



# **ADMINISTRATIVE CODE**

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**Updated as appropriate following Board action.**

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**May 2025 Update**

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WATER EMPLOYEE SERVICES AUTHORITY  
(WESA)  
ADMINISTRATIVE CODE

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# **WESA**

## **Administrative Code**

### **INTRODUCTION**

In September 2003, The Water Employee Services Authority (WESA) was formed through a Joint Powers Agreement between Elsinore Valley Municipal Water District and Meeks and Daley Mutual Water Company. WESA is a joint powers authority (JPA), a public agency formed to provide a professional work force to carry out the duties of both agencies under separate operating agreements.

The powers of WESA are vested in a board of directors made up of five members appointed by Five-Member EVMWD Board of Directors, elected by voters from five separate divisions. The directors are responsible for the selection of the general manager, Board Secretary, legal and fiscal consultants, and for the establishment of procedures for the employment of all district personnel. The board sets policies related to all actions taken and all services rendered by WESA.

This Administrative Code is a compendium of board-adopted rules, regulations, practices, charges, fees and policies. It incorporates, where necessary and appropriate, many of the laws and regulations established by the State of California and the United States Government which must be adhered to by WESA.

The basic tenets which the Board of Directors seeks to follow are: 1) that adopted policies and rules comply with all applicable state and federal laws; 2) that said policies and rules allow for the provision of adequate water and sewer service to all consumers within the boundaries of the Elsinore Valley Municipal Water District in an efficient and professional manner; 3) that the allocation of the costs incurred in the providing of such services among the customers be administered in a fair, equitable and consistent manner; and 4) that the public is provided with access to the board and district personnel as needed.

These policies and procedures are subject to change by the Board of Directors as new circumstances and new regulations may warrant or require.

## SECTION 100. GENERAL PROVISIONS

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**SECTION 100. GENERAL PROVISIONS****§ 101. Purpose.**

The purpose of this Administrative Code is to provide a statement regarding the organizational structure of WESA, the duties and powers of the Board of Directors, the duties and functions of the management staff and employees, and the policy and procedures by which the work of WESA is carried out. It is the purpose of the adoption of this Administrative Code to codify operative provisions of ordinances, resolutions, actions recorded in minute orders and of other matters heretofore adopted by the Board of Directors to the extent such provisions have continuing effect.

**§ 102. Adoption.**

This Code was adopted by reference on November 8, 2007 and placed on file in the office of the Secretary of WESA. Existing rules, regulations, procedures, charges, fees and policies in conflict with the provisions of this Code were repealed concurrently with its adoption.

**§ 103. Changes in Wording.**

Any change in wording from the wording found in any ordinance, resolution, minute order or other matter from which a provision of this Administrative Code is derived has been made solely for editorial reasons and was not and shall not be construed to have had as its purpose a change in intent, meaning or purpose of any such pre-existing document.

**§ 104. Severability**

It is hereby declared to be the intention of the Board that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph, or section of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

**§105. Revisions or Additions.**

It is anticipated that, from time to time, revisions, changes or additions will be required in this Code to cover changes in procedure or new activities of WESA. Such revisions, changes or additions shall be accomplished only by resolution, ordinance or minute order adopted by a majority of the Board of Directors at a duly constituted meeting. Said resolution, ordinance or minute order will provide for the insertion into the Code and the removal, as required, from the Code of applicable sections.

Whenever possible, resolution, ordinance and minute order numbers will be included in parentheses for reference purposes, and in some cases, the date of the minutes in which the action of the Board is recorded is stated. When these references appear in a heading or subheading, it applies to the entire section or paragraph thereunder. Likewise, when the reference applies only to a paragraph, it will appear as the last entry of the paragraph. In some cases, such as rates or fees, it will appear directly adjacent to the number or listing, meaning it applies only to that entry.

All policies, procedures, rates and fees contained herein are subject to change without notice. This document should not be used as a development or project-planning tool. Anyone requiring information about WESA services or fees should contact the appropriate department for current information. Updates to any sections of this Code can be obtained from the Secretary of WESA.

**SECTION 200.      PRINCIPAL PLACE OF BUSINESS**



**SECTION 200. PRINCIPAL PLACE OF BUSINESS**

The principal office for the transaction of the business of WESA and the location at which all regular and special meetings of the Board of Directors shall be held is located at 31315 Chaney Street, Lake Elsinore, California.

## **SECTION 300.      MISSION STATEMENT**

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**SECTION 300. MISSION STATEMENT** (M-0160)

The mission of WESA is:

"The Water Employee Services Authority delivers total water management that powers the health and vibrancy of its communities so life can flourish."

**SECTION 301. VISION STATEMENT** (M-0160)

"WESA is Southern California's most innovative, diverse and trusted public utility partner."

By 2030 we will be...

- Innovative, creative, proactive, and technologically advanced.
- Managing "One Water:" water sourcing, wastewater treatment, water recycling.
- Trusted and recognized for positive relationships: Customers, Community, Staff.
- Fiscally fit and delivering the highest value.

**SECTION 302. VALUE ACTIONS** (M-0160)

To succeed, we prize above all...

**PROFESSIONALISM**

Perseverance, Productivity, Reliability, Poise, Quality Work, Competence

This means we show knowledge, effectiveness, and competency with coworker and customer interactions. We maintain a calm, professional outward demeanor, upholding a reputation for accuracy, dependability, expertise, efficiency, and high quality through information, services, and product delivery.

**ENTHUSIASM**

Learning, Innovation, Compassion, Sense of humor, Humility, Excitement, Mindfulness

This means we possess a strong drive and desire for learning, innovation, forward-thinking, and the overall desire to do our job well.

**INTEGRITY**

Loyalty, Courage, Insight, Transparency, Openness

This means we are sincere and demonstrate high moral standards in principles, intentions, and actions; we have an honest and open approach to all conduct aspects that encourages loyalty, transparency, fairness, and trust.

## INCLUSIVENESS

Communication, Appreciation, Diversity, Teamwork, Respect

This means we conduct ourselves in a manner promoting respect and teamwork. Inclusiveness means communication with and appreciation for all, understanding each person is unique. We strive to understand how to work with our differences, provide better service, work products, and enhance organizational culture.

## STEWARDSHIP

Fiscal responsibility, Environmental responsibility, Customer service, Resource management, Safety consciousness. This means we take responsibility for and ownership of assigned responsibilities; we value public health and the environment, we consider customer expectations, both internal and external; we demonstrate a proactive, positive willingness to serve, service to others.

**SECTION 400.      ORGANIZATION**

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**SECTION 400. ORGANIZATION****§ 401. Board of Directors.**

The Water Employee Services Authority (WESA) is governed by a five member Board of Directors appointed by the elected Directors of the Elsinore Valley Municipal Water District.

All Powers, privileges, and duties vested in or imposed upon the WESA by law shall be exercised and performed by the Board of Directors, except as such Board shall delegate executive, administrative and ministerial powers to officers and employees of WESA, as hereinafter provided in this Administrative Code.

**§ 402. Officers. (M-0151)**

The officers of the Board shall consist of the President, Vice-President, and Secretary. They shall serve a one year term or until their successors are elected or appointed. Elections shall be held the first regular meeting which occurs in December of each year.

A. President. The President of the WESA Board of Directors shall:

1. Preside over all meetings of the Board ensuring decorum and order using the following guidelines:
  - a. Keep meetings on track and productive.
  - b. Not let one member overpower the group.
  - c. Be knowledgeable of material at hand.
  - d. Encourage open discussion.
  - e. Not allow the board meeting to be a publicity forum for any one member.
  - f. Avoid time wasted on fruitless efforts.
  - g. Avoid letting the meetings drift into a nit-picking session.
  - h. Give everyone a chance to express his or her views.
  - i. Control the sandbagger.

- j. Encourage public input at the appropriate time.
  - k. Lead the board in continuous evaluation of its effectiveness.
  - l. Provide a stabilizing influence.
  - m. Bring out the best in all members.
  - n. Provide consistent leadership.
  - o. Coordinate efforts of committees.
  - p. Integrate committee work with that of the board.
  - q. Communicate board policies and decisions to staff and public.
  - r. Speak out on public issues in the best interests of WESA.
  - s. Be active in community liaison.
  - t. Suggest agenda items to management.
  - u. Encourage staff development.
  - v. Protect staff from board or public criticism.
2. Authenticate all official records of the WESA where required by law or as directed by a majority of the board.
  3. Represent WESA at events and functions as requested by a majority of the Board.
  4. Solicits director inputs to committee appointments, balances needs, and presents results to board for any discussion and subsequent approval.
  5. Attend community ribbon cutting/ground breaking ceremonies as requested.
  6. Other duties and responsibilities as required or imposed by law or by a majority of the Board.

- B. Vice President. The Vice President of the Board of Directors shall exercise the powers and duties of the President if the President is absent or unable to act.
- C. Treasurer. The Treasurer, or such other person or persons as may be authorized by the Board of Directors, shall draw checks or warrants to pay demands when such demands have been audited and approved in the manner prescribed by the Board of Directors. To the extent such other person or persons have been so authorized by the Board of Directors, then the Treasurer shall not assume fiduciary responsibility for such responsibilities, nor for any other responsibilities imposed upon the Treasurer by the State of California, provided such person or persons have given bonds to the District or WESA conditioned upon the faithful performance of their duties. Pursuant to the Agreement forming the Water Employee Services Authority, the Treasurer shall be the person responsible for tasks of the Finance Director of the Elsinore Valley Municipal Water District.
- D. Secretary. The Secretary shall:
1. Authenticate all official records of WESA.
  2. Maintain in a safe location the official records of WESA.
  3. Certify all records wherever required and where necessary.
  4. Perform such other duties and responsibilities as imposed upon the Secretary by law or by a majority of the Board of Directors.

The Board may appoint one or more persons to serve as Assistant Secretary to carry out the duties of the Secretary if the Secretary is absent or unable to act. The District Secretary/Administrative Services Supervisor normally fills this role due to certifications required.

#### **§ 403. Committees.**

There may be committees created from time to time to take care of matters which arise and require committee study and recommendation. Each committee, having authority only to recommend to the Board, shall meet at times to be agreed upon by the committee members and shall consider matters referred to it by the Board, or matters within the scope of its duties which are presented to it by its members or the General Manager.



**§ 404. Meetings. (M-0151)**

- A. Time and Place of Meetings. The regular meetings of the Board of Directors shall be held on the second and fourth Thursday of each month, at 4:00 P.M., in the Board Room.
- B. Order of Procedure at Meetings. Except as otherwise required by law, the business of the meetings of the Board of Directors and the order of procedure shall be as provided by "Rosenburg Rules."
- C. Chairperson. The President shall act as Chairperson at all meetings of the Board, and in his/her absence the Vice-President shall act as Chairperson. In the absence of both the President and Vice-President, the Chairperson shall be selected by a majority vote of the members of the Board attending such meeting.
- D. Quorum. A quorum necessary for the transaction of business at any meeting of the Board shall be declared to exist whenever there are present at least three Directors. Any meeting of the Board at which a quorum is not present may be continued from time to time until a quorum is present to transact the business of the Board.
- F. Voting. Except as otherwise provided by law, the decisions of the Board of Directors shall be expressed and determined by motions made and adopted by a majority vote of the members of the Board present. A roll call vote shall be taken if requested by any Director. During telephonic-enabled meetings, even if all directors are physically present in the Board room, when there is an open phone or teleconferencing software in use, all votes will be taken by roll call on all matters so that the public knows who voted to approve or oppose an item.

**§ 405. Minutes.**

The minutes of the meetings of the Board of Directors shall be prepared and kept permanently by the Secretary in a book maintained for that purpose. Unless otherwise expressly directed at the time of their adoption, the ordinances and resolutions adopted by the Board may be referred to in the Minutes by number

and title only, but the same shall be recorded in their entirety and kept permanently by the Secretary in books maintained for that purpose.

The President and Secretary shall authenticate the Minutes, Ordinances and Resolutions after they have been approved and adopted by the Board of Directors, and when so authenticated they shall constitute the official Minutes, Ordinances and Resolutions of the Board of Directors of the Water Employee Services Authority.

Minutes shall be prepared in condensed form and shall satisfy all legal record keeping requirements, and provide, in a clear and professional manner, an accurate report of all actions taken by the Board.

**§ 406. Agendas.**

- A. Posting. Agendas for all meetings of the Board of Directors shall be posted in a location accessible to the public in accordance with the provisions of the Government Code.
- B. Public Comments. Regular Meeting agendas shall provide an opportunity for members of the public to address the Board on any item within the jurisdiction of WESA two times - once at the beginning of the agenda (on items not on the agenda), and then again during a specific agendized item. Special Meeting agendas shall provide at least one Public Comment section.
- C. Consent Calendar. The Consent Calendar shall consist of items which appear to be routine or ministerial in nature on which no Board discussion will be required. Items may be added to or removed from the consent calendar upon request from a Board Member prior to action to approve the consent calendar.
- D. Closed Sessions. The Board of Directors may hold closed sessions on items as provided in the Government Code. All information discussed by the Board in closed session shall be kept strictly confidential unless otherwise directed by a majority of the Board or announced in open session.
- E. Special Meeting Agendas. Section 54956 of the Ralph M. Brown Act states that a special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body.

It is the Board's policy that when a special meeting is called either by the Board President or by a majority of the Board, the call of the special meeting and the accompanying agenda shall be limited to those items placed on the call by either the President or the majority of the Board. If staff is requested by a member of the Board to add another item to the special meeting agenda, staff shall refer that Board member to either the Board President or to the majority of the Board, depending on who made the original call for the special meeting.

- F. Written Requests to Receive Agendas. Members of the public wishing to receive agendas by mail shall submit a request in writing to the Secretary of the Board. Requests are to be renewed on an annual basis and are effective throughout the calendar year in which they're made.

## SECTION 500. DIRECTORS POLICIES

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**SECTION 500. DIRECTORS POLICIES (M-0151)**

It is the policy of the Water Employee Services Authority to maintain the highest standards of ethics from its Board Members. The proper operation of WESA requires decisions and policy to be made in the proper channels of governmental structure, that public office not be used for personal gain, and that all individuals associated with WESA remain impartial and responsible toward the public. Accordingly, it is the policy of WESA that Board members and WESA employees will maintain the highest standard of personal honesty and fairness in carrying out their duties. This policy sets forth the minimum ethical standards to be followed by the Board of Directors. The objectives of this policy are (1) to heighten awareness of ethics and values and critical elements in Board members' conduct, (2) to provide guidance for dealing with ethical issues, and (3) improve ethical decision-making and values-based management.

The primary role of the Board is to establish policies that guide the Authority to achieve its mission. The policy decisions of the Board constitute the "action" of the Board of Directors. (M-0151)

**§ 501. Role of the Board of Directors. (M-0151)**

- A. WESA's policies, mission, goals and programs are established by a majority of the Board of directors at public meetings. The Board will not direct management how to implement policy but will hold management responsible if the policy of the agency is not implemented. Board members need to recognize and respect the distinctions between their policy-setting role and staff's day-to-day implementation of policy.
- B. The General Manager shall recommend programs to implement WESA policy to the Board at public meetings unless instructed by the Board to report to a committee or individual directors. The General Manager shall carry out the programs approved by the Board without modification.
- C. Individual directors are encouraged to inquire of the General Manager as to the status of programs. The General Manager shall promptly provide information requested by directors as necessary to assist in decision making and policy direction. Routine requests orally or in writing for readily available written information or documents shall not require formal Board approval. Requests which involve other than routine collection of data from more than one source, compilation of data from one or more sources, or preparation of written reports, studies, analyses or tabulations requiring more than 2 hours staff time shall be submitted to the Board of Directors by the individual director for formal approval. All directors' requests shall be treated uniformly and responded to in a fair and courteous manner.

In the event a disagreement arises over such a request the President of the Board of Directors shall be consulted. The decision of the Board President as to the best manner of responding to such request shall be final unless modified or reversed by a majority vote of the Board of Directors.

Directors shall not routinely request information from subordinate staff. Directors requesting information shall not instruct staff as to the manner of responding to such request or the performance of their duties generally. Nothing herein shall be construed as limiting any director from making a request pursuant to the California Public Records Act.

- D. The Board identifies problems, the General Manager assists. Staff develops programs to address problems. The Board approves programs and identifies new problems for staff attention. New programs require new staff, new financing, and possibly new equipment.
- E. An individual Board member has the privilege of inspecting all public records but has no greater rights in the day-to-day operation of the agency than the public.
- F. The Board employs the General Manager of WESA.
- G. The Board appoints the secretary of WESA.
- H. The Board defines the responsibilities of the General Manager. The Board monitors progress and redirects, if necessary.
- I. The Board provides the General Manager resources needed to carry out the policies and programs of the Board.
- J. The Board adopts WESA budget.
- K. The Board approves WESA Table of Organization or Position Listing.
- L. The Board establishes employee benefit programs and approves pay ranges.
- M. The Board establishes all rules & regulations governing employees on the job.
- N. The Board hires WESA's legal counsel and auditor.

- O. The Board ratifies the check register. The Board may pull certain items from the demand payment register on a case by case basis for clarification or questions.

**§ 502. Instructions to Staff.**

All general business of WESA, including requests for information and instructions to WESA personnel are to be conducted through the General Manager or his designee.

**§ 503. Compliance with the Ralph M. Brown Act.**

The members of the Board of Directors will fully comply with the provisions of the State's open meeting law for public agencies (the Brown Act). This includes compliance of communications by electronic, written and verbal means and methods among Board Members.

**§ 504. Closed Sessions. (M-0151)**

A Director is not authorized, without approval of the Board of Directors, to disclose information that qualifies as confidential information under applicable provisions of law to a person not authorized to receive it, that (1) has been received for, or during, a closed session meeting of the Board, (2) is protected from disclosure under the attorney/client or other evidentiary privilege, (3) is not required to be disclosed under the California Public Records Act or (4) has not been established and agreed upon by the Board as a whole as appropriate and uniform response to public inquiry.

This section does not prohibit any of the following: (1) making a confidential inquiry or complaint to a WESA attorney or grand jury concerning a perceived violation of law, including disclosing facts to a WESA attorney or grand jury that are necessary to establish the alleged illegality of an action taken by WESA, (2) expressing an opinion concerning the propriety or legality of actions taken by WESA in closed session, including disclosure of the nature and extent of the allegedly illegal action, or (3) disclosing information acquired by being present in a closed session that is not confidential information. Prior to disclosing confidential information pursuant to (1) or (2), above, however, a Board member will first bring the matter to the attention of either the President of the Board or the full Board, in a lawful and appropriate manner, to provide the Board an opportunity to cure an alleged violation.

A Director who willfully and knowingly discloses for pecuniary gain confidential information received by him or her in the course of his or her official duties may be guilty of a misdemeanor under Government Code section 1098.

To ensure security and integrity of Closed Session discussions Board Members should follow best management practices. Attendance at closed sessions will be limited

to the Board and only the employees and consultants whose participation in the closed session is necessary, in consultation with legal counsel. Employees and consultants joining virtually will be encouraged to make themselves visible to the Board. Video or audio recording of Closed Sessions is strictly forbidden. Additionally, the use of cell phones, iPads, computers or other electronic devices during closed session is strictly prohibited. This prohibition does not prevent the use of electronic or telephonic devices to attend meetings virtually or by teleconference, but in such situations the device shall not be used to record, broadcast, or otherwise breach the confidentiality of the meeting. Subject to the limitations described in this Section, use of electronic devices during closed sessions is permissible only when virtual meetings are required by law, are specifically required for a particular course of business, or as established by state law. (M-0151)

**§ 505. Representing the Authority in Public Settings and Personal Opinions.**  
(M-0151)

When expressing opinions regarding any aspect of WESA business, it is requested that directors state that they are expressing their own opinions and not representing the Board as a whole unless so directed by the Board, or unless otherwise expressing official WESA policy as expressed by the Board of directors.

When representing WESA in public settings, each Director is to (1) fairly represent the official positions of the Board and actions of the Board even if there is personal disagreement with such positions, and (2) carry out duties in a manner consistent with majority action or direction. Board Members may give their personal opinions in such settings, but should not do so in a way that appears to attribute their personal opinions to the Authority/Board. At meetings in public settings, Directors shall be prohibited from revealing confidential information except upon approval of the Board.

**§ 506. Agendas.**

- A. All general requests to add items to the Regular Board Meeting agenda shall be made to the Board Secretary or General Manager before 5:00 p.m. on the Wednesday of the week prior to the meeting.
- B. If possible, when directors have a question regarding the check register or consent calendar, they should contact the General Manager or the controller before the Board meeting.

**§ 507. Attendance at Board Meetings.** (O-WO-2016-01)

- A. Pursuant to the Agreement of Formation, the WESA Board shall be the Board of Directors of the Elsinore Valley Municipal Water District unless otherwise changed by amendment thereto. Each Board member shall serve as a director. Notwithstanding Section 507(B) below, no additional compensation shall be provided for such services when WESA and



Elsinore Valley Municipal Water District hold meetings of their Boards of Directors on the same day.

1. Board Members are expected to attend regular, special and adjourned meetings of the Board of Directors; and
  2. Board Members are expected to attend ad hoc committee meetings.
- B. Attire at Board meetings, and when representing the Authority at public events, shall be business attire appropriate for the event. Board Members are ambassadors and representatives of the Authority and agree to behave in a manner that always places the Authority in a positive light.
- C. Pursuant to Sections 20200 through 20207 and 71255 of the California Water Code, and as established by Ordinance No. WO-2016-01, Directors shall receive compensation daily, up to a maximum of ten (10) days of service monthly for attending meetings as described in Section 507.A.
- D. Changes in the compensation will require the approval of the Board during an open meeting of the Board held at least 60 days prior to the effective date of the change.
- E. To ensure the public can readily ascertain the identity and positions taken by each Director, Board members who are attending meetings virtually are to make themselves visible to the public, other board members, and staff as if physically present for the meeting.
- F. During the course of open meetings, Directors should refrain from the use of personal electronic devices (cellphones, iPads, etc) and any emails, texting, or other communications, unless it is an emergency or specifically required for a specific course of business at hand.

**§ 508. Conflict of Interest. (M-0151)**

- A. Board members will not have a financial interest in a contract with WESA or EVMWD, or be purchaser at a sale by WESA, EVMWD or a vendor at a purchase made by WESA or EVMWD, unless the Board member's participation was authorized under Government Code Section 1090. A Board member shall not participate in the discussion, deliberation or vote on a matter before the Board of Directors, or in anyway attempt to use his or her official position to influence a decision of the Board, if he or she has a prohibited interest with respect to the matter, as defined in the Political Reform Act, Government Code sections 81000, and following, relating to financial conflicts of interest. Generally, a Director has a financial interest in a matter if it is reasonably foreseeable that the Board decision would have a material financial effect (as defined by the

Fair Political Practices Commission's regulations) that is distinguishable from the effect on the public generally on (a) a business entity in which the Director has a direct or indirect investment in the amount specified in FPPC regulations; (b) real property in which the Director has a direct or indirect investment interest, with a worth in the amount specified in FPPC regulations; (c) a source of income of the Director in the amount specified in FPPC regulations, within twelve months before the Board decision; (d) a source of gifts to the Director in an amount specified in FPPC regulations within twelve months before the Board decision; or (e) a business entity in which the Director holds a position as a director, trustee, officer, partner, manager or employee. An "indirect interest" means any investment or interest owned by the spouse or dependent child of the Director, by an agent on behalf of the Director, or by a business entity or trust in which the Director, or the Director's spouse, dependent child or agent, owns directly, indirectly or beneficially a ten percent interest or greater. A Director will not accept gifts or honoraria that exceed the limitations specified in the Political Reform Act or FPPC regulations. Board members will report all gifts, honoraria, campaign contributions, income and financial information as required under WESA's or EVMWD's Conflict of Interest Codes and the provisions of the Political Reform Act and the FPPC Regulations.

- B. If a member of the Board believes that he or she may be disqualified from participation in the discussion, deliberations or vote on a particular matter due to a conflict of interest, the following procedure will be followed: (a) if the Director becomes aware of the potential conflict of interest before the Board meeting at which the matter will be discussed or acted on, the Director will notify the WESA General Manager of the potential conflict of interest, so that assistance can be provided to the Board Member, as appropriate, to help the Board Member make a determination whether it is a disqualifying conflict of interest; (b) if it is not possible for the Director to discuss the potential conflict with the General Manager before the meeting, or if the Director does not become aware of the potential conflict until during the meeting, the Director will immediately disclose the potential conflict during the Board meeting, so that there can be a determination whether it is a disqualifying conflict of interest; and (c) upon a determination that there is a disqualifying conflict of interest, the Director (1) will not participate in the discussion, deliberation or vote on the matter for which a conflict of interests exist, which will be so noted in the Board minutes, and (2) leave the room until after the discussion, vote and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters, except that the Director may speak on the issue during the time that the general public speaks on the issue.

- C. A Board member will not recommend the employment of a relative by WESA or EVMWD. In addition, a Board member will not recommend the employment of a relative to any person known by the Board member to be bidding for or negotiating a contract with WESA or EVMWD.
- D. No director shall willingly or knowingly accept a gift that may create the impression of conflict of interest, or otherwise violate the disqualification provisions of the Political Reform Act of 1974. A Board member who knowingly asks for, accepts or agrees to receive any gift, reward or promise thereof for doing an official act, except as may be authorized by law, may be guilty of a misdemeanor under Penal Code section 70.

**§ 509. Employee Relations and Discipline. (M-0151)**

- A. All WESA personnel matters, including employee discipline, have been specifically designated the responsibility of the General Manager by the Board of directors.
- B. Board members shall not in the performance of their official functions, discriminate against or harass any applicant or employee because of race, religious creed, color, age, sex (including breast feeding and related medical conditions), gender identity and expression, pregnancy, national origin, citizenship status, uniform service member and veteran status, physical disability, mental disability, protected medical condition, marital status, sexual orientation, ancestry, genetic information, any other protected status in accordance with all applicable federal, state and local laws. A Board member will not grant any special consideration, treatment or advantage to any person or group beyond that which is available to every other person or group in similar circumstances.
- C. Individual members of the Board of directors shall not supervise, discipline or attempt to direct WESA personnel other than through the General Manager or his designee, with majority approval of the Board of directors.
- D. Interference with WESA employee relations or efforts to discipline public employees of WESA by individual members of the Board of directors, without majority approval of the Board of directors, shall be grounds for public censure and such other administrative and legal penalties as the Board of directors may deem appropriate.
- E. Pursuant to Government Code section 815.3, Board Members may be personally liable to plaintiffs in cases involving intentional torts, including but not limited to harassment, sexual battery and intentional infliction of emotional distress. Per section 815.3, any acts of a Board Member

constituting sexual harassment are outside the scope of employment and shall be the personal liability of the Board Member. The Authority has no obligation to indemnify Board Members for any punitive damages imposed on them, even if in the course of performing Board duties.

**§ 510. Use and Safeguarding of WESA Property and Resources.**

Except as specifically authorized by a majority of the Board, a Board member will not use or permit the use of WESA-owned vehicles, equipment, telephones, materials or property for personal convenience or profit. A Board member will not ask or require a WESA employee to perform services for the personal convenience or profit of a Board member or employee. Each Board member must protect and properly use any WESA asset within his or her control, including information recorded on paper or in electronic form. Board members will safeguard WESA property, equipment, moneys and assets against unauthorized use or removal, as well as from loss due to criminal act or breach of trust and may be responsible for any equipment costs or replacements due to negligence or failure to safeguard District or Authority property. Board Members will comply with Administrative Code Section 1450.

**§ 511. News Releases.**

All news releases relating to, or regarding, an action of the Board of Directors, shall indicate or state the actual "vote" of the Board of Directors.

**§ 512. Solicitation of Political Contributions.**

Board members are prohibited from soliciting political funds or contributions at WESA facilities or from WESA employees. A Board member will not accept, solicit or direct a political contribution from WESA vendors or consultants who have a material financial interest in a contract or other matter while that contract or other matter is pending before WESA. A Director will not use WESA's seal, trademark, stationery or other indicia of WESA's identity, or facsimile thereof, in any solicitation for political contributions contrary to state or federal law.

**§ 513. Incompatible Offices.**

Any Board member appointed or elected to a public office or another public entity, the duties of which may require action contradictory or inconsistent with the Board action, will resign from the former Board.

**§ 514. Reporting of Improper Activities; Protection of "Whistle Blowers."**

- A. The Board has a duty to ensure that the General Manager is operating WESA according to law and the policies approved by the Board. Board members are encouraged to fulfill their obligation to the public and WESA

by disclosing to the General Manager to the extent not expressly prohibited by law, improper activities within their knowledge. Board members will not interfere with the General Manager's responsibilities in identifying, investigating and correcting improper activities, unless the Board determines that the General Manager is not properly carrying out these responsibilities. Nothing in this section affects the responsibility of the Board to oversee the performance of the General Manager.

- B. A Board member will not directly or indirectly use or attempt to use the authority or influence of his or her position for the purpose of intimidating, threatening, coercing, commanding or influencing any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the General Manager or the Board any information that, if true, would constitute: a work-related violation by a Board member or WESA employee of any law or regulation, gross waste of WESA funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of a WESA official or employee, use of a WESA office or position or of WESA resources for personal gain, or a conflict of interest of a WESA Board member or WESA employee.
- C. A Board member will not use or threaten to use any official authority or influence to effect any action as a reprisal against a WESA Board member or WESA employee who reports or otherwise brings to the attention of the General Manager any information regarding the subjects described in this section.

**§ 515. Violation of Policy. (M-0151)**

A perceived violation of this policy by a Board member should be referred to the President of the Board or the full Board of Directors for investigation, and consideration of any appropriate action warranted. A violation of this policy may be addressed by the use of such remedies as are available by law to WESA, including but not limited to: (a) adoption of a resolution expressing disapproval of the conduct of the Board member who has violated this policy, (b) injunctive relief, or (c) referral of the violation to WESA Attorney and/or the Grand Jury.

**A. Disciplinary Action**

In the event that Board Members breach this policy or any applicable state, local or federal law, they may be subject to informal or formal sanction by the Board of Directors.

**1. Informal Sanction**

**Admonishment:** This is the least severe form of action. An admonishment may typically be directed to all members of the Board of Directors, reminding them that a particular type of behavior is in violation

of law or Authority Policy, and that, if it occurs or is found to have occurred, could make a member subject to sanction or censure.

An admonishment may be issued in response to a particular alleged action or actions, although it would not necessarily have to be triggered by such allegations. An admonishment may be issued by the Board prior to any findings of fact regarding allegations, and because it is a warning or reminder, would not necessarily require an investigation or separate hearings to determine whether the allegation is true.

Sanction: Sanction should be directed to a particular member of the Board based on particular action (or set of actions) that is determined to be in violation of law or Authority policy but is considered by the Board to not be sufficiently serious to require censure. A sanction is distinguished from censure in that it is not a punishment.

A sanction may be issued based upon the Board's review and consideration of a written allegation or a policy violation. The member accused of such violation shall be entitled to notice of the allegation and will have an opportunity to provide a written response to the allegation prior to any Board action. A sanction may be issued by the Board of Directors and because it is not punishment or discipline, would not necessarily require an investigation or separate hearings.

## 2. Formal Sanction

Before the imposition of any formal sanction, the accused shall be entitled to notice of the allegation and opportunity to respond.

Investigative Process: All complaints from Board Members shall be filed with the Authority's General Counsel. Each allegation shall be considered in a manner that is fair to all parties involved in the allegation, including ensuring that due process is respected. This will include ensuring that Board Members names in an allegation are given an opportunity to consider and respond to that allegation.

When the Board of Directors decides, based upon findings and the accused person's defense, that a violation has occurred, it may decide by resolution to do the following:

Censure: This is the most severe form of action contemplated in this policy. Censure is a formal statement of the Board of Directors officially reprimanding one of its members. It is a punitive action, which serves as a penalty imposed for wrongdoing, but it carries no fine or suspension of the rights of the member as an elected official. Censure

should be used for cases in which the Board determines that the violation of policy is a serious offense.

Any Director who fails to follow any Administrative Code Policy or law is subject to censure by a vote of the Board of Directors. The Authority reserves the right to establish an ad hoc committee of its directors to (1) review allegations of ethical misconduct; and (2) make recommendations to the full Board of Directors for censure or discipline as appropriate.

The Board shall only censure one of its Members if the Board finds that the Member has violated the law or Authority policy or has otherwise engaged in actions that are improper or inappropriate for a Board Member. A censure is not an appropriate action for Members' disagreements on opinions, policies, or votes.

This section is intended to be cumulative to any other actions the Board may take, and nothing herein is intended to limit or restrain the Board's ability to impose remedial actions, address grievances, settle claims, or any other actions related to complaints about Board conduct.

#### **§ 516. Fringe Benefits.**

All Board members are entitled to receive benefit coverage (i.e., health, dental, vision) offered to regular employees. Directors have the option (individually) to decline benefit coverage which may be waived, as defined in the contract between WESA and its insurance carrier.

## **SECTION 600.      RULES OF DECORUM AND ORDER**

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**SECTION 600. RULES OF DECORUM AND ORDER****§ 601. Decorum.**

Meetings of the Board of Directors shall be conducted in an orderly manner to ensure that the public has a full opportunity to be heard and that the deliberative process of the Board is retained at all times. The presiding officer of the Board shall be responsible for maintaining the order and decorum of meetings.

**§ 602. Board Members.**

The members of the Board shall preserve order and decorum, and a member shall not by conversation or other means delay or interrupt the Board proceedings or disturb any other member while speaking.

**§ 603. Staff.**

Employees of WESA shall observe the same rules of order and decorum as those which apply to the members of the Board.

**§ 604. Persons Addressing the Board.**

Public oral communications at the Board Meetings should not be a substitute for any item that can be handled during the normal working hours of the municipal government. The primary purpose of oral communications is to allow citizens the opportunity to formally communicate with the Board of Directors as a whole, for matters that cannot be handled during the regular working hours. Each person who addresses the Board shall do so in an orderly manner and shall not make personal, impertinent, slanderous or profane remarks to any member of the Board, staff or general public. Any person who makes such remarks, or who utters loud, threatening, personal or abusive language, or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any Board meeting shall, at the discretion of the presiding officer or a majority of the Board, be barred from further audience before the Board during that meeting.

**§ 605. Members of the Audience.**

No person in the audience at a Board meeting shall engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, whistling, stamping of feet or other acts which disturb, disrupt or otherwise impede the orderly conduct of any Board meeting. Any person who conducts himself in the aforementioned manner shall, at the discretion of the presiding officer or a majority of the Board, be barred from further audience before the Board during that meeting.

**§ 606. Addressing the Board. (M-0151)**

A person wishing to address the Board regarding an item which is on the meeting agenda shall submit a request on the form provided, or he may seek recognition by the presiding officer of the Board during discussion of any such item. Persons wishing to discuss a non-agenda item may seek recognition by the presiding officer during the "Public Comment" portion of the meeting. No person shall address the Board without first being recognized by the presiding officer. The following procedures shall be observed by persons addressing the Board:

- A. Each person shall stand and state his name and address; the organization, if any, which he represents; and, if during the "Public Comment" portion of the meeting, the subject he wishes to discuss.
- B. During the "Public Comment" portion, any subject which is not deemed relevant by the Board shall be concluded.
- C. Each person shall confine his remarks to the Board Agenda or approved "Public Comment" subject being discussed.
- D. Each person shall limit his remarks to three (3) minutes, unless further time is granted by the Board President. The time allotted to each individual to address the Board may not be combined with another individual's allotted time who wishes to speak on the same agenda or non-agenda topic.
- E. All remarks shall be addressed to the Board as a whole and not to any single member thereof, unless in response to a question from said member.
- F. No question may be asked of a member of the Board or of the WESA staff without permission of the presiding officer.

**§ 607.     Warning.**

The presiding officer shall request that a person who is breaching the rules of decorum be orderly and silent. If, after receiving a warning from the presiding officer, a person persists in disturbing the meeting, the presiding officer shall order him to leave the Board meeting. If such person does not remove himself, the presiding officer may order any law enforcement officer who is on duty at said meeting as sergeant-at-arms of the Board to remove that person from the Board Room.

**§ 608.     Removal.**

Any law enforcement officer who is serving as sergeant-at-arms of the Board shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the Board meeting. Upon instruction of the presiding officer, it shall be the duty of the sergeant-at-arms to remove from the Board meeting any person who is disturbing the proceedings of the Board.

**§ 609.     Penalty.**

Every person who, without authority of law, willfully disturbs or breaks up any meeting, not unlawful in its character, other than such as is mentioned in Section 302 of the Penal Code and Section 29440 of the Elections Code, is guilty of a misdemeanor.

**§ 610.     Motion to Enforce.**

If the presiding officer of the Board fails to enforce the rules set forth above, any member of the Board may move to require him to do so, and an affirmative vote of a majority of the Board shall require him to do so. If the presiding officer of the Board fails to carry out the will of a majority of the Board, the majority may designate another member of the Board to act as presiding officer for the limited purpose of enforcing any rule of this section which it wishes enforced.

**§ 611.     Adjournment.**

If a meeting of the Board is disturbed or disrupted in such a manner as to make unfeasible or improbable the restoration of order, the meeting may be adjourned or continued by the presiding officer or a majority of the Board, and any remaining Board business may be considered at the next meeting.

## SECTION 700. GENERAL MANAGER

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**SECTION 700. GENERAL MANAGER****§ 701. Operations.**

- A. The General Manager has full charge and control of all functions of WESA.
- B. The General Manager is in charge of everyone who works for WESA -- employees, suppliers, consultants.
- C. The General Manager is responsible for ensuring that all requirements of the law are met.
- D. The General Manager is responsible for seeing that all policies and directives of the Board are carried out.
- E. The General Manager is responsible for the safety of all people and equipment of WESA.
- F. The General Manager is responsible for providing general information on the operations of WESA to the Board and providing specific reports on hazards and matters of public concern.

