

Borrego Water District Board of Directors
Special Meeting
June 2, 2026 @ 9:00 A.M.
806 Palm Canyon Drive
Borrego Springs, CA 92004

The Borrego Water District Board of Directors meeting as scheduled will be conducted in person and in an electronic format. Please note BWD is providing remote attendance options solely as a matter of convenience to the public. BWD will not stop or suspend its in-person public meeting should a technological interruption occur with respect to the GoTo meeting or call-in line listed on the agenda. We encourage members of the public to attend BWD meetings in-person at the address printed above. Anyone who wants to listen to or participate in the meeting remotely is encouraged to observe the GO TO MEETING at:

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I. OPENING PROCEDURES -

- A. Call to Order
- B. Pledge of Allegiance
- C. Directors' Roll Call: President Dice, Vice President Baker, Directors Duncan, Johnson & Moran
- D. Approval of Agenda
- E. Comments from the Public & Requests for Future Agenda Items (may be limited to 3 min)
- F. Comments from Directors
- G. Correspondence Received from the Public - None

II. ITEMS FOR BOARD CONSIDERATION AND POSSIBLE ACTION -

- A. Borrego Springs Subbasin Watermaster
 - 1. Update on Board Activities – G Moran/T Baker
 - 2. Discuss Agenda Items from Upcoming Meeting – G Moran/T Baker
 - 3. Update on Technical Advisory Committee Activities – T Driscoll
 - i. Water Transfer Approach – T Driscoll, Intera
 - 4. Groundwater Dependent Ecosystems
 - i. UCI Technical Assistance Concepts/Budget/ UC Internal Grant Proposal
- B. Review of New Draft BWD Admin Code: Administration and Finance Sections

III. BOARD COMMITTEE REPORTS, IF NEEDED

STANDING:

- A. Operations and Infrastructure - Duncan/Baker
- B. Finance, Audit and Budget - Dice/Moran

AGENDA: June 2, 2026: The Borrego Springs Water District complies with the Americans with Disabilities Act. Persons with special needs should call Geoff Poole, General Manager – at (760) 767 – 5806 at least 48 hours in advance of the start of this meeting, in order to enable the District to make reasonable arrangements to ensure accessibility. If you challenge any action of the Board of Directors in court, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Board of Directors (c/o the Board Secretary) at, or prior to, the public hearing.

All Documents for public review on file with the District's secretary located at 806 Palm Canyon Drive, Borrego Springs CA 92004. Any public record provided to a majority of the Board of Directors less than 72 hours prior to the meeting, regarding any item on the open session portion of this agenda, is available for public inspection during normal business hours at the Office of the Board Secretary, located at 806 Palm Canyon Drive, Borrego Springs CA 92004.

AD HOC:

- A. T2 Developers Agreement - Baker/Duncan
- B. Organizational Assessment – Duncan/Baker
- C. Proposition 4 Funding – Dice/Johnson

IV. STAFF REPORTS

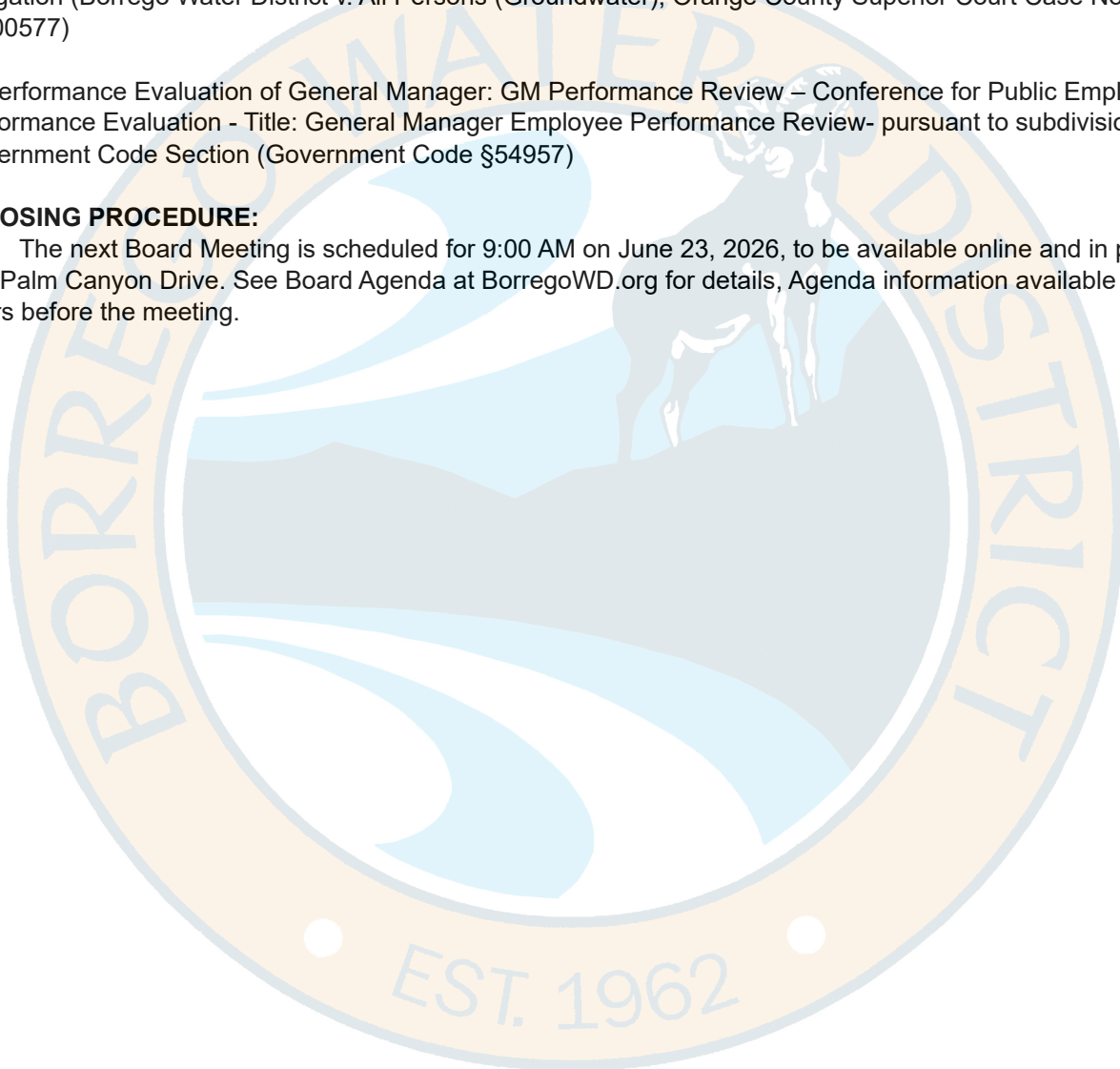
- A. General Manager – G Poole, Verbal
 - 1. The Sun Advertising

V. CLOSED SESSION:

- A. CONFERENCE WITH LEGAL COUNSEL - Paragraph (1) of Government Code, section 54956.9 – Existing Litigation (Borrego Water District v. All Persons (Groundwater), Orange County Superior Court Case No. 37-2020-0000577)
- B. Performance Evaluation of General Manager: GM Performance Review – Conference for Public Employee Performance Evaluation - Title: General Manager Employee Performance Review- pursuant to subdivision (d) (4) of Government Code Section (Government Code §54957)

VI. CLOSING PROCEDURE:

- A. The next Board Meeting is scheduled for 9:00 AM on June 23, 2026, to be available online and in person at 806 Palm Canyon Drive. See Board Agenda at BorregoWD.org for details, Agenda information available at least 24 hours before the meeting.



AGENDA: June 2, 2026: The Borrego Springs Water District complies with the Americans with Disabilities Act. Persons with special needs should call Geoff Poole, General Manager – at (760) 767 – 5806 at least 48 hours in advance of the start of this meeting, in order to enable the District to make reasonable arrangements to ensure accessibility. If you challenge any action of the Board of Directors in court, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Board of Directors (c/o the Board Secretary) at, or prior to, the public hearing.

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BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
JUNE 2, 2026
AGENDA ITEM II.A

May 29, 2026

TO: Board of Directors

FROM: Geoffrey Poole, General Manager

A. Borrego Springs Subbasin Watermaster

1. Update on Board Activities – G Moran/T Baker
2. Discuss Agenda Items from Upcoming Meeting – G Moran/T Baker
3. Update on Technical Advisory Committee Activities – T Driscoll
 - i. Water Transfer Approach – T Driscoll, Intera
4. Groundwater Dependent Ecosystems
 - i. UCI Technical Assistance Concepts/Budget/ UC Internal Grant Proposal

RECOMMENDED ACTION:

Receive update and direct WM Representatives/BWD Staff accordingly

ITEM EXPLANATION:

- 1- 3. BWD Watermaster Representatives and related Consultants will update the BWD Board on Watermaster activities. Intera will also be presenting a few slides on the topic of water transfers by the WM.
4. GDE: Based on direction from the BWD Board at its 4-21-26 meeting, BWD Staff and UCI have continued to discuss the overall general structure of a potential WM GDE Technical Assistance arrangement, which follows:

**BWD will contract with UCI for technical assistance in developing recommendations for the Watermaster (WM) Board to consider as it evaluates options regarding the process for determining Borrego Springs Mesquite Bosque next steps from the perspective of balancing environmental protection and financial risk to BWD ratepayers. Dr Huxman will be meeting with their Contract Administrator on Monday (6-1) to discuss specific agreement options. One option is to use the same/similar contract form that was used for UCI and the recent native plant vegetation work. Another option is see if UCI can use to create a flexible contract with us, where you just 'authorize' some work with a simple letter or communication each time BWD decides to move forward with a task (piece-meal). The results of the 6-1 meeting will be shared on 6-2.*

**BWD will co-develop work-plans with UCI to allocate their expertise to specific tasks. An example task may be assisting BWD's technical consultant in hydrologic model scenario development. These work plans will surround topics encompassing (1) stakeholder engagement and risk analysis, (2) technical knowledge refinement and threshold development, (3) adaptive management and restoration/mitigation action evaluation, and (4) grant development.*

*In terms of keeping the budget under \$20,000, UCI has some ability to cost-share and is also committed to find other revenue sources. Without knowing the specific tasks to be assigned, this budget is based on asking Laurel and Nikki to do some time-estimates of what they spent on GDE since January 1st. That included many meetings, responses to the WM or TAC, etc. Each estimated they spent one month of effort on GDE activities. We can drill down more as we develop specific work-plans, but I think we can keep the budget under \$20k (Labor = \$16,000 + Support/Misc = \$4,000)

**Staff is requesting BWD Board authorization to continue the Technical Support discussions with UCI and return at the JUNE 23rd meeting with the documents necessary to begin the process and suggested optional next steps.

*UCI has an internal grant opportunity that closes on June 1. To meet the deadline, BWD staff has submitted a letter of support, as requested by UCI, which is attached with the Draft Work Plan.

NEXT STEPS

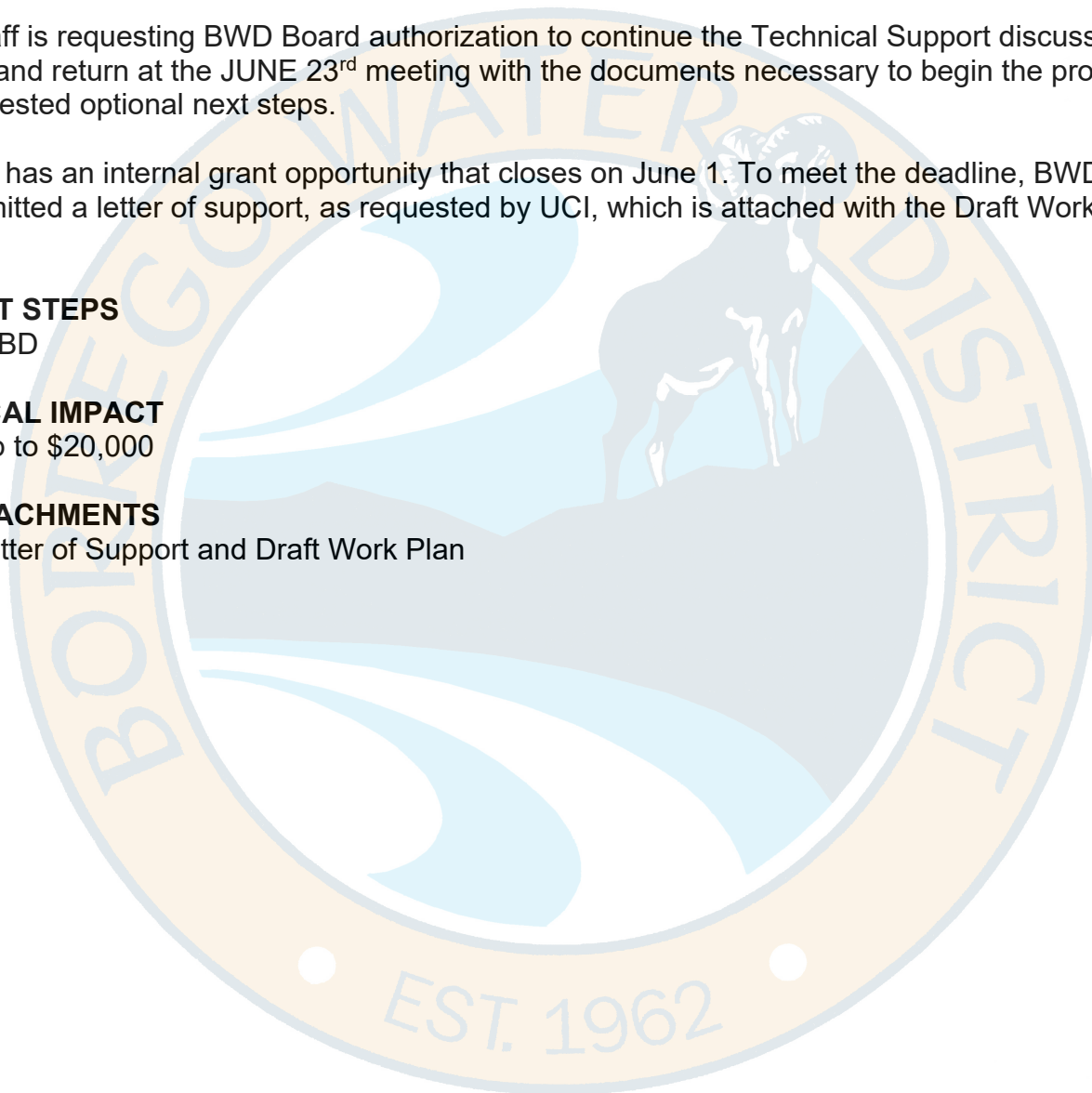
1. TBD

FISCAL IMPACT

1. Up to \$20,000

ATTACHMENTS

1. Letter of Support and Draft Work Plan





March 26, 2026

TO: Dr. Huxman
FROM: Geoff Poole, Borrego Water District
SUBJECT: Community Partnership

The Borrego Water District (BWD) is excited to engage with you as a Community Partner on your proposed Climate Collaboration Project Grant entitled, "Plants, people, and groundwater in California's critically overdrafted basins."

As you know, BWD is the public agency responsible for potable water supply and waste water collection in portions of Borrego Springs in San Diego County. We are one of several major pumpers of groundwater from the regional aquifer, which is a critically overdrafted groundwater basin. BWD is a key player in the collaborative, community governance of the basin in compliance with California's Sustainable Groundwater Management Act (SGMA), and we have helped the collective stakeholders reduce pumping to a fraction of the historical extraction rate in an effort to achieve sustainability.

Understanding the implications of environmental uses of groundwater, such as by groundwater dependent ecosystems is a component that the basin may find necessary to contemplate in future management frameworks. Any new actions would have to be coordinated with the Borrego Springs Waterwater including any sustainability goals/actions identified by SGMA (and that are being achieved by current management) and/or The Judgment. The work you describe in this proposal will help BWD understand the scope and scale of such environmental uses of groundwater, provide means for the different stakeholders to discuss the relevant scientific data supporting such use, and to frame mitigation, conservation, and/or restoration actions should that be necessary to the management of the basin.

Sincerely,

Geoffrey Poole,
General Manager

BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
JUNE 2, 2026
AGENDA ITEM II.B

May 29, 2026

TO: Board of Directors

FROM: Geoffrey Poole, General Manager

SUBJECT: Review of New Draft BWD Admin Code: Administration and Finance Sections

RECOMMENDED ACTION:

Review Draft Admin Code and amend if needed

ITEM EXPLANATION:

Attached is the proposed Agreement with Intera to continue their support of BWD at home and with the Watermaster.

NEXT STEPS

1. Continue review of remaining sections and return in JULY/SEP with complete draft for adoption.

FISCAL IMPACT

1. TBD

ATTACHMENTS

1. Draft Admin Code Sections: Administration and Finance

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SECTION 1400. DISTRICT RECORDS POLICY

§ 1401. Public Records Act Policy.

Pursuant to the California Public Records Act ("PRA") (Government Code §§6250 et seq.), the District 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 the District 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. 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. 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 a District official acting or purporting to act within the scope of his or her employment.
- D. "District 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 the District's jurisdiction including pending or potential District projects; past or prospective District agenda items; District budgets; or expenditures involving District funds.
- E. "Electronic messaging account" means any account that creates, sends, receives, or stores electronic communications.
- F. "District official" shall mean any elected official, appointed official, or employee of the District.

§ 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 District records are exempt from disclosure:

- A. Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by the District in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure. (Gov. Code § 6254, subd. (a).)
- B. Records pertaining to pending litigation to which the District is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled. (Gov Code. § 6254, subd, (b).)
- C. Personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. (Gov. Code § 6254, subd. (c).)

- 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. (Gov. Code § 6254, subd. (g).)
- F. The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the District 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.(Gov. Code § 6254, subd. (H).)
- 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. (Gov. Code § 6254, subd. (k).)
- 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 the District, including Geographic Information Systems ("GIS") information held by the District. 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 the District 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.

The District is not required to reconstruct a record if it is no longer available in electronic format. Also, the District 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 District use and is not intended for other purposes. The District makes no warranty, representation or guarantee as to the content, accuracy, timeliness or completeness of any of the data provided. The District specifically disclaims any representation and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. The District 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 District Board Meetings.

