

# Tab 2

Metropolitan Water District of Salt Lake & Sandy  
Board Meeting Information  
Last Update: May 30, 2023

**Agenda Item:** Consider approval of changes to Policies and Procedures of the District

**Objective:** Annual approval of changes to the Policies and Procedures Manual

**Background:** The Finance Committee, Engineering Committee, and Management Advisory Committee annually review specific chapters in the District's Policies and Procedures Manual. This periodic review usually takes place in May or June of each year after the Utah legislative session and the resulting implementation of any new laws affecting District policy. Staff and legal counsel conducted the review.

The Management Advisory Committee reviewed the proposed changes to the Policies and Procedures Manual. The committee did not review chapters regarding fiscal and budget, investment, debt, and regulations for non-District use of rights-of-way. The Engineering Committee reviewed the proposed changes to Chapter 16. The following is a summary of the proposed changes:

- Chapter 1 "Trustees" notes the change in the Preface from Local District to Special District. It also reflects recommendations for Meetings (1-11).
- Chapter 10 "Personnel Policies" changes reflect recommendations for the Employee Education Assistance (10-3), Sick Leave (10-6), and Family and Medical Leave Act policy (10-19).
- Chapter 16 "Policies for non-District Use of Aqueduct Corridors" changes reflect recommendations for General Background (16-1), Agreements (16-4), and Protection Standards (16-7).

**Committee Activity:** The Management Advisory Committee met on May 23, 2023 to review the proposed changes and the Engineering Committee met on May 24, 2023 to review the proposed changes to Chapter 16 of the P&P. The committees recommend approval by the full board.

**Recommendation:** Approval of changes to the Policies and Procedures of the District.

## CHAPTER 1 TRUSTEES

Last Updated: ~~June 12, 2023~~

Deleted: June 13, 2022

### PREFACE

*Certain provisions of this Chapter of the Policies and Procedures Manual (“P&P”) of the Metropolitan Water District of Salt Lake & Sandy (“District”) are mandated by statute, specific document signed or adopted as a part of the annexation of Sandy City into the District, contract, or bond document. In most such instances specific statutes, annexation documents, contracts, and bond documents are referenced. Except as mandated by applicable statute, annexation document, contract, or bond document, P&P Sections are subject to change by the Board of Trustees of the District (“Board”) without notice. Except as otherwise stated, or otherwise dictated by applicable law, these Sections contain “policies and procedures” which are mandatory directives of the Board to be followed by the Trustees and staff absent a different directive or approval of the Board. Absent sufficiently exigent circumstances, such different directive or approval of the Board should precede action which varies from these Sections. Occasionally the Board may adopt “regulations” pursuant to authority granted by Utah Code Ann. §§ 17B-1-103, 17B-1-301(2)(i) that have the force and effect of law, and may be applicable to the activities of persons or entities who are not Trustees or staff. Occasionally these P&P Sections are stated in terms of “goals,” “objectives” or “guidelines,” that give the Trustees and staff general direction, but do not mandate particular end results or particular procedures. Except as otherwise stated, or as otherwise provided by applicable law, these Sections are not intended to create any claim or cause of action, set any standard of care applicable to any claim or cause of action, nor provide any evidence of standard of care for the purposes of any claim or cause of action. The District’s General Manager (“GM”) is authorized to make non-substantive grammatical and format changes to the P&P. Utah Code Ann. Title 17B applies to Special Districts. Some parts of Title 17B apply only to specific kinds of Special Districts. For example, the Metropolitan Water District Act (“MWD Act”) is Part 6 of Chap. 2a of Title 17B, and that Part applies only to Metropolitan Water Districts. If there is a conflict between the MWD Act provisions and other Special District provisions, the MWD Act provisions take priority. Utah Code Ann. § 17B-2a-602(4).*

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#### 1-1 NUMBER

- 1) Utah Code Ann., Title 17B, Chap. 1, Part 3 deals with Trustees. Utah Code Ann. § 17B-1-302 allows the Board to set the number of Trustees at an odd number of no less than 3 by a 2/3 vote. No change in the number of Trustees may shorten any Trustee’s term. Section 604 of the MWD Act, Utah Code Ann. § 17B-2a-604(2), allows the District to determine the number of Trustees by agreement with member cities. Pursuant to Paragraph 8 of District Resolution 1633, adopted as part of the annexation of Sandy City into the District, and approved by and relied upon by the District’s member cities, the total number of Trustees shall be 7. Five Trustees are appointed by

k) Any other purpose provided by statute.

9) Meeting Minutes and Recordings. Excepting only where a meeting is closed solely to discuss the character, professional competence, or physical or mental health of an individual, or to discuss the deployment of security personnel, devices, or systems, written minutes and a recording shall be kept of all meetings. When a meeting is closed to solely discuss the character, professional competence, or physical or mental health of an individual, or to discuss the deployment of security personnel, devices, or systems, the person presiding over the meeting shall complete a sworn statement in the form attached at the end of this Chapter. A recording of an open meeting shall be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting, and shall be properly labeled or identified with the date, time and place of the meeting. Written minutes or recording of an open meeting must be converted for and maintained in long-term storage. Such minutes and recordings shall include:

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- a) the date, time and place of the meeting;
- b) the names of Trustees present and absent;
- c) the substance of all matters proposed, discussed, or decided by the Board, which may include a summary of comments made by Trustees;
- d) a record, by individual Trustee, of votes taken;
- e) the names of each person who is not a member of the Board, and after being recognized by the presiding member of the Board, that provided testimony to the Board and the substance in brief of their testimony or comments; and
- f) all other information that is a record of the proceedings of the meeting that any Trustee requests be entered in the minutes or recording.

10) Government Records Access and Management Act. Pending minutes, approved minutes, and recordings of open meetings, shall be made available to the public and posted on line as described in Utah Code Ann. § 52-4-203.