**§ 702. Employer/Employee Relations.**

- A. The General Manager is WESA Employees Relations Officer. The General Manager may delegate duties and responsibilities of the office.
- B. The General Manager recruits, hires and fires all employees. Exception:
  - 1. Board Secretary. The General Manager shall recruit candidates, the Board decides and chooses.
- C. The General Manager prescribes the duties of every employee.
- D. The General Manager provides day-to-day direction to every employee.
- E. The General Manager decides on the need for discipline, and administers it (through supervision). Discipline must be in accordance with Employee MOUs. The Board shall

be informed when the matter is grave or if the Board will be involved through the grievance process.

- F. The Board decides on pay ranges for each position description. The General Manager assigns specific compensation for each employee. The Board has access, upon request to the General Manager, to all salary information.
- G. The General Manager decides on changes to compensation.
- H. The Board decides on the total amount of compensation paid to employees ( in budget).
- I. The General Manager decides on promotions/demotions.
- J. The General Manager decides on training/education requirements for every position.
- K. The General Manager recommends head count for each position description and total head count. Board decides.
- L. The General Manager prepares the organization chart. The Board approves.
- M. The General Manager is responsible for meeting provisions of labor law.
- N. The General Manager deals with the Associations directly.
- O. The General Manager follows grievance procedures. The Board adopts the procedure.
- P. The General Manager calculates the performance of every employee.

**§ 703. Board Meetings.**

- A. The General Manager prepares the Board Meeting agendas. Any board member can add items to the agenda, upon request to the General Manager/Board Secretary.
- B. The General Manager prepares the board packet, decides on its contents, level of detail, etc. The Board decides on

its format. The Board decides on timing of distribution of packet.

- C. The Board establishes the level of financial detail it desires.
- D. When issues or questions are raised by the public or the press, the Board decides who (and when) will answer.
- E. The General Manager normally invites employees or consultants to attend Board meetings. The Board may request people to attend.
- F. The Secretary of the Board records minutes (reviewed by the General Manager), takes roll, records questions, etc.
- G. The General Manager and Board Secretary are jointly responsible to see that WESA and the District are in compliance with requirements of the Brown Act, in consultation with legal counsel.

**§ 704. Consultants and Suppliers.**

- A. The General Manager recommends use of a consultant. The Board decides.
- B. The General Manager selects qualified sources. The Board decides if a sole source should be selected.
- C. The General Manager writes the RFP (statement of work).
- D. The General Manager recommends the most qualified and responsive consultant or supplier. The Board makes final selection to award contract.
- E. Contracts are prepared by the General Manager, legal counsel reviews. The Board authorizes the General Manager to execute.
- F. The General Manager provides direction to consultants.
- G. The Board selects and directs legal counsel.
- H. The General Manager monitors the performance of consultants.

- I. The General Manager evaluates consultant's performance and reports in particular when performance is negative.
- J. The General Manager approves consultant's billings.

**§ 705. Finance. (M-0090, M-0142, M-0160)**

- A. The General Manager prepares first draft budget.
- B. Board approves a budget preparation/adoption schedule.
- C. The General Manager manages WESA according to the budget. The General Manager is not free to move money from capital to operations, nor from one major account to another, without Board approval.
- D. The General Manager provides monthly status reports on the budget.
- E. The General Manager provides special financial reports when requested by the Board.
- F. The General Manager assures that accurate and auditable records are kept.
- G. The General Manager assures that bills are paid on time and the payment register is ratified by the Board. (M-0160)
- H. The General Manager is given authority to approve purchases in accordance with WESA's purchasing policy, Section 1500. (M-0090, M-0142)
- I. Auditor (outside) works for the Board and reports to the Board.
- J. The Board awards competitive bids.

**§ 706. Outside Activities.**

- A. Various persons are assigned by the Board to attend outside meetings and serve as spokespeople.
- B. The General Manager is responsible for dealing with customer complaints. The Board reviews periodically.



- C. The General Manager oversees budget expenditures by WESA on conferences, etc.
- D. The General Manager is responsible for WESA public relations. Staff is assigned to be WESA spokesperson.

**§ 707. Emergencies.**

- A. The General Manager is empowered to determine if an emergency exists.
- B. The General Manager has the authority to take any action and expend any funds he deems necessary to deal with emergencies.
- C. The General Manager informs the Board at the earliest time possible that an emergency situation exists.

**§ 708. Property.**

- A. The General Manager is responsible for safeguarding, conserving and maintaining all WESA property.
- B. The General Manager is responsible for maintaining an inventory of WESA's property.
- C. The General Manager is responsible for meeting all the requirements with respect to the law.
- D. The General Manager can accept property on behalf of WESA.
- E. The General Manager will inform the Board on notable events. (robberies, fires, accidents) that occur to WESA property.

**§ 709. General.**

- A. In addition to the foregoing, the General Manager performs all other duties required by the Board.

**§ 710. Performance Evaluation.**

- A. The General Manager's performance is conducted annually on a fixed date.

- B. The General Manager's performance evaluation is conducted in Closed Session.
- C. The General Manager presents an account of:
  - 1. The routine operations of WESA during the preceding year, the problems, if any, and their resolution.
  - 2. The special projects which were undertaken during the year and their status.
- D. The Board and General Manager hold an open two-way discussion on the performance of the General Manager during the year, citing his strengths and achievements, and any weaknesses or shortcomings using specific instances. The Board makes recommendations as to the General Manager's activities, management style, etc., as appropriate.
- E. The Board excuses the General Manager, reviews the compensation of comparable managers, and takes action regarding his compensation. The General Manager is called before the Board and informed.

**§ 711. Deputy Secretary and Deputy Treasurer.**

- A. The Deputy Secretary and Deputy Treasurer of WESA are appointed by the Board of Directors to perform such duties as may be imposed on the Secretary and Treasurer by the Board of Directors in the absence of the Secretary or the Treasurer.

## **SECTION 800.      HIRING POLICY AND PROCEDURE**

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**SECTION 800.           HIRING POLICY AND PROCEDURE****§ 801.    Policy.**

It is WESA's policy to recruit, hire, and promote for all job classifications without regard to race, religion, color, sex, marital status, physical handicap, national origin, or age, unless based on bona fide occupational qualifications.

WESA will generally first consider and offer full-time position vacancies to qualified current employees before considering the employment of outside applicants to fill such vacancies. However, management reserves the right to advertise outside concurrently or to request that the Board of Directors waive this policy in special or unique circumstances.

**§ 802.    Job Descriptions.**

Job Descriptions are required as an attachment to new or amended position justifications upon submittal a current, approved job description will be on file for any position before hiring procedures are initiated.

**§ 803.    Employment Requisitions.**

A Department Head will obtain an Employment Requisition from the Human Resources Department. An Employment Requisition is the form used to request additional or replacement personnel. This form will include information pertaining to the job opening as follows:

- A. Is this a new position or a replacement? If the job opening is for replacement personnel, the name of the employee leaving the position must be stated.
- B. Is the position full time, part time or temporary? If part time or temporary, what is the expected length of employment?
- C. Salary range.
- D. Hours of work.
- E. Days off.
- F. Is this a Board-authorized position?

The completed Employment Requisition will be submitted to the Human Resources Department for budget verification and then to the General Manager for approval.

**§ 804. Temporary Employees.**

If employment is for temporary services only, employees are usually obtained from a temporary employment services agency. Temporary employees which are hired directly (without the use of a temporary employment services agency) will sign WESA's standard Temporary Employment Contract which sets forth the temporary nature of the work to be performed and the compensation. Employees in this category will not be eligible for any fringe benefits that accrue to regular employees, including, but not limited to, vacation, sick leave, holidays, not are they entitled to regular status. Temporary employees serve at the will and pleasure of the General Manager and may be terminated without cause, right of appeal, or hearing.

Temporary Full-Time Labor. The General Manager is authorized to advertise for and hire temporary full-time employees to take the place of regular employees who are absent on illness or injury disability with the following stipulations:

- The duration of employment must be less than the regular employee's absence period and must be renewed by Board action at six months.
- The total payroll and benefit costs must be less than the regular employee's costs for the absence period.
- The temporary full-time employee's position must be approved by the Board of Directors on the Consent Calendar prior to any temporary employment offer being made.

**§ 805. Part-time Employees.**

If employment is for a part-time position, a part-time employment contract will be signed by WESA and the employee. Any leave time such as vacation, sick leave or holidays, shall accrue pro rata based on the part-time employee's hours worked as compared to a forty (40) hour workweek. Part-time employees working less than 20 hours per week shall accrue no benefits. Part-

time employees serve at the will and pleasure of the General Manager and may be terminated without cause, right of appeal, or hearing.

**§ 806. Position Opening Announcement.**

If employment is for regular full time employment, the opening will generally be posted internally first to offer any existing employee an opportunity to apply. A Position Opening Announcement is used to alert current employees of an internal job opening and shall be posted for a period of (14) fourteen consecutive days from the date authorized by the General Manager. This announcement will include the following information:

- A. Current Date
- B. Job Title of Opening
- C. Supervisor
- D. General Job Description
- E. Salary Range
- F. Application Procedure
- G. In-house Closing Date

In-house position open posting may be conducted concurrently with outside advertising.

**§ 807. Application/Selection Procedure.**

- A. Interested employees will obtain an Internal Job Opening application form from the Human Resources Department. Upon completion, the application will be returned to the Human Resources Department. All applications will be kept confidential until interviews are scheduled. If an employee who meets the position's qualifications from another department applies for the position, arrangements will be made with the employee's Department Head to schedule a convenient time for the employee to be interviewed.
- B. Following interviews, if an internal candidate accepts the position, the employee will be notified in writing, along with all other candidates interviewed. Likewise, the employee's Department Head shall be notified of the final decision.
- C. If the job is not filled internally, employees applying for the job opening will be notified. The newspapers generally used for

employee recruitment are the Sun-Tribune and the Press-Enterprise. Additionally, the Orange County Register, San Diego Union, L.A. Times, San Bernardino Sun and Jobs Available may be used at WESA's discretion. Job postings are also listed on WESA's web site.

- D. After reviewing applications for job-related qualifications, Personnel will give all applications which appear to meet job requirements to the Department Head for interview selection. The Department Head and the Human Resources Department will jointly determine the number of interviews to be scheduled.
- E. Interviews will be scheduled by the Human Resources Department.
- F. Following interviews, the Human Resources Department will perform a Pre-employment Telephone Check with the successful interviewee's past supervisor or other references to confirm prior employment, a criminal background check, work habits and other relevant information. The results of this interview will be given to the Department Head, and if these results are favorable, hiring procedures may be instigated.
- G. Personnel will notify the successful candidate by telephone or mail as appropriate.
- H. A pre-employment physical will be set up for the new hire and upon confirmation from physician; a start date will be set.
- I. After a determination has been made and a successful applicant has been employed, all applicants shall be notified. Should the selected applicant fail to be employed, for any reason, WESA may restart the hiring procedure at the step it deems appropriate.
- J. All completed applications for employment and resumes are retained in the Human Resources Department for a period of not less than twelve (12) months from the date of receipt. Any applications which have been received as a result of outside advertisement will be responded to when a determination has been made and interview candidates have been selected. Those applicants not selected for an interview will also be informed by letter of the status of their application. A copy of the letter sent to all applicants will be attached to their original application.

**§ 808. Volunteer Workers.**

An unsalaried person authorized to perform volunteer service for WESA shall be deemed to be an employee of WESA for the purposes of Workers' Compensation Insurance benefits provided by law for any injury sustained by them while engaged in the services of WESA under the direction and control of the Governing Board of WESA.

**§ 809. Vacancy Reporting Obligations.**

This section establishes the framework and requirements for holding public hearings and reporting on WESA's workforce vacancies, recruitment, and retention efforts in compliance with Assembly Bill ("AB") 2561. (Gov. Code § 3502.3.) The purpose is to ensure transparency, accountability, and responsiveness to community needs regarding WESA's staffing and employment practices.

**A. Definitions:**

Public Hearing: A formal meeting that is open to the public, where WESA representatives present information and accept public comments on specific topics, as required by law.

Vacancies: Unfilled positions within WESA's workforce that require recruitment efforts to be adequately staffed.

Recruitment: The process of attracting, screening, and selecting qualified candidates for employment with WESA.

Retention: Efforts to maintain a stable and satisfied workforce by addressing the factors that contribute to stability in the workforce.

**B. This policy applies to WESA management and WESA Board of Directors.****C. In accordance with AB 2561 (Gov. Code § 3502.3), WESA will hold a public hearing at least once each fiscal year and provide reports on vacancies, recruitment, and retention efforts.****D. Public hearings shall be announced in advance and provide an opportunity for members of the public to make comments.****E. Recognized Collective Bargaining Associations shall have the right to present information, concerns, and recommendations at the public hearing.**



- F. Separate public hearings may be scheduled to address individual bargaining units or bargaining unit groupings.
- G. WESA shall ensure that each public hearing is adequately documented, with minutes and recordings made publicly available.
- H. Reporting Requirements:

WESA shall present information on the following public hearing:

- The status of vacancies at WESA.
- Information on WESA's recruitment efforts.
- Identification of any obstacles in WESA policies, procedures, and recruitment activities that may create challenges in the hiring process.

WESA prepares a report that includes the information described above, WESA may elect to make the report available to the public via WESA's website or in print form prior to each public hearing.

- I. Special Reporting Requirements for high vacancy rates:

If the number of job vacancies within a single bargaining unit meets or exceeds 20% of the total number of authorized full-time positions, WESA shall, upon the request of the recognized Collective Bargaining Association, include the following information during the public hearing:

- The total number of job vacancies within the bargaining unit.
- The total number of applicants for vacant positions within the bargaining unit.
- The average number of days to complete the hiring process from when a position is posted.
- Opportunities to improve compensation and other working conditions.

- J. Responsibilities:

1. WESA Board of Directors is responsible for overseeing compliance with this policy and ensuring public hearings and reports meet the requirements outlined in AB 2561.

2. The District shall coordinate and gather necessary data and ensure accurate reporting to include compiling vacancy, recruitment, and retention data, and preparing reports.
3. WESA will maintain records of all public hearings, reports, and related documents for a minimum of five years, in compliance with public records requirements.

## **SECTION 900. PERSONNEL RULES AND REGULATIONS**

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**SECTION 900. PERSONNEL RULES AND REGULATIONS****§ 901. Goals and Objectives.**

The goals and objectives of WESA are:

- A. To provide a positive work environment that will promote a spirit of friendliness and cooperation among all employees.
- B. To provide training opportunities for WESA employees, so that job openings can be filled from within, where practicable.
- C. To recognize excellence and individual merit in employees.
- D. To ensure equal employment opportunities for all employees and maintain an adequate level of compensation for services rendered.

**§ 902. Applicability**

- A. These Rules and Regulations apply to all employees of WESA. They apply at all times when such employees are on WESA premises; on Standby Duty; or off WESA premises, but engaged in any activity that is related to or may affect WESA's business, reputation or public relations, including, but not limited to, the following:
  - 1. Activities during working hours, including lunch and other breaks.
  - 2. Participation in seminars as a student or speaker.
  - 3. Travel on behalf of WESA.
  - 4. Community activities.
  - 5. Engaged in off-duty activities under circumstances which tend to harm the interest of WESA.

**§ 903. Equal Opportunity Policy.**

It is the policy of WESA to:

- A. Recruit, hire, and promote for all job classifications without regard to race, religion, color, sex, national origin, age, marital status or

physical handicap unless based on bona fide occupational qualifications.

- B. Base decisions of employment and promotion upon an individual's qualifications for the position being filled.
- C. Ensure that all other personnel actions such as compensation, benefits, transfers, layoffs, return-from-layoffs, WESA-sponsored training, education, tuition assistance, and social and recreational programs will be administered without regard to race, religion, color, sex, national origin, age, marital status or physical handicap.
- D. Continue to sustain and further develop a system that promotes the maintenance and application of these standards.

**§ 904. Employee Conduct.**

- A. It is expected that employees be punctual with regard to hours of work and business appointments.
- B. A neat appearance and personal cleanliness is required of all employees. Uniforms are mandatory in field departments, Office personnel are not required to conform to a specific dress code, but rather to maintain a type of dress that will be in good taste, project a good public image, and be appropriate for the assigned work area.
- C. Employees, including WESA personnel assigned to Standby Duty, are strictly prohibited from the following acts:
  - 1. The possession, transportation, distribution, receipt, sale, purchase, or arranging for the sale, purchase, or distribution of the following:
    - a. Illegal drugs or legal controlled drugs obtained without a prescription or not being used for prescribed purpose, including, but not limited to, the following:
      - (1) Narcotics (such as heroin, morphine, codeine, Demerol, and Dilaudid);
      - (2) Hallucinogens (such as acid, LSD, PCP, peyote, MDMA, Ecstasy, and psilocybin mushroom);
      - (3) Stimulants (such as speed, uppers, cocaine, amphetamines);

- (4) Depressants (such as barbiturates, sedatives, tranquilizers, downers, Valium, Librium and Quaaludes); or
    - (5) Marijuana.
  - b. Drug paraphernalia.
- 2. Reporting to work when the use of prescribed or over-the-counter drugs impairs the employee's ability to perform his or her duties safely or efficiently.
- 3. The use of any of the following substances when such use impairs the employee's ability to perform his or her duties safely or efficiently:
  - a. Alcohol.
  - b. Legal drugs, including over-the-counter medications or drugs obtained and used pursuant to a prescription.
  - c. Any other substances mentioned in Paragraph 1 above.
  - d. Other substances, including but not limited to, the following:
    - (1) Glue.
    - (2) Typewriter correction fluid, e.g. "Whiteout".
    - (3) Aerosols.
    - (4) Nitrites (such as Rush).
  - e. Chemical substances used in manufacturing.
  - f. "Look-alikes".
  - g. "Designer drugs".
- D. Every employee holding a full-time regular position shall devote their full time to WESA business during their working hours; shall not engage in private activities for profit during their working hours,

and shall not engage in private business activities outside WESA working hours which will in any way interfere or conflict with the performance of their WESA duties, or be detrimental to WESA's best interest.

- E. Insubordination, immoral, or indecent conduct, theft, or malicious damage will not be tolerated.
- F. Employees shall not accept tips or gratuities of any kind offered for WESA services rendered to a customer or prospective customer.
- G. Employees should refrain from entering into any dispute with the public. Opinions or comments regarding WESA liability in any matter should not be discussed by employees. Management should be advised in all instances concerning customer relation problems that cannot be settled promptly and satisfactorily.
- H. Employees shall not carry personal firearms in WESA vehicles, on WESA premises, or while performing any service related to employment with WESA. Employees who feel that they require personal protection shall discuss their situation with their supervisor.
- I. An employee's failure to comply with any of the provisions of this Section may result in appropriate disciplinary action up to and including dismissal.
- J. Personal Matters. In order to ensure that personal matters do not interfere with employees' work and the work of others, WESA has adopted the following policy on personal matters:
  - 1. Personal Valuables. WESA cannot assume responsibility for lost or stolen personal items. Hence, employees are asked to use their own discretion when bringing such items to work.
  - 2. Personal Business. Conducting personal business during working time or in working areas is not permitted.
  - 3. Personal Data. It is extremely important that WESA maintain accurate records of all employees. Hence, should any of the following personal information change, please notify the Human Resources Department as soon as possible:
    - a. Home address

- b. Telephone number
  - c. Person and/or number to notify in case of emergency
  - d. Name
  - e. Marital status
  - f. Change affecting income tax withholding
  - g. Change in beneficiary for insurance plans
4. Personal Phone Calls. Personal phone calls should be limited to emergency situations. If an employee must make a personal call while on duty, he/she should do so during his/her break period.
5. Personal Visitors. Non-business visits by friends, acquaintances or family members should be discouraged and scheduled away from the work place.

**§ 905. Personnel Records.**

Records of employees maintained by Personnel are confidential and shall not be open to public inspection. Records may be examined in the presence of a representative of the Human Resources Department by the following:

- A. WESA Officials Access. WESA officials having an interest herein, as a matter of official duty, and information therefrom may be released by the Human Resources Department at its discretion in accordance with usual and customary procedures applicable to requirements of law.
- B. Employee or Employee's Representative Access. An employee, or an employee's representative, with written consent of the employee, may inspect the employee's personnel file, and information therefrom may be released by the Human Resources Department at its discretion in accordance with usual and customary procedures applicable to requirements of law.

**§ 906. Salary and Work Authorization Status Verification. (M-0029)**

- A. WESA will verify salary information to specified firms or individuals upon written authorization from the employee.
- B. Pursuant to the Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, the Authority will verify the employment eligibility of the individual being considered for employment through the e-Verify program.



**§ 907. Physical Examination.**

Successful candidates for employment are required to have a physical examination prior to commencing employment. The examination will be made at WESA's expense by a physician designated by WESA.

**§ 908. Probationary Employees.**

Initial employment with WESA is on a probationary basis. The length of the probationary period is determined and described in the current Memorandum of Understanding ("MOU") covering the employee's position. Employees not covered by an MOU shall be subject to a 12 month probationary period. Before the end of the probationary period, the new employee's supervisor will make a recommendation as to the need for conversion to regular status or release of the employee. During the probationary period of employment an employee serves in the position at the will and pleasure of the General Manager and may be released or suspended without cause and without right of appeal, grievance or hearing.

**§ 909. Regular Employees.**

The term "regular employee" is defined as an employee who has successfully completed the probationary period. A regular employee shall be subject to disciplinary action under the procedures set forth in Section 926 hereof.

**§ 910. Temporary Employees.**

Any employee hired to work for six months or less shall be considered a temporary employee. The temporary nature of the work will be established in writing prior to the onset of employment. Temporary employees shall be compensated at an established hourly rate. Employees in this category are not eligible for any fringe benefits that accrue to regular employees, including but not limited to vacation, sick leave or paid holidays nor are they entitled to regular status at the end of their temporary employment period. Temporary employees may be terminated without cause and without right of appeal, grievance or hearing.

**§ 911. Part-Time Employees.**

Part-time employees are those expected to work a regular schedule of less than 40 hours per week or 87 hours per month. Any part-time employees working a regular schedule for more than six months may be eligible for any employee benefits described in their employment contract, if their normal work

schedule exceeds 87 hours per month.

For such employees any leave time such as vacation, sick leave or holiday shall accrue on a pro rata basis as compared to a regular full time employee hours. For example, if a full time employee accrues 1 day of vacation for 1 month of service (172 hours worked) then a part time employee working 87 hours that month would accrue one-half (1/2) a days vacation ( $172/87 = 1/x$ ). Other part-time employees shall accrue no benefits. It is not the policy of WESA to hire temporary or part-time employees to avoid benefit liability.

**§ 912. Promotion Policy.**

Ability, experience and seniority shall be the factors in awarding jobs on a promotional basis. If the experience and abilities of employees eligible for promotion are substantially the same, seniority shall be the deciding factor.

**§ 913. Hours of Work.**

Hours of work shall be as prescribed in the applicable MOU or, if none, by the employee's supervisor.

**§ 914. Absence and Tardiness.**

Any time that an employee is not at their work station to begin the work day, they are either tardy or absent. If it is necessary for an employee to be absent or tardy from work for any reason, they must notify WESA of absence or tardiness in accordance with the appropriate MOU covering their position. (If none, notification should occur as soon as possible but in no case later than one quarter (1/4) of an hour after the scheduled starting time.) In case of extended illness, arrangements should be made by the employee to have their condition reported to WESA at frequent intervals so work loads can be reassigned.

Employees must personally (usually via telephone) report their inability to report for work to their immediate supervisor. The use of WESA's answering service to communicate, except in cases of extreme emergency, is strictly prohibited. Unless otherwise arranged, an employee's failure to report his inability to report to work to WESA on a daily basis will be considered as an unauthorized absence from work and subject to disciplinary action as set forth in Section 926.

**§ 915. Uniforms.**

It is mandatory for all regular field employees to wear the designated - provided uniform. Certain supervisory personnel may also be required to wear this

uniform. Off-duty wearing of the provided uniform is prohibited.

WESA, under a uniform rental agreement, will provide the appropriate number of uniform changes per week based upon individual job duties. Employees are liable for any loss or damage caused by negligence, misuse, or personal (i.e. unrelated to WESA business) use of uniforms and such amounts will be deducted from their paycheck, pursuant to written authorization.

**§ 916. Loans. (M-0095)**

WESA discourages joint business dealings between supervisory and non-supervisory personnel to alleviate allegations of favoritism.

**§ 917. Layoff or Reduction of Work Force. (M-0095)**

Notwithstanding any other provision of these rules and provisions of memorandums of understanding, nothing provided therein shall prohibit WESA from discharging, suspending or transferring an employee upon a determination by WESA that the needs of WESA do not require continuance of the employee's position. Ten working days before the effective day of any layoff, the General Manager shall notify the employee and the recognized employee organization, if any, of the intended action and reasons therefore.

When WESA determines that layoff is warranted, the following procedure will be followed:

- A. Before a layoff is implemented, WESA will evaluate alternatives by which it may attempt to avoid layoffs. The alternative will include methods that are designed to achieve a reduction in personnel costs in a manner that will enable WESA to avoid or limit layoffs while still meeting its needs. WESA retains full authority to determine what measures are most appropriate under the circumstances.
- B. If layoffs are determined to be necessary, employees shall be selected for layoff carefully to ensure fairness. All personnel policies, including the policy prohibiting discrimination, shall be followed. When selecting employees for layoff in a classification, department, work group, or job classification, the Human Resources Department, in coordination with Department Heads, shall choose employees based on a combination of factors, including (but not limited to) qualifications, productivity, and general performance. In cases where all other factors are deemed equal, employees with greater seniority shall be retained.

C. Layoffs shall be administered by department in the following order:

1. Temporary employees.
2. Probationary employees.
3. On call, call-in and per-diem employees.
4. Regular employees, including full-time and part-time employees.

D. Variations from the normal order of layoffs may occur whenever WESA deems such variations appropriate under the circumstances.

**§ 918. Safety. (M-0095)**

All employees are required to read and comply with WESA's Safety Manual. Employees are required to report all injuries or accidents occurring on the job to their supervisor immediately.

**§ 919. Voluntary Education Program. (M-0095)**

With the approval of the General Manager, WESA may pay the cost for any eligible employee to undertake or enroll in voluntary educational programs outside of regular working hours, provided that the employee's supervisor has made a determination that the program will enhance the employee's knowledge or skill in direct relation to the employee's current job with WESA.

**§ 920. Fair Employment Standards (M-0095, M-0113)**

- A. Equal Employment Opportunity. WESA is committed to providing equal opportunity in all of its employment practices in compliance with all applicable laws. This commitment applies to all persons involved in WESA administration and prohibits unlawful discrimination by any employee of WESA, including supervisors and co-workers on the basis of race, color, religion, religious creed (including religious dress and religious grooming), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions, gender, gender identity, gender expression, sex stereotype, sexual orientation and transgender), national origin, ancestry, citizenship, age, physical or mental disability, legally protected medical condition or information (including genetic information), family care or medical leave status, military caregiver status, military status, veteran status, marital

status, domestic partner status, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or holding or presenting a driver's license issued under Section 12801.9 of the Vehicle Code, or any other basis protected by local, state, or federal laws. This policy applies to all areas of employment including, but not limited to, recruitment, hiring, training, promotion, compensation, benefits, transfer, disciplinary action, social and recreational programs, layoff, recall and termination.

WESA will make reasonable accommodations that are necessary to comply with state and federal disability discrimination laws. This means that WESA will make reasonable accommodations for the known physical or mental disability or known medical condition of an otherwise qualified individual who is an applicant or an employee unless undue hardship would result.

Any applicant or employee requiring an accommodation to perform the essential functions of the job should contact the Human Resources & Safety Manager or the employee's supervisor and request such an accommodation. Thereafter, WESA will conduct an interactive process meeting with the disabled applicant or employee to determine effective reasonable accommodations, if any, that can be made to assist them to perform the essential functions of the position they seek or occupy.

- B. Policy Against Harassment. WESA is also committed to providing a workplace free of unlawful harassment. In accordance with applicable law, WESA prohibits harassment based on sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions, gender identity, gender expression, sex stereotype, sexual orientation, gender and transgender) and harassment on based basis of race, color, religion, religious creed (including religious dress and religious grooming), national origin, ancestry, citizenship, age, physical or mental disability, legally protected medical condition or information (including genetic information), family care or medical leave status, military caregiver status, military status, veteran status, marital status, domestic partner status, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state, or federal laws. All such harassment is unlawful and will not be tolerated, whether it be harassment of employees, applicants, unpaid interns, persons providing services pursuant to a contract or volunteers by managers, supervisors, co-workers, or non-employees with whom WESA has a business, service or professional relationship, such as vendors and customers.

Similarly, WESA will not tolerate harassment by its employees of non-employees with whom WESA has a business, service or professional relationship, like vendors and customers.

1. Sexual Harassment. Sexual harassment (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions, gender identity, gender expression, sex stereotype, sexual orientation, gender and transgender harassment) is defined as unwanted sexual advances, or visual, written, verbal or physical conduct of a sexual nature that creates an intimidating, offensive, or hostile working environment or that interferes with an employee's work performance. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment or promotion; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the unwelcomed comments or conduct based on sex unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Sexual harassment includes many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser. Furthermore, sexually harassing conduct need not be motivated by sexual desire. The following is a partial list of violations:

- Unwanted sexual advances, propositions or requests for sexual favors;
- Offering employment benefits in exchange for sexual favors; Making or threatening reprisals after a negative response to sexual advances;
- Visual conduct: leering, making sexual gestures, displaying of suggestive objects, posters, photographs, cartoons, or drawings;
- Verbal conduct: making or using derogatory comments, epithets, slurs, jokes, verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, foul or obscene language, conversation containing sexual comments;
- Written conduct: suggestive or obscene letters, emails, drawings, notes or invitations;
- Physical conduct: unwanted touching, assault, impeding or blocking movements, and violating someone's "personal

space”; and

- Retaliation for reporting harassment or threatening to report harassment.

2. Other Types of Harassment. Harassment can take many forms beyond sexual harassment. Harassment on the basis of race, color, religion, religious creed (including religious dress and religious grooming), national origin, ancestry, citizenship, age, physical or mental disability, legally protected medical condition or information (including genetic information), family care or medical leave status, military caregiver status, military status, veteran status, marital status, domestic partner status, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state, or federal laws, is also prohibited and will not be tolerated by WESA. Such harassment includes but is not limited to the following when based upon an employee’s protected status as noted above:

- Verbal conduct such as making or using derogatory comments, epithets, slurs, jokes, or verbal abuse;
- Visual conduct such as gestures and displaying of objects, posters, photographs, cartoons, or drawings;
- Written conduct such as suggestive or obscene letters, emails, drawings, notes or invitations;
- Physical conduct such as assault, unwanted touching, or blocking normal movement, or violating someone’s “personal space”; and
- Retaliation for reporting harassment or threatening to report harassment.

C. Policy Against Retaliation. State and federal law and WESA prohibit retaliation against any employee for making a good faith complaint of discrimination or harassment or for cooperating, assisting, testifying, or participating in any of the discrimination or harassment Internal or External Complaint Procedures below. Claims of retaliation are taken seriously and are subject to the same Internal and External Complaint Procedures below.

D. Internal Complaint Procedure. WESA’s complaint procedure provides for an immediate, thorough, objective and confidential investigation of any claim of unlawful or prohibited discrimination and/or retaliation, appropriate disciplinary action against one found to have engaged in prohibited discrimination, harassment and/or

retaliation, and appropriate remedies for any victim of discrimination, harassment and/or retaliation.

If you believe you have been discriminated against, harassed and/or retaliated against on the job, or if you are aware of the discrimination, harassment and/or retaliation of others, you must provide a written or verbal complaint to your supervisor or to any other WESA supervisor or to the Human Resources & Safety Manager as soon as possible. You are not required to complain to any individual who is the one discriminating against, harassing and/or retaliating against you, nor do you have to complain directly to your immediate supervisor. Instead, as indicated, you may report discrimination, harassment and/or retaliation to any other member of management, including but not limited to the Human Resources & Safety Manager. Your complaint should be as detailed as possible, including the names of individuals involved, the names of any witnesses, direct quotations when language is relevant, and any documentary evidence (notes, pictures, cartoons, etcetera).

WESA will maintain confidentiality to the extent possible. Any supervisor who is informed of a complaint of discrimination, harassment and/or retaliation by an employee, or any other individual, must report said complaint to the Human Resources & Safety Manager immediately and must otherwise keep the matter confidential. The Human Resources & Safety Manager must also keep the matter confidential and not disclose the matter to any person who is not involved in the investigation or does not have legitimate work-related reasons for knowing of the complaint. Any supervisor or member of management who fails to comply with this paragraph will be subject to disciplinary action, up to and including termination of employment.

All incidents of prohibited discrimination, harassment and/or retaliation that are reported will be subject to an impartial, fair, timely and thorough investigation by either a management representative qualified to perform the investigation or an outside investigator, depending on the circumstances. The investigation will provide all parties appropriate due process and will reach reasonable conclusions based on the evidence collected. WESA will document the timely, thorough, and objective investigation of the discrimination, harassment and/or retaliation allegations to ensure reasonable progress is being made in the investigation. WESA will inform the employee who initiated the complaint of the progress of the investigation upon request of that employee.



- E. Corrective Action. At the conclusion of the timely investigation, if it is determined that prohibited discrimination, harassment and/or retaliation has occurred, WESA will take immediate and effective remedial action commensurate with the circumstances. Corrective action may include, for example: training, referral to counseling, or disciplinary action including but not limited to verbal or written warning, suspension, transfer, demotion, and termination of employment, depending on the circumstances.

The employee who initiated the complaint will be notified when the investigation has been completed and will be informed of the general outcome of the investigation, i.e., whether the complaint has been substantiated or unsubstantiated. However, the employee is not entitled to know the corrective action, if any, imposed on the accused as that information is protected by the accused's right to privacy. Appropriate action will be taken to ensure the employee who has been found to have been discriminated against, harassed and/or retaliated against will not be discriminated against, harassed and/or retaliated against in the future, including but not limited to redistribution of this policy, training, transfer, etc.

- F. External Complaint Procedure. In addition to WESA's internal complaint procedure, employees who believe that they have been unlawfully discriminated against, harassed and/or retaliated against may file a complaint with the federal Equal Employment Opportunity Commission (EEOC), and/or the California Department of Fair Employment and Housing (DFEH).

Contact information for the DFEH can be obtained at [www.dfeh.ca.gov](http://www.dfeh.ca.gov). Contact information for the EEOC can be obtained at [www.eeoc.gov](http://www.eeoc.gov).

**§ 921. Employment of Relatives. (M-0032, M-0095)**

The purpose of this policy is to prevent potential for adversely impacting the safety, security, morale or efficiency of supervision of other employees, or in which there may be created a potential conflict of interest. This policy applies to all full-time and part-time Authority employees.

- A. It is the policy of the Water Employee Services Authority not to discriminate in its employment and personnel actions with respect to its employees and applicants on the basis of marital or familial status. Notwithstanding this policy, the Authority retains the right to refuse to appoint or promote to a position within the Authority wherein his/her

relationship to another employee by blood, marriage, consensual personal relationship, domestic partnership or who resides in the same household that has the potential for creating adverse impact on supervision, safety, security or morale, or involves a potential conflict of interest. Relatives and domestic partners as defined herein relationships with current employees, or Board Members, are not eligible for Authority positions.

- B. If an Authority employee marries, enters into a consensual personal relationship, a domestic partnership, or resides in the same household with another individual employed by the Authority, both employees shall be allowed to retain their respective positions provided that a potential adverse impact on supervision, safety, security, morale, or involves a potential conflict of interest is not created by the relationship. During the period of employment, no supervisory position or direct working relationship shall exist between the two employees.
- C. When two existing employees marry or enter into a relationship as described in Section III.B above, the General Manager in conjunction with the Human Resources Director shall attempt to transfer one of the employees to a similar classified position in another department. Although the wishes of the involved parties as to which employee is to be transferred will be given consideration by the Authority, the controlling factor in determining which employee is to be transferred shall be up to the sole positive operation and efficiency of the Authority. If any such transfer results in a reduction in salary or compensation, the same shall not be considered disciplinary in nature and shall not be the subject of any form of administrative appeal. If the Authority is unable to transfer one of the employees, then the Human Resources Department will notify the two employees that one of the employees must separate from Authority employment within 30 days. The choice of who shall separate from Authority service will be the employees' decision. In the event that the two employees do not agree with respect to which one shall resign, the Authority will decide based on the needs of the Authority.

**§ 922. Definition of Terms. (M-0032, M-0095)**

- A. *"Relative"* means a connection between individuals by blood, marriage or, adoption.
- B. *"Domestic partnership"* means a consensual personal relationship including an individual who resides in the same

household.

- C. "A *Supervisory relationship*" means any employee, regardless of job description or title, having authority, directly or indirectly, in the interest of the employer to affect another employee's duties and responsibilities, wages, hours, benefits, career progress, and other terms and conditions of employment.

**§ 923. Procedure. (M-0032, M-0095)**

- A. The employee is responsible for immediately notifying the Department Director and the Human Resources Director of an impending marriage, domestic partnership, or consensual personal relationship with another employee.
- B. The Department Director shall be responsible for ensuring that work assignments are made so as to avoid conflict of interest or violation of this Policy.
1. If no conflict of interest exists because employees have no working interrelationship, supervisory or evaluative control over one another, no action shall be necessary as determined by the General Manager.
  2. If conflict exists, such action may include reassignment to another position, work location or work shift within the department, the Human Resources Department will be contacted to identify other possible alternatives within other Authority departments. However, if no possible placement is found, one of the employees will be separated from Authority service or given the option to resign within thirty (30) days.

**§ 924. Resignation and Retirement Policy. (M-0095)**

Employees resigning or retiring must adhere to the following policy to ensure “Termination in Good Standing”.

- A. Submit a written resignation (notification) stating intent and reason for termination to immediate supervisor. Resignations shall be deemed accepted upon receipt.
- B. A minimum notice of two weeks is requested in all cases. However, WESA encourages employees aware of their pending termination with WESA to let the General Manager know as far in advance as possible.
- C. Complete a Confidential Termination Questionnaire-Exit Interview with individual specified by the General Manager.
- D. Return all WESA property to the General Manager or immediate supervisor.
- E. Clear any existing financial obligations with the Human Resources Department.