Audio and video recordings of public meetings of the District's Board are retained for a minimum 120 days after the meetings (Gov. Code Section 54953.5). Inspection of audio recordings of Board meetings shall be provided without charge at the District offices during regular business hours, or sent electronically when requested.

§ 1406. Requesting Public Records.

- A. Requests for public records of the District 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. The District will provide a form to be utilized by those persons requesting examination or copies of District records.
- B. Requests to inspect public records of the District 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 records will be processed in accordance with Section 1.1.3 d, below.
- C. In accordance with Government Code Section 6253.1, the District shall assist the requesting party in identifying records and information that are responsive to the request or its stated purpose, if provided. When possible, the District will also provide suggestions to the requesting party to overcome any grounds for denying access to the records or information sought.
- D. The District 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 the District's website shall be posted in an open format in compliance with Government Code Section 6253.10.
- E. If any request for a District record relates to a record in an electronic format, the District 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 the District has used to make copies for its own use. However, the District 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 the District'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 the District would be required to produce the requested electronic records at other than a regularly scheduled interval.

§ 1407. Inspection of Public Records.

The District will provide an area at its offices for inspection of its public records. Inspections may take place only during regular District business hours, must take place on District premises, and will be subject to observation by District representatives. These procedures are for the sole purpose of protecting original records against tampering or theft. Any inspection of original District 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 District representatives. District personnel may terminate or restrict the inspection as may be necessary to preserve District records.

§ 1408. Copying of Public Records.

- A. Within ten (10) days of receipt of a request for copies of identifiable public records, the District 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, the District Secretary or G.M. 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, the District Secretary or G.M. 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 the cost plus overhead for the request. 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 made payable to "Borrego Water District." 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 District office.

§ 1409. Extensions of Time to Provide Written Response.

The District will make every effort to provide determinations on records requests within the 10-day period specified above. However, the District 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 the District's main offices.
- B. The request requires District 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 the District Secretary or General Manger that additional time is required to provide a determination for a records request, the District will notify the requesting party in writing of the reasons for the extension and the date on which the District's determination will be available.

§ 1410. Review for Exemption.

- A. The District's Board designates the District Secretary or G.M. as the Reviewing Official (RO). The RO will

have exclusive authority for reviewing and approving public records requests.

- B. The RO must review and approve each request for inspection or copying before any public record of the District 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 District representatives.
- C. The requesting party will be informed as to the applicable time limits for the District's response, as provided under this policy.
- D. The RO will determine whether or not the requested documents or records are exempt from disclosure under the Act. The RO will direct District 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 District 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 RO may consult with District General Counsel prior to making such a determination.
- F. In response to inspection requests, the reviewing official may direct District 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 the District 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 RO shall be identified in and shall sign the written response.
- H. The District will retain in its records copies of all requests for inspection or copying of public records, in accordance with the District's 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 District and the disposal of the District's obsolete records. Through this policy, the District 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 District staff members regarding the retention of District records; provide for the identification, maintenance, safeguarding of District 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 to the District.

§1412. Authorization.

The G.M. is authorized by the Board to interpret and implement this policy and to designate a Records Management Coordinator (RMC) who shall be responsible for the administration of this Records Retention Policy. The G.M. and the RMC are authorized to do any and all acts necessary to comply with the terms and intent of this Records Retention Policy. The G.M. and RMC 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 District records.
1. Except where a record is expressly required to be preserved according to State law, the District 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, the District 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), the District shall not destroy any of the following records:
 - (a) Records relating to the formation, change of organization, or reorganization of the District;
 - (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 the District;
 - (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 the District;
 - (f) Records relating to any pending construction that the District has not accepted or for which a stop notice claim may be legally presented;
 - (g) Records relating to any nondischarged debt of the District;
 - (h) Records relating to the title to real property in which the District has an interest;
 - (i) Records relating to any nondischarged contract to which the District 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 District 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:
- (a) **Operational Back-Up:** Backups from the District's main server shall be produced each night and retained remotely including accounting and billing records. Month end back up tapes shall be retained for at least one year.
 - (b) **E-mail Messages:** E-mail messages containing information relating to the conduct of the District's business shall be preserved for a minimum of two years. The District'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 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, the District 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.

G.M. and/or the RMC are authorized to destroy at any time any **duplicate** record, paper or document of the District, while the original, whether in paper or electronic format, is retained by the District 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 the District;
- B. A subpoena served on the District;
- C. A Request for Production received by the District from an opposing party in litigation;
- D. A court order;
- E. A litigation hold or request for preservation of evidence received by the District; or
- F. A claim filed against the District 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 G.M. and/or the RMC, in order to stay current with federal and State laws, as well as any other regulations, regarding the retention of District records.

§ 1420. Electronic Communications Policy.

The purpose of this electronic communications policy is to ensure the District 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 District officials shall be assigned a District electronic messaging account.

- B. District accounts shall be used to conduct District business. District officials shall not use personal accounts for the creation, transmission or storage of electronic communications regarding District business.
- C. The District account, along with the attendant access to the District's account server, are solely for the District and District official's use to conduct District business and shall not be used for personal business or political activities. Incidental use of District electronic messaging accounts for personal use by District officials is permissible, though not encouraged.
- D. If a District official receives an electronic message regarding District business on his/her non-District electronic messaging account, or circumstances require such person to conduct District business on a non-District account, the District official shall either: (a) copy ("cc") any communication from a District 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 officials shall endeavor to ask persons sending electronic communications regarding District business to a personal account to instead utilize the District official's account, and likewise shall endeavor to ask a person sending an electronic communication regarding non-District business to use the District official's personal or non-District electronic messaging account.
- F. District 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 District official, are subject to District review and disclosure of electronic communications regarding District business. District officials understand that electronic communications regarding District 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 the District seeking electronic communications of District officials, the District Secretary's office shall promptly transmit the request to the applicable District official(s) whose electronic communications are sought. The District Secretary or G.M. shall communicate the scope of the information requested to the applicable District official, and an estimate of the time within which the District Secretary intends to provide any responsive electronic communications to the requesting party.
- H. It shall be the duty of each District official receiving such a request from the District Secretary or G.M. to promptly conduct a good faith and diligent search of his/her personal electronic messaging accounts and devices for responsive electronic communications. The District official shall then promptly transmit any responsive electronic communications to the District Secretary. Such transmission shall be provided in sufficient time to enable the District Secretary or G.M. to adequately review and provide the disclosable electronic communications to the requesting party.
- I. In the event a District official does not possess, or cannot with reasonable diligence recover, responsive electronic communications from the District official's electronic messaging account, the District official shall so notify the District Secretary or G.M., by way of a written declaration, signed under penalty of perjury. In addition, a District 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. The form of the declaration is attached hereto as Attachment "A" and incorporated into this policy by reference.
- J. It shall be the duty of the District Secretary or G.M., in consultation with the District 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 District official shall provide

the District Secretary or G.M. 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 District official may redact the personal communication portion of the electronic communication prior to transmitting the electronic communication to the District Secretary. The responding District 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 District official should consult with the District Secretary, G.M. or the District General Counsel. The responding District official shall be required to sign a declaration, in a form acceptable to the District 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 District business.

- K. District officials understand that electronic communications regarding District business are subject to the District’s records retention policy, even if those electronic communications are or were created, sent, received or stored on a District official’s personal electronic messaging account. It is a felony offense to destroy, alter or falsify a “public record”. As such, unless the District official has copied/transmitted electronic communications in accordance with paragraph D above, that District official must retain all electronic communications regarding District business, in accordance with the District’s adopted records retention policy, regardless of whether such electronic communication is originally sent or received on a personal electronic messaging account.
- L. Failure of a District 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 District official directly, by the requesting party.
 - 6. This policy does not waive any exemption to disclosure that may apply under the California PRA.

SECTION 1450. INFORMATION TECHNOLOGY ACCEPTABLE USE POLICY

§ 1451. Purpose.

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

§ 1452. Applicability.

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

§ 1453. Internet Usage.

- A. Use of the Internet by employees of the District is permitted and encouraged where such use supports the goals and objectives of District operations. However, access to the Internet through the District 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. District 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 or District Operations. However, such use shall be treated the same as official use, and thus, the user shall have no expectation of privacy when using District 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 the District's computer systems is considered to belong to the District and is recognized as part of its official data. It is therefore subject to disclosure under the California Public Records Act. The District reserves the right to access the contents of any messages sent or received using District 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 the District and the District 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 the District'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 the District 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 the District's email system.
2. Using computers to perpetrate any form of fraud, and/or software, film, or music piracy.
3. Sending communications of confidential District information to unauthorized individuals within or outside of the District.
4. Downloading, copying, or pirating software and electronic files that are copyrighted or without authorization.
5. Conducting a personal/commercial business using District 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 the District'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 District equipment or resources to anyone other than Information Technology Department staff.

§ 1454. Access Codes and Passwords.

The confidentiality and integrity of data stored on District 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 District email, data or resources while accessing District 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 District 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 District officials.
2. Remote access to the District Network is available and can be permitted with the permission of the Director of Information Technology. Unless authorized by the G.M., 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 the District's network. All rules listed in this policy apply when accessing the District network remotely.
3. VPN (Virtual Private Network) connections shall not be installed on any personal computer or device not authorized by the Information Technology 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 the District. 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 the District'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. Information Technology is responsible for all equipment installations, disconnections, modifications, and relocations at District headquarters. Users are not to perform these activities without authorization from Information Technology. i
4. Users shall not take shared portable equipment such as laptop computers out of District buildings without the informed consent of their 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.

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 the District 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 the District'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.

The District and its users 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 the District and the responsible users to civil and/or criminal penalties. This directive applies to all software that is owned by, or licensed to, the District or developed using District resources by users or vendors.

- A. The District Information Technology is exclusively responsible for installing and supporting all software on District computer equipment and electronic devices.
- B. Information Technology shall maintain records of software licenses owned by the District and shall periodically scan District 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 the District is to be installed on District computers.
2. Copy software unless authorized by Information Technology.
3. Download software unless authorized by Information Technology.

B. Violations. Violations of this policy may result in disciplinary action by the District, up to and including termination.

§ 1458. Use of Electronic Signatures.

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

§ 1459. Return of Equipment.

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

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

SECTION 1470. GENERAL SOCIAL MEDIA USE

§ 1471. Purpose.

To address the fast-changing landscape of the Internet and the way area residents and businesses communicate and obtain information about the District via the internet, the District may begin to use social media tools to reach a broader audience. Because of the broad range of legal, ethical, and policy issues inherent in such a use, the District wishes to promulgate explicit policies, standards, and procedures for the District's use of social media tools.

- A. Limited Public Forum. The District considers any social media sites the District joins to be a limited public forum intended only to disseminate information to the public and provide for limited public discussion on a narrow range of water-related topics. The District has an overriding interest and expectation in deciding what is "announced" or "spoken" on behalf of the District on social media sites and limiting the types of responses to pertinent water-related topics of discussion. This policy establishes internal and external procedures for the use of social media.
- B. Terms. "Social media" and "Web 2.0" are terms used interchangeably to refer to activities that integrate technology, social interaction and content creation. This media allows people to generate, organize, share, edit and comment on web content by means of RSS and other web feeds, blogs, widgets, wikis, podcasts and photo- and video-sharing applications and sites, to name a few.

§ 1472. General Policy.

- A. All creation and content of the District's social media sites are subject to approval by the G.M. or his/her designee.
- B. The District's website (<http://www.borregowd.org>) shall remain the District's primary and

predominant internet presence, regardless of the use of social media by the District.

1. Wherever possible, content posted to the District's social media sites will also be made available on the District's regular website.
 2. Wherever possible, content posted to the District's social media sites will contain hyperlinks directing users back to the District's official website for in-depth information, forms, documents, contact information or online services necessary to conduct business with the District.
- C. The most appropriate uses of social media sites are as informational channels to increase the District's ability to broadcast messages and information to the widest possible audience.
- D. As noted herein or in policies applicable to specific social media sites, the G.M. will designate one or more staff members as "Content Administrators" who will be responsible for monitoring the District's social media pages.
- E. The District's social media sites shall comply with all appropriate Federal, State, and local laws, and District policies and procedures, including but not limited to:
1. Ethics. The use of the District's social media sites shall be in strict conformity with the California Political Reform Act and applicable Fair Political Practices Commission Regulations, the California Government Code section 1090, the District's conflict of interest rules, and other applicable ethics rules and policies. Ethics laws can prohibit District Directors from participating in certain decisions if they have demonstrated they have a preconceived and unalterable view of the outcome of certain decisions without regard to the evidence. District staff and Directors should avoid posting comments that could be interpreted as a final or definitive position on an issue if that issue could later come before them in a quasi-judicial proceeding.
 2. The Ralph M. Brown Act. The Brown Act specifically prohibits members of a legislative body from communicating through technological devices in discussing, deliberating, or taking action on any item within the subject matter jurisdiction of the legislative body. This could happen on any social media site, even accidentally, if a majority of the District's Directors posts comments on a District-related issue (even if Directors are merely responding to a constituent's post). Therefore, Directors should avoid posting or making any comments on District social media sites or pages.
 3. Campaign Restrictions. A District social media page could be viewed by courts as a public resource. District staff and Directors should therefore keep campaign regulations in mind and avoid any type of campaigning on a District page pursuant to applicable law. Neither elected officials nor District staff may use public resources for personal or campaign purposes not authorized by law. Public officials are aware of the restrictions on using public resources for either personal or political purposes pursuant to California Government Code section 8314.
 4. District Administrative Code. The use of the District's social media sites shall be in strict conformity with applicable provisions of the District's Administrative Code.
 5. Public Records Act. The District's social media sites are subject to the California Public Records Act and Proposition 59, amending Article 1, Section 3 of the California Constitution. Any content maintained in a social media format that is related to District business, including a list of page subscribers and posted communication (with certain exceptions), is a public record. The District is responsible for responding completely and accurately to any public records request for public records of social media content. Content related to District business shall be maintained in an accessible format and so that it can be produced in response to a request. Wherever possible, such sites shall clearly indicate that any articles and any other content posted or submitted for posting may be or are subject to public disclosure upon request. Users shall be notified that public disclosure requests must be directed to the relevant District designee. The California Public Records Act and relevant District records retention schedules apply to social media formats and social media content. Information Technology shall preserve the required records in a similar manner to retention of the District website

or pursuant to a relevant records retention schedule and in a format that preserves the integrity of the original record and is easily accessible.

§ 1473. Administration.

- A. Design. The G.M. and staff or consultants will construct and design social media pages on approved sites subject to the applicable design standards and approval of the G.M. or his/her designee. The District must be able to immediately edit or remove content from social media sites pursuant to the relevant legal and policy standards.
- B. Content Administrators. The G.M. or his/her designee shall maintain a list of District staff who are authorized to administer the District's social media sites, including posting and removing comments, responding to messages and requests for communication, and the inclusion or removal of all forms of content including images and text. As general matters, Content Administrators:
 - 1. May connect to, and exchange information with, only those social media sites authorized by the G.M. pursuant to this policy;
 - 2. May not post or release any proprietary, confidential, or sensitive District information unless authorized by the appropriate authority;
 - 3. May only speak on subjects or topics as authorized by the District; and
 - 4. When speaking on behalf of the District, shall identify themselves by their full name, title, agency, and contact information when posting or exchanging information on social media sites.
- C. Authorized Social Media Sites. The G.M. and his/her designee shall maintain an authorized list of social media sites which may be joined on behalf of the District, including, if necessary, lists of the authorized varieties of communications, images, and videos. All new social media sites proposed for District use must be authorized by the G.M.. before the District may join a social media site. The G.M. shall promulgate specific policies, rules, and regulations for each authorized social media site due to the differences between the uses and audiences of each site. The following social media sites have been authorized by the District:
 - Facebook
- D. Credentials. The G.M. shall maintain a list of the District's active social media sites, including login and password information.
- E. Employee Comments. Staff, while either on- or off-duty, are prohibited from commenting on District social media sites unless they are an authorized Content Administrator. Only certain staff will be authorized by the G.M. to administer, comment, and create content on the District's social media sites. Such a prohibition is necessary to avoid confusion about the source of the District's communications and to ensure that only authorized staff communicates with the public on behalf of the District.
- F. Disclaimers and Required Statements. In an effort to ensure compliance with relevant laws and regulations, and inform the public of the limitations of communications with the District through social media sites, the following disclaimers and statements shall be available on all District social media sites.
 - 1. Social Media Purpose Statement. Whenever possible, users and visitors to the District's social media sites shall be notified that the intended purpose of the site is to serve only as a means of communication between the District and members of the public, by a message on the primary social media page substantially as follows:

"This is a site or page of the Borrego Water District ("District"), <http://www.borregowd.org>, a public

water agency and public entity in the State of California. This site is intended to serve as a means of communication and distribution of information between the District, members of the public, water users, and area businesses. A comment posted by a member of the public on this site is the opinion of the poster only, and publication of a comment does not imply endorsement of, or agreement by, the District, nor do such comments necessarily reflect the opinions or policies of the District. This site is not intended to be a public forum for unlimited communications or comments, but is instead as a limited forum where legal doctrines allow the District to prohibit and remove certain communications or comments.”

2. Public Records Act and Retention Requirements. Whenever possible, users and visitors to the District’s social media sites shall be notified of Public Records Act and District records retention requirements, by a message appearing on the social media page substantially as follows (or by a hyperlink directing a user to the same message):

“Any content maintained in a social media format that is related to District business, including information regarding ANY subscribers, users, friends or fans, ANY communications, comments or messages, and ANY images, videos or media content in any format may be considered a public record and may be subject to public disclosure pursuant to the California Public Records Act. This may include, but is not limited to, personal identifying information for users and visitors to this site or page, text of any and all comments or messages, reproductions of any images or videos, and all other content appearing on this page or site. Public disclosure requests should be directed to the Board Secretary.

