

July 1st, 2016

**MEMORANDUM OF UNDERSTANDING**

**Between The**

**RESORT IMPROVEMENT DISTRICT NO. 1**

**And**

**Local 1245 of the  
International Brotherhood of Electrical Workers, AFL-CIO**

**July 1, 2016 Through June 30, 2019**

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**ARTICLE 1.           PARTIES TO THE AGREEMENT**

This Memorandum of Understanding (MOU) has been executed by an authorized representative of the Resort Improvement District No. 1 and Shelter Cove Sewer and Other Facilities Maintenance District No. 1 of Humboldt County (hereafter referred to as "DISTRICT"), and by representatives of Local 1245 of the I.B.E.W., AFL-CIO (hereafter referred to as "UNION").

**ARTICLE 2.           AUTHORIZED AGENTS**

For the purposes of administering the terms and provisions of this Memorandum of Understanding, the following authorized agents have been designated:

- 2.1.    The District's authorized agent shall be the General Manager or his/her authorized representative. All notices required by this MOU shall be sent to the District at the following address:

Resort Improvement District #1  
9126 Shelter Cove Rd.  
Whitethorn, CA 95589

- 2.2.    The Union's principal authorized agent shall be the Business Manager, or his/her duly authorized representative of the Union. All notices required by this MOU shall be sent to the Union at the following address:

Local Union 1245, I.B.E.W., AFL-CIO  
30 Orange Tree Circle  
Vacaville, CA 95687

**ARTICLE 3.           RECOGNITION**

- 3.1.    The Union is hereby acknowledged as the exclusive formal recognized employee organization representative of full-time employees in the classifications listed in Exhibit "A" for the purpose of meeting and conferring in good faith under the auspices of Section 3500 et seq. of Government Code of the State of California and the District's Resolution 93-05 governing employer-employee relations and any amendments thereto.
- 3.2.    The Union may select one Steward and one Alternate Steward (which may be changed at the Union's discretion) and shall provide written notification to the District of the Steward's identity.

**ARTICLE 4.            UNION RIGHTS**

4.1     Dues

Any employee who is a member of the Union, or who has applied for membership, may sign and deliver to the District an assignment authorizing deduction of unified membership dues, initiation fees and general assessments in the Union. Pursuant to such authorization, the District shall deduct such dues from the regular salary check of the employee each month.

4.2.    Agency Fee

Any employee within thirty (30) days from the date of commencement of his/her employment duties, shall as a condition of continued employment, become a member of the Union or pay to the Union a fee in an amount equal to membership dues, initiation fees and general assessments, payable to the Union; however, the employee may authorize payroll deduction for such fee in the same manner as provided in paragraph 4.1 of this Article. In the event that an employee shall not pay such fee directly to the Union or authorize payment through payroll deductions, as provided in paragraph 4.1, the Union shall so inform the District, and the District shall immediately begin automatic payroll deductions in the same manner as set forth in Paragraph 4.1 of this Article. There shall be no charge to the Union for such mandatory agency fee deduction.

4.3.    Religious Beliefs

4.3.1. Any unit member who is a member of a religious body whose traditional tenets or teaching include objections to joining or financially supporting employee organizations shall not be required to join or financially support the Union as a condition of employment; except that such employee shall pay, in lieu of a service fee, sums equal to such service fee to one of the following non-religious, non-labor organizations, charitable funds exempt from taxation under Section 501(c)(3) of Title 26 of the Internal Revenue Code:

- United Way
- American Cancer Society
- American Heart Association
- A charity, as defined above, of the unit member's choice

Such payment shall be made on or before October 15 of each year.

4.3.2. Proof of payment pursuant to paragraph 4.3.1 above shall be made on an annual basis to the District as a condition of continued exemption from the provisions of paragraph 4.1 and 4.2 of this Article. Such proof shall be in

the form of receipts and/or canceled checks indicating the amount paid, date of payment, and to whom payment in lieu of the service fee has been made. Such proof shall be presented on or before October 15, of each year. The Union shall have the right of inspection in order to review said proof of payment.

- 4.3.3. Any unit member making payments as set forth in paragraphs 4.3.1 and 4.3.2 above, and who requests that the grievance or arbitration provisions of this agreement be used in his or her behalf, shall be responsible for paying the reasonable cost of using said grievance or arbitration procedures.

#### 4.4. District Responsibilities

With respect to all sums deducted by the district pursuant to authorization of the unit member, whether for membership dues or equivalent fees, the District agrees promptly to remit such monies to the Union together with an alphabetical list of unit members for whom such deductions have been made, categorizing them as to membership or non-membership in the Union, and indicating any changes in personnel from the list previously furnished.

#### 4.5. Union Responsibilities

The Union agrees to furnish any information needed by the District to fulfill the provisions of this Article.

#### 4.6. Indemnification and Hold Harmless

- 4.6.1. The Union agrees to pay to the District all reasonable legal fees and legal costs incurred by the District in defending against any court action and/or administrative action challenging the legality or constitutionality of the agency fee provisions of this Agreement or their implementation. The Union agrees that payments under this provision shall be made on a semi-annual basis.
- 4.6.2. The Union agrees to indemnify and hold the District harmless from any award or judgment which may result from a court action or administrative action referenced in 4.6.1 above.
- 4.6.3. The Union shall have the exclusive right to decide and determine whether any such action or proceeding referred to in paragraph 4.6.1 or 4.6.2 shall or shall not be comprised, resisted, defended, tried or appealed.

**ARTICLE 5.            DISTRICT'S RIGHTS AND RESPONSIBILITIES**

- 5.1. District retains, solely and exclusively, all rights, powers and authority necessary to govern and control the activities of the District and the employer/employee relationship except to the extent these powers have been limited by the express terms of this MOU.
  