**§ 925. Disciplinary Action. (M-0041, M-0095)**

- A. Discipline shall be administered in a fair and consistent manner and without regard to race, creed, color, religion, age, sex, national origin, ancestry, physical or mental disability, sexual orientation, gender identity, or other unlawful consideration.
- B. To assure orderly operation and provide the best possible work environment, WESA expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization. Probationary, Temporary, and Part-Time employees are at-will and may be terminated without cause and without right of advance notice, grievance, or appeal.
- C. It is not possible to list all the forms of behavior that are considered unacceptable in the work place. The following are examples of misconduct and other reasons that may result in disciplinary action, up to and including termination of employment:

1. Theft
2. Falsification of records
3. Working under the influence of alcohol or controlled substances
4. Sexual or other forms of harassment
5. Disclosing confidential information;
6. Using or possessing WESA or EVMWD time, property and/or equipment without authorization;
7. Intentional or negligent destruction of EVMWD property or equipment;
8. Unacceptable performance or misconduct, on or off the job, seriously reflecting on WESA employees or employment;
9. Acts, which if proved, constitute a felony, misdemeanor or other violation of law as established by proper investigation;
10. Using loud, abusive or obscene language; fighting; rude or discourteous behavior;
11. Misusing or failing to use delegated authority in the performance of duties;
12. Personal appearance not appropriate for the job in terms of community standards and job safety;
13. Loss of required motor vehicle operator's license or insurability to operate a vehicle on behalf of WESA or other license or certification required to perform the duties of an employee's position;
14. Unexcused, excessive or patterned absenteeism;
15. Failure to make reasonable effort to notify supervisor of inability to report to work;
16. Leaving assigned work location without proper approval or appropriate reason;

17. Frequent and unexcused tardiness;
  18. Sleeping on the job;
  19. Making false, vicious, or malicious statements concerning an employee or manager;
  20. Possession or use of dangerous weapons, including but not limited to firearms or knives, on EVMWD property or on duty;
  21. Violation of WESA rules or policies;
- D. Major Discipline/Pre- Disciplinary Hearings. Prior to the imposition of a major disciplinary action, which shall include, but is not limited to, an unpaid suspension of more than five (5) days, demotion, reduction in pay of one (1) month or more, or discharge, all regular full-time employees shall be presented with a written Notice of Proposed Disciplinary Action, signed by the employee's Department Head, with the approval of the Human Resources Manager, informing the employee as to his/her right to a pre-disciplinary hearing.
- E. Notice of Proposed Disciplinary Action shall include:
1. A description of the discipline proposed;
  2. A statement of the reasons for which the action has been proposed, which shall include a brief description of the alleged facts upon which the proposed action is being taken, and a statement of any employer rules, regulations, or laws that are alleged to have been violated; and, if applicable, a list of any previous disciplinary actions, counseling, evaluations or other relevant actions which support the action proposed;
  3. Copies of any documents relied upon in reaching a decision to propose the discipline action; and
  4. A statement advising the employee that he may respond to the General Manager, or his/her designee, regarding the proposed disciplinary action, orally or in writing, before it takes effect. This part of the Notice of Proposed Disciplinary Action shall include the name of the person to whom the response is to be made, if other than the General Manager, and the last date upon which a response may be made.

5. The employee shall have at least seven (7) days from the date of the Notice of Proposed Disciplinary Action to respond to the charges, either orally or in writing. Upon a showing of good cause, as determined by the General Manager or his/her designee, the time for response may be extended beyond seven (7) days. In responding, either orally or in writing, the employee may designate a representative to assist in the presentation of the response.
6. In the event that the employee chooses to respond orally, the employee must, within the period given to respond, make an appointment, and meet with the General Manager or his/her designee.
7. During this meeting, the employee, or the employee's representative, may present any reasons why the employee feels that the proposed action is not proper. The General Manager or his/her designee shall listen to the employee's presentation, but shall not present any evidence on behalf of WESA, nor shall either party present witnesses for examination at this time.
8. A written response must be received in the office of the General Manager no later than 4:30 p.m. on the last day given to respond.
9. The General Manager or his/her designee shall take the employee's timely response into consideration and shall make a determination as to whether or not the proposed action, a different action, or no action shall be taken.
10. Failure by the employee, or the employee's representative, to respond to the Notice of Proposed Disciplinary Action within the period allowed shall result in the disciplinary action taking effect as proposed.

F. Right to Appeal:

1. Any regular full-time employee shall have the right to appeal any major disciplinary action, including, but not limited to, an unpaid suspension of more than five (5) days, a demotion, a reduction in pay of one (1) month or more, or a discharge.

2. Requests for appeal shall be made in writing, signed by the employee and filed with the General Manager within ten (10) days of the effective date of the disciplinary action. Failure to do so shall constitute waiver of the right to appeal and failure to exhaust administrative remedies.
3. At its next regular meeting following receipt of a timely notice of appeal of the decision from the General Manager or his/her designee, the Board may appoint a Hearing Officer, Appeal Board, or Board Committee to hear the appeal and recommend a decision which it shall certify to the Board, or the Board may hear the appeal. Hearings shall be closed unless an open hearing is requested by the employee filing the appeal.
4. The Clerk of the Board shall provide written notice to the employee and to the General Manager including the date, time and place of the hearing and such notice, if required by the Brown Act, shall be posted at a public place or a place designated by the Board. Said notice shall be delivered to the employee personally or by mail at least twenty-four (24) hours before the time for holding the hearing and shall include notice of the employee's right to have the appeal heard in open session rather than closed session.
5. The employee shall appear personally before the Board, Board Committee, Hearing Officer or Appeal Board at the hearing and may be represented by counsel of his/her choice. In the event that the employee fails to personally appear, without good cause, the appeal shall be deemed waived.
6. All parties and witnesses to be heard at the hearing shall be sworn and shall testify under oath. The hearing shall not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule, which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be admitted, but it may not be the sole basis upon which a finding is made unless it would be admissible under rules of evidence in a civil matter.



7. Upon conclusion of a hearing not conducted by the Board, the Hearing Officer, Appeal Board, or Board Committee shall cause its findings and recommendations to be prepared in writing and shall certify the same to the Board within forty five (45) days following the conclusion of the hearing.
  8. The Clerk of the Board shall deliver a copy of such findings and recommendations of the Board Committee, Hearing Officer or Appeal Board to the Board and to the General Manager and employee. The Board may then adopt, reject or modify such recommendations (including, but not limited to, increasing or decreasing the recommended discipline). The decision of the Board shall be final for all purposes.
- G. Minor Discipline. In the case of minor discipline, which shall include, but is not limited to, an unpaid suspension of five (5) days or less, reduction of pay of less than one (1) month, and written reprimand, employee shall be afforded the following:
- H. Notice of Proposed Disciplinary Action, is signed by the employee's Department Head with the approval of the Human Resources Manager, and shall include:
1. A description of the discipline proposed;
  2. A statement of the reasons for which the action has been proposed, which shall include a brief description of the alleged facts upon which the proposed action is being taken and a statement of any employer rules, regulations, or laws that are alleged to have been violated; and, if applicable, a list of any previous disciplinary actions, counseling, evaluations or other relevant actions which support the action proposed;
  3. Copies of any documents relied upon in reaching a decision to propose the disciplinary action; and
  4. A statement advising the employee that he/she may respond to the General Manager, or his/her designee, regarding the proposed disciplinary action, orally or in writing, before it takes effect. This part of the Notice of Proposed Disciplinary Action shall include the name of the person to whom the response is to be made, if other than the General Manager, and the last date upon which a response may be made.

5. The employee shall have seven (7) days from the date of the Notice of Proposed Disciplinary Action to respond to the charges, either orally or in writing. Upon a showing of good cause, as determined by the General Manager or his/her designee, the time for response may be extended beyond seven (7) days. In responding, either orally or in writing, the employee may designate a representative to assist in the presentation of the response.
6. In the event that the employee chooses to respond orally, the employee must, within the period given to respond, make an appointment and to meet with the General Manager or his/her designee.
7. During this meeting the District official imposing the discipline, and the employee or their respective representatives, may present oral argument and documentary evidence in support of their positions; however, neither party shall be permitted to call and examine witnesses.
8. A written response must be received in the office of the General Manager no later than 4:30 p.m. on the last day given to respond.
9. The General Manager or his/her designee shall take the employee's timely response into consideration and shall make a determination as to whether or not the proposed action, a different action (which may include increasing or decreasing the discipline) or no action shall be taken.
10. Failure by the employee, or the employee's representative, to respond to the Notice of Proposed Disciplinary Action within the period allowed shall result in disciplinary action taking effect as proposed.
11. In the case of minor discipline, no right of appeal is provided, except for the right to respond as set forth in Sections G and H.

**§ 926. WESA Vehicles. (M-0043, M-0095, M-0130)**

- A. Use of WESA Vehicle. WESA vehicles shall be used only for the purposes of WESA business and not for personal business or pleasure. Transportation in WESA vehicles of persons other than directors, officers, employees, agents of WESA, or authorized guests is prohibited. Each employee having the custody of a WESA vehicle shall exercise due caution and prudence in the operation of such vehicle to minimize the risk of damage to or loss of a vehicle.

The highest ranking WESA employee assigned to a vehicle or equipment is responsible for all aspects of its safe operation and proper use including, but not limited to, the following:

1. The operation of vehicle, trucks and other heavy equipment shall be restricted to qualified employees who are trained in their use, and have valid licenses to operate such equipment.
2. Seat belts shall be worn at all times.
3. Vehicles left unattended shall be locked and the keys removed and all equipment or tools stored on the vehicles shall be properly secured and locked.
4. Vehicles shall not be used for purposes or loads for which they have not been designated or intended.
5. Vehicles shall at all times be operated in accordance with the California Vehicle Code including observance of all speed limits and granting of right of way.
6. Vehicles shall at all times be equipped with an operational fire extinguisher and flares.
7. Traffic citations are the employee's responsibility to pay and report to their supervisor.
8. Daily trip logs shall be completed on the operation and condition of equipment as required. Faulty or inoperative equipment shall be reported.
9. Employees who are assigned a WESA vehicle for use during business hours may not use Authority vehicles for

transportation to and from lunch only. Vehicles may not be used solely for the purpose of transport to lunch. If employees are in the field conducting Authority business, they may use the vehicle for transportation to lunch.

- B. Personal Vehicle Use. When WESA vehicles are not available for use by employees engaged in WESA business, permission may be obtained from an employee's supervisor for use of the employee's vehicle. Employees must submit reasonable proof of insurance to the Safety Officer prior to using the vehicle. Reimbursement to the employee for mileage will be paid at the current rate approved by the Board of Directors. An expense report must be filled out and approved to obtain reimbursement.

Employees are required to utilize personal vehicles when traveling for District purposes outside of the area requiring travel after normal business hours, and for travel that requires an overnight stay.

Employees are required to utilize personal vehicles during work hours when traveling to or from Workers' Compensation doctor appointments.

- C. Traffic Accidents. All employees who drive WESA vehicles or employees being compensated for mileage for their private vehicles while on WESA or EVMWD business and are involved in a traffic accident of any type are governed by these rules:
1. Reports. Regardless of the amount of damage incurred, a complete written report of the incident must be submitted by the driver to his supervisor within one working day of the incident. All forms in the Vehicle Accident Reporting Kit provided in WESA vehicles must be completed and submitted to the employee's supervisor.
  2. Injuries. In case of personal injury to other persons, employees are encouraged to render first aid only if they have been properly trained in first aid. If not trained, the employee should radio WESA office staff, if possible, or seek the assistance of any persons in the vicinity who may be trained or able to contact emergency relief by dialing 911.
  3. Liability. Employees shall not make any statements which may be taken as an admission of negligence or fault relative to the incident and under no circumstances assume any liability or authorize any repairs to the other vehicles.

- D. Drivers License Regulations. All drivers must carry a valid California Driver's License on their person, issued for the class of vehicle the employee is required to drive. If any employee has their driver's license suspended or revoked by the State, and is assigned to drive a WESA vehicle, they shall immediately notify their supervisor. Failure to do so may result in suspension or disciplinary action up to and including dismissal.
- E. WESA Car Allowance  
Only the Executive Team (General Manager, Assistant General Managers, Director of Strategic Planning, Director of Engineering and Water Resources, Government Relations Officer, Director of Information Technology, Director of Operations, Director of Human Resources and District Secretary-Admin. Services Supervisor) will receive a car allowance in lieu of a vehicle for business and commuting purposes. The General Manager's car allowance shall be paid in the amount specified in the general manager's contract. The remaining car allowances shall be paid in the amount of \$600 per month.

The overriding consideration regarding this policy will be to achieve the most efficient utilization of WESA resources.

**§ 927. Employee Travel. (M-0095, M-0151)**

The purpose of this business expense policy is to establish consistent, Authority-wide, policies and a basis for subsequent procedures regarding local and overnight travel for authorized activities. It includes, but is not limited to, travel, business meals, lodging, conference expenses, and other related expenditures incurred while conducting WESA or EVMWD business. Employees must ensure that their proposed expenses receive approval prior to incurring the expense.

- A. Definitions. For the purpose of this policy, the following definitions will be used:
1. Employee – an individual employed directly by WESA, excluding independent contractors, subcontractors, and other persons, performing work on behalf of WESA.
  2. Reimbursable expense – authorized expenses incurred and paid for by employees.

3. IRS – Internal Revenue Services.
4. Travel Reimbursement Authorization Requests (TRARs) - forms that must be completed and fully approved prior to travel. TRARs totaling less than \$500 may be approved by department directors for department staff. TRARs for department directors' travel must be approved by the General Manager or designee. All TRARs totaling \$500 or more must be approved by the General Manager or designee. TRARs are to be completed as early as possible to take advantage of all discounts available. (M-0151)

B. Categories of Travel. (M-0151) For purposes of determining reimbursable expenses and record-keeping, WESA or EVMWD authorized travel shall be comprised of the following two categories:

1. Category 1. Local or All Day Travel shall be any activity which requires a commute that can be made in one business day and does not require overnight accommodations.
2. Category 2. - Overnight Travel shall be any travel activity which requires overnight accommodations. For purposes of maximizing training, it is recognized that there may be instances where it is in the District's best interest to have an employee stay overnight even though all training can be accomplished in one day. The District will provide hotel accommodations for each day of the activity or event requiring an overnight stay. Unless approved by the General Manager, overnight lodging will only be authorized when the activity or event is greater than 50 miles (one-way) from either EVMWD Headquarters or the employee's residence. An exception can be allowed if traffic conditions or meeting/workshop start times would require an exceedingly long travel time prior to an employee's normal work day schedule.

C. Qualifying Activities for Reimbursement of Expenses. The principle of "reasonable and necessary" should be used when deciding to expend public money. Expenses incurred in connection with the following types of activities generally constitute authorized expenses as long as the other requirements of this policy are met.

1. Conferences and training, including visiting other agencies to

discuss and observe best practices.

2. Meetings with government and business leaders.
3. Lobbying trips.
4. Business-related trips where a benefit to WESA can be defined.

D. Pre-Payment by WESA. Whenever possible costs such as, transportation, accommodations, and registration fee, should be paid in advance directly by WESA either by check or WESA credit card.

E. Advance Allowance. Whenever possible requests for expense advances should be made in accordance with the Board Meeting packet preparation schedule for processing.

An advance allowance is a check requested before departure for payment of authorized business expenses that were not prepaid. Approved Advance Check requests are to be submitted as soon as possible to ensure proper processing time.

Employees with WESA or EVMWD credit cards may not receive Advance Checks.

Any unused portion of the advance, along with a completed Expense Report and itemized receipts, must be submitted to WESA within 30 days of the employee's return. Failure to comply with this requirement may result in funds being deducted from the employee's paycheck.

F. Category 1 Travel Local Travel: When local travel is approved, the following expenses will be reimbursed:

1. Personal Vehicle Mileage - Use of a WESA vehicle is recommended; however when approved by the Department Director, a personal vehicle may be utilized if the use of a WESA vehicle could incur additional travel time and overtime expenses, if travel will occur after normal business hours, or if a WESA vehicle is not available. If the meeting location and the employee's residence location make utilizing a personal vehicle more environmentally responsible by driving directly from the residence to the meeting place, this should also be considered.

No mileage will be reimbursed if, only for personal reasons, an employee selects to use their own vehicle for approved WESA business when a WESA vehicle is available.

Mileage will be reimbursed based upon the most direct route from point of departure to point of destination less the normal work commute mileage from the employee's home as determined by websites such as [www.Mapquest.com](http://www.Mapquest.com), [www.maps.google.com](http://www.maps.google.com), or [www.bing.com/maps](http://www.bing.com/maps).

If two or more employees travel together by private vehicle, only one employee may claim for mileage reimbursement. Proof of valid insurance is required and must be submitted to the Safety Officer.

Employees receiving a monthly vehicle allowance will not be reimbursed for mileage and may not drive WESA vehicles while conducting WESA or EVMWD business unless emergency related conditions, road conditions or topography of the site or location require specially equipped WESA vehicles.

To the extent required by Labor Code Sec. 2802, WESA shall indemnify employees for personal losses, including insurance deductibles, incurred as a result of the employee's use of a personal vehicle in the course and scope of employment.

2. Fuel - When using a WESA vehicle, the employee will ensure that the vehicle is adequately fueled prior to leaving the District. If a personal vehicle is authorized, the employee will be reimbursed at the current IRS mileage reimbursement rate.
3. Travel Time - It is expected that staff use good judgment in reporting to work before or after an approved travel. A half an hour variance is acceptable; however, any questions about this policy should be discussed with supervisor prior to the travel request. If the meeting location and the employee's residence location make utilizing a personal vehicle more environmentally responsible by driving directly from the residence to the meeting place, this should also be considered.
4. Meal Allowance – Shall be paid using the current IRS Meals and Incidental Expenses (M & IE) Breakdown (see



[www.gsa.gov/perdiem](http://www.gsa.gov/perdiem)) as a guideline for reimbursement of actual expenses incurred. If travel occurs during normal meal times, that meal cost is reimbursable. The IRS website is to be used as the guide for the separate amounts allowed for breakfast, lunch and dinner, dependent on the travel timeframe. Any questions about this guideline should be discussed with supervision prior to the travel request to determine which meals are reimbursable.

No meal allowance will be reimbursed if a meal is included in the training or conference registration, unless the employee has special food needs that can't be accommodated at the training or conference meal(s).

Itemized receipts must be submitted for reimbursement of the actual costs.

- G. Category 2 Travel. Overnight Travel: When overnight travel is approved, the following expenses will be reimbursed:
1. Transportation (M-0151)- The most time-efficient, economical mode and class of transportation reasonably consistent with scheduling requirements and traveler needs must be used, using the most direct and time-efficient route. If an employee has a physical limitation or disability, allowances will be made, which may affect total travel costs, to accommodate those needs without further General Manager approval. This would also be done in accordance with the Americans with Disabilities Act.
  2. WESA Vehicles - May not be used for overnight travel and employees are required to use their personal vehicles. Employees will be reimbursed for miles driven in excess of their normal commute round-trip mileage at the current IRS mileage rate. Proof of valid insurance is required and must be submitted to the Safety Officer. If two or more employees carpool, only one may be reimbursed for mileage.

If it can be demonstrated that a rental car is a more cost effective option or that there are other justifiable reasons, a rental car may be used in lieu of the employee's personal car

with the department director's permission.

3. Airfare - When airfare is the most economical mode of transportation, travel shall be by commercial air at the lowest published airfare available for economy class. Airfare should be booked as early as possible to receive the lowest possible rate. Class upgrades, early check-in, or boarding fees of any kind will not be reimbursed.

If an employee chooses to drive rather than fly, reimbursement will be at the lesser cost of driving or flying unless approved by the General Manager.

If two or more employees choose to drive together rather than fly, the total of both employees' cost differences will be given to the employee receiving the mileage reimbursement, provided it does not exceed the reimbursement for actual mileage driven.

4. Ground Transportation - WESA will reimburse the employee for the cost of a taxi or shuttle service between the airport, hotel, and training or conference location. In circumstances where lodging or restaurants are at a location different from the training or meeting facility, WESA will reimburse the employee for transportation costs from their place of lodging to these other locations.
5. Vehicle Rental - When vehicle rental is chosen over taxi or shuttle service, there shall be a business reason or economic benefit to support the decision. The vehicle class will be the most economic and reasonable that meets the needs of the traveler(s).

Optional auto insurance coverage for the rental vehicle is non-reimbursable and will be at the sole expense of the employee. If an employee is found liable for damage to a rental vehicle, and if the damage was not caused by negligence, WESA will reimburse the employee for damage expenses incurred.

IRS mileage rates will not be paid for rental vehicles; receipted fuel expenses will be reimbursed.

6. Parking Expenses - Prudence shall be used when choosing the

most economical mode of parking.

- a. Airport Parking - Long-term parking is preferred for travel exceeding 24 hours.
  - b. Conference, Training, or Hotel Parking - Valet parking will not be reimbursed beyond that incurred for a normal parking fee unless the employee can demonstrate that no other reasonable parking alternative was available.
7. Accommodations/Lodging - Reservations shall be made in advance in order to receive the best rate possible. If such lodging is in connection with a conference, lodging should be at the group rate published by the conference sponsor. WESA credit card is the preferred method of payment. Upon hotel check-out, the employee shall obtain an itemized hotel receipt for submission with the Expense Report. It is the responsibility of each department to contact the lodging accommodation in advance to ensure payment arrangements and authorization requirements are handled appropriately.

If an employee chooses to stay at a hotel other than those included in the block rate associated with the conference or training, reimbursement will be only up to the sponsored block rate.

If the conference block rate is not available, care should be taken to locate appropriate lodging at a cost as close as possible to the block rate.

8. Meal Allowance – Shall be paid utilizing the current IRS Meals and Incidental Expenses (M & IE) rate for the location of the training or conference (see [www.gsa.gov/perdiem](http://www.gsa.gov/perdiem)) as a guideline for travel approval and actual expenses reimbursed. No meal allowance will be approved or reimbursed if a meal is included in the training or conference registration. Itemized receipts must be submitted for reimbursement. Incidental expenses include tips for porters, baggage carriers and hotel staff. On the first and last day of travel, meal allowances shall be adjusted as allowed on the IRS First and Last Day of Travel guideline (see [www.gsa.gov/perdiem](http://www.gsa.gov/perdiem)) unless the travel times are demonstrated to be in excess of partial days.

9. Registration Fees - Conference, seminar, training and meeting registration fees should be prepaid by WESA whenever possible to take advantage of early registration discounts.
10. Communications - Telephone, internet, mail, and fax expenses away from home will be reimbursed only when directly related to WESA business. If the employee is traveling with a portable computer, it is recommended that they inquire with the IT Department about checking out a portable WiFi device to save hotel service fees.
11. Miscellaneous - Miscellaneous expenses authorized for reimbursement include, but are not limited to:
  - a. Laundry, cleaning and pressing of clothing are reimbursable as a miscellaneous travel expense if travel includes a minimum of four consecutive nights lodging.
  - b. Bridge and toll road fees.
  - c. Baggage handling and storage.
  - d. Duplicating, scanning or photocopying expenses directly related to WESA business
12. No Shows and Late Cancellation - The employee shall submit a written explanation to the Department Director addressing the reason(s) the employee was unable to attend. If an employee is unable to complete a planned trip, conference, etc., it is the employee's responsibility to make every effort to ensure that any pre-paid expenses (e.g. registration fee, airline ticket, hotel) attributable to the event are refunded or credited to WESA.

An expense form must be completed as soon as possible with all non-refundable costs related to the travel.
13. Separation from Employment - Any travel arrangements outstanding for an employee who resigns prior to the event, shall be cancelled. Any monies owing from any previously issued expense advance will be deducted from the employee's final paycheck.
14. Non-Authorized Expenses - Expenditures not authorized for reimbursement include, but are not limited to:

- a. Any personal portion of the trip.
  - b. Additional expenses incurred by or on behalf of a companion.
  - c. Entertainment expenses, including in-room movies and airline headsets.
  - d. Personal vehicle expenses or any other additional expenses for damage and/or personal losses caused by negligence on behalf of the employee
  - e. Traffic/driving citation and fines.
  - f. Alcoholic Beverages.
  - g. Incidental personal expenses including, but not limited to, any medications and non-business related reading materials.
- H. Procedures for Reimbursement of Expenses. Employees shall submit original itemized receipts immediately upon return to the appropriate department staff person for expense form completion, approval and processing. Itemized receipts should indicate a date, a detailed nature of the expense, and generally identify the participants. In situations where no receipt can be obtained, an explanation of the charges and the reason for the lack of receipt must be included. Failure to submit the required form and documentation within 30 working days may result in the expense being borne by the employee. IRS requires that expenses submitted after 60 days will be reported as taxable income and will appear in Box 1 of Form W-2.
- I. Credit Card Use - Employees that have WESA credit cards shall use the WESA credit card for all travel related expenses. Itemized receipts are to be submitted immediately upon the conclusion of the travel to the appropriate department staff person for processing. All expenses for meals, meal tips and gratuities, and incidental expenses shall be reimbursed for the actual cost in accordance with the M&IE per-diem rate guideline.
- J. Reward Points - Any points related to hotel or airline reward programs accumulated from WESA credit card use should be redeemed by the Authority whenever possible.

**§ 928. WESA Vehicle Purchases. (M-0095)**

In consideration of the local economy, bids received from vehicle vendors in cities within the EVMWD boundary within 1% of the lowest bid may be awarded, at the discretion of the Board of Directors.

**SECTION 950.      COMP TIME POLICIES**

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## **SECTION 950. COMP TIME POLICIES**

### **§ 951. Unrepresented Management Employees.**

The practice of allowing comp time for the specified management employees is restricted to: a) hours worked on holidays, b) after hours worked during a declared EMMWD emergency.



**SECTION 1000.     RECOGNIZED EMPLOYEE ORGANIZATIONS**

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**SECTION 1000. RECOGNIZED EMPLOYEE ORGANIZATIONS****§ 1001. Management Team Association. (R-2007-5)**

The Water Employee Services Association (WESA) Management Team Association (the "MTA") consists of management, supervisor, and confidential positions. Employees covered by the MTA Memorandum of Understanding have the right to become members and remain members in good standing throughout the term of the Memorandum. Employees also have the right to refuse to become members of the Association.

**§ 1002. Employee's Association. (R-2007-5)**

The Employee Association (the "EA") consists of office and field staff in non supervisory positions. Upon hire to WESA, employees covered by the Employee Association's Memorandum of Understanding are required as a position of employment, to be dues-paying members of the Association or pay an agency fee for representation. New employees represented by this Association will be provided an authorization form for the purpose of payroll deductions for dues. The EA was established pursuant to the Meyers-Milias-Brown Act.

## **SECTION 1100. EMPLOYER-EMPLOYEE RELATIONS**

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**SECTION 1100. EMPLOYER-EMPLOYEE RELATIONS**

**§ 1101. Employee Relations Officer.**

The General Manager shall be the Employee Relations Officer.

**§ 1102. Employer/Employee Relations Resolution.**

Rules and Regulations for the administration of employer-employee relations will be set forth by resolution and incorporated by reference.

## **SECTION 1200. EMPLOYEE SAFETY**

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**SECTION 1200. EMPLOYEE SAFETY****§ 1201. Policy.**

It is the policy of the WESA to achieve the greatest practical degree of freedom from accidents and to insure that every employee is provided safe and healthful working conditions, free from recognized hazards. In the performance of his duties, each employee is expected to observe safety practices, rules and operating procedures, as well as instructions relating to the efficient performance of their work.

**§ 1202. Safety Manual.**

Guidelines for the administration WESA's Injury Prevention Program and the Code of Safe Practices and Operating Procedures comprise the WESA's Safety Manual and by reference the Safety Manual is a part hereof (Appendix B).

**SECTION 1250. DRUG AND ALCOHOL TESTING  
POLICY FOR EMPLOYEES OPERATING  
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**SECTION 1250. DRUG AND ALCOHOL POLICY (M-0114, M-0123)****§ 1251. Purpose.**

The objective of the Water Employee Services Authority (herein “WESA”) is to promote a safe, healthy, and productive work environment for all employees and have a work force that is free from the influence of alcohol and controlled substances. Therefore, it is the policy of WESA to prohibit its employees from using alcohol or drugs in connection with their employment in order to maintain a work environment free from the effects of drug and alcohol use. Substance abuse can affect job performance, employee and public safety, and the public’s perception of WESA and its operations.

Employees who believe that they may have a substance abuse problem are urged to voluntarily seek confidential assistance from WESA’s Human Resources and Safety Manager. Thereafter, WESA may, in its sole discretion, consider a referral for professional assistance or otherwise permit an employee to take time off to address the substance abuse problem.

WESA will be firm in identifying and disciplining those employees who do not voluntarily seek assistance and who continue to use drugs or alcohol in violation of WESA’s policies. WESA has a significant interest in ensuring the health and safety of its employees, in avoiding accidents, to promote and maintain safe and efficient working conditions for its employees, and to protect its property, equipment, and operations. Finally, WESA has an obligation to ensure that its employees do not present a safety risk to the public at large. The use of drugs, alcohol, or any other substance, which alters an employee’s behavior, can affect an employee’s ability to perform his or her duties safely and effectively, and increase the potential for accidents, absenteeism, substandard performance, poor employee morale, and can damage WESA’s reputation. **As a condition of continued employment with WESA, each employee must abide by this policy.**

**NOTE TO ALL DRIVERS:** Drivers who are subjected to the U.S. Department of Transportation procedures for the transportation Workplace Drug and Alcohol Testing programs are subject to WESA’s “U.S. Department of Transportation Substance Abuse and Drug and Alcohol Testing Policy” in addition to this general policy. Should the terms of these two policies conflict or be inconsistent, WESA’s “U.S. Department of Transportation Substance Abuse and Drug and Alcohol Testing Policy” must be followed.



**§1252.      Definitions.**

For purposes of this policy:

- A.        *“Illegal drugs or other controlled substances”* means any drug or substance that (a) is not legally obtainable; or (b) is legally obtainable but has not been legally obtained; or (c) has been legally obtained but is being sold or distributed unlawfully.
- B.        *“Legal drug”* means any drug, including any prescription drug, recreational drug, or over-the-counter drug, that has been legally obtained and that is not unlawfully sold or distributed.
- C.        *“Abuse of any legal drug”* means the use of any legal drug (a) for any purpose other than the purpose for which it was prescribed or manufactured; or (b) in a quantity, frequency, or manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.
- D.        *“Possession”* means that an employee has the substance on his or her person or otherwise under his or her control.
- E.        *“Reasonable Suspicion”* includes a suspicion that is based on specific personal observations such as an employee’s manner, disposition, muscular movement, appearance, behavior, speech or breath odor; information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable; or a suspicion that is based on other surrounding circumstances.

**§1253. Scope.**

The prohibitions of this policy apply whenever the interests of WESA may be adversely affected, including any time an employee is:

- A. On WESA premises;
- B. Conducting or performing WESA business, regardless of location;
- C. Operating or responsible for the operation, custody, or care of WESA equipment or other property; or
- D. Responsible for the safety of others in connection with, or while performing, WESA-related business.

**§1254. Prohibited Conduct.**

- A. Alcohol. The following acts are prohibited and will subject an employee to discharge:
  - 1. The unauthorized use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of alcohol; or
  - 2. Being under the influence of alcohol (Defined as any Blood Alcohol Content ("BAC") level of 0.02 or higher).
- B. Illegal Drugs. The following acts are prohibited and will subject an employee to discharge:
  - 1. The use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of any illegal drug or other controlled substance; or
  - 2. Being under the influence of any illegal drug or other controlled substance.
- C. Legal Drugs. The following acts are prohibited and will subject an employee to discharge:
  - 1. The abuse of any legal drug;
  - 2. The purchase, sale, manufacture, distribution, transportation, dispensation, or possession of any legal prescription drug in a manner inconsistent with law; or

3. Working while impaired by the use of a legal drug whenever such impairment might:
  - a. Endanger the safety of the employee or some other person;
  - b. Pose a risk of significant damage to WESA property or equipment; or
  - c. Substantially interfere with the employee's job performance or the efficient operation of WESA or WESA's equipment.

**§1255. Disciplinary Action.**

- A. Violation of Policy: A first violation of this policy will result in discipline up to and including termination. In determining the level of discipline, WESA may consider whether an employee satisfactorily participates in and completes an approved drug or alcohol abuse 'assistance' or rehabilitation program if recommended by WESA.
- B. Effect of Second Violation. A second violation of this policy at any time will result in immediate discharge.
- C. Effect of Discharge on Eligibility for Rehire. Employees who are discharged for a violation of this policy will not be eligible for rehire by WESA.
- D. Effect of Criminal Conviction. An employee who is convicted under a criminal drug statute for a violation occurring in the workplace or during any WESA-related activity or event will be deemed to have violated this policy.

**§1256. Use of Legal Drugs.**

WESA recognizes that employees may, from time to time, be prescribed legal drugs that, when taken as prescribed or according to the manufacturer's instructions, may result in impairment. Employees may not work while impaired by the use of legal drugs if the impairment might endanger the employee or someone else, pose a risk of significant damage to WESA property, or substantially interfere with the employee's job performance. If an employee is so impaired by the appropriate use of legal drugs, he or she may not report to work.

To accommodate the absence, the employee may use accrued sick leave or vacation time. The employee may also contact the Human Resources and Safety Manager to determine whether he or she qualifies for an

unpaid leave of absence. Nothing in this policy is intended to sanction the use of accrued sick leave or vacation time to accommodate absences due to the abuse of legal drugs. Further, nothing in this policy is intended to diminish WESA's commitment to employ and reasonably accommodate qualified disabled individuals. WESA will reasonably accommodate qualified disabled employees who must take legal drugs because of their disability.

**§1257. Unregulated or Authorized Conduct.**

- E. Customary Use of Over-the-Counter Drugs. Nothing in this policy is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over-the-counter drugs, so long as that activity does not violate any law or result in an employee being impaired by the use of such drugs in violation of this policy.
- F. Off-the-Job Conduct. This policy is not intended to regulate off-the-job conduct, so long as the employee's off-the-job use of alcohol or drugs does not result in the employee being under the influence of or impaired by the use of alcohol or drugs in violation of this policy.
- G. Authorized Use of Alcohol. WESA may allow alcohol consumption at certain events, such as social functions. The consumption of alcohol at these events does not violate this policy.

**§1258. Testing.**

- H. Testing of All Applicants.

As part of WESA's employment screening process, any applicant to whom an offer of employment with WESA is made must pass a test for controlled substances, under the procedures described below. The offer of employment is conditioned on a negative test result. **Applicants will be informed of WESA's drug testing policy in the employment application.**

If an applicant refuses to cooperate with the administration of the drug test, the refusal will be handled in the same manner as a positive test result.

I. Testing of All Employees.

1. Reasonable Suspicion Testing.

If an employee's supervisor or manager has a reasonable suspicion that the employee is working in an impaired condition or otherwise engaging in conduct that violates this policy, they will notify either the Human Resources & Safety Manager, the Safety Officer, or his or her designee. With a member of Human Resources, or their designee present, the employee will be asked about any observed behavior and offered an opportunity to give a reasonable explanation. If the employee is unable to explain the behavior, he or she will be asked to take a drug test in accordance with the procedures outlined below.

If the employee refuses to cooperate with the administration of the drug test, the refusal will be handled in the same manner as a positive test result.

J. Testing of Employees in Designated Safety-Sensitive Positions.

Employees in safety-sensitive positions are subject to the same testing in section (§1257.B) above for "Testing of All Employees." Additionally, designated safety-sensitive positions are also subject to the following types of testing:

1. **Annual Drug Testing:** Employees in safety-sensitive position(s) will be required to submit to annual drug and alcohol testing, under the procedures described below. The testing will be scheduled by Human Resources and will occur in the employee's work anniversary month.

**NOTE:** If an employee refuses to cooperate with the administration of the drug test, the refusal will be handled in the same manner as a positive test result.

2. **Post-Accident Drug Testing:** WESA reserves the right to require employees in safety-sensitive position(s) to undergo drug and alcohol testing if they are involved in an incident with any WESA equipment or WESA vehicle or personal vehicle when employee is driving for work related business that results in any damage, injury,

accident or incident, or a fatality. This includes all safety-sensitive employees who are on duty in the vehicles and any other whose performance could have contributed to the accident. In addition, WESA reserves the right to require safety-sensitive employees to undergo post-accident testing if an accident results in injuries requiring transportation to a medical treatment facility; or where one or more vehicles incurs disabling damage that requires towing from the site; or the safety-sensitive employee receives a citation under State or local law for a moving traffic violation arising from the accident.

- a. Following an accident, the safety-sensitive employee will be tested as soon as possible, but not to exceed eight hours for alcohol and 32 hours for controlled substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to drug and alcohol testing will be considered to have refused the test and will be subject to termination. Post-accident testing of safety-sensitive employees will include not only the operation personnel, but also any other covered employees whose performance could have contributed to the accident.
- b. Please note: drug and alcohol testing will not be conducted if the testing is retaliatory pursuant to the federal Occupational Safety and Health Administration's applicable rules.

**NOTE:** If an employee refuses to cooperate with the administration of the drug test, the refusal will be handled in the same manner as a positive test result.

Please see Attachment A for those job classifications or positions, which are designated as safety-sensitive.

#### **§1259. Procedures for Drug Testing.**

WESA will refer the applicant or employee to an independent, National Institute on Drug Abuse (NIDA)-certified medical clinic or laboratory, which will administer the test. WESA will pay the cost of the test and reasonable transportation costs to the testing facility. The applicant/employee will have the opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that he or she has taken that may affect the outcome of the

test. All drug testing will be performed by urinalysis. Initial screening will be done by EMIT II, according to the Toxicological Laboratory cutoff standards required by 49 C.F.R part 40, as amended. Positive results will be confirmed by gas chromatography/mass spectrometry. WESA will use the highest cut-off levels permitted by federal regulation for both screening and confirmation tests.