11) Recording of Open Meetings by Others. All or any part of an open meeting may be recorded by any person in attendance so long as the recording does not interfere with the conduct of the meeting.

12) Electronic Meetings. The District may hold electronic meetings in compliance with Utah Code Ann. § 52-4-207. In addition to the requirements above for other meetings, the notice will include a description of how Trustees will be connected, will to the extent otherwise required establish one or more anchor locations for the public meeting,

at least one of which is the District's large conference room, and state if public comment will be accepted during the meeting. Space and facilities shall be provided at the anchor location so that interested persons and the public may attend, monitor and participate in the open portions of the meeting. Any Trustee who is connected electronically and can be heard will be included in calculating a quorum.

- 13) Conduct of the Meeting. Except as otherwise provided by the P&P or applicable law, or as directed by the Chair, meetings will be conducted pursuant to Robert's Rules of Order. Board meetings will be conducted by the Chair if present, by the Vice-Chair in the Chair's absence, by the Secretary in the absence of the Chair and Vice-Chair, or by a Trustee elected by the Board in the absence of the Chair, Vice-Chair and Secretary. The Trustee conducting the meeting may make or second motions and may vote on any matters upon which a vote is called for. The Trustee conducting the meeting may establish parameters for the conduct for public hearings designed to maintain order and decorum and fairly apportion available time. Absent consent of the Chair in advance, public comments should be limited to 5 minutes.
- 14) The Trustee presiding over the meeting may, without motion or vote, expel a person who willfully disrupts a meeting to the extent that orderly conduct is seriously compromised. Any Trustee may move the expulsion of a person under such circumstances.

#### **1-12 BOARD OFFICERS**

- 1) Utah Code Ann. § 17B-1-309 states that the Board shall elect a Chair, and may elect other officers as the Board considers appropriate. The Board will select from among its members a Chair, a Vice-Chair and a Secretary. Each Board officer serves at the pleasure of the Board for a term of one (1) year from July 1 to June 30 the following year, unless earlier removed or replaced by the Board. Each Board officer shall serve until replaced.

#### **1-13 GENERAL MANAGER AND GENERAL COUNSEL**

- 1) The Board will appoint a General Manager ("GM"), and General Counsel who are not Trustees. The GM and General Counsel serve at the pleasure of the Board.

#### **1-14 COMMITTEES OF THE BOARD**

- 1) Standing committees of the Board shall include the Executive Committee, the Management Advisory Committee, the Engineering Committee, the Finance Committee and the Environmental Committee. The Executive Committee consists of the Chair, Vice-Chair and Secretary. Members of other standing committees shall be appointed by the Board. The Board may appoint additional ad hoc committees. Except as otherwise determined by the Board, the authority of standing and ad hoc committees

(Form of Sworn Statement)

AFFIDAVIT

STATE OF UTAH )  
 :ss.  
COUNTY OF SALT LAKE )

\_\_\_\_\_, of the Board of Trustees of the Metropolitan Water District of Salt Lake & Sandy, upon oath, deposes and says that:

- 1) I presided at the Board meeting of the Metropolitan Water District of Salt Lake & Sandy held on \_\_\_\_\_ at its office at 3430 East Danish Road, Cottonwood Heights, Utah.
- 2) I hereby affirm that the sole purpose of the closed portion of the foregoing meeting was to discuss:

- the character, professional competence, or physical or mental health of an individual;
- or
- the deployment of security personnel, devices, or systems.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Trustee

SUBSCRIBED AND SWORN to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_  
by \_\_\_\_\_

(seal)

\_\_\_\_\_  
Notary Name Signature

**CHAPTER 10  
PERSONNEL POLICIES**

Last Updated: ~~June 12, 2023~~

Deleted: June 13, 2022

**10-1 INTENT**

- 1) The Board expects the GM to implement goals consistent with its desire:
  - a) To provide each District employee with a productive work environment, including the necessary policies, procedures, tools, equipment, and resources to perform that employee's duties.
  - b) To be committed to the safety of employees and others.
  - c) To provide a work place which prohibits discrimination and harassment.
  - d) To recruit, select, retain, advance, and pay District employees on the basis of their relative ability, knowledge, and skills and without regard to race, color, religion, sex, national origin, age, disability, or any other class protected by applicable law.
  - e) To provide each District employee with a job description that describes their duties and responsibilities.
  - f) To provide employees with a description of available benefits.
  - g) To adopt and disseminate to employees the procedure for processing employee grievances and appeals.
- 2) The Board's goal is to provide to the GM the authority, support, and resources reasonable and necessary to implement the policies of this chapter consistent with applicable state and federal law and other instructions of the Board.
- 3) The Management Advisory Committee shall cause the District's Employee Manual to be reviewed annually by counsel to ensure that it conforms to state and federal law, this Chapter, and other instructions of the Board.

**10-2 ANNUAL EMPLOYEE BENEFIT REVIEW**

- 1) As a part of the annual budget process the GM will consult with the Management Advisory Committee regarding an appropriate employee benefits package. Health, dental and vision care, life insurance, a cafeteria plan, accident and disability insurance, long-term care, retirement benefits, and District matching contributions (100% match up to a maximum of 3% of gross pay) to 401(k), as well as other benefits, should be

considered. The District is interested in providing benefits that will help the District attract and retain skilled and experienced employees. The District is interested in maintaining reasonable stability and predictability for its employees and their families, while also maximizing the District's investment in an employee benefit package by reacting appropriately to changes in the insurance industry, insurance products, applicable state and federal laws, and economic conditions. The District is interested in providing benefits that are reasonably comparable to those offered by other local entities similar to the District. In providing these benefits the District shall comply with all applicable federal, state and local laws including but not limited to Consolidated Omnibus Budget Reconciliation Act ("COBRA"), Health Insurance Portability and Accountability Act ("HIPAA"), Fair Labor Standards Act ("FLSA"), and Affordable Care Act ("ACA"). Only regular full-time employees are eligible for benefits unless otherwise required by law. Trustees are considered part-time appointed officials for purposes of Utah Retirement System ("URS") rules and are not eligible for URS benefits.