3. Official Communications with the District. Whenever possible, users and visitors to the District’s social media sites shall be notified of the official District communications methods, by a message appearing on the social media page substantially as follows (or by a hyperlink directing a user to the same message):

“This site is not the primary method of communication with the District, and any notices or requests for District services must be made via official communication methods noted on the District website, or by traditional methods of notification recognized by the District. No comments or posts on this site will be construed as providing notice of any claim, deficiency, dangerous condition, request or otherwise.”

4. The primary social media page should contain contact information for the District, including a hyperlink to the District website and the provision of relevant addresses, names, phone numbers, fax numbers, and email addresses of applicable department listings or District staff, methods of making official requests for maintenance or service, and notice of the condition of District property or other similar requests.

5. Comments, Messages or Posts. Whenever possible, users and visitors to the District’s social media sites shall be notified of the District’s public comment and messaging standards, by a message appearing on the social media page substantially as follows (or by a hyperlink directing a user to the same message):

“The District disclaims any and all responsibility and liability for any materials that the District deems inappropriate for posting, which cannot be removed in an expeditious and otherwise timely manner. The District reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law. Any articles, messages, posts, comments, images, video or other content containing any of the following forms of content shall not be allowed and shall be removed as soon as possible:

- a) Comments not topically related to the particular content posted by the District;
- b) Comments in support of or opposition to political campaigns or ballot measures;
- c) Profane language or content;
- d) Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age,

religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;

- e) Sexual content or links to sexual content; Solicitations of commerce;
- f) Conduct or encouragement of illegal activity;
- g) Information that may compromise the safety or security of the public or public systems; or
- h) Content that violates a legal ownership interest of any other party.”

Any content removed based on these guidelines must be retained, including the time, date and identity of the poster when available, in accordance with the District’s policy on the retention of such information and upon the advice of District legal counsel if appropriate. Content provided by outside users may not be deleted or removed unless it expressly violates the aforementioned policy.

Neither Content Administrators nor any other person from the District may delete or remove comments, messages, images, video or other content because they are critical or praise the District, its officials, staff or employees or because the District otherwise dislikes or disapproves of the content. If content is positive or negative and in context of the conversation, then the content must be allowed to remain. If the content is ugly, offensive, denigrating, and completely out of context, then the content may be rejected and removed.

SECTION 1480. DISTRICT STATIONERY

§ 1481 District Stationery.

A. Acceptable Uses- Employees

- Communications and information exchanges, by authorized personnel as determined by the G.M., to outside agencies directly relating to District Business;
- Communications for Board Members relating to official District Business, sub or standing committees of the Board of Directors;
- Outside of this policy, miscellaneous uses of stationery must receive prior authorization by the G.M.

B. Noncompliance. Internal discipline, up to and including discharge, may be appropriate in some cases of non-compliance with this policy.

C. Acceptable Uses- Board of Directors

- Communications and information exchanges to outside agencies directly relating to District Business, as determined appropriate by the Board President;
- Communications with District Legal Counsel
- Outside of this policy, miscellaneous uses of stationery must receive prior authorization by the Board President

D. Noncompliance. Board Members shall not use the District's seal, trademark, stationery or other indicia of the District's identity, or facsimile thereof, in any solicitation for political contributions contrary to state or federal law. District Stationery may not be used for private correspondence. Violations of this Policy will be handled by the full Board of Directors.

SECTION 1500. PURCHASING POLICY & PROCEDURE

§ 1501. Purpose and Compliance.

The purpose of this policy is to establish the uniform procedures for acquiring services, supplies, equipment, and materials for the District, in accordance with Government Code section 54201 et seq., to assure purchases are accomplished in a manner providing maximum benefits and minimum cost to the taxpayers and customers of the District. Whenever practical, competitive prices shall be obtained. This Policy shall take precedence for all procurement actions, unless strictly required by State or Federal law. No purchase shall be made that is not authorized in the manner set forth herein.

California Government Code section 54202 requires that every local agency shall adopt policies and procedures, including bidding regulations, governing purchases of supplies, materials and equipment and that said purchases shall be in accordance with said duly adopted policies.

California Government Code section 54204 requires that if the local agency is other than a city or county, policies provided for in Section 54202 of said code shall be adopted by means of a written rule or regulation; copies of which shall be available for public distribution.

The District shall strive to solicit all local firms potentially qualified to bid for any given project, purchase, or programs for which the District will be requesting bids or proposals. The District will consider the local economic impacts of its various projects, purchases and programs as part of the request for proposed process. *(R-1097)*

To incorporate best practices that provide best value for all District customers and stakeholders, the District shall continually monitor and review industry best practices, both public and private. District staff shall review this policy every 3 years and bring changes to the Board for approval, as needed.

Definitions & Acronyms

BOD: Board of Directors (collectively called “the Board”) CFR: Code of Federal Regulation

CSA: Contract Services Agreement

DIR: Department of Industrial Relations

BWD: Borrego Water District, also known as “The District”

GM: G.M.

IFB: Invitation for Bid

MSA: Master Services Agreement PO: Purchase Order

PSA: Professional Services Agreement RFP: Request for Proposal

RSS: Requisition Self-Service

SOP: Standard Operating Procedure

SOW: Scope of Work, also known as Scope of Service(s)

VENDORS: Also referred to as suppliers, contractors and sub-contractors. Used interchangeably.

§ 1502. District Purchases Approval Levels.

- A. To expedite the purchasing function and ensure an uninterrupted flow of materials, equipment, and services, the authority to approve purchases or rental of supplies, equipment and services including Consultants has been delegated to employees in accordance with the limitations set forth below.

Purchase Amount	Approval Level
\$0-\$10,000	Finance Officer
\$10,001-\$50,000	G.M.
Over \$50,000	Board of Directors

- B. All procurements shall be made within the approved budget set forth by the Board . Any changes must be made in accordance with section 705 of the Administrative Code, except those allowed under section 1509(A) (emergency authorization).
- C. The GM, when appropriate, may delegate their authority as defined in section 702(A) of the Administrative Code.
- D. Purchases of Inventory Materials exceeding \$150,000 may be initially approved by the GM or designee in order to expedite inventory fulfillment followed by the ratification of the purchase by the Board at the next regular Board Meeting.
- E. All transaction limits in the policy shall be inclusive of freight costs.
- F. All transaction approval limits refer to annual amounts for renewals of software license and maintenance agreements.
- G. Taxes and regulatory fees shall be excluded from approval levels for purchases over \$10,000.

§ 1503. Purchasing SOP

- A. Purchasing and Bid Limits.
 - 1. Public Works. As defined by Public Contract Code section 1101, public works includes the erection, construction, alteration, repair, or improvement of any public structure, building, road or other public improvement of any kind.
 - a. Purchases up to \$10,000: Minimum of one quote and requisition or bid agreement summary required. Prevailing wage and insurance notification required.
 - b. Purchases in excess of \$10,000 but less than \$50,000: Shall be procured by a documented informal bid process sent to no less than three contractors. Two bids will be excepted in conditions where it is not possible to get 3.
 - c. Purchases over \$50,000: Shall be procured by a formal bid process that is publicly advertised in the manner prescribed by the Board and awarded to the lowest responsible, responsive bidder.
 - i. The District may utilize an electronic bidding software program that can be accessed by a member of the public at any time through various means, including the District website. Registration may be required to participate in the bidding process. Electronic bidding allows for a cost effective and efficient process that follows public bidding requirements.
 - ii. Maximum competitive bids must be sought by the sealed bid method. Use of an electronic bid management system satisfies the sealed bid requirement.
 - d. If the bid solicitation results in only one written bid, then the single bid may be accepted. If no bids are received or if no bids are accepted, the District may negotiate a contract with any willing vendor/contractor.

- e. If a vendor/contractor is selected to provide a public work where bids have been obtained in the last twelve months, and the District is unable to negotiate an Agreement with said vendor, then the next lowest responsive, responsible bidder may be utilized without conducting another bid solicitation.
- f. Preventative Repair and Maintenance: Public Works shall not include repairs and maintenance as defined in California Public Contract Code § 22002(d).

2. All Other Purchases. Include purchases for materials, goods, maintenance work, landscape maintenance, inventory materials, and other purchases that are not classified as public works projects. It also includes Professional Services for any type of special service or advice/consulting (including but not limited to financial, economic, accounting, engineering, legal or administrative matters by persons that are specially trained to perform such services).

- a. Purchases \$5,000 to \$25,000: Minimum of one quote and requisition or bid agreement summary required.
- b. Purchases in excess of \$25,000 but less than \$150,000: Shall be procured by a documented request for quotation, an informal request for proposal, or an informal invitation for bid sent to no less than three firms.
- c. Purchases of \$150,000 or more: Shall be procured by a formal request for proposal or formal invitation for bid that is publicly advertised in the manner prescribed by the Board of Directors.
- d. Notwithstanding the requirements above, pursuant to Government Code section 4525 et seq., the procurement of Professional Services such as architect, landscape architect, engineering, and construction management professional services will be based on demonstrated competence and professional qualifications at a fair and reasonable price. Where applicable and pursuant to California Contract Code 4526, awards may be approved based on section 1509(B)(6) (Procurement Method Exceptions), wherein the G.M. may approve a professional service contract award to a sole source consultant or firm based on the needs of the District. Awards shall assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Government Code Section 14835-843.
- e. If the bid or proposal solicitation results in only one written bid or proposal, then the single bid or proposal may be accepted. If no bids or proposals are received, or if no bids or proposals are accepted, the District may negotiate a contract with any willing vendor. If a vendor is selected to provide a service or item where bids or proposals have been obtained in the last twelve months, and the District is unable to negotiate an Agreement with said vendor, then the next lowest responsive, responsible bidder for invitation for bid procurements or the best qualified and competent for request for proposal procurements may be utilized without conducting another solicitation.
- f. In accordance with section 1505 (B)(f), for Bench/On-call Agreements when the Bench includes only one or two vendors, the three quote requirement in section 1503 (A)(ii)(b) is deemed to be satisfied.

3. The Board may reject any and all bids or proposals.

4. If a vendor has posted a bid bond or other surety and fails to reach an Agreement with the District, the vendor shall forfeit said bond or surety.

B. Grant Procurements.

1. General. A Grant Procurement is defined as a procurement that is either fully or partially funded

through state or federal programs. This can be through direct funding or through reduced rate loans. A grant procurement may include those found in public works or in “all other purchase” types. District shall solicit any and all qualified contractors for any grant procurements.

2. Federal Grant Procurements. Shall comply with the Code of Federal Regulations (“CFR”) section 200.318 general procurement standards. Grant projects may include additional solicitation/award requirements not included in standard District procurements. These may include, but are not limited to:
 - a. Good Faith Effort (“GFE”): a requirement set forth by the grant to ensure outreach and advertising to small business/women owned/minority owned businesses. Grant projects may set a goal/target for the agency to work towards.
 - b. Special bonding requirements – as outlined in CFR section 200.318.
 - c. Additional provisions for contracts to vendors specific to each grant.
 - d. Solicitations shall include various public outreach methods including newspapers, electronic platforms, etc.
 - e. Additional grant information may be found in the grants policies/procedures section of the administrative code.
3. State Grants. Typically follow the Code of Federal Regulations (“CFR”), as shown in section 1503 (B)(ii) above. However, each State grant may have additional or specific requirements that differ or exceed those listed in the CFR. Purchasing, with the support of the grants department, shall review each State grant in its entirety to ensure all procurement requirements are met.
 - a. Before work commences or services are rendered, evidence of insurance and prevailing wage as required by the District must be obtained, reviewed and accepted by G.M. or designee.
 - b. All procurement documents must form a permanent part of the purchase record and will remain in compliance with the District Records Retention Policy.

§ 1504. Material and Service Requests.

- A. Purchase Request: A Purchase Request is a request created by staff to initiate a purchase order agreement for materials or services. All necessary information must be included in accordance with 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. All necessary information must be included in accordance with 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.

The District shall utilize the most economical approach where feasible. The District must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating 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 District will explore using federal excess and surplus property in lieu of purchasing new

equipment and property. When appropriate, the District 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 Request:** A purchase request (“PR”) is the document used by the District to The F.O., G.M. or A.M. will approve all purchase requests 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(C) and 1509(D).

- B. **Contract Agreement:** A contract agreement is the document used by the District to set the legal and contractual terms that binds the District and the vendor to fulfill the specified obligations. Types of contracts include:
 1. **Professional Services Agreement (“PSA”) –** A professional service is a service 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. Professional services contracts by law do not require bidding; however, whenever practicable, a PSA should be issued after a competitive solicitation process and in accordance with the informal solicitation procedures set forth herein. Contracts for professional services shall be awarded to the consultant on the basis of demonstrated competence and professional qualifications, at a fair and reasonable price. A PSA must contain the signature of the consultant and the BWD’s authorized representative in accordance with the authorization limits listed herein.
 2. **Contract Services Agreement (“CSA”) –** A contract service is a service 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. This is the 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:
 - a. Construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds.
 - b. It can include pre-construction and post-construction activities related to a public works project.
 - c. For a full definition of public works refer to Labor Code section 1720.
 - d. 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.
 - e. Public works contracts greater than \$30,000 shall, except as otherwise provided in this Purchasing Policy be awarded in accordance with formal competitive solicitation procedures and shall be approved and awarded by the Board.

5. 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.
 6. Bench/On-Call Agreements - Defined as contracts awarded to multiple vendors for the same goods and/or services. From time to time the District may determine that a contract with one vendor, or repeatedly bidding/proposing for the same goods or services, may not serve the best interests of the District. Examples include but are not limited to paving, painting, grant writing, hydrogeology services, etc. They are generally used for services where time is of the essence and/or when one preferred vendor may not be available to complete the work on a timely basis. When requesting bench/on-call services, the District shall attempt to engage the services of at least three different vendors, but the final number selected can be one or two vendors if the District is unable to qualify three vendors.
 7. Other - The District 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 District. Agreements include but are not limited to: Letter agreements, inter-agency agreements, developer agreements, cell-site agreements, easement agreements, specialized agreements outside the District templates (i.e. temporary employment labor services, certain software agreements), etc.
- C. Credit Cards: The District utilizes credit cards as a procurement method for low dollar purchases subject to the requirements set forth in the Purchasing SOP including but not limited to the following:
1. Purchases are limited to a maximum transactional value of \$10,000.
 2. Items listed in section 1509 (C) (Centralized Purchasing Exceptions) that exceed the transactional limit must be approved by the G.M..
 3. Splitting purchases to circumvent the cardholder’s dollar limitation is not permitted.
 4. Under no circumstances are credit cards to be used for personal use.
 5. In instances where a supplier will only accept a credit card (e.g. Amazon.com, Costco, etc.) and the amount exceeds \$10,000, the credit card may be authorized as a method of payment in accordance with
 6. above.
- D. Virtual Payment: Virtual payment is a feature offered through a third-party payment processor that enhances the accounts payable process at no additional cost to the District. Virtual pay allows District vendors to opt into the program to receive payment electronically through a third-party platform. Advantages include a streamlined approval and payment process for both the District and the vendor, as well as enhanced fraud protections for both parties. All District payments may be authorized using virtual pay if the following conditions are met:
1. All District policies for procurement and payment have been followed and completed.
 2. All District approvals for the procurement and authorization for payment have been completed.
 3. Vendor has opted into the program and been approved by the District and the third-party processing company.

- E. Petty Cash Purchases: Petty cash is available from the Administration Manager and may be used for emergency purposes, per diems, cash advances and/or reimbursements for approved miscellaneous cash expenditures. The maximum petty cash reimbursement allowed by District policy is \$400. Splitting purchases in order to utilize petty cash rather than standard purchasing procedures is not permitted.

§ 1506. Solicitation, Bidding and Award Process

- A. In accordance with section 1503, the District shall solicit bids, quotes or proposals for supplies and services needed, and establish procedures for competitive bidding.
- B. Solicitation: Formal bids are solicited through electronic software platform(s). Solicitations shall include a District defined scope of work (“SOW”) that will include detailed information including technical specifications, time of work, location and other critical information. SOW will be developed by technical staff with support from purchasing staff.
 - i. Solicitation and bid records shall be maintained via electronic software tools and shall comply with the District record retention policies.
 - ii. Bid types and award selection:
 - a. Invitation for Bid (“IFB”): IFB is the primary bidding method for goods and services where the District has a clearly defined schedule of services and materials required. IFB shall be awarded based on the lowest price of the most responsive bidder(s).
 - b. Request for Proposal (“RFP”): RFP shall be the bidding method used for projects where the bidders may be required to develop a more defined approach to solve a District need. RFP shall be awarded based on a panel of evaluators that will use a basis of scoring that shall be clearly defined in the RFP.
 - c. Request for Qualifications (“RFQ”): This method is used when the District determines a need to shortlist bidders to participate in the RFP process. The District may choose to prequalify contractors seeking to bid on Public Works projects. The prequalification procedure is based on the 1999 State Legislation and the Model Forms created by the Department of Industrial Relations (“DIR”).
 - iii. Bench/On-Call Process: Various contracts may be awarded on an “as-needed” basis. Awards may be issued to a single awarded vendor, or multiple vendors that best serve the needs of the District. Primary considerations for these types of awards are based on keeping the pricing competitive throughout the life of the contract, as well as ensuring timely delivery of materials and services, or to hold contractors to an agreed upon completion time, particularly when the District needs urgent response from the vendors. Contracts intended to carry this type of award shall be explained and outlined in the RFP/RFQ/IFB process so that all bidders are aware of the Districts’ intentions for the services requested.

§ 1507. Change Orders.

- A. 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 change order request.
- B. All change orders increasing costs must include a funding source. Any changes must be made in accordance with section 705 of the Administrative Code, except those allowed under section 1509(A) (emergency authorization).
- C. Change Order Approvals/Authorizations
 - i. Change orders for contracts initially authorized by the GM
 - a. The GM may approve contracts, including cumulative change orders on those contracts, up to the approval limit as set forth in section 1502.
 - b. Once the originally approved contract amount plus any cumulative change orders exceed the GM’s

- approval limit as set forth in section 1502, all further change orders must be approved by the Board .
- ii. Change orders for contracts initially authorized by the Board
 - a. The GM may approve cumulative change orders up to the GM's approval limit as set forth in section 1502 for contracts initially approved by the Board .
 - b. Any cumulative change orders exceeding the GM's approval limit as set forth in section 1502 for contracts initially approved by the Board must be approved by the Board.
 - iii. The GM will provide to the Board the number and amount of Change Orders approved on a monthly basis.
 - iv. To maintain proper internal controls, and due to the unforeseen variety and unique situations that may arise, the GM may review any Change Order requests and determine that additional approval is required.
 - v. When a project is 100% developer funded, if the District requires additional work, and if the developer agrees to the Change Order, the GM may approve the Change Order without Board approval.

