checkbox"/> Family or friend of client | <input type="checkbox"/> Manager/Supervisor |
| <input type="checkbox"/> Former Partner/Spouse | <input type="checkbox"/> Customer | <input type="checkbox"/> Stranger w/criminal intent |
| <input type="checkbox"/> Parent/Relative | <input type="checkbox"/> Family or friend of customer | <input type="checkbox"/> Other: |

Circumstances at time of incident:

| | | |
|--|---|---|
| <input type="checkbox"/> Employee performing normal duties | <input type="checkbox"/> Working in poor lighting | <input type="checkbox"/> Employee rushed |
| <input type="checkbox"/> Employee isolated or alone | <input type="checkbox"/> Unable to get help or assistance | <input type="checkbox"/> Working during low staffing levels |
| <input type="checkbox"/> Working in a community setting | <input type="checkbox"/> Working in unfamiliar/new location | <input type="checkbox"/> Other: |

Consequences of incident:

Law enforcement/Security called? Yes No. If yes, explain:

Were actions taken to protect employees from continuing threat or other hazards? Yes No. If yes, explain:

Any injuries? Yes No. If yes, explain:

Emergency medical responders contacted, including on-site First Aid/CPR? Yes No. If yes, explain:

Did severity of injuries require reporting to Cal/OSHA? Yes No. If yes, enter date, time, and representative contacted:

Completed by:

| | |
|-------|-----------|
| Name: | Title: |
| Date: | Signature |

Appendix B

**WORKPLACE VIOLENCE PREVENTION
HAZARD ASSESSMENT & CORRECTION FORM**

| | |
|------------------------------|---------------|
| Assessed by: | Title: |
| Location(s) Assessed: | |

This checklist is designed to evaluate the workplace and job tasks to help identify situations that may place employees at risk of workplace violence.

Step 1: Identify risk factors that may increase the District’s vulnerability to workplace violence events.

Step 2: Conduct a workplace assessment to identify physical and process vulnerabilities.

Step 3: Develop a corrective action Plan with measurable goals and target dates.

STEP 1: IDENTIFY RISK FACTORS

| Yes | No | Risk Factors | Comments: |
|-----|----|---|-----------|
| | | Does staff have contact with the public? | |
| | | Does staff exchange money with the public? | |
| | | Does staff work alone? | |
| | | Is the workplace often understaffed? | |
| | | Is the workplace located in an area with a high crime rate? | |
| | | Does staff enter areas with high crime rates? | |
| | | Does staff have mobile workplaces? | |
| | | Does staff perform public safety functions that might put them in conflict with others? | |
| | | Does staff perform duties that may upset people? | |
| | | Does staff work with people known or suspected to have a history of violence? | |
| | | Do any employees have a history of threats of violence? | |
| | | | |
| | | | |
| | | | |

STEP 2: CONDUCT ASSESSMENT

| Yes | No | Building Interior | Comments: |
|-----|----|--|-----------|
| | | Are employee ID badges required? | |
| | | Are employees notified of past workplace violence events? | |
| | | Are trained security personnel or staff accessible to employees? | |
| | | Are bullet resistant windows or similar barriers used when money is exchanged with the public? | |
| | | Are areas where money is exchanged visible to others? | |
| | | Is a limited amount of cash kept on hand with appropriate signage? | |
| | | Could someone hear an employee who called for help? | |
| | | Do employees have a clear line of sight of visitors in waiting areas? | |
| | | Do areas used for client or visitor interviews allow co-employees to observe problems? | |
| | | Are waiting and work areas free of objects that could be used as weapons? | |
| | | Is furniture in waiting and work areas arranged to prevent employee entrapment? | |
| | | Are clients and visitors clearly informed how to use the department services so they will not become frustrated? | |
| | | Are private, locked restrooms available for employees? | |
| | | Do employees have a secure place to store personal belonging? | |
| | | | |
| | | | |
| | | | |
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| | | | |

ARTICLE 150 – EMPLOYEE POLICIES: Workplace Violence Prevention Plan

| Yes | No | Security Measures | Comments: |
|-----|----|--|-----------|
| | | Is there a response Plan for workplace violence emergencies? | |
| | | Are there physical barriers? (between staff and clients) | |
| | | Are there security cameras? | |
| | | Are there panic buttons? | |
| | | Are there alarm systems? | |
| | | Are there metal detectors? | |
| | | Are there X-ray machines? | |
| | | Do doors lock? | |
| | | Does internal telephone system activate emergency assistance? | |
| | | Are telephones with an outside line programed for 911? | |
| | | Are there two-way radios, pagers, or cell phones? | |
| | | Are there security mirrors? | |
| | | Is there a secured entry? | |
| | | Are there personal alarm devices? | |
| | | Are there "drop safes" to limit available cash? | |
| | | Are pharmaceuticals secured? | |
| | | Is there a system to alert staff of the presence, location, and nature of a security threat? | |
| | | Is there a system in place for testing security measures? | |
| | | | |
| | | | |
| | | | |
| | | | |

Appendix C

WORKPLACE VIOLENCE EMERGENCY RESPONSE SCENARIOS & PROCEDURES

WORKPLACE VIOLENCE ACTS OR THREATS

Workplace violence is any act or threat of violence that occurs at the workplace. These incidents can include acts or threats of physical violence, intimidation, or harassment. Verbal abuse, physical assault, and homicide are all examples of workplace violence. We have zero tolerance toward all forms of violence.

Four Types of Workplace Violence

- **Type 1 violence** - Workplace violence committed by a person who has no legitimate business at the worksite and includes violent acts by anyone who enters the workplace or approaches employees with the intent to commit a crime.
- **Type 2 violence** - Workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors.
- **Type 3 violence** - Workplace violence against an employee by a present or former employee, supervisor, or manager.
- **Type 4 violence** - Workplace violence committed in the workplace by a person who does not work there but has or is known to have had a personal relationship with an employee.

Workplace violence does not include lawful acts of self-defense or defense of others.

Employee Warning Signs

Often, warning signs are observed in employees, customers, and others who may behave violently on a work site. These behaviors may include:

- Intimidation.
- Rude behavior toward fellow employees.
- Frequent arguments with co-workers or clients.
- General aggressive behavior like hitting or kicking objects, breaking things, or screaming.
- Acts of revenge like stealing or property damage.
- Verbal wishes to harm other workers.

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While there is no perfect way to predict violence will occur, any combination of these behaviors may be a signal. Employees are encouraged to report these actions to the Cemetery Manager to prevent further escalation of any type of violent situation.

Warning Signs from Customers

- The person is not satisfied with any solutions you offer.
- Unreasonably agitated.
- Physical posturing (clenched fists).

If the verbal confrontation starts to escalate, remain calm, courteous, and stay neutral. Let them know you are contacting a manager to further assist them. Trust your intuition to determine if help is needed.

When Help is Needed

- Continue to try and help the person by listening and providing feedback until law enforcement has arrived.
- If at any time you believe you are potentially in physical danger, yell for Help!
- If you are being assaulted:
 - Yell for help.
 - Look for a way to escape.
 - Act with aggression.

Personal Safety

- When leaving the building:
 - Be alert to your surroundings and look around the area outside before exiting the building. Do not use or look at your phone.
 - Attackers expect passive victims, so walk with a steady pace, appear purposeful, and project confidence.
- While in your vehicle:
 - Have your keys in your hand as you approach your vehicle so that you do not have to search for them.
 - Before entering your vehicle quickly check the back seat and around the vehicle for anything unusual.
 - Always lock your car doors as soon as you enter the vehicle.

ACTIVE SHOOTER

The three most common response options for an active shooter event are evacuate, hide out, or take action. During an active shooter event, employees need to be able to determine their best course of action for the situation they are facing.

Characteristics of an Active Shooter Situation

An active shooter is an individual actively engaged in killing or attempting to kill people in a confined and populated areas, typically through the use of firearms. Victims are typically selected at random. The event is unpredictable and evolves quickly. Law enforcement is usually required to end an active shooter situation.

How to Respond

- 1. EVACUATE**
 - Have an escape route in mind.
 - Leave immediately.
 - Keep hands visible.
- 2. HIDE OUT**
 - Hide in an area out of the shooter's view.
 - Block the entry to your hiding place and lock doors, if possible.
 - Silence your cell phone.
- 3. TAKE ACTION**
 - Last resort when your life is in imminent danger.
 - Attempt to incapacitate the shooter.
 - Act with physical aggression and throw items at shooter.
 - Have an escape route in mind.

Call 911 When it is Safe to Do So

When law enforcement arrives remain calm and follow all instructions.

- Put down any items in your hands (i.e., bags, jackets).
- Raise hands and spread fingers.
- Always keep your hands visible.
- Avoid quick movements toward officers.
- Avoid pointing, screaming or yelling.
- Do not stop to ask officers for help or direction when evacuating.

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Information to provide law enforcement when asked:

- Location of the active shooter.
- Number of shooters.
- Physical description of shooters.
- Type of weapons if known.

Training resource:

- [Department of Homeland Security](#)
-
- [DHS Active Shooter Preparedness Video](#)

BOMB THREAT

Most bomb threats are false and primarily intended to elicit a response from building occupants. However, no bomb threat should be assumed fake. If a potentially harmful device is found, call 911 for assistance.

Phone Threat

- Remain calm.
- Immediately use the Bomb Threat Checklist for guidance and to document the call.
- After the caller has ended the call, notify the Administrator.
- If the threat was left on your voicemail, do not erase and immediately notify the Administrator.

Written Threat

- Handle the document as little as possible and immediately notify the Administrator.
- If the threat should come via e-mail, save the information.

Possible Evacuation

- The Administrator will call law enforcement and follow their instructions.
- The decision to evacuate is handled on a case-by-case basis on instructions given by law enforcement.

BOMB THREAT CHECKLIST

| | |
|--|------------------|
| REMAIN CALM | |
| Time call received: | Time call ended: |
| Document any information from the phone display window: | |
| Engage caller as long as possible and document their words: | |
| Attempt to obtain information about the device: | |
| When will the device detonate or activate? | |
| Where is the device located? | |
| What kind of device is it? | |
| What does the device look like? | |
| <p>Voice Description</p> <input type="checkbox"/> Male <input type="checkbox"/> Young <input type="checkbox"/> Calm Accent? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Female <input type="checkbox"/> Adult <input type="checkbox"/> Nervous Describe: <input type="checkbox"/> Senior | |
| <i>Did you recognize the voice? Who?</i> | |
| <i>Did caller have knowledge of building?</i> | |
| <i>Unusual phrases:</i> | |
| <i>Any background noise or distinctive sounds?</i> | |
| Name of person received call | |

CIVIL UNREST

Civil unrest events are often associated with riots, looting, or protests. In these instances, sheltering-in-place is an action taken to protect the building occupants from external hazards, minimizing the chance of injury and/or providing the time necessary to allow for a safe evacuation.

Shelter in Place

If there is a need to shelter-in-place the Administrator or person-in-charge will advise employees and guests of the emergency. Please note employees and guests cannot be forced to shelter-in-place.

- The person-in-charge will collect the names of everyone in the shelter area.
- If possible, the business voicemail recording will be updated to indicate the building is closed due to the emergency.
- If the civil unrest includes hazardous chemicals, the HVAC systems may be shut off.
- If in danger of broken glass, window shades will be closed.
- Emergency supplies will be moved to the shelter area.
- The District will listen/read available mediums (radio, internet) for further instructions until we are told all is safe or to evacuate.

MEDICAL EMERGENCY

CPR/AED

NON-Trained Responder:

- Call 911 and designate a person to direct EMS personnel as they arrive.
- Do not move person unless absolutely necessary.

Trained and Certified CPR Responder Only:

- Designate someone to call 911 and direct EMS when they arrive.
- Check the person for responsiveness.
- Conduct a primary assessment (breathing) while checking responsiveness.
- Initiate CPR and/or AED if necessary.

First Aid Only

Non-Trained First Aid Responder:

- Call 911 and designate a person to direct EMS as they arrive.
- Do not move person unless absolutely necessary.
- Use universal precautions, such as disposable gloves, face mask if comforting person while waiting.

Trained First Aid Responder Only:

- Designate someone to call 911 (if necessary) and direct EMS as they arrive.
- Do not move the person unless absolutely necessary.
- Use universal precautions, such as disposable gloves, face mask.
- Follow any directions provided by the 911 operator.
- Designate a person to direct EMS personnel as they arrive.
- Provide person information to the EMS personnel.

SUSPICIOUS PACKAGE

Explosives or other life-threatening items can be enclosed in either a parcel or an envelope, and its outward appearance is limited only by the imagination of the sender. However, suspicious packages have exhibited some unique characteristics that might assist you. To apply these factors, it is important to know the type of mail normally received.

Characteristics to Look for in a Suspicious Package or Letter

- Restricted endorsements such as "personal" or "private." This is important when the addressee does not normally receive personal mail at the office.
- The addressee's name and/ title might be inaccurate.
- Distorted handwriting, or the name and address might be prepared with homemade labels or cut-and-paste lettering.
- Protruding wires, aluminum foil or oil stains visible.
- Emit a peculiar odor.
- Envelope might feel rigid or appear uneven or lopsided.
- Unprofessionally wrapped with several combinations of tape. Might be endorsed "Fragile-Handle With Care" or "Rush-Do Not Delay."
- Making a buzzing or ticking noise or sloshing sound.

If You Suspect a Suspicious Package or Letter

- Do not take a chance. Immediately call 911.
- Do not move, alter, open, examine, or disturb the article.
- Do not put in water or a confined space such as a desk drawer or filing cabinet.
- Isolate the suspicious package or article and clear the immediate area until law enforcement arrives.