### **10-3 EMPLOYEE EDUCATION ASSISTANCE**

- 1) Subject to available unencumbered appropriations in the budget, the District may assist employees with the expense of qualifying educational courses.
- 2) A course plan, which describes required classes, estimated time to complete program, and estimated cost to achieve degree, license or certification must be submitted and approved by the GM, prior to enrolling in program. Any changes to an approved course plan, need to be reapproved by the GM.
- 3) Courses must be approved in advance and must be part of a degree, licensing or certification program that the GM determines is related to the employee's current job duties or a reasonably foreseeable future District position, considering the employee's overall job performance and the employee's potential for applying his or her educational experience to the job. A particular course being approved for one employee does not mean that the same course will be approved for other employees.
- 4) The District may reimburse up to 100 percent of tuition, CLEP (College Level Examination Program) courses, online course fees, books, lab fees, and required fees (defined as "mandatory fees" (University of Utah), "student fees" (Salt Lake Community College), or similar fees from other institutions). Other miscellaneous expenses such as transportation, parking, school supplies, entrance exams, student loan fees, or other related items are not reimbursable. Any grants or other financial aid that does not have to be repaid (such as the GI Bill and scholarships) will be credited to the costs incurred by the employee prior to calculating the request for reimbursement.
- 5) The employee is fully responsible for all other costs.



6) Reimbursement is contingent upon the employee achieving a “B” grade or better or a “P” if a Pass/Fail is awarded.

7) Reimbursement will be made to the employee only after completion of the semester or term and submission of a transcript. Employees must submit receipts showing proof of payment, grades, and reimbursement requests within 45 days from the end of the semester or term.

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8) Employees must remain on the active payroll and be performing their job satisfactorily through the completion of each course in order to be eligible for education assistance.

9) Employees must sign a loan acknowledgment and authorization for payroll deduction for any repayment obligation specified herein to be eligible for education assistance.

10) The District makes no promises of any kind that participation in qualifying courses will entitle the employee to any job advancement, any different job assignment, or any pay increase. Nothing in this policy should be construed as creating a contract of employment for any period of time.

11) Typically, the pursuit of education under this policy will be done outside of a regular work schedule (on the employee’s own time).

12) Subject to IRS guidelines, employees may be subject to tax consequences or imputed income due to participation in this program.

13) Employees who leave District employment for any reason except layoff within one year of receiving tuition reimbursement are required to repay the total amount of tuition reimbursement received in the last 12 months of employment. If repayment is required under this policy, the amount of education assistance required to be repaid will be considered a loan payable upon the employee’s last day of employment and will be deducted from wages owed to the employee pursuant to a signed authorization. In the event the amount of education assistance required to be repaid exceeds wages owed as of the last day of employment, the employee must pay the District the remaining balanced owed following a payroll deduction within 30 days from last day of employment. If not paid within 30 days, the unpaid amount may be sent to a collection agency.

#### 10-4 OPERATOR CERTIFICATION PROGRAM

1) The District encourages certain employees to become certified both in the area of treatment as well as distribution. Subject to available and unencumbered appropriation in the budget, each eligible employee who takes and passes the tests at various grade levels will be compensated as follows for unrestricted status:

CEU requirements. Typically, training will take place as part of the employees' regular work schedule (on District time).

#### 10-6 SICK LEAVE

- 1) Only regular full-time employees are eligible for paid Sick Leave.
- 2) Eligible employees will accrue 88 hours of Sick Leave per year.
- 3) Accrual of Sick Leave starts upon the employee's date of hire.
- 4) Eligible employees may carry over to the following calendar year a maximum of 1080 hours of Sick Leave. The employee will forfeit any amount beyond the maximum allowed carry over.
- 5) The District will not grant advances on Sick Leave.
- 6) Permissible Uses of Sick Leave:
  - a) Office visits to doctors, dentists or other health practitioners for the employee or the employee's dependents;
  - b) Caring for the employee's own health (physical or mental) or injury; and
  - c) Caring for the employee's immediate family member who is suffering an illness, injury, or serious health condition. Immediate family is defined for these purposes as spouse, child, or parent.
- 7) Sick Leave benefits will be calculated based on the employee's rate of pay at the time of absence and will not include any special forms of compensation such as incentives, overtime, bonuses or shift differentials. For exempt employees, an hourly equivalent of their salary, based upon a 40-hour workweek, will be used.
- 8) Sick Leave must be reported in the pay period it is used.
- 9) If an employee has 880 or more hours of Sick Leave available for use as of the last pay period of each calendar year, Sick Leave will be converted to Vacation Leave for the following calendar year based on the employee's calendar yearend available balance as follows:
  - a) 880-979 hours: 20 hours or;
  - b) 980-1079 hours: 30 hours or;
  - c) 1080 hours or more: 40 hours
  - d) An employee may opt out of converting Sick Leave to Vacation Leave if their

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balance is between 880 hours and 1079 hours. If an employee has 1080 hours of Sick Leave or more, the conversion to Vacation Leave will occur automatically.

- 10) Sick Leave is not counted as time worked for purposes of calculating overtime.
- 11) Sick Leave may not be cashed out at any time except as described in the District's Sick Leave Conversion Upon Retirement Policy.
- 12) Abuse, misuse, or excessive use of Sick Leave, or misrepresentation or dishonesty regarding the use of Sick Leave may result in denial of Sick Leave and/or disciplinary action up to and including termination of employment.