The clinic or laboratory will inform WESA as to whether the applicant/employee passed or failed the drug test. If an employee fails the test, he or she will be considered to be in violation of this policy and will be subject to discipline accordingly.

**§1260. Acknowledgment and Consent.**

Any employee/applicant subject to testing under this policy will be asked to sign a form acknowledging the procedures governing testing, and consenting to:

- A. The collection of a urine sample for the purpose of determining the presence of alcohol or drugs, and
- B. The release to WESA of medical information regarding the test results. Refusal to sign the agreement and consent form, or to submit to the drug test, will result in the revocation of an applicant's job offer, or will subject an employee to discipline up to and including termination.

**§1261. Confidentiality.**

Disclosures made by employees to the HR and Safety Manager concerning their use of legal drugs will be treated confidentially and will not be revealed to managers or supervisors unless there is an important work-related reason to do so in order to determine whether it is advisable for the employee to continue working. Disclosures made by employees to the HR and Safety Manager concerning their participation in any drug or alcohol rehabilitation program will be treated confidentially.

**§1262. Counseling/Employee Assistance.**

Employees who suspect they may have alcohol or drug problems, even in the early stages, are encouraged voluntarily to seek diagnosis and to follow through with the treatment as prescribed by qualified professionals. Employees who wish to voluntarily enter and participate in an approved alcohol or drug rehabilitation program are encouraged to contact the HR and Safety Manager, who will determine whether WESA can accommodate the employee by providing unpaid leave for the time necessary to complete participation in the program. Employees should be aware that participation in a rehabilitation program will not necessarily shield them from disciplinary action for a violation of

this policy, particularly if discipline is imposed for a violation occurring before the employee seeks assistance.



**ATTACHMENT “A”**  
**(M- 0123)**

The following job classifications are designated safety-sensitive positions and covered by WESA’s Drug and Alcohol Testing Policy and Procedure as defined in section §1258.C:

- Buyer I, II
- Electromechanical Technician
- Engineering Inspector
- Facilities Locator/Valve Technician
- Field Maintenance Superintendent-Construction Maintenance
- Field Maintenance Superintendent-Preventive Maintenance
- Field Maintenance Worker I, II, III-Facilities Maintenance
- Field Maintenance Worker I, II, III-Preventive Maintenance
- Inventory Control Specialist
- Lead Water Production Operator
- Lift Station Technician
- Mechanical Maintenance Superintendent
- SCADA Specialist I, II, III
- Senior Engineering Inspector
- Wastewater Collection Systems Superintendent
- Wastewater Treatment Operator I, II, III
- Wastewater Treatment Superintendent
- Water Production Operator I, II, III
- Water Production Superintendent
- Water Quality Analyst
- Water Quality Supervisor
- Water Quality Technician
- Welder/Fabricator

**ATTACHMENT “B”****ACKNOWLEDGEMENT OF RECEIPT OF****DRUG AND ALCOHOL POLICY**

I, \_\_\_\_\_, hereby certify that I have received a copy of WESA’s Drug and Alcohol Policy for employees. I fully understand its provisions and acknowledge that compliance with this Policy is a condition of continued employment.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Human Resources Representative Signature

\_\_\_\_\_  
Date

**SECTION 1280. US DEPARTMENT OF TRANSPORTATION  
(DOT) SUBSTANCE ABUSE AND DRUG  
AND ALCOHOL TESTING POLICY**

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**SECTION 1280. US DEPARTMENT OF TRANSPORTATION (DOT)  
SUBSTANCE ABUSE AND DRUG AND ALCOHOL  
TESTING POLICY**

**§ 1281. Purpose.**

This policy is in addition to the Drug and Alcohol Policy of Water Employee Services Authority (herein "WESA"). Employees who are subject to this Department of Transportation ("DOT") policy remain subject to WESA's Drug and Alcohol Policy. The WESA employees who are also subject to this DOT policy are all drivers, as defined in Section 1283 below.

The objective of WESA is to promote a safe, healthy, and productive work environment for all employees and have a work force that is free from the influence of alcohol and controlled substances. Therefore, it is the policy of WESA to prohibit its employees from using alcohol or drugs in connection with their employment in order to maintain a work environment free from the effects of drug and alcohol use. Substance abuse can affect job performance, employee and public safety, and the public's perception of WESA and its operations.

Employees who believe that they may have a substance abuse problem are urged to voluntarily seek confidential assistance from the Human Resources Department. Thereafter, WESA may, in its sole discretion, consider a referral for professional assistance or otherwise permit an employee to take time off to address the substance abuse problem.

WESA will be firm in identifying and disciplining those employees who do not voluntarily seek assistance and who continue to use drugs or alcohol in violation of WESA's policies. WESA has a significant interest in ensuring the health and safety of its employees, in avoiding accidents, to promote and maintain safe and efficient working conditions for its employees, and to protect its property, equipment, and operations. Finally, WESA has an obligation to ensure that its employees do not present a safety risk to the public at large. The use of drugs, alcohol, or any other substance, which alters an employee's behavior, can affect an employee's ability to perform his or her duties safely and effectively, and increase the potential for accidents, absenteeism, substandard performance, poor employee morale, and can damage WESA's reputation. **As a condition of continued employment with WESA, each employee must abide by this policy.**

**§ 1282.      Overview.**

This policy is intended to do the following:

- A. Create a workplace environment free from the harmful effects of alcohol and controlled substance use or misuse;
- B. Encourage drivers (as that term is defined in Section 1283 below) to seek professional assistance regarding alcohol or controlled substance dependency which may adversely affect their ability to perform their assigned duties; and,
- C. Require drivers who have been determined to need assistance regarding alcohol and/or controlled substances use to complete any necessary treatment before returning to their safety-sensitive functions.

**NOTE TO ALL DRIVERS:** If you are a driver covered by these requirements, carefully read through this policy and ask questions because compliance with this policy is a condition of employment. Drivers who fail to comply with this policy in full shall be subject to disciplinary action, up to and including termination.

**§ 1283.      Definitions. (M-0120)**

Whenever used in this policy, the terms set forth in this section shall have the following meanings as applicable. The singular of the term shall include the plural, and the plural shall include the singular. This is a list of major definition areas and is not intended to be all inclusive of definitions or terms used or defined elsewhere in this policy.

- A. *“Accident”* An accident that triggers DOT post-accident testing of surviving drivers is:
  - 1. If the accident involved loss of human life; **OR**
  - 2. If a citation is issued and
    - a. There is bodily injury requiring medical treatment away from the scene; or
    - b. Disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other motor vehicle.

However, a citation is not required if the vehicle involved does not qualify as a Commercial Motor Vehicle as defined below.

- B. *“Alcohol”* The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- C. *“Alcohol Concentration (or Content)”* The alcohol in a volume of a breath expressed in terms of grams of alcohol per two hundred ten (210) liters of breath as indicated by an evidential breath test under this part.
- D. *“Appropriate Use”* Use of a legally prescribed drug by a driver who has a current prescription from a physician for medical treatment and instructions from the physician that the substance does not adversely affect the driver’s ability to safely operate a Commercial Motor Vehicle, a non-Commercial Motor Vehicle or perform a safety-sensitive function (See 49 Code of Federal Regulations (“C.F.R.”), § 382.213). Such prescription must include the patient’s name, the name of the substance, quantity/amount to be taken, and the period of authorization.
- E. *“Collection Site”* A place selected by the employer where a driver presents him/herself for the purpose of providing breath or urine samples to be analyzed for specified alcohol or controlled substances. The collection site must have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary and long-term storage, transportation, or shipment of the samples to a toxicological laboratory.
- F. *“Commercial Motor Vehicle (CMV) (49 C.F.R., § 382.107)”* A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle;
  - 1. Has a gross vehicle weight rating of twenty-six thousand one (26,001) or more pounds; or
  - 2. Has a gross combination weight of twenty-six thousand one (26,001) or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand (10,000) pounds;

3. Is designed to transport sixteen (16) or more passengers including the driver; or
  4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 C.F.R., § 172.500 *et seq*).
- G. *“Controlled Substance”* Controlled substances include marijuana (whether prescribed or not), cocaine, opioids, amphetamines, and phencyclidine (PCP) as stated in 49 C.F.R., § 40.85, as well as any of the controlled substances listed in the “Schedule of Controlled Substances,” in 21 C.F.R., § 1308.11, or any of the “Drugs and other substances” identified in 49 C.F.R., § 392.4. The term “Drug” is used interchangeably with Controlled Substances.
- H. *“Confidentiality”* Any testing record or records concerning a driver’s treatment for Alcoholism or Controlled Substance Abuse use shall remain strictly confidential and shall remain separate from other personnel materials.
- I. *“Designated Employer Representative (DER)”* An employee authorized by the employer to take immediate action(s) to remove drivers from safety-sensitive duties, or cause drivers to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications from WESA, consistent with the requirements of the regulations. The DER for WESA will be the Human Resources & Safety Manager or his/her designee.
- J. *“DOT”* U.S. Department of Transportation.
- K. *“Driver”* WESA employees covered by the terms of this policy by virtue of possession of a valid commercial driver’s license.
- L. *“FHWA”* The Federal Highway Administration, U.S. Department of Transportation.
- M. *“FTA”* The Federal Transit Administration, an agency of the U.S. Department of Transportation.
- N. *“Job Classification or Position”* Those job classifications or positions, which are covered by this policy. See Attachment A.

- O. *“Medical Review Officer (MRO)”* A licensed physician with knowledge and expertise of the clinical and medical diagnosis and treatment of Alcohol and Controlled Substance related disorders, specific qualification training and continuing education as defined by 49 C.F.R., § 40.121. The MRO is responsible for receiving and reviewing laboratory results generated by the Alcohol and Controlled Substance Testing Program and for evaluating medical explanations for certain Alcohol and Controlled Substance Test results.
- P. *“Non-Commercial Motor Vehicle”* A public transportation vehicle, such as a bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel used for public transportation or for ancillary services.
- Q. *“On Duty (time)”* The span of time between the times the driver reports for his or her work shift through the time the driver ends duty for the same shift. It also includes any time a driver is on paid on-call or standby duty.
- R. *“Perform(ing) a Safety-Sensitive Function”*
  - 1. With a Commercial Motor Vehicle.

All time from the time a driver begins to work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work. Safety-sensitive functions include:

    - a. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by WESA;
    - b. All time inspecting equipment as required by 49 C.F.R., §§ 392.7 and 392.8, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
    - c. All time spent at the driving controls of a Commercial Motor Vehicle in operation;
    - d. All time, other than driving time, in or upon any Commercial Motor Vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 C.F.R., § 393.76);



- e. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
  - f. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. (See 49 C.F.R., §382.107).
2. With Non-Commercial Motor Vehicle.  
All time from the time a driver begins to work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work. Safety-sensitive functions include:
- a. Operating a revenue service vehicle, including when not in revenue service;
  - b. Operating a nonrevenue service vehicle, when required to be operated by a holder of a commercial driver's license;
  - c. Controlling dispatch or movement of a revenue service vehicle;
  - d. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. 5307 or 5309, is in an area less than two hundred thousand (200,000) in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. 5311 and contracts out such services;
  - e. Carrying a firearm for security purposes (See 49 C.F.R., § 655.4.)

A safety-sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

S. “Testing”

1. Post-Accident. Tests performed on drivers who have been involved in an accident that results from specified events or circumstances as specified in this policy.
2. Positive Test.  
A positive test occurs when either:
  - a. The result reported by a US Department of Health and Human Services (“HHS”)-certified laboratory shows that a specimen contains a controlled substance or controlled substance metabolite equal to or greater than the cutoff concentrations;
  - b. When the driver refuses to submit to an Alcohol or Controlled Substance Test, as defined below;
  - c. When the MRO verifies that the specimen is found to have been adulterated (meaning that a specimen has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance); or
  - d. When the MRO verifies that there is a substituted specimen (meaning a urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine).
3. Pre-Employment Testing. Test performed on all applicants considered by WESA for a position which requires him/her to perform a safety-sensitive function shall undergo alcohol and controlled substance testing before becoming eligible for employment, unless specifically exempted from such test as set forth in the applicable Federal Regulations.
4. Random Testing. The selection of drivers for testing is made by a scientifically valid method such as a computer based random number generator that is matched to the driver’s CDL number. Every member of the selection pool has an equal chance of being selected each time a selection is drawn for testing.

- T. *“Service Agent”* Any person or entity, other than a driver of WESA, who provides services in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, Breath Alcohol Technician (“BAT”), laboratories, MROs, substance abuse professionals, and Third Party Administrators (“TPAs”).
- U. *“Reasonable Suspicion”* A good faith belief based on articulated facts or evidence that a person may be under the influence of alcohol or controlled substances, while on duty.
- V. *“Reasonable Suspicion Testing”* Tests performed on any driver who is reasonably suspected of being intoxicated, under the influence, and/or impaired due to the use of alcohol and/or any controlled substance based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver.
- W. *“Refusal to Submit (to an Alcohol or Controlled Substance Test)”* ‘Refusal’ can include, but is not limited to, one or more of the following:
  - 1. A refusal to take an Alcohol or Controlled Substance Test;
  - 2. A refusal to provide a urine sample for a Controlled Substance Test;
  - 3. An inability to provide a urine specimen, breath sample, or saliva sample without a valid medical explanation;
  - 4. A refusal to complete and sign the Breath Alcohol Testing form, or otherwise to cooperate with the testing process in a way that prevents completion of the Test;
  - 5. A refusal to cooperate with the recommended treatment;
  - 6. Tampering with or attempting to adulterate the urine specimen or collection procedure;
  - 7. Deliberately not reporting to the collection site at the time assigned by WESA; or
  - 8. Leaving the scene of an accident without authorization from driver’s supervisor, or the person responsible for deciding if a driver must take a Post-Accident Controlled Substance and/or Alcohol Test.

- X. *“Regulations”* FHWA Regulations set forth in 49 C.F.R., §§ 382, *et seq.*, FTA Regulations set forth in 49 C.F.R., §§ 655, *et seq.*, and the regulations set forth by the Office of the Secretary of Transportation in 49 C.F.R., §§ 40, *et seq.*
- Y. *“Return-to-Duty Testing”* Testing performed on driver before he/she is allowed to return to duty after previously testing positive on a Controlled Substance and/or Alcohol Test.
- Z. *“Split-Specimen”* A part of the original urine specimen that is sent to the first laboratory and retained unopened, and which is transported to a second laboratory in the event the driver requests of the MRO that it be tested following a verified positive test of the primary sample or a verified adulterated or substituted test result.
- AA. *“Substance Abuse Professional (SAP)”* A licensed physician (medical doctor or doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substance-related disorders, specific qualification training and continuing education as required by 49 C.F.R., § 40.283.
- BB. *“Supervisor/Manager/Department Head/Designee” Employees* in the classified or unclassified service who supervise other employees and/or manage a department, division, or workgroup.
- CC. *“Test/Testing”* Drivers who perform a safety-sensitive function, as defined in 49 C.F.R., §§ 382.107, 655.4 and in this policy, above, will be subject to Pre-Employment, Reasonable Suspicion, Post-Accident, Random, Return-to-Duty, and Follow-Up Alcohol and Controlled Substance Testing (“Testing” or “Test”). The types of testing that drivers shall be subject to include breath and/or saliva for the presence of alcohol, and urine testing for the presence of controlled substances.
- DD. *“Toxicological Laboratory”* A drug abuse service Toxicological Laboratory certified by HHS to perform Alcohol and Controlled Substance Testing under the auspices of the Federal Government with specific expertise and chain of custody

procedures, split specimen sampling, and drug/alcohol record-keeping methodologies.

**§ 1284. Policy.**

- A. Impact on a Driver With a Positive Drug/Alcohol Test.  
A driver, who is found to be in violation of WESA's Controlled Substances/Alcohol Testing Program as set forth in this policy, is subject to the remedial procedures set forth in this policy (See "Positive Test Result Following Random or Follow-Up Testing"). A driver will be subject to discipline under WESA's Personnel Rules & Regulations, up to and including termination, for being on duty and possessing, being under the influence of, or using any controlled substance or alcohol while performing a safety-sensitive function.
- B. Covered Drivers.  
Drivers who work in certain job classifications or positions, which include the operation of Commercial Motor Vehicles and Non-Commercial Motor Vehicles, as defined above, are required to comply with the Alcohol and Controlled Substance Testing Program described in this policy. Drivers covered by this policy are those who fall into the categories set forth in 49 C.F.R., §§ 382, 383, & 655.4, and possess a commercial driver's license. This policy applies to all regular and temporary employees whose job classifications and positions involves driving trucks or other DOT regulated vehicles for WESA. Throughout this policy, all WESA employees who drive trucks, or other DOT regulated vehicles for WESA are referred to as "driver(s)".
- C. Prohibited Conduct.  
A driver shall not be on duty and possess, be under the influence of, or use any controlled substance or alcohol while performing a safety-sensitive function. Violation of this policy will lead to discipline up to and including termination.

The following conduct is prohibited, and constitutes a violation of these provisions:

1. Use of Alcohol.
  - a. Alcohol Concentration

No driver shall report to duty or remain on duty requiring the performance of safety-sensitive functions while having a blood alcohol concentration ("BAC") of 0.02 or greater.

b. On Duty Use

No driver shall use alcohol while performing safety-sensitive functions (49 C.F.R., §§ 382.205 and 655.32).

c. Pre-Duty Use

No driver shall perform safety-sensitive functions within four (4) hours after using alcohol (49 C.F.R., §§ 382.207 and § 655.33).

d. Post-Accident Use

No driver required to take a Post-Accident Test (as defined in 49 C.F.R., §§ 382.303 and 655.44) shall use alcohol for eight (8) hours following the accident, or until he/she first undergoes a Post-Accident Alcohol Test, whichever occurs first (See Section titled "Post-Accident Testing") (49 C.F.R., §§ 382.209 and 655.34).

e. Refusal to Test

No driver shall refuse to take a required Alcohol Test. (See Section titled, "Refusal to Submit to Required Testing"). WESA shall not permit a driver to perform or continue to perform safety-sensitive functions if driver refuses to submit to any required test (49 C.F.R., §§ 382.211, 655.61).

2. Use of Controlled Substances.

No driver shall be on duty and possess, be under the influence of, or use, any of the controlled substances listed above (49 C.F.R., § 40.21), any of the controlled substances listed in the "Schedule of Controlled Substances," as amended from time to time in 21 C.F.R., § 1308.11, or any of the "drugs and other substances" identified in 49 C.F.R., § 392.4, without a doctor's prescription (See "Legal Drugs" section below).

a. Use When Reporting for Duty/Remaining on Duty

No driver shall report for duty, remain on duty or perform a safety-sensitive function if such driver uses any controlled substance(s), except when the driver operates a Commercial Motor Vehicle, and the use is pursuant to the instructions of a licensed medical practitioner who has advised the driver that the controlled substance(s)

will not adversely affect the driver's ability to safely operate a Commercial Motor Vehicle (49 C.F.R., §§ 382.213).

b. Testing Positive for Controlled Substances

No driver shall report for duty, remain on duty, or perform a safety-sensitive function if such driver tests positive for Controlled Substance(s) (49 C.F.R., §§ 382.215, 655.61).

c. Refusal to Test

No driver shall refuse to take a required Controlled Substance Test. (See Section titled "Refusal to Submit to Required Testing.") WESA shall not permit a driver to work if driver refuses to submit to any required test (49 C.F.R., §§ 382.211, 655.61).

d. Legal Drugs

Appropriate use of medically prescribed medications and controlled substances is not necessarily a violation of this policy. A driver must notify his/her supervisor or manager, before beginning work, that he/she is taking medications, therapeutic drugs, or controlled substances, if the driver knows or reasonably should know such substances could interfere with the safe and effective performance of his/her duties or the operation of WESA's equipment. The misuse of a legal drug while performing WESA's business is prohibited. Using or being under the influence of any legally prescribed medication(s), or non-prescription medication(s) or drug(s) while performing District business or while on District property is prohibited if a driver knows or reasonably should know such use or influence could adversely impact his/her ability to safely perform. A driver whose performance of work-related duties may be impaired by use of any legal substance which carries a warning label that indicates that mental functioning, motor skills and/or judgment may be adversely affected shall report it to his/her supervisor/manager and shall seek medical advice before performing work-related duties.

D. Consequences of a Rule Violation.

1. Refusal to Submit to Required Testing.

Upon request by WESA, drivers are required to submit to a Post-Accident Alcohol or Controlled Substance Test (49 C.F.R., §§ 382.303, 655.44), a Random Alcohol and/or Controlled Substance Test (49 C.F.R., §§ 382.305, 655.45), a Reasonable Suspicion Alcohol or Controlled Substance Test (49 C.F.R., §§ 382.307, 655.43), or a Follow-Up Alcohol or Controlled Substance Test, (49 C.F.R., §§ 382.211, 655.47). Applicants for driver positions who refuse to submit to a Pre-Employment Test will not be appointed. Drivers who refuse a Return-to-Duty Test shall not be allowed to return to a safety-sensitive function. Refusal to submit to the Test(s) requested by WESA is considered presumptive evidence that the driver is intoxicated, under the influence, and/or impaired by controlled substances. A driver's refusal to submit to the test(s) requested by WESA will be treated the same way as a driver who receives a positive Alcohol or Controlled Substance Test result and can result in discipline up to and including termination. Any driver who refuses to comply with an order for testing shall be removed from performing safety-sensitive functions immediately and referred to the substance abuse professional. (49 C.F.R., §§ 382.211, 655.49, 655.61).

2. Tampering with Test Results.

Any driver who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately. Drivers may be disciplined up to and including termination. Adulteration and/or substitution is considered a refusal to test.

3. Positive Controlled Substance Test.

Any driver who has a confirmed positive Controlled Substance Test result is in violation of this policy and will be:

- a. Immediately removed from duty when WESA has been notified of a positive test result;
- b. Subject to discipline up to and including termination;
- c. Evaluated by a SAP;



- d. Informed of the SAP recommendations and the requirement to comply with those recommendations, seen by the SAP for follow-up evaluation and to be released to be considered for return to safety-sensitive duty;
- e. Subject to a Return-to-Duty Test which indicates a negative result; and
- f. Required to submit to unannounced follow-up testing after he/she has returned to a safety-sensitive function (See "Follow-Up Testing").

#### 4. Alcohol.

##### a. General Alcohol Prohibition

Drivers are prohibited from using alcohol while performing safety-sensitive functions. Additionally, no driver shall report to duty or remain on duty requiring the performance of safety-sensitive functions while having a BAC of 0.04 or greater.

##### b. If Initial Alcohol Screening Test Results are 0.02 or Greater, but below 0.04:

###### (1) Drivers Who Operate Commercial Motor Vehicles:

A driver who has a confirmed BAC of 0.02 or greater but less than 0.04 is considered to have tested positive and at the minimum, such a driver will be removed from duty for at least twenty-four (24) hours. If the first Alcohol Screening Test indicates a BAC of 0.02 or greater, a "confirmation test" will be performed between fifteen (15) and thirty (30) minutes after the first Alcohol Screening Test to confirm the results of the first test. (49 C.F.R., § 40.247(B).) If the screening and confirmation test results are not the same, the confirmation test results are used. If a confirmation test results in a BAC of less than 0.02, the driver will be allowed to return to duty. If the confirmation test results indicate a BAC of 0.02 or greater, the driver will be prevented from working for a minimum of twenty-four (24) hours. (49 C.F.R., § 382.505.) Drivers may use any available leave options for the twenty-four (24) hour period, including but not limited to, paid leave or unpaid leave, at the driver's discretion.

While the driver may request a second independent test ("retest") at driver's expense, WESA is not required to wait for results of the retest before removing driver from duty. Drivers will not be returned to duty until a retest results in a BAC of less than 0.02 or for a minimum twenty-four (24) hour period.

(2) Drivers Who Operate Non-Commercial Motor Vehicles:

A driver who has a confirmed BAC of 0.02 or greater but less than 0.04 is considered to have tested positive and will be immediately removed from duty and cannot perform safety-sensitive functions until:

- (a) The driver's alcohol concentration measures less than 0.02; or
- (b) The start of the driver's next regularly scheduled duty period, but not less than eight (8) hours following administration of the test (49 C.F.R., § 655.48). If the first Alcohol Screening Test indicates a BAC of 0.02 or greater, a "confirmation test" will be performed between fifteen (15) and thirty (30) minutes after the first Alcohol Screening Test to confirm the results of the first test (49 C.F.R., § 40.247(B)). If the screening and confirmation test results are not the same, the confirmation test results are used. If a confirmation test results in a BAC of less than 0.02, the driver will be allowed to return to duty. Drivers may use any available leave options for the period of time he or she is prohibited from performing safety-sensitive functions consistent with WESA's policies, including but not limited to, paid leave or unpaid leave, at the driver's discretion. While the driver may request a second independent test ("retest") at the driver's expense, WESA is not required to wait for results of the retest before removing driver from duty.

c. If Alcohol Screening Test results are over 0.04

A BAC of 0.04 or greater will be considered a positive Alcohol Test and in violation of this policy. Any driver who has a confirmed positive Alcohol Test result is in violation of this policy and will be:

- (1) Removed from duty;
- (2) Subject to discipline up to and including termination;
- (3) Evaluated by a SAP;
- (4) Informed of the SAP recommendations and the requirement to comply with those recommendations;
- (5) If the employer permits the driver to return to the performance of safety-sensitive functions, the employee must take a return-to-duty test and have a negative test result and/or an alcohol test with a BAC of less than 0.02; and
- (6) If the employer permits the driver to return to the performance of safety-sensitive functions, the employee is required to submit to unannounced follow-up testing after he/she has returned to the safety-sensitive function. (See "Follow-Up Testing").

5. Positive Test Result Following Random or Follow-Up Testing.

Any driver who is found to have tested positive after a Random or Follow-up Drug/Alcohol Test is in violation of this policy will be removed from duty, evaluated by a SAP, and informed of the SAP recommendations and the requirement to comply with those recommendations. Any driver who is found to test positive after a Random or Follow-up Drug/Alcohol Test is in violation of this policy and will be subject to discipline under WESA's Personnel Rules & Regulations up to and including termination.

In the event WESA imposes discipline short of termination, a driver who has tested positive for drugs and/or alcohol may be required to sign a "Return to Non-Safety-Sensitive Work Agreement," take subsequent non-DOT Drug and/or Alcohol Tests at his/her expense, provide written consent allowing authorized District staff to obtain information from the SAP

necessary to determine their suitability to return to non-safety sensitive work, or have his/her pay reduced to account for a transfer to non-safety-sensitive work. In addition, such driver may be permanently banned from performing safety-sensitive work.

6. District's Rights Reserved.

Nothing in this policy affects the right of WESA to impose discipline, including its right to terminate an employee, for a violation of any District policy.

E. Testing.

Tests will be performed on drivers to detect the existence of Alcohol and/or Controlled Substances and/or any other drugs or substances made applicable by Federal or State Regulations or a court ruling. (49 C.F.R., §§ 392.4, 40.21(a), 40.85; 21 C.F.R., § 1308.11, Schedules of Controlled Substances).

1. Categories, Timing and Manner of Testing.

Urine testing for controlled substances and breath and/or saliva testing for alcohol will be conducted as required by regulations. All drivers shall be subject to testing as follows:

- a. Pre-Employment Testing (49 C.F.R., §§ 382.301, 655.41);
- b. Post-Accident Testing (49 C.F.R., §§ 382.303, 655.44);
- c. Random Testing (49 C.F.R., §§ 382.305, 655.45);
- d. Reasonable Suspicion Testing (49 C.F.R., §§ 382.307, 655.43);
- e. Return-to-Duty Testing (49 C.F.R., §§ 382.309, 655.46); and
- f. Follow-Up Testing (49 C.F.R., §§ 382.311, 655.47).

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment and Toxicological Laboratory facilities, which have been approved by the HHS. Collection will be performed using procedures outlined in 49 C.F.R. Part 40, as amended, and will be conducted at a local medical facility or other District-designated location.

2. Pre-Employment Testing/Reassignment. (49 C.F.R., §§ 382.301, 655.41)

a. Applicant of a Driver Position.

(1) Pre-Employment.

All applicants considered by WESA for a position as a driver shall undergo Controlled Substance Testing before becoming eligible for employment, unless specifically exempted from such test as set forth in the applicable regulations (49 C.F.R., §§ 382.301, 655.41). WESA must receive satisfactory test results prior to employment. Failure of a Controlled Substance Test will automatically disqualify a new applicant for consideration of employment for driver positions for a period of one hundred twenty (120) days. Reapplication will only be considered if all DOT requirements, including an initial SAP assessment, compliance with SAP recommendation and SAP follow-up assessment are documented. Applicants for driver positions who refuse to submit to a Pre-Employment Test will not be hired.

(2) Current Drivers.

Current drivers who promote, demote, transfer, or are reassigned ("Transferee(s)") from non-safety-sensitive to safety-sensitive functions must test negative to controlled substances prior to assignment to a safety-sensitive function, unless specifically exempted from such test as set forth in the applicable Federal Regulations (49 C.F.R., §§ 382.301, 655.41). Failure of a Controlled Substance Test will automatically disqualify a driver from consideration of assignment to safety-sensitive positions/functions for a period of one hundred twenty (120) days. Reapplication will only be considered if all DOT requirements, including an initial SAP assessment, compliance with SAP recommendation and SAP follow-up assessment are documented. When a driver for a Non-Commercial Motor Vehicle has not performed a safety-sensitive function for ninety (90) consecutive calendar days regardless of the reason, and the driver has not been in WESA's random selection pool during that time, WESA shall ensure that the driver takes a pre-

employment drug test with a verified negative result (49 C.F.R., § 655.41).

b. Release of Previous Employer Drug and Alcohol Testing Information for drivers of Commercial Motor Vehicles.

WESA is required to contact a prospective driver's previous employers to obtain Alcohol/Controlled Substance Test information. WESA shall obtain consent from driver for release of such information (49 C.F.R., § 382.413). Previous employers are required to maintain this information in a driver's file (49 C.F.R., § 382.401). Such records may include not only the information regarding a driver's violation(s) of the regulations resulting from Alcohol/Controlled Substance Testing while working for the previous employer, but may also include any records of violations within the past three (3) years (49 C.F.R., § 391.23) that the previous employer received from other former employers.

WESA must obtain and review the information no later than fourteen (14) days after the first time a driver performs a safety-sensitive function. Even if the driver stops performing safety-sensitive function(s) for WESA before expiration of the fourteen (14) day period or before WESA receives the information, WESA must still obtain the information from the previous employers.

After receiving a new applicant or transferee's specific, written authorization to release information, WESA shall contact applicant or transferee's previous employer(s) within the last three (3) years (49 C.F.R., § 391.23) from the date of application for the following information regarding the applicant or Transferee:

- (1) BAC results of 0.04 or greater;
- (2) Any positive Controlled Substance Test results; and
- (3) Refusals to be tested.

WESA will maintain a written confidential record regarding each past employer contacted.

If as a result of contacting driver's previous employer, WESA learns that within the past three (3) years while

employed by a previous employer, applicant or transferee:

- (1) Received a BAC result of 0.04 or greater; or
- (2) Received a verified positive Controlled Substance Test result; or
- (3) Applicant refused to be tested.

WESA may not use a driver to perform safety-sensitive functions unless WESA obtains applicant or transferee's record of a subsequent (SAP) evaluation and/or determination that applicant or transferee:

- (1) Needed assistance; and
- (2) Complied with the recommendations of the SAP (49 C.F.R., § 382.605).

Additionally, if WESA determines that the applicant or transferee received the alcohol or controlled substance results described above, before allowing the applicant or transferee to perform, or resume performance of, a safety-sensitive function, WESA must confirm that the applicant or transferee has completed the following:

- (1) A return-to-duty Alcohol Test with a BAC result of less than 0.02, if the driver had tested positive for alcohol; or
- (2) A return-to-duty Controlled Substance Test indicating a verified negative result for controlled substance use, if the applicant or transferee had tested positive for a controlled substance.

c. Release of Previous Employer Drug and Alcohol Testing Information for drivers of Non-Commercial Motor Vehicles. (49 C.F.R., § 40.25.)

WESA is required to contact a prospective driver's previous employers to obtain Alcohol/Controlled Substance Test information. WESA must request the following information from DOT-regulated employers who have employed the driver during the two (2) years before the date of the driver's application or transfer:

- (1) Alcohol tests with a BAC result of 0.04 or higher alcohol concentration;
- (2) Verified positive drug tests;
- (3) Refusals to be tested (including verified adulterated or substituted drug test results;
- (4) Other violations of DOT agency drug and alcohol testing regulations; and
- (5) With respect to any driver who violated a DOT drug and alcohol regulation, documentation of the driver's successful completion of DOT return-to-duty requirements (including follow-up-tests). If the previous employer does not have information about the return-to-duty process (e.g., the employer who did not hire an employee who tested positive on a pre-employment test), WESA shall seek to obtain this information from the employee.

The information obtained from a previous employer includes any drug or alcohol test information obtained from previous employers under 49 C.F.R., § 40 or other applicable DOT agency regulations.

If feasible, WESA will obtain and review this information before the driver first performs safety-sensitive functions. If this is not feasible, WESA will obtain and review the information as soon as possible. However, the driver will not be permitted to perform safety-sensitive functions after thirty (30) days from the date on which the driver first performed safety-sensitive functions, unless WESA has obtained or made and documented a good faith effort to obtain this information.

If WESA obtains information that the driver has violated a DOT agency drug and alcohol regulation, WESA must not use the driver to perform safety-sensitive functions unless WESA also obtains information that the driver has subsequently complied with the return-to-duty requirements and DOT agency drug and alcohol regulations.

WESA must provide to each of the employers from whom WESA requests information written consent for the



release of aid information. The release of information under this section must be in any written form (e.g., fax, e-mail, letter) that ensures confidentiality.

3. Reasonable Suspicion Testing. (49 C.F.R., §§ 382.307, 382.201-215, 655.43)

a. Test Administration.

Any driver who is reasonably suspected of being intoxicated, under the influence, and/or impaired due to the use of any controlled substance and/or alcohol described in this policy, shall be transported immediately to WESA-designated testing site for testing.

b. Basis for Testing.

Reasonable suspicion determinations will be made by the Human Resources/Safety department or a member of management staff who is trained in accordance with 49 C.F.R., §§ 382.603 and 655.14 to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that a driver may be adversely affected or impaired in his/her work performance due to the use of alcohol and/or illegal use of controlled substances. If the supervisor/manager believes that the driver is under the influence of and/or impaired by alcohol and/or a controlled substance, the driver will be required to submit to an Alcohol Test and/or Controlled Substance Test at the discretion of WESA. To the extent that it is practical, WESA will offer the driver the opportunity to have bargaining unit representative present during the interview and/or testing process. A "Reasonable Suspicion" referral for testing shall be documented and will be made based on objective facts and circumstances that are symptoms of the effects of alcohol and controlled substance abuse. Examples of observations that may result in Reasonable Suspicion include, but are not limited to, the following:

- (1) Observable evidence of unsatisfactory work performance or on-the-job behavior which may be related to the abuse of alcohol and/or controlled substances;
- (2) Observations of the physical signs and symptoms consistent with controlled substance use, such as

appearance, behavior, speech, or body odors of the driver; and/or,

- (3) Evidence of the possession and/or use of alcohol and/or controlled substances in the workplace.

Prior to a referral for testing, a supervisor will review and confirm the observation the physical signs and symptoms with a manager, department head/designee, or other supervisor, or another supervisor has personally observed the condition of the driver being considered for testing. The unavailability of another manager/supervisor however cannot prevent reasonable suspicion testing from taking place.

4. Post-Accident Testing. (49 C.F.R., §§ 382.303, 390.5, 655.44)

a. General Requirements.

Following an accident, as defined below, WESA will use its best effort to have the driver tested within two (2) hours following the accident, but not after eight (8) hours for Alcohol Testing and thirty-two (32) hours for Controlled Substance Testing. Any driver involved in an accident must not use alcohol for eight (8) hours following the Accident or until he/she undergoes a post-Accident Alcohol Test, whichever comes first.

b. Commercial Motor Vehicles.

Drivers will be required to undergo both Post-Accident Alcohol and/or Controlled Substance Testing if they are involved in an accident while driving a Commercial Motor Vehicle on a public road, which results in the following:

- (1) A human fatality; or
- (2) When the driver receives a moving traffic violation citation under state or local law if the accident involved:
  - (a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - (b) One or more motor vehicle incurs disabling damage in the accident and as a result of the

accident must be towed from the scene (49 C.F.R., §§ 390.5, 382.303).

This table notes when a post-accident test is to be conducted as described above:

| Type of accident involved  | Citation Issued to the CMV Driver | Test must be performed by employer |
|--|-----------------------------------|------------------------------------|
| i. Human fatality  | Yes                               | Yes                                |
|  | No                                | Yes                                |
| ii. Bodily injury with immediate medical treatment away from the scene | Yes                               | Yes                                |
|  | No                                | No                                 |
| iii. Disabling damage to any motor vehicle requiring tow away          | Yes                               | Yes                                |
|  | No                                | No                                 |

The driver shall remain readily available for Post-Accident Testing. Any driver who leaves the scene of the accident without appropriate authorization prior to submission to Drug and Alcohol Testing will be considered to have refused the test.

- c. Non-Commercial Motor Vehicle Drivers will be required to undergo both Post-Accident Alcohol and/or Controlled Substance Testing if they are involved in an Accident while driving a Non-Commercial Motor Vehicle that results in a human fatality. If there is a non-fatal accident, each driver operating a public transportation vehicle shall undergo both Post-Accident Alcohol and/or Controlled Substance Testing unless WESA determines, using the best information available at the time of the decision, that the driver's performance can be completely discounted as a contributing factor to the accident (49 C.F.R. § 655.44).

The driver shall remain readily available for Post-Accident Testing. Any driver who leaves the scene of the accident without appropriate authorization prior to submission to Drug and Alcohol Testing will be considered to have refused the test.

- d. Required Medical Attention.