- 5.2. The exclusive rights, powers and authority of the District include, but are not limited, to the following:
  - 5.2.1. To manage and direct its business and personnel;
  - 5.2.2. To manage, control and determine the mission of its departments, building facilities and operations;
  - 5.2.3. To create, change, combine or abolish jobs, departments and facilities (in whole or in part) and to discontinue work for economic or operational reasons;
  - 5.2.4. To direct the work force, to increase or decrease the work force and determine the number of employees needed;
  - 5.2.5. To hire, transfer, and promote;
  - 5.2.6. To discipline for cause;
  - 5.2.7. To establish work standards, schedules of operation and reasonable work load;
  - 5.2.8. To specify work requirements and to require overtime;
  - 5.2.9. To adopt rules of conduct and establish penalties for violation thereof;
  - 5.2.10. To determine the type and scope of work to be performed, the services to be provided, and to determine the methods, processes, means and places of providing services, including contracting out certain services; and
  - 5.2.11. To take whatever action may be necessary to prepare for and operate in an emergency. Included in the exclusion of the MOU.

- 5.3. Nothing in this Article shall be construed to limit, amend, decrease, revoke or otherwise modify the rights vested in the District by any law or regulation which authorizes or empowers the District to act, or to refrain from acting; provided, however, that all District powers are executed so as to be compatible with the intent of this MOU, and any current/valid side letters, grievance settlements or written MOU clarifications.

**ARTICLE 6. SEVERANCE PROVISION/ MEET AND CONFER**

- 6.1 If any provision(s) of this MOU is held to be contrary to law by a court of competent jurisdiction, such provision(s) will no longer be operative except to the extent permitted by law or an agency of the State. If at any time during the term of this Agreement, any provision of the current MOU becomes in conflict with any Federal or State law, changed, suspended, declared inoperative by any reason, or impacted by provisions of the Internal Revenue Service, the parties shall meet and confer with the intent of negotiating a substitute provision and any other related provisions.

6.1.1. The Parties shall, however, meet and confer on a mutually acceptable day and time to negotiate the terms of a lawful substitute provision which (to the extent practicable) will reflect the original intent of the parties.

6.1.2. All other provisions of this MOU will continue in full force and effect.

**ARTICLE 7. WORK SCHEDULE**

- 7.1. General

Every employee shall perform such services as may be directed by the District even though the work may be of a different nature from that which the employee is normally assigned. In no case will the employee be required to perform duties that he/she is not safety qualified to perform.

- 7.2. Work Week

The work week of full-time employees covered by this MOU shall be 40 hours within a calendar week which begins at 12:01 a.m. on Monday and ends at midnight on Sunday.

- 7.3. Regular Hours of Work



The regular hours of work each day shall be eight consecutive hours except for interruptions for breaks and unpaid lunch period. By mutual agreement by the majority of the affected employees, subject to approval by the District, an alternative work schedule may be adopted.

#### 7.4. Shift Changes

Employees will normally be given at least five work days advance notice of any shift change except where an emergency exists.

7.4.1. If a District initiated shift change results in a full-time employee working less than forty (40) hours in the week preceding, or succeeding, the shift change, the employee shall be compensated for a full forty (40) hour work week at straight-time for the affected week.

7.4.2. If five work days are not given, only the first day of the new shift will be paid at the overtime rate except in emergencies.

#### 7.5. Overtime

Overtime is defined as (a) time worked in excess of forty (40) hours in a workweek, (b) time worked in excess of eight hours on a workday, (c) time worked on a non-workday, (d) time worked on a holiday, (e) time worked outside of regular work hours on a workday. In general, overtime compensation at the rate of one and one-half times the straight rate of pay shall be paid to employees for overtime as defined in (a), (b), (c), (d), and (e). Overtime compensation of two times the straight rate of pay for all hours worked in excess of 48 hours in a work week shall be paid to employees.

If an employee has worked for eight hours or more at the overtime rate during the previous 16 hour period preceding the beginning of the employees regular work hours on a workday, such employee shall be entitled to a rest period of eight consecutive hours on the completion of such overtime work.

#### 7.6. Operational Needs, Last Four Days of the Month

Given the operational needs that occur during the last four (4) days of every month, vacation and/or personal time off requests shall be kept to a minimum and are subject to approval by the General Manager with at least two weeks prior notification to the first day off. Routine medical appointments that must be scheduled during the last four (4) days of the month are subject to prior General Manager Approval, however, emergency medical, dental, vision or veterinary appointments will be approved.

**ARTICLE 8.           COMPENSATION**

8.1.   Wages

Each employee in the bargaining unit shall be paid in accordance with the provisions set forth in Exhibit "B-1".  
Merit increases will be controlled by the evaluation process.  
The wage range table and all wages will be adjusted annually by the agreed COLA (Northern California Department of Labor Consumer Price Index on April 30th of each year).

8.1.1 Incentive Award

As an alternative or in addition to annual salary and/or merit pay increases in this section and in Exhibit B-1, employees earning an annual evaluation rating of "Highly Successful" or "Outstanding" will be eligible for a one-time annual Incentive Award of 3 to 5(three to five) percent of the employee's base salary. The General Manager determines award amount based on annual evaluation rating. All Incentive Awards must be approved by the RID#1 Board of Directors.

8.2.   Stipends

An annual clothing allowance of \$275.00, will continue through the term of this M.O.U.

8.3.   Promotions

When an employee is promoted to a higher classification, he/she shall receive the salary rate established for the new classification. Any employee promoted to a higher classification shall receive an increase in pay. The wage increase shall be determined by the General Manager. No promotion to a higher classification will be allowed unless there is a vacancy for that classification. Superintendents are appointed by the General Manager and not automatic promotions for meeting minimum qualifications.

8.4.   Call Back

8.4.1. Call Back is defined as being called back to work outside the employee's regularly scheduled work period.

8.4.1.1.       Each employee shall provide the District with a valid home phone number where they can be contacted when off duty.

8.4.1.2. If the employee is contacted by the District and directed to report for duty, the employee shall respond to the location directed as soon as reasonably possible.

8.4.2. If the employee is required by the District to respond to a Call Back service call, the employee shall be compensated for actual hours worked or three (3) hours, whichever is greater, at the appropriate FLSA rate of pay.

## 8.5. On Call

8.5.1. An employee assigned to "On Call" duty shall be available for telephone contact through a District-provided paging service at all times.

