

**MEMORANDUM OF UNDERSTANDING**

**Modesto Irrigation District**

**IBEW**

**International Brotherhood of Electrical Workers**

**Local Union 1245**

**for the  
Utility Services and Maintenance  
Professional and Supervisory  
Administrative, Technical and Clerical  
Bargaining Units**

January 1, 2024, through December 31, 2027

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## **TITLE 1 - PREAMBLE**

### **1.1 Purpose**

This Memorandum of Understanding (hereinafter referred to as Memorandum) entered into by the Modesto Irrigation District (hereinafter referred to as the District) and the Local Union 1245 of the International Brotherhood of Electrical Workers (hereinafter referred to as the Union), has as its purpose the promotion of harmonious relations, cooperation and understanding between the District and the Union; the establishment of an equitable and peaceful procedure for resolution of differences; and agreement as to rates of pay, hours of work and other terms and conditions of employment.

### **1.2 Cooperation**

The District and the Union will cooperate in promoting harmony and efficiency among District employees.

### **1.3 Maintenance of Service**

The District is engaged in providing public services requiring continuous operations that are necessary to maintain the public health and safety of the District's customers. The obligation to maintain these public services is imposed upon the District, the Union and the employees represented by the Union. Inherent in the relationships among the District, the Union, and the employees represented by the Union is the obligation of the District to deal justly and fairly with its employees and the obligation of the Union and the employees represented by the Union to cooperate with management in the performance of the District's public services obligations.

### **1.4 Separability**

In the event any section or portion of this Agreement is declared invalid by a court of competent jurisdiction or is in contravention of any federal or state law or regulation, the remaining provisions of this Agreement shall not be invalidated and shall remain in full force and effect.

### **1.5 Preexisting Directives**

This Memorandum shall not be construed as abrogating or impairing any preexisting directive issued by the District's Board of Directors or its General Manager.

## **TITLE 2 - RECOGNITION**

International Brotherhood of Electrical Workers (IBEW), Local 1245 hereinafter referred to as the "Union" is recognized as the exclusive representative for the classifications in each bargaining unit listed in Appendix A of this Memorandum of Understanding.

### **TITLE 3 - NONDISCRIMINATION**

It is the policy of the District and the Union not to discriminate against any employee because of race, religion, creed, sex, gender (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender identity, gender expression, sexual orientation, color, age, national origin, citizenship, ancestry, medical condition, physical disability, mental disability, genetic information, military and veteran status, marital status, and any other basis protected by law. The District and the Union agree to work cooperatively and affirmatively to carry out the intent of this policy.

## **TITLE 4 - MANAGEMENT RIGHTS**

Subject to State law relating to requirements to meet and confer in good faith and the provisions of the Modesto Irrigation District Employer/Employee Relations Resolution, the management of the District and its business and the direction of the employees are vested exclusively in the District through its Board of Directors and management. This includes, but is not limited to the following:

To determine the mission or areas of responsibility or activity of its constituent departments; to fix and determine standards of service; to determine the procedures and standards of selection for employment and promotion; to direct and supervise the work of its employees; to suspend, promote, demote, transfer, discipline, and discharge employees for cause; to require employees to work overtime; to determine the method and means to relieve its employees from duty because of lack of work or other lawful reasons; to maintain the efficiency of the District's operations, to determine the methods, means and personnel by which the District's operations and functions are to be conducted and discharged; to determine style and/or types of District-issued wearing apparel, equipment or technology to be used; to establish employee performance standards including, but not limited to, quality and quantity standards, and to require compliance therewith; to determine and/or change the facilities, methods, technology, means, organizational structure, size and composition of the work force and allocate and assign work by which the District operations are to be conducted, including the right to contract; to determine the content of job classifications; to establish and change work schedules and assignments upon reasonable notice; to take all necessary actions to carry out its functions in emergencies; to determine processes and materials to be used in carrying out all District functions; to exercise complete control and discretion over its organization and the manner or technology of performing its missions or functions as an Irrigation District providing water and power. However, these management rights may be exercised by the District only to the extent not in conflict with the provisions of applicable law, or this Memorandum.

## **TITLE 5 - UNION RIGHTS**

### **5.1 *Union Access***

All Union representatives will be permitted access to District facilities to confer with District employees on matters of employer/employee relations. Such representatives will not interfere with employees on duty in the performance of their work and only following immediate supervisory approval may talk with an employee on duty.

### **5.2 *Shop Stewards***

The Union agrees to notify the District in writing as to the appointment of all shop stewards and will provide annual updates to the District in writing of all current shop stewards. Shop stewards will be required to work full-time in their respective classifications and will not interrupt the work of other employees. A steward may, with reasonable notice to, and with approval of, his/her supervisor, leave the job during working hours for reasonable periods to investigate pending grievances and to take part in the grievance procedure. However, no steward will leave the job while his/her presence is necessary, in the judgment of his/her supervisor, for the safe conduct and efficiency of the operations in which he/she is engaged.

### **5.3 *Bargaining Team***

An employee who is a member of the Union's bargaining team will be granted permission by his/her supervisor to attend a bargaining session providing the supervisor has received notification from Human Resources. The Union's bargaining team shall consist of six (6) employees, with the ability to add two (2) additional employees should the Union deem necessary. The total number of employees on the bargaining team shall not exceed eight (8).

### **5.4 *Payroll Deduction of Union Dues***

The District agrees to deduct Union dues from all employees who have individually and voluntarily authorized such deduction.

Requests to authorize dues/other deduction(s), or requests to change status regarding such deductions, shall be directed to the Union rather than the employer. The District shall rely on the Union's explanations in the certification provided by the Union, submitted by a representative of the Union who has authority to bind the Union, regarding whether an authorization/change in deduction(s) has been requested by the employee. Upon receipt of notice from the Union the District will start dues deduction at the start of the next pay period.

The Union shall not provide the employer with a copy of the employee's authorization unless a dispute arises about the existence or terms of the authorization.

Deductions shall be made bi-weekly and a check for the total deductions, less a cost for administration (5%), together with a list of the employees covered and the last four digits

of their Social Security Numbers, shall be submitted to the Financial Secretary of Local Union No. 1245, International Brotherhood of Electrical Workers, AFL-CIO, 30 Orange Tree Circle, P.O. Box 2547, Vacaville, CA 94696.

The Union shall indemnify the employer for any claims made regarding such deduction.

### **5.5 *Bulletin Board***

The Union may use twelve (12) square feet of District's regular bulletin boards and District shall designate by lettering thereon the portion of such bulletin board, which shall be reserved for use by the Union. The Union shall not post thereon any materials derogatory to the District.

### **5.6 *Union Leave***

Subject to approval by District management, Union members may be granted a leave of absence. Employees requesting a leave will do so at least seven (7) days in advance. The procedure will be completion of a Request for Leave of Absence form. Such requests will be approved or denied on the basis of workload consideration. The employee will remain on the payroll and the Union will reimburse the District for all salary and fringe benefit costs as calculated by the District.

### **5.7 *Joint Labor Management Committee Pilot Program***

For the term of this agreement, January 1, 2024 – December 31, 2027, the Joint Labor Management Committee (JLMC) shall be convened on a quarterly basis, unless both parties agree there is no need to meet. The JLMC may meet more frequently by mutual agreement.

The JLMC is intended to address and resolve problems before they become the subject of a grievance, arbitration, or contract negotiation. The JLMC shall be comprised of the Business Representative and a reasonable number of bargaining unit representatives for the Union. Selection of Union representatives will be done at the Business Representative's discretion. The General Manager will appoint a reasonable number of representatives for Management. Subject matter experts needed for specific issues may attend JLMC meetings by prior arrangement.

At the conclusion of the MOU term, the parties will bargain during successor MOU negotiations over the need for an ongoing JLMC and/or if there needs to be any structural changes to the JLMC.

### **5.8 *New Employee Orientations***



The District shall provide the Union a minimum of ten (10) business days notice of scheduled new employee orientation. Notice to the Union shall include:

1. Date and time of Union orientation
2. Department of the new employee(s)
3. Bargaining Unit of new employee(s)
4. Classifications of new employee(s)
5. Names of new employee(s)

The meeting shall be scheduled for fifteen (15) minutes per employee, up to a maximum of forty-five (45) minutes per orientation. At each meeting, in addition to the Business Representative, the Union will be permitted to have one (1) employee representative present for each bargaining unit present at the orientation.

The District will provide the Union with all required new hire information in accordance with AB 119.

#### **5.9 Bargaining Side Table:**

The parties agree to establish a Side Table to continue MOU negotiations of specifically identified items during the first ninety (90) days of the MOU term. The side table shall be comprised of the Business Representative and a reasonable number of bargaining unit representatives for the Union. Selection of Union representatives will be done at the Business Representative's discretion. The General Manager will appoint a reasonable number of representatives for Management. Subject matter experts needed for specific issues may attend meetings by prior arrangement.

Items to be addressed:

- Health Care Benefits
- Hybrid Work Schedule

## **TITLE 6 - SENIORITY**

### **6.1 Definition**

For purposes of this Memorandum, seniority is defined as a regular employee's continuous length of service with the District since the most recent date of hire or rehire. An employee shall not attain seniority during a probationary period but shall, upon completion of a probationary period, be granted seniority from the date of hire or rehire as a probationary employee.

### **6.2 Probationary Period**

New regular employees will be hired on a trial basis and will be assigned to probationary status for a period of six (6) months. The District may, in its discretion, elect to extend this probationary period for up to two (2) additional three (3) month periods, for a total of twelve (12) months from the employee's date of hire. The District shall provide prior notice to the Union of any probationary period extension.

During the probationary period an employee, who is terminated by the District, shall not have recourse to the grievance procedure.

### **6.3 Job Categories**

District jobs are categorized, at the exclusive discretion of the District, as to whether work is expected to be full-time and regular, part-time and regular, or temporary. Category definitions are as follows:

#### **a. Full-time Regular**

1. A job (or position) which has full-time regular status is expected to be in existence for an indefinite period and generally requires a minimum of forty (40) hours weekly to perform.
2. An employee assigned to a full-time regular job becomes eligible, after the respective eligibility periods, for all of the District's benefit programs.