This policy does not prevent the driver from temporarily leaving the scene of an accident to seek necessary

medical attention for injured people or assistance following an accident. This policy also does not prohibit a driver from obtaining necessary emergency medical care.

5. Random Testing (49 C.F.R., §§ 382.305, 655.45).

Drivers will be subjected to random, unannounced testing for alcohol and/or controlled substances use. Each driver shall have an equal chance at selection for random testing and shall remain in the selection pool even after being tested. The basis for random selection shall be by a scientifically valid random number generation method. WESA will conduct Random Controlled Substance and Alcohol Tests at the minimum annual rates required by the Regulations. On the date a driver is selected for Random Alcohol and/or Controlled Substance Testing, an approved designee will inform the driver that the driver is to immediately report for testing and the location of the testing site.

Random testing for alcohol will be completed just before, during, or immediately after performing safety-sensitive functions. Random testing for controlled substances can occur anytime a driver is at work for WESA.

6. Selection for Random Testing.

The number of random alcohol and random controlled substances tests are determined in accordance with Federal guidelines. Random dates are selected by the DER to meet the number of tests required (Vendor will inform the Human Resources and Safety Departments).

An outside vendor has been retained to do the random selection of drivers who are to be tested. The outside vendor will be provided the quantity of candidates that should be selected to ensure that at least fifty percent (50%) of the population is drawn for Controlled Substance Testing and ten percent (10%) for Alcohol Testing, which may be decreased per 49 C.F.R., §§ 382.305, 655.45).

Random testing will be conducted in accordance with DOT Regulations.

Drivers will be paid for all time incurred for the testing and the travel time it takes to and from the test facility. Drivers are not to leave the testing facility until the testing has been completed, even if the driver's work shift is over. If a driver

leaves without completing the testing, then the test is considered a positive, and will be handled accordingly.

7. Return-to-Duty Testing. (49 C.F.R., §§ 40.305, 382.309, 382.605(c), 655.46)

WESA has discretion whether to return drivers to the performance of safety-sensitive functions. Before WESA allows a driver to return to duty after previously testing positive on a Controlled Substance and/or Alcohol Test, the driver must be referred to a SAP for an evaluation. The SAP will determine what assistance the driver may need in solving problems associated with Alcohol misuse and Controlled Substance use. The driver will be informed of the SAP recommendations and the requirement to comply with those recommendations, seen by the SAP for follow-up evaluation and to be released to be considered for return to safety sensitive duty. The driver must also test negative for a Controlled Substance and/or must have a BAC of less than 0.02. The Return-to-Duty Test does not need to be limited to the substance involved in the initial violation. If the SAP determines that the driver needs assistance with more than one substance abuse problem, the SAP may require both Alcohol and Controlled Substance Testing.

Before being allowed to return to either non-safety-sensitive or safety-sensitive duties, the driver must be released by the SAP to be considered for return to safety sensitive duty.

8. Follow-Up Testing. (49 C.F.R., §§ 40.307, 382.311, 382.605, 655.47)

Following a determination by the SAP that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the driver will be required to undergo at least six (6) unannounced randomly scheduled Alcohol and/or Controlled Substance Tests in the first twelve (12) months following the driver's return to duty. The number, type, and frequency of the Follow-Up Testing shall be directed by the SAP. Follow-Up Alcohol Testing shall be conducted during the performance of, before the performance of, or just after a driver has performed a safety-sensitive function. The time period for Follow-Up Testing may be up to five (5) years from the driver's date of return to duty. Additional requirements for Follow-Up Testing are spelled out in this policy in the Section titled "Assessment by Medical Personnel," below. The SAP may terminate the requirements for Follow-Up Testing any

time after the first six (6) tests have been administered if the SAP determine no more are needed.

F. Testing Procedures, Samples, and Standards.

1. Split Samples and Request for Re-Testing.

The urine sample will be split into two (2) bottles labeled “primary” and “split” specimen. Both bottles will be sent to the lab. If the test of the first bottle (“primary” specimen) is positive, the driver has seventy-two (72) hours after receiving notice of the positive test result to notify the MRO that they request that the second bottle also be tested in a second independent certified Toxicological Laboratory for presence of the same drug(s) for which a positive result was obtained in the test of the first bottle. Requests after seventy-two (72) hours will only be accepted if the delay was due to documentable facts that were beyond the control of the driver.

The second test must be conducted on a portion of the original sample. All costs for such testing are paid by the driver, unless the second test invalidates the original test. The Toxicological Laboratory will collect, store, and test the samples as required by Federal Regulations. If the result of the second test is negative, the MRO shall delete any reference regarding the initial positive test result from the test record. If there is a false positive test, after verifying the false positive test, WESA shall compensate the driver for any regularly scheduled work time missed and/or any loss of benefits due to the false positive test results.

2. Controlled Substances Subject to Testing.

The Controlled Substances that will be tested for are listed in this policy. An initial drug screen will be conducted on each specimen. The test will be considered positive if the amounts present are above the minimum levels established in 49 C.F.R., Part 40, as amended, and as described in this policy.

3. Alcohol Testing Standards.

Tests for BAC will be conducted using a National Highway Traffic Safety Administration (“NHTSA”) approved Evidential Breath Testing (“EBT”) device operated by a trained BAT. A BAT is a person who is properly trained to operate an approved breath-testing device. BAC levels are set forth above.

G. Assessment by Medical Personnel.

1. Substance Abuse Professional.

Any driver who tests positive for the presence of controlled substances or alcohol above the minimum thresholds set forth in 49 C.F.R. Part 40, as amended, shall be scheduled for an initial evaluation by an SAP designated by WESA. (49 C.F.R., § 382.605). An “SAP” is a licensed physician, licensed and certified psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and/or substance abuse related disorders. The SAP will evaluate each driver to determine what assistance the driver needs in resolving problems associated with Alcohol/Controlled Substance abuse or misuse.

The driver will be informed of the SAP recommendations and the requirement to comply with those recommendations, be seen by the SAP for follow-up evaluation, and to be released to be considered for return to safety-sensitive duty.

Following a positive test result, a driver must pass a return-to-duty Controlled Substance and/or Alcohol Test(s) before he/she is allowed to return to safety-sensitive position (function). As a condition of his/her continued employment with WESA, he/she must complete any rehabilitation program prescribed or approved by WESA-designated SAP, and be subject to unannounced follow-up testing for a period of time as directed by WESA-designated SAP subject to the provisions of the applicable Federal Regulations (49 C.F.R., Part 40). Payment for the services of the SAP for the initial evaluation and a return-to-duty evaluation shall be the responsibility of WESA.

2. Medical Review Officer.

All Controlled Substance Test results will be reviewed and interpreted by a physician or MRO before they are reported to WESA.

The MRO is a licensed physician with expertise in the review of substance abuse disorders. The MRO reviews the Toxicological Laboratory results from WESA’s Controlled Substance Testing program. If the MRO receives a driver’s confirmed positive test result, the MRO interprets the Toxicological Laboratory results in conjunction with other available information. The MRO then contacts the driver to determine if there is an alternative explanation for the positive test result. If a driver provides information that there

was a legitimate reason for the positive test result, the test result will be reported to WESA as “negative.”

H. Treatment Requirements.

Contact information for a referral for professional assistance is available by calling the Human Resources Department. A driver will not be disciplined for seeking assistance for an Alcohol or Controlled Substance Abuse problem. Under certain circumstances, a driver who voluntarily requests the help of WESA with Alcohol and/ or Controlled Substance Abuse disorders, before being notified of a testing requirement, may be required to undergo treatment for substance abuse as a condition of continued employment. Any driver who refuses or fails to comply with District requirements for evaluation, treatment, after care or Return-to-Duty Testing shall be subject to disciplinary action.

I. Self-Identification Policy Applicable to Drivers of Commercial Motor Vehicles.

WESA encourages drivers who recognize that they may have a problem with drugs and/or alcohol to seek assistance for resolving that problem before they have a DOT violation due to a positive test result or because they engaged in other DOT prohibited conduct. A driver who admits to a drug and/or alcohol problem prior to a rule violation will not have a DOT violation.

The following conditions must apply to the driver’s self-admission:

1. The driver’s admission cannot be made in an attempt to avoid a required DOT Controlled Substance Test.
2. The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety-sensitive function (i.e., prior to reporting for duty);
3. Under 49 C.F.R., § 382.121, DOT requires WESA to remove the driver from safety-sensitive functions, including driving;
4. When WESA is satisfied that the driver has complied with the treatment professional’s recommendations for assistance, WESA will return the driver to safety-sensitive functions, provided that:



- a. Prior to returning to safety-sensitive functions, the driver will be required to provide a negative DOT Controlled Substance Test and an Alcohol Test indicating a BAC of less than 0.02, and
  - b. After being returned to safety-sensitive functions, the driver will be subject to follow-up Non-DOT Testing, as permissible by WESA's policy for Non-DOT Drug and Alcohol Testing, under the laws of this state; and
5. A driver who self-identifies under this policy, and who then fails to comply with the treatment professional's recommendations will be considered to have engaged in conduct prohibited by the DOT in 49 C.F.R., § 382.201 *et seq.*, and will not be permitted to return to safety-sensitive function until he/she has successfully complied with SAP return-to-duty process.

WESA will adhere to the following terms, in accordance with 49 C.F.R., § 382.121:

- a. WESA will take no adverse action against a driver who admits to drug and/or alcohol use under the terms above;
  - b. A driver who self-identifies under this program will be given reasonable time to obtain the required assessment and assistance. Under independent authority, WESA requires the assessment process to be initiated within three (3) days of the driver's disclosure;
  - c. A driver who complies with all requirements, and who complies satisfactorily with the EAP's recommendations for assistance, will be permitted to return to safety-sensitive functions; and
  - d. A driver who cooperates and successfully complies with this program will not be considered to have had a DOT violation of prohibited conduct under 49 C.F.R., § 382.201 *et seq.*
- J. Test Related Time-Off Work Provisions.

Any driver who is relieved from duty due to a positive Controlled Substance or Alcohol Test may use any available benefits including, but not limited to, compensatory time off, approved sick leave, vacation, or benefits under the Federal or State

Family Medical Leave Acts during the regularly scheduled work time missed. The driver may request an unpaid leave of absence upon exhaustion of paid benefits. The terms of the leave of absence shall be as specified in WESA's leave policy for other employees who are on medical leave of absence status. If the driver has insufficient sick leave, vacation, or compensatory time off to cover the regularly scheduled work time and loss of benefits missed due to a positive Alcohol or Controlled Substance Test, such time shall be without pay.

The cost of any treatment or rehabilitation services will be paid directly by the driver and/or his/her insurance provider. A driver will be allowed to take accumulated sick leave, vacation leave or compensatory time off while participating in a rehabilitation program.

K. Return to Safety-Sensitive Work Agreement.

Drivers who are permitted to return to safety-sensitive work must agree to and execute a "Return to Safety-Sensitive Work Agreement". The Agreement may include, but is not limited to, the following:

1. A release to work statement from a District-designated SAP;
2. A negative test result for alcohol and/or controlled substances;
3. An agreement to unannounced follow-up testing; **AND**
4. An agreement to follow specified after-care requirements with the understanding that violation of the Return to Safety-Sensitive Work Agreement may be grounds for disciplinary action, up to and including termination.

L. Proper Application of the Policy: Fairness and Confidentiality.

WESA is dedicated to assuring the fair application of this substance abuse policy. Therefore, supervisors/managers are required to apply all provisions of this Policy in an unbiased and impartial manner.

To the extent reasonably practical, information gathered under this policy will remain confidential. Any supervisor/manager who knowingly disregards the

requirements of this policy, or who is found to be deliberately misusing the policy against drivers shall be subject to disciplinary action.

**M. Laboratory Cut-Off Standards.(M-0120)**

Testing for controlled substances will be performed according to the Toxicological Laboratory cutoff standards required by 49 C.F.R. Part 40, as amended. WESA will use the highest cut-off levels permitted by the DOT for both screening and confirmation Tests. The Toxicological Laboratory cutoff standards for positive test results are currently published as follows:

| <b>Initial Test Analyte</b>        | <b>Initial Test Cutoff Concentration</b> | <b>Confirmatory Test Analyte</b> | <b>Confirmatory Screen ng/ml</b> |
|------------------------------------|--|----------------------------------|----------------------------------|
| <b>Marijuana Metabolites</b>       | 50 ng/mL                                 | THCA                             | 15 ng/mL                         |
| <b>Cocaine Metabolites</b>         | 150 ng/mL                                | Benzoyllecgonine                 | 100 ng/mL                        |
| <b>Phencyclidine</b>               | 25 ng/mL                                 | Phencyclidine                    | 25 ng/mL                         |
| <b><u>Opioids Metabolites:</u></b> |  |                                  |                                  |
| Codeine                            | 2000 ng/mL                               | Codeine                          | 2000 ng/mL                       |
| Morphine                           | 2000 ng/mL                               | Morphine                         | 2000 ng/mL                       |
| 6-Acetylmorphine                   | 10 ng/mL                                 | 6-Acetylmorphine                 | 10 ng/mL                         |
| <b><u>Amphetamines:</u></b>        |  |                                  |                                  |
| AMP/MAMP4                          | 500 ng/mL                                | Amphetamine                      | 250 ng/mL                        |
|                                    |  | Methamphetamine                  | 250 ng/mL                        |
| MDMA                               | 500 ng/mL                                | MDMA                             | 250 ng/mL                        |
|                                    |  | MDA                              | 250 ng/mL                        |

Only HHS-certified laboratories may be used for testing. Substances will be added for testing only with agreement of the parties or as required by the DOT.

**N. Education and Training.**

Every covered employee will receive a copy of this policy and will have ready access to the corresponding Federal Regulations including 49 CFR Parts 382, 655, and 40, as amended. In addition, all covered employees will undergo a minimum of sixty (60) minutes of training on the signs and symptoms of drug use

including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel or District officials who are in a position to determine employee fitness for duty will receive sixty (60) minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use, and sixty (60) minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Training will occur at initial hire and every three (3) years thereafter.

O. Contact Person. (Designated Employer Representative)

Any questions regarding this Policy or any other aspect of the Drug-free and Alcohol-free District program should contact the office of the following District representative:

**District Representative:**

Jennifer Dancho  
Human Resources and Safety Manager  
31315 Chaney Street  
Lake Elsinore, CA 92532  
(951) 674-3146 ext. 8212

ADDITIONAL CONTACTS

**Collection Center Location for Pre-Employment Testing:**

Total Care Urgent Care  
425 Diamond Drive, Suite 104  
Lake Elsinore, CA 92530  
(951) 674-4114

**Collection Center Location for Random Testing:**

Addiction Medicine Consultants  
108 Orange Street, Suite 12B  
Redlands, CA 92373  
(909) 307-8200

**Collection Center Location for Post-Accident Testing:**

Total Care Urgent Care  
425 Diamond Drive, Suite 104  
Lake Elsinore, CA 92530  
(951) 674-4114

**ATTACHMENT “A”**

The following job classifications\* are covered by WESA’s Personnel Policy and Procedure Regarding Alcohol and Controlled Substance use for drivers Performing Safety-Sensitive Functions with Commercial Motor Vehicles:

- Any driver in any job classification who possesses a Commercial Driver’s License and uses their Commercial Driver’s License on behalf of WESA in performing safety-sensitive functions is considered covered by this policy. This includes employees who do not drive a commercial motor vehicle as part of his/her usual job functions, but who holds a Commercial Driver’s License and may be called upon to drive at any time, on an occasional or emergency basis.
- Drivers holding certain positions (with Class A or Class B license) within the following job classifications:
  - *Collection Systems Maintenance Worker I, II, III*
  - *Field Maintenance Worker I, II, III- Construction Maintenance*
  - *Mechanical Technician I, II, III*

**\* Job description does not include reference to incumbent’s subject to Federal Drug and/or Alcohol Testing\***

**ATTACHMENT "B"****ACKNOWLEDGEMENT OF RECEIPT OF****DOT SUBSTANCE ABUSE AND DRUG AND ALCOHOL TESTING POLICY**

I, \_\_\_\_\_, hereby certify that I have received a copy of WESA's US Department of Transportation (DOT) Substance Abuse and Drug and Alcohol Testing Policy for employees who possess a commercial driver's license. I fully understand its provisions and acknowledge that compliance with this Policy is a condition of continued employment.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Human Resources Representative Signature

\_\_\_\_\_  
Date

**SECTION 1300.    EQUAL EMPLOYMENT OPPORTUNITY  
AFFIRMATIVE ACTION PLAN**

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**SECTION 1300. AFFIRMATIVE ACTION PLAN****§ 1301 Preface.**

While the Water Employee Services Authority (WESA), as a whole, firmly believes in the wide dissemination of its affirmative action policy and equal employment opportunity practices, there is certain propriety information relating to its business which must be kept confidential. The detailed information provided in good faith as part of the Affirmative Action Compliance Program contains specific data which, if disseminated, can be detrimental to the competitive and business interests of this company. At a minimum, the complexity of data is subject to misinterpretation and misuse, which again can be very harmful to business goals and objectives totally unrelated to the affirmative action and equal employment concept. Therefore, even though EVMWD is justifiably proud of the progress and goals that are described in the following pages, the following is requested:

1. If this information is submitted to an Office of Federal Contract Compliance Programs (OFCCP) agency pursuant to the relevant Executive Order and regulations, it is to be considered confidential and not subject to disclosure without notifying WESA of the agency's decision to disclose, and providing WESA with ample time to contest such disclosure.
2. If this information is supplied to a government contractor, an Equal Employment Opportunity (EEO) Coordinator, or any other person who is given access to the Affirmative Action Compliance Program, it is not to be copied, reproduced, or disclosed without prior notification to WESA's designated EEO Coordinator.
3. No information contained in the Affirmative Action Compliance Program is to be copied, removed from the premises, or released to other individuals without prior notification to WESA's EEO Coordinator.
4. All monitoring system reports as required by Federal regulations and laws have been completed. Reports which require specific data such as names of employees and salary information have not been included within the context of this plan. This information is on file at WESA's Human Resources Department as "Documentation of Supportive Data" reports.
5. Employees and applicants who receive permission to see relevant portions of the Affirmative Action Compliance Program must treat the

information contained therein as confidential and are not permitted to copy or remove information from WESA's premises.

This Affirmative Action Plan is submitted in accordance with regulations promulgated pursuant to Executive Order 11246, as amended. Wherever in this document the phraseology "underutilization", "problem areas" and/or "under represented" is used, said terms are used solely for that purpose of meeting the requirements of Executive Order 11246 and the regulations promulgated thereunder on inclusion in the Affirmative Action Plans for Government Contractors. Said phraseology relates solely to statistical comparisons, which the Department of Labor has contended are applicable, and solely for that purpose. It has no legal or factual significance other than inclusion for the above reasons and under no circumstances constitutes an admission of discrimination or a violation of anti-discrimination laws, or the validity or applicability of the statistics which led to its use.

EVMWD asserts that certain information contained herein is information which is protected from subsequent disclosures under the exemption to the Freedom of Information Act [5 U.S.C. Sections 552(b) (3), (4) and (6)]. This information is commercial and/or financial, competitive data and in some cases, privileged and confidential information, the disclosure of which would constitute an unwarranted invasion of the privacy of our employees.

## **§ 1302. Introduction.**

The Water Employee Services Authority (WESA) was incorporated December 23, 1950, under the California Municipal Water WESA Act of 1911. The Act allows WESA to supply and distribute water, treat and dispose of wastewater, make beneficial use of reclaimed water, and manage water-related recreational activities. WESA provides service to 96 square miles of land located in the western portion of Riverside County and a portion of Orange County, along the Ortega Highway.

EVMWD was annexed in 1954 to Western Municipal Water WESA, a member of the Metropolitan Water WESA of Southern California, in order to receive imported water. WESA's main distribution system was constructed during 1956 and 1957 under WESA's first improvement WESA. Several small mutual water companies later petitioned WESA to accept and operate their facilities.

In 1989, WESA purchased the Temescal Water Company, acquiring valuable water rights and the Railroad Canyon Reservoir.

The formation of Improvement WESA U-2 in Canyon Lake in 1962 was the initial step in providing sewer services within WESA. WESA currently operates three wastewater reclamation facilities.

WESA has a combined yield of approximately 21,500 acre feet. EVMWD currently provides water to over 24,000 domestic, commercial and agricultural accounts and sewer service to more than 15,000 accounts. EVMWD currently has 114 employees. The operating budget for fiscal year 96-97 is \$16,360,660.

The Board of Directors, through the General Manager, establishes policy and provides direction to WESA. Further overall responsibility for the Affirmative Action Program direction, implementation, and progress rests with the Equal Employment Opportunity Coordinator and management.

### **§ 1303. Policy Statement.**

The policy of The Water Employee Services Authority (WESA) with reference to equal employment opportunity is as follows:

- To recruit, hire, train, and promote persons in all job groups without regard to race, color, age, religion, sex, marital status, national origin or physical handicap.
- To make all employment decisions in a manner which will further the principle of equal employment opportunity.
- To ensure that decisions regarding promotions are in accord with principals of equal employment opportunity by imposing only valid requirements for promotional opportunities.
- To ensure that personnel actions with reference to such matters as compensation, benefits, transfers, layoffs, recall from layoffs, WESA-sponsored training, education, tuition reimbursements, and social and recreational programs will be administered without regard to race, color, age, religion, sex, marital status, national origin, or physical handicap.

In keeping with the above policy, EVMWD will periodically conduct analyses of all personnel actions to ensure equal employment opportunity. The Human Resources Manager is appointed as the EEO Coordinator with the responsibility to monitor and assess the Affirmative Action Program and report to the General Manager in a confidential basis ensuring equal treatment for all concerned.

I would ask that you all continue to give your full support toward achieving EVMWD's objectives in equal opportunity employment.

**§ 1304. Dissemination of Policy.**

- A. Internal Dissemination. WESA's equal employment opportunity policy shall be disseminated within WESA in the following manner:
1. It shall be included in WESA's policy manual.
  2. It shall be published in WESA newsletters and other media.
  3. Special meetings will be conducted with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation thereof.
  4. Special meetings will be scheduled with all other employees to discuss the policy and explain individual employee responsibilities to the principle of equal employment opportunity.
  5. The policy is discussed thoroughly in both employee orientation and training programs.
  6. Articles shall be published in WESA publications covering equal employment opportunity programs, progress reports, promotions, etc. of minority and female personnel.
  7. The policy is posted on all WESA bulletin boards.
  8. When employees are featured in employee handbooks or similar publications, minority and female employees are pictured along with others.
  9. Employees shall be advised of the existence of WESA's Affirmative Action Program, and such elements of the program as will enable them to avail themselves of its benefits.
- B. External Dissemination. WESA's equal employment opportunity policy shall be disseminated outside of WESA in the following manner:
1. All recruiting sources shall be informed orally and in writing of the Company's policy, and shall be required to actively recruit and refer minorities and women for all positions listed.
  2. Appropriate minority and women's organizations, community agencies, community leaders, secondary schools, and colleges will be notified of WESA's policy in writing.
  3. Prospective employees shall be informed of the existence of WESA's AAP and such elements thereof as will enable them to avail themselves of its benefits.
  4. When employees are pictured in help wanted advertising, minority and female employees shall be shown along with others.

5. Written notification of WESA's policy shall be sent to all subcontractors, vendors, and suppliers, requesting appropriate action on their part.
  6. The Equal Employment Opportunity Clause shall be incorporated in all purchase orders and contracts covered by Executive Order 11246, as amended, and its implementing regulations.
- C. Equal Employment Posters. The following posters are permanently displayed in a conspicuous place in all buildings in which employees are located and in employment and reception areas:
1. Equal Employment Opportunity
  2. Equal Pay
  3. Notice to Employees Working on Government Contracts
  4. Local or State EEO posters as required

**§ 1305. Responsibility for Implementation.**

The General Manager is ultimately responsible for the overall direction of the program, including the maintenance and surveillance of the program. The General Manager's duties include, but are not limited to the following:

- A. Establish and direct WESA's Affirmative Action Program (AAP) to meet Federal requirements and achieve utilization goals.
- B. Develop and reaffirm Equal Employment Opportunity (EEO) Policy in all personnel actions taken by WESA.
- C. Create an active attitude among members of the management staff for formal dissemination (internal and external) of EEO Policy and Affirmative Action.
- D. Review and approve annual goals and timetables together with plans for attainment of these goals for minorities and females.
- E. Assign responsibilities for the implementation and accomplishment of goals and timetables to subordinate levels of management.
- F. Review periodic progress relating to achievement of overall WESA goals.
- G. Discuss EEO at meetings with management staff members.
- H. Communicate with executive, management, and supervisory personnel to explain the intent of the EEO policy and to inform them of their individual responsibility for implementation of the AAP.
- I. Assure that management members understand their personal performance evaluations contain a review item relative to their performance against the AAP.

Equal Employment Opportunity (EEO) Coordinator. The duties of the EEO Coordinator, EVMWD's Human Resources Manager, are to audit the day-to-day requirements of the EEO and AAP and to:

- A. Develop the Affirmative Action Program and internal techniques for communication of WESA's equal employment opportunity policy.
- B. Identify equal employment opportunity problem areas.
- C. Assist managerial and supervisory personnel in arriving at solutions to equal employment opportunity problems.
- D. Design and implement audit and reporting systems which will:
  - 1. Measure the effectiveness of WESA's Affirmative Action Program.
  - 2. Indicate areas in which remedial action is needed.
  - 3. Determine the degree to which WESA's goals and objectives have been attained.
- E. Serve as liaison between WESA and relevant enforcement agencies.
- F. Serve as liaison between WESA and minority organizations such as the job bank, CETA, women's organizations and community action groups concerned with employment opportunities of minorities, women and the handicapped.
- G. Keep management informed of the latest developments in the entire equal employment opportunity area.

Managers and Supervisors. Managers and supervisors shall be responsible for working with the EEO Coordinator to insure the effectiveness of the Affirmative Action Program. In this regard, the responsibilities of such employees shall, among other things, include the following:

- A. Assist in the identification of equal employment opportunity problem areas and in the establishment of departmental goals and objectives.
- B. Become actively involved with local minority organizations, women's organizations, community action groups, and community service programs.
- C. Perform periodic audits of training programs and hiring and promotion patterns to remove impediments to the attainment of WESA's goals and objectives.
- D. Conduct regular discussions with supervisors and employees to be certain WESA's equal employment opportunity policy is being followed.
- E. Conduct a review of the qualifications of all employees to insure that minorities and women are given full opportunities for transfers and promotions.
- F. Provide career counseling for all employees.
- G. Conduct periodic audits to insure that:

1. Appropriate equal employment opportunity posters are properly displayed.
  2. All facilities which WESA maintains for the use and benefit of its employees are in fact desegregated, both in policy and use, and that locker rooms and restrooms are comparable for both sexes.
  3. Minority and female employees are afforded a full opportunity and are encouraged to participate in all WESA sponsored educational, training, recreational, and social activities.
- H. Understand that their work performance is being evaluated on the basis of their equal employment opportunity efforts and results, as well as other criteria.
- I. Take actions to insure acceptance by all employees placed through Affirmative Action efforts.
- J. Insure that all interviews, offers of employment and/or wage commitments (equal pay regardless of race or sex) are consistent with the EEO and AAP guidelines.

#### **§ 1306. Identification of Potential Problem Areas.**

##### Total Selection Process

- A. Job descriptions list the minimum requirements for a particular job and are accurate in relating to actual job functions.
- B. No written employment tests are currently used.
- C. The application and interview process has been reviewed and found to be free of bias and does not work to the disadvantage of minority or female applicants.
- D. All job applications are retained in the active file for at least one year.

##### Transfer and Promotion Practices

Transfer and promotion practices do not hamper the upward mobility of qualified female and minority employees.

##### Facility and WESA Sponsored Activities

Facility and WESA sponsored activities are all administered on a non-discriminatory basis.

##### Seniority Practices

WESA's seniority policy gives consideration to seniority regarding promotions. However, job knowledge, skill and ability to do the work are the prime factors in considering personnel actions.

Apprenticeship Programs

No formal apprenticeship programs exist at WESA.

Training Programs

All training programs are non-discriminatory.

Workforce Attitude

Employee attitudes towards Equal Employment Opportunity and Affirmative Action are very good.

Technical Phases of Compliance

- A. All appropriate bulletin boards are posted with applicable equal opportunity literature and regulations.
- B. All subcontractors will be notified of their obligations under Executive Order No. 11246 as amended, as well as Revised Order No. 4.



**§ 1307. Goals and Objectives.****1996 AAP Achievements**

It should be pointed out that during this plan year we experienced overall growth (from 95 employees to 103 employees).

**A. Officials and Managers**

1. Minorities - representation continues to exceed overall availability.
2. Females -representation in this category maintained itself at 27%.

**B. Professionals:**

1. Minorities: representation increased from 20% to 38%.
2. Females: representation continues to exceed overall availability.

**C. Technicians:**

1. Minorities: representation increased from 0% to 10%.
2. Females: representation increased from 50% to 60%.

**D. Office and Clerical:**

1. Minorities: representation increased from 8% to 13%.
2. Females: representation continues to exceed overall availability.

**E. Craft:**

1. Minorities: representation decreased from 37% to 31%.
2. Females: representation increased from 3% to 7% and compares favorably with overall availability..

**F. Operators:**

1. Minorities: representation increased from 33% to 50% and compares favorably with overall availability.
2. Females: representation in this category maintained itself at 0%.

**G. Labor:**

1. Minorities: representation continues to exceed overall availability.
2. Females: representation in this category maintained itself at 0%.

**1997 AAP Goals**

The Affirmative Action goals and objectives established herein are designated to improve the utilization profiles of females and minorities. These goals will, in some cases, eliminate or significantly reduce identified deficiencies over the life of the plan. In other cases, it will take two years or more to eliminate other deficiencies.

WESA will seek to maintain those ratios where minorities and women are adequately utilized. Should employment opportunities improve at a greater rate than presently anticipated, contingency goals have been established where positions will be filled with minorities or females at a specific hiring rate until such time as women and minorities are no longer underutilized. Our goals are displayed in Table 5-01 and are summarized below.

#### Minorities

There is an underutilization of eight (8) minorities within the following EEO-4 categories:

|                     |   |
|---------------------|---|
| Technicians         | 2 |
| Office and Clerical | 3 |
| Craft Workers:      | 3 |

#### Females

There is an underutilization of three (3) females within the following EEO-4 categories:

|                         |   |
|-------------------------|---|
| Officials and Managers: | 1 |
| Operators:              | 1 |
| Laborers:               | 1 |

WESA's goal will be to rectify this underutilization through the following actions:

1. Seek to fill any vacant position in those categories underutilized with a qualified female or minority;
2. Seek to fill any vacant positions through promotion of a qualified female or minority;
3. Keep the General Manager informed of any underutilizations prior to an appointment being made;
4. Expand the geographic area for recruitment to include areas with larger concentrations of qualified females and minorities;

5. Utilize female and minority publications for recruitment purposes.

**§ 1308. Action Oriented Programs.**

Position Standardization/Validation

- A. Continuing analyses of all job descriptions are being made in order to validate and standardize our selection procedures. These continuing analyses are necessary because we recognize that our position requirements change over a period of time.
- B. In the validation process, special attention is given to insure that requirements are standardized from one department to another, and that academic performance and experience criteria are not overstated.

Recruitment

- A. Those responsible for recruitment and selection will continue to be advised of our affirmative action goals and obligations and will be particularly alert to assure recruitment of minorities and females in areas and groups where deficiencies exist.
- B. Minority and female organizations will continue to be contacted and used to assist in correcting deficiencies. Specifically, they will be invited to WESA's facility to review the work performed and thereby be more realistic and knowledgeable concerning WESA's needs and the prospective employee's interests.
- C. WESA will actively campaign amongst its minority and female employees to have them encourage their friends and associates who possess the requisite skills to apply for positions at WESA. We have an active employee referral program which is and has been very successful.

Selection

When qualified minority and female employees are not selected to fill more responsible and better paying positions where underutilization exists, supervisory personnel will submit written justification for their selection.

Training

Although WESA has no formal training programs as such, all employees are encouraged to continue their education in order that they may qualify for higher paying and more responsible positions. WESA has made available

to all minority and female employees a tuition reimbursement program and this is outlined the applicable Memorandum of Understanding.

**§ 1309. Internal Audit and Reporting System.**

General

To support management's evaluation of the Affirmative Action Program's effectiveness and to provide insight into the needs for corrective action where improvement or reinforcement of policy is warranted, a regular reporting system of WESA's personnel activity will continue.

Reports

- A. Monthly AAP status reports of personnel activity including hires, terminations, promotions, transfers, etc. will be made by the EEO Coordinator. Sub-standard performance against established goals and timetables will be reported to top management for action.
- B. The Human Resources Department will keep formal records on such items as applicant flow, offers, promotions, etc.
- C. Formal reports on the activity discussed above shall be made available to management at their request.
- D. The General Manager shall review the progress of our AAP semi-annually.
- E. Records and support data concerning WESA's actions to correct deficiencies will be kept.

**§ 1310. Sex Nondiscrimination Guidelines.**

The practices and policies of WESA conform with the Affirmative Action Program, the Office of Federal Contract Compliance (OFCC), the Equal Employment Opportunity Commission (EEOC) and the Department of Labor guidelines. Listed below are summary statements of our policies and practices.

- A. Recruitment: Recruitment of both sexes for all jobs will continue.
- B. Advertisements: Advertisements in newspapers and other media do not express sex as a preference. Advertisements are not placed in columns headed "Male" or "Female".
- C. Written Personnel Policies: Written personnel policy expressly indicates that there shall be no discrimination against employees on the basis of sex.
- D. Equal Opportunity: Employees of both sexes have an equal opportunity to any available job he or she is qualified to perform.
- E. Wages and Benefits: No distinction exists based on sex in employment opportunities, wages, hours, or other conditions of

employment such as contributions for medical or life insurance and other fringe benefits.

- F. Marital Status: There is no distinction made between married and unmarried persons of one sex that is not made between married and unmarried persons of the opposite sex.
- G. Children: Males and females are not excluded from employment because of the number or age of their children.
- H. Physical Facilities: Appropriate physical facilities are available for both sexes.
- I. Working Conditions: Working conditions, shift assignments, jobs that require lifting, or working certain hours are not denied to either sex.
- J. State Protective Laws: So called state "protective" laws are not used when they are in conflict with these guidelines.
- K. Medical Leave of Absence (including Maternity): The medical leave of absence policy is outlined in the applicable Memorandum of Understanding and is the same for both sexes.
- L. Retirement: WESA does not specify any differences on the basis of sex for retirement.
- M. Seniority: WESA does not have a seniority system based on sex.
- N. Wage and Job Assignments: WESA salary ranges are not related to or based on sex of the employee. No distinction in job assignments because of sex is made. If such a situation is encountered in the future, corrective action will be taken in an affirmative manner.
- O. Training: Both men and women have equal access to all training programs.
- P. Tuition Reimbursement: Both men and women have equal access to WESA's tuition reimbursement program.

#### **§ 1311. Support of Community Action Programs.**

During the period of this Affirmative Action Plan, WESA will continue its support of community action programs on a regular basis. Community liaison between WESA's EEO Coordinator and the various action-oriented community organizations will continue to be conducted to provide those groups with information concerning job opportunities with WESA. By providing this information, it is hoped that employment opportunities will be made known to qualified applicants, thus improving the applicant flow of minorities and females.

#### **§ 1312. Support of Non-Work Force Population.**

WESA gives consideration to minorities and women not currently in the work force who have requisite skills.

WESA is cognizant of the fact that there are minorities and women available for employment, who are not reflected in the U.S. Labor Department statistics. WESA makes every reasonable effort to identify and recruit these individuals.

**§ 1313. Religion and National Origin Nondiscrimination Guidelines.**

Equal Employment Policy

WESA does not discriminate against employees or applicants for employment because of religion or national origin. We will take affirmative action to insure that applicants are employed and employees are treated without regard to their religion or national origin. Such actions include practices with regard to:

- A. Employment
- B. Promotion or transfer
- C. Recruiting or recruitment advertising
- D. Demotion, layoff, or termination
- E. Rate of pay or other compensation
- F. Selection for training
- G. Tuition reimbursement

Affirmative Actions

- A. Develop internal communications.
- B. Develop internal procedures to insure compliance with our policy.
- C. Inform employees of WESA's commitment to our policy.
- D. Enlist assistance and support of all recruiting sources.
- E. Review personnel records to determine availability of promotable members of various religious and ethnic groups.
- F. Establish a meaningful contact with religious and ethnic organizations.
- G. Recruit from educational institutions (when appropriate) where there are substantial enrollments of students from various religions and ethnic groups.
- H. Use religious and ethnic media for employment advertising.

Accommodations to Religious Observances and Practices

WESA will make reasonable accommodations to the religious observances and practices of employees or prospective employees who regularly observe certain days or evenings as their Sabbath. This also

includes those who observe certain religious holidays during the year and are opposed to performing work on such days. In determining the extent of WESA's obligations under these guidelines, at least the following factors shall be considered:

- A. Business necessity
- B. Financial costs and expenses
- C. Resulting personnel problems

**§ 1314. Availability Analysis.**

**Factors Considered for Minorities**

- A. The minority population of the labor area surrounding the facility.
- B. The size of the minority unemployment force in the labor area surrounding the facility.
- C. The percentage of the minority work force as compared with the total work force in the immediate area.
- D. The general availability of minorities having requisite skills in the immediate labor area.
- E. The availability of minorities having requisite skills in an area in which WESA can reasonably recruit.
- F. The availability of promotable and transferable minorities within WESA's organization.
- G. The existence of training institutions capable of training persons in the requisite skills.
- H. The degree of training which WESA is reasonably able to undertake as a means of making all job classes available to minorities.

**Factors Considered for Females**

- A. The size of the female unemployment force in the labor area surrounding the facility.
- B. The percentage of the female work force as compared with the total work force in the immediate labor area.
- C. The general availability of women having requisite skills in the immediate labor area.
- D. The availability of women having requisite skills in an area in which WESA can reasonably recruit.
- E. The availability of women seeking employment in the labor or recruitment area of the company.
- F. The availability of promotable and transferable female employees within WESA's organization.
- G. The existence of training institutions capable of training persons in the requisite skills.