Last Review: July 9, 2024

ARTICLE 160
CEMETERY USE REGULATIONS
GENERAL USE RESTRICTIONS POLICY

Policy:

This General Use Restrictions Policy imposes certain restrictions on the public's use of any property owned, leased or operated by the Orange County Cemetery District.

Purpose:

The purpose of this policy is to protect the health, safety and welfare of the public, public investment, and public property owned, leased or operated by the District.

Use Restrictions:

The following use restrictions shall apply to the public's use of any property owned, leased or operated by the District:

(1) Operation of Vehicles.

No person, except for peace officers and District employees acting in the course and scope of their employment, shall drive any motorized vehicle on any surface of District property which is not specifically designated for public use as roadway or parking lot.

(2) Commercial Activities.

No person shall practice, carry on, or conduct any business or profession or other commercial enterprise, nor sell or offer for sale any service, merchandise, food, or beverage on or in any District property.

(3) Animals.

(a) No person shall cause, permit, or allow any animal owned or possessed by them, or any animal in their care, custody, or control to be present on District property which is not under physical restraint by leash of a size and material appropriate to the size and temperament of the animal and which is held by a person capable of restraining the animal, or is not otherwise physically restrained by some other device or instrument, except that such device or instrument shall not include voice control, eye control or signal control of the

animal by any person, device or instrument.

(b) Any person having the custody or control of any dog as may be permitted by ordinance or any applicable law shall have in their immediate possession a bag for picking up and disposing of dog feces and shall remove and dispose of in a sanitary manner any feces left by any dog in their custody and control.

(4) Glass Containers.

No person shall possess any glass container on District property lawns, sidewalks, patios, fountain areas, interment areas, parking areas or roadways.

(5) Hours.

No person, other than a District employee acting in the course and scope of their employment, shall enter or remain on District property any time before or after the District's posted business hours.

(6) Fires.

No person shall kindle a fire on any District property.

(7) Damaging Property.

No person shall cut, break, injure, deface, or disturb any tree, shrub, plant, rock, building, fence, bench, monument or other structure situated upon or within any District property.

(8) Amplified Sound.

No person shall use or operate an audio radio, loudspeaker or any sound amplifying equipment on any District property.

(9) Sport Activities.

No person shall play or engage in any sport activities including, but not limited to driving of golf balls, archery, baseball, softball, football, roller skating, skate boarding, playing soccer, volleyball or any other sport upon or within any District property.

(10) Bicycles.

No person shall ride any cycle, whether powered by a motor or human power, within or upon any District property, except on paths, roads or drives designed and provided for such purpose.

(11) Camping.

No person shall camp at any time within any District property.

(12) Alcoholic Beverages.

No person shall be in possession of any can, bottle, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which has been partially removed, upon or within any District property.

(13) Picnicking.

No person shall engage in any picnicking activities upon or within any District property.

(14) Loitering.

No person shall loiter on the grounds of the cemetery. As used in this section, loitering means and includes entering and remaining on the grounds of the cemetery without lawful business thereon and under such circumstances that a reasonable person would conclude that the person who has entered and remains on the grounds of the cemetery does not have a purpose connected with the lawful and ordinary use of the cemetery, does not have a bona fide intent to exercise a constitutional right, and is causing public inconvenience and annoyance.

(15) Supervision of Children.

No person shall fail to supervise children who accompany that person to the cemetery. No children under the age of 12 shall be permitted unless accompanied by an adult who shall be responsible for their conduct.

(16) Bathing or Wading.

No person shall bathe, wade, or otherwise immerse any part of his or her body in any fountain, pool, or other body of water located on District property.

Special Events Exception:

The use restrictions described in this ordinance may be waived or modified pursuant to a special events permit issued by the District.

Violations:

ARTICLE 160 CEMETERY USE REGULATIONS: General Use Restrictions Policy

Any violation of the provisions of this ordinance by a member of the public shall be deemed an infraction punishable by: (a) a fine in an amount not to exceed one hundred dollars for a first violation; (b) a fine in an amount not to exceed two hundred dollars for a second violation of the same provision within a twelve month period commencing on the date of the first violation; and (c) a fine in an amount not to exceed five hundred dollars for the third violation of the same provision within a twelve month period commencing on the date of the first violation. A fourth violation and subsequent violations of the same provision within a twelve-month period from the date of the first violation shall be deemed a misdemeanor.

Adopted: November 5, 2019 - Ordinance No. 2019-01
Last Review: September 6, 2022
Resolution 2022-09

ARTICLE 160
CEMETERY USE REGULATIONS
SMOKING PROHIBITION POLICY

Policy:

Smoking shall be prohibited in any vehicle owned, leased or operated by the District and in or on any property, building, structure, facility owned, leased, managed, operated, and/or occupied by the District.¹¹⁰

Smoking as used in this policy shall mean any of the following:

- (a) Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product (including cannabis) intended for inhalation, whether natural or synthetic, in any manner or in any form¹¹¹;
- (b) The use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking¹¹²;
- (c) The consumption of any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff¹¹³;
- (d) The use of an electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah¹¹⁴.

Purpose:

The purpose of this policy is to provide a clean, healthy, and comfortable environment for employees in the workplace and the visiting public.

Adopted: March 7, 1990 - Ordinance No. 2019-01
Last Review: September 6, 2022
Resolution 2022-09

¹¹⁰ Government Code Section 7598

¹¹¹ Business and Professions Code Section 22950.5

¹¹² Business and Professions Code Section 22950.5

¹¹³ Business and Professions Code Section 22950.5

¹¹⁴ Business and Professions Code Section 22950.5

ARTICLE 160

CEMETERY USE REGULATIONS

MOTION PICTURE, TELEVISION, RADIO AND STILL PHOTOGRAPHY PRODUCTION ACTIVITIES POLICY

PURPOSE:

The purpose of this policy is to regulate the motion picture, television, radio and photographic production activities within the District's cemeteries in a manner that preserves the peace and tranquility of the District's cemeteries and surrounding community.

POLICY:

The Orange County Cemetery District may, under certain conditions, permit the use of the District's cemeteries, facilities and other property for motion picture, television, radio and photographic production activities by any person, entity, organization or business outside the context of an official interment service or unrelated to the specific official functions of the District.

PERMIT REQUIRED:

No person, entity, organization or business shall use any real property, facility, right-of-way, road, sidewalk, driveway or any other space owned, operated or leased by the District for any motion picture, television, radio and photographic production activities without a permit issued by the District pursuant to the provisions of this policy.

EXEMPTIONS:

Other than the indemnification provisions of this policy, the following persons, entities and organizations shall be exempt from the remaining provisions of this policy:

- (1) News media outlets for the purpose of broadcasting news reports and events;
- (2) Public agencies;
- (3) Currently enrolled students who produce written proof from their educational institution that the student is engaged in a bona fide student project or assignment if related to the operations of functions of the District; and

- (4) Bona fide non-profit tax-exempt organizations in good standing with all relevant local, state and federal regulatory agencies

APPLICATION REQUIRED:

An official application form provided by the District must be completed and submitted to the District and approved by the General Manager or his/her designee before any motion picture, television, radio and photographic production activities may take place in any of the District's cemeteries, facilities or other property outside the context of an official interment service or unrelated to the specific official functions of the District.

APPLICATION INFORMATION:

The following information shall be provided by applicant:

- (1) The applicant's name, mailing address, email address and telephone number;
- (2) The name, address, email address, and telephone number of the person or persons in charge of the proposed production activities;
- (3) The specific location where the proposed production activities will take place;
- (4) The inclusive hours and dates when the proposed production activities will occur;
- (5) A general statement of the character or nature of the proposed production activities;
- (6) The exact number of on-location personnel to be involved with the proposed production activities;
- (7) The exact amount/type of vehicles/equipment to be employed along with a parking plan;
- (8) A description of any conduct or activities related to the proposed production activities which may cause public concern or potentially disrupt the quiet enjoyment of the surrounding community; and
- (9) Any other information requested in the District's permit application.

If the applicant fails to provide all of the above information in the District's permit application, the application shall be deemed incomplete and shall not be processed, nor shall a permit be approved.

APPLICATION FEE:

Applicant shall pay the requisite application fee for the cost of processing the application, in the amount set forth in the District's duly adopted fee schedule. If the applicant fails to pay the requisite application fee, the application shall be deemed incomplete and shall not be processed, nor shall a permit be approved.

IMPACT COSTS:

Applicant shall pay for any anticipated costs associated with mitigating any known potential impacts the District may incur in connection with the proposed production activities. The amount of such costs shall be determined on a case by case basis by the General Manager or designee depending on the scope, intensity and location of the proposed production activities. If the applicant fails to pay the requisite impact costs, the application shall be deemed incomplete and shall not be processed, nor shall a permit be approved.

SECURITY DEPOSIT:

To ensure cleanup and repair of any District property that will be utilized in any manner in connection with the proposed production activities, the applicant may be required to submit a refundable security deposit in a reasonable amount determined by the General Manager or designee. The District may use any portion of the security deposit to pay for any cleanup or repair that is deemed necessary by the General Manager or designee because of the applicant's use of the subject property and the applicant's failure to perform the necessary cleanup or repair in a timely manner. If the District uses any of the money to pay for cleanup or repair, the District will provide the applicant with a written list of conditions that necessitated the cleanup or repair and the amounts of money taken from the security deposit for such purposes. Upon completion of proposed production activities and inspection of the site by the District, if no cleanup or repair is needed, the full amount of the security deposit shall be returned to the applicant within thirty days of completion of the District's inspection of the subject property. If the applicant fails to pay the requisite security deposit, the application shall be deemed incomplete and shall not be processed, nor shall a permit be approved.

COST OF ADDITIONAL SERVICES:

If during the course of the production activities the General Manager or designee determines that additional services are necessary to protect public health or safety or to maintain the peace and tranquility of the surrounding community, such services may be provided or retained by the District and the applicant shall be required to reimburse the District for any such additional services.

INDEMNIFICATION:

Applicant shall agree to defend, indemnify and hold harmless the District, its officers, officials, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damage, injuries, and liability, direct or indirect (including any and all costs and expenses in connection therewith, including settlement fees), arising out of the proposed production activities, except for any

such claim arising out of the sole and/or active negligence or willful misconduct of the District, its officers, agents, employees or volunteers.

INSURANCE:

Applicant shall provide the District with verification of combined single limit insurance in the amount of One Million Dollars (\$1,000,000) for public liability and property damage. The General Manager may waive or modify this requirement if it is deemed that the scope, intensity and/or location of the proposed production activities present little to no significant risks. However, if the applicant fails to otherwise provide proof of such insurance, deemed acceptable by the General Manager or designee, the application shall be deemed incomplete and shall not be processed, nor shall a permit be approved.

HOLD HARMLESS, INDEMNIFICATION AND ASSUMPTION OF THE RISKS AGREEMENT:

Applicant shall execute a Hold Harmless, Indemnification and Assumption of the Risks Agreement deemed acceptable by the District's General Legal Counsel. If the applicant fails to execute such an agreement, the application shall be deemed incomplete and shall not be processed, nor shall a permit be approved.

PERMITTED HOURS:

Motion picture, television, radio and photographic production activities may only be permitted between 7:30 a.m. and 4:30 p.m., which may be adjusted at the discretion of the General Manager based upon the General Manager or Cemetery Manager's sole determination that the proposed production activity will not disrupt the normal operations of the District or cause any disruptions or nuisances to the surrounding community.

RESTRICTIONS:

Motion picture, television, radio and photographic production activities shall be subject to the following restrictions:

- The conduct of the proposed production activities shall not unduly interfere with normal operations of the District, threaten to result in damage or detriment to District property, or threaten or cause bodily harm or extreme discomfort to any person.
- Use of the District's office phone is prohibited except in an emergency.
- Loud noises (guns, music, screams, loud machinery or vehicles, etc.) are prohibited.
- Blocking of roads is prohibited.
- Vehicles on grass are prohibited.
- All activities must cease when an interment service is in progress.

- Applicant must provide own dressing rooms and restrooms. (Note: Facilities for large groups are not available.)
- Applicant must provide security and crowd control.
- Entrances showing the cemetery name may be filmed, however, filming of family markers is discouraged.
- No one is allowed in a casket without District approval. (Note: Cemetery cannot provide casket).
- No nudity shall be permitted.
- No animals, except for service working animals may be permitted.
- The dignity and decorum of the cemetery shall be maintained at all times.
- No smoking or alcohol use shall be permitted.
- All other cemetery use policies shall be applicable.

CONDITIONS OF APPROVAL:

The General Manager or designee in their sole discretion may impose conditions of approval on a permit for the proposed production activities for purposes of mitigating any anticipated direct or indirect negative impacts on the District or surround community.

CREDIT:

If the resulting motion picture or film includes credits, the Orange County Cemetery District and the name of the cemetery shall be acknowledged as one of the locations included in the subject motion picture or film, using the District’s official seal/logo, unless otherwise directed by the General Manager.

VIOLATIONS:

Failure to comply with any provision of this policy or condition of a permit for the proposed production activities shall result in automatic revocation of the subject permit without an opportunity to appeal to the Board of Trustees. Upon such revocation, the applicant shall immediately cease all production activities, and remove all vehicles, supplies, equipment and all other material from the District’s premises.

OUTSTANDING COSTS OWED TO DISTRICT:

The amount of any outstanding costs owed to the District shall be deemed a civil debt. The District may commence the appropriate legal action in the name of the District in any court of competent jurisdiction to seek the necessary court order to compel the debtor to pay the District any outstanding debt owed to the District, plus attorneys’ fees as the prevailing party. The remedy prescribed by this section shall be cumulative, and the use of this particular civil action to collect an unpaid debt owed to the District shall not bar the use of any other civil, equitable or

administrative remedies available to the District.