#### **b. Part-time Regular**

1. A job (or position) which has part-time regular status is expected to be in existence for an indefinite period and generally requires at least twenty (20) but less than forty (40) hours each week.
2. An employee assigned to work a part-time regular job, except those individuals who are employed in a work experience or student intern classification, will be eligible for the same benefits offered for full-time work subject to specific eligibility requirements spelled out in each benefit plan. If a part-time regular employee elects coverage in the health, dental, vision, LTD, chiropractic, and/or life plans the employee will be responsible for

paying ½ any monthly premium cost for the coverage they have elected through payroll deduction. If a part-time regular employee does not want health and welfare benefit coverage as described above he/she may elect to waive the coverage. Those benefits pertaining to paid absences will be earned and accrued on a pro-rate basis.

c. Temporary

Temporary employees and employees hired under personal employment contracts are not covered by the terms and conditions of this MOU or by IBEW. When the District identifies the need for staffing a project that is scheduled for a limited duration, the District may hire temporary employees and/or contract employees. The District may not hire temporary employees and/or contract employees for the purposes of permanently replacing “regular” employees. At the request of the Local 1245 Business Representative, the District will provide a list of any such excluded employees including their name, project, and expected duration of the project.

#### **6.4 Reduction in Force**

When it becomes necessary to reduce the work force, senior employees will be retained provided they have the necessary skills and ability to perform the required work efficiently and without training. In the event that a reduction of positions occurs (without a reduction in force) in a defined department within a division, seniority may be exercised by an individual for job assignment purposes with the same job title in that department.

No full-time regular employee will be laid off if that employee can be transferred to a position then held by a contract employee employed with the District doing work that the full-time regular employee can perform (with education, and training not to exceed six months).

#### **6.5 Rehire from Layoff**

In the event staffing allocations require an increase in working forces within one (1) year following a reduction in force, rehiring will be effected by notifying employees in reverse order of which they were laid off provided they have the necessary skills and ability to perform the required work efficiently and without training.

#### **6.6 Termination**

Employees will be considered terminated by (a) voluntary quit; (b) discharge for cause; (c) failure to return to work within five (5) work days after notice of rehire from layoff; (d) failure to properly notify the District or provide documentation for absences of five (5) or more consecutive work days; (e) layoff without being rehired for a period of one (1) year; and, (f) failure to return from an approved leave of absence.

## **TITLE 7 - WAGE AND SALARY ADMINISTRATION**

### **7.1 Salary Increases**

#### **A. Salary Increase/Cost of Living Increase**

1. Effective, January 14, 2024, all employees shall receive a salary increase of 3%.
2. Effective, January 12, 2025, all employees shall receive a salary increase of 3%.
3. Effective, January 11, 2026, all employees shall receive a salary increase of 5%.
4. Effective, January 10, 2027, all employees shall receive a salary increase of 5%.

### **7.2 Payday/Pay Periods**

The District pays on a bi-weekly pay day basis with paydays every other Friday. If a payday occurs on a weekend or a holiday, the scheduled payday will be on the preceding regular workday.

### **7.3 Application of Wage Ranges**

- a. A new employee normally will be hired at the minimum of the rate range established for his/her job unless, as determined by the District:
  - He/she possesses unusual qualifications or experience above the minimum required for the job.
  - A temporary condition has placed a special premium on individuals with particular skills.
  - He/she is hired on a temporary basis, and such extra compensation is necessary to induce him/her to take the position for a limited time. A temporary employee paid according to this provision who becomes regular will normally be paid at the minimum of the rate range established for that classification.
- b. No employee will receive compensation in excess of the maximum of his/her rate range unless he/she was being paid more than the maximum when the range was established.

### **7.4 Merit Increases**

- a. A merit increase is defined as the payment of a higher rate, not exceeding the maximum to a deserving employee (as determined by the District) whose classification remains unchanged. Merit increases are granted primarily in

recognition of improvement in performance or continued acceptable performance. Only one-step increases will be granted unless unusual circumstances as deemed by the District management exist, in which case the General Manager may authorize additional increases. Marginal performance will not qualify personnel for a merit increase regardless of the time period specified below.

- b. The normal time interval for a merit increase, following a favorable performance evaluation, will be one (1) year from the date of the last increase, and with subsequent favorable performance evaluations, shall continue yearly until the employee reaches the top rate of pay for his/her current classification. New employees will be considered for a merit increase following six (6) months of employment provided the employee's current pay is below the maximum rate for the position. Newly promoted employees will be considered for a merit increase following six (6) months in the new position provided the newly promoted employee's current pay is below the maximum rate for the position. Performance evaluations will be completed at the end of each merit review period. The District will advise employees as to any deficiencies, advise employees of remedies, and provide assistance to employees to overcome such deficiencies.
- c. Ditchtenders will receive a merit review and will be considered for a merit salary increase twelve (12) months from date of hire as a regular Ditchtender and every twelve (12) months thereafter until reaching the top step.
- d. In the case of particularly outstanding work, an increase may be granted by the General Manager in less than the specified time period provided sufficient justification is submitted by the requesting department, correspondingly, it is expected that in some instances the time interval will exceed that listed above.

### **7.5 *Apprentice Advancement***

Employees selected for apprentice job vacancies must sign the appropriate apprenticeship agreement and complete all phases of the program in a satisfactory manner including all quizzes and exams in order to remain in the program and reach the appropriate journey level. The normal interval for apprentice advancement, following completion of program requirements for each phase of training, and with a favorable performance evaluation, will be six (6) months from the date of the first advancement and at six (6) month intervals thereafter throughout the program. The District reserves the right to modify course content in apprenticeship programs to ensure that the training reflects the most current practices and is the most efficient method of training. District will consult with the Union prior to implementing changes to course content.

### **7.6 *Wage Rate Determination - Apprentice Level***

The wage rate of employees promoted or assigned to an Apprentice classification will be based on skills, knowledge, experience and abilities, and according to any program standards established for the apprentice program.

## **7.7 Compensation during Inclement Weather**

An employee who is unable to work in the field because of inclement weather will receive pay for the full day, provided he/she has reported to work on that day at the scheduled starting time. During an inclement day employees may be held pending emergency calls or commercial planned outages, may be given first aid, safety or other instructions, or may be assigned to perform miscellaneous duties in sheltered locations. If inclement weather commences during the workday while the employees are working, and the employees are released from any work duties, the employee shall receive payment for a full day's work. District supervisors will be responsible for determining when weather conditions shall be considered "inclement" and whether such work can be conducted in a safe manner in consultation with the crew leader.

## **TITLE 8 - JOB CONTENT**

### **8.1 *Establishment of Duties and Qualifications***

It is recognized that the creation and/or redesign of job classifications, including the establishment of duties and the qualifications required therefore, are exclusive functions of District management. The District will develop and maintain current written descriptions of job classifications and make such descriptions available to employees and the Union. Management agrees to consult with the Union regarding classification changes prior to finalization of any such changes.

### **8.2 *Work Assignments***

While it is management's intent to schedule work and assign personnel in such a manner as to achieve maximum utilization of the respective employee's abilities, and while it is management's intent to encourage an employee's progression upward in the same line of work, it is recognized and agreed that conditions which affect District operations will require flexibility in work assignment to permit cross-training and to stabilize the workload among departments. It is therefore also recognized and agreed that as conditions require, management will assign employees duties, which may not be within the usual scope of classification responsibilities. As determined by department supervision, employees will perform such duties providing they are properly trained and qualified to safely do so.

### **8.3 *Temporary Upgrading***

When a fully qualified, non-exempt regular employee is temporarily assigned by the District, and is accountable for, the complete responsibility of a higher classification for a period of four (4) consecutive hours or more and such employee is a replacement for the employee of the higher classification, the employee will be paid a premium of 6% above his/her current base rate of pay for all time worked; however, in no case will two (2) employees be paid for carrying out responsibilities of a single position at the same time nor will any employee be temporarily upgraded with a 6% premium while performing in a learning capacity. An upgraded employee must work in the higher classification on the workday prior to and the workday after a holiday to be eligible for the holiday pay at the upgraded rate. An employee is determined to be fully qualified when he/she meets the requirements of the higher classification according to the job description for that position. Employees who work overtime at an upgraded rate will be eligible to accumulate Compensatory Time Off (CTO) for the upgraded rate, or overtime under temporary upgrade will be paid as overtime on the next time card. Positions being filled by temporary upgrade will be limited to a one year duration at which time the District will post the position to be filled on a regular basis. Management may designate positions that will be temporary upgraded beyond the one year period for the following reasons:

1. Replacement of an employee on extended medical leave.

2. A temporary special project assignment.
3. Succession plan position lasting up to 36 months.
4. At management discretion, special circumstances to meet temporary operational needs.

#### **8.4 Temporary Job Siting**

Any employee required to report to a temporary job location which is outside of a 20 mile radius from their primary work location will be reimbursed for actual mileage based on District then current amount and will be paid for travel time to and from the temporary job location. Unless assigned otherwise by the employee's supervisor, the employee will report to the primary work location before traveling to the temporary job site.

#### **8.5 Upgrade for Apprentice Trainers**

Assigned Apprentice Trainers (Lineworker) will receive an upgraded rate of five (5) percent of their regular base salary while performing classroom training duties.



## **TITLE 9 - PROMOTION/TRANSFER/DEMOTION**

### **9.1 *Promotion for Non-exempt Job Vacancies***

It is the intent of this Title, that when a non-exempt job vacancy occurs, and the District determines to fill it, it shall be filled according to the provisions of this Title, by the applicant who is most qualified according to skill, knowledge, aptitude, relevant experience, and potential for further promotion to the highest classification in that line of progression. For the positions listed below and all contract and part-time positions the District shall be free to recruit both in house and outside simultaneously. All regular District employees may apply with outside applicants for these vacancies.

Accountant I/II  
Accounting Technician  
Building Service Worker  
Clerk I/II  
Computer Support Technician I/II  
Customer Services Representative and Bilingual Customer Services Representative  
Construction/Maintenance Worker  
Electrician Substation and Electrician Substation Apprentice  
Engineering Technician I/II  
Fleet Worker  
Lineworker and Lineworker Apprentice  
Operations Technician and Operations Technician, Apprentice  
Remittance Processing Clerk

### **9.2 *Temporary and Probationary Employees***

Temporary and new probationary employees, as described in Sections 6.2 and 6.3 will only be entitled to apply when positions are open to outside applicants.