- H. The degree of training which WESA is reasonably able to undertake as a means of making all job classes available to women.

**§ 1315. Workforce Utilization Analysis.**

Guidelines

In order to determine whether areas of underutilization exist and what steps might be taken to correct the deficiencies, an analysis was performed in accordance with Order No. 4. This utilization analysis considered the results of the Availability Analysis conducted in this plan. Table 4-01 compares WESA with general availability of minorities and females developed as a result of the Availability Analysis conducted in this plan. By using this data and by applying the measure of reasonableness, we have determined that some underutilization of minorities and females exists.



## **SECTION 1350. Rideshare Incentives Program**

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**SECTION 1350. RIDESHARE INCENTIVES PROGRAM****§ 1351. General.**

Because the Water Employee Services Authority (WESA) is within the South Coast Air Basin and the Board of Directors has adopted a voluntary Rideshare Incentive Program in compliance with South Coast Air Quality Management WESA (AQMD) regulations.

**§ 1352. Management Support.**

The program shall have the support of management to encourage employee participation and to cooperate with all incentives offered. This incentive will be marketed by communication to both management and employees on a regular basis.

**§ 1353. Communications Coordinator.**

The Employee Transportation Coordinator (ETC) shall be actively involved and accessible to the employees. This incentive will be marketed in employee orientation packets, in the employee newsletter, and via billing inserts.

**§ 1354. Incentives.**

- A. Employees who enroll in the program are eligible for the Advantage Rideshare Program through the Riverside County Transportation Commission (RCTC) Commuter Assistance Program for the first 90-days after enrollment following the first 90-days they are eligible for additional discounts by joining "Club Ride," also administered by the RCTC.
- B. Additional promotional programs will be offered throughout the year through RCTC.

**§ 1355. Compressed Work Week.**

The WESA will continue implementing its 9/80 work schedule as a mandatory program for all employees.

**§ 1356. Guaranteed Ride Home.**

Any participant in the rideshare program will be driven home in a WESA vehicle in the case of an emergency or unscheduled overtime by a WESA employee, or by some other alternative method.

**§ 1357. Bicycle Racks.**

For the convenience of rideshare participants, the WESA has installed and maintains bicycle racks to secure bicycles in a safe location in its on-site, fenced parking lot.

**§ 1358. Lockers and Showers.**

Showers and lockers are available for men and women who walk or ride bicycles to work.

**§ 1359. Preferred Parking for Rideshare Participants.**

One preferred parking space has been reserved for rideshare participants. It is marked by a sign stating "Carpool Parking Only". The preferred parking space is in an obvious location located in designated employee parking area. This is mentioned at meetings and in the newsletters.

## **SECTION 1400. DISTRICT RECORDS POLICY**

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**SECTION 1400. WESA RECORDS POLICY (R-2019-1)****§ 1401. Public Records Policy.**

The Water Employee Services Authority (WESA) pursuant to the California Public Records Act ("PRA") (Government Code §§6250 et seq.), and in keeping with the public's right of access to all public records in WESAs custody, and subject to certain exemptions as provided by law or necessary to protect individuals' privacy rights, adopts the following procedures.

**§ 1402. Definitions.**

- A. "Public Records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by WESA regardless of physical form or characteristics.
- B. "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any form of tangible communication or representation, including letters, words, pictures, sounds, or symbols, or a combination thereof and any record thereby created, regardless of the manner in which the record has been stored.
- C. "Electronic communications" includes any and all electronic transmission, and every other means of recording upon any tangible thing in any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Without limiting the nature of the foregoing, "electronic communications" include e-mails, texts, voicemails and communications on or within commercial applications. Determining whether an electronic communication is a public record will involve an examination of several factors, including: (a) the content of the communication; (b) the context in, or purpose for which, it was written; (c) the audience to whom it was directed; (d) the purpose of the communication; and (e) whether the communication was prepared by an official acting or purporting to act within the scope of his or her employment.
- D. "WESA business" shall be construed broadly to mean information relating to the conduct of the public's business or communications concerning matters within the subject matter of WESAs jurisdiction.

Examples of WESA business include, but are not limited to, pending or potential WESA projects; past or prospective WESA agenda items; budgets; or expenditures involving WESA funds.

- E. "Electronic messaging account" means any account that creates, sends, receives, or stores electronic communications.
- F. "WESA official" shall mean any elected official, appointed official, or employee of WESA.

**§ 1403. Records Exempt From Disclosure.**

In addition to any other exemptions provided for under the PRA, as well as other California and federal laws, the following records are exempt from disclosure:

- A. Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by WESA in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure.
- B. Records pertaining to pending litigation to which WESA is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled.
- C. Personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
- D. Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person
- E. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment or academic examination.
- F. The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by WESA relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all the property has been acquired or all of the contract agreements obtained, provided, however, the law of eminent domain shall not be affected by this provision.

- G. Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information.
- H. Closed session reports, minutes of closed session meetings, legal memoranda, and other materials prepared for and/or distributed in a closed session of the Board held pursuant to the Ralph M. Brown Act (Gov. Code § 54950 *et seq.*).
- I. Records the disclosure of which is exempted or prohibited pursuant to provision of federal or state law including, but not limited to, provisions of the Evidence Code relating to the attorney-client privilege; the "official information" privilege, etc.
- J. Names, credit histories, utility usage data, home addresses, or telephone numbers of utility customers, with specific exceptions as listed in Government Code section 6254.16.
- K. Home addresses, home telephone numbers, personal cell phone numbers, personal email addresses, and birth dates of all employees, with specific exceptions as listed in Government Code section 6254.3.

**§ 1404. Disclosure of Electronic Records, Including GIS Maps and Data.**

This section applies to all forms of electronic records maintained by WESA, including Geographic Information Systems ("GIS") information held by WESA. Electronic records subject to the PRA may be located in databases such as those utilized in a GIS, or the work product of that database, such as a resulting map, report, or data set, in an electronic format.

Under the PRA, the person requesting an electronic record from WESA must pay the cost of reproducing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when:

- (1) the requested electronic record is only produced at regularly scheduled intervals; or
- (2) the request requires data compilation, extraction, or programming to produce the record.

WESA is not required to reconstruct a record if it is no longer available in electronic format. Also, WESA is not required to release an electronic record if its release would jeopardize or compromise the security or integrity of the original record, or of any proprietary software in which the record is maintained.

GIS information released under the PRA is for general information purposes only. Every effort has been made to ensure accuracy of maps and/or associated data for WESA and District use and is not intended for other purposes. WESA makes no warranty, representation or guarantee as to the content, accuracy, timeliness or completeness of any of the data provided. WESA specifically disclaims any representation and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. WESA shall assume no liability for any errors, omissions, or inaccuracies in the information provided, or with respect to any loss or damages in connection with, or arising from, reliance on the information provided.

**§ 1405. Recordings of Board Meetings.**

Audio recordings of public meetings of the Board of Directors of WESA are retained for 45 days after the meetings (Gov. Code Section 54953.5). Inspection of audio recordings of Board meetings shall be provided without charge at WESA offices during regular business hours.

**§ 1406. Requesting Public Records.**

- A. Requests for public records of WESA can be submitted verbally or in writing and shall state whether the request is for inspection of records or for copies. The request must clearly identify the document, record or information requested, and the person making the request; and shall be dated and signed. WESA will provide a form to be utilized by those persons requesting examination or copies of public records.
- B. Requests to inspect public records of WESA will be processed promptly in accordance with Section 1.1.2. Within ten (10) calendar days of receipt of a request for inspection of records, A staff member will contact the requester to schedule a date and time for inspection, or (2) a written response will be provided explaining the reasons that the request is denied. Requests for copies of District or WESA records will be processed in accordance with Section 1.1.3 d, below.
- C. In accordance with Government Code Section 6253.1, WESA shall assist the requesting party in identifying records and information that are responsive to the request or its stated



purpose, if provided. When possible, WESA will also provide suggestions to the requesting party to overcome any grounds for denying access to the records or information sought.

- D. WESA will comply with its obligation to allow for inspection of records or to provide copies of records by posting any public record on its website and, in response to a request for records, directing the requesting party to the location on the website where the record is posted. Any such record posted on WESA's website shall be posted in an open format in compliance with Government Code Section 6253.10.
- E. If any request for a WESA record relates to a record in an electronic format, WESA will make the record available in any electronic format in which it holds that record or in the format requested if the requested format is one WESA has used to make copies for its own use. However, WESA will not release any record in electronic format if that release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which the record is maintained. The requesting party must pay WESA's cost of producing records in an electronic format, including the cost of programming and computer services if the request requires data compilation, extraction or programming to produce the record, or if WESA would be required to produce the requested electronic records at other than a regularly scheduled interval.

#### **§ 1407. Inspection of Public Records.**

WESA will provide an area at its offices for inspection of its public records. Inspections may take place only during regular WESA business hours, must take place on WESA premises, and will be subject to observation by WESA representatives. These procedures are for the sole purpose of protecting original records against tampering or theft. Any inspection of original WESA records will be subject to the following rules:

- A. No document or record, or any part thereof, shall be removed from the file, notebook, folder, or other compilation in which it is contained.
- B. No document or record shall be written on, marked on, or erased, nor shall any writing or information therein otherwise be removed; nor shall any person destroy, mutilate, deface, alter or falsify any document or record. Violations of this rule will be prosecuted pursuant to Government Code §6201.

- C. The party examining records shall comply with all instructions of WESA representatives. WESA personnel may terminate or restrict the inspection as may be necessary to preserve WESA records.

**§ 1408. Copying of Public Records.**

- A. Within ten (10) days of receipt of a request for copies of identifiable public records, WESA will provide a determination on the request, and will thereafter notify the requesting party of its determination and the reasons therefore. In unusual circumstances, as described below, the response time for providing a determination may be extended up to an additional fourteen calendar days.
- B. Upon denial of a request in whole or in part, WESA Secretary will provide a written response to the request by mail and/or email stating the reasons for the denial, including whether the requested document is exempt from disclosure pursuant to the PRA, or other State or federal law.
- C. Where a portion of the record requested contains information which is exempt from disclosure under the PRA, WESA Secretary will make a determination as to whether the non-exempt portion of the record is reasonably segregable from the exempt portion of the record.
- D. The requesting party will be notified in writing identifying the documents and records to be produced and stating that the requesting party may obtain the copies to be produced upon payment of the copying costs, as specified in the written response. WESA has established a schedule of fees to cover the costs of duplication, which schedule of fees may be adjusted from time to time as determined by the Board. The current schedule of fees:

|                      |  |
|----------------------|--|
| Letter or legal size | 25 cents first page; 10 cents each additional page |
| D size               | \$6.00 per page (36" x 40")                        |
| CD/DVD duplication   | \$5.00 per CD/DVD                                  |

If the copies are requested to be mailed, the copy charge and postage fee must be paid prior to shipment. No charge for

electronic copies provided as attachments to email or through file-sharing sites.

- E. Payment of the cost of copying and mailing requested records may be by cash, or by check or money order. Payment for copies/ mailing must be made before the copies will be provided to the requesting party. Upon receipt of the requester's payment, the copied records will be mailed. Alternatively, copies may be picked up at the office.

**§ 1409. Extensions of Time to Provide Written Response.**

WESA will make every effort to provide determinations on records requests within the 10-day period specified above. However, WESA may take up to an additional fourteen (14) calendar days to provide a determination on a records request if one or more of the following unusual circumstances exists:

- A. The requested documents or records must be collected from field facilities or other locations separate from WESA's main offices.
- B. The request requires WESA personnel to search for, collect and appropriately examine a voluminous amount of separate and distinct records.
- C. There is a need for consultation with another agency having a substantial subject matter interest in the documents requested. Such consultation will be conducted with all practicable speed.
- D. There is a need to compile data, to write programming language or a computer program, or to construct a computer report to extract data for the request.

Upon determination by WESA Secretary that additional time is required to provide a determination for a records request, WESA will notify the requesting party in writing of the reasons for the extension and the date on which WESA's determination will be available.

**§ 1410. Review for Exemption.**

- A. WESA's Board of Directors designates Board Secretary as the reviewing official. The reviewing official will have exclusive authority for reviewing and approving public records requests.
- B. The reviewing official must review and approve each request for inspection or copying before any public record of WESA is released to the requesting party. Requests for public records may

be received verbally or in writing and should be submitted to a reviewing official as soon as possible after receipt by WESA representatives.

- C. The requesting party will be informed as to the applicable time limits for WESA's response, as provided under this policy.
- D. The reviewing official will determine whether or not the requested documents or records are exempt from disclosure under the Act. The reviewing official will direct WESA representatives to delete or otherwise redact exempt portions of otherwise disclosable records. Where there is a question as to whether a particular exemption applies, the reviewing official may consult with General Counsel prior to disclosure.
- E. Where the facts of a particular case dictate that the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record, the request may be denied. The reviewing official may consult with General Counsel prior to making such a determination.
- F. In response to inspection requests, the reviewing official may direct staff to make such records immediately available upon a determination that the records are subject to disclosure. The official will designate the location for the inspection and shall direct an employee of WESA to observe the inspection as provided above.
- G. Where a request to examine records is denied and in all cases of requests for copies, the reviewing official shall be identified in and shall sign the written response.
- H. WESA will retain in its records copies of all requests for inspection or copying of public records, in accordance with the records retention guidelines.

**§1411. Records Retention Policy.**

California Government Code Sections 60200 through 60204 and the Secretary of State Local Government Records Management Guidelines govern the retention of records of the Water Employee Services Authority (WESA) and the disposal of WESA's obsolete records. Through this policy, WESA will manage its records, files, documents and other information, regardless of format, in accordance with all applicable laws and regulations regarding records retention.

The purpose of the Records Retention Policy is to provide guidelines to WESA staff members regarding the retention of Elsinore Valley Municipal Water District and WESA records; provide for the identification, maintenance, safeguarding of these records and the disposal of obsolete records in the normal course of business; ensure prompt and accurate retrieval of records; and ensure compliance with legal and regulatory requirements.

Vital and important records are those having legal, financial, operational, or historical value.

**§1412. Authorization.**

Pursuant to Resolution No. 2019-1, the General Manager is authorized by the Board of Directors to interpret and implement this policy and to designate a Records Management Coordinator who shall be responsible for the administration of this Records Retention Policy. The General Manager and the Records Management Coordinator are authorized to do any and all acts necessary to comply with the terms and intent of this Records Retention Policy. The General Manager and Records Management Coordinator are responsible for the retention of records and the development of procedures for destruction of any obsolete records, papers, and documents that meet the qualifications governing the retention and disposal of records.

**§1413. General Guidelines.**

A. The following general guidelines apply to all records.

1. Pursuant to Resolution No. 2019-1 adopted by the Board of Directors, except where a record is expressly required to be preserved according to State law, WESA may destroy any original obsolete document without retaining a copy of the document as long as the retention and destruction of the document complies with the retention schedule as set forth in this policy. (Gov. Code § 60201.)
2. In addition to the retention periods required under this policy, WESA shall retain original administrative, legal, fiscal and/or historical records with continued value (i.e., records for long-term transactions and/or special projects) until all matters pertaining to such records are completely resolved or the time for appeals has expired. (Gov. Code § 14755, subd. (a); Gov. Code 34090.)
3. Pursuant to Government Code section 60201(d), WESA shall not destroy any of the following records:
  - (a) Records relating to the formation, change of organization, or reorganization of WESA;

- (b) Ordinances and resolutions, unless they have been repealed or have become invalid or otherwise unenforceable for five years;
- (c) Minutes of any meeting of WESA;
- (d) Records relating to any pending claim, litigation, any settlement or other disposition of litigation within the past two years;
- (e) Records that are the subject of any pending request for records under the California Public Records Act, whether or not the record is exempt from disclosure, until the request has been granted or two (2) years after the request has been denied by WESA;
- (f) Records relating to any pending construction that WESA has not accepted or for which a stop notice claim may be legally presented;
- (g) Records relating to any nondischarged debt of WESA;
- (h) Records relating to the title to real property in which WESA has an interest;
- (i) Records relating to any nondischarged contract to which WESA is a party;
- (j) Records that have not fulfilled the administrative, fiscal, or legal purpose for which they were created or received;
- (k) Unaccepted bids or proposals, which are less than two (2) years old, for the construction or installation of any building, structure or other public work;
- (l) Records less than seven (7) years old that specify the amount of compensation or expense reimbursement paid to employees, officers, or independent contractors

B. In addition to the general guidelines listed above, the following guidelines shall apply to the types of records described below:

(1) Back-Up Tapes: Until secure Cloud or Web based backup storage is in place, back-up tapes from the main server shall be produced each night and retained remotely. These daily back-up tapes shall be destroyed or overwritten only after being retained for 30 days. Month end back up tapes shall be retained for one year.

(2) E-mail Messages: E-mail messages containing information relating to the conduct of the public's business shall be preserved for a minimum of two (2)

years. WESA's preference is for e-mails to be preserved in electronic format, for ease of storage and searching. In addition to electronic storage, an e-mail and any attachments may be retained with the related file or project documents, for the retention period listed in the records retention schedule.

**§1414. Records To Be Retained in Original Format.**

The records listed above in Section 1411.A.(3)(a) through (l) must be retained in their original format, whether the original record is in hard copy or electronic format.

In addition, the following records are required to be retained in their original hard copy format for at least two (2) years before imaging or scanning them into electronic format:

- Statements of Economic Interest for Elected Officials (copies of FPPC Form 700). (Total retention is four (4) years.)
- Statements of Economic Interest for Non-Elected Officials (originals of FPPC Form 700). (Total retention is seven (7) years.)

After two (2) years, WESA may image/scan the above documents and dispose of the hard copy versions. The electronic version becomes the "original," pursuant to State law. (Gov. Code § 60203, subd. (b).)

**§1415. Duplicate Records.**

The General Manager and/or the Records Management Coordinator are authorized to destroy at any time any **duplicate** record, paper or document of WESA, while the original, whether in paper or electronic format, is retained by WESA for the legally required time period.

**§1416. Exceptions To Scheduled Disposal Of Obsolete Records.**

Scheduled disposal of records that have met or exceeded their retention periods must be postponed if the records are responsive to, subject to, or relate in some way to any of the following:

- (a) A Public Records Act request received by WESA;
- (b) A subpoena served on WESA;
- (c) A Request for Production received by WESA from an opposing party in litigation;
- (d) A court order;

(e) A litigation hold or request for preservation of evidence received by WESA; or

(f) A claim filed against WESA under the Government Claims Act.

The above exceptions apply to both hard copy and electronic record:

**§1417. Records Retention Schedule.**

The Records Retention Schedule is attached as an appendix and is incorporated into this policy by reference. This policy and the Records Retention Schedule comply with State and federal law, as well as the records retention guidelines provided by the California Secretary of State. The Records Retention Schedule may be updated from time to time by the General Manager and/or the Records Management Coordinator, pursuant to Resolution No. 2019-1, in order to stay current with federal and State laws, as well as any other regulations, regarding the retention of records.

**§ 1420. Electronic Communications Policy.**

The purpose of this electronic communications policy is to ensure WESA meets its legal obligations with respect to transparency in the conduct of the people's business, including in the area of public records disclosure and retention requirements.

- A. All public officials shall be assigned a District electronic messaging account.
- B. District accounts shall be used to conduct District or WESA business. Officials shall not use personal accounts for the creation, transmission or storage of electronic communications regarding District or WESA business.
- C. The District account, along with the attendant access to the District's account server, are solely for the District, WESA and official's use to conduct District or WESA business and shall not be used for personal business or political activities. Incidental use of District electronic messaging accounts for personal use by officials is permissible, though not encouraged.
- D. If a WESA official receives an electronic message regarding WESA or District business on his/her personal electronic messaging account, or circumstances require such person to conduct District or WESA business on a non-District account, the official shall either: (a) copy ("cc") any communication from the official's personal electronic messaging account to his/her District



electronic messaging account; or (b) forward the associated electronic communication to his/her District account no later than 10 days after the original creation or transmission of the electronic communication.

- E. District and WESA officials shall endeavor to ask persons sending electronic communications regarding District or WESA business to a personal account to instead utilize the official's District account, and likewise shall endeavor to ask a person sending an electronic communication regarding non-public business to use the official's personal or non-District electronic messaging account.
- F. District and WESA officials understand they have no expectation of privacy in the content of any electronic communication sent or received on a District account or communication utilizing District servers. District-provided electronic devices, including devices for which the District pays a stipend or reimburses the official, are subject to District and WESA review and disclosure of electronic communications regarding public business. Officials understand that electronic communications regarding District or WESA business that are created, sent, received, or stored on an electronic messaging account, may be subject to the PRA, even if created, sent, received, or stored on a personal account or personal device.
- G. In the event a PRA request is received by WESA seeking electronic communications of officials, the Board Secretary's office shall promptly transmit the request to the applicable official(s) whose electronic communications are sought. The Board Secretary shall communicate the scope of the information requested to the applicable official, and an estimate of the time within which the Board Secretary intends to provide any responsive electronic communications to the requesting party.
- H. It shall be the duty of each WESA official receiving such a request from the Board Secretary to promptly conduct a good faith and diligent search of his/her personal electronic messaging accounts and devices for responsive electronic communications. The official shall then promptly transmit any responsive electronic communications to the Board Secretary. Such transmission shall be provided in sufficient time to enable the Board Secretary to adequately review and provide the disclosable electronic communications to the requesting party.

- I. In the event an official does not possess, or cannot with reasonable diligence recover, responsive electronic communications from the official's electronic messaging account, the official shall so notify the Board Secretary, by way of a written declaration, signed under penalty of perjury. In addition, an official who withholds any electronic communication identified as potentially responsive must submit a declaration under penalty of perjury with facts sufficient to show the information is "personal business" and not "public business" under the PRA.
- J. It shall be the duty of the Board Secretary, in consultation with General Counsel, to determine whether a particular electronic communication, or any portion of that electronic communication, is exempt from disclosure. To that end, the responding official shall provide the Board Secretary with all responsive electronic communications, and, if in doubt, shall err on the side of caution and should "over produce". If an electronic communication involved both public business and a personal communication, the responding official may redact the personal communication portion of the electronic communication prior to transmitting the electronic communication to the Board Secretary. The responding official shall provide facts sufficient to show that the redacted information is "personal business" and not "public business" by declaration. In the event a question arises as to whether or not a particular communication, or any portion of it, is a public record or purely a personal communication, the official should consult with the Board Secretary or General Counsel. The responding official shall be required to sign a declaration, in a form acceptable to WESA General Counsel, attesting under penalty of perjury, that a good faith and diligent search was conducted and that any electronic communication, or portion thereof, not provided in response to the PRA request is not public business.
- K. Officials understand that electronic communications regarding District or WESA business are subject to the records retention policy, even if those electronic communications are or were created, sent, received or stored on an official's personal electronic messaging account. It is a felony offense to destroy, alter or falsify a "public record". As such, unless the official has copied/transmitted electronic communications in accordance with paragraph D above, that District official must retain all electronic communications regarding public business, in

accordance with the adopted records retention policy, regardless of whether such electronic communication is originally sent or received on a personal electronic messaging account.

- L. Failure of an official to abide by this policy, following its adoption, may result in one or more of the following:
  - 1. Disciplinary action, up to and including termination (for employees);
  - 2. Removal from office;
  - 3. Censure;
  - 4. Revocation of electronic device privileges (including revocation of stipend or reimbursement);
  - 5. Judicial enforcement against the official directly, by the requesting party.
- M. This policy does not waive any exemption to disclosure that may apply under the California PRA.

## **SECTION 1450.     INFORMATION TECHNOLOGY ACCEPTABLE USE POLICY**

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**SECTION 1450. INFORMATION TECHNOLOGY ACCEPTABLE USE  
POLICY (M-0154)****§ 1451. Purpose.**

This policy is designed to establish acceptable and appropriate use of computer equipment, information systems, databases, communications, networks, and other information technology resources at WESA.

**§ 1452. Applicability.**

This policy applies to all employees (full or part time), elected officials, temporary staff, volunteers, or any other person who utilizes WESA information technology resources, including but not limited to computer hardware, computer networks, software applications, SaaS (Software as a Service), and mobile devices.

**§ 1453. Internet Usage.**

A. Use of the Internet by employees of WESA is permitted and encouraged where such use supports the goals and objectives of WESA. However, access to the Internet is a privilege and all employees must adhere to the policies concerning Computer, Email, and Internet usage. Violation of these policies may result in disciplinary and/or legal action, up to and including termination of employment. Employees may also be held personally liable for damages caused by any violations of this policy.

B. Computer, Email, and Internet usage

1. WESA employees are expected to use the Internet responsibly and productively.
2. Incidental and occasional personal use of the Internet is permitted, as long as it does not interfere with the employee's duties. However, such use shall be treated the same as official use, and thus, the user shall have no expectation of privacy when using WESA systems for personal use. As such, personal use is subject to the same access and review rights as any other use of these systems.

3. All Internet data that is composed, transmitted and/or received by WESA's computer systems is considered to belong to WESA and is recognized as part of its official data. It is therefore subject to disclosure under the California Public Records Act. WESA reserves the right to access the contents of any messages sent or received using WESA equipment or facilities, with or without notice to users. All communications, including email, text and images, can be disclosed to law enforcement or other third parties, without prior consent of the sender or the receiver.
  4. The equipment, services and technology used to access the Internet are the property of WESA and WESA reserves the right to monitor Internet traffic and monitor and access data that is composed, sent, or received through its online connections.
  5. Emails sent via WESA's email system must not contain content that is deemed to be offensive. This includes, though is not restricted to, the use of vulgar or harassing language/images.
  6. All sites and downloads may be monitored and/or blocked by WESA if they are deemed to be harmful and/or not productive to business needs.
  7. The installation of software not authorized by the Information Technology department is strictly prohibited.
- C. Unacceptable use of the Internet or Email by employees includes, but is not limited to:
1. Sending or posting discriminatory, harassing, or threatening messages or images on the Internet or via WESA's email system.
  2. Using computers to perpetrate any form of fraud, and/or software, film, or music piracy.
  3. Sending communications of confidential WESA information to unauthorized individuals within or outside of WESA.
  4. Downloading, copying, or pirating software and electronic files that are copyrighted or without authorization.

5. Conducting a personal/commercial business using WESA resources.
6. Opening an email attachment that you are not expecting to receive. The most destructive viruses to date are email viruses hidden as an attachment.
7. Sending copies of documents in violation of copyright laws.
8. Introducing malicious software onto WESA's network and/or jeopardizing the security of the organization's electronic communications systems.
9. Sending or posting chain letters, solicitations, or advertisements not related to business purposes or activities.
10. Intentional misrepresentation of one's identity for improper or illegal acts.
11. Revealing your password or access information to WESA equipment or resources to anyone other than Information Technology Department staff.

**§ 1454. Access Codes and Passwords.**

The confidentiality and integrity of data stored on WESA computer systems must be protected by access controls including but not limited to Multi-Factor Authentication, to ensure that only authorized users have access. This access shall be restricted to only those capabilities that are appropriate to each user's job duties.

**A. User Responsibilities. Each User:**

1. Shall be responsible for all computer transactions made with their User ID and password.
2. Shall not disclose passwords to others. Passwords must be changed immediately if it is suspected that they have become known to others. Passwords should not be recorded where they may be easily obtained.
3. Should log out when leaving a workstation for an extended period.
4. Shall not allow any unauthorized person access WESA email, data or resources while accessing WESA resources from a remote location such as home or a

hotel. Unauthorized access is a breach of this policy and disciplinary actions will be taken.

5. Shall immediately notify Information Technology staff of any unauthorized use of user's account, and/or any breach, or attempted breach, of security known to user.

#### **§ 1455. Computer Use.**

It is WESA policy to protect computer hardware, software, data, and documentation from misuse, theft, unauthorized access, and environmental hazards.

- A. Laptops/Tablets. All technology use rules apply to laptop and tablet users. In addition:

1. Portable computer equipment may be assigned on a temporary or permanent basis to certain staff or WESA officials.
2. Remote access to the WESA Network is available and can be permitted with the permission of the Director of Information Technology. Unless authorized by the General Manager, no user shall use this ability to take the place of their attendance at work. However, remote access can be used in those instances when an individual may be off-site and needs to access WESA's network. All rules listed in this policy apply when accessing the WESA network remotely.
3. VPN (Virtual Private Network) connections shall not be installed on any personal computer or device not authorized by the IT department.
4. Access by outside agencies, temporary personnel, interns, volunteers, probationary users, or consultants is not permitted without specific approval of the Director of Information Technology.
5. Maintenance required on laptops or other electronic equipment is to be completed only by or through the Information Technology Department.
6. Any official or approved user needing technical assistance with District-issued equipment, such as laptops, notebooks, tablets, cell phones, or other technology, must provide the equipment to Information



Technology staff, at District Headquarters. Staff will not travel to residences or remote locations to attend to equipment or technical needs.

B. User Responsibilities. The directives below apply to all users:

1. Personal computers or other electronic equipment, including but not limited to portable storage devices, shall not be connected to WESA's network.
2. Users shall not expose hardware to environmental hazards, such as food, smoke, liquids, high or low humidity, and must avoid extreme heat or cold.
3. The Information Technology department is responsible for all equipment installations, disconnections, modifications, and relocations at WESA headquarters. Users are not to perform these activities without authorization from Information Technology staff.
4. Users shall not take shared portable equipment such as laptop computers out of WESA buildings without the informed consent of their division manager. Informed consent means that the manager knows what equipment is leaving, what data is on it, and for what purpose it will be used.
5. Users should exercise care to safeguard all electronic equipment assigned to them. Users who neglect this duty may be accountable for any loss or damage that may result.
6. Information Technology is not responsible for any data stored on the local computer. Data stored on the local computer cannot be backed up and is not secure.
7. Users are not allowed to "browse" the network and open/read files that do not relate to their specific duties.
8. Users will either log off or lock their workstations when they will be away from the computer for any length of time.
9. Appropriate use should always be legal, ethical, reflect honesty, reflect community standards, and show restraint in the consumption of shared resources. It should demonstrate respect for intellectual property;

ownership of data; system security mechanisms; and an individual's right to privacy and to freedom from intimidation, discrimination, harassment, and unwarranted annoyance.

**§ 1456. Monitoring Computer, Internet and Email Use.**

Because all computers, software and telecommunication systems remain the property of WESA and are for official use only, all records, files, transmissions, passwords and other products or contents of these systems are not confidential and may be reviewed at any time by management or its designee(s), without prior notification. Such monitoring may include conducting reviews of the contents of email messages sent and received, electronic files, websites visited on the Internet, and any other use of WESA's computer and email systems and equipment.

Therefore, users shall have no expectation of privacy or confidentiality in any documents or other materials they write, receive, store or send in the use of these systems.

**§ 1457. Copyrights and License Agreements.**

WESA and its employees are legally bound to comply with the Federal Copyright Act (Title 17 of the U. S. Code) and all proprietary software license agreements. Noncompliance can expose WESA and the responsible employee(s) to civil and/or criminal penalties.

- A. WESA Information Technology is exclusively responsible for installing and supporting all software on WESA computer equipment and electronic devices.
- B. Information Technology shall maintain records of software licenses owned by WESA and shall periodically scan WESA computers to verify that only authorized software is installed.
- C. User Responsibilities. Users shall not:
  - 1. Install software unless authorized by Information Technology.  
Only software that is licensed to or owned by WESA is to be installed on WESA computers.
  - 2. Copy software unless authorized by Information Technology.

3. Download software unless authorized by Information Technology.

D. Violations. Violations of this policy may result in disciplinary action, up to and including termination.

**§ 1458. Use of Electronic Signatures.**

Electronic signatures installed on WESA-issued equipment are to be utilized for WESA business purposes only.

**§ 1459. Return of Equipment.**

Upon termination of employment with WESA all computer equipment or electronic devices issued shall be returned to Human Resources.

At the end of service as an elected official of WESA, officials shall return all computer equipment or electronic devices issued to them to the Board Secretary.

ATTACHMENT A

Acknowledgment of Computer Usage and Security Policy

By signing below, I acknowledge that I have read and fully understand  
WESA's Information Technology Acceptable Use Policy.

Employee signature: \_\_\_\_\_

Date: \_\_\_\_\_ Department: \_\_\_\_\_

## **SECTION 1500. PURCHASING POLICY AND PROCEDURE**

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**SECTION 1500. PURCHASING POLICY & PROCEDURE (M-0100, M-0142)****§ 1501. Policy.**

All purchases shall be made at the best possible price consistent with quality. Whenever practical, competitive prices shall be obtained. No purchase shall be made that is not authorized in the manner set forth herein.

WESA shall strive to solicit all local firms potentially qualified to bid for any given project, purchase, or program for which WESA will be requesting proposals. WESA will consider the local economic impacts of its various projects, purchases and programs as part of the request for proposal process and will work with appropriate agencies to develop and maintain bid lists of qualified local contractors.

**§ 1502. WESA Purchases Approval Levels.**

- A. Purchases in excess of \$5,000 but no more than \$100,000, including consulting and professional services and excluding Public Works Contracts, may be procured at the discretion of the General Manager.
- B. Purchases in excess of \$100,000, except as noted in Section 1506, require approval of the Board of Directors.

**§ 1503. Procurement Requirements.**

- A. Purchases of \$5,000 or less (excluding Public Works Contracts) - No bid, purchase requisition or purchase order required.
- B. Purchases in Excess of \$5,000 but not more than \$100,000 (excluding Public Works Contracts) - Purchases within this range require not less than two written vendor price quotations. Such written quotations must form a part of the permanent part of the purchase record.
- C. Purchases in Excess of \$100,000 (excluding Public Works Contracts)
  - 1. Purchases for commodities or services in excess of \$100,000 require competitive bidding (e.g. Request for Proposal, Invitation for Bid, etc.), unless it is a Long Lead Time Inventory Materials Purchase, Emergency, or Sole Source Purchase.

2. Long Lead Time Inventory Materials (e.g. electronic water meter materials, etc.) require only two levels (Inventory Control Specialist and Purchasing Manager) for requisition approval in order to expedite their purchase. If the purchase of these materials exceeds \$100,000, then the purchase must be ratified by the Board of Directors at the next regular Board Meeting.
- D. Public Works Contracts – (Defined in the Public Contract Code section 1101) These contracts are an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road or other public improvement of any kind, except in emergency situations as outlined in Section 1509 herein. All Public Works Contracts in excess of \$35,000 require advertised formal bids with award made by the Board of Directors to the lowest responsible bidder.
1. Maximum competitive price quotations must be sought by the sealed bid method. The request for bids must be publicly advertised and the bids received shall be publicly opened at the time and place designated. However, the Board may reject any and all proposals.
  2. Purchases other than Public Works Contracts, as defined in Public Contract Code section 22002.
- Purchases of this type, such as landscape maintenance, minor repainting and recurring work performed for the preservation of existing structures, do not require public advertisement, but do require formal bids by calling for not less than three written competitive bids. Such written bids must form part of the permanent purchase record.
- E. If a new vendor is selected to provide a service or item where bids have been obtained in the last twelve months, and WESA is unable to negotiate an Agreement with said vendor, then the next lowest responsive bidder may be utilized without conducting another solicitation.

**§ 1504. Material and Service Requests.**

- A. Requisition: A requisition (RSS) is an electronic request created by staff to initiate a purchase order agreement for materials or services. Prior to entering the requisition, requestor must have approved budget, and include all necessary information according to the purchasing SOP.

- B. Bid agreement summary: A bid agreement summary is the document created by staff to initiate a contract or master service agreement. Prior to starting the bid agreement summary, requestor must have an approved budget and include all necessary information according to the purchasing SOP.

The appropriate level of approval is required on all requisitions and bid summary agreements. Orders shall not be processed until all necessary approvals are obtained.

Capital improvement (CIP), grant or special funding projects must be identified on any requisition or bid agreement summary.

**§ 1505. Procurement Methods. (M-0142)**

The Authority shall utilize the most economical approach where feasible. The Authority must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. If feasible and it reduces project costs, the Authority will explore using federal excess and surplus property in lieu of purchasing new equipment and property. When appropriate, the Authority will investigate using value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.

All procurement methods listed below shall include a clear and accurate description of the technical requirements and must not contain features that unduly restrict competition. They must set forth the minimum essential characteristics and standards to which the items or service must conform. Detailed product specifications should be avoided where possible.

- A. Purchase Order Agreement: A purchase order agreement ("PO") is the document used by the Authority to set the legal and contractual terms involved in each purchase that does not have an executed contract. The PO binds the Authority and the vendor to fulfill the specified obligations. A PO is the preferred method for single or infrequently used materials or supplies. The Purchasing Manager will issue all purchase orders based on competitive prices obtained by formal bid or informal quotations pursuant to legal requirements and Board policy, taking into consideration quality, price, and delivery except as described in section 1509(E) and 1509(F).



- B. Contract Agreement: A contract agreement is the document used by the Authority to set the legal and contractual terms that binds the Authority and the vendor to fulfill the specified obligations. Types of contracts include:
1. Professional Services Agreement (“PSA”) – A professional service are services where the consultant provides unique advice or recommendations based on their knowledge, education, technical expertise, training and/or certifications for a specified set of tasks or scope of services. The PSA is the preferred method when procuring professional services for a single use or ongoing services.
  2. Contract Services Agreement (“CSA”) – A contract service are services where the contractor provides skilled labor, materials, equipment and/or installation for a specified set of tasks or scope of services. The CSA is the preferred method when procuring contractor services for a single use or ongoing services.
  3. Purchase Agreement – an agreement with a supplier for materials or supplies at an agreed upon price for a specified period of time. Preferred method for materials or supplies ordered on an ongoing or regular basis.
  4. Public Works Agreement (“PW”) – As defined by the DIR, Public works in general means:
    - i. Construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds.
    - ii. It can include preconstruction and post-construction activities related to a public works project.
    - iii. For a full definition of public works refer to [Labor Code section 1720](#).
    - iv. Anyone working on a public works project must be paid prevailing wages as determined by DIR. Projects of \$30,000 or more must meet DIR's apprenticeship requirements as set forth by the Division of Apprenticeship Standards by the State of California. Failure to comply with public works requirements can result in civil penalties, criminal prosecution, or both.