PREVAILING PARTY:

In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this policy or as a result of any alleged breach of any provision of this policy, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorney's fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

Adopted: November 6, 1991
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 160

CEMETERY USE REGULATIONS

REPAIR AND RESTORATION OF COMMEMORATIVE MONUMENTS AND MAUSOLEUMS POLICY

Purpose:

The purpose of this policy is to maintain the structural integrity, historical character and aesthetic design of all duly authorized commemorative monuments and existing mausoleums which may be located in any of the District cemeteries, by requiring that all work performed on any such monuments and mausoleums receive prior consent and approval of the District and that any work performed conforms to all applicable construction and building codes and the applicable provisions of the Mausoleum and Columbarium Law as set forth in Health and Safety Code Section 9501 et seq.

Policy:

Before any work to repair, restore, reconstruct, reinforce, redesign, alter or paint a commemorative monument or mausoleum may commence, that will alter the appearance, change the dimensions or otherwise affect the structural integrity, historical character or aesthetic design of a monument or mausoleum, prior consent and approval of the Board of Trustees (“Board”) shall be required.

Procedure:

The following procedures shall be followed by any person, individuals or organizations interested in repairing, restoring, reconstructing, reinforcing, redesigning, altering or painting a commemorative monument or mausoleum located or situated within any District cemetery.

- (1) A written request shall be submitted to the District containing the following information:
 - (a) The requestor’s name, mailing address, email address and telephone number;
 - (b) The name, mailing address, email address, and telephone number of the person or entity that will be performing the proposed work;
 - (c) Proof that the record owner of the subject commemorative monument or mausoleum has consented to or otherwise authorized

the requestor to perform or cause the performance of the proposed work;

- (d) Proof of a validly issued contractor's license in good standing for the person or entity that will be performing the proposed work if a contractor's license is required for the proposed work;
- (e) The specific location of the subject commemorative monument or mausoleum;
- (f) A recent photograph of the subject commemorative monument or mausoleum in its current condition;
- (g) A written description of the scope of work to be performed and the material that will be used;
- (h) A detailed plan, architectural drawing or other detailed depiction of the subject commemorative monument or mausoleum after the work is completed; and
- (i) Any other information as may be requested by the Board, General Manager or designee.

(2) If the requestor fails to provide all of the above information, the Board shall not consider the request.

District Resources:

The District does not provide any labor, legal advice, supplies, equipment, electricity, fuel, power source or water or any other District resources related to such work permitted under this policy.

Liability:

The requestor shall be liable for the costs of any property damage, bodily harm or other claims proximately caused by the person or entity or their respective employees, agents, contractors, volunteers or other representatives during the course of performing the proposed work.

Hold Harmless, Indemnification and Assumption of the Risks Agreement:

The requestor and the person or entity that will perform the work shall execute a Hold Harmless, Indemnification and Assumption of the Risks Agreement deemed acceptable by the District's General Legal Counsel before any work may commence.

Conditions:

The Board’s approval of a request submitted under this policy shall incorporate by this reference the terms and provisions of this policy. The Board may also impose conditions related to liability coverage and/or the proposed work for purposes of minimizing any impact on the District’s operations.

Construction and Building Codes/Mausoleum and Columbarium Law:

All work shall conform to all applicable construction and building codes and the applicable provisions of the Mausoleum and Columbarium Law as set forth in Health and Safety Code Section 9501 et seq.

Violations:

If the Board, General Manager or designee determines that there is a violation of any of the Board’s conditions or any of the terms and provisions of this policy, the Board, General Manager or designee may order the immediate cessation of all work and removal of all the worker’s supplies, equipment and material from the District’s premises.

Unauthorized Commemorative Monuments and Other Structures:

No person, individuals or organization shall be permitted to perform any work on any commemorative monument or any other structure that was not duly authorized by the Board to be placed, installed or erected on District property pursuant to the Board’s instructions or the District’s Permanent Commemorative Monuments Policy.

Adopted: November 5, 1986
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 170

INTERMENTS

INTERMENT RIGHTS POLICY

POLICY:

The District owns, operates, improves, and maintains cemeteries and sells and provide interment rights within the District's jurisdictional boundaries.

PURPOSE:

The purpose of this policy is to provide for the respectful and cost-effective interment of human remains to meet the cultural, economic, religious, and social needs of California's diverse communities.

INTERMENT ELIGIBILITY:

The District limits interments to the following:

- (1) Persons who are residents of the District.
- (2) Persons who are former residents of the District and who acquired interment rights while they were residents of the District.
- (3) Persons who pay property taxes on property located in the District.
- (4) Persons who formerly paid property taxes on property located in the District and who acquired interment rights while they paid those property taxes.
- (5) Eligible nonresidents of the district; and
- (6) Persons who are family members of any person described herein above.

CUSTODY AND DUTY OF INTERMENT:

The right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services to be provided, unless other directions have been given by the decedent vests in, and the duty of disposition and the liability for the reasonable cost of disposition of the remains devolves upon, the following in the order named:

- (1) An agent under a power of attorney for health care who has the right and duty of disposition under Division 4.7 (commencing with Section

4600) of the Probate Code, except that the agent is liable for the costs of disposition only in either of the following cases:

- (A) Where the agent makes a specific agreement to pay the costs of disposition.
 - (B) Where, in the absence of a specific agreement, the agent makes decisions concerning disposition that incur costs, in which case the agent is liable only for the reasonable costs incurred as a result of the agent's decisions, to the extent that the decedent's estate or other appropriate fund is insufficient.
- (2) The competent surviving spouse.
- (3) The sole surviving competent adult child of the decedent or, if there is more than one competent adult child of the decedent, the majority of the surviving competent adult children. However, less than the majority of the surviving competent adult children shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving competent adult children of their instructions and are not aware of any opposition to those instructions by the majority of all surviving competent adult children.
- (4) The surviving competent parent or parents of the decedent. If one of the surviving competent parents is absent, the remaining competent parent shall be vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving competent parent.
- (5) The sole surviving competent adult sibling of the decedent or, if there is more than one surviving competent adult sibling of the decedent, the majority of the surviving competent adult siblings. However, less than the majority of the surviving competent adult siblings shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving competent adult siblings of their instructions and are not aware of any opposition to those instructions by the majority of all surviving competent adult siblings.
- (6) The surviving competent adult person or persons respectively in the next degrees of kinship or, if there is more than one surviving competent adult person of the same degree of kinship, the majority of those persons. Less than the majority of surviving competent adult persons of the same degree of kinship shall be vested with the rights and duties of this section if those persons have used reasonable efforts to notify all other surviving competent adult persons of the same degree of kinship of their instructions and are not aware of any opposition to those instructions by

the majority of all surviving competent adult persons of the same degree of kinship.

- (7) A conservator of the person appointed under Part 3 (commencing with Section 1800) of Division 4 of the Probate Code when the decedent has sufficient assets.
- (8) A conservator of the estate appointed under Part 3 (commencing with Section 1800) of Division 4 of the Probate Code when the decedent has sufficient assets.
- (9) The public administrator when the deceased has sufficient assets.

TRANSFERABLE PROPERTY INTEREST:

An interment right provides a transferable property interest to the person listed as the owner in the records of the District, subject to any written designation to the contrary signed by the owner and deposited with the District, or to the owner's successor, subject to the following:

- (1) An interment right shall not be construed as conferring title to the property burdened by the transferable property interest.
- (2) The owner of record of an interment right may designate in writing the person or persons, other than the owner of record, who may be interred in the plot to which the owner holds the interment right.
- (3) The owner of an interment right shall, at the time of purchase, designate a successor owner or owners of the interment right in a signed written designation deposited with the district.
- (4) Use of an interment right transferred from the owner to a successor shall be made in compliance with applicable provisions of state and local law, and of applicable requirements or policies established by the District.

INTESTATE SUCCESSION:

If the owner of an interment right dies without making a valid and enforceable disposition of the interment right by a specific devise in a testamentary device, or by a written designation, the interment right shall pass according to the laws of intestate succession as set forth in Sections 6400 to 6413, inclusive, of the Probate Code. In the event that the owner has no heirs at law, the District shall follow the abandonment procedures established under Section 9069 of the Health & Safety Code. However, a surviving spouse, registered domestic partner, child, parent, or heir who has an interment right pursuant to this section may waive that interment right in favor of any other relative of the deceased owner or spouse of a relative of

the deceased owner.

AFFIDAVIT:

A person who purports to be the successor owner of an interment right shall execute a written affidavit declaring, under penalty of perjury, all of the following:

- (1) He or she is the person entitled to succeed to the interment right pursuant to Section 9069.20 of the Health & safety Code.
- (2) He or she has exerted all reasonable efforts to find other persons who may have an equal or higher claim to succeed to the interment right.
- (3) He or she is unaware, to the best of his or her knowledge, of any opposition challenging his or her right to succeed to the interment right.

When the District acts to transfer ownership rights or make an interment on the basis of the affidavit, given under penalty of perjury, the District, and any employee or trustee of the District, shall not be liable for any claims, losses, or damages asserted in any action unless the District had actual knowledge that the facts stated in writing are false.

NOTIFICATION OF INTERMENT RIGHTS:

Upon the sale to a person of a plot in a cemetery within the District, the District will notify the purchaser, in writing, of any interment rights, including the succession of ownership of the interment rights, and the District's duly adopted policies, rules, and regulations governing the use, sale, or other transfer of interment rights.

INTERMENT RECORDS:

The District prepares and maintains accurate and current records of:

- (1) The cemeteries owned by the district, showing the location of the sites where persons have acquired interment rights, including the names and addresses of the persons who have acquired these interment rights, and the location of plots where interment rights are available for acquisition.
- (2) All remains interred in cemeteries owned by the district, including the name of each person, his or her age at the time of death, place of death, date of interment, the interment plot, and the name and address of the funeral director.

Adopted: August 16, 1989
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 170

INTERMENTS

RESIDENCY DETERMINATION POLICY

Purpose:

To establish a consistent and reliable method for determining a person's residency status.

Definition of Resident:

"Resident" shall mean any of the following:

- (1) A person who is a resident of the District; or
- (2) A person who pays District-specific property taxes or District-specific assessments on property located in the District.

Resident Fee:

Pursuant to Health & Safety Code Section 9083 (c), the District may charge residents fees that are less than the fee that the District charges to nonresidents or non-taxpayers.

Endowment Fee:

The requisite endowment fee shall be paid for the interment of an eligible resident, if the endowment fee had not been previously paid.

Policy:

The following sources may be relied upon as evidence of a person's residency status:

- Rental or lease agreement with the signature of the owner/landlord and the tenant/resident.
- Deed or title to residential real property.
- Mortgage bill.
- Home utility bills (including cellular phone).
- School documents including any document issued by a U.S. education institution that either includes the applicant's date of birth, or if a foreign school document, is sealed by the school and includes a photograph of the applicant at the age the record was issued.

- Medical documents.
- Employment documents.
- Faith based documents that include the name and address of the issuing organization.
- Insurance documents, including medical, dental, vision, life, home, rental, and vehicle.
- Internal Revenue Service or California Franchise Tax Board tax return.
- California Certificate of Vehicle or Vessel Title or Registration.
- Change of Address Confirmation by the U.S. Postal Service (Form CNL 107).
- Any document issued by an entity, office, or authority governing over a country, state, county, city, municipality, district, agency, department, or any other political subdivision of a country or state that is typed and contains the agency name, department name, state seal, or is on official letterhead.
- Property tax bill or statement.
- Record of any state or national banks, state or federal savings associations, trust companies, industrial loan companies, state or federal credit unions, and any institution or entity that has issued a credit card.
- An acceptable No Fee Identification Card Eligibility Verification (DL 933) form.
- Voter registration confirmation letter or postcard issued by the California Secretary of State or a local California county elections officer.
- Proof of payment of resident tuition at a public institution of higher education located in California.
- An original copy of an approved Claim for Homeowners' Property Tax Exemption (BOE-266) form filed with a local California County Assessor.
- Court documents that list the applicant as a resident of California.