8.5.1.1. If the paging service is inoperative or unavailable, the employee shall provide the District with a phone number where the employee can be contacted while on "On Call" status.

8.5.1.2. When contacted for service, the employee shall report to the location the service is required as soon as reasonably possible. In no case shall this be longer than two (2) hours from the time of original contact.

8.5.2. If the On Call employee lives within the District, he/she will be provided with a District vehicle. Employees who live outside Shelter Cove may use the specific District vehicle assigned by the General Manager for stand-by duty transportation. Use of the District vehicle will be restricted to official use only and the benefit can be revoked by the General Manager for violations of this policy.

8.5.3. If the On Call employee lives outside the District boundaries, and is required to respond to the District to render service, he/she will be reimbursed for the mileage traveled in his/her private vehicle in accordance with Article 8.9.

8.5.3.1 Mileage shall be paid from the employee's home to the location of the required service and return to home.

8.5.3.2. If the service call extends into their regular scheduled work day, they shall receive mileage reimbursement only for responding to the call and not for travel home.

8.5.4. On Call personnel shall receive \$45.00 stand-by pay for each 24 hour shift of on call duty for the duration of this M.O.U.

8.5.4.1. In addition, if the On Call employee is required to respond to a call for service, he/she shall receive a minimum of two (2) hours compensation at the appropriate FLSA hourly rate of pay. If the service call extends beyond the first two (2) hours, the employee shall be paid for actual hours worked at the appropriate FLSA rate of pay.

## 8.6. Court Time

Employees required to appear in court on behalf of the District during their off duty hours, shall be paid (or, with consent of the employee and the District, may receive compensatory time off) for the number of hours they were required to spend in court.

## 8.7. Jury Duty

### 8.7.1. General

Employees shall be entitled to leave without loss of pay for any time that the employee is actually required to perform jury duty.

### 8.7.2. Verification

To receive pay for work time lost, the employee must provide the District with Juror Validation, as provided by the Court, certifying the employee's service as a juror or appearance in court for that purpose and the date or dates of attendance.

### 8.7.3. Notification/Return to Work

If the jury duty occurs on the same day as the employee's scheduled duty assignment, the employee will file written notification of the required service with the District and shall report directly to the assigned jury duty location. If employee is released from jury duty during normal working hours, he/she shall report to the General Manager who shall determine whether or not he returns to work that day. If excused by the General Manager, he/she shall remain in paid status for jury duty.

## 8.8. Witness

Employees who are subpoenaed to testify in any judicial or administrative proceeding as a witness in which the District has no interest and is not a party, shall be considered in an unpaid status, unless the employee requests to use his/her accrued vacation leave for the period of time he/she will be a witness.

8.9. Use of Private Vehicle

8.9.1. When an employee is authorized by the Board of Directors to use his/her personal vehicle in the performance of District work, he/she shall be reimbursed for miles actually driven on District business at the rate specified in the Internal Revenue Service Guidelines in effect at the time of said usage.

8.9.2. Use of personal vehicles shall not be authorized for the performance of District work if a suitable District vehicle is available.

8.9.3. No employee shall operate a privately owned vehicle on District business, nor be eligible for reimbursement, unless the following conditions are met:

8.9.3.1. Possession of a valid driver's license.

8.9.3.2. Vehicle is covered by the minimum amount of liability insurance prescribed by law.

8.9.3.3. Vehicle is appropriate for the job to be performed.

8.9.3.4. Vehicle is in safe mechanical condition, including safety belts in operating condition.

8.9.3.5. Operation in compliance with all state safety laws and regulations.

8.10 Lodging/M Meal Allowance

8.10.1. Authorized travel expenses will be compensated at the rates adopted by District Policy 1040, Per Diem Rates and Expenditures, at the time expenses are accrued. A copy of the existing rates is available in the District Office.

8.10.2. If an employee is required to work prior to regular work hours and was not permitted to prepare a lunch, the employee shall be reimbursed consistent with District Policy 1040.

**ARTICLE 9. EMPLOYEE STATUS**

9.1 Probationary Period

9.1.1. Initial

An employee must serve a trial period of six (6) calendar months prior to achieving regular status.

9.1.2. Promotion

There is a twelve (12) month probationary period upon promotion to a new classification. However, any employee may be promoted to a different classification while serving a probationary period.

9.2. Regular

An employee who has successfully completed the specified probationary period.

9.3. Full-Time

An employee who is regularly assigned to work forty (40) hours in a week.

9.4. Seniority

Seniority shall be based upon date of hire by the District in a regular or probationary capacity in a full-time position. Ties shall be broken by lot at the time of initial employment.

9.5 “Annual Employee Evaluations” – Employees shall be evaluated annually. A satisfactory annual evaluation is required for all promotions and continued employment in the current classification. Unsatisfactory evaluations will require follow up evaluations every 30 days until a satisfactory evaluation is achieved up to a maximum of 90 days of unsatisfactory performance, which shall result in demotion or dismissal.

9.6 Satisfactory performance is defined as meeting the minimum standards and requirements of the position. Evaluations will be conducted annually by immediate supervisors and/or the General Manager prior to July 1. The General Manager will determine the final score of all annual evaluations. Evaluations will be documented by pass/fail indications on a copy of the employee's job description. Employees will qualify for a cost of living adjustment (COLA) on July 1, based on the State of California Department of Industrial Relations Consumer Price Index for Urban Wage Earners and Clerical Workers in San Francisco Oakland San Jose in April, up to a maximum of 3.0%.

9.7 Employees with pay rates below the maximum rate for their current classification (Exhibit B-1) shall be eligible for an additional 2.0% merit increase that may be awarded for outstanding performance defined as performance beyond the minimum requirements with specific examples documented in the evaluation process, or for professional advancement through an approved training program or certification established as a goal in a previous evaluation or similar employee improvement goals documented in the evaluation process. Total merit increases will not exceed 2.0% for any employee annually, but cannot result in a new pay rate that exceeds the maximum rate for the current classification. Employees with pay rates already at the maximum rate shall not be eligible for any merit increase.