#### 10-7 SICK LEAVE CONVERSION UPON RETIREMENT

- 1) For employees who are eligible to retire, and do retire from the District:
  - a) The employee may upon retirement elect to receive a one-time cash payment equal to 25 percent of the employee's accumulated Sick Leave at the employee's rate of pay at the time of retirement.
  - b) In the alternative, the employee may elect to convert 25 percent of the accumulated Sick Leave to continuing group health, dental and/or vision insurance coverage for the employee and any previously enrolled eligible dependents on a dollar-for-dollar basis. Under this option, the value of 25 percent of the employee's accumulated Sick Leave at the employee's rate of pay at the time of retirement will be held in reserve for the employee and applied to the applicable group insurance premium for the benefit of the employee and previously enrolled eligible dependents. This will continue until the employee's reserve is exhausted, coverage periods have exhausted as required by law, or the employee and all previously enrolled eligible dependents become eligible for Medicare or health insurance under another group plan. The District will cash out and pay to employee any remaining converted Sick Leave that is not used to pay for insurance premiums. This option is subject to all limitations, terms and conditions of the group insurance policy, federal law, and state law.
  - c) In the alternative, the employee may elect to convert 25 percent of the employee's accumulated Sick Leave, at the employee's rate of pay at the time of retirement, to purchase service credit in their 401k Plan or contribute to their Health Savings Account, subject to IRS guidelines, and only to the extent allowed under the law. Written notice of the employee's intention to exercise this option must be given to the District no later than four weeks prior to the employee's retirement date.
  - d) Under any of the above options, the remaining accumulated Sick Leave is surrendered to the District.

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2) For Sick Leave accumulated through February 28, 2001 by District employees who are eligible to retire, and do retire, before reaching the age of Medicare eligibility:

a) The employee may elect to receive a one-time cash payment equal to 25 percent of the Sick Leave accumulated through February 28, 2001, at the employee's rate of pay at the time of retirement.

b) In the alternative, the employee may elect to convert 50 percent of the Sick Leave accumulated through February 28, 2001 to continuing group health, dental and/or vision insurance coverage for the employee and any previously enrolled eligible dependents on a dollar-for-dollar basis. Under this option, the value of 50 percent of the employee's accumulated Sick Leave at the employee's rate of pay at the time of retirement will be held in reserve for the employee and previously enrolled eligible dependents and applied to the applicable group insurance premium for the benefit of the employee and previously enrolled eligible dependents. This will continue until the employee's reserve is exhausted, coverage periods have exhausted as required by law, or the employee and all previously enrolled eligible dependents become eligible for Medicare or health insurance under another group plan. The District will cash out and pay to employee any remaining converted Sick Leave that is not used to pay for insurance premiums. This option is subject to all limitations, terms and conditions of the group insurance policy, federal law, and state law.

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c) The employee may elect to convert 50 percent of the Sick Leave accumulated through February 28, 2001, at the employee's rate of pay at the time of retirement, to purchase service credit in their 401k Plan, subject to IRS guidelines, and only to the extent allowed under the law. Written notice of the employee's intention to exercise this option must be given to the District no later than four weeks prior to the employee's retirement date.

d) For items (b) and (c) above, the Sick Leave accumulated through February 28, 2001 will be reduced accordingly if the Sick Leave balance falls below the original accumulated balance at any time during the employee's tenure at the District.

e) Under any of the above options, the remaining accumulated Sick Leave is surrendered to the District.

3) Any conversion of Sick Leave upon retirement is contingent upon an adequate unencumbered appropriation in an approved budget.

**10-8 VACATION LEAVE**

1) Only regular full-time employees are eligible for paid Vacation Leave.

- 2) Vacation Leave accrual is as follows based on the number of years of service completed (whether continuous or intermittent) as a full-time employee:
  - a) Date of hire thru year 4: 80 hours per year
  - b) Start of year 5 thru year 9: 120 hours per year
  - c) Start of year 10 and beyond: 160 hours per year
- 3) Accrual of Vacation Leave starts upon the employee's date of hire.
- 4) Eligible employees may carry over to the following calendar year a maximum of 320 hours. The employee will forfeit any amount beyond the maximum allowed carry over.
- 5) Employees must receive prior approval from their supervisor before taking Vacation Leave.
- 6) Vacation Leave benefits will be calculated based on the employee's rate of pay at the time of the leave and will not include any special forms of compensation such as incentives, overtime, bonuses or shift differentials. For exempt employees, an hourly equivalent of their salary, based upon a 40-hour workweek, will be used.
- 7) The District will not grant advances on Vacation Leave.
- 8) Any accrued, unused vacation will be cashed out at termination of employment. Upon retirement, any accrued, unused vacation will be cashed out or converted only as described in the District's Vacation Conversion Upon Retirement Policy.
- 9) Vacation Leave is not counted as time worked for purposes of calculating overtime.

#### **10-9 VACATION CONVERSION UPON RETIREMENT**

- 1) Upon retirement all employees who accumulate vacation time are entitled to a cash payout, at their rate of pay at the time of retirement, for accumulated vacation time.
- 2) In the alternative the employee may elect to convert their accumulated Vacation Leave to continuing group health, dental, and/or vision insurance coverage for the employee and any previously enrolled eligible dependents on a dollar-for-dollar basis. Under this option, the value of the employee's accumulated Vacation Leave at the employee's rate of pay at the time of retirement will be held in reserve for the employee and applied to the applicable group insurance premium or Medicare supplement for the benefit of the employee and previously enrolled eligible dependents. This will continue until the employee's reserve is exhausted, coverage period have exhausted as required by law, or the employee and all previously enrolled eligible dependents become eligible for Medicare or health insurance under another group plan. Conversion of Vacation Leave to insurance coverage ceases for the employee and previously enrolled eligible

dependents as each becomes eligible for Medicare or health insurance under another group plan. The District will cash out and pay to employee any remaining converted Vacation Leave that is not used to pay for insurance premiums or Medicare supplement. This option is subject to all limitations, terms and conditions of the group insurance policy, federal law, and state law.

- 3) In the alternative the employee may elect to have the accumulated vacation time, at the rate of pay at the time of retirement, contributed to their 401(k) Plan or Health Savings Account, subject to IRS guidelines, and only to the extent allowed under the law. Written notice of the employee's intention to exercise this option must be given to the District no later than four weeks prior to the employee's retirement date.
- 4) Any conversion of Vacation Leave upon retirement is contingent upon an adequate unencumbered appropriation in an approved budget.