Adopted: December 3, 2019
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 170

INTERMENTS

ELIGIBLE NONRESIDENTS POLICY

Policy:

The District may inter a nonresident in a cemetery owned by the District if the District determines that the person is an eligible nonresident.¹¹⁵

Nonresident:

“Nonresident” means and of the following:

- (3) A person who is not a resident of the District;¹¹⁶ or
- (4) A person who does not pay District-specific property taxes or District-specific assessments on property located in the District.¹¹⁷

Eligible Nonresident:

A person is deemed an eligible nonresident under the following circumstances:

- (1) The person was a resident of the State of California at the time of death;¹¹⁸
- (2) There are no private cemeteries within a 15 mile straight-line radius of the person's residence;¹¹⁹
- (3) There are no private cemeteries closer to the person's residence than the nearest cemetery owned by the District, with the distances measure in a straight line;¹²⁰
- (4) The Board of Trustees has determined that the cemetery does have adequate space for the foreseeable future;¹²¹ and

¹¹⁵ Health & Safety Code Section 9061

¹¹⁶ Health & Safety Code Section 9061

¹¹⁷ Health & Safety Code Section 9061

¹¹⁸ Health & Safety Code Section 9061

¹¹⁹ Health & Safety Code Section 9061

¹²⁰ Health & Safety Code Section 9061

¹²¹ Health & Safety Code Section 9061

(5) One of the following applies:

- a. The person is a family member of a person who is already interred in a cemetery owned by the District;¹²²
- b. The person is a family member of a person who has acquired interment rights in a cemetery owned by the District;¹²³
- c. The person was a resident of the District in the District for continuous period of at least five years, a portion of which time period occurred within the 10 years immediately before the person's death;¹²⁴
- d. The person paid property taxes on property located in the District for continuous period of at least five years, a portion of which time period shall have occurred within the 10 years immediately before the person's death;¹²⁵
- e. The District receives a written request for the interment of the person from a person who is a resident of the District and the person submitting the written request is not a trustee, officer, or employee of the District and is not a funeral director or an employee of a funeral director;¹²⁶
- f. The District receives a written request for the interment of the person from a person who pays property taxes on property located within the District, and the person submitting the written request is not a trustee, officer, or employee of the District and is not a funeral director or an employee of a funeral director;¹²⁷
- g. The person died while serving in the Armed Forces or the active militia;¹²⁸
- h. The person died in the line of duty as a peace officer or firefighter.¹²⁹

¹²² Health & Safety Code Section 9061

¹²³ Health & Safety Code Section 9061

¹²⁴ Health & Safety Code Section 9061

¹²⁵ Health & Safety Code Section 9061

¹²⁶ Health & Safety Code Section 9061

¹²⁷ Health & Safety Code Section 9061

¹²⁸ Health & Safety Code Section 9061

¹²⁹ Health & Safety Code Section 9061

Eligible Nonresident Fee:

An additional nonresident fee of at least 15% shall be charged by the District which must be paid for each eligible nonresident interment. ¹³⁰

Waiver of Eligible Nonresident Fee:

Payment of the additional eligible nonresident fee may be waived upon the District determining that based on the documentation submitted to the District that either of the following circumstances exist:

- (a) The eligible nonresident or spouse or registered domestic partner purchased the interment right while a resident of the District; ¹³¹ or
- (b) The eligible nonresident or spouse or registered domestic partner purchased the interment right while the nonresident was a taxpayer of the District. ¹³²

Endowment Fee:

The requisite endowment fee shall be paid for the interment of an eligible nonresident, if the endowment fee had not been previously paid. ¹³³

Adopted: November 2, 2004
Last Review: September 6, 2022
Resolution No. 2022-09

¹³⁰ Health & Safety Code Section 9061
¹³¹ Health & Safety Code Section 9061
¹³² Health & Safety Code Section 9061
¹³³ Health & Safety Code Section 9065

ARTICLE 170

INTERMENTS

PRENEED INTERMENT PURCHASES POLICY

Policy:

It is the District's policy to allow eligible residents and taxpayers of the District and eligible non-residents to purchase interment plots, goods and services in advance on an installment payment basis, by entering into a Preneed Interment Purchase Agreement with the District.

Purpose:

The purpose of this policy is to provide a convenient and economical means for eligible residents and taxpayers of the District and eligible non-residents to make interment plans in advance and to pay for interment plots, goods and services on an installment payment basis, by entering into a Preneed Interment Purchase Agreement with the District.

Eligibility:

Eligible residents and taxpayers of the District and eligible non-residents may enter into a Preneed Interment Purchase Agreement with the District.

Although someone who is not eligible for interment in the District's cemeteries may purchase a burial plot or niche on a pre-need basis, any such purchase shall be for the interment of a current resident of the District, a person who currently pays property taxes on property located in the District, or an eligible non-resident, unless a moratorium has been adopted by the Board of Trustees that limits the sale of interments of eligible non-residents.

Joint and Several Responsibility:

If there is more than one buyer, each shall be jointly and severally responsible for all payments and other obligations set forth in the Preneed Interment Purchase Agreement.

Assignment:

Buyer may assign its rights and obligations under a Preneed Interment Purchase Agreement subject to the prior written consent and approval of the District.

Amount Financed:

The Preneed Interment Purchase Agreement shall disclose the total sales price of the interment plot(s), goods and services purchased plus any applicable taxes and/or fees and the unpaid balance or total amount to be financed under the Agreement.

Payment Term:

The payment term of a Preneed Interment Purchase Agreement shall not exceed a period of 12 consecutive calendar months.

Contract Service Charge:

Buyer shall pay the Contract Service Charge as indicated on the District's current Master Fee Schedule for the privilege of purchasing interment plot(s), goods and services on an installment payment basis. If the Buyer extends the financing beyond the 12-month limit, a Contract Delinquency Fee will be assessed that is equal to the current Contract Service Charge.

Endowment Care Fee:

The full amount of the Endowment Care Fee shall be paid initially as a condition precedent to entering into a Preneed Interment Purchase Agreement with the District, which shall not be refundable under any circumstances.

Time of the Essence:

Since the number of interment plots within the cemetery are finite and the demand for interment plots are expected to increase over time due to growing population within the District, the timing of payment of the full balance due under a Preneed Interment Purchase Agreement within twelve calendar months is of the essence since the District must maintain an accurate assessment of the number of interment plots that will be available for sale in the foreseeable future in order to determine whether the increasing scarcity of available interment plots necessitate a price adjustment or creates a need for the District to seek additional land to meet the anticipated increase in demand for interment plots.

Payments:

Each payment the Buyer makes under the Contract Agreement will be applied as follows: First, to the Contract Service Charge; then to the Endowment Care Fund, Interment Rights, Merchandise and Services. If a payment is made in less than the amount due, the payment will be applied first the Contract Service Charge and any balance will be applied to the Endowment Care Fund, then Interment Rights, Merchandise and Services.

Cancellation:

Buyer may cancel a Preneed Interment Purchase Agreement upon thirty days written notice to the District. Upon cancellation, Buyer shall be entitled to reimbursement of one-half (1/2) of the payments made toward the interment rights, less any amounts paid for the endowment care fee, and the contract service charge. Any payments made toward merchandise and services that were not used, will be refunded at 100% of what was paid.

No Pre-Payment Penalties:

Buyer may prepay the full amount due under a Preneed Interment Purchase Agreement at any time without any pre-payment fees or penalties and the District shall furnish Buyer with the full amount due and outstanding under the Agreement upon request. If the outstanding balance is paid in full within 90 days from the date the contract was opened, the amount of the contract shall be reduced by the amount of the Contract Service Charge.

Balance Due:

Any balance due under a Preneed Interment Purchase Agreement shall be paid in full as a condition precedent to the District providing any of the interment goods or services on behalf of Buyer as referenced in the Preneed Interment Purchase Agreement.

Default:

If the Buyer fails to pay the balance due in the manner specified on the Contract Agreement, the District may cancel the contract 60 days after the missed payment due date. The mailing of a letter to the buyer's last-known address, as it appears on District records, without satisfactory response may cause said property and/or commodities to be returned to the District's inventory for resale and all monies paid by the Buyer may be forfeited and retained by the District. Refunds on canceled contracts must be requested in writing within one year of the last payment. Refunds will be made in accordance with the Refund Policy in effect at the time of request. No refund will be made after one year from the last payment.

Remedies:

The non-breaching party shall be entitled to pursue any and all available legal and equitable remedies against the party in breach or default of any terms and conditions under the Preneed Interment Purchase Agreement.

Attorneys Fees:

The prevailing party in any action to enforce the terms and conditions of a Preneed

ARTICLE 170 – INTERMENTS: Preneed Interment Purchases Policy

Interment Purchase Agreement shall be entitled to recovery of reasonable attorney's fees and costs by the non-prevailing party.

Adopted: September 6, 2022
Resolution: 2022-09

ARTICLE 170

INTERMENTS

PURCHASE AND REPURCHASE OF INTERMENT SITES/SPACES AND RELATED SERVICES POLICY

Policy:

It is the policy of the District to provide respectful and cost-effective interment of human remains to meet the cultural, economic, religious, and social needs of California's diverse communities.

Purpose:

The purpose of this policy is to inform the general public of the scope of interment sites/spaces and services made available for purchase from the District and the criteria for repurchase of the same by the District.

Eligible Decedents:

The District limits interments to:

- (7) Persons who are residents of the District;
- (8) Persons who are former residents of the District and who acquired interment rights while they were residents of the District;
- (9) Persons who pay property taxes on property located in the District;
- (10) Persons who formerly paid property taxes on property located in the District and who acquired interment rights while they paid those property taxes;
- (11) Eligible nonresidents of the District, as described in the District's Eligible Nonresident Policy and the Public Cemetery District Law; and
- (12) Persons who are family members of any person described in this provision.

Interment Site/Space Options:

The District provides the following interment options, depending upon availability:

- (1) In-Ground Interment Sites/Spaces. These interment sites/spaces can accommodate up to two burials. For two casket interments, the first burial occurs at the lower level and the second burial occurs at the upper level.
- (2) Above Ground Inurnment Sites/Spaces (Urn Niche Spaces). These inurnments sites/spaces (which measure approximately 9 ¾" x 9 ¾" x 9 ¾") can accommodate two standard rectangular urns (which measure approximately 3" x 6" x 9").
- (3) Scattering of cremated remains in one of the District's cemeteries' Rose Gardens.

Interment Services:

The District provides the following interment services, depending upon availability of particular interment sites/spaces:

- (1) In-Ground Interment Services, which include setting up of a shade canopy, twelve chairs, a 2'x4' table (tablecloth not included) and opening and closing of a grave.
- (2) Niche Interment Services, which include setting up of a shade canopy, twelve chairs, a 2'x4' table (tablecloth not included) and opening and closing of a niche.
- (3) Direct Cremation Interment Services, which include placement of cremated remains directly in the soil of one of the District's cemeteries' Rose Gardens.

Additional Services:

The District provides the additional services for purchase:

- (1) Memorial Marker Installation;
- (2) Memorial Niche Plate Installation;
- (3) In-ground Flower Vase Installation;
- (4) Niche Plate Flower Vase and Vase Block Installation;
- (5) Memorial Name Strip Installation;
- (6) Memorial Marker Replacement;
- (7) Infant Grave Liner Setting and Installation if purchased from a third party;
- (8) Vault Setting and Installation if purchase from a third party; and
- (9) Vault Disposal.

Interment Goods:

The District provides the following interment goods for purchase, depending upon availability of particular interment sites/spaces:

- (1) Vaults – Standard Size, which includes setting and installation.
 - A vault is required for each adult full body in-ground burial
- (2) Vaults – Large which includes setting and installation.
 - A vault is required for each adult full body in-ground burial
- (3) Infant Grave Liners
 - A grave liner is required for each infant full body in-ground burial.
- (4) Urn Vaults
 - An urn vault is required for each in-ground cremation interment.

The District does not sell memorial monuments, memorial markers, memorial niche plates or memorial name strips.

Costs - Schedule of Fees:

The costs charged by the District for: (1) Interment Sites/Spaces; (2) Interment Services; (3) Additional Services; and (4) Interment Goods are set forth in the District's Schedule of Fees which sets forth the amounts the District charges for necessary and convenient interment-related goods and services and the purchase of interment sites/spaces, which may vary depending on the location and availability of particular interment sites/spaces and the residency or eligible nonresident status of the decedent. All such costs and fees shall be paid before any interment services shall be provided by the District.

Endowment Fee:

The District maintains an Endowment Care Fund to fund the cost of the perpetual care of the cemeteries owned by the District.

- (1) For each interment site purchased, the purchaser shall pay to the District an Endowment Fee in the amount set forth in the District's Schedule of Fees at the time the interment site/space is purchased.
- (2) Payment of the Endowment Fee shall be required for each previously purchased interment site/space where no payment has previously been made.

The District will not allow the use of any interment site/space for interment services unless and until the applicable Endowment Fee is paid in full.

Burial Permit:

The original Burial Permit, also known as a “Permit for Disposition of Human Remains,” which shall be obtained from the County of Orange Health Care Agency, Office of Vital Records, or the mortuary shall be submitted to the District prior to the time interment services commence. Upon completion of the subject interment, the District will complete the Building Permit by confirming that the subject remains were delivered to the designated cemetery and placed in a designated interment site/space. The District will execute the Burial Permit and dispatch a copy to the County of Orange Health Care Agency, Office of Vital Records, with a copy mailed to the record owner of the respective interment rights.

Interment Order:

The District will complete an interment order based on the information provided by the purchaser that will include vital information pertaining to the decedent, the interment location, the date and time of the interment service, any special requests (i.e. additional chairs, family bringing urn, no witnessing, etc.) certification of the purchaser’s relationship to the decedent, the purchaser’s signature and contact information, along with any interment directives or orders provided by the purchaser that are different than the decedent’s.

The District will present the completed interment order to the purchaser for the purchaser’s signature verifying the information included in the interment order is accurate. Once the purchaser verifies and executes the interment order, a copy will be provided to the interment crew before commencement of the subject interment.

Scope of Interment Rights:

Upon the full payment of the interment site/space, all interment services and any additional services and payment of the Endowment Fee, the District will notify the purchaser, in writing, of the purchaser’s interment rights, the Public Cemetery Law that governs the succession of ownership of interment rights, and the District’s duly adopted policies, rules, and regulations governing the use, sale, or other transfer of interment rights. (See District’s Interment Rights Policy for further information.)

Successor in Interest:

The purchaser shall be recognized as the record owner of the interment rights associated with the specific interment site/space purchase, and at the time of purchase, said purchaser shall designate a successor owner or owners of the purchaser’s interment rights in a signed written designation deposited with the District. (See District’s Interment Rights Policy for further information.)

Repurchase of Interment Sites/Spaces:

The District will repurchase any unused interment sites/spaces for fifty percent (50%) of the District's current price for the respective interment site/space from the record owner of the interment rights for said interment site/space provided that the written consent of all interested parties having a vested interment right pertaining to the subject interment site/space do not object to the repurchase by the District is provided to the District.

Upon the repurchase of an interment site/space, the District will provide a full refund of the full amounts paid by the record owner for any unused interment services and any additional services and any unused and undamaged interment goods.

There will be no refund of any portion of any Endowment Fee paid in relation to the subject interment site/space.