§ 1508. Agreement/Invoice Discrepancies.

If a discrepancy exists between the original agreement and the invoice, the following will apply: if the discrepancy is less than \$5,000, the Purchasing GM's approval to pay will be sufficient for payment processing; if the discrepancy is greater than \$5,000, the originator will process a change order as outlined in section 1507 above.

§ 1509. Procurement Method Exceptions.

A. Emergency Purchases and Repairs.

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 GM, or his/her designee, based on situation, a delay would adversely affect water or sewer service, threaten the health and safety of the public, 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 \$150,000 must be ratified by the Board at the next regular Board Meeting.

B. Sole Source Procurement.

The following types of purchases are deemed to be Sole Source purchases. A written justification explaining why the sole source is necessary to satisfy the needs of the requester is required.

Purchases shall be awarded following the guidelines outlined in section 1503 unless one or more of the following conditions are met:

1. Non-competitive: product or service is only available from one manufacturer or designated sales/service representative. The item(s) or service(s) has unique design and/or performance specifications that have not been found in similar products.

2. Product Testing/Validation: This product is requested in order that a field test, pilot test, or experiment may be made to determine the product's suitability for future use.
3. District Standard: The requested product or service has been selected and approved by the District for exclusive use based on factors including cost, safety, implementation/training, substantial customer impact or compatibility with other District systems and equipment. District Standards must be approved by the G.M. or designee.
4. Emergencies: conditions as defined in Section 1509(A) that make a competitive purchase unfeasible.
5. Follow-up Service: Only one vendor is able to make on-call repairs at a particular location and/or vendor previously inspected the product and it is impractical/uneconomical to have another vendor perform the service.
6. G.M. Exemption: Pursuant to California Contract Code section 4525 and 4526, professional services may be awarded without bidding provided a fair and reasonable price was properly determined. Must be approved by the G.M. or designee.
7. Other: explain in detail why this vendor is the only source able to provide this product/service (may require legal review).

Once an item has been deemed approved for sole source procurement, the justification for additional procurements may remain in effect for a period not to exceed 24 months. If the item's need is continued for more than 24 months, the item shall be reviewed to determine if the justification is still valid. If found to still be valid, new justification and approval must be provided prior to continued sole source procurement.

The final determination regarding whether competitive bidding is or is not advantageous rests with the Purchasing Manager.

C. Centralized Purchasing Exceptions.

All purchases of materials, goods and services on behalf of the District are only valid if procured with an authorized agreement pursuant to the procedures and policies set forth herein. Purchases of items that do not require purchase order authorization are limited to the following:

1. Travel Advances/reimbursements.
2. Prepaid travel expenses, such as airfares, hotel registration, etc.
3. Temporary labor employment services payments
4. Utility services (e.g. gas, electric, water).
5. Meal reimbursements.
6. Petty cash purchases/replenishment.
7. Purchases not exceeding \$5,000 where credit cards are not accepted
8. Investment and debt service payments (e.g. COP interest, investment transfers) – not consulting or management firms.
9. Health benefits & employee pass through benefits (staff health/life insurance, retirement plans, etc.)
10. Pre-employment screening services.
11. Insurance payments (e.g., workers comp, general liability, etc.)
12. Dues, subscriptions, memberships, claims, permits, and mandatory governmental agency taxes, fees, charges, etc.
13. Sponsorships, scholarships or other District supported community events reviewed by the board
14. Interagency agreement payments (e.g. water purchases)
15. Employee reimbursements (e.g. seminars, training, boots, education, etc.).
16. Postage.
17. Classified, legal and display advertisement – under \$10,000.
18. Board of Directors Election filing costs.
19. Emergencies as declared by the G.M. for items during Emergency Operations Committee (EOC) activation that are related to the EOC.
20. Technical support agreements that restrict the District to use a single vendor shall be exempt from the 24-month rule in section 1509(B) above.

All of the exceptions listed above, however, are subject to approval by the GM or designee.

D. Documentation for Procurement Method Exceptions.

This following requirement applies to B and C above within this section. Documentation for procurement method exceptions must be furnished by the originating department. The reason for a procurement method exception should be based on all available and pertinent facts and not on personal preferences. The G.M. is responsible for making the final determination for the procurement method exceptions and appropriate documentation. The written documentation will become a part of the permanent purchasing record.

§ 1510. Receiving Location.

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. Inventory materials shall be maintained by warehouse staff using electronic inventory management software. Materials shall be issued to staff on an as-needed 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 District needs (e.g. chemicals, tools, equipment, etc.)

§ 1511. Surplus/Scrap Materials Property.

Surplus materials are defined as any no longer necessary, obsolete or excess supplies, materials, tools, vehicles, equipment, assets or furniture that have been replaced or retired due to damage, age or change in District standards and/or specifications. The methods used by staff to define surplus include:

1. Change in the District standards or specification
2. Changes in State or Federal Law that prevents further use by the District
3. Damaged/obsolete products, or that pose a safety risk, including expired materials
4. Warehouse materials that have not been used in 36 months will be identified by purchasing, then reviewed by operations and engineering staff to validate whether the product should remain in inventory.
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 \$25,000 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, cost vs benefit analysis, economics and convenience. Items under \$25,000 must be declared surplus by the G.M. or designee prior to disposal, using the same means discussed above.

Scrap metal taken from the distribution system or other sources accumulate at the District over time. The amount of scrap at the District will be monitored and a running list of items maintained. The Operations Manager or his/her designee may take scrap metals to a recycler, as needed. Any cash or check (payable to the District) received from the transaction shall be promptly delivered to the Administrative Manager or Finance Officer with the original receipt. The employees control collecting and recycling aluminum/plastic beverage/food containers and this will not be considered a District asset.

§ 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 GM or 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 G.M. of his/her designee.
- C. Signing Authority: Agreements shall be made or agreed to consistent with the approval levels described in section 1502, et al. Signed documents must be completed only by authorized staff using approved District forms or be sent for legal review and approval prior to execution of documents. Any employee signing documents without proper authority will be subject to disciplinary action. Documents include but are not limited to:
 - i. Quotes/Estimates
 - ii. Purchase agreements, contracts
 - iii. Memorandum of Understanding, letter agreements
 - iv. Other legally binding agreements

§ 1513. Cooperative Purchases.

The District will enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common, or shared goods and services. The District supports the use of cooperative bidding/ "piggybacking" contracting to utilize contracts awarded by the United States of America, any state, municipality, or public agency where it is in the District's best interest to do so. Evidence of the competitive bidding process conducted by the other political jurisdiction must be obtained and kept on file to support the requisition or purchase order. Cooperative purchasing examples are purchases of fuel, office supplies, vehicles and auto parts. Cooperative purchases with other governmental entities are supported and encouraged.

§ 1514. Unauthorized Purchases.

Except for emergencies or authorized exemptions stated in these guidelines, no purchase of supplies, services, or equipment shall be made without the use of an authorized procurement method. Otherwise: Such purchases may be void and not considered an obligation of the District; Invoices without an authorized purchase request may be returned to the vendor unpaid; Any person making an unauthorized purchase on behalf of the District may be held liable to the extent allowed by law and may be subject to disciplinary actions.

§ 1515. Conflicts of Interest.

No employee, officer, or agent of the District may participate in the selection, award, or administration of an agreement if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. No officer, employee or agent (including consultants) of the District, engaged in the award and administration of contracts shall participate in the preparation of specifications, selection, or in the award or administration of a contract if he or she has any potential or actual financial interest in such contract. District officers, employers or agents shall neither solicit nor accept gratuities, favors or anything of

monetary value from contractors, potential contractors or parties to sub-agreements. Any employee, officer or agent of the District found to have a conflict of interest will be subject to disciplinary actions as outlined in the employee handbook.

§ 1516. Deposits and Advances.

Article XVI, section 3 and section 6 of the California Constitution prohibits gifts or donations of public funds. Advance payments and prepayments are considered gifts of public funds since the benefit or receipt of goods or services cannot be guaranteed.

In certain instances the good, services, or benefits to be received are unique to the District (a sign for a building containing custom-made materials based on unique specifications, etc.). In these instances the vendor may require an advance payment or deposit before commencing work or providing goods. When a legally enforceable contract is in place for the goods, services, or benefit to be received, payment of advances or deposits, up to 50% of the total contract amount, may be paid to the vendor and are not considered a gift of public funds.

§ 1517. Review Audits.

Compliance with this policy is subject to review at any time by internal or external auditors. It is the responsibility of the District staff member (and their department head or authorized representative) initiating the purchase to maintain records of bids, bid procedures followed, contracts, sole source forms, change orders, and authorized signatures.

SECTION 1550. REAL ESTATE DISPOSAL AND ACQUISITION

The District, from time to time, will be required to either acquire or dispose of real property or easements as water, wastewater and recycled water facilities and structures are either added or retired from service. This section outlines the requirements for both.

SECTION 1551. SURPLUS REAL ESTATE

§ 1551. Definition.

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

§ 1552. Noticing and Determination of Surplus.

The District is required by Gov. Code § 50569 to prepare an annual inventory of surplus real property. If the District has no surplus property, no inventory is required. Being a matter of public record, the District 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.

The District will conduct an annual review of its real estate assets. No general public noticing is required before the District sells surplus land. Disposal of real estate owned by BWD determined to be in excess of District need must be declared as surplus real estate by complying with the following procedures.

- A. Recommendation from staff based on a detailed review as to whether the property could serve a useful purpose to the District in the future or should be declared surplus.
- B. Determination that the 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. Obsolete District facilities must be abandoned prior to declaration of surplus.
- D. Concurrence by the G.M. to declare the real estate surplus.
- E. Surplus declaration must be done by formal Board action.

SECTION 1553. PROPERTY DISPOSAL

§ 1553. Disposal.

The District must obtain a professional appraisal for properties with a value of \$5,000 or greater. For properties with a value less than \$5,000, a comparative market analysis must be obtained from a professional appraiser or broker. The broker performing the comparative market analysis cannot participate in the sale or listing of property. Both methods set a fair market value for the highest and best use and to prevent a challenge that the sale constitutes a gift of public funds.

The real estate must be sold at fair market value by listing with the District'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 the District's foreseeable need, procedures for notification as dictated in Government Code § 54222-54232 will be followed. Water rights related to properties to be disposed will be retained by the District.

§ 1554. Exemption.

District 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 1555. PROPERTY ACQUISITION

§ 1555. Acquisition.

The GM is authorized to negotiate with property owners for the purchase of real property. The GM may acquire real property with a fair market value of \$5,000 or less whenever the acquisition is consistent with any approved budget and funds have been appropriated. All other acquisitions of real property shall be

approved by the Board.

- A. The G.M. will inform the Board of any property acquired with a fair market value of \$5,000 or less.
- B. The value of the property shall be determined either by an in-house evaluation of comparable properties (as in the case of pipeline rights-of-way, easements, and remnant parcels) or if the property is considered to be buildable, or of value greater than \$5,000, the services of a certified real estate appraiser shall be obtained.

SECTION 1600. SETTLEMENT OF CLAIMS AGAINST THE DISTRICT

§ 1601. Policy.

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

All claims against the District 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 G.M. as he deems appropriate.

The GM 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 subsequent to denial or rejection decision by the GM. If a claimant wishes to appeal the Board, he/she must do so through the District Secretary or G.M. 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 the District's G.M. who shall distribute copies to the District'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 for action. The Board 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 the District's legal counsel or insurance carrier for further action.

SECTION 1650. CHALLENGES TO WATER AND WASTEWATER RATES AND FEES

§ 1651. Policy.

It is the policy of the District that all challenges to water and/or wastewater rates or fees established by the District shall be handled and settled equitably, fairly and in a timely manner.

All challenges that do not involve money or damage claims against the District shall comply with the provisions of Section 1652 herein.

All challenges involving money or damage claims against the District shall comply with the provisions of Section 1601 herein.

§ 1652. Procedure.

All challenges to water and wastewater fees and charges established under Government Code 53759 shall be filed with the District's GM within one hundred twenty (120) days after the date of adoption of any water and/or wastewater fee or charge by the Board. Any such challenge shall include the specific rate or charge being challenged, detailed description regarding the nature of the challenge, evidence supporting the challenge and the remedy requested.

The GM shall distribute copies of the challenge to the District's legal counsel and any other interested or involved individuals, as necessary. After proper examination and investigation, the challenge and pertinent information shall be submitted to the Board for action. The Board may approve the remedy requested, defer action to a later time or date, request additional information, deny the challenge, and/or refer the challenge to the District's legal counsel for further action.

SECTION 1700. FACILITIES & EQUIPMENT USE POLICY

§1701. Purpose.

The purpose of this policy is to ensure the proper use of and to protect District property and equipment. The use of BWD facilities are prioritized to support District Operations, emergency preparedness, store equipment and inventory in a clean and safe environment and lastly for other Groups.

§ 1702. Groups/Priorities.

BWD 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 and/or existing District Employees.

Group B. Nonprofit or public benefit organizations consisting primarily of residents of the 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 BWD facilities and submit to the GM. The GM shall determine the appropriate group/priority and conformance of the proposed use with District rules and regulations. The GM 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.

Current fees are listed in the Districts Rate, Fees and Charges Sheet available at borregowd.org or by calling 760-767-5806.

§ 1705 Rules & Regulations.

1. Facilities available for use under this policy are the main kitchen & and the Board Room. Use of other areas of the Building require specific and prior approval of the GM.
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. BWD related activities have priority on all facilities and all permits are revocable at any time.
7. No alcoholic beverages are permitted in BWD facilities or on BWD grounds.
8. No smoking (tobacco-free) is allowed in any BWD buildings or vehicles.
9. No games of chance, lottery, gambling or any illegal activity is permitted.
10. No decorations affixed to furniture, walls, ceilings or fixtures are permitted.
11. Damages resulting from use by any group will be billed to the sponsoring organization.
12. The District assumes no liability for personal injury or property damage. The District requires 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 GM, a representative of BWD may be present during activities and shall have the authority to enforce all rules and regulations. At the discretion of the GM, 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. 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 BWD employees for services rendered
17. Use of BWD 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 the District. BWD meetings take priority over outside agencies or organizations, in regard to use of the Board Room or other meeting rooms.
 - 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 Application 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 the District's Facilities Use Agreement at the time of application.
21. A cleaning deposit may be required.
22. Activities which produce noise levels which interfere with 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 BWD premises or in any BWD 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.
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.

§1706. District Equipment.

District "equipment" refers to any heavy or light machinery, tools, tents, tables, chairs, electronic devices or audio/visual equipment, provided by the District to be used by staff 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 staff in the normal course of duties directly relating to District business.
2. Equipment can be used off site at a District-sponsored event provided that a representative of BWD 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 District property or used by employees or outside agencies unless the use directly relates to District business or cooperative efforts with Local governmental agencies, political subdivisions of the State of California, organizations which provide or promote public water and/or wastewater service or local non profits.
4. All requests to borrow equipment must be approved by the G.M..
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.

§1708. Off Site/Remote Facilities

District "off-site/remote facilities" include real estate, tank and reservoir sites, pump stations, treatment plants, and other appurtenances owned by the District, other than the District's Administrative Headquarters and Shop buildings.

Presence of personnel at off-site/remote facilities during non-work hours or during periods of scheduled time off without a business-related purpose is prohibited, unless prior written permission from the GM is obtained. Further, allowing the presence of family members or members of the public on off-site properties without specific prior permission is also prohibited. 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.

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. District Buildings.

Smoking is prohibited in all District 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 District buildings, facilities or other District property.

§ 1753. District Vehicles.

Smoking is prohibited in all trucks, autos, tractors and other vehicles.

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.

§ 1802. Procedure.

Pursuant to Section 1094.6 (f), the Secretary of the Board or G.M. shall provide notice to any party to a final decision indicating that the time within which judicial review must be sought is governed by California Code of Civil Procedure Section 1094.6.

SECTION 1900. ANNEXATIONS

§1901. Policy.

It is the District's policy to consider annexation requests whenever all required information is submitted, appropriate fees have been paid and whenever a finding is made by the Board that such annexation is in the best interests of the District's customers.

§1902. Annexation Fees Computation

On a case by case basis, an estimate of fees will be provided to the Applicant based on actual cost plus overhead for all costs and services including Back Tax, Future Tax components.

§1903. Application/Procedure.

- A. Submittal. Requests for annexation to the District shall be initiated with the following submittals:
1. Written request for annexation by landowner or petition signed by landowners representing not less than 5% of the designated territory to be annexed.
 2. Agents or representatives acting on behalf of landowners must submit letters from landowners granting representation authority.
 3. Map and meets and bounds legal description of property to be annexed, stamped by a registered civil engineer.
 4. Check in the full amount of the current annexation fees or appropriate financial arrangements and an initial deposit of \$1,500 to cover the District's cost of processing the application. The District will track actual time and resources charged for each application and additional deposits will be collected if the balance has been depleted. Any deposit amounts remaining after completion of the full application process will be refunded. (Hourly rates are listed in Section 2607).
 5. A copy of the most recent property tax bill for the property to be annexed.
 6. A County or City approved EIR, Negative Declaration or other proof of conformance with state and federal environmental requirements.
- B. Property Tax Exchange. All annexations are contingent upon the successful completion of property tax revenue negotiations with the County of San Diego. Sections (5) and (6) of the Property Taxation Code state:

In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of tax revenues.

Notwithstanding any other provision of law, the executive officer (of the Local Agency Formation Commission) shall not issue a certificate of filing pursuant to Section 56828 of the Government Code until the local agencies included in the tax revenue exchange negotiation, within the 30 day negotiation period, present resolutions adopted by each such county and city whereby each county and city agrees to accept the exchange of tax revenues.

- C. BWD Approval. Following investigation and approval by the GM, a recommendation and resolutions will be prepared and scheduled for the next regular meeting of the Board.