**ARTICLE 10.            HOLIDAY LEAVE**

10.1. The following days shall be observed as paid holidays by all employees with regular status:

<b>HOLIDAY</b>	<b>DATE CELEBRATED</b>
New Year's Day	January 1
Martin Luther King Day	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Columbus Day	2nd Monday in October
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Day After Thanksgiving	Day immediately after Thanksgiving
Christmas Eve	December 24
Christmas	December 25
New Year's Eve	December 31

10.2. When a scheduled holiday falls on a Saturday, the previous Friday shall be the holiday. When a scheduled holiday falls on a Sunday, the following Monday will be a holiday.

10.3. When an employee is required to work on a holiday, the employee shall be paid (in addition to his/her regular straight-time pay) holiday pay at the rate of one times the employee's regular rate of pay.

10.4. Each regular employee shall be granted one day off for Christmas Eve Day and one day off for New Year's Eve Day.

10.5. Employees regularly assigned work schedules less than full-time (40 hrs/wk) shall not receive paid holiday pay or alternative paid days off for designated holidays that fall on a scheduled non-workday for that employee.



**ARTICLE 11.        VACATIONS**

- 11.1. No vacation shall be taken by any District employee until such vacation has been earned as provided in this Article.
- 11.2. No employee earns, or is credited with, vacation during the first twelve (12) full calendar months of continuous full time employment.
- 11.3. Employees earn vacation in accordance with the schedule set forth below. Where appropriate, hours of vacation earned shall be credited at the end of each month. The anniversary date for earning vacation shall be the employee’s hire date.

<b>Years of Service</b>	<b>Vacation Days</b>
<b>0-1</b>	<b>0</b>
<b>1-4</b>	<b>10</b>
<b>5-9</b>	<b>15</b>
<b>10-15</b>	<b>20</b>
<b>16 +</b>	<b>25</b>

- 11.4. Vacation shall be scheduled, in advance, on dates which are mutually acceptable to the employee and the District. The District shall not arbitrarily or capriciously deny a requested vacation. Should a vacation request be denied by the employee's immediate supervisor, the employee may appeal to the Board.
- 11.5. If vacation is to have its intended purpose of rest and relaxation, it must be scheduled and used.
  - 11.5.1. Maximum Carryover  
Each employee may carry over a maximum of the prior year's accrual into the next calendar year. On July 1 of each year any accumulated vacation time in excess of one year shall be paid in a cash buy-out at the previous year pay rate.
  - 11.5.2. Extraordinary Circumstances  
If the District requires that an employee not take vacation, vacation days in excess of the maximum carry-over allowable are accrued on June 30, the employee shall be paid for excess days on or about the first pay period in July. The payment shall be paid at the rate of pay the employee is earning as of June 30.

- 11.6. Upon separation from employment, for any reason, the employee shall be compensated for all earned and unused vacation credited to their account. Compensation shall be at the employee's base rate of pay in effect at the time of separation from employment.
- 11.6.1. It shall not be necessary to carry such an employee on the payroll for the vacation period and the vacancy thus created may be filled at any time after the employee ceases to perform the duties of his/her office or employment.
- 11.7. Should an employee die while employed by the District, earned and unused vacation at the time of death shall be paid to his/her heirs or legatees in the same manner as set forth in 11.6.
- 11.8. No vacation shall be earned during any month unless the employee is in full paid status for at least eleven (11) working days.
- 11.9. Employees may take up to five (5) days of scheduled unpaid leave, with the approval of the General Manager.

**ARTICLE 12.            ILLNESS/INJURY LEAVE**

12.1. Sick Leave

- 12.1.1. Sick leave is defined as absence from work due to the employee's illness, non-industrial injury, or quarantine due to exposure to a contagious disease. In addition, accrued sick leave may be utilized for dentist and doctor appointments provided prior notice is provided to the employee's immediate supervisor.
- 12.1.2. Employees shall earn twelve (12) days of sick leave per year. Sick leave shall accumulate without limit.
- 12.1.3. Sick leave is a privilege. It is not to be used at the employee's discretion, but shall be allowed only in case of necessity and actual sickness or disability of the employee.
- 12.1.4. In order to receive compensation while on sick leave, the employee shall notify his/her immediate supervisor prior to the time of the beginning of the regular work day, or as soon thereafter as practical.

12.1.5. The District may require confirmation of the reason(s) for the absence if the absence continues for more than three (3) consecutive work days. In addition, verification may be required at any time if sick leave usage is excessive or a pattern of atypical absences (e.g. Mondays, Fridays, etc.) emerges.

12.1.6. An employee may use a maximum amount of 40 hours of accrued sick leave in order to take care of the employee's spouse, child or parent who suffers from an illness/injury.

#### 12.1.7. Sick Leave Conversion

The District will add a sick leave conversion provision to its PERS contract so that employees may receive additional service credit at the time of retirement.

### 12.2. Family Leave

#### 12.2.1. Entitlement to Leave

Any employee with more than 12 months of service with the District and who has at least 1,250 hours of service with the District during the previous 12 month period may take up to a total of 12 weeks in any 12 month period for family care and medical leave.

#### 12.2.2. Terms of Family Care and Medical Leave

An employee shall be entitled to family care and medical leave as set forth in Government Code §12945.2.

#### 12.2.3. Use of Sick Leave

An employee shall be required to use accrued sick leave during the period of leave. However, an employee shall not use sick leave during a period of leave in connection with the birth, adoption, or foster care of a child.

#### 12.2.4. Payment of Health Premiums

The District office shall be required to maintain and pay for coverage for the duration of the leave, not to exceed 12 weeks in a 12 month period. The District may recover the premium that it paid as required by this Section for maintaining coverage for the employee under the group health plan if both the following conditions occur:

12.2.4.1. The employee fails to return from leave after the period of leave to which the employee is entitled has expired.

12.2.4.2. The employee's failure to return from leave is for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under Section 12.2 or other circumstances beyond the control of the employee.

#### 12.2.5. Advance Notice of Leave

If the employee's need for a leave pursuant to this Article is foreseeable, the employee shall provide the District with 30 days advance notice of the need for the leave.