#### **10-10 PERSONAL LEAVE**

- 1) Only regular full-time employees are eligible for paid Personal Leave.
- 2) Eligible employees receive 32 hours of paid Personal Leave at the beginning of each calendar year.
- 3) Personal Leave for new employees will be prorated for the first calendar year as follows based on hire date:
  - a) January 1-March 31: 32 hours
  - b) April 1-June 30: 24 hours
  - c) July 1-September 30: 16 hours
  - d) October 1-December 31: 8 hours
- 4) This leave is intended to be used for purposes other than employee illness or taking vacations; however, in the event an employee has exhausted all Vacation and Sick Leave, Personal Leave may be used.
- 5) Personal Leave is granted every year on a calendar year basis, does not carry over from year to year and cannot be converted or cashed out.
- 6) Employees must receive prior approval from their supervisor before taking Personal Leave.
- 7) Personal Leave benefits will be calculated based on the employee's rate of pay at the time of absence and will not include any special forms of compensation such as incentives, overtime, bonuses or shift differentials. For exempt employees, an hourly equivalent of their salary, based upon a 40-hour workweek, will be used.

- b) if the employee is unable to perform the functions of his or her position due to his/her own serious health condition, or
  - c) other conditions beyond his or her control that prevent them from returning.
- 7) Eligible employees are those who have worked for the District for at least one year and who have worked 1,250 hours within the previous 12-month period.
  - 8) To the extent practicable, employees must give the District 30 days advance notice of needed FMLA leave.
  - 9) Eligible employees may request up to a maximum of 12 weeks of FMLA leave (or 26 weeks as explained above) within a 12-month period. Any FMLA leave may not exceed this maximum limit.
  - 10) The District uses the 12-month period measured forward from the date the employee first uses FMLA leave.
  - 11) Eligible employees will be required to first use any accrued paid leave time (Sick Leave, Personal Leave, Vacation Leave) before taking unpaid FMLA leave. This accrued paid leave time will be included as part of the maximum twelve weeks leave.
  - 12) Leave time benefit accruals (Vacation Leave and Sick Leave) will continue during any unpaid leave.
  - 13) Employees requesting FMLA leave must submit sufficient information for the District to determine if the leave qualifies for FMLA protection and the anticipated timing and duration of leave. Employees must also inform the District if the requested leave is for a reason for which FMLA leave was taken or previously certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.
  - 14) If the employee fails to timely return a requested certification, FMLA leave may be denied.
  - 15) So that an employee's return to work can be properly scheduled, an employee on FMLA leave should provide the District with at least two days advance notice of the date the employee intends to return to work.
  - 16) When FMLA leave ends, the employee will be reinstated to the same position, if it is available, or to an equivalent position for which the employee is qualified.
  - 17) If an employee fails to report to work at the end of the approved leave period, the District will assume that the employee has resigned.

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**CHAPTER 16**  
**POLICIES FOR NON-DISTRICT USE OF**  
**AQUEDUCT CORRIDORS**

Last Updated: ~~June 12, 2023~~

Deleted: June 21, 2021

*This chapter of the P&P contains policies governing the use of the corridors for Salt Lake Aqueduct (“SLA”), Point of the Mountain Aqueduct (“POMA”), and Little Cottonwood Conduit - Raw Water (“LCC-RW”) (collectively, “Aqueduct Corridors”); construction, excavation, removal and/or placement of materials, or other earth work on the Aqueduct Corridors; and construction near enough to the Aqueduct Corridors to potentially adversely impact District facilities and Aqueduct Corridors, by persons or entities other than the District.*

**16-1 GENERAL BACKGROUND**

- 1) SLA. The SLA, located in Wasatch, Utah, and Salt Lake Counties, is critical to the water supply of Salt Lake City’s retail water service area, Sandy City’s retail water service area, and other areas of Salt Lake County. Reclamation designed and constructed the SLA under authority of the Reclamation Act of 1902 and the Public Works Administration Appropriation Act of 1938. Since 1938, the District has been responsible for the operation and maintenance of the SLA, has repaid Reclamation all costs incurred in constructing the SLA, and has been entitled to the use of the SLA. Pursuant to the Provo River Project Transfer Act, Pub. Law. 108-382, and a title transfer agreement among the District, the Provo River Water Users Association, and the United States, title to the SLA, including the SLA Corridor, was transferred to the District on October 2, 2006. The SLA was constructed between 1939 and 1951.
- 2) POMA. POMA, located in Utah and Salt Lake County, is a pipeline and associated facilities constructed by the District to convey raw water to the District’s Point of the Mountain Water Treatment Plant, and to carry treated water to the District’s member cities and others. The District owns and is responsible for the operation and maintenance of all POMA facilities. POMA is critical to the water supply of Salt Lake City’s retail water service area, Sandy City’s retail water service area, and other areas of Salt Lake County. POMA was constructed between 2005 and 2006.
- 3) LCC-RW. LCC-RW, located in Salt Lake County, is a pipeline and associated facilities constructed by Salt Lake City in 1931 to convey water from Little Cottonwood Creek. In 1960, the LCC-RW was modified to supply raw water to the Little Cottonwood Water Treatment Plant. In 2014, MWDSLs received title to the LCC-RW, its corridor, and related improvements.