5. Other – The Authority maintains various other specialty contract agreements that are handled on a per agreement basis that may not have financial obligations but include legal and contractual obligations to the Authority. Agreements include but are not limited to: Letter agreements, inter-agency agreements, developer agreements, cell-site agreements, easement agreements, specialized agreements outside the Authority templates (i.e. temporary employment labor services, certain software agreements), etc.
  6. Master Services Agreement (“MSA”) - Defined as a contract to which the parties shall agree to the terms and conditions (including payment term, indemnification, insurance, and other key items) that shall govern future projects between the parties for a specified time period. Master service agreements shall follow all the bidding/contract requirements. Unless pre-authorization has been approved, each future project shall be issued a task order to include a scope of work and quote provided by contractor. Each task order shall be approved on an individual basis as outlined in section 1502. The MSA shall be the preferred method for vendors that shall be utilized on an ongoing basis for various tasks that have not yet been determined, particularly in IT services.
- C. Procurement Cards: referred to as P-cards, are credit cards that the Authority utilizes as a procurement method for low dollar purchases subject to the requirements set forth in the “P-Card Program Procedures Manual,” including but not limited to the following:
1. Purchases are limited to a maximum transactional value of \$5,000.
  2. Splitting purchases to circumvent the cardholder’s dollar limitation is not permitted.
  3. Under no circumstances are P-cards to be used for personal use.

In instances where a supplier will only accept credit card (e.g. Amazon.com, Costco, etc.) and the amount exceeds \$5,000, the p-card may be authorized as a method of payment if the RSS process has been completed and have received all necessary approvals.

D. Capital Outlay Purchases. (M-0090)

1. Approved capital outlay purchases are contained in the final approved budget provided all departments at the beginning of each fiscal year. Items are specific line-item appropriations allowing for purchase as required throughout the course of the budget year. All requests to realign capital expenditures due to a change in priorities, emergencies or unforeseen circumstances must be submitted in written form to the General Manager for approval.
2. Capital outlay requests which are not budgeted or exceed the budgeted amount by 5% of the original order or \$5,000 whichever is less, will be submitted by the General Manager to the Board of Directors for approval.
3. The General Manager may approve the purchase of previously approved Capital Outlay items within the budgeted amount.

E. Blanket Purchase Orders.

Blanket purchase orders are used when WESA must purchase repetitive, specified services or items, or categories of items, from the same vendor over extended periods or on a monthly basis, or requiring numerous shipments. Blanket purchase orders are used to enable the purchasing manager to obtain more favorable pricing through volume commitments.

A blanket purchase order may be required when a vendor's multiple invoices in one calendar month exceeds \$5,000.

Blanket purchase orders are prepared using the formal purchase order form and must include the following information:

- A. The period to be covered.
- B. A cancellation clause.
- C. Items and/or categories included.
- D. Maximum purchase amount authorized.
- E. Prices and pricing arrangements.
- F. Terms and billing arrangements.
- G. Personnel authorized to purchase goods.

Blanket purchase orders generally should NOT be used when:

- A. No benefit will be derived over and above a regular purchase order.
- B. Prices are unknown at ordering time, or subject to change without notice. There are certain exceptions when small item purchases are being made locally.
- C. Quality of vendor or services is questionable.
- D. Control over WESA's expenditures would be weakened significantly.
- E. A Professional Services Agreement (PSA) or contract exists between the vendor and WESA.

The final determination regarding whether a blanket purchase order is beneficial to WESA rests with the purchasing manager.

**§ 1506. Reserved for future use.**

**§ 1507. Purchase Orders (Change Orders). (M-0142)**

Change orders are issued to correct, change, or supplement a procurement method as defined in section 1505. To process a change order, the originating department will submit a procurement request. All change orders shall be made within the approved budget set forth by the Board of Directors. Any changes must be made in accordance with section 705 of the admin code, except those allowed under section 1509-part A (emergency authorization).

Change orders that cause the order to exceed the General Managers' authority, or those change orders in excess of the General Manager's authorized approval level as defined in section 1502, are subject to the Board of Directors approval with the following exceptions:

- A. Public Works Contracts, Professional Services and all other non-public works contracts
  - 1. Cumulative changes that are less than \$100,000 or 10% of the current approved board amount, whichever is lesser, on new or un-budgeted items.
  - 2. Changes for tax and/or mandated regulatory fees.
- B. Cumulative changes that exceed those limits listed in part "A" above, may be initially authorized by the General Manager, followed by ratification of the changes by the Board of Directors at the next regular Board Meeting.
- C. General Manager to provide updates on number and amount of change orders authorized on a monthly basis.

**§ 1508. Purchase Order/Invoice Discrepancies.**

If a discrepancy exists between the original purchase order and the invoice, the following will apply: if the discrepancy is less than \$1,000, the purchasing manager's approval to pay will be sufficient for payment processing; if the discrepancy is greater than \$1,000, the originator will process a change order as outlined in Section 1506 above.

**§ 1509. Procurement Method Exceptions. (M-0142)****A. Emergency Purchases.**

Emergency purchases are an exception to the procedures noted herein and are those purchases requiring immediate action as a result of unforeseen circumstances. Such purchases should be held to an absolute minimum. An emergency is defined as an unforeseen crisis or incident which requires immediate action and the acquisition of goods or services to forestall a shutdown of essential services; to avoid a threat to public health, safety, or welfare; or to avoid serious damage to property.

Emergency repairs are defined as those repairs or rehabilitation where, in the opinion of the General Manager or the Director of Operations or Information Technology, based on situation, or an Assistant General Manager, a delay would adversely affect water or sewer service, threaten the health and safety of the public, or compromise the integrity or security of District facilities, or is likely to result in fines, penalties or other regulatory actions, sanctions or substantial monetary impact. (example: main break; sewer spill, etc.)

Emergency purchases over \$100,000 must be ratified by the Board of Directors at the next regular Board Meeting.

**B. Sole Source Purchases.**

Sole Source purchases are seldom justified and are discouraged. A sole source purchase must be documented as to why only one supplier is acceptable. This documentation, normally furnished by the using department, must be verified by the Purchasing Manager, who is responsible for making the final determination on sole source purchases. It is important to verify that the reason for a sole source purchase is based on qualitative facts and not on personal preferences.

**C. "No Substitute" Items.**

"No substitute" means there is only one acceptable product to perform the function required by the using department. "No substitute" situations tend to reduce competition and increase cost and should be used judiciously. A "no substitute" requirement must be justified by the using department, and a statement explaining the need and situation should be attached to the purchase requisition. Vendors may not be listed as "no substitutes".

**D. Petty Cash Purchases.**

The basic premise for petty cash purchases is that it is less expensive to pay for small non-repetitive purchases with cash rather than by check. The maximum

petty cash expenditure allowed by WESA policy is \$250. Splitting purchases in order to utilize petty cash rather than standard purchasing procedures is not permitted.

**E. Purchases of Non-Competitive Items or Services.**

Purchases or contracts which are for items or services which are not available on a competitive basis due to territorial distributorships between manufacturers and their agents shall be identified and fully established as exceptions to the policy of competitive bidding. Such arrangements may be for items of high technology or other products of limited application which often require considerable post sales or post installation support, staff education and performance verification.

In instances where a non-competitive sales arrangement can be documented, the implementation of procurement procedures such as direct negotiations with the distributor or WESA vendor shall be deemed appropriate when it is anticipated that competitive bidding will not provide the best advantage to WESA. Such procurement activity shall be reported to the General Manager and all such activity must comply with appropriate policies and procedures as set forth in this Code.

The final determination regarding whether competitive bidding is or is not advantageous rests with the purchasing manager.

**§ 1510. Receiving Documentation/Location. (M-0142)**

The warehouse at District headquarters is the primary receiving location for incoming and outgoing shipments. The warehouse is the single storage facility for inventory materials and may be used as a temporary supplemental storage facility for staff as space allows, and as approved by the purchasing manager. Inventory materials shall be maintained by warehouse staff using electronic inventory management software. Materials shall be issued to staff on an as needed and approved basis. Material replenishments and orders shall comply with the procurement policies outlined above.

Non-Inventory materials ordered by staff may be delivered directly to a designated area or District location, such as a treatment plant, based on Authority needs (e.g. chemicals, tools, equipment, etc.)

**§ 1511. Surplus Property. (M-0090, M-0142)**

Surplus materials are defined as any unnecessary, obsolete or excess supplies, materials, tools, vehicles, equipment, assets or furniture that has been replaced or retired due to damage, age or change in Authority's standards and/or specifications. The methods used by staff to define surplus include:

1. Change in the Authority's standards or specification.
2. Changes in State or Federal Law that prevents further use by the Authority.
3. Damaged/obsolete products, or that pose a safety risk, including expired materials.
4. Materials by departments that have not been used in 36 months will be identified by source department, then reviewed by operations and engineering staff for validation that product is no longer required.
5. Other materials identified by staff that require specific justification.  
(software/hardware no longer supported, voided warranty, etc.)

A single item, or grouping of similar items with an estimated current value of \$50,000 or more must be declared surplus by the Board of Directors and disposed of by means of:

1. Formal or informal sale or auction;
2. Exchange or trade; or
3. Scrapping if appropriate based on circumstances.

The method used will take into consideration market trends, demand, economics and convenience. Items under \$100,000 must be declared surplus by the General Manager prior to disposal, using the same means discussed above. A collection of unique and separate items being considered for surplus, that are individually less than \$50,000, may be approved by the General Manager.



**§ 1512. Publication & Electronic Approvals & Signing Authority.**

- A. A notice inviting bids required to be published in accordance with Public Contract Code section 20642 shall be published on an established e-procurement/electronic bidding system or pursuant to Government Code section 6061, at the discretion of the General Manager or his designee. All other public advertisements shall also comply with this section.
- B. Where possible, electronic workflow and signature approvals may be used in lieu of ink signatures using an approved electronic signature software tool. Software must have adequate ID and encryption security and must be approved by the Director of IT.
- C. Signing Authority: No agreements shall be made or agreed to by staff, verbally or otherwise, on behalf of the Authority unless express consent is provided by either the Board of Directors or the General Manager. Signed documents must be completed only by authorized staff using approved Authority forms or be sent for legal review and approval prior to execution of documents. Documents include but are not limited to:
  - 1. Quotes/Estimates
  - 2. Purchase agreements, contracts
  - 3. Memorandum of Understanding, letter agreements
  - 4. Other legally binding agreements

Any employee signing documents without proper authority will be subject to disciplinary action.

## SECTION 1550. SURPLUS REAL ESTATE

| <u>Section</u> | <u>Title</u>                                | <u>Page</u> |
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| 1553           | Disposal .....                              | 2           |
| 1554           | Exemption .....                             | 2           |

**SECTION 1550. SURPLUS REAL ESTATE****§ 1551. Definition.**

Surplus real estate is defined as property that is owned by the Water Employee Services Authority (WESA) which “is in excess of its foreseeable needs.” (i.e. WESA facilities, easements, access, buffer zones, mitigation or miscellaneous needs)

**§ 1552. Noticing and Determination of Surplus.**

WESA is required by Gov. Code § 50569 to prepare an annual inventory of surplus real property. If WESA has no surplus property, no inventory is required. Being a matter of public record, WESA must provide the surplus property inventory to any citizen, limited dividend corporation, housing corporation, or nonprofit corporation who requests a copy. This will be supplied upon request.

WESA will conduct a biannual review of its real estate assets listing during the budget cycle. No general public noticing is required before WESA sells surplus land. Disposal of real estate owned by EVMWD determined to be in excess of WESA need must be declared as surplus real estate by complying with the written procedure.

- a) Justification from the Engineering and Operations Departments and any other appropriate personnel of the need to surplus the property must be provided;
- b) Determination by WESA that the subject property is not subject to covenants or conditions imposed by any original grantees of the property that would cause the property to revert back to the grantor if the property is not used for a specific purpose (such as gifted subject to restrictions of use);
- c) A professional appraisal of the land must be prepared to obtain and set a fair market value for the highest and best use and to prevent a constitutional challenge that the sale constitutes a gift of public funds;
- d) Concurrence by the General Manager to declare the real estate surplus
- e) Declared surplus by the Board of Directors by formal action.

**§ 1553. Disposal.**

The real estate must be sold at fair market value by listing with WESA's right-of-way agent (broker) and completion of a formal escrow. Real estate may also be exchanged for property of equivalent value or higher, taking into consideration market trends, demand, economics and convenience. Prior to the sale or disposal of real estate deemed to be in excess of WESA's foreseeable need, procedures for notification as dictated in Government Code § 54222-54232 will be followed.

**§ 1554. Exemption.**

WESA land is exempt from the special offer procedures of the Government Code § 50569 if it is not contiguous to land owned by a state or local agency that is used for park, recreational, open space, or low and moderate-income housing purposes, is not located within an enterprise zone pursuant to Government Section 7073 and is not located within a designated program area as defined in Government Code Section 7082 and is any of the following:

- a) less than 5,000 square feet in area, or
- b) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet in area, whichever is less, or
- c) has no record access and is less than 10,000 square feet in area. (Gov. Code, § 54221.)

**SECTION 1600. SETTLEMENT OF CLAIMS AGAINST WESA**

| <u>Section</u> | <u>Title</u>    | <u>Page</u> |
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| 1601           | Policy .....    | 1           |
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**SECTION 1600. SETTLEMENT OF CLAIMS AGAINST WESA****§ 1601. Policy.**

It is the policy of WESA that all claims against it be handled and settled equitably, fairly and in a timely manner.

All claims against WESA must comply with the California Torts Claim Act (Government Code Section 810, et. seq.). The failure of a claimant to comply with all provisions of the Tort Claims Act shall be grounds for denial of the claim.

All claims must contain the information required by Government Code Sections 910 and 910.2.

All claims in amounts of \$5,000.00 or less may be settled by the General Manager as he deems appropriate.

The General Manager is authorized to sign merit rejection letters in lieu of the Board in order to expedite the processing of claims where no apparent personal injury is involved and the amount claimed is less than \$5,000.

Claimants may appeal to the Board of Directors subsequent to denial or rejection decision by the General Manager. If a claimant wishes to appeal the Board, he/she must do so through WESA's Secretary in order to properly agendize the matter for discussion. All claims are subject to statute of limitation provisions set forth in the California Torts Claim Act (Government Code Section 810, et. seq.).

**§ 1602. Procedure.**

All claims shall be filed with WESA's Claims Coordinator. The Claims Coordinator shall distribute copies to the General Manager, the Assistant General Manager, WESA's legal counsel and any other interested or involved individuals, as necessary.

After proper examination and investigation, the claim and pertinent information shall be submitted to the Board of Directors for action. The Board of Directors may approve payment of the claim, compromise all or part of the claim, defer action to a later time or date, request additional information, deny the claim, and/or refer the claim to WESA's legal counsel or insurance carrier for further action.

## **SECTION 1700. FACILITIES & EQUIPMENT USE POLICY**

| <u>Section</u> | <u>Title</u>                                     | <u>Page</u> |
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| 1702           | Groups/Priorities .....                          | 1           |
| 1703           | Application .....                                | 1           |
| 1704           | Fees .....                                       | 2           |
| 1705           | Rules & Regulations.....                         | 2           |
| 1706           | WESA Equipment .....                             | 4           |
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Attachment: .....WESA Facilities Use Agreement (Form)

**SECTION 1700. FACILITIES & EQUIPMENT USE POLICY****§1701. Purpose.**

The purpose of this policy is to describe the proper use of and to protect WESA property and equipment.

**§ 1702. Groups/Priorities.**

WESA facilities are available for certain uses in the following order of priority:

Group A. Local governmental agencies, political subdivisions of the State of California, or organizations which provide or promote public water and/or wastewater service.

Group B. Nonprofit or public benefit organizations consisting primarily of residents within the boundary of the Elsinore Valley Municipal Water District excluding regularly scheduled events.

Group C. Nonresident Group B organizations excluding regularly scheduled events.

**§ 1703. Application.**

Interested organizations shall complete an application for use of WESA facilities and submit to either the Board Secretary or the General Manager. The General Manager shall determine the appropriate group/priority and conformance of the proposed use with WESA rules and regulations. The General Manager shall collect fees pursuant to this Code, and sign the application, if approved. The facilities will be reserved accordingly and the applicant notified.



**§ 1704. Fees.**

| <u>Group Type</u> | <u>Day Rate<br/>Regular Bus. Hrs.</u> | <u>Night Rate<br/>Nonregular Bus. Hrs.</u> |
|-------------------|---------------------------------------|--|
| A                 | \$ <u>-0-</u>                         | \$ <u>-0-</u>                              |
| B                 | \$ <u>75.00</u>                       | \$ <u>100.00</u>                           |
| C                 | \$ <u>150.00</u>                      | \$ <u>200.00</u>                           |

**§ 1705 Rules & Regulations.**

1. Facilities available for use under this policy are the main kitchen & adjoining patio and the Board Room.
2. The Board Bench (Dais) in the Board Room shall only be available to Group A.
3. Application for use of facilities must be made no more than two months and not less than two weeks in advance.
4. Facilities may be used for political purposes such as rallies, debates or forums only when all declared candidates for a particular office have been invited.
5. Elected officials & representatives may not have use of facilities from January through the 2nd Tuesday in November of an election year. (Except as provided for in Section 1705.4.)
6. WESA and EVMWD related activities have priority on all facilities and all permits are revocable at any time.
7. No alcoholic beverages are permitted in WESA or District facilities or on WESA or District grounds.
8. No smoking (tobacco-free) is allowed in any WESA buildings and vehicles and within 20 feet of exits and windows.
9. No games of chance, lottery, gambling or any illegal activity is permitted.
10. No decorations affixed to furniture, walls, ceilings or fixtures is permitted.

11. Damages resulting from use by any group will be billed to the sponsoring organization.
12. WESA assumes no liability for personal injury or property damage. WESA will require it be named as an additional insured on the organization's insurance policy.
13. No storage is available and equipment owned by individuals or organizations must be removed after each use of the facility.
14. At the discretion of the General Manager, a representative of WESA may be present during activities and shall have the authority to enforce all rules and regulations. At the discretion of the General Manager, applicants may be required to provide trained personnel designated to monitor premises during activities to ensure enforcement of rules and regulations.
15. A facilities use fee will be charged to all groups excepting those within Group A. The minimum charge to users is 1 hour labor. A labor fee for each hour of usage will be charged whenever additional staffing is required for the activity. Any part of an hour will be charged as a full hour with no proration of fee.
16. Organizations and individuals are prohibited from offering or making any payments directly to WESA employees for services rendered.
17. Use of WESA facilities for any of the following activities is not permitted:
  - A. Any use by an individual or group for the commission of any act intended to further any program or movement dedicated to overthrowing the United States or State of California governments by force, violence, or other unlawful means.
  - B. Any use which interferes with the regular conduct of business of WESA or the District.
  - C. Any use which is discriminatory in the legal sense.
18. Use of facilities is limited only to those buildings or rooms as expressly indicated on the approved Facilities Use Permit without exception.
19. Applicants shall be financially responsible for personal injuries or property damages arising from the meetings or activities.

20. Applicants must read and sign WESA's Facilities Use Agreement at the time of application.
21. A cleaning deposit of \$500.00 shall be required.
22. Activities which produce noise levels which interfere with WESA or the District operations are prohibited.
23. Clothing is required.
24. Minor children shall be under direct adult supervision at all times inside and outside of buildings.
25. No firearms are permitted on WESA premises or in any WESA buildings or facilities except those in the possession of on-duty law enforcement officers.
26. No animals, pets, livestock or wild game are permitted on premises or inside buildings. Exception: Seeing Eye Dogs.
27. Littering on premises is prohibited.
28. Violation of these rules and regulations or failure to comply with or enforce these rules and regulations may result in revocation of Facilities Use Permit.
29. For security reasons, one or more WESA employees will remain on the premises at all times during use of facilities by outside organizations.

**§1706. WESA Equipment.**

WESA "equipment" refers to any heavy or light machinery, tools, tents, tables, chairs, electronic devices or audio/visual equipment, provided by WESA to be used by WESA employees in the course of performance of duties.

**§1707. Rules and Regulations for Use of Equipment.**

1. Large equipment, such as but not limited to: trucks, backhoes, forklifts or vehicles may only be operated by WESA employees in the normal course of duties directly relating to WESA business.
2. Equipment can be used off site at a WESA-sponsored event provided that a representative of WESA is present at all times during operation or use of the equipment, who shall be responsible for the appropriate transportation, use, and return of the equipment.

3. No equipment can be removed from WESA property or used by employees or outside agencies unless the use directly relates to WESA business or cooperative efforts with Local governmental agencies, political subdivisions of the State of California, or organizations which provide or promote public water and/or wastewater service.
4. All requests to borrow equipment or for waiver of meter rental fee or commodity charges must be approved by the Board of Directors.
5. Internal discipline, up to and including discharge, may be appropriate in some cases of non-compliance with this policy. Criminal or civil action may be initiated in appropriate instances.

**Attachment A**  
**WESA FACILITIES USE AGREEMENT**

1. Applicant: \_\_\_\_\_
2. Address: \_\_\_\_\_
3. Applicant hereby requests approval to use the following described facilities belonging to WESA:  
\_\_\_\_\_  
\_\_\_\_\_
4. Purpose: \_\_\_\_\_  
\_\_\_\_\_
5. Date(s)/Time(s) of Use: \_\_\_\_\_
6. Fee: \_\_\_\_\_
7. The undersigned certifies that he or she is a representative of the above named organization, that he/she has read the Rules and Regulations Governing Use of EVMWD or WESA facilities and on behalf of the applicant affirms that use of the facilities by the organization will be in accordance with said Rules and Regulations. The undersigned understands that WESA is not providing supervision for the facilities and will not be responsible for loss or for damage to property or persons and that the organization agrees to defend and hold WESA and EVMWD harmless from any claims or damages to persons or property arising from the use of the facilities by the organization.

By: \_\_\_\_\_  
(Applicant Authorized Representative) (Title)

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(EVMWD Authorized Representative) (Title)

Date: \_\_\_\_\_

## **SECTION 1750. NO SMOKING POLICY**

| <u>Section</u> | <u>Title</u>         | <u>Page</u> |
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| 1752           | WESA Buildings ..... | 1           |
| 1753           | WESA Vehicles .....  | 1           |

**SECTION 1750. NO SMOKING POLICY****§ 1751. Purpose.**

The purpose of this policy is to protect nonsmokers and assure a clean, pleasant and more healthful work environment.

**§ 1752. Buildings.**

Smoking is prohibited in all WESA-staffed buildings, offices and facilities, including all conference and meeting rooms, classrooms, auditoriums, restrooms, cafeterias, lunchrooms, employee lounges, hallways, buildings and other indoor facilities. Outdoor Smoking is prohibited within 20 feet of exits, entrances, operable windows, air intake vents and the covered area outside the front customer entrance.

All smoking materials and/or tobacco products shall be disposed of in receptacles for such purposes and shall not be disposed of on the ground or floors of WESA-staffed buildings, facilities or other WESA property.

**§ 1753. Vehicles.**

Smoking is prohibited in all trucks, autos, tractors and other vehicles.

**SECTION 1800. CODE OF CIVIL PROCEDURE**

| <u>Section</u> | <u>Title</u> | <u>Page</u> |
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**SECTION 1800. CODE OF CIVIL PROCEDURE**

**§ 1801. Policy.**

The Board of Directors has adopted California Code of Civil Procedure 1094.6 to be applicable to all final administrative decisions and orders under California Code of Civil Procedure Section 1094.5.

## **SECTION 2000. CONFLICT OF INTEREST**

| <u>Section</u> | <u>Title</u>   | <u>Page</u> |
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| 2005           | Outside Consulting, Business Activity or Employment... | 1           |

**SECTION 2000. CONFLICT OF INTEREST****§ 2001. Conflict of Interest Code.**

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

All officials and designated positions required to submit a statement of economic interests shall file their statements with the Secretary of the Board of Directors as WESA's Filing Officer/Official. The Secretary of the Board of Directors shall retain the originals and make all statements available for public inspection and reproduction. (Gov. Code. § 81008.)

**§2005. Outside Consulting, Business Activity or Employment (M-0033)**

- A. All outside business, enterprise, consulting work or employment for compensation by WESA staff must be pre-approved by the General Manager or, in the case of the General Manager, by the President of the Board of Directors.
- B. WESA Staff is prohibited from performing consulting work for or providing any other services or goods to any person(s) or entities doing business with the District
- C. WESA Staff shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to their duties as WESA employees or with their duties, functions, or responsibilities for the District. WESA Staff shall not perform any business, enterprise, work, service, or counsel outside of their District related tasks where any part of their efforts will be subject to approval by any other officer, employee or board of the District, unless otherwise approved in the manner prescribed by this Policy.
- D. A WESA employee's outside employment, activity, business or enterprise may be prohibited if it: (1) involves the use for private gain or advantage of his or her District time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his

or her District office or WESA employment or, (2) involves receipt or acceptance by the employee of any money or other consideration from anyone other than WESA for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her District duties or as a part of his or her duties as a WESA employee or, (3) involves the performance of an act in other than his or her capacity as a WESA employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other WESA employee or the District, or (4) involves efforts or time demands as would render performance of his or her duties as a WESA employee less efficient. The General Manager (or the President, in the case of the General Manager) will notify the employee whether any outside employment, consulting work, activity, business or enterprise is approved or disapproved. Appeal from such determination may be made to the Board of Directors.

- E. Nothing in this Section shall relieve employees from the requirement to report and other requirements applicable to outside employment, consulting work, activity, business or enterprise.
- F. Non-compliance with this Policy shall subject the employee to disciplinary actions commensurate with the violation, up to and including termination.
- G. Non-compensated outside employment or work performed for a charitable organization will be permitted under this policy and will not need to be pre-approved by the General Manager.

## **SECTION 2050. CONFLICT OF INTEREST - CONSULTANTS**

| <u>Section</u> | <u>Title</u>        | <u>Page</u> |
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| 2052           | Introduction .....  | 1           |
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**SECTION 2050. CONFLICT OF INTEREST - CONSULTANTS****§2051. Applicability.**

This policy shall apply to every consultant who contracts to prepare a project feasibility study for WESA for projects not related to core WESA activities. Core WESA activities are engineering, operational and financial activities related to water and wastewater facilities and programs.

**§2052. Introduction.**

Government agencies frequently hire the same individual or firm (hereinafter "consultant") both to evaluate and determine the financial feasibility of a proposed public project and to design, supervise or manage the construction of the project. This practice allows the consultant to influence the agencies' decisions regarding the project, creating beneficial results for the consultant.

**§2053. Purpose.**

The purpose of this policy is to remove the possibility of any direct or indirect influence which may bear on a consultant's conclusions regarding project feasibility studies and to eliminate any improper influences on WESA decisions regarding a public project.

**§2054. Policy.**

Consultants hired by WESA to prepare feasibility studies for projects not related to core WESA activities shall be ineligible to bid on any design work or construction supervision or management services on said projects.

## **SECTION 2800. PUBLIC FINANCING POLICY**

| <u>Section</u> | <u>Title</u>                      | <u>Page</u> |
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**SECTION 2800. PUBLIC FINANCING POLICY****§ 2801. Policy.**

- A. The Board of Directors will consider the use of community facilities districts (hereinafter “CFDs”) or special benefit assessment districts (Hereinafter “Assessment District”) as well as other financing methods to assist residential, commercial or industrial development. Where, in WESA’s opinion, the public facilities of the development represents a significant public benefit, this type or other appropriate types of public financing will also be considered.

Nothing herein shall be construed as requiring WESA to utilize public financing. All requests for such financing shall be reviewed on a case by case basis, and WESA reserves the right in its sole and absolute discretion, to approve or deny any and all such requests.

While recognizing that public facilities proposed to be financed must meet a public need and must benefit properties within the proposed development project, public benefit implies that a significant benefit will also result to the community at large. An example of significant public benefit is a public facility having regional impact such as an all-weather bridge, a freeway overpass, a regional water or wastewater treatment plant, etc. Significant public benefit can also take the form of affordable housing through reduced housing costs, etc.

Public financing will be permitted for real property public improvements that will benefit the ultimate property owner and whose useful life will be equal to or greater than the term of the bonds. Except for maintenance and operation of facilities being financed, the use of CFDs or assessment districts for funding of services shall not be permitted.

- B. The proposed development project must be consistent with EVMWD’s Master Plan and have secured appropriate land use approvals from the appropriate agencies to allow for the implementation of the ultimate development of the area.
- C. Facilities which are, upon completion, owned, operated or maintained by public agencies shall be considered public facilities. Limited exceptions will be made for certain



facilities to be owned, operated or maintained by private utilities.

- D. An appraisal of the property subject to any lien required to secure any public financing shall be required. A minimum property value to lien/debt ratio of 4:1 (after installation of the public facilities being financed and including any overlapping assessment or community facilities districts) must be present pursuant to Premise 3 entitled "Bulk Land Value" as set forth in Section 2802 as determined by an M.A.I. appraisal. Exceptions may be granted for commercial, industrial and mixed use development projects. The appraisal shall be reviewed by WESA and shall be prepared as set forth in Section 2802, herein.
- E. Unless waived by WESA, an absorption study of the proposed development project shall be required for land secured financings. The absorption study shall be used as a basis for verification that sufficient revenues can be produced and to determine if the financing of the public facilities is appropriate given the timing of development. Additionally, the projected absorption rates will be provided to the appraiser for use in the appraisal required in Paragraph D above.
- F. With regard to CFDs, the proposed rate and method of apportionment of the special tax shall comply with the following criteria:
  - 1. The rate and method of apportionment shall not provide for an annually increasing maximum special tax for any classification. However, under limited circumstances an increase in the maximum special tax will be permitted, not to exceed two percent (2%) annually.
  - 2. The total projected annual special tax revenues, less estimated annual administrative expenses, must exceed the projected annual gross debt service on the bonds by ten percent (10%). In structuring the special tax, projected annual interest earnings at current passbook savings rates on bond reserve funds may also be included as revenue for the purpose of this calculation. Reserve fund interest earnings credit in excess of the foregoing will only be permitted if an investment agreement, satisfactory to

WESA, is secured at the time any bonds are sold and delivered.

3. The projected annual special tax revenues shall include reasonable annual administrative expenses and other direct costs to the CFD.
  4. All property not otherwise statutorily exempted or owned (or to be owned) by a public entity shall bear its appropriate share of the special tax liability.
  5. The special tax shall be apportioned on the basis of benefit to all categories and classes of property within the CFD.
  6. A formula to prepay the special tax may be permitted.
  7. The projected ad valorem property tax and other direct and overlapping debt for the proposed development project (including estimated CSA charges, projected benefit assessments, levies for authorized but unissued debt and any other anticipated municipal charges which may be included on a property owner's annual tax bill), including the proposed maximum special tax, should not exceed two percent (2%) of the anticipated assessed value of each improved parcel upon completion of the private improvements.
  8. A backup special tax to protect against changes in densities resulting in insufficient annual special tax revenue to pay annual debt service and administrative expenses shall be required.
- G. Each bond issue shall be structured to adequately protect bond owners and to not negatively impact the bonding capacity or credit rating of WESA through some combination of credit enhancement, foreclosure covenant, special reserve fund or deposits and/or a contractual commitment by the proponents and successors to pay the special taxes or assessments during at least the first four years of the bonds. Specifically:
1. A credit enhancement may be required. If the required credit enhancement takes the form of a letter

of credit, credit enhancement shall be provided as set forth in Section 2803 herein.

2. A foreclosure covenant may be required.
  3. WESA may require that capitalized interest on the initial series of bonds be funded from the proceeds of the bonds. Capitalized interest shall not exceed two (2) years, or a shorter period if further restricted by statute. Interest earnings may, at WESA's discretion be applied to extend the initial term of capitalized interest but in no event beyond the term statutorily authorized. The inclusion of capitalized interest in subsequent series of bonds will be at WESA's discretion and will only be permitted if a direct benefit inures to the ultimate property owner.
  4. A reserve fund equal to the lesser of ten percent (10%) of the original principal amount of the bonds, maximum annual debt service or one hundred twenty five percent (125%) of average annual debt service (the "Reserve Requirement") shall be funded from the proceeds of each series of bonds.
- H. WESA shall require bond issues to be structured with approximately level debt service. To the extent that bonds are issued in series, individual series of bonds may have uneven debt service if the intent is to create level debt service at such time as all series of bonds are issued and to minimize the potential of a fluctuating annual special tax or assessment. Deviations from the foregoing policy will only be permitted under limited circumstances.
- I. If a single series of bonds is contemplated, the term of the bonds shall not exceed twenty five (25) years unless extended to more closely relate average annual debt service to the Reserve Requirement. If multiple series of bonds are contemplated, the term of each series will be appropriately determined to meet WESA's objectives.
- J. With respect to CFDs and other land secured financing districts, full disclosure of the special tax or assessment lien shall be in compliance with applicable statutory authority. WESA, in its sole judgment, may require additional property owner notification if it deems such

disclosure will assist subsequent property owners to be made aware of the lien obligation.

- K. WESA staff will perform an independent review of the proposed public financing and may make recommendations to the Board of Directors regarding the financial risk, impact on WESA's bonding capacity, economic feasibility and related issues. the proponents shall be required to provide current and two prior years financial statements, preferably audited, and other materials to assist the Board in its fiscal review.
- L. WESA shall select the bond counsel, underwriter, financial advisor and other professionals and consultants it deems appropriate in accordance with WESA policy.
- M. No petition to initiate the formation of a land secured financing will be considered valid without the payment of a fee to compensate WESA for all costs incurred to perform its analysis of the proposal and to pay for the costs of conducting the proceedings. An application to form a land secured financing must be completed in full before any action will be taken by WESA to process a land secured financing.
- N. All appropriate WESA departments will cooperate with the initiating department in conducting the necessary reviews and proceedings.
- O. All statements and materials related to the sale of special tax bonds (CFD) and improvement bonds (assessment district) shall emphasize the state that neither the faith, credit nor the taxing power of WESA is pledged to the repayment of the bonds, nor is there an obligation of WESA to replenish the reserve fund from revenue sources other than special taxes, annual assessments or proceeds from foreclosure proceedings.
- P. All contracts for public improvements to be owned, operated, or maintained by WESA shall be solicited, let and administered pursuant to current WESA rules and regulations.
- Q. WESA may, at its sole discretion, employ a financial consultant to assist WESA in its fiscal review and all costs for consulting services will be born by the proponent.

- R. The proponents will covenant that bond proceeds will be used and disbursed at times and in the manner as specified in the resolutions forming the financing districts and other such agreements entered into with WESA.
- S. All proposed refunding or refinancing issues will be submitted to WESA's Board of Directors for review with complete disclosure of the benefits and costs of the proposed refinancing. A preliminary and final official statement or disclosure statement shall be filed with WESA.
- T. Policy on Joint Community Financing Districts.

- 1. WESA will not enter into a joint community financing agreement with regard to a community facilities district or a utility agreement (pursuant to Section 10110 of the Streets & Highways Code) with regard to a non-WESA initiated special assessment district unless the following minimum requirements are satisfied by the proposed financing:

Paragraphs F-1, F-2, F-8, G-4, J of Section 2801 herein.

A processing fee of \$3,000 will be collected prior to initiation of a joint community financing agreement. Bond proceeds may be used to pay for WESA fees.

An administrative review will be made by WESA's Finance Department staff of all non-WESA initiated community facilities districts or special assessment WESA subject to minimum requirements.

- 2. If WESA is to:
  - a) own, operate, or maintain a majority of the facilities to be financed, or
  - b) be the single largest recipient of the facilities to be financed, or
  - c) own, operate, or maintain facilities having combined construction costs of \$10,000,000 (including design, engineering, construction

contingencies and related costs of the construction project) with regard to a non-WESA initiated community facilities WESA or a special assessment District,

then WESA will require that all of WESA's policies deemed appropriate shall be adhered to before entering into a joint community financing agreement or a utility agreement.

All such requests shall be brought before WESA's Board of Directors and will be reviewed in a similar manner as are WESA-initiated community facilities Districts and special assessment districts.

- U. WESA works with interested agencies to develop CFDs and manage the issuance of bonds using the CFD financing mechanism. WESA's Auditor and Treasurer will manage the assessment WESA process (depending on the type of WESA facilities) including formation, bond issuance and administration of bond issues. For CFD bonds, WESA's Auditor and Treasurer has the responsibility for administering the bond issue including authorizing and controlling all disbursements of bond proceeds.
- V. WESA has the right to waive or modify any of the policies included herein if, in the Board's judgment, benefit inures to the ultimate property owners, the CFD or assessment WESA or to WESA.

## **§ 2802. Criteria for Appraisals.**

- A. Definition of Appraisal. An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.
- B. Standards of Appraisal. The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. A detailed appraisal shall be prepared for complex appraisal problems. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform

Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of the data, to support his or her opinion of value. At a minimum, the appraisal shall contain the following items:

1. The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.
  2. An adequate description of the physical characteristics of the property being appraised, location, zoning, present use, an analysis of highest and best use.
  3. All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. If a discounted cash flow analysis is used, it should be supported with at least one other valuation method such as a market approach using sales that are at the same stage of land development. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.
  4. A description of comparable sales, including a description of all relevant physical, legal and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
  5. A statement of the value of the real property.
  6. The effective date of valuation, date of appraisal, signature and certification of the appraiser.
- C. Conflict of Interest. No appraiser or review appraiser shall have any interest direct or indirect in the real property being appraised for the agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation.

D. Special Assessment or Community Facilities District Appraisal Premises. The valuation of proposed special assessment districts should be based on three premises:

1. Raw Land Value. (Premise #1). The total land within the project is valued “as is”
  - with any existing infrastructure
  - without proposed infrastructure being financed
  - with existing parcel configuration
  - considering planned densities allowed by the specific plan of the project

This is a typical type of land valuation.