#### 12.2.6. Health Care Provider Certification of Leave

An employee requesting leave because of the employee's own serious health condition must provide a health care provider's certification as required by Government Code §12945.2(k).

#### 12.2.7. Amendment of Statutory Law

This Article shall be deemed to be automatically modified to conform to any amendment or modification of Government Code §12945.2, the FMLA, or any other applicable law. If any such amendment gives the District discretion to require any act by the employee, the act shall be deemed to be required.

### **ARTICLE 13. FUNERAL LEAVE**

13.1. Following completion of the employee's initial probationary period, up to three (3) days of special leave with pay may be granted for the purpose of attending the funeral of a member of the employee's immediate family.

13.1.1. Advance notice to the employee's immediate supervisor shall be given as soon as possible. Except in extraordinary circumstances, approval shall be promptly granted.

13.1.2. "Immediate family" shall mean husband, wife, parent, child, grandparent, grandchild, brother, sister, father-in-law and mother-in-law.

**ARTICLE 14.        DISCIPLINARY ACTION**

14.1. Definition

Discipline, as used in this Article includes, but is not limited to dismissal, demotion, suspension, or reduction in classification without the permanent employee's voluntary consent.

This Article shall not limit the District's right to evaluate or to reprimand orally or in writing or to counsel employees. A layoff or reduction of hours, based on lack of work or lack of funds, shall not be considered discipline.

14.1.1. Permanent/Probationary

Pursuant to this Article, bargaining unit employees with permanent status shall be subject to discipline only for cause. The probationary period is an extension of the selection process. As such, a probationary employee may be terminated, at any time, at the sole discretion of the District.

14.1.2. Progressive Discipline

In accordance with the concept of "progressive discipline", counseling and an opportunity for improvement shall typically precede disciplinary action. In particular, however, this concept shall not apply in cases involving gross misconduct.

14.2. Causes for Discipline of a Permanent Employee

The District may discipline permanent employees pursuant to the following provisions:

14.2.1. The discipline shall be based upon just cause, including but not limited to:

14.2.1.1. Falsifying any information supplied to the District. This includes, but is not limited to, information supplied on application forms, employment records, time sheets or cards, absence forms or any other district records.

14.2.1.2. Incompetency or inefficiency in performance of the duties of his/her position.

- 14.2.1.3. Inexcusable neglect of duty.
- 14.2.1.4. Abandonment of position. Three days of continuous absence without leave shall be deemed abandonment and shall result in termination as a voluntary resignation.
- 14.2.1.5. Repeated and/or unauthorized absenteeism and/or tardiness, including abuse of illness or other leave provisions.
- 14.2.1.6. Commission of an act involving moral turpitude.
- 14.2.1.7. Conviction of a felony, conviction of any sex or substance abuse offense or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her position. A plea of guilty, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.
- 14.2.1.8. An act of insubordination. This shall include, but is not limited to, refusal or failure to comply with a direct order and/or to perform regular or other assigned work and/or refusal to cooperate fully.
- 14.2.1.9. While on duty, or was under the influence of, or unlawfully possessed any controlled substance.
- 14.2.1.10. Consumption of an alcoholic beverage, or an intoxicant of any kind, while on duty or in such close time proximity thereto as to cause any detrimental effect upon the employee or upon employees associated with him/her. Specifically included is carrying an alcoholic beverage or intoxicant into a District facility or onto a District property.
- 14.2.1.11. Knowingly provided, in a verbal or written manner, confidential employee and/or District records to an unauthorized person or persons.
- 14.2.1.12. Dishonesty or theft, including deliberate destruction, damage or removal of District or another person's property.
- 14.2.1.13. Unauthorized use, or misuse, of district supplies, materials, facilities or other property.

- 14.2.1.14. Willful/knowing violation of district rules, policies or procedures. This shall also include refusal to obey safety rules or regulations made applicable by any appropriate state or federal governmental agency.
- 14.2.1.15. Failure to possess or keep in effect any license, certificate, or other similar requirement required by the District for service in the employee's classification shall result in termination as a ministerial act.
- 14.2.1.16. Inexcusable, discourteous, offensive, or abusive conduct or language toward the public, a pupil, or another officer or employee of the District.
- 14.2.1.17. Conduct, either during or outside of duty hours, which negatively impacts the employee's ability to render service to the District.
- 14.2.1.18. Physical or mental disability as determined by competent medical authority, which precludes the employee from the proper performance of his/her duties and responsibilities, except as otherwise provided by contract or by law regulating retirement of employees.
- 14.2.1.19. It shall be a violation of District Policy for any employee to operate a motor vehicle or other dangerous equipment, to use prescription or non-prescription drugs during the time period beginning eight (8) hours before the onset of the work shift and continuing uninterrupted through the completion of the work shift, if such drug might impair the safe and efficient operation of equipment and/or a vehicle. (i.e. the prescription or non-prescription drug contains a warning label on the bottle or package that use of the drug may induce dizziness, sleepiness, drowsiness or might impair the user's ability to operate a motor vehicle or dangerous machinery).

### 14.3. Procedure for Imposing Disciplinary Action on an Employee

#### 14.3.1. Pre-disciplinary Safeguards

Prior to imposition of disciplinary action the district shall give written notice to the employee. This written notice of disciplinary action shall be deemed sufficient if personally delivered or sent to the employee by certified mail, return receipt requested, at least five (5) calendar days prior to the date when the disciplinary action is proposed to be effected.

#### 14.3.2. Contents of Written Notice

The contents of the written notice shall include, but need not be limited to, the following:

- 14.3.2.1. A statement, in ordinary and concise language, of the specific acts and omissions upon which the disciplinary action is based;
- 14.3.2.2. A statement of the cause, or causes, for the action taken;
- 14.3.2.3. If it is claimed that the employee has violated a rule or regulation of the District, a statement of the rule or regulation;
- 14.3.2.4. A statement of the discipline proposed, including beginning and ending date(s) if appropriate;
- 14.3.2.5. A statement that the employee may file a request for hearing before the Board of Directors directly with the General Manager or his/her designee within ten (10) work days after service of the written notice;
- 14.3.2.6. A statement that if the employee does not respond pursuant to (e) above, the District will impose the discipline as noticed.