- 4) Clear Corridors Serve the Public Best. Aqueduct Corridors are most effective when clear of all obstructions excepting appropriate vegetation. The District's interests in the Aqueduct Corridors were acquired for the primary purpose to operate, maintain, repair and replace the aqueducts and related improvements. The District's goal is to maintain Aqueduct Corridors in a manner that will serve the District's need to safely and efficiently accomplish its mission of reliably delivering water to its member cities and others. Through education, negotiation, and other appropriate means, the District will work to gain certainty for the District and others regarding the rights and obligations of the District and others relative to District Corridors.
- 5) General Intent of this Chapter. The intent of this chapter is to provide guidelines and authorization to staff for the uses of District Aqueduct Corridors by others. The District recognizes the need to balance the objectively reasonable interests of non-District fee owners in the reasonable use of and protection of their property with the needs of the District and the District's right to utilize and protect the Aqueduct Corridors for the benefit of the public. Where the District holds property in fee, the District's current and future uses of the property must be considered before permitting use by a third party; in many cases this will preclude use by others. Agreements document balance between the needs of the District and Affected Property Owners. Agreements should reasonably accommodate other uses of Aqueduct Corridors so long as it is clear that such uses will not violate the District's rights. In doing so, the District desires to:
  - a) maintain its ability to have necessary, proper, and timely access to the Aqueduct Corridors as well as the Aqueducts and any related improvements;
  - b) minimize the costs to the public by protecting reasonable constructability for future repair and replacement projects;
  - c) minimize costs to the public by avoiding litigation;
  - d) minimize the exposure to liability claims;
  - e) provide adequate security;
  - f) enter into written agreements with others who are using the Aqueduct Corridors to outline the rights and obligations of the District and such others; and
  - g) fulfill the District's fiduciary responsibilities to protect District assets for the benefit of the District's member cities and the water users served by those member cities.
- 6) District Rights. Portions of the Aqueduct Corridors are held in fee, portions are held in easement, and portions are in place pursuant to agreements. The application of these policies will necessarily vary depending upon the nature of the interest of the District. The District's rights should be reviewed for each property in applying these policies.
- 7) Site Characteristics. How the District addresses a particular non-District use of an Aqueduct Corridor may vary based on location, topography of that portion of the Corridor, the horizontal and vertical location of the aqueduct in the corridor, the District's property interest, existing and past agreements, and other similar factors. For example, areas more vulnerable to seismic events, or slope instability, or more prone

to require emergency repairs may have stricter requirements than areas without those characteristics.

- 8) General Implementation. The District's intent is to implement these objectives and provide these protections in a fair, timely, and reasonable manner. Except as otherwise directed by the Board, fees for Agreements should be reasonably calculated to generally recover direct and indirect costs to the District associated with evaluating, approving, and administering such Agreements as to District fee lands. Where the District holds an interest other than fee title the District should be responsible for direct and indirect District costs associated with evaluating, approving, and administering Agreements. The Engineering Committee or Board may authorize Agreements in addition to those the staff is authorized to issue by this chapter, or make exceptions to the policies, where doing so would serve the interests of the District and the public the District serves.
- 9) Pre-existing Uses. Many uses on the Aqueduct Corridors have occurred since acquisition of the Aqueduct Corridors. The District does not recognize existing uses as exempt from these policies (i.e., grandfathering). Uses inconsistent with these policies should be resolved during an agreement or agreement renewal.
- 10) Changes to this Chapter While Applications are Pending. An Application that is substantially complete and is being diligently pursued will be considered for approval based upon this chapter as written as of the time the District receives such Application, with the following exceptions: 1) applicable amendments to this chapter that are pending before the Board or a committee of the Board at the time an Application is received, and that are adopted before the Agreement is signed by the District, will apply; and 2) amendments to this chapter that occur after receipt of an Application and before the Agreement is signed by the District will apply if the General Manager ("GM") determines there is a compelling reason to apply such amendments. The GM is authorized to develop and implement guidelines to inform an Applicant that an application is not substantially complete or is not being diligently pursued.

## 16-2 GENERAL INTENT OF POLICIES

- 1) District Assumption of Reclamation Agreements. Reclamation has historically provided, by agreement, Affected Property Owners and others the right to use portions of the SLA Corridor pursuant to 43 United States Code, § 387; 43 Code of Federal Regulations, Part 429; and Reclamation Manual/Directives and Standards LND 08-01. As a condition of title transfer, the District assumed all of the rights and responsibilities of Reclamation under then-valid Reclamation agreements for use of the SLA Corridor. Many of these agreements with Reclamation have expired or will expire. The District is not obligated to extend such expired agreements.
- 2) Fair Market Value of Use of District Fee Lands. The District is generally obligated by state law to charge present fair market value for use of District lands and interests in

#### 16-4 AGREEMENTS

- 1) District Fee Lands. District fee land refers to property owned by the District. An application for use of the District property does not guarantee an Agreement. An Agreement is required on District fee lands for:
  - a) Vehicle Access. Except where an Aqueduct is located under a validly existing public road, an Agreement is required for any vehicle access on or over District fee lands. Weight restrictions for Aqueducts should be strictly observed.
  - b) Excavation, Earthwork, Construction, Landscaping, Etc. Any significant excavation, removal of material, placement of material, or other earthwork, or construction or landscaping work on District fee lands requires an agreement.
  - c) Modifications to Previously Approved Encroachments. Any material modification to a previously approved Encroachment on District fee lands should require a new Agreement or addendum to an existing Agreement.
  - d) Public Use of District Fee Lands. Use of District fee lands by the public will not be permitted without an Agreement.
- 2) District Interest Other Than Fee. As to lands where the District's interest is not fee, the District will pursue Agreements where the proposed use of the Aqueduct Corridor would be a violation of the rights of the District without such an Agreement. As to lands where the District does not hold fee, and except as otherwise directed by the Board or the Engineering Committee, the GM has authority to negotiate and execute agreements, including permanent agreements, which more clearly and objectively define the relative rights and responsibilities of the District and the fee owner, or that provide the District with adequate property interests it would not otherwise have, if the GM determines that such agreements are in the best interest of the District, the member cities and the public served by the member cities. Such agreements may allow improvements of the Affected Property Owner that would otherwise be prohibited under this Chapter of the P&P if the GM determines that such agreements are in the best interest of the District, the member cities and the public served by the member cities. Such agreements are to be reported to the Engineering Committee.
- 3) Agreement Form. Agreements should be on a form carefully tailored to reflect the approved use and to protect the District's interests. Agreements may contain terms, conditions and/or limitations that are not reflected in previous or form Agreements or are specifically mentioned in these policies. The GM is authorized to enter into Agreements that are consistent with these policies and applicable law on behalf of the District. All activities conducted on Aqueduct Corridors pursuant to an Agreement should be in conformity with these policies.