SECTION 2000. CONFLICT OF INTEREST

§ 2001. Conflict of Interest Code.

Adopted via Board Resolution 2020-12-02

The Political Reform Act, (Gov. Code § 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation,

(2 Cal. Code of Regs. § 18730), that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency’s code after public notice and hearing Regulation 18730 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 Regulation section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This Incorporation Page, Regulation 18730, and the attached Appendix, disclosure categories, designating positions and establishing disclosure categories, shall constitute the Conflict of Interest Code of BORREGO WATER DISTRICT (“District”).

All officials and designated positions required to submit a statement of economic interests shall file their statements with the Administrative Assistant as the District’s Filing Officer. The Administrative Assistant shall make and retain a copy of all statements filed by the Board of Directors and General Manager and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of San Diego. The Administrative Assistant shall retain the original statements filed by all other officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

APPENDIX CONFLICT OF INTEREST CODE
OF THE

BORREGO WATER DISTRICT

(Amended December 22, 2020)

PART “A”

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Officials who manage public investments, as defined by 2 Cal. Code of Regs. §18700.3(b), are NOT subject to the District’s Code but must file disclosure statements under Government Code section 87200 et seq. [Regs. § 18730(b)(3)]

It has been determined that the positions listed below are Officials who manage public investments¹. These positions are listed here for informational purposes only.

- Members of the Board of Directors
- Finance Officer
- Investment Consultant

¹ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

DESIGNATED POSITIONS’ TITLE OF FUNCTION	DISCLOSURE CATEGORIES ASSIGNED
Engineer	2, 3, 5
General Counsel	1, 2
General Manager	1, 2

2 Individuals serving as a consultant as defined in FPPC Reg. 18700.3(a) or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure set forth in this Code subject to the following limitation:

The General Manager may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.). The General Manger's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.³ "Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in, doing business in, planning to do business in, or have done business during the previous two years in the jurisdiction of the District.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, that do business in or own real property within the jurisdiction of the District.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the boundaries of the District.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the District.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the District.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

³ This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction

if the source does not have some connection with or bearing upon the functions or duties of the position.
(Reg. 18730.1)

SECTION 2050. CONFLICT OF INTEREST - CONSULTANTS

A. Applicability.

This policy shall apply to every consultant who contracts to prepare a project feasibility study for the District for projects not related to core District activities. Core District activities are engineering, operational and financial activities related to water and wastewater facilities and programs.

B. 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.

C. 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 District decisions regarding a public project.

D. Policy.

Consultants hired by the District to prepare feasibility studies for projects not related to core district activities shall be ineligible to bid on any design work, or construction supervision, or management services on said projects.

SECTION 2060. CONFLICT OF INTEREST – DESIGN BUILD PROJECTS

A. Purpose

The purpose of this Policy is to clarify the District's position on potential conflicts-of-interest that may arise when consultants or contractors (collectively, "Proposer") perform work for the District relating to potential design-build projects.

Organizational conflicts-of-interest can occur when, because of existing or planned activities or because of relationships with other entities, a Proposer is unable or potentially unable to render impartial assistance or advise the District; a Proposer's objectivity in performing the contract work is or might be otherwise impaired; or a Proposer has an unfair competitive advantage.

The policies and guidelines concerning the organizational conflicts-of-interest found herein will be specified or referenced in the design-build Request for Qualifications ("RFQ") and Request for Proposal ("RFP") documents as well as any contract for the engineering/design services, inspection, or technical support in the administration of the design-build projects.

Consultants hired by the District to prepare feasibility studies for projects not related to core district activities shall be ineligible to bid on any design work, or construction supervision, or management services on said projects.

Resolution of conflict-of-interest issues is ultimately at the sole discretion of the District. The District reserves the right to cancel or amend the resulting contract(s) if a successful Proposer failed to disclose a potential conflict, which it knew or should have known about, or if a Proposer provided information in response to an inquiry from the District that is false or misleading.

After award, conflict-of-interest guidelines and policies shall continue to be monitored and enforced. If an organizational conflict-of-interest is discovered after award, the Proposer will make an

immediate and full written disclosure to the District that includes a description of the action that the Proposer has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict-of-interest is determined to exist and the Proposer was aware of an organizational conflict-of-interest prior to award of the contract and did not disclose the conflict-of-interest, the District may terminate the contract with the Proposer for material breach. If the Proposer is terminated, the District assumes no obligations, responsibilities, and liabilities to reimburse all or part of the costs incurred or alleged to have been incurred by the Proposer.

B. Policy.

The following approach to conflict-of-interest will apply to District procurements relating to District design-build projects:

1. A potential Proposer will not be allowed to participate as a design-build entity or to join a design-build team if, without limitation, any of the following is true:
 - a) The Proposer is the District's general engineering or design consultant on the design-build project. Subconsultants and subcontractors to the Proposer that have not performed work on the contract to provide services for the design-build project may participate as a design-build entity or join a design-build team.
 - b) The Proposer has assisted the District in managing or is assisting in the management of the design-build project, including the preparation of the RFQ or RFP language or evaluation criteria.
 - c) The Proposer has conducted preliminary design services for the design-build project such as geometric layouts, bridge-type selection, preliminary bridge design, etc.
 - d) The Proposer performed design work related to the design-build project for other project stakeholders.
 - e) The Proposer has performed work on a previous contract that specifically excludes them from participating as a design-build entity or joining a design-build team on the design-build project.
 - f) The Proposer is under contract with any other entity or stakeholder to perform oversight on the design-build project.
 - g) The Proposer has obtained any advice from, or discussed any aspect relating to the project or procurement of the project with any person or entity with an organizational conflict-of-interest, including, but not limited to, the consultants and contractors of any entity who has provided technical support on the design-build project.
2. Proposers who may have potential conflicts-of-interest in relation to the design-build project and wish to participate as a Proposer or join a design-build team must:
 - a) Conform to applicable federal and state conflict-of-interest rules and regulations including, without limitation, the California Political Reform Act, California Government Code Section 1090, the federal Copeland "Anti-Kickback" Act and federal conflict-of-interest rules set forth in the federal funding agency's administrative grant and cooperative agreement regulations. Federal conflict-of-interest rules and regulations shall only apply where the design-build project receives federal funding.
 - b) Disclose all relevant facts relating to past, present or planned interest(s) of the Proposer's team (including the Proposer, Proposer's proposed consultants, contractors, subconsultants and/or subcontractors and their respective chief executives, directors and key personnel) which may result, or could be viewed as an organizational conflict-of-interest in connection with any design-build procurement, including present or planned contractual or employment relationships with any current employee of the District.
 - c) Disclose in the response documents to a design-build RFQ and RFP, all of the work performed in relation to the design-build project being procured under the RFQ and RFP.
 - d) Provide all records of the work performed in relation to the design-build project to the District so that all information can be evaluated and made available to all potential design-build teams, if necessary.
 - e) Ensure that the Proposer's contract with any entity to perform services related to the design

- build project has expired or has been terminated.
- f) Upon review of the information provided above, the G.M. will determine, in his or her sole discretion, if the Proposer has an organizational conflict-of-interest. Decisions of the G.M. regarding organizational conflicts-of-interest may be appealed to the Board of Directors. The decision of the Board of Directors shall be final with respect to the disposition of the organizational conflict-of-interest and non-appealable.
- 3. For other potential conflicts-of-interest not mentioned above (e.g. employee changing companies, merger/acquisitions of firms, property ownership, business arrangements, financial interest), Proposers shall disclose and address any conflicts-of-interest or potential conflicts-of-interest when participating as a design-build entity or joining a design-build team. The District will then determine if an organizational conflict-of-interest exists.
- 4. The successful Proposer or firms affiliated with the successful Proposer are prohibited from competing on any agreement to provide construction inspection services for the design-build project. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise. No subconsultants who provided design services in connection with the design-build project shall be eligible to compete for any agreement to provide construction inspection services for the design-build project.

Notes – The foregoing is provided by way of example and shall not constitute a limitation on the obligations of the Proposer in relation to organizational conflicts-of-interest.

SECTION 2100. CEQA GUIDELINES

§ 2101. General.

Each year the Board of Directors adopts Local Guidelines Implementing the California Environmental Quality Act (CEQA). Each year District Counsel reviews whether the State Legislature or the courts have modified the California Environmental Quality Act enough to warrant an update to the Local Guidelines and prepares the revisions accordingly.

§ 2102. CEQA Guidelines.

Current Local Guidelines for Implementing the California Environmental Quality Act are by reference a part hereof (Appendix C).

SECTION 2200. APPEALS

§ 2201. General Appeals Procedure/Policy.

Except as otherwise specifically provided for in this Section, the general procedure and policy regarding appeals is as follows:

- A. Appeals to GM. A customer may appeal a decision, policy, procedure, rate, fee or charge by submitting a written appeal to the GM of the District; provided however, this Section 2201 shall not apply to any appeals relating to the approval of a water and/or wastewater rate or charge and such appeals shall be submitted in accordance with Section 1650 herein. All rulings of the GM shall be final unless appealed in writing to the Board within five (5) days.

- B. Appeals to Board of Directors. A customer may appeal the GM's decision, policy, procedure, rate fee or charge by submitting a written appeal to the Board; provided however, this Section 2201 shall not apply to any appeals relating to the approval of a water and/or wastewater rate or charge and such appeals shall be submitted in accordance with Section 1650 herein. The District Secretary or G.M. will place the appeal on the agenda of the next regularly scheduled board meeting. All rulings of the Board shall be final.

§ 2202. WATER LEAK ADJUSTMENT

PURPOSE

To establish criteria in order to determine how to calculate and apply water bill adjustments for exceptionally high, unintentional water consumption, as necessary.

POLICY

Once every five (5) years, the General Manager and/or his/her designee is authorized at their discretion to make adjustments to variable/commodity water charges for a billing period in which an apparent water loss occurred resulting from a leak, equipment malfunction or unintentional use in their private plumbing and irrigation systems in accordance with the following criteria:

- a. The customer has not had any leak adjustments, at the same property in the past 5 years. Residents of master metered, multi-unit properties are eligible for a once in a lifetime adjustment at the same address.
- b. A District Leak Adjustment Request Form must be properly completed by the customer and submitted to BWD with required documentation within 30 days of the statement date of the bill in question.
 - a. Required documentation consists of photographs and any invoices associated with the repair
- c. Only one billing period will be considered for an adjustment. However, in certain circumstances, the General Manager may at his/her discretion, grant a two month adjustment or exception.
- d. The adjustment is calculated using the Advanced Metering Infrastructure (AMI) data to determine duration of leak and amount of consumption. The District shall recover the power portion of direct expenses (The current Power Rate can be found on the BWD Rates, Fees and Charges sheet at borregowd.org or by calling 760-767-5806), based upon actual metered flows. This charge applies only to the volume of water that attributed to the leak.

Scenario

Customer consumption = 50 units

Leak units = 10

Original Bill: 7 Units @ Tier One + 15 Units @ Tier Two + 28 @ Tier Three = \$333.54

New Bill: 7 Units @ Tier One + 15 Units @ Tier Two + 18 @ Tier Three + 10 Units @

Power Rate = \$264.24

Reduction = 21% from Original Bill

- e. No adjustments shall exceed \$2,500.
- f. No adjustments will be given if BWD determines excessive water flow was caused by the customer's negligence or non-responsiveness to warning signals such as higher water bills, leak notifications, visible water, or other factors that should have made the customer reasonably aware of existence of broken pipe and/or plumbing fixture.
- g. No adjustments will be provided if the water loss was caused by a third party (e.g., landscapers, groundskeepers, or pool service providers). In these cases, the customer is responsible for seeking reimbursement directly from the responsible party.
- h. Non-eligible adjustment requests include but are not limited to:
 - a. Unattended or forgotten faucets, nozzles and hoses.
 - b. Dripping faucets and other home maintenance items
 - c. Leaking toilets
- i. Eligible items to be considered for an adjustment include: Water heater leak, main line break, faulty irrigation timer or valves, act of nature.
- j. An adjustment will be made only after repairs are made and it is reasonable to predict that the loss will not occur again.

- k. BWD is not responsible for any leak due to lack of notification and no adjustment will be given for this reason. It is the customer's responsibility to determine leaks and/or excessive water use.
- l. Participation in the AMI program is required and the account holder must subscribe to leak alerts to be eligible for a leak adjustment.
- m. Payment plans will be considered upon request for customers who do not qualify for a leak adjustment.
- n. The General Manager is not obligated in his/her sole discretion to grant any adjustment

SECTION 2250. PROPERTY

§ 2251. Certificates of Acceptance.

- A. The GM of the District is authorized pursuant to California Government Code Section 27281 to consent and accept to all deeds and grants conveying interests in or easements upon real estate to the District, for public purposes.
- B. With respect to such interests in real property conveyed to the District, the GM is authorized and directed to accept and consent to such conveyances by executing a certificate of acceptance and with respect to each such conveyance consent in substantially the following form:

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the _____ deed dated _____, from _____ to the Borrego Water District, a municipal corporation, is hereby accepted by the undersigned agency on behalf of the Board of Directors of the Borrego Water District pursuant to authority conferred by Resolution No. XXX of the Board of Directors of the Borrego l Water District adopted XXX, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

Signed: _____
 G.M.
 Borrego Water District

§ 2252. Authorization to Execute Documents.

The following officers and/or employees of the District are authorized to execute all documentation in connection with the sale or purchase of real property, any and all such sale or purchases, first being approved by a majority vote of the Board.

- President
- Vice President
- Treasurer
- Secretary
- G.M.
- Finance Officer

SECTION 2300. WATER RATES & CHARGES, FINES & PENALTIES

The Board follows the Proposition 218 water rate setting process employing the Cost of Service principle. Rates and charges are approved annually by the Directors and the current rate sheet is available at borregowd.org.

SECTION 2400. SEWER RATES & CHARGES, FINES & PENALTIES

The Board follows the Proposition 218 sewer rate setting process employing the Cost of Service principle. Sewer rates and charges are approved annually by the Directors and the current rate sheet is available at borregowd.org.

§2401. Billing Charges

- A. Establishment of Rates and Charges. Rates to be charged and collected and the terms, provisions, and conditions to be effective respecting such rates for water service supplied by the District to customers within the District shall be as fixed and established by the Board from time to time and listed on a separate schedule. Such charges shall have no effect on any existing or subsequent reimbursement agreements. This provision is in addition to and not by way of derogation of any other remedies or procedures available to the District pursuant to any law or regulation or by any of the provisions of these rules and regulations.
- B. Change or Rates and Charges. The Board reserves the right to change the schedule of water rates and charges at any time.
- C. Billing. Water service charges will be rendered as part of the District Water Service Bill at intervals of one month. The District reserves the right to estimate bills, based on prior consumption.

SECTION 2402 BILLS: PAYMENT, DELINQUENCY AND DISCONTINUANCE OF SERVICE

- A. Rendering of Bills. Meters will be read at regular intervals for the preparation of regular bills, and as required for opening bills, closing bills and special bills.
 1. Monthly Bills. Bills for water and sewer service shall be rendered monthly unless otherwise provided in the rate schedule.
 2. Opening and Closing Bills. If the period of service is less than one month, the service charge will not be less than the monthly service charge. If the period of service is longer than one month, but less than two months, the service charge shall reflect the minimum one month charge plus the prorated amount for the fractional part of the charge for the next month.
- B. Payment of Bills.
 1. Periodic bills are due and payable on presentation; payment may be made at the District's office or to a person authorized by the District to make collections.
 2. Closing bills, if service is to be discontinued, are due and payable on presentation.
 3. All the rates provided for by the Board shall be charged against the property to which the service is furnished, and both the owner and all occupants of said property shall be jointly and severally responsible for the payment of all such charges.

4. No change of ownership or occupancy shall affect the application of these Rules and Regulations with respect to collection of charges, rates, deposits or service.

C. Delinquent Bills.

1. Late Fees

Bills are delinquent if not paid within twenty (20) days of mailing. The past due amount and late fee is displayed on the next bill. The late fee is set by the Board and published in the Schedule of Rates

2. Notice of Past Due and Termination of Service

Any account not paid after 60 days from the bill date will receive a Notice of Past Due and Termination of Service. This notice will include a statement of the requirements to re-establish service if it is discontinued. The District shall also make a good faith effort to contact the customer by telephone at least 7 business days before discontinuation of service.

3. Termination of Service

If there is no response within 10 days of mailing the Notice of Past Due, a Notice in the form of a red tag will be posted at the service address, or if there is no structure, sent by registered mail to the billing address and the account will be charged a fee determined by the Board from time to time. If payment is not received within 10 calendar days from the posting of the red tag, service will be disconnected.

4. Habitual Failure to Pay on Time

Any account that is delinquent for two (2) consecutive months or four (4) months within a twelve month period will be required to post a deposit equal to two months average bill for that account but not less than one hundred (\$100) dollars in order to continue or re-establish service.

5. Reconnection Fees

If water service has been disconnected due to the failure to pay an overdue bill, a reconnection fee of the amount specified in the Schedule of Rates and Fees will be required in addition to any other penalties. This must be paid prior to reconnection.

For a residential customer who demonstrates that their household income is below 200 percent of the federal poverty line within the meaning of California Health and Safety code section 116914, the reconnection fee shall not exceed the actual cost of reconnection if it is less

6. Dispute of Bills

If a customer disputes the amount of a bill and cannot resolve the matter with the District staff or management, they may request that the Board consider their appeal. This appeal must be filed in writing stating the basis for the request. It will be set for hearing when staff has had time to prepare a response. While the matter is being considered, the customer must keep the bill current to avoid penalties and termination of service. Any correction of the bill will result in a refund of any over-payment.

7. Conditions to avoid discontinuation of service

Notwithstanding any other provision of the Code to the contrary, the District shall not terminate residential service for nonpayment of a bill in any of the following situations:

- a) When a customer has been granted an extension of the period for payment of a bill.
- b) On any Saturday, Sunday, legal holiday, or at any time during which the business office of the District is not open to the public.