#### 14.4. Immediate Effect

14.4.1. Notwithstanding other provisions of this Article, an employee against whom disciplinary action is to be taken may be immediately placed on administrative leave with pay upon verbal notification pending a hearing when the District determines that his/her presence would be detrimental to the welfare of the District, the public, or other employees of the District.

14.4.2. This verbal notification shall be followed by service upon the employee of the written notice as set forth in 14.3.3.

14.4.2.1. An employee may be subsequently suspended without pay after satisfaction of the "Skelly" due process requirements.

#### 14.5. Union Representation

The employee may request the presence of a Union representative at any meeting scheduled by an administrator where disciplinary action is the subject of investigative questioning.

#### 14.6. Hearing Before the Board of Directors

14.6.1. If the employee served with a recommendation for disciplinary action files a timely request for hearing, the Board of Directors may conduct such hearing itself or may appoint a designee to conduct such a hearing.

14.6.1.1. Such designees may include, but is not limited to, a hearing officer (e.g. an Administrative Law Judge obtained through the Office of Administrative Hearings).

14.6.1.2. Any decisions rendered by such a designee shall be advisory to the Board.

14.6.2. If an employee requests a hearing and subsequently fails to appear at such hearing, the employee shall be deemed to have waived any right to participate or be represented at the hearing and action may be taken without further notice to the employee, based upon the recommendation for disciplinary action prepared by the General Manager or his/her designee, and previously served upon the employee.

14.6.3. The hearing shall be conducted in closed session unless the employee requests a public hearing. The Board or its designee may deliberate in the absence of the employee and the District administration.

14.6.4. At such hearing, the employee shall be entitled to appear personally, to be represented by a person of his/her choice, to introduce relevant evidence on his/her behalf, to cross-examine witnesses and to challenge evidence presented by the District.

14.6.5. The Board of Director's determination of the sufficiency of the cause for disciplinary action shall be conclusive.

14.7. General Provisions

14.7.1. Suspensions pursuant to this Article shall not reduce or deprive the employee of seniority or health benefits.

14.7.2. A proposed disciplinary action may be settled at any time. The terms of such settlement shall be reduced to writing. An employee offered a disciplinary settlement by the District shall, if requested by the employee, be granted a reasonable amount of time to have the proposed settlement reviewed by his chosen representative prior to signing it.

**ARTICLE 15. GRIEVANCE PROCEDURE**

15.1. Definition

The provisions of this Article are intended to provide a procedure by which an employee may formally claim that he/she has been directly affected by a violation, misapplication, or misinterpretation of a specific provision of this MOU. Throughout this Article (15), work day shall mean any day that the offices of the District are open to the public.

If the grievant fails to make a timely presentation of the grievance, or fails to appeal within the specified time limits of each step of the grievance procedure, the issue shall be considered closed.

15.2. Steps of the Grievance Procedure:

15.2.1. INFORMAL:

15.2.1.1. An employee who believes he/she has a grievance shall present it orally to his/her immediate supervisor within ten (10) work days after the employee knew, or reasonably should have known, of the circumstances which formed the basis of the grievance.

15.2.1.2. The immediate supervisor shall meet and discuss the matter with the employee within five (5) work days after the presentation of the grievance. The intent of this meeting is to attempt resolution of the matter.

15.2.2. LEVEL ONE:

15.2.2.1. If the grievance is not resolved at the Informal Level to the employee's satisfaction, the grievant shall present his/her grievance in writing on a form provided by the District (Exhibit "C") to the General Manager/Employee Relations Officer within ten (10) working days after the informal meeting (15.2.1) with the supervisor.

15.2.2.2. The written statement on Exhibit "C" shall include a concise statement of the facts giving rise to the grievance. This shall include, at a minimum, specific reference to the Articles and paragraphs of this MOU alleged to have been violated, misapplied, or misinterpreted; the circumstances involved; the decision rendered by the immediate supervisor; and the specific remedy sought.

15.2.2.3. The General Manager, or his/her designee, shall review the grievance and communicate his/her decision within ten (10) working days after receiving the LEVEL ONE grievance. The decision shall be reduced to writing and shall include the reasons for the decision and will be given to all parties in interest.

15.2.3. LEVEL TWO (Optional)

If the grievant is not satisfied with the District's LEVEL ONE decision, he/she may request the matter to be reviewed by the State Mediation and Conciliation Services (SMCS).

15.2.3.1. If both the District and the Union believe that mediation would be helpful in resolving the grievance, a mediator shall be requested from SMCS.

15.2.3.2. The decision of the mediator, which may be written or oral, shall advise the parties of his/her findings of the facts and his/her suggested solution. Reasons and rationale shall be provided.

- 15.2.3.3. The decision of the mediator is advisory only. The Board of Directors shall review the decision and render a final decision in writing.

#### 15.2.4. LEVEL THREE

If the grievant is not satisfied with the LEVEL ONE decision, and if mediation (if utilized) does not resolve the grievance, he/she may appeal to the District's Board of Directors.

- 15.2.4.1. Any appeal must be filed with the General Manager within five (5) working days after receipt of the LEVEL ONE decision.

- 15.2.4.2. The appeal shall include a copy of the LEVEL ONE grievance; a copy of the written decision of the General Manager; a clear, concise statement of the reasons for the appeal; and the remedy requested.

- 15.2.4.3. The Board of Directors, as soon as reasonably possible, shall review the grievance file which includes, but is not limited to: all documents submitted in support of the grievance, any investigatory reports compiled by District representatives if given to the grievant, answers to the grievance at each level and the advisory mediator's decision (if any).

The Board may, at its sole discretion, render a decision based upon the record of the grievance or it may choose to schedule a hearing to receive additional testimony and evidence.

The Board of Directors shall thereafter issue a written decision to the parties involved. The decision of the Board shall be final and binding on all parties.

#### 15.3. General Provisions

- 15.3.1. By mutual agreement of the District and the grievant, the time limits of any step of the grievance procedure may be extended.