Aqueduct Corridors on a case-by-case basis under the standards in the chapter as a guide. The GM has authority to interpret and extrapolate the standards in this chapter for existing and requested uses of the Aqueduct Corridors.

- 2) Specifications and Applicable Law. All uses of the Aqueduct Corridors should be in compliance with District Standard Specifications and applicable federal, state, and local statutes, regulations, and ordinances.
- 3) Roads and Driveways.
  - a) Public Roads. The District staff may allow public roads to cross Aqueduct Corridors so long as their construction and use does not unreasonably interfere with the integrity, operation, maintenance, repair, or replacement of any District facilities.
    - i) ~~Public roads are not desirable within Aqueduct Corridors unless alternative traffic corridors are available to accommodate the rerouted traffic for times of repair or replacement of the Aqueducts or associated works, equipment, facilities, and infrastructure.~~
    - ii) Angles of crossing should be 90 degrees in relation to the Aqueducts whenever practicable and should not be less than 60 degrees. For District fee lands, angles of crossing shall be as near 90 degrees as possible in relation to the Aqueducts. Angles of crossing should extend the width of the Aqueduct Corridor.
    - iii) ~~Acceptable public roads include asphalt, curbs, gutters, park strips, and sidewalks.~~
    - iv) All public roads are subject to approval by the GM on an individual basis.
    - v) Where public roads will be constructed by or for a developer, but dedicated to a municipality or other governmental entity, the District should require the Agreement to be signed by both the developer and that municipality or other governmental entity where such crossing is on District fee lands.
    - vi) Public trails are not considered to be part of the public road. See paragraph 16-2(5) for policies related to public trails.
    - vii) Utilities are not considered to be part of the public road. See paragraph 16-7(13) for policies related to utility crossings.
    - viii) Where public roads cross the Aqueduct Corridors access to the Aqueduct Corridor should be considered. For example, a curb cut may be

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appropriate to allow District-authorized access. Fencing and gates with appropriate signs should be required as needed to prevent unauthorized access.

- b) Public Road Amenities. Public road amenities (e.g., signs, lights, medians, guardrails) are not permitted on District fee lands or where the same would be a violation of District rights unless the GM determines the public road amenity sufficiently enhances the safety, health, or welfare of the public. Where safety, health, or welfare of the public is a factor in the installation of a public road amenity, the owner of the public road amenity should be required to coordinate design with the District to protect District Aqueducts, works, equipment, facilities, and infrastructure.
  - c) Private Roads. Except for District purposes, new, primary access, private roads are not permitted on District fee land or where the same would be a violation of the rights of the District.
  - d) Private Driveways, Walkways. Except for District purposes new, private, hard-surface driveways and walkways (walkways include stairs leading to a building entrance) should not be allowed within Aqueduct Corridors on District fee lands, or where the same would violate District rights. Existing private driveways and walkways on District fee lands may remain pursuant to a valid Agreement. An Agreement is not required for existing private driveways and walkways where the District's interest is not fee, unless the driveway or walkway violates District's rights.
  - e) Loading Restrictions. ~~Allowable loading varies by Aqueduct and location. Vehicular travel, grading, staging, and similar uses should not occur within Aqueduct Corridors without the prior written consent of the District. Such use should be designed to not exceed maximum allowable loads and to at least meet~~ minimum cover requirements. Pipeline depth should not be estimated from project drawings. District-supervised potholing of the Aqueduct should be required for new road crossings.
  - f) Maintenance of Roads, Driveways, and Walkways. Except as otherwise expressly agreed in writing by the District, road maintenance (e.g., repair, replacement, snow removal) should be the responsibility of the owner of the road and its successors.
- 4) Structures, Hard Surfaces.
- a) Structures. Buildings, structures and similar uses should not be authorized within or overhanging Aqueduct Corridors. The list of unacceptable items

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includes, but is not limited to, buildings, poles, retaining walls, pools, and water features.

- i) Buildings. Buildings, even if not fixed to the ground, should not be authorized by District staff within or overhanging District fee lands or where such would violate District rights. Buildings, in most cases, will violate District rights. Buildings include, but are not limited to, footings, foundations, decks, carports, greenhouses, and sheds. The GM is authorized to permit, by Agreement, existing buildings that encroach or overhang Aqueduct Corridors under terms that are in the District's interest.
  - ii) Poles, Posts. Existing post mailboxes may remain on District fee lands by Agreement. New post mailboxes, and all flag, light, sports, and other poles (whether or not existing) should not be permitted on District fee lands or where the rights of the District may be violated. For fence posts see 16-7(5).
  - iii) Retaining Walls. Free standing (i.e., without footing or foundation) rock retaining walls less than three feet tall used for grading and not supporting a building, road, driveway, or structure may be permitted within Aqueduct Corridors if they will not violate District rights. Concrete or masonry retaining walls should be excluded from Aqueduct Corridors.
  - iv) Pools, Water Features. Pools, whether above or below ground, and water features are not to be permitted on District fee lands or within the Aqueduct Corridors where such uses will violate District rights.
- b) Hard Surfaces.
- i) Hard surfaces (e.g., concrete, asphalt) not part of an existing driveway or walkway, or road are not to be permitted on District fee lands.
  - ii) Where District interest is not fee title hard surfaces should be coordinated with the District prior to installation to ensure the same do not violate District rights (e.g., proper clearance and loading restrictions are met).
- 5) Play Equipment.
- a) Play equipment (e.g., trampolines, swing sets, play sets) that is not permanently anchored to the ground is acceptable where the District holds an interest other than fee title. Anchored equipment is not permitted if it violates District rights.
  - b) Play equipment, whether anchored or not, is not permitted on District fee lands.
- 6) Landscaping.