If all of the following conditions are met:

- a) The customer, or tenant of the customer submits certification from a primary care provider as defined in California Welfare and Institutions Code section 14088 (b)(1)(A) that discontinuation of residential service will be life threatening to or pose a serious

- b) The customer demonstrates that he or she is financially unable to pay for service within the normal payment period as described in California Health and Safety Code Section 11910(a)(2) (or successor code section), and
- c) The customer is willing to enter into a payment arrangement with the District to amortize, over a period not to exceed twelve (12) months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal period of payment.

8. Discontinuing Service at a New Location or Separate Location

A customer's service at a subsequent location or a separate location may be discontinued if service furnished at a previous location is not paid within the required period.

9. Legal Action to Collect Unpaid Bills

The General Manager of the District is authorized to sign a complaint, file suit, prosecute to judgment, and enforce collection of, any charges or water rates owing to the District after such bill is delinquent for over sixty (60) days. Said action may be filed against any or all of the following persons: the property owner, the occupant or occupants of the property, or any person who agreed in writing to be responsible for said water charges. In addition, the General Manager of the District is authorized to impress a lien on the property and to take whatever other action the General Manager deems appropriate to protect the interests of the District.

D. Billing of Separate Meters Not Combined

Each meter on the customer's premises will be considered separately, and the reading of two or more meters will not be combined unless specifically provided for in the rate schedule, or unless the District determines that its operating convenience required the use of more than one meter, or of a battery of meters. The minimum monthly service charge for such combined meters will be based on the diameter of the total combined discharge areas of the meters.

E. Returned Checks

The District may charge a fee set from time to time by the Board for processing a check returned to the District because of a closed account, non-sufficient funds, or any other reason. Return of a check will constitute non-payment of an obligation to the District, and as such will be disposed of as determined by applicable provisions of these Rules and Regulations.

F. Non-Payment and Non-Transfer of Accounts When Property Has Been Sold

When a property has been sold and the customer has requested that service be terminated the new owner must apply for service within 2 months or the meter may be removed and in order to establish service they will be required to pay for a new meter, shut off valve the cost of labor and materials to install them and the established fees to begin service.

The info below could be useful for BWD in the new Admin Code or other location = TBD

§2403. Sewer Capacity – EDU's Per Unit of Usage

Category	Usage Unit	EDUs Per Usage Unit
Residential		
Single Family	Parcel	1.0000
Duplex	Parcel	1.2000
Triplex	Parcel	1.8000
Fourplex	Parcel	2.4000

Condominium	# of Units	0.6000
5 or More Units	# of Units	0.6000
Mobile Home Parks	Spaces	0.6000
Commercial		
Animal Kennel	1000 Sq. Ft.	0.3807
Auditorium/Amusement	1000 Sq. Ft.	1.3246
Auto Sales/Repairs	1000 Sq. Ft.	0.3807
Bar	Seat	0.0685
Beauty/Barber Shop	Sink	0.2500
Bowling/Skating	1000 Sq. Ft.	0.8165
Car Wash-Wand Type	1000 Sq. Ft.	2.6496
Car Wash-Tunnel Type	1000 Sq. Ft.	13.9957
Car Wash-Reuse System	1000 Sq. Ft.	4.7500
Club	1000 Sq. Ft.	0.4682
Dentist Office	1000 Sq. Ft.	1.1400
Doctor Office	1000 Sq. Ft.	1.1400
Drive-In Theater	1000 Sq. Ft.	0.0785
Dry Cleaners - Plant with Office	Employee + Machine	0.0700 1.6200
Dry Cleaners - Office Only	Employee	0.0700
Dry Manufacturing	1000 Sq. Ft.	0.1267
Financial Institutions	1000 Sq. Ft.	0.3807
Golf Courses/Camp/Parks	1000 Sq. Ft.	0.3807
Health Spa W/Showers	1000 Sq. Ft.	1.3738
Health Spa W/O Showers	1000 Sq. Ft.	0.6893
Hospitals	Bed	0.9456
Hotels/Motels/Rooming Houses	Rooms	0.4728
Indoor Theater	1000 Sq. Ft.	0.4728
Laundromats	Machine	0.4675
Lumber Yards	1000 Sq. Ft.	0.1267
Mortuaries/Cemeteries	1000 Sq. Ft.	0.7039
Night Club	1000 Sq. Ft.	1.3246
Nurseries/Greenery's	1000 Sq. Ft.	0.0966
Nursing Homes	Bed	0.4728
Office Building	1000 Sq. Ft.	0.7568
Open Storage	1000 Sq. Ft.	0.1267
Professional Building	1000 Sq. Ft.	1.1374
RV Camp With Sewer Hookups	Site	0.4844
Campsite (Developed)	Site	0.2422
Service Shop	1000 Sq. Ft.	0.3807
Service Stations	1000 Sq. Ft.	0.3807
Shopping Center	1000 Sq. Ft.	1.6483
Special Events Center	Attendance	0.0363
Stores	1000 Sq. Ft.	0.3807

SECTION 2600. MISCELLANEOUS FEES AND CHARGES

§ 2601. List and Definitions of Various Rates & Charges

<u>Rate Charge or Fee</u>	<u>Definition</u>
After Hours Service Call Fee	Fee applied to statement for any service calls on weekends, holidays or after 6pm on weekdays.
Annexation Application Deposit	Application deposit to begin process of annexation of property to the District's service area.
Backflow Device Repair	Labor and Materials cost to repair a backflow device.
Backflow Inspection	Yearly fee for backflow device inspection.
Blocked Access Fine	Fine is imposed when the meter serving the property is not accessible without impairment by District staff, to include fencing or walls that impede access. The fine is placed a maximum of one time per billing cycle. A warning will be issued to the property for the first occurrence only.
Board Hourly Rate	Hourly rate paid to Board members for each Committee or other meeting, such as the Watermaster Board.
Board Meeting Stipend	Rate paid to Board members for each Regular or Special Board Meeting attended
Board Travel Per Diem/Stipend	Daily (per diem) rate provided to Board Members while traveling.
BSR Fixed Charge	Monthly Sewer Fees per EDU at Borrego Springs Resort
Bulk Water Rate	Per Unit charge of metered bulk water.
Bulk Water Truck Load <2,000 Gal	Total fee to fill water truck with capacity up to 2,000 gallons
Bulk Water Truck Load ≥ 2,000 gallons to 4,000 gallons	Total fee to fill water truck with capacity equal to or greater than 2,000 gallons
Bulk Water Truck Load 4,000 gallons	Total fee to fill water truck with capacity equal to or greater than 4,000 gallons
BWD Facilities Use Fees	Fees for non-District use of District facilities.
Community Facilities District (CFD) 2007-1(Montesoro) Charges	Included in property tax on applicable parcels in ID1.
Community Facilities District (CSD) Trash Pick-Up Fee - ID5	Monthly rate for trash collection in Club Circle/BSR
Community Facilities District CFD 2017-1 Charge	Developers CFD Fees.
Community Services District (CSD) Annual Sewer Standby Fee - Club Circle/BSR	Included in Property Tax - Annual Sewer availability fee per individual lot.
Community Services District (CSD) Annual Water Standby Fee - Club Circle/BSR	Included in Property Tax - Annual Water availability fee per individual lot.
Construction Meter Charge	Monthly charge for construction meter usage.
Construction Meter Deposit	Deposit required for issuance of a construction meter.
Construction Water Rate	Per Unit charge of metered construction water.
Cut Lock Fine	First/Successive occurrence when a locked meter is found with the lock removed.
Damaged Angle Stop Charge	Imposed when angle stop is damaged by customer.
Damaged Meter Charge	Customer or their associates, deliverately or negligently damage meter.
Hydrant Installation	Minimum cost of labor and materials to install a Hydrant
Hydrant Re-Location	Minimum cost of labor and materials to re-locate a Hydrant
Involuntary Meter Removal	Fee charged when meter is removed due to multiple Cut Lock fines.
Labor - Administrative/Finance	Hourly labor rate for work performed by District Administration or Finance Staff
Labor - Engineering	Hourly labor rate for work performed by the District's Engineering Consultant

Labor - Field Crew Hourly	Hourly labor rate for work performed by District Field Crew
Labor - General Manager	Hourly labor rate for work performed by District General Manager
Late Fee	Fee applied to percentage of delinquent charges.
Lock/Unlock Meter Fee	Fee for locking/unlocking a meter, usually due to non-payment
Maps & Records Fee	Fee for BWD's Consulting Engineer to produce Maps & Records
Meter Accuracy Testing	Fee paid by customer upon request for meter testing. Fee is waived if meter is found to be faulty.
Meter Bypass Fine	Imposed when a meter is bypassed or removed resulting in unmetered consumption
Meter Install/Relocation	Fee for District to install or relocate a construction meter
Meter Installation Fee	Fees for installing new residential water service to a property.
New Account/Transfer Fee/Service Origination Fee	Administrative fee to open/transfer an account.
New Sewer Connection Fee SA1	Cost for new connection in SA1
New Sewer Connection Fee SA5	Cost for new connection in SA5
New Sewer Inspection Fee SA1	Cost for inspection of new connection in SA1
New Sewer Inspection Fee SA5	Cost for inspection of new connection in SA5
NSF/ACH or Returned Check Fee	Fee for paper and digital items returned by the bank.
Pest Control Standby Fee	Included in property tax - Applied to all parcels in the District
Plan Check Deposit	Deposit to cover staff time to review plans.
Planning Deposit	Deposit for substantive development projects.
Planning Inspection Deposit	Deposit for inspection of new infrastructure to be connected to District facilities
Power Rate	Cost of electricity for pumping 1 Unit of water
Ready to Serve Meter Charge	Monthly Meter Fees by Meter Size
Reconnect/Turn-On Fee	Service fee for reconnecting disconnected meter.
Reinstall Pulled Meter	Cost to re-install a meter at a previously metered property.
Reproduction Fees	Fees for paper or digital copies.
Residential Water Supply Fee	Cost per Acre Feet of annual water demand.
Sewer Fee - SA1	Monthly Sewer Fees per EDU per connection in Rams Hill (SA1)
Sewer Fee - SA5	Monthly Sewer Fees per EDU per connection in BSR/CC (SA5)
Sewer Holder Fee	Monthly Sewer Fees per EDU per EDU Holder in Town Center (SA2)
Sewer User Fee - SA2	Monthly Sewer Fees per EDU per connection in Town Center (SA2)
Small Development Residential Application Fee	Fee for application review for new residential water and/or sewer service.
Town Center (SA2) EDU Price	Price to purchase an EDU for Town Center Sewer
Town Center (SA2) Expansion Fee	Fee paid per EDU for connecting to Town Center Sewer
Town Center Sewer (SA2) Sewer Inspection Fee	Cost for inspection of a new connection in SA2
Unauthorized Hydrant Use Fine	Imposed when water is used from a hydrant without prior authorization.
Unauthorized Meter Lock Removal	First/Successive occurrence when a locked meter is found with the lock removed.
Unauthorized Sewer Connection Fine	Unauthorized/unpaid sewer connection.
Unit	Unit of measure for metered water. (1) Unit = (1) Hundred Cubic Foot (HCF) = 748 Gallons
Water Availability Standby Charge	Included in property tax - Applied to parcels in ID 4 and ID 5.
Water Rate - Commercial	Per Unit charge of metered water delivered for Commercial use.
Water Rate - Irrigation	Per Unit charge of metered water delivered for Irrigation use.

Water Rate - Multi-Unit	Per Unit charge of metered residential water delivered to a Multi-Unit dwelling.
Water Rate - Public Agency	Per Unit charge of metered water delivered for Public Agency use.
Water Rate - Residential Tier 1	Per Unit charge of metered residential water delivered between 0 and 7 units in a monthly billing cycle.
Water Rate - Residential Tier 2	Per Unit charge of metered residential water delivered between 8 and 22 units in a monthly billing cycle.
Water Rate - Residential Tier 3	Per Unit charge of metered residential water delivered in excess of 22 units in a monthly billing cycle.
Water Standby Charge ID No 3	Included in property tax - Applied to parcels in ID3.
Water, Sewer, and Flood Control ID No. 1	Included in property tax - Applied to parcels in ID1.
Will Serve/Availability Form	Fee for signing a Will Serve/Availability form as required by the County

§ 2602. Engineering Fees.

A summary of fees can be found in BWD Rates, Fees and Other Charges at borregowd.org or by calling 760-767-5806

A. Planning Deposit

For substantive projects that will require, for example, preparation of master plans with computer models or other extensive planning efforts prior to the submittal of improvement plans for plan checking, developers will be required to post a Planning Deposit. The deposit will be used to cover District staff and consultant costs. A supplemental deposit, in the amount determined by the District, will be collected if the balance is depleted. Deposit amounts remaining after completion of the planning phase will be refunded. The need for and amount of the deposit will be determined by the District Engineer.

B. Plan Check Deposit

The Plan Check deposit is 3% of the engineer's estimate for construction or a minimum of \$3,500. Costs charged against the deposit includes District's cost for comprehensive review of the improvement plans and documents including, but not limited to, grant of easements, water rights grant deeds, quitclaims, and termination of easements which could include review by subject matter experts, such as electrical and SCADA, as well as review by Operational staff for other site-specific operational conditions. An additional deposit, in the amount determined by the District, will be collected if the balance has been depleted. Deposit amounts remaining after plan check completion will be refunded.

The Engineer's Estimate must be prepared using District approved unit costs. Estimates of Capital Facilities must be approved by the District Engineer and must reflect actual market prices. For complex facilities such as, but not limited to, booster station, lift station, or reservoir, the engineer of record shall submit a cost estimate that reflects actual market value.

C. Inspection Deposit

An inspection deposit of 15% of the engineer's estimate for construction or a minimum of \$5,000 is collected for water and sewer facilities. The deposit will be used to cover District staff costs. An additional deposit, in the amount determined by the District, will be collected if the balance has been depleted. Deposit amounts remaining after completion of the inspection phase will be refunded.

The Engineer's Estimate must be prepared using District approved unit costs. Estimates of Capital Facilities must be approved by the District Engineer and must reflect actual market prices. For complex facilities such as, but not limited to, booster station, lift station, or reservoir, the engineer of record shall submit a cost estimate that reflects actual market value.

D. Engineering Billing Rates

All Engineering deposits will be billed at the hourly rates in this subsection. District charges against the deposit are for development activities including, but not limited to, plan check and inspection services. Additional deposits will be collected if the balance has been depleted. Any remaining portion of the deposit is returned to the applicant after satisfying District requirements.

A summary of rates can be found at borregowd.org or by calling 760-767-5806

E. Maps and Records Fee

A fixed non-refundable fee of 1.5% of the Engineer's Estimate for water and sewer facilities. A summary of fees can be found in BWD Rates, Fees and Other Charges at borregowd.org or by calling 760-767-5806

The Engineer's Estimate must be prepared using District approved unit costs. Estimates of Capital Facilities must be approved by the District Engineer and must reflect actual market prices. For complex facilities such as, but not limited to, booster station, lift station, or reservoir, the engineer of record shall submit a cost estimate that reflects actual market value.

F. Reproduction

A summary of fees can be found in BWD Rates, Fees and Other Charges at borregowd.org or by calling 760-767-5806

§ 2603. Service Origination Fee.

A summary of fees can be found in BWD Rates, Fees and Other Charges at borregowd.org or by calling 760-767-5806

* The After Hours Turn-on Service provides customers with the option to have their water service turned on after 6 p.m., which is the deadline for same day turn on service. This service is not available for customers that have had their service interrupted due to non-payment.

§ 2604. Backflow Devices.

A summary of fees can be found in BWD Rates, Fees and Other Charges at borregowd.org or by calling 760-767-5806

The District retains the option to install new backflow devices. New installations will be charged on a time & materials basis.

§ 2605. Meter Accuracy Testing.

A summary of fees can be found in BWD Rates, Fees and Other Charges at borregowd.org or by calling 760-767-5806

Cost of testing will be refunded to customer if meter is proven to register above AWWA standards for meter accuracy [98.5% - 101%].

§ 2607. Annexation Fees.

A summary of fees can be found in BWD Rates, Fees and Other Charges at borregowd.org or by calling 760-767-5806

On a case by case basis a deposit per application is initially required to initiate the process including the calculation of Annexation Fees per acre. The District will track actual time and resources charged for each application and additional deposits will be collected if the balance has been depleted.

Any deposit amounts remaining after completion of the full application process will be refunded.

§ 2608. Copies.

A summary of fees can be found in BWD Rates, Fees and Other Charges at borregowd.org or by calling 760-767-5806

SECTION 2700. STANDBY & OTHER CHARGES

§ 2701. General.

The District by Resolution may fix, in each fiscal year a water and/or sewer standby assessment or availability charge in the District, in any portion thereof, or any improvement district, to which water and wastewater service is made available by the District, whether the water and wastewater service is actually used or not.

§ 2702. Standby Charges.

A summary of fees can be found in BWD Rates, Fees and Other Charges at borregowd.org or by calling 760-767-5806

The District is authorized to collect Water and Sewer standby fees in ID's 1, 3, 4 & 5.

§ 2703. Other Charges.

A summary of fees can be found in BWD Rates, Fees and Other Charges at borregowd.org or by calling 760-767-5806

The District is authorized to collect fees for District wide pest control and for flood control in ID 1 and trash collection in ID 5.

SECTION 2800. NON-PAYMENT /COLLECTIONS PROCEDURES

§ 2801. SB 998 Discontuation of Water Service for Non Payment

All District users pay a monthly bill which will become delinquent on the business day following the due date. All bills for water service are due and payable upon date of presentation and will become past due and delinquent if not paid within 20 days of mailing.

A late fee set from time to time by the Board and published in the Schedule of Rates will be added to the next bill for any account not paid by that time.

Water service may be discontinued if the current water bill or alternative payment arrangement is delinquent for at least 60 days.

The General Manager is authorized to enforce collection of a delinquent bill and to lien the property to protect the interest of the District per Water Code 36726 and 36825 and Admin Code 6.13, C9.

For questions or assistance regarding a water bill, or to discuss options to avoid discontinuation of service, Customer Service staff can be reached at (760) 767-5806.

First Notice – 30 Days After Bill Date

The past due amount and fee is displayed on the next bill under the Bill Summary.