- 15.3.2. A copy of all written grievance decisions shall be kept in a permanent file by the Board of Directors. In addition, a copy shall be placed in the employee's permanent personnel file, not to exceed three (3) years.

15.3.3. Unless a grievance is settled on a non-precedent setting basis, any final resolution may be used to resolve any future grievances of a similar nature.

**ARTICLE 16. FRINGE BENEFITS**

16.1. General Statement

Every new employee shall have explained to them the benefits available, the eligibility requirements, limitations and coverage.

16.2. Insurance Premiums

Each employee is eligible to receive benefits on the terms set forth in Exhibit "D."

**ARTICLE 17. FULL UNDERSTANDING, MODIFICATION AND WAIVER**

17.1. This MOU sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby suspended or terminated in their entirety.

17.2. It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its rights to negotiate and agrees that the other party shall not be required to negotiate with respect to any matter covered herein during the term of this MOU.

17.3. Nothing in this paragraph shall preclude the parties from jointly agreeing to meet and confer on any issue(s) within the scope of representation during the term of this MOU. No agreement, alteration, understanding, variation, waiver, or modification, of any of the terms or provisions contained herein shall in any manner be binding upon the parties unless made and executed in writing by all parties hereto, and if required, approved and implemented by the District.

17.4. The waiver of any breach, term, or condition of this MOU by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

**ARTICLE 18.        TERM**

18.1. Ratification

This MOU shall be of no force or effect until ratified and approved by formal action of the Board of Directors of the District, the employees covered by the MOU and has been executed by the Union Business Manager or his/her authorized representative on behalf of the Union. It is recognized that certain provisions herein may require ordinance changes in order to be effectuated.

18.2. Effective Date

This MOU shall become effective at the beginning of the pay period in which ratification by both parties occurs, or on July 1, 2016, whichever is later.

18.3. Ending Date

This MOU shall continue in full force and effect until midnight June 30, 2019.

18.4. Re-opener Negotiations

If at any time during the term of this Agreement, any provision of the current MOU becomes in conflict with any Federal or State law, changed, suspended, declared inoperative by any reason, or impacted by provisions of the Internal Revenue Service, the parties shall meet and confer with the intent of negotiating a substitute provision and any other related provisions.

18.5. Successor Negotiations

18.5.1. Any proposal for a successor Agreement shall be submitted no later than ninety (90) calendar days prior to expiration of this Agreement.

18.5.2. If either party submits a proposal, the other shall have thirty (30) calendar days from receipt of the proposal to submit a counterproposal. In the absence of mutual agreement, negotiations shall commence within thirty (30) days thereafter. If the time period defined above is not complied with, then the ending date provisions defined by Article 18.3 shall apply.

Furthermore, any special agreements with individual members of the bargaining unit will expire along with the current MOU. The terms and conditions of this agreement shall apply equally to all members of the bargaining unit. All members of the bargaining unit will work a full-time schedule of forty (40) hours per week.

18.5.3. If no proposal is submitted pursuant to 18.5.1 the non-sunsetted provisions of this Agreement shall be extended for twelve (12) months.

**SIGNATURE PAGE**

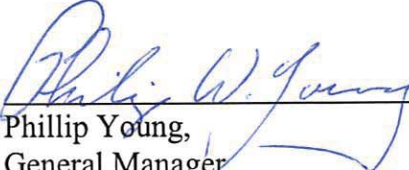
**IN WITNESS WHEREOF**, the parties hereto have caused this Memorandum of Understanding to be executed by affixing their signatures below.

FOR THE UNION

FOR THE DISTRICT

  
\_\_\_\_\_  
Tom Dalzell  
Business Manager

4/23/16  
DATE

  
\_\_\_\_\_  
Phillip Young,  
General Manager

4/27/16  
DATE

  
\_\_\_\_\_  
Janval Macor  
Business Representative

4/21/2016  
DATE

**APPROVED**  
INTERNATIONAL OFFICE - I.B.E.W.  
  
**6/10/2016**  
  
Lonnie Stephenson, President  
This approval does not make the  
International a party to this agreement.



EXHIBIT "A

**RESORT IMPROVEMENT DISTRICT NO. 1  
SHELTER COVE**

Classifications in the Bargaining Unit

Utility Worker, Utility Operator, Senior Utility Operator, Utility Superintendent, Capital Construction Crew (Construction Crew Superintendent, Construction Crew Foreman, Construction Crew Operator, Construction Crew Laborer)

The District retains the sole and exclusive right to the development of classified job descriptions. The Union retains the right, upon request, to negotiate the effects (if any) of changes to the job descriptions.