- a) Acceptable Landscaping Uses. Landscaping uses generally acceptable to the District, as to both fee and easement, include edging, gardening, free-sitting pavers, shrubs less than four feet tall when mature, ornamental above-ground landscape rock no greater than 36 inches in any direction, sprinkler systems, and turf. Sprinkler systems should include an accessible shutoff valve located outside the Aqueduct Corridor. A landscape plan should be provided for review by the Applicant.
- b) Water-wise Landscaping. Landscaping uses of District property should incorporate water-wise plants and designs. New turf on District fee lands should not exceed 35% of the total use area.
- c) Trees, Shrubs Taller than Four Feet at Maturity, and Vines.
  - i) Except for District purposes, trees, shrubs greater than four feet tall when mature, or vines should not be permitted on District fee lands.
  - ii) Where the District's interest is not fee, trees, shrubs more than four feet tall when mature, and vines should not be permitted within 20 feet of the centerline of District pipelines or on access paths and roads used by District or where their presence would otherwise violate District rights.
- d) Fire Pits. Fire pits should not be permitted on District fee lands or where they would violate District rights.
- e) Landscape Power and Lighting. Landscape power and lighting should not be permitted on District fee lands or where their presence would violate District rights.
- f) Landscaping Maintenance. All landscaping uses within the Aqueduct Corridors should be maintained by the Affected Property Owner or Licensee. For landscaping of District fee lands, District maintenance of the remaining property should be considered. The Licensee may be required, by Agreement, to reduce or expand their use area to provide benefit to the District as described in paragraph 16-5(1).
- g) Proactive District Trimming or Removal of Trees. The District may remove or trim trees, shrubs, and vines located within Aqueduct Corridors where such are on District fee lands or violate District rights. The GM is authorized to develop a proactive tree maintenance program to remove trees and/or portions of trees and branches within Aqueduct Corridors. This program does not exempt Licensees' from their responsibility to maintain these features.

7) Fences.

- a) Fences on District Fee Lands. Existing fences may be permitted by Agreement on District fee lands until the District determines that District activities require removal. Fences may be replaced provided the Licensee has an active, valid Agreement permitting the fence. Except for District purposes no new fences should be permitted on District fee lands.
- b) Fences Where District Interest is Not Fee. New fences are acceptable where the District's interest is not fee, provided the fences permit reasonable and efficient access to enclosed portions of Aqueduct Corridors. Masonry, block, wall, and related styles of fencing should not be permitted within Aqueduct Corridors.
- c) Access. Gates should be installed in all fences that cross the Aqueducts or restrict access to a portion of the Aqueduct Corridor that is not otherwise accessible. Gates should not permit unauthorized vehicular access onto Aqueduct Corridors. If gates are to be locked the District should have the ability to install a District lock for District access.

**Deleted:** District staff should attempt to prevent or minimize masonry construction.

8) Equipment Parking and Storage.

- a) Equipment Parking and Storage on District Fee Lands. The parking of equipment (e.g., vehicles, trailers) is permitted on District fee title lands only within existing roads and driveways. Equipment should not otherwise be parked or stored on District fee title lands unless determined by the GM to serve a District purpose.
- b) Equipment Parking and Storage Where the District Interest is Not Fee. The parking of equipment should be permitted where the District does not own fee provided that the equipment does not block District access roads, works, equipment, facilities, or infrastructure; the equipment can be reasonably relocated (i.e., equipment is operational); and the equipment does not exceed load requirements for the Aqueduct (see 16-7(3)(e)). District staff should minimize or eliminate equipment parked or stored on District access roads, or other access areas.

9) Materials.

- a) Materials on District Fee Lands. Materials, including but not limited to construction materials, hazardous materials, yard waste, litter, or debris should not be permitted on District fee lands.
- b) Materials Where the District Interest is not Fee. District staff should minimize or eliminate materials including, but not limited to, construction materials,



hazardous materials, yard waste, litter, and debris, placed or stored on Aqueduct Corridors, access roads, or other access areas if it violates District's rights or otherwise violates applicable law.

10) Animals.

- a) Animals on District Fee Lands. Animals should not be kept or grazed on District fee lands.
- b) Animals on Aqueduct Corridors Where the District Interest is not Fee. District staff should attempt to keep animals greater than 20 feet from District pipelines, access paths, and roads or where their presence would otherwise violate District rights. A secure area should be available off the Aqueduct Corridors to which animals can be relocated by the property owner when needed to permit the District to exercise its rights.

11) Changes in Ground Surfaces.

- a) Minimum and Maximum Aqueduct Cover. Minimum and maximum cover depths must be maintained to protect the Aqueducts. District staff should take steps to see that all temporary or permanent changes in ground surfaces comply with District requirements for minimum and maximum cover over the Aqueducts.
- b) Earthwork Adjacent to Corridors. Any fills and cuts on properties adjacent to Aqueduct Corridors should not be permitted to encroach onto District fee lands without prior written approval by the District. Modifications of properties adjacent to Aqueduct Corridors should not be permitted to materially reduce lateral support for Aqueduct Corridors without prior written approval by the District.

12) Drainage From or Onto Aqueduct Corridors. District staff should attempt to see that existing drainage over and from Aqueduct Corridors are maintained and that any erosion from construction, operation, maintenance or use activities is appropriately controlled. District staff should attempt to see that no new concentration of surface or subsurface drainage is directed onto or under the Aqueduct Corridors inappropriately.

13) Utilities, Corrosion Protection.

- a) Utilities on District Fee Lands. Where utilities will be constructed by or for a developer on District fee lands, but dedicated to a municipality or other local governmental entity or utility, the District should require the Agreement to be