Interment Records:

The District prepares and maintains current records of:

- (3) The cemeteries owned by the District, showing the location of the sites where persons have acquired interment rights, including the names and addresses of the persons who have acquired these interment rights, and the location of plots where interment rights are available for acquisition.
- (4) All remains interred in cemeteries owned by the District, including the name of each person, his or her age at the time of death, place of death, date of interment, the interment plot, and the name and address of the funeral director.

The District maintains the above-referenced records in their original form or by any other method that the District has determined produces an accurate reproduction of the original record.

Adopted: November 5, 2019
Last Review: September 6, 2022
Resolution 2022-09

ARTICLE 170

INTERMENTS

DISINTERMENT POLICY

Policy:

This policy applies to the disinterment of human remains, which includes the body of a deceased person, regardless of its stage of decomposition, and cremated remains, at an interment site¹³⁴.

Purposes:

The District may provide disinterment services for the following purposes:

1. To disinter human remains or cremated remains at an interment site pursuant to the terms of a validly issued burial permit specifically authorizing the disinterment or removal of the subject remains or cremains¹³⁵;
2. To disinter human remains or cremated remains at an interment site with the consent of the District and upon the receipt of the written consent of one of the following in the order named: (a) the decedent's surviving spouse, (b) the decedent's surviving children, (c) the decedent's surviving parents, or (d) the decedent's surviving siblings¹³⁶, or if such consent cannot be obtained, by permission of the Orange County Superior Court or any other court of competent jurisdiction ¹³⁷;
3. To disinter human remains or cremated remains at an interment site for purpose of removing the subject remains or cremains from the subject interment site to another interment site within the same cemetery upon written order of any of the following: (a) Orange County Superior Court or any other court of competent jurisdiction; (b) Orange County Health Department; or (c) Orange County Coroner ¹³⁸; or
4. To disinter human remains or cremated remains at an interment site for

¹³⁴ **H&S Code Section 7001**

¹³⁵ **H&S Code Section 7024**

¹³⁶ **H&S Code Sections 7525 & 9069.10**

¹³⁷ **H&S Code Section 7526**

¹³⁸ **H&S Code Sections 7528 & 9069.15**

which the purchase price is past due and unpaid, for the purpose of removing the subject remains or cremains to some other suitable place as determined by the District¹³⁹.

Disinterment Authorization:

Any person(s) requesting a disinterment must provide proper documentation to the District deemed acceptable by the District pursuant to this policy that may include a validly issued disinterment order, disinterment permit or any other disinterment directive that authorizes the disinterment of specific human remains or created remains at an interment site and/or their removal.

Disinterment Fees:

Any person(s) requesting a disinterment must pay all required disinterment fees as established by the District, before the District shall commence any disinterment.

Disinterment Verification:

The person(s) who requested disinterment should be present at the disinterment to verify that all of the human remains or cremated remains are disinterred pursuant to the respective disinterment authorization.

Full Body Disinterment:

Full body disinterments shall be conducted as follows:

- 1) The interment site is opened by District staff.
- 2) If the remains are in a casket contained in a vault, the District staff will remove the lid of the vault, but the funeral director must arrange to have the casket brought to the surface, without the assistance of District staff, if the District staff determines in its sole discretion that the casket is unsafe to remove because it is in a deteriorated condition.
- 3) If the remains are in a casket contained in a liner, the liner will be removed by District staff to expose the casket, but the funeral director must arrange to have the casket brought to the surface, without the assistance of District staff, if the District staff determines in its sole discretion that the casket is unsafe to remove because it is in a deteriorated condition.

139 H&S Code Section 7528

- 4) The funeral director must make arrangements to remove the remains from a deteriorated casket and place them in another casket or container, without the assistance of District staff.
- 5) The funeral director shall be responsible for the removal and transport of the disinterred remains from the cemetery.

Cremated Remains Disinterment:

The disinterment of cremated remains shall be conducted as follows:

- 1) The interment site is opened by District staff and the funeral director must arrange to have the urn or other vessel containing the cremains removed from the interment site, without the assistance of District staff, if the District staff determines in its sole discretion that the urn or vessel is unsafe to remove because it is in a deteriorated condition.
- 3) The funeral director must make arrangements to remove the cremains from any deteriorated urn or other deteriorated vessel containing the cremains and place them in another urn or vessel, without the assistance of District staff.
- 5) The funeral director shall be responsible for the removal and transport of the disinterred cremains from the cemetery.

Documentation:

The District shall maintain a duplicate copy of each disinterment order, disinterment permit and any other disinterment directive pertaining to the disinterment of any human remains or cremated remains from an interment site or their removal.

Record ¹⁴⁰:

For all disinterments, the District shall retain a true and correct record of the following:

- (1) The date the human remains or cremated remains were disinterred or removed;
- (2) The name and the age at death of the decedent whose human remains or cremated remains were disinterred or removed, if available;

¹⁴⁰ **H&S Code Section 9069.15**

- (3) The cemetery and interment site from which the human remains or cremated remains were disinterred or removed;
- (4) If the disinterred or removed human remains or cremated remains were reinterred at a different interment site, the location of the new interment site, the name of the cemetery, and location to which the subject human remains or cremated remains were reinterred;
- (5) If the disinterred or removed human remains or cremated remains were disposed by any means other than reinterment, a record of the alternate disposition; and
- (6) If the disinterred or removed human remains or cremated remains are reinterred at the same interment site, the date of reinterment.

Adopted: August 16, 1989
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 170

INTERMENTS

ABANDONED AND UNCLAIMED CREMAINS POLICY

I. ABANDONED CREMAINS

Abandoned cremains are those where a family member or next of kin requested the cremation from the funeral director or mortuary, but has failed to claim the cremains or provide for a proper interment.

Policy:

Upon receipt of all required documents and payment of the prescribed fees, and with assurances, deemed acceptable by the District, that the funeral director or mortuary made a diligent effort to contact family members or next of kin, the District, at its discretion, may accept abandoned cremains for interment in a common unmarked interment site/space as designated by the District in its sole discretion, such as, but not limited to, a niche or common grave or crypt.

Procedures:

The following procedures shall be followed for the interment of abandoned cremains:

- (1) The funeral director or mortuary shall provide evidence, deemed acceptable by the District that a diligent search for family members or next of kin was conducted and that further efforts would be futile.
- (2) The abandoned cremains must be accompanied by a current and valid Burial Permit, also known as a “Permit for Disposition of Human Remains.”
- (3) The funeral director or mortuary must sign the District’s interment order. If any family member or next of kin is available to sign the interment order, the abandoned cremains will not be considered abandoned. They will, however, be eligible for other types of interment within the District.
- (4) All abandoned cremains will be placed in a common unmarked interment site/space as designated by the District in its sole discretion. No memorials will be placed at the subject interment site/space.

- (5) Cost of interment of abandoned cremains shall be charged to the responsible funeral director or mortuary and will be based upon the District's prevailing fees for similar services.
- (6) The responsible funeral director or mortuary shall be required to pay the requisite Endowment Fee for the subject interment.
- (7) The deceased must be a resident of Orange County or qualify as an eligible nonresident of the District as set forth in the District's Eligible Nonresident Policy and the Public Cemetery District Law. The appropriate non-resident fee will be charged.
- (8) In the event a family member or next of kin comes forward to claim the abandoned cremains, and request disinterment for any reason, they will be charged the requisite a District disinterment fee.
- (9) Under no circumstances, shall the District be expected nor required to seek reimbursement from a family member or next of kin for any interment services paid for by the responsible funeral director or mortuary.
- (10) Any exceptions or deviations from these procedures must be approved by the General Manager or designee.

II. UNCLAIMED CREMAINS

Unclaimed cremains are generally welfare cases, indigents, and unknowns who have been declared unclaimed by a local government agency, such as the County's Social Service Department, Public Administrator/Guardian, or the Coroner, which are also responsible for the disposition of the unclaimed cremains.

Policy:

Although unclaimed cremains are not eligible for interment in the common unmarked interment sites/spaces designated and reserved for abandoned cremains, interments of unclaimed cremains may be permitted in other interment sites/spaces as designated by the District in its sole discretion.

Procedures:

The following procedures shall be followed for the interment of unclaimed cremains:

- (1) The unclaimed cremains must be accompanied by a current and valid Burial Permit, also known as a “Permit for Disposition of Human Remains.”
- (2) The responsible government agency’s authorized representative must sign the District’s interment order.
- (3) Interment of unclaimed cremains may include scattering the cremains in one of the District’s cemeteries’ scatter gardens, or placing the cremains in an urn garden or niche depending upon availability and the amount of interment funds the responsible government agency has available. The current District fee schedule shall be used to determine the cost of the interment.
- (4) With the exception of the scatter garden, a memorial or marker may be placed at the interment site.
- (5) Cost of interment of unclaimed cremains shall be charged to the responsible government agency and will be based upon the District’s prevailing fees for similar services.
- (6) The responsible government agency mortuary shall be required to pay the requisite Endowment Fee for the subject interment.
- (7) The deceased must be a resident of Orange County or qualify as an eligible nonresident of the District as set forth in the District’s Eligible Nonresident Policy and the Public Cemetery District Law. The appropriate non-resident fee will be charged.
- (8) Under no circumstances, shall the District be expected nor required to seek reimbursement from a family member or next of kin for any interment services paid for by the responsible government agency.
- (9) Any exceptions or deviations from these procedures must be approved by the General Manager or designee.

Adopted: April 25, 1991
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 170

INTERMENTS

INTERMENT OF DECEDENTS FOR WHOM THE COUNTY IS RESPONSIBLE POLICY

Policy:

The Orange County Cemetery District (“District”) may provide for the final disposition of the remains of any decedent the County of Orange (“County”) had assumed jurisdiction, pursuant to Health and Safety Code section 7104, with respect to the decedent’s death and/or responsibility for the disposition of the decedent’s remains.

Purpose:

The purpose of this policy is to implement the contract by and between the District and the County for the District’s agreement to inter certain human remains that the County has assumed responsibility for disposition, which the Board of Trustees has deemed to be appropriate since the Board has determined, pursuant to section 9062 of the Health & Safety Code, that the District’s cemeteries currently have adequate space for future interments to serve the needs of the residents and taxpayers of the District for the foreseeable future.

Fees:

The County shall be responsible for paying the District all applicable fees for the costs of interment of the remains of any decedent the County had assumed jurisdiction, pursuant to Health and Safety Code section 7104, with respect to the decedent’s death and/or responsibility for the disposition of the decedent’s remains.

Endowment Fee:

The County shall be responsible for paying the District the requisite Endowment Fee for each interment of any decedent’s remains the County had assumed jurisdiction, pursuant to Health and Safety Code section 7104, with respect to the decedent’s death and/or responsibility for the disposition of the decedent’s remains.

Procedures:

The following procedures shall apply to the interment of the remains of any decedent the County had assumed jurisdiction, pursuant to Health and Safety

ARTICLE 170 – INTERMENTS: Interment of Decedents for Whom the County is Responsible Policy

Code section 7104, with respect to the decedent's death and/or responsibility for the disposition of the decedent's remains.

- (1) The contract by and between the District and the County, memorializing the District's agreement to inter the remains of any decedent the County has assume responsibility for disposition, is currently in effect.
- (2) The interment must be requested by a responsible government agency, such as the County's Sheriff-Coroner, Public Administrator or Department of Social Services.
- (3) The decedent must have been a resident of Orange County or the death must have occurred in Orange County.
- (4) The remains must be accompanied by a current and valid Burial Permit, also known as a "Permit for Disposition of Human Remains."
- (5) The responsible government agency's authorized representative must verify and execute the District's interment order.
- (6) The General Manager, or his/her designee, shall review and approve each case before an interment is made.
- (7) Under no circumstances, shall the District be expected nor required to seek reimbursement from a family member or next of kin for any interment services paid for by the responsible agency.
- (8) Due to the lack of interment space inventory, the Anaheim Cemetery can only provide cremation scatterings of decedents whom the County is responsible.

Adopted: December 3, 2003
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 170

INTERMENTS

TEMPORARY MARKERS POLICY

Policy:

It is the policy of the Orange County Cemetery District (“District”) to place a temporary marker immediately on or at all interment spaces purchased on an at-need basis prior to the respective use of the interment space for interment purposes.

Purpose:

The purpose of this policy is to ensure that the correct interment space is made immediately available for the interment of the decedent designated by the purchaser of said interment space.

Procedure:

Immediately upon the sale of an interment space, the employee who sells the interment space shall document the sale on the District’s interment space by identifying the section, block, lot, and space number in the District’s interment space map book and immediately place a temporary marker on or at the purchased interment space as soon as possible, but no later than the following morning if the purchase is made after 3:00 p.m. It is permissible for the employee who sells the interment space to request another employee to place a temporary marker on or at the purchased interment space; however, the employee who sold the interment space must clearly explain and identify to the other employee the exact location of the purchased interment site by identifying the specific section, block, lot, and space number of the interment space in the District’s interment space map book.

Verification of the interment space shall be made by the interment crew before they open the interment space and set up for the service. The interment crew should check that they are in the proper location based upon the coordinates and other information depicted on the District’s interment space map book, provided on the temporary marker, identified by the corner pins in the section, and described in the interment service order.

Upon completion of the interment service, the interment crew shall place the temporary marker back upon the closed interment space. The temporary marker shall remain on the space until a permanent marker is purchased and placed on the interment space. The District is not responsible for the replacement of missing or damaged temporary markers. Temporary markers shall remain on the interment

space until a permanent marker is set or six (6) months after the interment, whichever comes first.