**EXHIBIT "B-1"**

**SHELTER COVE RESORT IMPROVEMENT DISTRICT #1**

**HOURLY WAGE SCHEDULE**

CLASSIFICATIONS	<b>Hourly Wage Rates July 1, 2015</b> <i>2013 Rates Plus Equiv Cert Pay Max \$1.59 With 2015 Cola Adjustment = 2.4%</i>				
	<b>Min</b>				<b>Max</b>
<b>Water Plant / Wastewater Plant Operator</b>	<b>\$17.96</b>	-	-	-	<b>\$25.64</b>
Employees with at least one year of District experience and one of the following: 1) Grade-1 freshwater <b>and</b> Grade-1 wastewater certification. 2) Training and Qualification for On-Call duty. 3) Other qualifications approved by the General Manager					
<b>Senior Water Plant / Wastewater Plant Operator</b>	<b>\$25.64</b>	-	-	-	<b>\$37.62</b>
Employees with at least 3 years of District experience as Water Plant / Wastewater Plant Operator and one of the following: 1) Certification in water distribution <b>and</b> backflow prevention <b>and</b> Grade-2 freshwater <b>and</b> Grade-2 wastewater certification. 2) Qualification for high voltage overhead electrical through District approved electrical certification program (Line Mechanic).					
<b>Water / Wastewater Superintendent</b>	<b>\$34.03</b>	-	-	-	<b>\$55.58</b>
5 years of District experience as a Senior Water Plant / Wastewater Plant Operator and 1) Grade-3 wastewater certification and Grade-2 freshwater. Grade-3 Freshwater will be required within one year following completion of a grade 3 classified treatment plant.					
<b>Journeyman Power Distribution</b>	<b>\$13.03</b>	-	-	-	<b>\$49.58</b>
<b>Industrial Electrician &amp; Instrumentation Technician</b>	<b>\$25.14</b>	-	-	-	<b>\$46.97</b>
<b>Power Generation Superintendent</b>	<b>\$34.03</b>	-	-	-	<b>\$55.58</b>
with 5 years of District experience in Power Distribution and generation and Certification in high voltage overhead electrical work through a District approved electrical certification program.					
<b>Capital Construction Crew</b>	1) Employees assigned to the capital construction crew, funded by capital improvement funds approved in the annual budget. 2) Wage rates are based upon skills and level of responsibility as determined by the General Manager.				
<b>Construction Crew Superintendent</b>	<b>\$34.03</b>	-	-	-	<b>\$55.58</b>
<b>Construction Crew Foreman</b>	<b>\$25.64</b>	-	-	-	<b>\$47.90</b>
<b>Construction Crew Operator</b>	<b>\$17.96</b>	-	-	-	<b>\$34.79</b>
<b>General Laborer</b>	<b>\$13.17</b>	-	-	-	<b>\$21.81</b>
The General Laborer position is new employees with no District experience or training.					
Each year, on July 1st all wages and the wage table ranges will be adjusted based on the State of California Department of Industrial Relations Consumer Price Index for Urban Wage Earners and Clerical Workers in San Francisco Oakland San Jose in April, up to a maximum of 3.0%. Merit increases up to an additional 2% may be awarded by the General Manager in accordance with the evaluation process (section 9.7) up to the maximum wage rate defined for each classification. A merit increase <b>will not be</b> award if wages are already at the maximum rate.					

**RESORT IMPROVEMENT DISTRICT NO. 1  
SHELTER COVE**

**Grievance Procedure  
GRIEVANCE FORM**

Directions: This form is to be completed by a member of the unit filing a grievance.

1. \_\_\_\_\_  
NAME (Last) (First) (Middle)

2. \_\_\_\_\_  
ADDRESS HOME TELEPHONE

3. \_\_\_\_\_  
REPRESENTATIVE (if any)

4. DATE GRIEVANCE OCCURRED: \_\_\_\_\_

5. GRIEVANCE: \_\_\_\_\_  
(Clear, concise statement of circumstances and grievance)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AGREEMENT TERM(s) VIOLATED, MISINTERPRETED OR MISAPPLIED: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

6. SPECIFIC REMEDY SOUGHT: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

7. CONFERENCE REQUESTED: \_\_\_\_\_ YES \_\_\_\_\_ NO

RECEIVED BY: \_\_\_\_\_  
NAME/TITLE DATE RECEIVED

Level \_\_\_I Level \_\_\_II Level \_\_\_III

**RESORT IMPROVEMENT DISTRICT NO. 1  
SHELTER COVE**

**Employee Insurance Benefits**

1. Dental Insurance

The District will provide each employee, after one month of service, with an opportunity to enroll in a District selected dental plan. Subject to the lawful rules of the insurance provider, the employee may add dependents to the dental plan.

2. Medical Insurance

The District will provide each employee, after one month of service, with an opportunity to enroll in a District selected medical plan. District contributions vary according to the age of the employee. Subject to the lawful rules of the insurance provider, the employee may add dependents to the medical plan.

- The District will pay for individual employee medical insurance premiums up to a maximum of \$1,900 per month for any employee, beginning July 1, 2013, \$2,000 per month beginning July 1, 2014 and \$2,100 per month beginning July 1, 2015. If the cost of medical insurance premiums increase above this "CAP", the employee shall pay the additional amount required through payroll deductions. Employees working less than full-time (40 hours per week) shall receive District paid insurance benefits equal to the percentage of "full-time" employment, up to the maximum "CAP" defined above. For example: An employee with a regularly assigned work schedule limited to 32 hours per week (80% of full-time) would pay 20% of the cost for insurance premiums through payroll deduction. Additionally, sick leave and vacation accruals defined by Article 11.3 will also be prorated for part-time employees relative to a full-time schedule.
- The District will allow post retirement medical if the current healthcare provider allows 100% of all costs associated with this benefit to be paid by the retired employee, including all administrative fees directly related to this option. The District also reserves the right to change healthcare providers or medical plans as necessary to respond to future changes in cost or District needs. The District must not be restricted by this provision in any way or liable for increased costs to the retired employee as a result of changing providers or medical plans. This benefit will be terminated if the District is required to pay any costs associated with retired employee medical benefits to remain eligible. This benefit will be terminated if the District changes healthcare providers or selected plan to one that does not allow such benefits or requires the District to pay any part thereof to remain eligible. Employees must also be eligible for retirement benefits as defined by Cal PERS relative to age and must have completed at least ten (10) years of service with the District.

3. Medical Insurance Deductible

The District will reimburse each employee up to a maximum of \$ 600 per year for the “Annual Medical Deductible” associated with the HMO Saver plan defined as: (applies to inpatient hospital, outpatient hospital, and ambulatory surgical centers, except medical emergencies). This reimbursement **does not** apply to any other medical expenses.

The District reserves the right to reopen negotiations regarding dental, vision, and life insurance premiums if costs to the District increase by more than 5% a year.

4. Life Insurance

The District will pay the following schedule for each employee’s Life Insurance Policy:

- For 1 to 10 (one to ten) years of service, \$100,000 policy
- For 11 to 20 (eleven to twenty) years of service, \$200,000 policy
- Over 20 (twenty) years of service, \$250,000 policy

Additionally, employees who desire greater coverage will, at their option and cost, have the ability to purchase additional life insurance in increments of \$1, 000 coverage.

5. Long Term Disability

The District will allow employees to pay the premium of long term disability insurance if such a program is available to the District at no cost to the District and the insurance plan allows individual employees to opt in or out of the program.

6. Vision Insurance

The District will pay the premium for employee family vision insurance.