### **9.3 *Bypass for Lack of Qualifications***

The District will reject the application of any employee who does not possess the knowledge, skills, efficiency, adaptability and physical ability required for the vacant position. The District may conduct test programs to determine the employee qualifications. Tests utilized will be valid and work-related. Test procedures to be utilized will be clearly stated in each job announcement. An employee's failure to perform successfully in the test procedure shall result in rejection of his/her application without further consideration. Upon request, an applicant will receive counseling to point out areas where improvement is possible including the review of missed test questions.

### **9.4 *Pre-Established Lists***

Vacant positions may be filled by use of pre-established lists. The existence of a valid list for the position will supersede the need to post the position. If a current and valid list

exists it will be utilized according to the priority as follows: If an in-house list (District Promotion List) has been established, and the time limit for the list has not expired, and either no names remain on the list, or an insufficient number of names remain to fill vacancies, then the District may post the position(s) directly to the outside to fill the position(s) that cannot be filled from the in-house list. Employees may apply along with outside applicants in this outside recruitment. If no list exists, a list will be established to fill (a) the current vacancy only, or (b) current and future vacancies. Lists will be maintained for up to one (1) year or two (2) years in the case of Classification Reinstatement List. Employees on such lists will be informed in writing when the list is abolished. Employees on pre-established lists will be given preference in the following order:

- a. Employees in the same classification (Transfer List)
- b. Employees previously demoted from the specific classification due to a reduction in force (Classification Reinstatement List).
- c. Former employees eligible to be rehired from layoff (Reemployment List).
- d. Employees who have previously been tested and certified eligible based on skills, knowledge, aptitude, and potential for further promotion (District Promotion List)
- e. Outside applicants (Open List). The job posting for positions to be filled by Open Lists will indicate the length of time the list will be valid.

#### **9.5 *Procedures for Establishing a District Promotional List***

- a. The job announcement will state a list will be established to fill future vacancies.
- b. The length of time a list will be maintained will be stated.
- c. The names of applicants who are successful in the examination process will be placed on a list. This list will be used for future selections.
- d. When a vacancy occurs, the names of the top six (6) employees who have the highest numerical score will be forwarded to the appropriate manager for selection. If there are less than six (6) employees to select from, outside applicants will be considered to provide the top six (6) applicants for review. In the event two or more applicants are equally qualified, an employee will be selected over an outside candidate. The results of previous test, oral rating sheets, and other appropriate examination information will be provided. In addition, an updated review of work history, reference check, and personnel file, will occur. The manager will select one individual from the top six (6). Selection will continue until both lists are exhausted.

#### **9.6 *Notice***

Notice of regular full-time vacancies will be posted on District bulletin boards. Employees will have seven (7) working days in which to apply for the position.

### **9.7 Filling Vacancies**

Qualified applicants who have been reassigned for lack of work or lack of funds from the classification in which the vacancy exists or a higher classification series shall be given first consideration.

### **9.8 Posting of Appointments**

District shall post quarterly on the Intranet a list of all promotions and forward a copy to the Union.

### **9.9 No Qualified Applicants**

In instances where qualified personnel are not available within the District to fill job vacancies, such personnel may be employed from the outside.

### **9.10 Salary on Promotion**

When a regular promotion is made into a job classification with a maximum rate of pay higher than the maximum rate of pay of the prior classification, the employee, if qualified, will be placed in the lowest pay step which represents a minimum increase of 4% except for assignment to apprentice classes. Upon promotion, a new merit review date will be established. If the employee is selected for a position that has the same pay grade as the employee's current classification, there shall be no change to the pay grade or step. However, the employee will serve a probationary period in the new classification for a period of six (6) months.

### **9.11 Unsuccessful Promotions**

Newly promoted employees will be assigned to probationary status for a period of six (6) months. If, during the six month probationary period, the employee is, in the judgment of the District, unsuccessful in the new position, the following procedure will take place:

- a. The employee will be returned to his/her former position provided a vacancy still exists.
- b. If no vacancy exists, as provided for in (a) above, the employee may bid on and be placed in a District vacancy that has the same or lower pay grade as the position held by the employee prior to promotion for which the employee is qualified as determined by the District.
- c. If no vacancy exists, as provided for in (a) or (b) above, he/she will be laid off, however, for a period of one (1) year, the employee will be eligible for rehire in the first available opening for which he/she can qualify.

## **TRANSFERS**

### **9.12 Definition**

A transfer is defined as the reassignment of an employee within the same job classification.

An employee must meet the qualifications of the department to which the employee is transferring, as determined by that department's management.

### **9.13 Salary on Transfer**

When an employee is transferred, there shall be no change in salary rate.

### **9.14 Transfer Procedure**

To Implement a Transfer Request:

- a. An employee will complete a transfer request form and forward copies to the immediate supervisor, Division Manager, and the Human Resources Department.
- b. The Human Resources Department will retain a Transfer file and upon a vacancy occurring, will contact each employee on the Transfer List to ask if he/she is interested in transferring to this vacancy. The employee will have one (1) opportunity to be considered for this particular transfer. If the employee wishes to be considered the Human Resource Department will notify the appropriate Division Manager who will consider the request. Acceptance of the transfer will depend on qualifications, job performance and supervisor references of the employee requesting the transfer. When in management's judgment, the qualification of two or more best qualified individuals are relatively equal, the individual with higher seniority will be selected.
- c. The Human Resources Department will notify the individual as to the disposition of the request.
- d. The transfer request will be valid for one (1) year from the time the employee completes the request form. If the employee is interested in this position beyond one year or other positions, it will be the employee's responsibility to keep the request in the transfer file current, since vacancies may be filled at any time.
- e. A valid transfer request must be on file prior to the position vacancy otherwise the employee will be required to apply for the position through the normal job posting process.
- f. Management may assign an employee of the same job classification to an open vacancy within that division and primary work location based on seniority and qualifications if the transfer or in-house recruitment process does not fill the open vacancy.

### **9.15 Demotion**

A demotion is the movement of an employee to a position having a lower rate range. If the transaction results from the request of the employee, it will be designated as “change in classification.”

### **9.16 Salary on Demotion**

When a demotion or change in classification is made into a job classification with a maximum rate of pay lower than the maximum rate of pay of the prior classification, the employee, if qualified, will be placed in the pay step which is either equal to his/her former rate or that which represents the minimum decrease except for assignment to the apprentice classes. Pay rate for such classes are determined by Section 7.6, “Wage Rate Determination - Apprentice Level.” The merit review date will remain the same. Disciplinary demotions are excepted from this section.

## TITLE 10 - DAYS/HOUR OF WORK

### 10.1 *Workday and Workweek*

A regular workweek shall consist of seven consecutive calendar days, Sunday through Saturday, and a regular basic workweek shall consist of five consecutive eight-hour workdays, except as follows:

- a. The work schedule for the Power System Schedulers assigned to perform the real-time scheduling duties shall consist of rotating shifts, with seven (7) consecutive day shifts or night shifts followed by seven (7) consecutive days off. The first shift of the consecutive day shifts shall be an eight (8) hour shift, and the first and last night shift of the consecutive night shifts shall be ten (10) hour shifts. All of the other shifts shall be twelve-hour shifts. The night shift is made up of two (2) forty (40) hour work weeks and the day shift is made up of a forty-four (44) hour work week followed by a thirty-six (36) hour work week.

The schedule for the relief Power System Schedulers assigned to perform the real-time scheduling duties shall consist of four (4) consecutive ten (10) hour shifts, Monday through Thursday each week and shall not be changed without five (5) days prior notice, except by mutual agreement. The normal workweek for the relief shift is a forty (40) hour workweek.

- b. The work week for Dispatchers, and Dispatching Shift Supervisors shall consist of seven (7) consecutive calendar days, beginning on Sunday at 12:00 AM through Saturday at 11:59 PM, and a work schedule for the Dispatchers and Dispatching Shift Supervisors shall consist of rotating shifts, with no more than seven (7) consecutive day shifts or night shifts during the 28 day scheduling period. All day shifts on Saturday, Sunday and Monday are twelve (12) hour shifts and all day shifts on Tuesday, Wednesday, Thursday and Friday are ten (10) hour shifts. All night shifts are twelve (12) hour shifts.

During the twenty-eight (28) day scheduling period there are 154 hours of straight time and 6 hours of time and one-half scheduled for the Dispatcher and the Dispatching Shift Supervisor in the shift rotation.

The relief Dispatcher and the relief Dispatching Shift Supervisor shall consist of four (4) consecutive ten (10) hour shifts, 8:00 AM until 6:00 PM, Tuesday through Friday each week and shall not be changed without five (5) days prior notice, except by mutual agreement. The normal workweek for the relief shift is a forty (40) hour workweek.

- c. The work schedule for Woodland Generation assigned to perform the continuous operation duties shall consist of rotating shifts with seven (7) consecutive twelve (12) hour day or night shifts followed by seven (7) consecutive days off.
- d. Ditchtender, Night Tender, Main Canal Tender, and Reservoir Tender work schedule during the irrigation season shall consist of seven (7) consecutive twelve (12) hour shifts, beginning on Tuesday.  
  
Ditchtender, Main Canal Tender, and Reservoir Tender shift will be from 6 AM to 6 PM. The workweek shall begin and end on Friday at noon.
- e. Night Tender shift will be from 6 PM to 6 AM. The workweek shall begin and end on Friday at midnight. Troubleshooter work schedule shall be Monday through Friday 8 AM to 5 PM.
- f. Water Treatment Plant (WTP) Shift Operators (Grades 3-5) work schedule shall consist of either 2,3,4,5, or 7 consecutive twelve (12) hour days, subject to the approval of the Water Treatment Plant Manager. The WTP Shift Operator shifts will be from 5:45 AM to 6 PM or 5:45 PM to 6 AM. Relief Water Treatment Plant Operators work schedule shall consist of five (5) consecutive eight (8) hour days or four (4) consecutive ten (10) hour days. When the Relief Water Treatment Plant Operator assumes the shift of the WTP Shift Operator he/she shall be paid according to the schedule of the WTP Shift Operator for overtime meal allowance purposes. Water Treatment Plant non-shift Operators (Grades 1-2) work schedule shall consist of either 2,3,4,5, or 7 consecutive (12) hour days subject to the approval of the Water Treatment Plant Manager.