2. Project Buildout Value. (Premise #2). The total land within the project is valued under projected conditions.
  - with proposed infrastructure being financed completed
  - at the planned densities allowed by the specific plan
  - land development is at the stage of being marketed to merchant builders or tentative tract maps ready to be filed

This is a projected value based on project plans predicated on market conditions continuing as projected.

3. Bulk Land Value. (Premise #3). The total land within the project is valued under projected conditions:
  - with proposed infrastructure being financed completed
  - with existing parcel configuration
  - considering planned densities allowed by the specific plan of the project



This premise should consider a discounted or “quick sale” valuation considering time, costs and the possibility of a per unit value based on the total size of the project.

**§ 2803. Policy on Credit Enhancement.**

- A. With regard to the formation of either a community facilities district pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, or a special assessment District pursuant to the Municipal Improvement Act of 1913, as amended, if a person or persons owning property within the proposed boundaries of the EVMWD will be responsible for payment of 33% or more of the total annual special tax or special assessment to be levied, then said property owner or owners will be required to provide a letter of credit naming WESA as beneficiary. The letter of credit is to have a term of one year, to be subject to annual renewals and to be in an amount equivalent to the gross debt service on the bonds allocable to the person's property for the current fiscal year and the succeeding fiscal year. The amount of the letter of credit will be proportionately reduced as the property owner sells portions of his or her property and will terminate when his or her property holding has an annual special tax or special assessment liability below 33%. New property owners responsible for 33% or more of the total annual special tax or special assessment will be required to provide a substitute letter of credit under the same terms and conditions as described herein.
- B. When a letter of credit is required, the letter of credit must be provided on or before the date of the delivery of the bonds and an irrevocable credit commitment, commitment letter or in-lieu letter of credit guarantee will not be accepted irrespective of whether capitalized interest is funded from bond proceeds.

## SECTION 2850. INVESTMENT POLICY

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**SECTION 2850. INVESTMENT POLICY****§ 2851. Scope.**

WESA pools all cash for investment purposes. This policy is applicable to all WESA funds.

**§ 2852. Objective.**

The primary objectives, in priority order, of investment activities shall be:

- A. Safety. Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in overall portfolio. The objective will be to mitigate credit risk and interest rate risk.
  1. Credit Risk. Credit Risk is the risk of loss due to the failure of the security issuer or backer. Credit Risk may be mitigated by:
    - Limiting investments to the safest types of securities;
    - Pre-qualifying the financial institutions, brokers/dealers, intermediaries, and advisors with which an entity will do business; and
    - Diversifying the investment portfolio so that potential losses on individual securities will be minimized.
  2. Interest Rate Risk. Interest Rate Risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates. Interest Rate Risk may be mitigated by:
    - Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity, and
    - By investing operating funds primarily in shorter-term securities.

- B. Liquidity. The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets (dynamic liquidity).
- C. Yield. The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of least importance compared to the safety and liquidity objectives described above. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed.

**§ 2853. Standards of Care.**

- A. Prudence. The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

- B. Ethics and Conflicts of Interest. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees

and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of WESA.

- C. Delegation of Authority. Authority to manage the investment program is granted to the General Manager. Responsibility for the operation of the investment program is hereby delegated to the Auditor and Treasurer, who shall carry out established written procedures and internal controls for the operation of the investment program consistent with this investment policy. Procedures should include references to: safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking services contracts. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Auditor and Treasurer. The Auditor and Treasurer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

The General Manager and Auditor and Treasurer are responsible for qualifying and establishing relationships with investment managers. The investment manager is expected to respect and observe the specific limitations, investment guidelines, attitudes and philosophies stated within this Investment Policy or expressed in any written amendments or instructions.

**§ 2854. Safekeeping and Custody.**

- A. Internal Controls. The Auditor and Treasurer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Accordingly, the Auditor and Treasurer shall establish a process for annual independent review by an external auditor to assure compliance with policies and procedures. The internal controls shall address the following points:

1. Control of collusion. Collusion is a situation where two or more employees are working in conjunction to defraud their employer.

2. Separation of transaction authority from accounting and record keeping. By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
  3. Custodial safekeeping. Securities purchased from any bank or dealer including appropriate collateral (as defined by State Law) shall be placed with an independent third party for custodial safekeeping.
  4. Avoidance of physical delivery securities. Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
  5. Clear delegation of authority to subordinate staff members. Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
  6. Written confirmation or telephone transactions for investments and wire transfers. Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions should be supported by written communications and approved by the appropriate person, unless other internal controls are in place that will preclude the occurrence of improprieties or misuse of funds. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
  7. Development of a wire transfer agreement with the lead bank or their party custodian. This agreement should outline the various controls, security provisions, and delineate responsibilities of each party making and receiving wire transfers.
- B. Delivery vs. Payment. All trades where applicable will be executed by Delivery vs. Payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds. Securities will be held by a third party custodian as evidenced by safekeeping receipts.

**§ 2855. Suitable and Authorized Investments.****A. Investment Types Allowed by State Law.****1. State and Local Agencies.**

Introduction: These bonds, notes, warrants or other evidences of indebtedness of any local or State Agency are including WESA's own bonds within the State of California. This includes bonds payable solely out of the revenues from a revenue producing property owned, controlled or operated by the local or state agency, or by a department, board, agency, or authority of the local agency or state.

Definition: These are generally made up of Improvement Act bonds and each issue has various fixed maturities and interest rates.

Legal Authority: Section 53601 (a, c, d) of the Government Code authorizes local and state agencies to purchase these bonds with no limitations as to the amount that can be owned.

Characteristics: Bonds issued are registered and generally have interest paid twice a year. Each issue will have bonds of varying maturities. Each maturity has a fixed interest rate that tends to increase as the maturities become longer. These types of issues are generally at a lower interest rate than other instruments due to their low risk and tax free interest status. These securities shall have a maximum term of 5 years unless expressly authorized by the Board of Directors or as part of an investment program approved by the Board of Directors at least three months prior to the investment.

**2. U.S. Treasuries.**

Introduction: These are instruments in which the full faith and credit of the United States Government is pledged.

Definition: U.S. Treasuries include Treasury Bills, Treasury Bonds, and Treasury Notes.

Legal Authority: Section 53601 (b) of the Government Code authorizes local agencies to purchase U.S. Treasuries with no limitations as to the amount that can be owned of each.

Characteristics: Treasuries can be issued in discount form for securities with maturities of one year or less. Maturities on these issues can be from just a few days to thirty years. These securities have perceived differences in quality and consequently each can trade at a different yield from the other.

3. Specified Federal Agencies.

Introduction: This category includes securities issued by federally owned or sponsored agencies that have the backing of the full faith and credit of the Federal Government. These securities are very liquid and marketable and they offer a wide range of available maturities. These securities are considered to be the safest investment next to Treasury Instruments.

Definition: Bank obligations in this category are limited to certain federally owned or sponsored agencies such as Banks of Cooperatives, Federal Land Banks, Federal Intermediate Credit Banks, and Federal Home Loan Banks (FHLB). Also included are obligations, participations, or other instruments of, issued by, or fully guaranteed by the Federal National Mortgage Assoc. (FNMA), guaranteed portions of Small Business Administration notes, and obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

Legal Authority: Section 53601 (e) of the Government Code allows public agencies to invest in obligations issued by banks.

Characteristics: Securities issued by the Government National Mortgage Association GNMA are guaranteed by the Federal government and it is a general belief that the other agencies carry an “implied” guarantee. As with treasuries, agencies securities can be issued in discount form for securities with Maturities of one year or less. Maturities on these issues can be from just a few days to thirty years. While all of these securities are classified as agencies, there are perceived differences in quality and consequently each will trade at a different yield from each other and treasuries. Issues of the GNMA, because of the government guarantee, are considered the safest of the agencies, typically followed



by issues of the Federal Farm Credit System, the FHLB, and finally the FNMA.

4. Bankers' Acceptances.

Introduction: Bankers' acceptances (BA's) are a suitable short-term investment because they provide an attractive yield and they are considered a relatively safe and liquid investment.

Definition: A BA is a time draft drawn on and accepted by a bank for payment of the shipment or storage of merchandise. The initial obligation of payment rests with the drawer, but the bank substitutes its credit standing for that of the borrower and assumes the obligation to pay face value at maturity.

Legal Authority: Section 53601 (f) limits investments in this category to those Bankers' Acceptances which are eligible for purchase by the Federal Reserve System and not exceeding 180 days maturity. In addition, no more than 40% of WESA's surplus funds may be invested in BA's and no more than 30% may be invested in any one bank.

Characteristics: BA's are issued in bearer form and are a discount instrument. Normal trading blocks are \$5 million, but the odd lot market is active. The majority of BA's are created with a 90-day maturity and rarely extend over 180 days. Since BA's are a "two-name paper" they are perceived to be the safest of bank obligations. During the past 70 years in which BA's have been actively traded in U.S., no loss of principal has been documented. For the most part, banks include a service charge for BA's which generally reduces the yield to a level too low for WESA to benefit.

5. Commercial Paper.

Introduction: Commercial paper consists of promissory notes of large business concerns of high credit standing, usually maturing in four to six months. These Corporate I.O.U.'s are bought and sold in the open market. Large companies raise short term capital needs with this type of instrument.

Definition: Commercial Paper is a short term I.O.U. issued by large corporations for a fixed short period of time. It is unsecured and issued on a continuous basis.

Legal Authority: Section 53601 (g) of the Government Code allows public agencies to invest in only “prime” quality commercial paper issued with the highest rating provided by Moody’s Investors’ Service, Inc. (Moody’s), or Standard and Poor’s Corporation (S&P), or Fitch Financial Services (Fitch). Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of \$500 million dollars and (3) having an “A” or higher rating for the issuers debt, other than commercial paper, if any, as provided for by Moody’s, S&P or Fitch. Commercial paper may not exceed 270 days maturity and must not represent more than 10% of the outstanding paper of the issuing corporation. In addition, the amount invested in this type of instrument cannot exceed 25% of the total funds available to WESA.

Characteristics: Commercial paper is normally issued in multiples of \$100,000. About one-half of the outstanding commercial paper is sold directly by the borrowers and one-half is sold through dealers. Maturities can extend as far as 270 days, but are generally kept at 90 days or less. Commercial paper can be issued on a discount or an interest bearing basis.

## 6. Non-negotiable Certificates of Deposit

Introduction: Non-negotiable Certificates of Deposit (CD’s) can be attractive investments because they offer competitive yields, a wide range of Maturities, and a relatively high degree of safety if they are collateralized, insured, and/or issued by a financial institution of high quality.

Definition: A non-negotiable CD is an instrument evidencing a deposit with a financial institution for a fixed period of time and normally for a fixed rate of interest. They can be collateralized with securities or mortgages or, if issued in denominations of \$100,000 or less, they can be insured by the Federal Deposit Insurance Corporation if issued by a bank, or the Federal Savings and Loan Insurance Corporation if issued by a savings and loan association.

Characteristics: Non-negotiable CD’s purchased pay interest at least quarterly. Maturities are typically one year

or less. Because they are non-negotiable, they are not liquid and cannot be sold or redeemed prior to maturity without suffering a loss of interest. They can be written for any amount but must be deposited for at least 7 days.

## 7. Negotiable Certificates of Deposit

Introduction: New York Bank began issuing CD's in 1961 in an attempt to attract deposits from the national market. Immediately, a secondary market developed for buying and selling these instruments.

Definition: A CD is a negotiable instrument evidencing a time deposit with a bank at a fixed rate of interest for a fixed period. CD's of this type are not collateralized and should be considered an unsecured deposit.

Legal Authority: Section 53601 (h) of the Government Code allows public agencies to invest a maximum of 30% of surplus funds in the CD's of state or federal associations or state licensed foreign banks. Section 53638 stipulates that negotiable CD's may not exceed the shareholder's equity of the bank, and that the amount of CD's purchased from a state or federal association may not exceed the total of the net worth of that association unless the purchase amount is less than \$500,000.00 and the deposits are insured or secured as required by law.

Characteristics: CD's are coupon bearing, which pay interest at maturity if less than a year; if not, they generally will pay interest semi-annually. The majority of CD's are issued in the 30 to 90 day range. Negotiable CD's normally are issued in blocks of \$5 million but can be bought in pieces of \$1 million.

## 8. Repurchase Agreements.

Introduction: Repurchase Agreements (Repos) are one of the most flexible investments available to invest short-term funds and when proper guidelines are followed, are relatively safe.

Definition: A Repo involves two simultaneous transactions. One transaction involves the sale of securities (collateral) by a borrower of funds, typically a bank or broker/dealer in governments or agencies, to a lender of funds. The lender can be any investor with cash to invest. The second

transaction is the commitment by the borrower to repurchase the securities at the same price plus a predetermined amount of interest on an agreed future date.

Legal Authority: Section 53601 (l) of the Government Code permits Repos in any security that is allowed for purchase as defined in that same section of the Code and for a term that does not exceed one year, and with collateralization of 102 percent.

Characteristics: Repos can be entered into with any amount of dollars, including odd amounts. They are typically for very short periods, often one day, but it is not unusual for Repos to be for periods of up to 180 days, and occasionally longer. Any type of security can be used as collateral but most often government or agency's securities are utilized. There are minimal risks involved in a Repo transaction if the collateral is priced properly. Caution should be used for Repos of greater than 30 days so that market changes do not substantially change the value of the collateral.

#### 9. Medium Term Corporate or Bank Notes

Introduction: Medium term Notes (MTN's) were initially issued by General Motors Acceptance Corporation (GMAC) in 1972. They have become a more prevalent investment since 1982 when the SEC removed some restrictions that had previously hindered their sale. Currently, there are hundreds of MTN's which represent well over 40 billion dollars of outstanding notes.

Definition: A medium Term Note is a promise to pay issued by a corporation or a bank at a fixed interest rate for a fixed period of nine months to fifteen years. Most are unsecured although some are collateralized or carry other credit enhancements such as letters of credit.

Legal Authority: Section 53601 (j) of the Government Code allows public agencies to invest a maximum of 30% of surplus funds in the MTN's for a maximum of five years maturity. The notes must be issued by a U.S. corporation or by a depository institution licensed by the United States or any state. To minimize risk, the notes must be rated in a rating category of "A" or better by a nationally recognized rating service, like Moody's, or S&P, etc.

Characteristics: MTN's are generally issued in minimum amounts of \$25,000 or \$100,000 and integral amounts of \$1,000. Interest is calculated on a 30 day month, 360-day year basis and paid semi-annually on two pre-established dates. Floating rate MTN's can pay interest monthly, quarterly or semi-annually. Yields on MTN's will normally exceed those on treasuries with comparable maturities by about 10 to 75 basis points. Levels of interest rates, maturities, the quality of each issue, and supply and demand factors will affect available yields.

#### 10. Designated Mutual Funds

Introduction: Mutual Funds were set up in order to combine funds from many sources in order to purchase "blocks" of funds or shares in the stock market. This allows small investors to take advantage of the rates and prices in the larger offerings.

Definition: These are companies that are defined under IRS Code, 26 U.S.C. 851, which are typically mutual funds that make diversified investments for their shareholders.

Legal Authority: Section 53601 (k) of the Government Code authorizes investments in mutual funds as long as the mutual companies are investing only in those securities and obligations otherwise authorized for direct investment by public agencies, including the securities and obligations as authorized by Section 53601 subdivisions (a) through (j) and subdivisions (m) through (n). Additionally, these companies must have attained the highest rating provided by at least two of the three largest nationally recognized rating services, or have an investment advisor registered with the SEC with assets under management in excess of \$500 million and with at least five (5) years experience investing in statutorily permitted securities. Investments in this category are also limited to 20% of total funds available and no more than 10% may be invested in any one mutual fund with the following exceptions.

Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds,

indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

#### 11. Mortgage Backed Securities

Introduction: Congress created three agencies of the U.S. Government to increase liquidity in the secondary mortgage markets and thus increase the supply of capital available for residential housing loans. Those agencies are the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA) and the Federal Home Loan Mortgage Corporation (FHLMC). In June 1983 they initiated collateralized mortgage obligation (CMO) securities in order to reduce the terms on mortgage securities.

Definition: Mortgage Backed Securities are guaranteed by the issuing U.S. Government agency and are collateralized by the home loans which create the mortgage pool.

Legal Authority: As of January 1, 1993, Section 53601 (n) of the Government Code allows public agencies to invest in mortgage pass-through and mortgage backed securities issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or better by a nationally recognized rating service.

Characteristics: Collateralized Mortgage Obligations (CMO's) are issued in amounts of \$100,000 or more and for a term of up to five years. Interest is paid on the fifteenth day of each month. They generally have a pay-down window the last 4-6 months when large blocks of principal are paid each month along with the interest until maturity.

#### 12. Local Agency Investment Fund

Introduction: The Local Agency Investment Fund allows local government agencies to obtain higher yields through pooling surplus cash with State surplus cash balances creating a multi-billion dollar money pool and enabling investment in diversified instruments.

Definition: The Local Agency Investment Fund (LAIF) is a special fund in the State of California Treasury created by law. The law permits local government agencies (cities, counties, and special Districts) to pool idle monies in this fund and utilize the trained personnel in the State Treasurer's Office for its investment.

Legal Authority: Section 16429.1 of the Government Code authorizes local agencies to invest through LAIF. The LAIF Governing Board has set a maximum limit of Forty Million Dollars (\$40,000,000) per agency.

Characteristics: Local agencies can transfer monies to LAIF using their own established bank accounts at Bank of America, Wells Fargo Bank, First Interstate Bank, Bank of California, Sanwa Bank, and Union Bank. Deposits in LAIF can be converted to cash within twenty-four hours or less with no penalty. There can be no more than fifteen transactions (transfers in or out) per month.

#### 13. Passbook Savings Account

Introduction: Passbook Savings Accounts allow an agency to earn interest on idle funds until such time as they can be invested.

Definition: A Passbook Savings Account is a savings account at a bank which earns a rate of interest set by the bank.

Characteristics: The local agency can arrange to make telephone transfers between their checking account and savings account. Funds in the savings account can earn interest while accumulating to an amount to be invested or until needed for normal cash flow requirements.

#### 14. Prohibited Investments

Government Code 53601, as amended in 1995 by SB 866, Chapter 784 of the 1995 Statutes, prohibits a local agency from investing in any of the following: Inverse floaters, range notes, or mortgage-derived interest only strips. Securities that could result in zero interest accrual if held to maturity. However, this limitation does not apply to shares of beneficial interest issued by diversified management companies registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1).

**B. Investment Types Allowed by State Law and WESA.**

| <b><u>Investment Type</u></b>                       | <b><u>Code 53601 et seq</u></b>          | <b><u>WESA Policy</u></b>                                      |
|---|--|--|
| State & Local Agencies<br>WESA's Own Bonds          | (a) No Limits                            | 10% of Funds, based upon revenues with Board approval 30 years |
| State Instruments                                   | (c) Warrant, Notes/Bonds                 | 10% of Funds, 5 years  |
| Other Local Agency Inst/                            | (d) Within Calif. Only                   | 10% of Funds, 5 years  |
| U.S. Treasuries                                     | (b) Notes, Bonds, Bills                  | No Limit   |
| Specified Federal Agencies                          | (e) No Limit                             | 40% of Funds   |
| Banker's Acceptances                                | (f) 40% of Total Funds, 180 days max.    | 10% of Funds, 180 days max                                     |
| Commercial Paper                                    | (g) 25% of Funds, 270 day term AAA Rated | 10% of Funds, 270 days AAA Rated                               |
| Certificate of Deposit (CD's)                       |  |  |
| Non-Negotiable                                      | (m) No Limit                             | No Limit   |
| Negotiable  | (h) 30% of Funds                         | Not Allowed  |
| Repurchase Agreement                                | (i) 1 Year or less                       | 5% of Funds, 90 days   |
| Reverse Repurchase Agrmnt                           | (i) 20% of Funds, 92 days max.           | Not Allowed  |
| Medium Term Corporate or Bank Notes                 | (j) 30% of Funds, A Rated                | 30% of Funds, Under 5 years, A rated.                          |
| Designated Mutual Funds                             | (k) 20% of Funds AAA Rated               | 15% of Funds, AAA rated  |
| Secured Notes, Etc.                                 | (m) Depends on Security                  | Not Allowed  |
| Mortgage Backed Securities                          | (n) 20% of Funds, AA rated               | Not Allowed  |
| Local Agency Inv. Fund (LAIF)                       | \$40,000,000 max                         | Max. allowed by LAIF   |
| Passbook Savings                                    | Not Applicable                           | No Limit   |
| Inverse Floaters, Range Notes, Interest Only Strips | Prohibited as per Code 53601             | Not Allowed  |

**C. Collateralization**

In accordance with state law, full collateralization will be required on certificates of deposits, and collateralization of 102% will be required on repurchase agreements.



D. Repurchase Agreements

Special caution should be exercised in selecting parties with whom WESA will conduct repurchase transactions.

**§ 2856. Investment Parameters.**

A. Diversification

The investments will be diversified by security type and institution.

B. Maximum Maturities

The final stated maturity is limited to five years unless specific authority is given to exceed. To the extent possible, attempts will be made to match investments with anticipated cash flow requirements. Unless matched to a specific cash flow, WESA will not directly invest in securities maturing more than (5) years from the date of purchase.

Reserve funds may be invested in securities exceeding five (5) years if the maturities of such investments are made to coincide nearly as practicable with the expected use of funds. The ability of investing these types of funds should be disclosed to the Board of Directors including appropriate time restrictions disclosed, if any apply.

C. Portfolio Percentage Limitations

WESA shall ensure that all categories of investments are maintained within the allowable portfolio percentage limitations. In the event a limitation is temporarily exceeded, the Auditor and Treasurer shall take the appropriate action to rebalance the portfolio.

**§ 2857. Reporting.**

A. Methods

The Auditor and Treasurer shall prepare an investment report at least quarterly, including a succinct management summary that provides a clear picture of the status of the current investment portfolio and transactions made over the last quarter. This management summary will be prepared in a manner which will allow the Board of Directors to ascertain whether investment activities during the reporting period have conformed to the

investment policy, and will be provided to the Board within 45 days after quarter end. The report will include the following:

1. A listing of individual securities held at the end of the reporting period by maturity date.
2. The cost, par, and market value of securities, as well as the market value weighted average.
3. Unrealized gains and losses resulting from fluctuations in market value, and the issuer of the investment.
4. Average weighted yield to maturity of portfolio on existing investments.
5. The percentage of the total portfolio with each type of investment represents.
6. Statement of compliance of investments with the investment policy, or the manner in which the investments are not in compliance.
7. Statement denoting the ability of WESA to meet its expenditures requirements for the next six months or an explanation as to why sufficient money will not or may not be available.

B. Performance Standards.

The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to appropriate benchmarks on a regular basis.

C. Marking to Market.

A statement of the market value of the portfolio shall be issued at least quarterly. This will ensure that the minimal amount of review has been performed on the investment portfolio in terms of value and subsequent price volatility.

**§ 2858. Policy Adherence.**

A. Exemption.

Any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.

B. Amendment.

This policy shall be reviewed on an annual basis. Any changes must be approved by the Board of Directors

**SECTION 2950. RESERVE POLICY**

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**SECTION 2950. RESERVE POLICY****§2951. Introduction**

The Water Employee Services Authority (WESA) has a complex nature of operations. Its various legal, legislative, and contractual requirements dictate a multifaceted and sophisticated financial structure. EVMWD has implemented numerous operating programs to secure water and wastewater service resources at the lowest possible cost to customers without compromising service, reliability or quality. To protect the District's investment in various assets and satisfy commitments under numerous financial, regulatory, and contractual obligations, a number of funds and reserves have been developed and segregated. The efficient and discrete use and management of these reserves, when combined with appropriate security measures, assure that the current levels of service, reliability and quality will continue into the future.

WESA's reserves, to the extent possible, will be established utilizing the following criteria:

- Distinguish between legally restricted and unrestricted net assets.
- Contain a defined and distinct purpose.
- For reserves involving construction, conformity to master plans and capital improvement plans.
- Contain a target level or minimum and maximum levels.
- Identify events or conditions that prompt the use of the reserve.
- Specify periodic review dates for balances.

Cash and/or cash equivalents and investment balances shall be maintained in amounts sufficient to cover each reserve balance. Balances shall be maintained in amounts sufficient to meet minimum reserve targets in cash and/or cash equivalents, and permitted investments.

**A. Types of Reserves**

WESA's reserves will be separated into three basic categories:

1. Restricted Reserves,
2. Designated Capital Replacement Reserves, and
3. Operating Reserves.

**§ 2952. Restricted Reserves**

Restricted Reserves are established and utilized for narrowly defined purposes and are protected by law or covenant. WESA's Restricted Reserves are:

**A. Capacity Charges**

*Definition and Purpose* – Established with funds from developer capacity charges. The collection and use are restricted in accordance with applicable State of California law and regulations.

There are three categories established for the following purposes:

- Water Capacity Charges
- Wastewater Capacity Charges
- Recycled Water Capacity Charges

*Conformity to Plans* –Expenditures from this reserve must comply with both EVMWD's Master Plan.

*Required Level*

- *Water Facilities* – Equal to the cost of the new facilities.
- *Wastewater Facilities* – Equal to the cost of the new facilities.
- *Recycled Water Facilities* – Equal to the cost of the new facilities.

*Events or Conditions Prompting the Use of the Reserves* – When it is necessary to upgrade and/or improve the facilities required to service growth, new areas and/or customers, in accordance with the applicable ordinance, funds will be appropriated from the respective reserves for applicable projects, by action of the Board of Directors.

*Periodic Review Dates for Balances* – Expenditures and Reserve balances will be reviewed annually by WESA staff during the preparation of the non-operating budget.

B. Employee Benefits

*Definition and Purpose* – Established to account for accrued and unpaid employee benefit liabilities, including:

- Vacation Days
- Sick Days
- Savings Clause

*Conformity to Benefit Plans* – WESA shall maintain an account for each separate employee benefit.

*Required Level* –

- *Vacation Days* = Funded at a level equal to 100% of the accrued liability.
- *Sick Days* = Funded at a level equal to 100% of the accrued liability
- *Savings Clause* = Funded at a level equal 100% of the accrued liability.

*Events or Conditions Prompting the Use of the Reserves* – Vacation days, sick days and savings clause benefits shall be distributed when used or qualified, in accordance with the respective memorandum of Understanding.

*Periodic Review Dates for Balances* – Reserve balances will be reviewed by WESA staff annually during the preparation of the operating budget.

C. Obligation Proceeds

The proceeds from borrowed money typically consist of construction fund monies, and a debt service reserve fund. The use of these proceeds is restricted by conditions set forth in the respective borrowing documents. The term “Obligation” shall have the meaning set forth in EVMWD’s Resolution No. 1108 adopted September 9, 1992.

*Definition and Purpose* – These funds may be held by a trustee, or fiscal agent established pursuant to the borrowing documents of the Obligation in favor of the bondholders, or lenders.

*Required Level* – Any debt service reserve requirement is established at the time of the borrowing. This amount may be recalculated as Obligations are paid down. Any excess principal and/or interest earnings can be used to pay debt service on the Obligation.

*Events or Conditions Prompting the Use of the Reserves* – As stipulated in the respective borrowing documents. Construction fund monies are expected to be spent on applicable projects, while any debt service reserve can only be used in the event of a shortfall in revenues to make payments on the Obligation.

*Periodic Review Dates for Balances* – Reviewed by the Trustee and WESA staff on every interest and/or principal payment date.

#### **§ 2953 Designated Capital Replacement Reserves**

Designated Capital Replacement Reserves are established by action of the Board of Directors and designated for specific purposes. These funds are utilized to cover capital and asset replacement costs. WESA's current Designated Capital Replacement Reserves are:

- Water Capital Replacement
- Wastewater Capital Replacement

*Definition and Purpose* – The Board of Directors has established a series of funds to accumulate amounts by division to accomplish the replacement or major refurbishment of aging water or wastewater utility plant and equipment. This reserve will be sufficient to fund the entire cost of replacement of WESA's infrastructure utilizing a combination of pay-as-you-go and future debt borrowings.

The Capital Replacement Reserves for each will be calculated and maintained in accordance with the guidelines set forth below.

*Conformity to Plans* – Projected reserve levels should be developed in accordance with WESA's water master plan.

*Target Level* –The minimum target level that WESA will set aside for replacement reserves should be equal to 5% of the total depreciable asset



value for the division as recorded on WESA's fixed assets. The maximum target level should seek to fund a reserve equal to 20% of the inflation-adjusted replacement value of WESA's capital assets or a specific project.

Replacement costs should be inflated in line with the Engineering News Record Construction Index or some other estimate of inflationary costs.

Target level for annual funding of the reserves is 100% of depreciation amount for the division or total cost of replacement projects as specified in the water or wastewater master plans, whichever is higher.

*Events or Conditions Prompting the Use of the Reserves* – Staff will recommend assets to be replaced during the budget preparation. By action of the Board of Directors funds will be appropriated from the reserves for the purchase or construction of replacements. If during the year emergency replacements are necessary, the Board may approve the project and appropriate funds as necessary to accomplish the replacement or refurbishment.

*Periodic Review Dates for Balances* – Reserve balances and replacement requirements will be reviewed annually by WESA staff during the preparation of the non-operating budget.

A. Administrative & General

*Definition and Purpose* – The Board of Directors has established a series of “general and internal service funds” to accumulate amounts by project to fund certain major general, administration and overhead projects. These accounts are intended to fund WESA vehicles and related equipment, as well as WESA computer equipment on a pay-as-you-go basis. The Board will appropriate funds from this reserve for specific projects. Funds have been authorized in specific areas, including:

- Vehicle & Equipment
- Computer

*Target Level* – This reserve is targeted at 100% of the cost of the replacement of each component as specified by the Vehicle Replacement and Computer Replacement policies. Special projects can be funded on an as needed or project-by-project basis.

*Events or Conditions Prompting the Use of the Reserves* – Replacement of the Vehicle or Computer and its related equipment will be identified by WESA staff and recommended to the Board during the preparation of the capital outlay budget. As projects are approved funds will be appropriated from available reserves.

*Periodic Review Dates for Balances* – Reserve balances and projected replacement purchases will be reviewed annually by WESA staff during the preparation of the annual capital outlay budget.

#### **§ 2954. Operating Reserves**

Operating Reserves have been established by the Board of Directors to safeguard the financial viability and stability of WESA and are funded from revenues accumulated in WESA's Water and Wastewater Operating Funds.

##### **A. Operating Reserve**

*Definition and Purpose* – Established pursuant to Resolution No. 1108 to ensure that WESA maintains a sound financial standing for existing and future debt issuances.

*Target Level* – The reserve is targeted at an amount equal 1/5 of the Maintenance and Operation Costs as set forth in WESA's then current annual budget.

*Events or Conditions Prompting the Use of the Reserves* – This reserve has to be maintained at the above stated levels, as specified by existing bond covenants.

*Periodic Review Dates for Balances* – Reserve balance and target level will be reviewed annually by WESA staff as required by Section 2.02 (d) of Resolution No. 1108 during the preparation of the operating budget.

##### **B. Rate Stabilization Reserve**

*Definition and Purpose* – Established to accommodate unexpected operational changes, legislative impacts or other economic events that may affect WESA's operations which could not have been reasonably anticipated at the time the budget was prepared.

*Target Level* – The reserves is targeted at 15% to 30% of WESA's total operating expenses. These levels should be increased as the level of economic uncertainty increases.

*Events or Conditions Prompting the Use of the Reserves* – This reserve may be utilized for expenditures caused by unexpected operational changes, legislative impacts or other economic events could not have been reasonably anticipated at the time the budget was prepared. This reserve may also be utilized to cover temporary cash flow deficiencies caused by timing differences between revenue and expenses.

*Periodic Review Dates for Balances* – Reserve balance and target level will be reviewed by WESA staff during the preparation of the operating budget.

C. Rate Stabilization Reserve Fund

*Definition and Purpose* – Established pursuant to Resolution No. 1108 to help defray successive excessive annual rate increases.

*Target Level* – The reserve shall be maintained at an amount not to exceed \$3,000,000.

*Events or Conditions Prompting the Use of the Reserves* – This reserve is intended to be used to defray any one time and extraordinary Operating and Maintenance water expenditures. This reserve will also be utilized for the cost to purchase water for Railroad Canyon Reservoir, but only to the extent that the purchase is necessary to bring the water level specified within the Railroad Canyon Reservoir lease agreement.

*Periodic Review Dates for Balances* – Reserve balances will be reviewed annually by WESA staff as required by Section 2.02 (d) of Resolution No. 1108 and during the preparation of the operating budget.

**SECTION 3100.     BANK ACCOUNT SIGNATORIES**

**SECTION 3100. BANK ACCOUNT SIGNATORIES** - (R-2007-1, R-2008-2, R-2009-1, R-2010-1, R-2011-1, R-2013-1, R-2014-4, R-2015-1, R-2019-4, R-2020-1, 2021-1, 2023-03)

The following persons are authorized signatories on all WESA bank accounts:

1. Andy Morris, Director
2. Harvey Ryan, Director
3. Darcy Burke, Director
4. Chance Edmondson, Director
5. Christy Gonzalez, Secretary
6. Greg Thomas, General Manager
7. Ganesh Krishnamurthy, Assistant General Manager
8. Scott Thompson, Director of Finance

## **SECTION 3150. CAPITAL ASSET POLICY**

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**SECTION 3150. CAPITAL ASSET POLICY****§ 3151. Purpose.**

The purpose of this policy is to establish control and accountability measures to ensure careful and responsible management of WESA capital assets. In addition, to collect and maintain complete and accurate capital asset information required for preparation of financial statements in accordance with GAAP (generally accepted accounting principles).

**§ 3152. Definitions.**

- A. Fixed Assets. Fixed assets are non-consumable items including but not limited to: land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, works of art and historical treasures, infrastructure and all other tangible and intangible assets that are used in operations and that have initial useful lives extending beyond five years.
- B. Capital Outlay Expenditure. Capital outlay project expenditure is an individually significant acquisition of capital assets (not involving construction) that are expected to last more than five years and have an individual cost of \$10,000 or more. This threshold should be applied at the individual asset level. Group purchases of individual assets under \$10,000 should not be capitalized, even if the group purchase totals to more than \$10,000. Approval of purchases of Capital Outlay expenditures will follow the purchasing policy as outlined in the administration code section 1511.

Any improvements to an existing capital asset that do no more than return a capital asset to its original condition, regardless of the purchase amount, should be classified as *maintenance and repairs expense* in the period incurred.

- C. Capital Improvement Project Expenditure. Capital improvement project expenditure is an individually significant construction project with a cost of \$35,000 or more that creates a new capital asset, improves an existing asset (Example: increases its service capacity) or significantly extends an asset's operating life. Approval of purchases of Capital Improvement Project expenditures will follow the purchasing policy as outlined in the Section 1500 of the Administration Code.

**§ 3153. Asset Classes**

- Land
- Construction in Progress
- Water Rights
- Infrastructure – Water
- Infrastructure – Wastewater
- Buildings and Structures
- Vehicles and Equipment
- Miscellaneous

**§ 3154. Capitalization Threshold**

WESA maintains a capitalization threshold as follows:

- Land is not subject to capitalization thresholds (All Land Purchases, regardless of cost, are capitalized and are non-depreciable)
- Water Rights are not subject to capitalization thresholds (All Water Right Purchases, regardless of cost, are capitalized and are non-depreciable)
- Infrastructure \$35,000
- Buildings and Structures \$35,000
- Vehicles and Machinery \$10,000
- Miscellaneous Equipment \$10,000

**§ 3155. Depreciation Method and Useful Life**

All assets are depreciated using the straight line method over the following estimated useful lives:

- Reservoirs – storage 50-100Years
- Source of supply 5-30 Years
- Pumping & water treatment facilities 40 Years
- Transmission and distribution 50 Years
- Meter and services 30 Years
- Wastewater system 5-50 Years
- Transportation equipment 5-20 Years
- Studies, tools, equipment 5-10 Years



**§ 3156. Disposal of Surplus Items (Also Outlined in Section 1517)**

Surplus property is defined as any unnecessary, obsolete or excess supplies, materials, tools, vehicles, equipment or furniture that has been replaced or retired due to damage, age or change in WESA's standards and/or specifications.

Items with an estimated book value of \$10,000 or more must be declared surplus by the Board of Directors and disposed of by means of formal or informal sale or auction, exchange or trade, whichever method is deemed appropriate, taking into consideration market trends, demands, economics and convenience.

Items with a book value under \$10,000 must be declared surplus by the General Manager prior to disposal and may be disposed of by means of formal or informal sale or auction, exchange or trade, whichever method is deemed appropriate, taking into consideration market trends, demands, economics and convenience.

**§ 3157. Physical Inventory of Fixed Assets**

WESA will account for and inventory all assets at least once every three years.

**§ 3158. Ensuring Control over Non-capitalized Items (below \$10,000)**

A. It is important to maintain adequate control of items that fall below the capitalization thresholds and meet the following criteria:

- Require special attention to ensure legal compliance
- Require special attention to protect public safety and avoid potential liability
- Require special attention to compensate for a heightened risk of theft

B. Guidelines for control of these items include the following:

- Control should occur at the departmental level
- Control responsibility should be assigned within each department
- Departments are responsible for controlled capital type items and will prepare and maintain a complete list each year

- Departments will certify each year to the Finance department that updated lists of controlled capital type items are on file and available for inspection
  - Finance will verify on an annual basis the data on controlled capital type items on file in each department
- C. The Information Technology Department maintains a list which is updated as items are purchased and disposed of as outlined in the administration code section 1517. A physical inventory is taken on an annual basis by department. The list maintained by Information Technology contain items which include but are not limited to iPads, WIFI Access Points, Portable Access Points, Computers, Copiers, Printers, Monitors, Notebooks, Thin Clients, SCADA, Scanner, and Servers.

The Operations Department maintains a list which is updated as items are purchased and disposed of as outlined in the administration code section 1517. A physical inventory is taken on an annual basis. The list maintained by Operations contains items which include but are not limited to generators, trailers, boring tools, cranes, light towers, and pressure washers.

**§ 3159. Policy Review**

This policy must be reviewed annually to ensure careful and responsible management over WESA resources.

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