Adopted: March 13, 2003
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 170

INTERMENTS

MEMORIAL MARKER AND NICHE PLATE SPECIAL REQUIREMENTS AND SPECIFICATIONS POLICY

Purpose:

The purpose of this policy is to provide a dignified and respectful means for recognizing the memories of a decedent in a peaceful, tranquil and aesthetically pleasing environment open to members of the general public who possess varying degrees of social sensitivities, cultural customs and religious beliefs, in a manner that protects public safety through the imposition of certain requirements and specifications for memorial makers and niche plates.

Policy:

This Policy is intended to supplement the policy regarding the placement of memorial markers and niche plates by setting forth certain special requirements and specifications for memorial markers and niche plates.

Requirements and Specifications:

All memorial markers and niche plates shall be subject to the special requirements and specifications set forth in the “Approved Marker and Niche Plate Size Requirements,” attached hereto.

IMPORTANT NOTE:

Since the Public Cemetery District Law obligates the District to provide for the respectful interment of human remains to meet the cultural, economic, religious, and social needs of California's diverse communities, the District finds that there is a compelling interest in operating and maintaining the District's cemeteries in a manner that is welcoming and comforting to all visitors who come to pay their respects to their dearly departed loved ones. As such, the District reserves the right to reject any memorial marker or niche plate that includes an epitaph or term of endearment that includes any words, phrases, symbols, etc. which have been deemed patently offensive, disruptive, fighting words, indecent or obscene by a published legal opinion of any court of competent jurisdiction.

The District reserves the right to refuse the installation of any memorial mark or niche plate that are not consistent with the above specifications.

Covers Prohibited:

No covers shall be placed over a memorial marker or niche plate. All covers will be immediately removed and disposed of by the District as it deems appropriate without notice to the record owner on the respective interment rights. Any costs incurred by the District for the removal and disposal of covers will be charged to the record owner.

Damaged Markers and Niche Plates:

The District is not responsible for repairing, removing or replacing any memorial markers or niche plates that have been damaged through no fault of the District. The responsibility for repairing, removing or replacing a memorial marker or niche plate that has been damaged through no fault of the District rest solely with the record owner of the respective interment rights. The District does not provide any supplies, equipment, electricity, fuel, power source or water for the repair, removal or replacement of memorial markers or niche plates damaged through no fault of the District.

The record owner of an interment right shall be liable for the costs of any property damage, bodily harm or other claims proximately caused by the unauthorized tampering, (such as repair, maintenance, removal, replacement, alternation, etc.) of a memorial marker or niche plate by the record owner or record owner's employees, agents, family members, acquaintances or contractors or anyone directed by the record owner.

The District may cause the removal of any memorial marker or niche plate, without notice to the record owner of the respective interment right, that has caused bodily harm or property damage, poses a risk of causing bodily harm or property damage, or poses a risk to public safety as determined by the District in its sole discretion. The District will charge the costs associated with any such removal and any necessary repair and replacement costs to the party deemed responsible for such damage.

The District will store any damaged memorial marker or niche plate for a period of thirty days for retrieval by the record owner of the respective interment right for repair.

Upon the expiration of the 30th day, the District reserves the right to dispose of any damaged memorial marker or niche plate in any manner it deems appropriate.

Any costs which are the responsibility of the record owner of the subject interment rights under this policy shall be paid to the District by the record owner or its

ARTICLE 170 – INTERMENTS: Memorial Marker and Niche Plate Special Requirements and Specifications Policy

representatives within 30 days of the date an invoice is dispatch to the record owner by certified mail, electronic mail or personally delivered. Any unpaid debt owed to the District shall on the 31st day of nonpayment of the full amount due commence accruing interest equivalent to the District's average rate of return on its endowment care fund for the previous twelve- month reporting period.

The amount of any outstanding costs, interests, penalties and related collection costs, including without limitation attorney fees, owed to the District shall be deemed a civil debt owing the District. The District may commence the appropriate legal action in the name of the District in any court of competent jurisdiction to seek the necessary court order to compel the debtor to pay the District any outstanding debt owed to the District, plus attorneys' fees as the prevailing party. The remedy prescribed by this section shall be cumulative, and the use of this particular civil action to collect an unpaid debt owed to the District shall not bar the use of any other civil, equitable or administrative remedies available to the District.

In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this policy or as a result of any alleged breach of any provision of this policy, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorney's fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

Adopted: November 5, 2019
Reviewed: September 6, 2022
Resolution 2022-09



Orange County Cemetery District - Approved Marker and Niche Plate Size Requirements

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|--|--|
| Anaheim Cemetery 1400 E. Sycamore St. Anaheim, CA 92805 (714) 535-4928 | |
| Casket Spaces Standard Sizes | 24"x12" 28"x16" |
| Casket Spaces Oversized Marker | 32"x20" |
| Infant Spaces | 20"x10" 24"x12" 28"x16" |
| In-Ground Urn Garden Sycamore Garden | 20"x10" (Single) or 24"x12" (Double) |
| Vase Block If Using District Vase | 10"x10" Hole is 4 ½" |
| Memorial Name Strips | 8"x1" – one line Name & dates only |
| Niche Plates Two niche plates per niche | 5"x3" – ¼" raised polished border |

| | |
|--|--|
| El Toro Memorial Park 25751 Trabuco Rd. Lake Forest, CA 92630 (949) 951-8244 | |
| Casket Spaces Standard Sizes | 24"x12" 28"x16" |
| Casket Spaces Oversized Marker | 32"x20" |
| Infant Spaces | 20"x10" 24"x12" 28"x16" |
| In-Ground Urn Gardens | |
| Centennial Urn Garden | 24"x12" only |
| Los Alisos Urn Garden | 12"x8" Bronze |
| Vase Block If Using District Vase | 10"x10" Hole is 4 ½" |
| Memorial Name Strips | 6"x1" – two lines Name & dates only |
| Niche Plates Two niche plates per niche | 5"x3" – ¼" raised polished border |
| Column Niche Plates in LA-30 | 6"x4" – ¼" raised polished border |

| | |
|--|--|
| Santa Ana Cemetery 1919 E. Santa Clara Ave. Santa Ana, CA 92705 (714) 953-2959 | |
| Casket Spaces Standard Sizes | 24"x12" 28"x16" |
| Casket Spaces Oversized Marker | 32"x20" |
| Infant Spaces | 20"x10" 24"x12" 28"x16" |
| In-Ground Urn Garden Garden of the Pines | 20"x10" (Single) or 24"x12" (Double) |
| Vase Block If Using District Vase | 10"x10" Hole is 4 ½" |
| Memorial Name Strips | 6"x1" – Two lines Name & dates only |
| Niche Plates Two niche plates per niche | 5"x3" – ¼" raised polished border |

When ordering your marker or vase block, be sure that the size conforms to the requirements above. If you are having a photo affixed to your marker, you will need to sign a photo waiver form. Setting fees must be paid, prior to installation. If you are ordering a bronze marker, you must pay for a marker base that is placed under the marker to support it. Bronze markers attached to granite bases are acceptable, provided they are within the size requirements. If you are not sure if you have paid these fees, please call the cemetery and we can confirm this for you. Please note: 32"x20" markers are oversized and the setting fee is \$315.00. The setting fee for all other markers is \$210.00. The Niche Plate setting fee is \$115.00. The setting fee for each vase block is \$65. A maximum of two vase blocks are allowed on each gravesite where space allows. Only one gravestone/marker is allowed per gravesite. Exceptions require prior approval from the Cemetery Manager. **CEMENT BORDERS ARE PROHIBITED:** Effective May 15, 2015, the Orange County Cemetery District no longer provides or accepts cement borders for markers. Only cement borders that have been ordered prior to May 15, 2015 will be accepted. In lieu of cement borders, families may order a two-inch faux/etched border for gravesites where space allows the size of the marker to be increased by four inches in width and length. No marker feature may be raised higher than 3/8" above the surface of the marker. The cemetery is not responsible for marker fading, painted lettering fading, or spalling of markers due to rain or irrigation.

PLEASE NOTE: Accepted marker materials are granite, marble and bronze only. The depth of all stone markers and vase blocks must be a solid piece that is at least three inches thick. Bronze markers require payment for a marker base.

Effective 7-7-22

ARTICLE 170

INTERMENTS

MEMORIAL MARKERS, NICHE PLATES AND TRIBUTE BENCHES PLACEMENT POLICY

Policy:

It is the District's policy to allow a flat memorial marker to be placed on an in-ground interment space, a memorial niche plate to be affixed on front of a niche and a tribute bench to be placed at designated locations within the District's cemeteries.

Purpose:

The purpose of this policy is to provide a physical means for identifying and memorializing the name, life and other information pertaining to a decedent interred in a District cemetery at designated locations within the District's cemeteries.

Prohibition:

The District and its officer and employees do not and cannot engage in selling memorial monuments, memorial markers, memorial niche plates and tribute benches.

Purchase:

Memorial markers, memorial niche plates, and tribute benches may be purchased from various vendors, retailers, merchants and other businesses which supply such memorial products. The District may provide a list of marker, niche plate and tribute bench vendors which the District has worked with and to the best of the District's knowledge, possess valid business licenses and sellers permits issued by the California State Board of Equalization. The District does not endorse or guarantee the services or workmanship of any vendors, retailers, merchants and other businesses engaged in selling markers, niche plates, and tribute benches or any other memorial products. The District reserves the right to refuse the acceptance of any such memorial products upon evidence that the subject entity does not possess all requisite business, seller and/or vocational permits and/or licenses, has received complaints from customers on file with the District or has violated any provision of this policy.

The District prohibits the placement of business cards, brochures, pamphlets, flyers or any other forms of solicitation, advertisements and/or promotional material at the District's offices or anywhere on District property pertaining to the sale of any memorial products or interment services. Any and all such material shall be subject to immediate removal and disposal by the District without notice.

Definitions:

For purposes of this policy, the following words, terms and phrases shall have the following meanings:

- (1) “Interment site” or “site” shall mean the location where a memorial monument, memorial marker, memorial niche plate or tribute bench will be placed, installed or erected.
- (2) “Memorial marker” or “marker” shall mean a flat metal plate that is placed on a below-ground interment site (grave) that includes the name of the decedent and other information.
- (3) “Memorial monument” or “monument” shall mean an upright object composed of certain types of stone and situated on a below-ground interment site (grave) similar to a headstone that includes the name of the decedent and other information. Memorial monuments are no longer permitted in any District cemetery.
- (4) “Memorial niche plate” or “niche plate” shall mean a flat metal plate that is affixed to the front of or on top of a niche that contains created human remains that includes the name of the decedent and other information.
 - (a) “Record owner” or “owner” shall mean the person who has the right to use or control the use of the interment site and authorized to control the placement, design, wording, and removal of memorial markers at said site.
- (5) “Tribute bench” or “bench” shall mean an object made of certain stone that is designed to be sat upon by visiting members of the public and which include inscriptions, terms of endearment, and other messages that pay tribute to a decedent interred in a District cemetery.

Procedures and Other Requirements:

District staff will provide the record owner, or its authorized representative(s) with the District’s official specifications regarding the size and types of acceptable memorial markers, niche plates and tribute benches.

No site shall have placed on it or be identified by any architectural object or any other temporary or physical marker unless approved by the General Manager or designee.

All memorial markers must be placed flush and level with the surface of the ground and shall be installed by the District.

Only one memorial marker shall be permitted at each interment site. Any exception must be approved by the General Manager or designee prior to installation. Memorial monuments are no longer permitted.

Only approved granite, marble or bronze memorial markers with square, smooth edges will be accepted.

No memorial marker with lettering, emblems, borders or other designs raised more than 3/8" above the surface of the marker will be accepted. Covers placed on the memorial markers are not allowed and will be subject to immediate removal by the District and stored in the District's maintenance facility for no more than 30 days for recovery by the record owner or its authorized representative(s), after which it may be disposed of by the District without notice.

The District has replaced the requirement of concrete borders and recommends that faux borders be purchased instead with the memorial marker order. A concrete border, however, may still be used if it was purchase through pre-need purchase.

Memorial markers shall be installed at the head of an interment site in a manner that lines up in a straight line with adjacent memorial monuments and/or markers. (Note: To assure perfect alignment of the markers, the District stretches a string attached at both ends by the existing corner monuments and/or markers along the row where the new marker will be installed.)

Approved memorial markers shall be limited in size as follows:

- (1) Single, double-depth, multiple or companion grave markers shall be no larger than 16"x28"x3" unless approved in advance by the Cemetery Manager.
- (2) Baby Section grave markers and urn garden grave markers shall be no larger than 12"x24"x3".
- (3) Markers for the urn garden at El Toro Memorial Park shall be bronze and no larger than 8"x12").

Delivery Procedures:

Once the memorial marker, niche plate or tribute bench has been ordered it is customarily delivered or shipped to the applicable cemetery. If the marker, niche plate or tribute bench is personally delivered, the delivery agent must first check in at the cemetery office, and provide the cemetery manager or designee a copy of a delivery slip, bill of lading or invoice. The cemetery manager or designee will then inform the delivery agent to take the marker, niche plate or tribute bench to the drop-off location in the maintenance yard, where there will be a loading rack available for the delivery agent to unload the marker, niche plate or tribute bench. All marker, niche plate and tribute bench deliveries must be made between 8:30 am to 3:30 pm, Monday through Friday. There will be no deliveries accepted by the District on the weekend or holidays.

The memorial marker, niche plate or tribute bench will remain on the rack until the groundskeepers schedule allows for the installation. This will typically be 10-14 business

days from the date of delivery. Unauthorized installation of any monuments, markers, niche plates, benches or affixed flower vases will be immediately removed by District staff, without notice and stored in the District's maintenance facility for no more than 30 days for recovery by the record owner or its authorized representative(s), after which it may be disposed of by the District without notice.

Upon confirmation that the setting fee has been paid in full, staff will properly set the memorial marker, niche plate, tribute bench or affixed flower vase.