The regular workday shall begin between 6:00 a.m. and 9:00 a.m., eight (8) hours per day, Monday through Friday. However, regular work hours are particular to each department and shall be designated by the department head. Changes to the workweek and work hours will be reviewed with affected employees prior to implementation. Except for emergencies, the District will provide 48 hours notice of any shift or work hour changes. Employees that have a change to their work week and/or work hours that will result in less than 48 hours notice before the change will be paid for hours worked beyond their original schedule at the applicable overtime rate within the short notice 48 hour period. Pay for hours worked after the 48-hour notice period will be at the regular rate of pay.

## **10.2 Shift Differential**

The shift differential premium for all work periods regularly scheduled to begin at 11 a.m. or thereafter but before 5 a.m. will be 6.25%. No shift differential shall be paid for hours regularly scheduled to begin at 5 a.m. or thereafter but before 11 a.m. and any hours worked that are not part of a regularly scheduled work period.

### **10.3 Break Periods**

A maximum of two breaks are usually permitted each day; one for each four (4) hour work period. These breaks shall be scheduled about midway through each four (4) hour period and each break shall not exceed fifteen (15) minutes. In circumstances of continuous operation, where visual attendance is the primary function, rest periods are recognized as part of the continuous operation.

Breaks shall be taken on the job site by crews, a crew is defined as two or more employees assigned to work together.

### **10.4 Meal Periods**

The regular daily work hours shall include a minimum 1/2 hour lunch period during approximately the middle of the work shift. In circumstances of continuous operation, where visual attendance is the primary function, meal periods are discretionary and recognized as part of the continuous operation.

### **10.5 Alternate Work Schedule**

An alternate work schedule is an agreement between the employee and the District to work a schedule other than the regular work hours for full-time regular employees that consists of five (5) eight (8) hour days in a seven (7) consecutive day work week.

Approval of individuals requesting an Alternate Work Schedule shall be approved by department management. Department management shall suspend Alternate Work Schedules of individuals or groups if in management's determination, it no longer meets the needs of the District. Some departments may not be able to offer Alternate Work Schedules for employees due to the nature of the work and service to customer.

4/10 Work Schedule – The workweek will consist of four (4) days at ten (10) hours per day and will be paid at straight time rate. The workweek will be Sunday through Saturday. The work days in this workweek will be Monday through Thursday or Tuesday through Friday, with Monday or Friday as the day off.

9/80 Work Schedule – This is a bi-weekly work schedule that consists of eight (8) days at nine (9) hours per day and one (1) day at eight (8) hours per day and will be paid at the straight time rate. The workweek will begin and end at a different time of the week depending on the 9/80 schedule being worked. Specific 9/80 schedules are spelled out in the Employee Handbook.

Specific Alternate Work Schedule options are spelled out in the Employee Handbook.



## **TITLE 11 - OVERTIME**

### **11.1 Policy**

It is the District's policy to adhere to the definition and requirements of applicable Federal and State laws which define overtime as hours worked in excess of eight (8) hours per day or forty (40) hours per week unless otherwise provided. The District defines overtime as hours in excess of eight (8) hours per day unless waived by the employee as a result of an approved alternate work schedule. It is the District's policy to avoid the necessity for overtime whenever possible while understanding that overtime work may sometimes be necessary to meet emergency situations, seasonal, or peak work load requirements. All overtime work will be distributed among employees by department in the same classification as equally as practicable. Further, District employees will be offered overtime work before such work is offered to hourly contractors, including temporary employees, hired by the District as practicable. Additionally, no employee shall work overtime unless authorized by the appropriate Department Manager or his/her designated representative.

### **11.2 Definitions**

a. Continuation Overtime

Shift Continuation Overtime is defined as overtime hours worked immediately following any regularly scheduled work period with no release from work of the employee by the District, except for situations where the overtime work was prearranged.

b. Call Back Overtime

Call Back Overtime is defined as overtime requested of the employee after there has been a release from work by the District. Whenever an employee is called to respond to a work-related issue outside of regularly scheduled work hours they will begin receiving overtime compensation from the time the call is received by the employee. The employee will receive overtime compensation for 1/2 hour or the actual time the employee was on the phone to resolve the condition, whichever is greater. An employee requested to report for a regular shift schedule will not be entitled to any overtime compensation prior to reporting for the shift, whether under Call Back Overtime or Prearranged Overtime. The minimum time paid for Call Back Overtime will be two (2) hours except Troubleshooters on standby, whose minimum call back overtime will be one (1) hour. If the Call Back Overtime overlaps into a regular work shift, and the employee has not qualified for a rest period, the employee will receive Call Back Overtime until the beginning of the regular work shift.

c. Prearranged Overtime

Prearranged Overtime is defined as overtime hours worked when advance notice to work was received with a minimum notice of twelve (12) hours prior to the

requested reporting time. The advance notice shall specify the starting time and ending time for the Prearranged Overtime assignment. If circumstances other than inclement weather require work to cease short of the prearranged ending time, the employee will receive overtime pay as if he/she worked the full Prearranged Overtime assignment. If inclement weather causes cancellation of Prearranged overtime prior to beginning work there will be no pay liability. If inclement weather causes cancellation of Prearranged Overtime work after employee begins work the employee will be paid for the actual time worked or two (2) hours whichever is greater.

If circumstances require work to continue beyond the prearranged ending time, the overtime work after the prearranged ending time will be considered continuation overtime. No minimum time paid will be associated with Prearranged Overtime if it immediately precedes or succeeds the normal work shift.

### **11.3 Overtime Compensation**

Non-exempt employees normally shall be paid at the rate of one and one-half (1-1/2) for all hours worked beyond (a) eight (8) hours per day; (b) forty (40) hours per week; or (c) additional hours worked above the designated work schedule. Call Back Overtime (as described in Section 11.2.b) shall, however, be paid at double the base rate of pay. In addition, Continuation Overtime (as described in Section 11.2.a) for time worked in excess of twelve (12) consecutive hours and continuing until the employee is dismissed from such work shall be paid at the rate of two times the employee's base rate of pay. Employees whose regular shift consists of twelve (12) hours will be paid two times the employee's rate of pay when time worked is in excess of fourteen (14) consecutive hours and continuing until the employee is dismissed from work.

Ditchtenders, Night Tenders, Main Canal and Reservoir Tender, Dispatchers, Dispatching Shift Supervisor, Power System Schedulers, Senior Water Treatment Plant Operators, Water Treatment Plant Operators, Woodland Generation Technicians, and those employees on Alternate Work Schedules as defined in Section 10.5 will be compensated at the applicable overtime rate for hours worked over forty in the designated workweek and for additional hours worked above the designated work schedule.

Overtime pay for employees, when applicable, shall be computed on the base rate multiplied by the appropriate shift differential factor. Overtime shall be computed to the nearest one-quarter hour.

### **11.4 Compensatory Time Off Policy**

Subject to the following limitations, any employee eligible for overtime pay may choose to accept Compensatory Time Off (CTO) in lieu of cash compensation. CTO shall be granted at the overtime rate applicable to the hours worked.

- a. The maximum accumulation of CTO at any time shall be limited to 120 straight time hours. However, any accumulation above 80 straight time hours will be subject to supervisory approval.

- b. An employee shall decide whether earned overtime will be recorded as overtime, CTO or an equivalent combination prior to submission of their next time card. Accumulation above 80 straight time hours will be subject to supervisor approval. Such decision shall be irrevocable subsequent to the submission of the time card.
- c. Accumulated CTO shall be used in minimum increments of one-quarter (1/4 ) hours in the case of crew-type operations and four (4) hours in the case of non-crew-type operations and for Dispatchers shall be used in minimum increments of six (6) hours. Exceptions may be allowed by the supervisor to accommodate the needs of an employee.
- d. An employee request to use accumulated CTO shall be granted at the sole discretion of the supervisor with due consideration to both the wishes of the employee and the efficient conduct of District business. Two working days notice is required. However, if the supervisor feels that the workload is such that shorter notice is acceptable, he/she may grant CTO accordingly.
- e. CTO shall not be used in the same pay period in which it is earned.

### **11.5 Overtime Meal Expense**

When non-exempt employees are required to work overtime, the District will provide meal expense allowance and overtime meal breaks in accordance with the following provisions:

- a. The overtime meal allowance shall be \$1.31 effective the pay period that includes 1-1-18 per overtime quarter-hour worked for Continuation and Call Back Overtime worked. For Prearranged Overtime worked, overtime meal expense begins when time worked is in excess of eight (8) hours on a non-workday, or in excess of two (2) hours worked on a regular workday. The overtime meal allowance shall be automatically adjusted at the same rate as any general wage adjustment granted through action of the District's Board of Directors rounded to the nearest \$0.01. For purpose of calculation of meal expense, the point in time an employee begins collecting pay for overtime will be the same starting point for calculation of meal allowances. However, any overtime payment not associated with time actually worked at the end of the overtime assignment, will not be used to calculate meal allowance such as guaranteed minimums for Call Back Overtime. Payment for overtime meal expense allowance shall be made in accordance with District procedures.
- b. With the exception of classifications that require continuous operation where visual attendance is the primary function of the classification, overtime meal breaks are earned at the rate of 0.03125 hours per overtime quarter-hour worked for Continuation and Call Back Overtime worked and for Prearranged Overtime worked in excess of eight (8) hours on a non workday or in excess of two (2) hours worked as a prearranged extension of regular work hours on a regular workday. Overtime meal breaks will normally be taken at four (4) hour intervals and will not be delayed beyond a six (6) hour interval without the employee's consent. If circumstances do not permit some or all of the earned meal break time to be taken during the work assignment, the balance of the earned meal break time will be

credited to the employee as additional overtime worked at the applicable overtime rate(s) which applied when the overtime meal break was earned.

- c. Overtime meal breaks shall not be included in overtime hour worked for the purposes of determining overtime meal expense allowance and the overtime meal breaks earned.

### **11.6 On Call**

An additional compensation, as outlined below, shall be paid to Troubleshooters and Operations Technicians who are assigned to be "on call" for emergency maintenance or repair work during periods outside normal working hours.