Delinquent Letter Notice of Past Due – 60 Days After Bill Date

After 60 days from the bill date, a Notice of Past Due / termination notice is mailed to the mailing address designated on the account. If the mailing address and the address of the property to which water service is provided are different, a second notice will be mailed or posted to the service address and addressed to "Occupant."

The District assumes no responsibility for contact information that has not been kept up-to-date by the customer.

Payment must be made by the date stated in the notice to avoid discontinuation

Telephonic Notice – 60 to 70 Days After Bill Date

The District will make a reasonable, good faith effort to contact the customer of record or an adult person living with the customer by telephone at least seven (7) business days before discontinuation of service. If unable to make contact via telephone, the District shall make a good faith effort to visit the residence and leave notice of discontinuation.

Termination of Service – Red Tag – 70 days After Bill Date

If there is no response within 10 days of mailing the Notice of Past Due, the District will post a final notice of intent to discontinue service, "Red Tag" and a copy of this Policy, in a prominent and conspicuous location at the property, or if there is not a structure, sent by registered mail to the billing address and the account will be charged a fee determined by the Board from time to time. The District may discontinue service if payment is not received within 10 calendar days from the posting of the Red Tag.

If service is billed to a tenant, the property owner will be notified if service is discontinued for non-payment.

Tenants /Occupants in an Individually Metered Residence

In the event of a property owner becoming delinquent in paying on a water account occupied by a separate residential tenant occupant on a subject account, the District will provide written notice “Red Tag” to tenant occupants at least 10 days prior to termination.

The District will advise the tenant/occupant that they have the right to become customers, to whom the service will then be billed, without the requirement to pay any amount which may be due on the delinquent account upon verification that the delinquent account customer of record is or was the landlord, manager, or agent of the dwelling. Verification may include, but is not limited to, a lease or rental agreement, rent receipts, a government document indicating the occupant is renting the property. In the event of a tenant becoming a customer, all past due amounts including penalties and other charges incurred while the account was under the landlord will remain due and payable by the landlord or record until the entire debt amount has been collected.

Tenants /Occupants in a Multi-Unit Complex Served Through a Master Meter

The District will make a reasonable good faith effort to inform the occupants, by means of written notice, “Red Tag”, hung on the door of each residence, when the account is in arrears and subject to discontinuation at least 10 days before the water service is shut off. If providing notice to each unit is impracticable or infeasible, the District will post copies of the notice in each accessible common area and at each point of access to the structure or structures, or will make some other good faith, reasonable effort to provide written notice to the occupants. The District will advise the tenant/occupant that they have the right to become customers of the District, to whom the service will then be billed, without being required to pay any amount which may be due on the delinquent account as long as they are willing to assume financial responsibility for subsequent charges for water service at the address (es) served by the master meter. If one or more of the occupants are willing and able to assume responsibility for the subsequent charges for water service to the satisfaction of the District, or if there is physical means, legally available to the District of selectively terminating service to those occupants who have not met the requirements for service, the District will make service available to the occupants who have met those requirements.

To be eligible to become a customer without paying the amount due on the delinquent account, the District will require the occupant who becomes the customer to verify that the delinquent account customer of record is or was the landlord, manager, or agent of the dwelling. Verification may include, but is not limited to, a lease or rental agreement, rent receipts, a government document indicating the occupant is renting the property.

Conditions to Avoid Discontinuation of Service

The District shall not terminate residential service for nonpayment of a water bill if ALL of the following conditions are met:

1. **Medical:** The customer, or tenant of the customer, submits to the District the certification of a primary care provider, as defined in subparagraph (A) of paragraph (1) of subdivision (b) of Section 14088 of the Welfare and Institutions Code, that discontinuation of residential service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where residential service is provided.
2. **Financial:** The customer demonstrates that he or she is financially unable to pay for residential service within the district’s normal billing cycle. The customer shall be deemed financially unable to pay for residential service within the District if any member of the customer’s household is a current recipient of an assistance program (CalWORKs, CalFresh, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children), or the customer declares that the household’s annual income is less than 200 percent of the federal poverty level.
3. **Repayment Program:** The customer is willing to enter into a payment arrangement with respect to the

past-due charges.

Customers meeting above requirements may provide the District with appropriate documentation to demonstrate specified medical and economic hardship and enter into a payment arrangement. The Customer will be required to demonstrate eligibility for medical and financial hardship on an annual basis.

The District will offer the customer one of the following payment arrangements:

- Amortization of the unpaid balance
- Participation in an alternative payment schedule
- A partial or full reduction of the unpaid balance financed without additional charges to other ratepayers
- Temporary deferral of payment

The District has the right to choose which of the payment arrangements the customer undertakes and may set the parameters of the payment arrangement. If a customer who has been granted a payment arrangement fails, for 60 days or more, to comply with the payment arrangement or to pay current charges for water service while the payment arrangement is in place, the District may discontinue water service. The District will post a final notice of intent to discontinue service in a prominent and conspicuous location at the service address at least five (5) business days before discontinuation of service. The final notice will not entitle the customer to any investigation or review by the District.

Waiver of Late Fee

At the request of the customer, the District will waive the late fee if there are extenuating circumstances and the customer has been assessed a late fee for delinquent payment no more than once in the proceeding twelve months.

Current Late Fee Rates can be found on BWD's Rate Sheet at borregowd.org or by calling 760-767-5806.

Alternative Payment Arrangements

Any customer who is unable to pay for water service within the normal payment period may request an alternative payment arrangement within 13 days after mailing of the Notice of Past Due which will be reviewed by the General Manager of the District who will consider whether the customer shall be permitted to amortize the unpaid balance over a reasonable period of time not to exceed 12 months for the original date of the bill.

The district shall not discontinue water service for non-payment if a customer has requested and entered into an alternative payment arrangement. Payment arrangements that extend into the next billing period are considered an amortization plan, which must be in writing and signed by the customer. A down payment of 20 percent of the customer's outstanding balance will be due at the time of signing. The amortized payments will be combined with, and subject to the due date of, the customer's regular bill. The customer must comply with the terms of the amortization plan and remain current as charges accrue in each subsequent billing period. The customer may not request further amortization of any subsequent unpaid charges while paying delinquent charges pursuant to an amortization plan. District decisions regarding extensions and other alternative payment arrangements are final and are not subject to appeal to the District's Board of Directors.

The District may discontinue water service if a customer who has entered into a payment arrangement either: (1) fails to comply with the payment arrangement for 60 days or more; or (2) fails to pay his or her current residential service charges for 60 days or more. The District will post a final notice of intent to discontinue service in a prominent and conspicuous location at the service address at least five (5) business days before discontinuation of service. The final notice will not entitle the customer to any investigation or review by the District.

Reconnection of Water Service

Customers whose water service has been discontinued may contact the District by telephone or in person

regarding restoration of service. If water service has been discontinued due to the failure to pay an overdue bill, a reconnection fee of the amount specified in the Schedule of Rates and Fees will be required in addition to any past-due charges or other penalties. These fees and charges must be paid prior to reconnection.

Current Reconnection Fees can be found on BWD's Rate Sheet at borregowd.org or by calling 760-767-5806.

Reconnection of Water Service for Qualified Low-Income Customers

For a customer who demonstrates to the District their household income is below 200 percent the federal poverty line, the District shall set the reconnection of service fee for reconnection during normal business, but cannot exceed the actual cost of reconnection if it is less. For reconnection of service during nonoperational hours, the District will also impose an after hours fee, but not to exceed the actual cost of reconnection if it is less. These reconnection fees can be found on BWD's Rate Sheet at borregowd.org or by calling 760-767-5806.

The District will deem a residential customer to have a household income below 200 percent of the federal poverty line if: (a) any member of the household is a current recipient of CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children, or (b) the customer declares that the household's annual income is less than 200 percent of the federal poverty level.

Habitual Failure to Pay on Time

Any account that is delinquent for two (2) consecutive months or four (4) months within a 12 month period will be required to post a deposit equal to two (2) months average bill for that account but not less than \$100 in order to continue or re-establish service.

Dispute and Appeal of Bills

A customer may dispute the amount of a water bill within five (5) days of receiving the bill by contacting the District by telephone or in writing. A timely dispute will be reviewed by a manager of the District, who shall provide a written determination to the customer. The review will include consideration of whether the customer may receive an alternative payment arrangement as described in this Policy. The District may review untimely disputes, but such disputes are not subject to appeal.

If a customer disagrees with the District's written determination, the customer may request that the Board consider their appeal. The appeal must be filed in writing within 10 days of mailing of the District's determination and must state the basis for the request. It will be set for hearing when staff has had time to prepare a response. The District will mail the customer written notice of the time and place of the Board meeting at least 10 days before the meeting. While the matter is being considered, the customer must keep the bill current to avoid penalties. Any correction of the bill will result in a refund of any over-payment. The decision of the Board is final.

The District will not discontinue residential water service for nonpayment while timely dispute or appeal is pending.

Reporting

The District shall report the number of annual discontinuations of residential service for the inability to pay on the District's website and to the Board.

Discontinuation of Service for Reasons Other Than Nonpayment

The District reserves the right to discontinue water service for violations of District ordinances, rules, or regulations other than nonpayment.

§ 2802. Lien of property for delinquent charges

PURPOSE

In the event that a water bill becomes delinquent, the District will apply the Discontinuation of Water Service for Nonpayment Policy (2020-01-01). Discontinuation of water service for nonpayment is considered the final phase of the collection procedure and will be instituted only after sufficient notification, and when all other reasonable alternatives have been exhausted. If the collection procedures have failed, the District will then move into the lien process to collect any past due amounts.

Except as specifically stated herein, this Policy applies to all District water service users.

POLICY

A. Whenever charges for water to property remain delinquent and unpaid for 60 days or more as of July 1st of any year, the District shall notify the holder of title to the property, by certified mail, that the delinquent and unpaid charges may become a lien on the property pursuant to the California Water District Law, including Water Code section 37212, and Admin. Code section 6.13, C9.

B. A list of all properties having delinquent charges unpaid for 60 days or more on July 1st of any year shall be provided to the board of directors at the regular board meeting in July with recommendation as to whether tax liens should be filed in each account.

C. Any delinquencies receiving board authority for tax lien shall be supplied to the county, on or before August 1st, for placement on the tax rolls in accordance with the county's fixed charge special assessment schedule.

D. In addition to the procedures outlined above, the District may, in its discretion, at any time, secure the amount of any unpaid charges for water or other services by recording with the county recorder a certificate specifying the amount of such charges and the name and address of the person liable. Recording this certificate creates a lien upon all real property in the county owned by the person, and has the force, priority and effect of a judgment lien. The water meter will also be subject to removal and new installation fees will apply for a new meter to be placed.

E. Tax lien amounts which have been transferred to the tax rolls as described in section C above will be removed from the utility bills. The water meter will also be subject to removal and new installation fees will apply for a new meter to be placed.

Reconnection of Water Service

Customers whose water service has been discontinued may contact the District by telephone or in person regarding restoration of service. A reconnection fee of the amount specified in the Schedule of Rates and Fees will be required in addition to any past-due charges, meter installation fees and/or other applicable charges. These fees and charges must be paid prior to reconnection.

§ 2900. Right of Privacy

The Board of Directors acknowledges and recognizes the importance of the right of privacy in utility customer information, which right is codified in Section 6254.16 of the Government Code. As such, customer names, addresses, and utility information are not subject to disclosure under the Public Records Act unless expressly authorized and contemplated by Government Code Section 6254.16.

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SECTION 6000. FINANCIAL MATTERS

§ 6001. Public Financing Policy.

As a general objective, the Borrego Water District (BWD) requires new development to pay its fair share for new connections to BWD's existing water, sewer, and wastewater infrastructure capacity. The developer would also be responsible to pay for the proportional use of any additional system capacity that would necessarily be added to the BWD system as the result of the new development

BWD encourages responsible development by requiring developers to install water and sewer infrastructure at the developer's expense. In addition, developers shall be charged for each new connection to pay for any required improvements to the existing BWD system and the new development's proposed use of existing system capacity. Participation in costs by BWD will occur only when such participation will add further benefit to BWD's capability to provide services to existing and future customers.

At its own expense and at no cost and expense to BWD, the Developer shall furnish, install, and construct all on-site and off-site water and sewer system improvements, including all labor and material, as required by BWD to be installed to serve the development, to not impede the current level of water and sewer service to existing customers and to meet BWD's objectives for the level of system service reliability that is currently available in the general area of the development. The construction and installation of the water and sewer system improvements shall be in strict accordance with the plans, specifications and requirements approved by BWD and performed by a Licensed Contractor. In addition, the developer shall indemnify BWD from any loss or damage that may directly or indirectly result from the installation of water and sewer system improvements by the developer. For most recent hourly labor rates, see BWD Rates, Fees and Other Charges at borregowd.org or call 760-767-5806

Upon completion of the construction of the water and sewer improvements, upon final approval by BWD, and upon the water and sewer system improvements being placed into service, the improvements shall immediately become the property of BWD regardless of whether or not a formal written conveyance has been made. The developer and any other persons paying the cost of constructing such improvements shall execute all written instruments requested by BWD necessary to provide evidence of BWD's title to such improvements, including obtaining any lien releases from the material suppliers and subcontractors of the developer and/or its contractor. The water and sewer system improvements shall become the property of BWD free and clear of the claims of any persons, firms, or corporations.

The Board of Directors will consider the use of community facilities districts (hereinafter "CFDs") or special benefit assessment districts (hereinafter "AD") as well as other financing

methods to assist residential, commercial or industrial development. Where, in the District's opinion, the public facilities of the development represent a significant public benefit, this type or other appropriate types of public financing will also be considered.

Public facilities proposed to be financed through a CFD or AD for which the District is the lead agency must meet a significant public need and have a regional benefit.

Projects will be reviewed on a case-by-case basis. Nothing herein shall be construed as requiring the District to utilize public financing. All requests for such financing shall be reviewed on a case-by-case basis, and the District reserves the right in its sole and absolute discretion, to approve or deny any and all such requests.

§ 6002 Investment Policy Statement.

In accordance with and under authority granted by the Board of Directors, the Finance Officer for the Borrego Water District is responsible for investing the unexpended cash in the District Treasury. The investment of the funds of the Borrego Water District is directed to the goals of safety, liquidity and yield. The authority governing investments for municipal governments is set forth in the California Government Code, Sections 53601 through 53659.

The primary objective of the investment policy of the Borrego Water District is SAFETY OF PRINCIPAL. The secondary objective shall be to meet the liquidity needs of the Borrego Water District. The third objective shall be to achieve an investment return on the funds under control within the parameters of prudent risk management, consistent with the constraints imposed by its safety objective and cash flow considerations.

Investments shall be placed in those securities as outlined by type and maturity sector as outlined in the District's Investment Policy (For most recent version see borregowd.org or call 760-767-5806).

Effective cash flow management and resulting cash investment practices are recognized as essential to good fiscal management and control. Borrego Water District's portfolio shall be designed and managed in a manner responsive to the PUBLIC TRUST and consistent with state and local law. Portfolio management requires continual analysis and as a result the balance between the various investments and maturities may change in order to give the Borrego Water District the optimum combination of necessary liquidity and optimal yield based on cash flow requirements.

Officers and employees involved in the investment process shall refrain from personal business activity that conflicts with proper execution of the investment program, or impairs their ability to make impartial investment decisions. Additionally, the District Finance Officer is required

to annually file financial disclosures as required by the Fair Political Practices Commission (FPPC). All officers and employees involved in the investment of public funds are required to comply with the District's Conflict of Interest Code.

The Borrego Water District investment policy shall be adopted by resolution of the District Board of Directors on an annual basis (California Government Code 53646(a)). This investment policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity and yield, and its relevance to current law and financial and economic trends. Any amendments to the policy shall be forwarded to the Board of Directors for approval.

§ 6003 Debt Management Policy

A. Debt Management Summary

The District's overriding goal in issuing debt is to respond to and to provide for the infrastructure and capital project needs of its customers while ensuring that debt is issued and managed prudently in order to maintain a sound fiscal position and protect credit quality. The District issues debt instruments, administers District-held debt proceeds and makes debt service payments, acting with prudence, diligence, and attention to prevailing economic conditions.

This policy documents the District's goals for the use of debt instruments and provides guidelines for the use of debt for financing the District infrastructure and project needs.

Debt will be used to finance projects (i) if it meets the District's goal of equitable treatment of all customers, both current and future, (ii) if it is cost-effective to the District, and (iii) if it is fiscally prudent, responsible, and diligent under the prevailing economic conditions. The District will endeavor to pay for all infrastructure and other projects from an appropriate combination of current revenues, available reserves, and prudently issued debt.

The District's debt management policy is designed to:

- Establish parameters for issuing debt;
- Provide guidance to decisions makers;
- Document the objectives to be achieved by staff both prior and subsequent to issuance;

- Promote objectivity in the decision-making process;
- and
- Facilitate the financing process by establishing important policy decisions in advance.

The District will adhere to the following legal requirements for the issuance of public debt:

- State law authorizing debt issuance;
- Federal and state laws and regulations governing taxable and tax-exempt debt;
- Federal and state securities laws and regulations governing disclosure, sale and trading of debt instruments.

B. General Management Policies

In recognition of periodic changes in the cost of providing service to system users, service costs and fees will be reviewed annually and adjusted as necessary. Any proposed adjustments to existing rates, fees and charges will be presented at public meetings. All District debt proceeds will be invested according to the Annual Statement of Investment Policy of the District and according to the issuing debt documents.

Necessary funding requirements for annual debt service requirements will be included in the District's annual budget.

The District will maintain proactive communication with the investment community, including rating agencies, credit enhancers, reporting agencies, and investors, to maximize future capital market access at the lowest possible rates.

C. Financial Management Policies

The District evaluates each capital project in relation to established levels of reserves, current rate structure, expected asset life/replacement timeline, available revenue sources, and other priorities. The District strives to ensure that adequate financial resources are available to support the District's financial obligations. The following policies outline the District's approach to debt management. The District will evaluate financing for each capital project on a case-by-case basis.

The District will seek to pay for all capital projects from current revenues and available reserves prior to or in combination with the use of debt.