Installation Procedures:

For safety purposes, two groundskeepers are assigned to the installation of all memorial markers and tribute benches.

The process for installing all memorial markers and tribute benches shall be as follows:

- (1) The District will provide a legal description of the site upon request of the record owner or its authorized representatives.
- (2) The District surveys the site to determine the exact location where the memorial marker or tribute bench shall be placed.
- (3) The District will remove the proper amount of sod at the site that is deemed necessary by District staff to accommodate the size of the memorial marker or tribute bench and soil is removed to a depth of approximately five inches for markers.
- (4) The District will compact the soil at the site with a hand tamper and gravel will be added for a base to provide support for the memorial marker or tribute bench.
- (5) The District will place the memorial marker or tribute bench on the site, and set it flush (if a marker) with the surface of the ground. If purchased with the marker, a vase holder and vase will also be installed at this time.
- (6) The District will have the Cemetery Manager or a senior groundskeeper personally inspect the site to determine that the memorial marker or tribute bench was properly installed.
- (7) The District will confirm final installation of the memorial marker or tribute bench by notifying the record owner by a personal telephone call, facsimile, email or text.

Adopted: August 16, 1989
Last Review: Septmeber 6, 2022
Resolution No. 2022-09

ARTICLE 170

INTERMENTS

U.S. MILITARY VETERANS MARKERS AND MEDALLIONS POLICY

Policy:

Markers and medallions, approved and furnished by the United States Department of Veterans Affairs (“VA”), may be set or installed only by the District on or at interment sites of deceased eligible veterans under the following conditions:

- (a) Flat bronze, marble or granite VA-approved markers and flat bronze VA-approved medallions may be affixed to personal markers at below ground interment sites or onto niches contained in any columbaria where a deceased eligible veteran is interred; and
- (b) An existing upright headstone or upright marker may be replaced with a flat bronze, marble or granite VA-approved marker at the interment site of a deceased eligible veteran.

Eligible Veteran:

The United States Department of Veterans Affairs (“VA”) should be contacted to determine a deceased veteran’s eligibility to receive a VA-approved marker or medallion.

Eligible Applicants:

- (a) VA-approved Markers:

Under 38 CFR 38.600(a) (1) only the following individuals may apply for a VA-approved marker for a deceased eligible veteran:

- (1) Decedent’s family member;
- (2) Decedent’s personal representative;
- (3) Representative of a Congressionally-chartered Veterans Service Organization;
- (4) Employee of a state or local government whose official responsibilities include serving veterans;
- (5) Any individual who is responsible, under the laws of a state or locality, for the disposition of unclaimed remains or matters related to the decedent’s interment or memorialization; or
- (6) Any individual, if the dates of service of the deceased veteran ended prior to April 6, 1917.

(b) VA-approved Medallions:

Under 38 CFR 38.600(a) (1) the following individuals may apply for a VA-approved medallion for a deceased eligible veteran:

- (1) Decedent's family member;
- (2) Decedent's personal representative;
- (3) Representative of a Congressionally-chartered Veterans Service Organization;
- (4) Employee of a state or local government whose official responsibilities include serving veterans; or
- (5) Any individual who is responsible, under the laws of a state or locality, for the disposition of unclaimed remains or matters related to the decedent's interment or memorialization.

Application Procedure:

To order a VA-approved marker or medallion to be set or installed at the interment site of a deceased eligible veteran, the eligible applicant shall complete and submit to the District a VA application Form 40-1330, based on the information contained in the decedent's DD-214 and/or other military discharge documents.

The most current version of the application Form 40-1330 may be obtained at the following link: [VA Form 40-1330, Application for Standard Government Headstone or Marker](#)

Upon the receipt of a complete Form 40-1330, the District will execute the Form 40-1330 certifying that the VA-approved marker or medallion will be received and set or installed by the District at the cemetery listed on the Form 40-1330. The District will submit completed and fully executed Form 40-1330 to the Department of Veterans Affairs for processing and approval.

Proper Placement:

The proper placement of the setting or installation of a VA-approved marker or medallion shall be determined by and/or be subject to the approval of the District based on any applicable standards, specifications or guidelines set for the cemetery at which the VA-approved marker or medallion will be set or installed.

Setting Fee:

All required setting fees shall be paid to the District before the District will set or install a VA-approved marker or medallion.

Waiver of Theft or Damage:

The record owner of the interment site where a VA-approved marker or medallion will be set or installed shall execute and submit a “Waiver of Theft or Damage” form provided by the District, before the District will set or install the VA-approved marker or medallion.

Placement Confirmation:

Upon completion of the placement of a VA-approved marker or medallion at the subject interment site, the District will notify the record owner of the interment site and the eligible applicant via “certified mail-return receipt requested” confirming that the setting or installation of subject marker or medallion has been completed. The eligible applicant shall have only ten calendar days from time of receipt of the placement confirmation to object to the final placement on the grounds that it is inconsistent with the proper placement previously approved by the District.

Adopted: February 1, 2011
Last Review: September 6, 2022
Resolution No. 2022-09

ARTICLE 180

ACCESSIBILITY

AMERICANS WITH DISABILITIES ACT - GRIEVANCE POLICY

Policy:

This Americans with Disabilities Act of 1990 ("ADA") Grievance Policy may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Orange County Cemetery District ("District").

Purpose:

The purpose of this ADA Grievance Policy is to establish an ADA complaint process that meets the requirements of the Americans with Disabilities Act of 1990 ("ADA").

ADA Coordinator:

The Administrative Manager of Human Resources shall serve as the District's ADA Coordinator.

Complaint Procedure:

Any complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the District should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible, but no later than 60 calendar days after the alleged violation to:

Administrative Manager, Human Resources
Orange County Cemetery District
25751 Trabuco Road
Lake Forest, CA 92630

An alternative means of filing a complaint, such as a personal interview, use of a Telecommunications Device for the Deaf ("TDD"), or a tape recording of the complaint, will be made available for persons with disabilities upon request.

Within 15 calendar days after receipt of the complaint, the ADA Coordinator or designee shall schedule a meeting with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of this meeting, the ADA Coordinator or designee shall respond in writing, and where appropriate, in a format accessible to the complainant, such

as large print, Braille, or audio tape. The response will explain the position of the District and, if appropriate, offer options for substantive resolution of the complaint.

If the response by the ADA Coordinator or designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision to the General Manager within 15 calendar days after receipt of the response from the ADA Coordinator.

Within 15 calendar days after receipt of the appeal, the General Manager or designee shall meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the General or designee shall respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the ADA Coordinator or designee, appeals to the General Manager or designee, and responses from these two offices shall be retained by the District for at least three years.

Adopted: December 2, 2014
Last Reviewed: September 6, 2022
Resolution No. 2022-09

RESOLUTION NO. 2022-09

A RESOLUTION OF THE ORANGE COUNTY CEMETERY DISTRICT BOARD OF TRUSTEES AMENDING AND READOPTING VARIOUS 2022 POLICIES OF THE ORANGE COUNTY CEMETERY DISTRICT

WHEREAS, the Orange County Cemetery District (the “District”) is an independent special district duly organized and existing under and by virtue of the California Public Cemetery District Law, codified in Health and Safety Code Sections 9000 *et seq.*; and

WHEREAS, Health and Safety Code Section 9020 provides that the Board of Trustees (the “Board”) shall serve as the legislative body of the District, govern the District, and establish policies for the operation of the District; and

WHEREAS, Health and Safety Code Section 9020 further provides that the faithful implementation of the District’s policies shall be the responsibility of the employees of the District; and

WHEREAS, in 2013, the District was recognized as a District of Distinction by the Special District Leadership Foundation (“Foundation”) of the California Special District Association (“CSDA”) since the District demonstrated that it had sound fiscal management policies and practices in place for the District’s operations and that the District was committed to operating responsibly; and

WHEREAS, in order to maintain the District of Distinction accreditation, the District must submit an application every two years, which require the submission of the District’s policies and procedures along with copies of the actions (minute orders, resolutions or ordinances) which memorialize the adoption of said policies and procedures; and

WHEREAS, in order to maintain the District of Distinction accreditation, the District’s policies and procedures must conform to all applicable statues and regulations under state law, which necessitate an annual review of all policies and procedures to ensure that all District policies and procedures conform to all applicable statues and regulations as may be adopted by the State Legislature, State regulatory agencies, California Attorney General or imposed by federal law or regulations and/or applicable case law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

NOW, THEREFORE, be it resolved by the Board of Trustees of the Orange County Cemetery District as follows:

Section 1. Recitals.

That the Recitals set forth above are true and correct and are incorporated herein by this reference.

Section 2. AMENDING AND READOPTING VARIOUS DISTRICT POLICIES

That the Board of Trustees hereby amends and adopts the attached District policies as reflected in the Attachment to this Resolution.

Section 3. General Manager Authorization.

That the General Manager is authorized to place these policies in an organized manner in any manual or handbook and to prepare any forms the District Manager, in consultation with General Legal Counsel, deem are necessary or convenient to administering or implementing this particular policy.

Section 4. Severability.

That the Board of Trustees declares that, should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution and Policy as hereby adopted shall remain in full force and effect.

Section 5. Repeal of Conflicting Provisions.

That all the provisions heretofore adopted by the Board of Trustees that are in conflict with the provisions of this Resolution are hereby repealed.

Section 6. Effective Date.

That this Resolution shall take effect immediately upon its adoption.

Section 7. Certification.

That the Secretary of the Board of Trustees shall certify to the passage and adoption of this Resolution, enter the same in the book for original resolutions of the District, and make a minute of passage and adoption thereof in the records of the proceedings of the Board of Trustees, in the minutes of the meeting at which this Resolution is passed and adopted.

PASSED, APPROVED AND ADOPTED by the Board of Trustees of the Orange County Cemetery District at a regular meeting duly held on the 6th day of September, 2022, by the following vote:

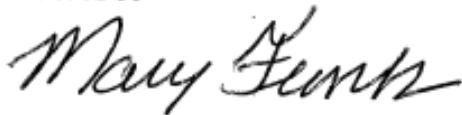
AYES: 3

NAYS: 0

ABSENT: 2 (Trustee Marroquin-Waldram and Trustee Anderson)

ABSTAIN: 0

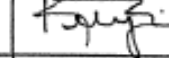
ATTEST:



Mary Funk, Secretary

APPROVED:

DocuSigned by:



Kelly Rivers, Board Chair

APPROVED AS TO FORM:

DocuSigned by:



Steven B. Quintanilla, General Counsel

ATTACHMENT

2022

DISTRICT POLICIES

Article 100: Governance

Governance Policy
Conflict of Interest Code Policy
Rules of Civility and Decorum at Public Meetings Policy
Board Committee and Subcommittee Policy
Legislative Action Policy

Article 110: Transparency

Public Records Act Guide
Records Retention Policy and Schedule

Article 120: Trustee Benefits

Expense Reimbursement and Compensation Policy
Board Meetings and Special Gatherings Refreshments Policy

Article 130: Risk Management

Incident Report Policy
Tort Claims Policy

Article 140: Finance

Budget Monitoring Policy
Schedule of Fees and Costs Policy
Investment Policy
Reserves and Fund Balance Policy
Depreciation of Capital Assets Policy
Public Works Contracts Policy
Purchasing Procedures Policy
Petty Cash Policy

Article 150: Employee Policies

Employee Recruitment and Selection Policy
Sexual Harassment Policy
Substance Abuse Policy
Military Leave Policy
Use of District Vehicles Policy
Employee Expense Reimbursement Policy
Telecommuting Policy

Article 160: Cemetery Use Regulations

General Use Restrictions Policy

Smoking Prohibition Policy and Ordinance 2019-01

Motion Picture, Television, Radio and Still Photography Production Activities Policy

Repair and Restoration of Commemorative Monuments and Mausoleums Policy

Article 170: Interments

Interment Rights Policy

Residency Determination Policy

Eligible Nonresidents Policy

Preneed Purchase Policy

Purchase and Repurchase of Interment Sites/Spaces and Related Services Policy

Disinterment Policy

Abandoned and Unclaimed Cremains Policy

Interment of Decedents for Whom the County is Responsible

Temporary Markers Policy

Memorial Marker and Niche Plate Special Requirements and Specifications
Policy

Memorial Markers, Niche Plates and Tribute Benches Placement Policy

U.S. Military Veterans Markers and Medallions Policy

Article 180: Accessibility

Americans with Disabilities Act Grievance Policy

ORDINANCE NUMBER No. 2019-01

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE ORANGE COUNTY CEMETERY DISTRICT ADOPTING A SMOKING PROHIBITION POLICY AND GENERAL USE RESTRICTIONS POLICY

WHEREAS, the Orange County Cemetery District (the “District”) is an “independent special District,” as defined in Government Code Section 56044, duly organized and existing under and by virtue of the California Public Cemetery District Law, codified in Health and Safety Code Sections 9000 et seq. (“Public Cemetery District Law”); and

WHEREAS, pursuant to Health and Safety Code Section 9020, the Board of Trustees (the “Board”) serves as the legislative body of District; and

WHEREAS, pursuant to Health and Safety Code Section 9024, the Board shall establish policies for the operation of the District; and

WHEREAS, pursuant to Health and Safety Code Section 9030, the Board may adopt ordinances; and

WHEREAS, Government Code Section 7598 provides that a public employee or other person may smoke in any outdoor area of a public building unless otherwise prohibited by local ordinance and a sign describing the prohibition is posted by the appropriate entity; and

WHEREAS, there is a need to restrict the use of District property in order to protect the health, safety and welfare of the public, public investment, and public property; and

WHEREAS, the Board wishes to provide a clean, healthy, and comfortable environment for employees in the workplace and the visiting public by banning smoking in any vehicle owned, leased or operated by the District in or on any property, building, structure, facility owned, leased, managed, operated, and/or occupied by the District.