- a. Two (2) hours of standby pay at straight time rate for employees regularly scheduled workdays and four (4) hours of standby pay at straight time rate for non-workdays and Holidays.
- b. Pay for all time worked outside of normal working hours at the overtime rate.

Additional compensation as outlined above will be limited to available funds specifically identified for "On Call" compensation approved by the MID Board of Directors as part of the budget process.

### **11.7 Overtime Rest Period**

The intent of the District is to provide a rest period to employees as soon as possible after the completion of emergency work. Employees who are entitled to a rest period in accordance with the following guidelines shall be compensated at the applicable overtime rate until released from work. Routine work will not be assigned to prolong the beginning of rest periods.

- 1. If an employee has worked for four (4) hours or more at the overtime rate during the sixteen (16) hour period immediately preceding the beginning of his/her regular work hours, on a work day, he/she shall be given a rest period of eight (8) consecutive hours at the completion of the emergency work.

Compensation for the rest period will be allowed at the straight time rate for the hours within the rest period that overlap into the normal working hours. Vacation, DAL or CTO may be used to extend the rest period to the end of the employee's normal shift with the approval of his/her supervisor.

Employees shall not be required to supplement their paychecks with accrued leaves for time off due to mandatory rest periods.

### **11.8 *Special Rest Period***

Troubleshooters who are on call and have not received four (4) hours of continuous rest as a result of rendering service shall be entitled to a four (4) hour paid rest period in accordance with Section 11.7 above.

### **11.9 *Overtime on Mutual Aid***

When working Mutual Aid, MID employees shall be paid at the rate of two times for hours worked outside the normal shift except as described below.

When working Mutual Aid, MID employees shall be compensated at the most beneficial overtime multiplier between the requesting agency and MID.

## TITLE 12 - HOLIDAYS

### **12.1 Paid Holidays**

New Year's Day  
Martin Luther King's Birthday  
Washington's Birthday  
Memorial Day  
Independence Day  
Labor Day  
Veteran's Day  
Thanksgiving Day  
Friday following Thanksgiving Day  
Christmas Eve  
Christmas Day  
New Year's Eve  
Birthday Holiday (Floating)

### **12.2 Procedures**

When any of the above holidays fall on a Sunday, the Monday following shall be observed as the holiday. When any of the holidays fall on a Saturday, the preceding Friday shall be the holiday. For Dispatchers, Ditchtenders, Night Tenders, Main Canal and Reservoir Tender, Power System Schedulers, Senior Water Treatment Plant Operators, Water Treatment Plant Operators and Woodland Generation Technicians; if a holiday occurs during the employee's normal time off, the employee may elect either to receive eight (8) hours holiday pay in the pay period in which the holiday occurred or to take eight (8) hours off with straight time pay later in the calendar year in which the holiday occurred. If the Relief Dispatcher and/or Relief Dispatching Shift Supervisor have had a schedule change, at the District's request, and a holiday occurs during the time period when the Relief Dispatching Shift Supervisor or Relief Dispatcher is scheduled to work following the schedule change, the Relief Dispatching Shift Supervisor or Relief Dispatcher will be permitted to defer the holiday time in accordance with this paragraph as it applies to Dispatchers.

Dispatchers, Dispatching Shift Supervisor, Relief Dispatchers, Relief Dispatching Shift Supervisors, Ditchtenders, Night Tenders, Main Canal and Reservoir Tender, Power System Schedulers, Senior Water Treatment Plant Operators, Water Treatment Plant Operators and Woodland Generation Technicians shall observe the actual holiday.

Holiday pay shall be at the rate of straight time for eight (8) hours on such days.

Non-exempt employees, required to work on holidays shall receive compensation at the overtime rate for the actual hours worked in addition to their holiday pay.

Employees who are not receiving pay for time worked or authorized paid time off on the work day preceding and the work day following a paid holiday are not eligible for the benefit. Long Term Disability is not considered regular pay status.

Part-time regular employees except those individuals who are employed in a work experience or student intern classification, receive holiday pay on a pro rata basis.

Employee Birthday Holiday is designated as a floating holiday and must be taken prior to the end of the last bi-weekly pay period which is paid in that calendar year, subject to supervisory approval. New employees will be eligible for this holiday during their first calendar year of employment only in their birthday falls on or after their hire date.

If the employee has not used the Birthday Holiday prior to the end of the last bi-weekly pay period mentioned above, it will be converted to vacation leave.

## TITLE 13 - VACATION

### 13.1 *Schedule of Benefits*

Vacation is earned on an accrual basis based on the schedule below and recorded each pay period as hours of vacation earned. Any changes in an employee's vacation accrual rate will occur at the beginning of the pay period in which the anniversary date occurs. Each regular employee shall be entitled to a paid vacation in the calendar year in which he/she becomes eligible. A newly hired employee is eligible to take the earned vacation following completion of six (6) months of service. Subject to the regulations below, vacation days (hours in the case of Dispatchers, and Woodland Generation Technicians, at the rate of eight (8) hours per day), earned may be taken any time subject to supervisory approval. Should an employee terminate or retire, the District will calculate vacation payoff benefits on the basis of actual time served. Long Term Disability is not considered regular pay status. Part-time regular employees earn vacation benefits on a pro-rata basis.

TIME OF SERVICE		ACCRUAL RATE
Months From Hire Date	Years	Days Per Year
through 48 months	From Hire Date through completing 4 years	10
49 through 108 months	From 4th anniversary through completing 9 years	15
109 through 168 months	From 9th anniversary through completing 14 years	17
169 through 228 months	From 14 <sup>th</sup> anniversary through completing 19 years	20
229 through 288 months	From 19 <sup>th</sup> anniversary through completing 24 years	22
289 through 348 months	From 24 <sup>th</sup> anniversary through completing 29 years	24
349 through 408 months	From 29 <sup>th</sup> anniversary through completing 34 years	26
409 months & over	From 34 <sup>th</sup> anniversary and over	28



## **13.2 Procedures**

Vacation is provided to allow employees time away from work during the year. To that end, employees are encouraged to schedule and take vacation. However, workload circumstances and conditions may prevent employees from taking vacation. In these instances vacation hours may be carried over to the next succeeding vacation year. The maximum amount of vacation carry over hours allowed will be equal to twice the employee's annual vacation entitlement. Any vacation balance in excess of twice the annual entitlement will be paid to the employee after the end of each quarter. This quarterly vacation payout will be includable compensation for purposes of calculating Average Monthly Compensation in determining the Pension payments at retirement for employees hired before January 1, 2006.

Vacation shall be approved by the department head, with due regard for the wishes of the employee and with particular regard for the needs of the District, subject to the exceptions below.

When an employee elects to utilize a portion of his/her vacation, not to exceed three weeks (15 days), one hundred forty-four (144) hours in the case of Dispatchers, he/she shall notify his/her supervisor at least two (2) weeks in advance of the date requested and receive his/her approval. Woodland Generation Technicians shall notify his/her supervisor four (4) weeks in advance of the date requested and receive his/her approval. If the supervisor feels that the workload is such that shorter notice is acceptable, he/she may grant vacation accordingly. In no event shall an employee be able to take more vacation than currently accrued.

If a holiday falls within a Dispatcher's vacation, the Dispatcher and associated apprenticeship classification may elect either to receive eight (8) hours holiday pay in the pay period in which the holiday occurred or to take eight (8) hours off with straight time pay later in the calendar year in which the holiday occurred.

When an employee's shift does not coincide with the normal workweek, his/her vacation period shall coincide with his/her shift. In cases of scheduling conflict, the employee with the greatest length of service shall be given preference.

Exceptions to these procedures may be allowed only by special authorization from the General Manager.

Each department head shall prepare a vacation schedule for all employees under his/her jurisdiction. Changes in this schedule will be permitted provided an employee gives his/her department head two (2) weeks notice. The schedule shall be prepared in such a way that vacations will not handicap departmental operations.

## **13.3 Ditchtender Vacation**

- a. Ditchtenders Night Tenders, Main Canal and Reservoir Tender may request vacation during the irrigation season subject to the following conditions:

1. The request must be in writing and received by the District before the irrigation season begins in which the vacation request is made.
2. The maximum amount of vacation that may be granted per Ditchtender, Night Tender, Main Canal and Reservoir Tender per irrigation season is seven (7) days (one work cycle). The minimum amount of vacation granted will be one day. All vacation days will be taken at the same rate as the scheduled hours of the workday taken for vacation.
3. All requests for vacation during irrigation season may not be granted if customer service or operation requirements will be adversely affected.

#### **13.4 *Vacation at Termination/Retirement***

- a. If an employee has no earned and unused vacation the termination/retirement date shall be the last day worked.
- b. An employee who terminates/retires and has earned and unused vacation may elect either of the following options:
  1. Continue to work until the date of termination/retirement and be paid for unused vacation, or,
  2. Discontinue working and take unused vacation time that would extend from last day worked up to the date of termination/retirement.

If option (2) is selected, deductions from vacation pay will be the same as if the employee is actually on the job and coverage will be provided under various group programs through vacation time.

## **TITLE 14 - LEAVES WITH PAY**

### **14.1 Purpose/Use of Sick Leave**

Sick leave is provided to protect employees from loss of income in cases of absences caused by illness or injury of an employee or his/her family member as defined by law, when the employee is required to care for the sick family member, baby birth/care/bonding, and medical and dental office visits that cannot be scheduled during non-working hours. Sick leave can be used for the above listed cases, as well as for any other statutorily required leave where the statute permits use of accrued sick leave for wage replacement. California law permits paid sick leave to be used in accordance with the state's "Paid Sick Leave" law (Labor Code section 245 et seq) as well as the state "Kin Care" law (Labor Code section 233). The District follows the legal requirements of these provisions and District sick leave may be used pursuant to their terms, including their definitions of "family member." In general, one or both of these provisions permits an employee to use sick leave for their own or for a family member's health condition (including diagnosis, care, treatment) or for preventative care. The Kin Care statute also permits use of sick leave for an employee who is the victim of domestic violence or stalking.

### **14.2 Accrual Rate**

- a. Full-time employees accrue sick leave at the rate of ten (10) days per year.
- b. Regular employees who work less than full-time accrue sick leave on a pro rata basis according to hours worked.
- c. Accrual commences from the first day of employment. There is no maximum limit.