The District will issue debt when there is an identified source of repayment. Debts will be issued to the extent that (i) projected future revenues are sufficient to pay for the proposed debt service together with all existing debt service covered by such fixed revenues, or (ii) additional projected revenues have been identified as a source of repayment in an amount sufficient to pay for the proposed debt.

User Fees and Water Rates will be set in compliance with State law at adequate fair and nondiscriminatory levels. Fees and rates must generate sufficient revenues to pay all Operating and Maintenance costs, to maintain sufficient operating and rate stabilization reserves, maintain balances in the rate stabilization fund and to pay any debt service costs.

To the extent permitted by law property taxes may be also utilized to finance a portion of annual debt service payments.

D. Debt and Capital Management Debt Policies

The following policies formally establish parameters for evaluating, issuing, and managing the District's debt. The policies outlined below are not intended to serve as a list of rules, but rather to serve as a set of guidelines to promote sound financial management.

1. Standards for Use of Debt Financing. When appropriate, the District will use long-term debt financing to: achieve an equitable allocation of capital costs/charges between current and future system users; to provide more manageable user rates in the near and medium term; and to minimize user rate volatility.

For growth-related projects, debt financing will be utilized, as needed, to better match the cost of anticipated facility needs with timing of expected new connections to the system and to better spread the costs more evenly between current and future users.

For betterment repair and replacement projects, debt financing may be used to better match the anticipated need and costs with available funds on hand. Capital projects financed through debt issuance will not be financed for a term longer than the expected useful life of the facility permitted by the Internal Revenue Service. The debt repayment period, as well as the outstanding principle balance, should be less than or equal to the useful life and depreciated value of the related capital improvements.

Lease Agreements, Installment Sale Agreements and Certificates of Participation shall be considered as alternative forms of long-term debt. Although these forms of alternative

financing are subject to annual funding requirements, they shall be treated as long-term debt until maturity.

2. Financing Criteria. Each debt issuance should be evaluated on an individual basis within the framework of the District's long-term financial plan, as well as within the context of the District's overall financing objectives and current market conditions.

The District will evaluate alternative debt structures (and timing considerations), selecting the structure that best meets the District's needs based on prevailing market and infrastructure conditions.

Credit Enhancement. The District will consider the use of credit enhancement on a case-by-case basis, and use it only when clearly demonstrable savings can be realized.

Call Provisions. The District securities should evaluate the cost in relation to the benefits associated with issuing debt with optional call provisions. In many cases the District should avoid the sale of non-callable, long-term fixed rate debt, but each new issue should be evaluated based on all market factors.

Additional Bonds Test/Rate Covenants. The amount and timing of debt will be planned to comply with the additional bonds tests and rate covenants outlined in the appropriate legal and financing documents, and these policies.

Short-Term Debt. The District may utilize short-term borrowing to serve as a bridge for anticipated revenues, construction financing or future debt capacity.

Use of Variable Rate Debt. The District should evaluate market factors before using variable rate debt. Variable rate debt should only be issued if it can be converted to a fixed rate. If it is not convertible the District should consider hedging its variable rate position, establishing an interest rate cap, or other appropriate means to limit the maximum interest amount owed by the District.

3. Refinancing and Outstanding Debt. The District shall have the responsibility to evaluate potential refunding opportunities presented by its financial advisor. The District should consider the following when analyzing potential refinancing opportunities:

Debt Service Savings. The District's minimum target savings level is 3% of the par amount refunded on a net present value (NPV) basis. NPV savings should be evaluated on a case-by-case basis, and should take into consideration:

- the value of the call option,

- the time to maturity,
- size of the issue,
- current interest rate environment,
- annual cash flow savings.

The decision to take all savings upfront or on a deferred basis must be explicitly approved by the Board of Directors.

Restructuring. The District may seek to refinance a debt issue on a non-economic basis, in order to restructure debt, to mitigate irregular debt service payments, accommodate revenue shortfalls, release reserve funds, comply with and/or eliminate rate/debt covenants, terminate a swap, or for other reasons as approved by the Board.

Term/Final Maturity. The District may consider the extension of the final maturity of the refunding debt in order to achieve a desired outcome, provided that such extension is legal. The term of the debt should not extend beyond the reasonably expected useful life of the asset being financed. The District may also consider shortening the final maturity of the debt. The remaining useful life of the assets and the concept of inter-generational equity should guide these decisions.

Escrow Structuring. The District shall utilize the most cost effective securities available in structuring each escrow. If purchased from a third party agent who is not acting as a broker-dealer, a certificate is required stating that the securities were purchased through an arms-length, competitive bid process (in the case of open market securities), that such securities were more cost effective than State and Local Government Series Securities (SLGS), and that the price paid was reasonable and within Federal rules and regulations.

When evaluating the economic viability of an economic versus legal defeasance, the District shall take into consideration both the financial impact on a net present value basis as well as the rating/credit impact. The District shall take all necessary steps to optimize the yield on its refunding escrow investments, while attempting to avoid negative arbitrage to the extent permitted by Federal rules and regulations.

4. Method of Issuance. The District will determine, on a case-by-case basis, whether to sell its debt competitively or through negotiation.

Competitive Sale. In a competitive sale, the District's debt shall be awarded to the bidder providing the lowest true interest cost ("TIC"), as long as the bid adheres to requirements set forth in the official notice of sale.

Negotiated Sale. The District recognizes that some securities are best sold through negotiation. In consideration of a negotiated sale, the District shall assess the following alternatives:

- Issuance of variable rate or taxable debt;
- Complex structures or credit considerations (such as non-rated debt), which require a strong pre-marketing effort. Significant par value, which may limit the number of potential bidders. Unique/ proprietary financing mechanisms (such as a financing pool), or specialized knowledge of a financing mechanism or process;
- Market volatility, such that the District would be better served by flexibility in the timing of its sale in a changing interest rate environment;
- When the financial advisor has identified new financing opportunities or presented alternative structures that may financially benefit the District;
 - As a result of an underwriter's familiarity with the project/financing, that enables the District to take advantage of efficiency and timing considerations.

Private Placement. From time to time the District may elect to issue debt on a private placement basis. Such method shall be considered if it is demonstrated to result in cost savings or provide other advantages relative to other methods of debt issuance, or if it is determined that access to the public market is unavailable and timing considerations require that a financing be completed.

5. Market Communication, Debt Administration and Reporting Requirements.

The G.M. or his/her designee shall be responsible for the following:

Continuing Disclosure. Ensuring the District's timely filing with each Nationally Recognized Municipal Securities Information Repository. The District shall remain in compliance with Rule 15c2-12 by filing its annual financial statements and other financial and operating data for the benefit of its debtholders within 270 days of the close of the fiscal year as outlined in section 2870 of the District Administrative Code.

Record-Keeping. Retaining copies of all debt-related records at the District's offices. At a minimum, these records shall include all official statements, bid documents, debt documents / transcripts, resolutions, trustee statements, leases, and title reports for each District financing

(to the extent available). To the extent possible, the District shall retain an electronic copy of each document for the life of the debt issue.

Arbitrage Rebate. Ensuring that all debt proceeds and investments are tracked in a manner which facilitates accurate calculation. If a rebate payment is due, make payments in a timely manner. The use of debt proceeds and their investments must be monitored to ensure compliance with all Internal Revenue Code Arbitrage Rebate Requirements.

Tax Certificates. The District shall incorporate the provisions of each tax certificate for each debt issue into its debt management procedures. The District will comply with applicable Federal tax rules and regulations. The District will comply with any arbitrage rebate requirements required by tax certificates as they relate to each tax exempt debt issue.

Internal Controls Related to Bond Proceeds. The District shall invest the proceeds of bond sales, until used for the intended project(s) in order to maximize utilization of the public funds. The investments will be made to obtain the highest level of 1) safety, 2) liquidity, and 3) yield, and may be held as cash. The District's investment guidelines and bond indentures will govern objectives and criteria for investment of bond proceeds. The F.O. will oversee the investment of bond proceeds in a manner to avoid, if possible, and minimize any potential negative arbitrage over the life of the bond issuance, while complying with arbitrage and tax provisions. Bond proceeds will be deposited and recorded in separate accounts/programs to ensure funds are not comingled with other forms of District funds. The District's Trustee or F.O. will administer the disbursement of bond proceeds pursuant to each certain Indenture of Trust or Fiscal Agent Agreement, respectively. To ensure proceeds from bond sales are used in accordance with legal requirements, invoices should be approved by the Finance & Accounting Department and/or General Manager for payment. Requisition for the disbursement of bonds funds will be approved by the General Manager or designated alternate. Responsibility for general ledger reconciliations and records is segregated from the invoice processing, cash receipting, and cash disbursement functions. The Accounting Department will be tasked with monitoring the expenditure of bond proceeds to ensure they are used only for the purpose and authority for which the bonds were issued and exercising best efforts to spend bond proceeds in such a manner that the District will meet one of the spend-down exemptions from arbitrage rebate.

§ 6004 Disclosure Policy

Initial Disclosure Requirements.

The G.M., in consultation with financial advisor(s) will determine appropriate disclosure methods for initiating debt based on the method selected.

§ 6005 Reserve Policy

The purpose of the Borrego Water District's Reserve Policy is to ensure that the District will at all times have sufficient funding available to meet the operating, capital, and debt service cost obligations, as well as to provide for stable water and wastewater rates to minimize rate shock on customers.

Adequate reserves and sound financial policies promote BWD's bond ratings in the capital markets and lower the cost of capital, provide financing flexibility, as well as help avoid potentially restrictive debt covenants. This Reserve Policy shall cover all reserve funds of the District.

The Borrego Water District reserve policy shall be adopted by resolution of the District Board of Directors. This Reserve policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity and yield, and its relevance to current law and financial and economic trends. Any amendments to the policy shall be forwarded to the Board of Directors for approval. (For most recent version see borregowd.org or call 760-767-5806).

The District's Financial Officer and/or the General Manager will present the status of the cash reserves and a plan to reach reserve targets within Funding Timeframe Goals at least annually to the Budget and Finance Committee and the Board of Directors. Available cash reserves for the sake of this policy shall constitute total cash and investments not externally restricted for other purposes. Each reserve target listed in this Policy is calculated and applicable for both Water and Wastewater Funds.

Reserve categories include the following, plus any other reserves as assigned by the Board of Directors;

Debt Reserves. Reserves equal to the annual principal and interest (P&I) for the respective debt obligations of the District shall be formally transferred and restricted in accordance with all legal requirements.

System Growth Reserves. These reserves generated from development charges for new water and sewer service as specified by the District's Policy for Water and Sewer Service to New Developments in effect, as amended from time to time, are used to offset capital projects or debt service related to new development in the District so that new development pays for itself rather than requiring a subsidy from existing ratepayers.

Operating or Working Capital Reserves. The purpose of an operating reserve is to have cash on hand for the continued day-to-day operations of the utility. The Operating Reserve may be used for cash flow purposes to fund necessary expenses without the need to wait for billed revenue to come in as well as any unexpected increases in operating expenses. The amount of the Operating Reserve is commonly pegged to a certain percentage of the utility's total operating expenses. The set percentage is usually dictated by the utility's bill frequency; if customers are billed on a monthly basis, then revenue continuously comes in and the need to have a significant amount of funds within the Operating Reserve may not be necessary. Based on industry standards, the Operating Reserve, in the case of monthly billing, should equal around 90 days of expenses (3 months). If the billing frequency is less frequent or there are revenue receipt delays due to other contingencies, the Operating Reserve may be increased to account for the time delay of receiving cash on hand. The Operating or Working Capital Reserve shall be a minimum reserve of no less than 90 days of Operating and Maintenance (O&M) annual expenses, with an ideal Operating Reserve target of 120-days of annual O&M expenses.

Rate Covenant Stabilization Funds. These reserves include the Sewer Enterprise Rate Covenant Stabilization Fund and the Water Enterprise Rate Covenant Stabilization Fund. The purpose of these reserves are used to stabilize water and sewer revenues in order to maintain adequate debt coverage ratios required by the District's lenders. These reserve funds shall be maintained at level of twenty-five (25%) of the current years' debt service payments.

Contingency Reserves. The purpose of this reserve is to accommodate unexpected operational changes, legislative impacts or other economic events that may affect the District's enterprise operations, which could not have been reasonably anticipated at the time the budget was prepared. The target level for this reserve is a minimum of five percent (5%) and a maximum of ten percent (10%) of the District's total enterprise-wide operating expenses. Generally, the level will be increased as the level of economic uncertainty increases.

Capital Repair and Replacement Reserve (Capital Reserve). A Capital Repair and Replacement Reserve is used primarily to meet and ensure the timely construction of necessary capital improvements without any delays due to cash flow concerns. Capital expenses can fluctuate quite a bit from year-to-year and the Capital Reserve may be leveraged to smooth out significant changes in expenses and; thereby, avoiding any unduly rate shocks to District customers. It may also serve as collateral and reassurance when awarding a construction contract. The Capital Reserve shall have a target equal to the greater of (i) \$1,000,000 and (ii) the budgeted pay-go needs in the following fiscal year for the water infrastructure repair and replacement (R&R) and sewer and wastewater infrastructure repair and replacement (R&R).

Water Supply Purchase Reserve (Supply Reserve). The District will need to purchase Baseline Pumping Allocation (BPA) from Subbasin pumpers to meet its supply requirements

established under SGMA and the Borrego Springs Subbasin California Superior Court Adjudicated Judgment. The District hopes to use grants and/or bank debt to accomplish these purchases. However, BPA may become available in the market on the sellers' timeframe, not necessarily the District's. It would also potentially be financially imprudent for the District to wait until the last moment to purchase BPA before penalties are assessed by the Watermaster for exceeding the District's annual pumping allocation limit. For these reasons, the Board shall dictate the requirements of any Water Supply Purchase Reserve as it sees fit.

Emergency Reserve. Catastrophic events may occur that require substantial investments to replace damaged assets. Some examples of catastrophic events include earthquakes, wind storms, floods, ransomware exploits or hacking that impacts the District's digital networks, health emergencies, etc. Some of these catastrophic events may allow the utility to recover the cost of damages from FEMA or existing insurance policies. However, FEMA or insurance policy coverage reimbursements may take between 6 months to 2 or more years to recover. The utility should ensure adequate cash reserves exist to replace the assets in a timely fashion and to arrange short term financing options. The minimum reserve levels are sometimes combined with emergency funding from banks or bonding agencies. The percent of the minimum cash reserves are dependent on the replacement cost of capital assets in service and the level of risk of catastrophic type events. The Emergency Reserve policy target level will equal 2% of the replacement cost of the District's capital assets.

§ 6006 Miscellaneous Policies – Rates, Fees & Charges

The District maintains the BWD Rates, Fees & Other Charges document listing all current rates, fees and other charges. For most recent version see borregowd.org or call 760-767-5806.

§ 6007 Bank Accounts/Signatories

The District will designate check signing authority for all bank accounts and so inform the bank used by the District on forms approved by the bank. All checks shall require two signatures. Checks are generally signed by the General Manager and the Board Treasurer, however, the Executive Administrative Assistant, Finance Officer and/or any member of the Board may sign in the event the General Manager and/or Board Treasurer are unavailable. The General Manager or Finance Officer may authorize electronic payments if expenditures were previously approved according to the appropriate staff or Board level per the Purchase Policy.

§ 6008 Capital Improvements Financing Plan

The District has prepared and adopted a Capital Improvements Financing Plan that will enable the District to adequately meet the rapidly increasing demands for water, sewer, and wastewater treatment services. The document is a plan for raising the funds to meet these demands in a manner that is fair and equitable to new and existing customers.

The District's Capital Improvements Financing Plan, by this reference, is incorporated herein (For most recent version see borregowd.org or call 760-767-5806).

§ 6009 Capital Asset Policy

Purpose.

The purpose of this policy is to establish control and accountability measures to ensure careful and responsible management of District 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).

Definitions.

Fixed Assets: 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.

Capital Outlay Expenditure: an individually significant acquisition of capital assets (not involving construction) that is expected to last more than five years and have an individual cost of \$25,000 or more. This threshold should be applied at the individual asset level. Group purchases of individual assets under \$25,000 should not be capitalized, even if the group purchase totals to more than \$25,000. Approval of Capital Outlay expenditures will follow the purchasing policy as outlined in the Districts Purchasing Policy.

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.

Capital Improvement Project Expenditure: an individually significant construction project with a cost of \$100,000 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 Capital Improvement Project expenditures will follow the purchasing policy.

Asset Classes

- Land
- Construction in Progress
- Water Rights
- Infrastructure – Water
- Infrastructure – Wastewater
- Buildings and Structures
- Vehicles and Equipment
- Miscellaneous

Capitalization Threshold

The District maintains a capitalization threshold as follows:

- Land is not subject to capitalization thresholds (All Land Purchases, regardless of cost, are capitalized and are nondepreciable)
- Water Rights are not subject to capitalization thresholds (All Water Right Purchases, regardless of cost, are capitalized and are non-depreciable)
- Infrastructure, Buildings and Structures \$100,000
- Vehicles, Machinery, Equipment and Other \$25,000

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 30-40 Years
- Transmission and distribution 50-100 Years
- Meters 10-20 Years
- Wastewater treatment 30-40 Years
- Wastewater collections 50-100 Years

- Wastewater pumping 20-40 Years
- Transportation equipment and vehicles 10-15 Years
- Studies, tools, equipment 5-10 Years

Disposal of Surplus Items

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 District's standards and/or specifications. Please refer to Section Surplus Materials Property.

Physical Inventory of Fixed Assets

The District should account for and inventory all assets at least once every three years.

Leased Assets

The Governmental Accounting Standards Board (GASB) issued a standard that was implemented July 1, 2021 (GASB 87). The objective of this new standard was to better meet the information needs of financial statement users by improving accounting and financial reporting for lease purchases by governments. GASB 87 defines the scope of leased assets as non-financial assets, such as land, buildings, equipment, and vehicles. Certain non-financial asset-based lease agreements are out of scope, such as leases of intangible assets, biological assets, and inventory. All capital lease purchases are to be evaluated to determine if they meet the GASB 87 definition of a lease in order to comply with reporting requirements
comply with reporting requirements.

Policy Review

This policy must be reviewed periodically to ensure careful and responsible management over District resources.