NOW THEREFORE, THE BOARD OF TRUSTEES OF THE ORANGE COUNTY CEMETERY DISTRICT ORDAINS AS FOLLOWS:

Section 1. RECITALS

The above recitals are true and correct and are incorporated as though fully set forth herein.

Section 2. GENERAL USE RESTRICTIONS POLICY

The attached General Use Restrictions Policy is hereby adopted.

Section 3. SMOKING PROHIBITION POLICY

The attached Smoking Prohibition Policy is hereby adopted:

Section 4. NO SMOKING SIGNS

The General Manager shall cause the posting of signs in conspicuous places on District property indicating that the smoking is prohibited anywhere on District property with reference to this ordinance.

Section 5. VIOLATIONS

Any violation of the provisions of this ordinance by a member of the public shall be deemed an infraction punishable by: (a) a fine in an amount not to exceed one hundred dollars for a first violation; (b) a fine in an amount not to exceed two hundred dollars for a second violation of the same provision within a twelve month period commencing on the date of the first violation; and (c) a fine in an amount not to exceed five hundred dollars for the third violation of the same provision within a twelve month period commencing on the date of the first violation. A fourth violation and subsequent violations of the same provision within a twelve-month period from the date of the first violation shall be deemed a misdemeanor.

Section 6. SEVERABILITY

The Board of Trustees declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 7. REPEAL OF CONFLICTING PROVISIONS

All the provisions of any resolution or ordinance as heretofore adopted by the Board of Trustees that are in conflict with the provisions of this ordinance are hereby repealed.

Section 8. GENERAL MANAGER AUTHORIZATION

That the General Manager is authorized to place this policy in an organized manner in any manual or handbook and to prepare any forms the District Manager, in consultation with General Legal Counsel, deem are necessary or convenient to administering or implementing this particular policy.

Section 9. EFFECTIVE DATE

This ordinance shall take effect 30 days after its second reading.

Section 10. CERTIFICATION

The Secretary of the Board of Trustees shall certify to the passage of this ordinance.

The foregoing Ordinance was approved and adopted at a meeting of the Orange County Cemetery District Board of Trustees held on November 5, 2019 by the following vote:

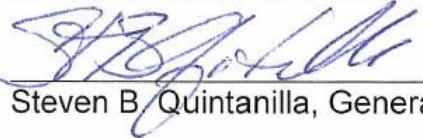
Ayes: 4
Noes: 0
Abstain: 0
Absent: 1 (Chair Ward absent)



Noel Hatch, Vice Chair

ATTEST:


Mary Funk, Board Secretary

APPROVED AS TO FORM:


Steven B. Quintanilla, General Counsel

ATTACHMENT

ARTICLE 160

CEMETERY USE REGULATIONS

GENERAL USE RESTRICTIONS POLICY

SMOKING PROHIBITION POLICY

ARTICLE 160

CEMETERY USE REGULATIONS

GENERAL USE RESTRICTIONS POLICY

Policy:

This General Use Restrictions Policy imposes certain restrictions on the public's use of any property owned, leased or operated by the Orange County Cemetery District.

Purpose:

The purpose of this policy is to protect the health, safety and welfare of the public, public investment, and public property owned, leased or operated by the District.

Use Restrictions:

The following use restrictions shall apply to the public's use of any property owned, leased or operated by the District:

(17) Operation of Vehicles.

No person, except for peace officers and District employees acting in the course and scope of their employment, shall drive any motorized vehicle on any surface of District property which is not specifically designated for public use as roadway or parking lot.

(18) Commercial Activities.

No person shall practice, carry on, or conduct any business or profession or other commercial enterprise, nor sell or offer for sale any service, merchandise, food, or beverage on or in any District property.

(19) Animals.

(c) No person shall cause, permit, or allow any animal owned or possessed by them, or any animal in their care, custody, or control to be present on District property which is not under physical restraint by leash of a size and material appropriate to the size and temperament of the animal and which is held by a person capable of restraining the animal, or is not otherwise physically restrained by some other device or instrument, except that such device or instrument shall not include voice control, eye control or signal control of the animal by any person, device or instrument.

(d) Any person having the custody or control of any dog as may be permitted by ordinance or any applicable law shall have in their immediate possession a bag for picking up and disposing of dog feces and shall remove and dispose of in a sanitary manner any feces left by any dog in their custody and control.

(20) Glass Containers.

No person shall possess any glass container on District property lawns, sidewalks, patios, fountain areas, interment areas, parking areas or roadways.

(21) Hours.

No person, other than a District employee acting in the course and scope of their employment, shall enter or remain on District property any time before or after the District's posted business hours.

(22) Fires.

No person shall kindle a fire on any District property.

(23) Damaging Property.

No person shall cut, break, injure, deface, or disturb any tree, shrub, plant, rock, building, fence, bench, monument or other structure situated upon or within any District property.

(24) Amplified Sound.

No person shall use or operate an audio radio, loudspeaker or any sound amplifying equipment on any District property.

(25) Sport Activities.

No person shall play or engage in any sport activities including, but not limited to driving of golf balls, archery, baseball, softball, football, roller skating, skate boarding, playing soccer, volleyball or any other sport upon or within any District property.

(26) Bicycles.

No person shall ride any cycle, whether powered by a motor or human power, within or upon any District property, except on paths, roads or drives designed and provided for such purpose.

(27) Camping.

No person shall camp at any time within any District property.

(28) Alcoholic Beverages.

No person shall be in possession of any can, bottle, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which

has been partially removed, upon or within any District property.

(29) Picnicking.

No person shall engage in any picnicking activities upon or within any District property.

(30) Loitering.

No person shall loiter on the grounds of the cemetery. As used in this section, loitering means and includes entering and remaining on the grounds of the cemetery without lawful business thereon and under such circumstances that a reasonable person would conclude that the person who has entered and remains on the grounds of the cemetery does not have a purpose connected with the lawful and ordinary use of the cemetery, does not have a bona fide intent to exercise a constitutional right, and is causing public inconvenience and annoyance.

(31) Supervision of Children.

No person shall fail to supervise children who accompany that person to the cemetery. No children under the age of 12 shall be permitted unless accompanied by an adult who shall be responsible for their conduct.

(32) Bathing or Wading.

No person shall bathe, wade, or otherwise immerse any part of his or her body in any fountain, pool, or other body of water located on District property.

Special Events Exception:

The use restrictions described in this ordinance may be waived or modified pursuant to a special events permit issued by the District.

Violations:

Any violation of the provisions of this ordinance by a member of the public shall be deemed an infraction punishable by: (a) a fine in an amount not to exceed one hundred dollars for a first violation; (b) a fine in an amount not to exceed two hundred dollars for a second violation of the same provision within a twelve month period commencing on the date of the first violation; and (c) a fine in an amount not to exceed five hundred dollars for the third violation of the same provision within a twelve month period commencing on the date of the first violation. A fourth violation and subsequent violations of the same provision within a twelve-month period from the date of the first violation shall be deemed a misdemeanor.

Adopted: November 5, 2019 – Ordinance No. 2019-01
Last Review: September 6, 2022
Resolution. 2022-09

ARTICLE 160
CEMETERY USE REGULATIONS

SMOKING PROHIBITION POLICY

Policy:

Smoking shall be prohibited in any vehicle owned, leased or operated by the District and in or on any property, building, structure, facility owned, leased, managed, operated, and/or occupied by the District.⁰

Smoking as used in this policy shall mean any of the following:

- (a) Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product (including cannabis) intended for inhalation, whether natural or synthetic, in any manner or in any form¹;
- (b) The use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking²;
- (c) The consumption of any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff³;
- (d) The use of an electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah⁴.

Purpose:

The purpose of this policy is to provide a clean, healthy, and comfortable environment for employees in the workplace and the visiting public.

Adopted: March 7, 1990 - Ordinance No. 2019-01
Last Review: September 6, 2022
Resolution 2022-09

**EMERGENCY ORDER OF THE GENERAL MANAGER
OF THE ORANGE COUNTY CEMETERY DISTRICT**

TELEWORK

March 24, 2020

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “Coronavirus Disease 2019,” abbreviated COVID-19, (“COVID-19”); and

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 11, 2020, the California Department of Public Health issued guidance that in order to protect public health and slow the rate of transmission of COVID-19, large gatherings of 250 people or more at concerts, conferences, and professional, college, and school sporting events should be postponed or canceled for at least the remainder of the month of March 2020 and that smaller gatherings held in venues such as crowded auditoriums, rooms or other venues that do not allow social distancing of six feet per person should be postponed or canceled; and

WHEREAS, on March 12, 2020, the Governor of the State of California issued Executive Order N-25-20 providing that all residents are to heed any orders and guidance of state and local public health officials, including but not limited to the imposition of social distancing measures, to control the spread of COVID-19 and that authorized local legislative bodies are permitted to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative body, during the period in which local public officials impose or recommend measures to promote social distancing, including but not limited to limitations on public events; and

WHEREAS, on March 13, 2020, the President of the United States of America proclaimed and declared a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20 waiving certain requirements related to residential and commercial evictions and foreclosures to allow local jurisdictions more flexibility to prohibit residential and commercial evictions and foreclosures through May 31, 2020; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20 ordering that as to individuals currently eligible for benefits under Medi-Cal, CalFresh, CalWORKs, the Cash

Assistance Program for Immigrants, the California Food Assistance Program, or In Home Supportive Services benefits, and to the extent necessary to allow such individuals to maintain eligibility for such benefits, any state law, including but not limited to California Code of Regulations, Title 22, section 50189(0) and Welfare and Institutions Code sections 18940 and 11265, that would require redetermination of such benefits is suspended for a period of 90 days from the date of Order N-29-20; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-33-20 ordering that to protect public health, that all individuals living in the State of California stay home or at their place of residence (“Shelter in Place”) except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/critical-infrastructure-sectors>; and

WHEREAS, on March 20, 2020, the Board of Trustees adopted Resolution No. 2020-06 proclaiming that a Local State of Emergency now exists throughout the District and ordering that during the existence of said local emergency, the powers, functions, and duties of the emergency organization of the District shall be those prescribed by state law, ordinances, and resolutions of the District; and

WHEREAS, Resolution No. 2020-05 further directed and authorized the General Manager and designee and other appropriate staff members and District officials to take all necessary and appropriate actions to effectuate the purpose of this Resolution subject to any modifications as may be approved by the Board of Trustees from time to time during the Local State of Emergency; and

WHEREAS, in order to protect public health and slow the rate of transmission of COVID-19, the General Manager has determined it is necessary to immediately permit certain staff member to perform their job duties from certain designated remote locations based on the following: (1) allowing certain employees to telework reduces the risk of District employees from being exposed to the transmission of COVID-19 since it reduces the number of employees working in the same office or workplace; (2) allowing certain employees to telework reduces the risk of District employees from being exposed to the transmission of COVID-19 since it provides more available space for employees working in the same office or workplace to implement social distancing of six feet or more; (3) allowing certain employees to telework reduces the risk of District employees and members of the public from being exposed to the transmission of COVID-19 since employees who drive to and from work will not have to refuel their vehicles as often at retail gas stations where they might be exposed to others who are COVID-19 carriers; (4) allowing certain employees to telework reduces the risk of District employees and members of the public from being exposed to the transmission of COVID-19 in cases where employees use mass transit to commute to work; (5) allowing certain employees to telework promotes compliance with the “Shelter in Place” Executive Order N-33-20; (6) allowing certain employees to telework promotes the various orders and guidance pertaining to maintaining social distancing of six feet per persons to control the spread of COVID-19 and gatherings of any persons in any venue; and (7) allowing certain employees to telework will not disrupt essential functions of the District.

NOW, THEREFORE, I, Tim Deutsch, General Manager of the Orange County Cemetery District, do hereby issue the following order to become effective immediately, subject to ratification as soon as practicable by the Board of Trustees:

IT IS HEREBY ORDERED AS FOLLOWS:

THAT certain District employees may be permitted to telework pursuant to the attached Teleport Policy to decrease the risk of exposure to COVID-19.

THAT this Order shall become effective immediately and terminate on June 1, 2020, unless terminated earlier or extended by the General Manager or terminated earlier, extended or replaced by a duly adopted resolution of the Board of Trustees; and

THAT any section, subdivision, subsection, sentence, clause, or phrase in this Order, or the application of this Order to any person or circumstances, is for any reason held invalid, the validity of the remainder of this Order, or the application of such provision contained therein to other persons or circumstances, shall not be affected thereby; and

THAT the General Manager hereby declares that he would have adopted this Order and each section, subdivision, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subdivisions, subsections, sentences, clauses, or phrases, or the application thereof to any person or circumstance, be held invalid; and

THAT notwithstanding the foregoing, and in order to prevent inconsistencies, the General Manager may suspend the effectiveness of this Order in the event that the President of the United States, the United States Congress, the Governor of the State of California, the California State Legislature, the Public Health Officer of the County of Orange or the Board of Trustees adopts legislation, a law, a regulation or order that supersedes this Order.

ADOPTED this 24th day of March 2020.




Tim Deutsch, General Manager

APPROVED AS TO FORM:


Steven B. Quintanilla,
General Legal Counsel

**RATIFIED BY THE BOARD OF TRUSTEES AT A REGULAR MEETING OF
THE BOARD OF TRUSTEES ON APRIL 7, 2020.**


Noel Hatch, Chair
Board of Trustees
Orange County Cemetery District

⁰ Government Code Section 7598

¹ Business and Professions Code Section 22950.5

² Business and Professions Code Section 22950.5

³ Business and Professions Code Section 22950.5

⁴ Business and Professions Code Section 22950.5