### **14.3 Eligibility**

- a. Employees are eligible for sick leave as defined in Section 14.1 and 14.2. Accrued sick leave may be used in conjunction with an industrial injury. In this case, if Workers' Compensation is paid simultaneously, the employee must return to the District any sick leave paid which is greater than full salary when combined with Workers' Compensation pay. This sick leave will be re-credited to the employee's accrued sick leave account.
- b. Eligible employees who are ill on a holiday will receive holiday pay except that Dispatchers will receive eight (8) hours holiday pay and four (4) hours sick leave.
- c. Employees must be in a regular pay status, receiving pay for work, sick leave, vacation, military leave as defined by government code, jury duty, bereavement leave, or on Workers' Compensation (excluding LTD) to be eligible to accrue and receive sick leave benefits. Long Term Disability is not considered regular pay status.

- d. An employee eligible for retirement, as defined in the plan, will receive 35% cash payoff of accumulated sick leave hours from 0-400, 50% for hours 401-800, 75% for hours 801 and above at the time of retirement or may take hours off according to total amount of cash payable divided by last hourly rate. If the employee chooses the latter option, further sick leave and vacation will not accrue during the hours off. Using the formula above earned and unused sick leave will be paid to the designated beneficiary at death.
- e. Sick leave credit may be applied to make up the difference between payments from Workers' Compensation and full salary when employees are off work due to industrial injuries.
- f. In January of each year, the sick leave taken during the previous payroll year will be used to determine qualification for the Sick Leave Usage Incentive. The payroll year encompasses the pay periods associated with all paydays in a calendar year. An employee must have a sick leave balance of at least 240 hours as of the last payday of the calendar year and meets one of the following:
  - 1. An employee who has used twelve (12) hours or less of sick leave during the previous payroll year shall accrue eight (8) hours of vacation. The employee may elect to cash in these eight (8) hours of vacation at the employee's current base rate of pay. Payment of these hours earned or cash under the Sick Leave Usage Incentive will occur as soon as practical, but not later than the second pay period in February.
  - 2. An employee who has used eight (8) hours or less of sick leave during the previous payroll year shall accrue ten (10) hours of vacation. The employee may elect to cash in these ten (10) hours of vacation at the employee's current base rate of pay. Payment of these hours earned or cash under the Sick Leave Usage Incentive will occur as soon as practical, but not later than the second pay period in February.

#### **14.4 BEREAVEMENT LEAVE-Eligibility**

In the event of a death in an employee's immediate family, or reproductive loss, the employee may take five (5) days leave without loss of pay. Employees will receive five (5) days "paid bereavement leave" per calendar year and shall be paid for their regularly scheduled hours of work during such period regardless of the number of hours worked per day/shift. "Immediate family" refers to a biological, foster, or adopted child, a stepchild, a legal ward, or a child of a registered domestic partner; a biological, foster, or adoptive parent, a stepparent, or a legal guardian; or a spouse or a registered domestic partner. For the purposes of Bereavement Leave it also includes brother, sister, brother-in-law, sister-in-law, grandparent of an employee, or grandchild of an employee, any person residing in the immediate household, or the brother or sister, parent, grandparent or grandchild of a spouse or registered domestic partner.

In the event of additional deaths in an employee's immediate family, or reproductive loss, the employee may take up to five (5) additional days per occurrence but must utilize accrued leave or take unpaid leave.

## **JURY DUTY**

### **14.5 Eligibility**

Employees are allowed leave with pay for Jury Duty. All employees are required to report for work at their regularly scheduled time unless it is impracticable to do so because of reporting time for Jury Duty. If the employee's regular shift is a night shift during the time the Jury Duty is scheduled, the employee has the responsibility to contact the Jury Commissioner to reschedule the Jury Duty so that it is during a period of time the employee is working day shift or off work. If the employee cannot change their scheduled appearance for Jury Duty after requesting the change from the Jury Commissioner, the employee's supervisor will make a best effort to minimize the impact on the employee including shift or schedule changes provided this does not create an unreasonable hardship or create an overtime obligation for the District. Employees are also required to report back to work upon release from Jury Duty unless his/her assigned work shift has ended or in the judgment of the supervisor returning to work for a short period of time would also be impracticable.

An employee wishing to apply for voluntary jury duty, such as the Grand Jury, must notify his/her supervisor of the intent and work requirements must be considered before approval is granted by the supervisor. An employee absent from work to serve on a voluntary jury or conduct voluntary jury business may elect to use CTO, vacation or Administrative Leave, or leave of absence without pay.

## **TITLE 15 - LEAVES OF ABSENCE**

### **15.1 *Reasons for Leaves***

Leaves of Absence may be granted by the District for any reasonable purpose. Examples include: personal or family illness, serious health condition of a designated person within a 12-month period pursuant to CFRA regulations, family care leave, disability, pregnancy, education, serious health conditions (at least an overnight stay in a hospital and/or three consecutive days of incapacity) and for other personal reasons acceptable to management. Management may require appropriate verification, in order to grant the leave. Granting of leave will allow an employee to be reinstated to the same or to a comparable position at the end of the leave. This leave will run concurrently with any other leave program including FMLA and CFRA.

Except as provided in Sections 11.7 and 12.2 and as excluded below or where precluded by law, the employee must exhaust all available accruals, including sick leave (for qualifying reasons per Section 14.1), vacation and compensatory time, before the employee may be on unpaid leave.

Exclusions:

- Approved Short Term Disability Leave
- Approved Long Term Disability Leave

### **15.2 *Length of Leaves***

A leave of absence may be for a period not to exceed six (6) months or two (2) semesters in cases of educational leave. Military leaves will be granted in accordance with applicable sections of state and federal law. In case of personal illness or disability the District may extend an authorized leave of absence without pay for longer than six (6) months.

### **15.3 *Commence and End***

A "leave" shall commence on and include the first work day on which the employee is absent, and terminate with and include the work day preceding the day he/she returns to work.

### **15.4 *Salary/Benefits Status***

An employee's job classification and pay level will not be affected by a leave of absence, with or without pay. However, leaves of 30 or more consecutive calendar days will delay the effective date of a probationary or merit salary increase by an amount of time equal to the time spent on the leave up to a maximum delay of one year.

Vacation and sick leave are not accrued during leaves without pay of 30 or more consecutive calendar days.

## **TITLE 16 - BENEFITS**

### **16.1 Maintenance of Benefits**

#### Active Employees

The District agrees to maintain dental, life, short term disability, long term disability and vision insurance programs for the term of the agreement. In addition, the District agrees to pay 100% of the premium costs for such dental, life, short term disability, long term disability and vision insurance programs during the term of this agreement. The employee will be solely responsible for any deductibles or co-payments under the applicable dental, life, short term disability, long term disability and vision insurance programs.

The District further agrees to maintain health insurance programs as defined in the applicable benefit plan. The District retains the right to negotiate with third party benefit administrators for the content and costs of health insurance plans, including employee co-payment costs. At anytime the District is considering a change in the level of benefit offered by a provider for the health insurance programs it will offer to meet and confer with the Union prior to making any changes. The District is committed to providing at least two (2) health insurance provider options for employees and their dependents. If two (2) health insurance providers are not available the District will meet and confer with the Union.

Each covered employee shall pay, through payroll deduction, 10% of the applicable monthly premium for health insurance coverage elected by the employee (employee only, E+1, E+2 or more). The employee will be solely responsible for any deductibles or co-payments under the applicable health insurance plan.

#### Opt Out

The District will offer an Opt Out provision as described below, to all employees hired by the District before January 1, 2018. Employees who are hired or rehired by the District on or after January 1, 2018 shall not be eligible for the Opt Out.

The District will offer an Opt Out provision for eligible employees to waive medical coverage at the employee's option only during health open enrollment annually for the next plan year. The Opt Out shall only be granted if the employee provides acceptable verification during the open enrollment period that the employee, and the employee's covered dependents, if any, have minimal essential coverage (other than coverage in the individual market, whether or not obtained through the Marketplace) as required by applicable regulations. No Opt Out payment will be made if the District knows or has reason to know that the employee or the employee's dependent(s) does not have or will not have this minimal essential coverage. Once Opted Out employees will be allowed to Opt in only during health open enrollment annually, however employees may Opt back into District medical coverage if a "qualifying event" as defined under COBRA occurs anytime during the health plan year.

If the employee Opts Out of medical coverage the employee shall receive in the Plan year Opted Out 50% of the monthly premium amount for the least expensive medical health plan then currently available to the District's employees, at the benefit level applicable to the employee and his or her eligible dependents (Employee, Employee + 1, Employee + 2 or more).

If two employees working for the District are spouses and if they both agree, they shall have the option to elect one medical coverage that will cover both employees and their dependents. The employee Opting Out of coverage shall receive in the plan year Opted Out 50% of the monthly premium as described above.

#### Retiree

The District and the Union agree to establish a side table during year 1 of this agreement for the purpose of achieving savings in the area of medical insurance. The District will move to CalPERS PEMHCA Medical coverage effect January 1, 2025 unless the parties achieve equivalent savings with existing medical carriers through the meet and confer process.

The District agrees to maintain medical benefits for eligible retirees and their eligible dependents at substantially the current level of benefit, all as set forth in the Modesto Irrigation District Retirement System Retiree Medical Benefits Plan (Retiree Medical Benefits Plan); provided, however:

1. For employees whose most recent hire date with the District is on or after January 1, 2006, and their eligible dependents, all benefit coverage shall cease at age 65 (or earlier if otherwise provided under the Retiree Medical Benefits Plan). All benefit coverage for such employees and their eligible dependents shall end when the employee reaches age 65.
2. For employees hired on or after January 1, 2013, all age 55 requirements in the Retiree Medical Benefits Plan shall be applied by using age 60 instead of age 55.
3. Effective as of November 18, 2003, an employee who is classified as a Part-Time Regular employee who is eligible for retiree medical benefits under the Retiree Medical Benefits Plan, but who does not have at least 5 consecutive years of covered service while classified as a Full-Time Regular employee shall be responsible for 50% of the premiums the District pays for the coverage for the retiree and the retiree's eligible dependents (rather than just the amounts shown in the Retiree Medical Benefits Plan).

#### Retiree Monthly Premium Payments

Retiree and one dependent	\$8.00 per month
Retiree and two or more dependents	\$13.00 per month

#### Funding of Future Health Care Benefits



The District has developed a Retirement Medical Benefits Plan to fund current and future eligible retiree medical benefits for themselves and eligible dependents. This Plan will set aside sufficient funds through annual contributions to pay expected retiree medical benefits for District retirees. This fund will be overseen by the Retirement Committee, one (1) member of which shall be a member of each bargaining unit.

### **16.2 Policy/Carrier Changes**

Should management determine that it is in the best interests of the District and its employees to change insurance policies and/or carrier yet not reducing benefit levels, the Union will be consulted prior to finalization of any such changes.

### **16.3 Payment of Employee Educational and Professional Development Activities**

The District will reimburse regular employees for textbooks and tuition, registration and lab fees for occupationally related school courses, satisfactorily completed on the employee's own time, individual memberships in occupationally related technical and professional associations, and occupationally related registration, certification or license fees. Reimbursements received for completed course work may be reportable income for tax purposes.

The District shall reimburse employees up to a maximum of \$3,500 per calendar year.

The District will make final determination as to work relatedness of classes and appropriateness of payment. Specific procedures regarding this program are outlined in the Employee Handbook.

### **16.4 Tool Reimbursement**

Employees in certain job classifications are required to provide tools that are needed to perform the duties of their jobs. Employees should take all reasonable precautions to protect tools from theft, including locking them up when not in use or taking them home at night. Tools which are stolen while performing District work or as a result of forcible entry on District property should be reported to the appropriate supervisor immediately.

A tool required by an employee for the performance of their job shall be documented and verified by the employee and employee's supervisor. A tool list will be kept on file with the employee's supervisor and will include the make, brand and size of each tool. It shall be the employee's responsibility to insure that this list is kept current and up to date. Any listed tool that is stolen while performing District work or as a result of identifiable forcible entry on District property will be replaced in-kind by the District.

Tools will not be replaced because of employee negligence; the failure of employees to ensure facilities and equipment are locked; or the failure to update the employee's tool list.

## **16.5 Tool Replacement (Heavy Equipment Mechanic)**

Employees in the Heavy Equipment Mechanic classification that are required to provide their own tools that are needed to perform the duties of their job, shall be provided up to fifteen hundred dollars (\$1,500,00) on a reimbursement basis per calendar year. This tool reimbursement is to be used for replacing personal tools broken or damaged while performing District services or for new tools required for the work of the District. Any tools purchased in conformance with this section shall be the property of the employee. The tool reimbursement shall be paid to the employee as soon as administratively feasible after the presentation of receipt(s).

## **TITLE 17 - RETIREMENT**

### **17.1 *Maintenance of Benefits***

The District agrees to maintain retirement benefits for eligible retirees as set forth in the Modesto Irrigation District Retirement System Basic Retirement Plan (Basic Retirement Plan) effective as of the date of this Memorandum. The District and the Union agree that amendment of the Basic Retirement Plan may be necessary from time to time during the term of this Memorandum to include amendments to comply with legal/regulatory requirements.

## **TITLE 18 - DRIVER LICENSE**

### **18.1 *Class A Driver License***

When an employee's job description requires a driver license beyond a Class C driver license, the District will pay the cost of the physical examination required for the license and provide time during normal working hours, without loss of pay, to obtain the license. The District will reimburse the employee for that portion of the driver license and license renewal fees that are in excess of the Class C driver license and license renewal fees.

### **18.2 *Traffic Citations***

The Human Resources Department will obtain all employee driving records on a yearly basis from the Department of Motor Vehicles. In addition, whenever citations are recorded at DMV on an employee, they will automatically be sent to the District. Employees with DMV citations will have their records reviewed more frequently. This information will be forwarded to the appropriate division manager and Human Resources department and maintained in a confidential manner on an as needed basis.

Employees presented with a physical moving vehicle citation in District vehicles shall report such citations to their immediate supervisor as soon as possible, no later than two work days. The supervisor shall inform the department manager and/or the division manager.

The District shall notify the employee of any moving vehicle citations in a District vehicle received by the District directly.

### **18.3 *Loss of Class A License***

In the event an employee loses their class A license they will be afforded up to 13 months or 30 days beyond the required waiting period to reobtain the license while continuing employment as part of a CDL agreement.

## **TITLE 19 - SAFETY**

### **19.1 Prevention of Accidents**

The District will make reasonable provisions for the safety of employees in the performance of their work. The District and the Union will cooperate in promoting the realization of the responsibility of the individual employee with regard to the prevention of accidents.

### **19.2 Employee Safety Program**

- a. The District will maintain an Employee Safety Program to assure that all District employees are trained. The program shall consist of the following elements: 1) Injury Prevention Plan: A written Plan that defines the District Safety Policy and the training requirements for all employees, both mandatory and optional. 2) The Employee Safety Manual: A manual for each employee that contains all the Safety Rules and Requirements for the District. The District shall inform the Union of any proposed new or revised rules and shall consult with the Union with respect thereto. 3) Record- keeping: The District shall maintain a data base of all current employees safety related training and schedule employees for required training to assure that mandatory requirements are maintained. The Human Resources Department will provide notification to management/supervision and the Union of employees who fail to maintain required training/certification current.
- b. The Safety Committee meetings will include participation of the IBEW Business Representative and IBEW members to be appointed by the Union, up to one (1) per bargaining unit.

### **19.3 Safety Meetings**

Safety Meetings shall be conducted individually by department or by common work location for the purpose of reviewing accidents and preventing their reoccurrence, eliminating hazardous conditions, identifying potential dangers, and familiarizing all employees with safe work procedures and applicable State and Federal Safety Orders. Managers or their designees shall present a specific safety topic and discuss issues with those employees attending the meeting. The Safety Officer will provide technical assistance and subject material for meetings when necessary. Monthly Safety meetings shall be held for the following departments: Meter/Transformer, Substation, Line Construction, Trouble, Service Maintenance, Irrigation Services, Irrigation Construction/Maintenance, Fleet Maintenance, Woodland and McClure Generation Stations, Water Treatment Plant, Building/Grounds and Material Handling. All other departments will be required to attend at least two (2) Safety Meetings per year. One meeting will consist of a review of the Injury and Illness Prevention Program, Fire Evacuation Plan, Bomb Threat, Active Shooter, and Fire Extinguisher Training.

#### **19.4 Walk-Around Inspections**

One employee representative will accompany the District safety representative on inspections conducted by state agencies. Employee representatives shall be selected from pre-established lists submitted by the Union for the department in which the inspection occurs. Any employee or employer's representative shall have the right to discuss safety violations or safety problems with the inspector privately during the course of an investigation or inspection.

#### **19.5 District Inspections**

- a. District Safety Officer will make semiannual inspections of all non-electric District properties, all District activities and equipment. The District Safety Officer may be accompanied by a representative of each applicable department who is knowledgeable in the work area. One employee representative selected from the pre-established list described in Section 19.4 may accompany the inspection team during semiannual inspections. The results of such inspections will be supplied to District management and employee organizations.
- b. District safety representatives will make unscheduled safety inspections on a random basis at District facilities and job sites to assure compliance with safety requirements.

#### **19.6 On-The-Job Accidents**

It shall be the duty of all officers and employees to make an immediate report of all on-the-job accidents, injuries and illnesses to their immediate supervisor who will notify the department head, the Environmental Health and Safety Department and/or the Human Resources Department.

#### **19.7 Fitness for Duty**

When there is reasonable suspicion that an employee is unable to safely perform the duties of his/her position, such employee may be required to undergo a medical examination, which may include drug and alcohol testing. All newly hired employees will be required to undergo a medical evaluation, which will include drug and alcohol testing as a condition of employment. Specific procedures of Fitness for Duty are spelled out in the Fitness for Duty Policy adopted by the Board of Directors August 28, 1990. The complete policy and procedures is located in Section B32 of the Employee Handbook.

## **19.8 Safety Clothing**

OSHA regulations require the employer to ensure that all employees performing work within reaching distance of exposed energized parts must wear clothing that will not increase an injury caused by flames or electric arcs. These regulations make it necessary for designated employees in the District to wear arc-rated (AR) clothing.

The District will provide AR clothing (shirt, pants, jackets, and/or coveralls) and associated laundry service for designated employees. Designated employees shall be required to wear District provided clothing while performing regular duties except when specifically exempted by supervision.

All outerwear clothing, including but not limited to jackets, coats, sweat shirts, etc. must also be District approved when worn on the job. Employees will not be limited to a single manufacturer when selecting outerwear clothing. District approved list will include, but not be limited to outerwear clothing from Bulwark, Workrite and Carhartt with District approved color schemes in either blue, black or brown.

AR clothing worn at the District must be purchased from the District approved list and the District will be responsible for making all purchases. An approved MID logo will appear on all clothing as well as the employees name on AR shirts and coveralls. Laundering of AR jackets and outerwear will be the responsibility of the employee.

The District will provide AR lab coats in lieu of other AR clothing where management deems appropriate.

## **TITLE 20 - CONTINUITY OF SERVICE**

### **20.1 *Continuity of Service***

The duties performed by employees of the District as part of their employment pertain to and are essential to the operation of a public utility and the welfare of the public dependent thereon. During the term of this agreement employees shall not partially or totally abstain from the performance of their duties including overtime for the District. The Union shall not call upon or authorize employees individually or collectively to engage in such activities and shall make a reasonable effort under the circumstances to dissuade employees from engaging in such activities, and the District shall not cause any lockout.



## **TITLE 21 - GRIEVANCE PROCEDURE**

### **21.1 Definition**

#### **Definition**

A grievance is defined as meaning any dispute regarding the application of the following:

- a. Any rules, regulations, policies, or administrative procedures pertaining to the terms and conditions of employment of an employee which are created by resolution of the District's governing board, promulgated by the District's General Manager, or set forth in the Employee Handbook; or
- b. Any binding memoranda of understanding; or
- c. The discharge, transfer, promotion, suspension, or discipline of an individual employee.

This procedure does not apply to instances of dissatisfaction by employees over their wage rates once such rates have been established by action of the District's Board of Directors following the meet and confer process.

### **21.2 Representation**

In initiating and prosecuting a grievance an employee may represent themselves or be represented by the Union. In the interest of the Union representing the greater good of affected classifications covered by this agreement, the Union (identified as designated representative) may take up or forward any grievance normally covered by this section on behalf of an employee or group of employees that would benefit directly from the remedy sought (grievant). A grievance must have adversely impacted an identified grievant or group of identified grievants, there shall be no hypothetical grievances. Any remedy would be applicable to similarly situated employees, whether they are grievants or not. In no circumstances will there be an "unnamed grievant." The Union reserves the right to assign representation as deemed necessary.

### **21.3 Time Limits**

The time limits specified below may be extended for a reasonable period of time to a definite date and time by the mutual consent of the involved parties. The failure by the involved employee (or representative) to meet any specified applicable time limit will constitute a withdrawal of the grievance. The failure by the involved employer representative to meet any specified applicable time limit will entitle the involved employee (or representative) to take the next step in the grievance procedure.

### **21.4 Grievance Procedure Steps**

#### **Step 1**

The grievant, or one designated member of a group of grievants, (and/or representative on behalf of grievant of a group of grievants) will first identify and discuss the grievance with the immediate supervisor within fourteen (14) calendar days after the facts or circumstances giving rise to the grievance are available to the grievant. If the grievance is

not satisfactorily resolved within fourteen (14) calendar days from the day the grievance was discussed with the immediate supervisor, then:

**Note:** The immediate supervisor for the purposes of Step 1 shall be the supervisor most immediate to the grievant(s) who has the authority to make corrective adjustments to the situation in question.

## Step 2

The grievant (and/or representative on behalf of grievant of a group of grievants) shall reduce the grievance to writing and submit it to the department manager/AGM within fourteen (14) calendar days after the decision at step 1 if the grievance is not satisfactorily resolved at step 1. The department manager/division manager will investigate any grievance properly submitted and give a decision on the matter within fourteen (14) calendar days from the date the written grievance was received. If it is not satisfactorily resolved , then:

## Step 3

A grievant who is not satisfied with the decision at Step 2 may, within fourteen (14) calendar days after the decision is issue at step 2, submit a request in writing to the General Manager for a Step 3 resolution of the dispute. As part of this written request, the grievant must identify whether Step 3-Track 1 is being requested (which automatically proceeds to Step 4 arbitration as the final step if not resolved by the General Manager at Step 3) or Step 3-Track 2 is being requested (with the General Manager's decision as the final step). Step 3-Track 1 requests must also be accompanied by the Union's written approval of the arbitration requirements set forth below under Step 4.

The process and requirements of each Step 3 track are listed below. Regardless of the track selected, in no event shall there be more than one evidentiary hearing, if any.

### Step 3-Track 1 – Arbitration Track

The grievant (and/or representative on behalf of grievant of a group of grievants) shall forward the grievance to the General Manager for review.

The General Manager, or designee, will investigate any grievance properly submitted and give a decision on the matter within fourteen (14) calendar days from the date the written grievance was received. If the matter is not satisfactorily resolved, the grievant (and/or representative on behalf of grievant of a group of grievants) may elevate the grievance to Step 4 – Arbitration.

### Step 3 - Track 2 – General Manager as Hearing Officer (or use of appointed Hearing Officer).

1. If the grievance relates to a non-disciplinary matter such that due process is not required under applicable law, the General Manager shall, on the earliest reasonably available date (for the General Manager and parties) convene a meeting with the involved parties to hear and receive information.

Alternatively, the General Manager may opt to have an impartial third-party conduct the Step 3 meeting and issue a written recommendation to the General Manager.

The General Manager or impartial third-party shall give due consideration to materials and statements presented, and strict rules of evidence shall not apply. In general the grievant shall present witnesses and evidence first, and shall bear the burden of proof. The District will then present its witnesses and evidence, and both sides shall have an opportunity for rebuttal. The hearing officer's written findings and decision are advisory to the General Manager and shall be provided only to the General Manager. The Step 3 determination by the General Manager shall be issued in writing to both parties and shall be final and binding.

2. If, and only if, the grievance is a disciplinary appeal requiring due process under applicable law, the General Manager's meeting will be an evidentiary hearing to receive sworn testimony and evidence. The General Manager may, in his or her sole discretion, retain counsel at the District's expense (other than the District's general counsel or counsel who has advised District staff below or is representing the District at the hearing) to advise the General Manager during the proceedings and/or assist in preparing the written determination. Alternatively, at the General Manager's sole discretion, and at the District's expense, the General Manager may engage a qualified hearing officer to conduct the hearing and render an advisory determination to the General Manager. In an evidentiary hearing for such disciplinary appeal, the procedures shall be as follows:
  - a. The General Manager (or hearing officer) shall not be bound by technical rules of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The General Manager (or hearing officer) shall determine the relevancy, weight, and credibility of testimony and evidence, and shall base their findings on the preponderance of the evidence.
  - b. The District shall present its witnesses and testimony first and shall bear the burden of proof to demonstrate "just cause" for the disciplinary action taken. The Union will then present its witnesses and evidence, and both sides shall have an opportunity for rebuttal. Each side will have the opportunity to examine and cross-examine witnesses, who shall testify under oath.
  - c. The proceedings shall be either audio recorded or stenographically reported, with the corresponding copy of the recording or transcripts prepared for the parties and for the General Manager (or hearing officer). If either the District or the General Manager (or hearing officer) requires stenographic reporting rather than audio recording, the District shall bear the cost. If the grievant requests stenographic rather than audio recording, the parties shall share the cost.

- d. The General Manager (or hearing officer) may, prior to or during a hearing, grant a continuance for any reason they believe may be important to reaching a fair and proper decision. Absent such continuance, the parties shall proceed as scheduled or be deemed to have waived the opportunity to do so.
- e. After the hearing and receipt of the transcripts (if any), and after both parties have had an opportunity to make either oral or written closing arguments, written findings and determination shall be made.
- f. If a hearing officer was used, the hearing officer's written findings and decision are advisory to the General Manager and shall be provided only to the General Manager. The General Manager shall review them, along with the record of proceedings, and then shall issue a written determination adopting, modifying, or rejecting the advisory findings and decision. Such General Manager determination shall attach a copy of the hearing officer's advisory findings and decision.

If no hearing officer was used, the General Manager shall issue the written findings and determination.

- g. The Step 3 determination by the General Manager shall be issued in writing to both parties and shall be final and binding.

#### Step 4 - Arbitration

As noted above in Step 3, the ability to proceed to arbitration requires the written approval of the Union, which shall be given or withheld within the time limit specified for the grievant to appeal to Step 3-Track 1. If at any point the Union subsequently withdraws its approval to proceed to arbitration, the Union shall immediately pay its portion of the arbitration or pre-arbitration costs, if any, incurred to that point, and the matter shall then proceed to hearing before the General Manager, Step 3-Track 2, unless the grievance is withdrawn.

1. The Union and the District shall attempt to agree upon an arbitrator. If no agreement can be reached, they shall request that the State Mediation and Conciliation Service ("SMCS") supply a panel of five names of persons experienced in hearing public employee grievances and disciplinary appeals. All SMCS costs shall be shared equally by the Union and the District. Each party shall alternately strike a name until only one remains. The order of the striking shall be determined by lot, with the winner of the lot having the option either to strike first or to defer to strike second. The remaining panel member following the alternating strike process shall be the arbitrator.
2. All costs of the arbitrator and stenographer (including preparation of transcripts) shall be shared equally by the Union and the District, and the parties' payments due shall be made directly to the arbitrator and stenographer. All other costs or fees shall be borne by the party that incurred them.

3. The arbitrator shall, on the earliest reasonable mutually agreed to by the parties and arbitrator, hear testimony and receive evidence. As to any procedural issues for the hearing that are not addressed in this grievance policy, the arbitrator shall reasonably determine the appropriate procedure and applicable time frames, taking into account applicable facts and circumstances and any request of the parties.
4. Upon reasonable advance notice from the Union, the District shall require relevant employee witnesses requested by the Union to appear and testify at the hearing, and the time at such hearing shall be deemed paid work time. Disputes as to the relevance of such testimony, and as to how much testimony is reasonably necessary, shall be resolved by the arbitrator.
5. The arbitrator may, prior to or during a hearing, grant a continuance for any reason they believe may be important to reaching a fair and proper decision. Absent such continuance, the parties shall proceed as scheduled or be deemed to have waived the opportunity to do so.
6. The order of proceedings and burden of proof depends on the nature of the appeal.
  - a) In a grievance not involving a disciplinary appeal, the grievant shall present its witnesses and evidence first, and shall bear the burden of proof. The District will then present its witnesses and evidence, and both sides shall have an opportunity for rebuttal.
  - b) In a grievance that is an appeal from discipline, the District shall present its witnesses and testimony first, and shall bear the burden of proof to demonstrate "just cause" for the disciplinary action taken. The Union will then present its witness and evidence, and both sides shall have an opportunity for rebuttal. Each side will have the opportunity to examine and cross examine witnesses, who shall testify under oath.
7. The arbitrator shall not be bound by technical rules of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The arbitrator shall determine the relevancy, weight, and credibility of testimony and evidence, and shall base their findings on the preponderance of the evidence.
8. The proceedings shall be stenographically reported, and transcripts prepared for the parties and arbitrator.
9. After the hearing and receipt of the transcripts, and after both parties have had an opportunity to make either oral or written closing arguments, the arbitrator shall submit their written findings and decision to all parties. In so doing, the arbitrator

shall have no authority to add to, delete, or alter any provisions of this MOU or District policy.

10. The determination by the arbitrator shall be final and binding.

## **21.5 Special Provisions**

- a. A grievant initiating a grievance and/or designated representative as outlined by section 21.2 of this procedure will be present during all steps of the procedure except as otherwise agreed by the District and the employee organization.
- b. By mutual agreement, a grievance as outlined by section 21.2 of this procedure may be initially presented at any step of the procedure.

## **TITLE 22 - MISCELLANEOUS PROVISIONS**

### **22.1 *Positive Discipline***

The Modesto Irrigation District and Union have jointly developed a Positive Discipline approach to assist employees in managing their performance and behavior. The complete Positive Discipline policy and program procedures and guidelines are listed in the Employee Handbook Section. Positive Discipline recognizes good performance and assures fair treatment of employees when problems arise with job performance. The focus of Positive Discipline is to help employees succeed in doing his or her job well.

