

CITY OF INDIAN WELLS

FIRE ACCESS MAINTENANCE DISTRICT NO. 1

(FAMD)

POLICY MANUAL

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AMENDED: May 21, 2020**

TITLE 1 INFORMATION

TITLE 2 ADMINISTRATIVE

TITLE 3 LEGISLATIVE

TITLE 4 FINANCIAL

TITLE 5 OPERATIONAL

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INFORMATION

TITLE 1 INFORMATION

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- 1.02 Members of Board of Directors
- 1.03 Transaction of Business
- 1.04 Officers and Employees
- 1.05 Meeting Requirements

CHAPTER 1.01 PURPOSE

Sections:

- 1.01.010 Purpose
- 1.01.020 History.
- 1.01.030 Powers.

1.01.010 PURPOSE.

Pursuant to Resolution No. 1973-18 adopted by the Indian Wells City Council, the Indian Wells Fire Access Maintenance District No. 1 (the "FAMD") was formed for the purposes specified as follows:

"That the public interest and convenience require and a Maintenance District was formed for maintaining and operating access roadways, rights of way and easements for fire protection purposes, including, but not limited to the grading or regarding, paving or repaving, planking or replanking, macadamizing or remacadamizing, graveling or regraveling, and oiling or reoiling thereof, and any structures, barriers, gates or other facilities necessary to restrict the use thereof to fire access vested in the subservient lands, all as now exist or may hereafter be constructed in or for said Maintenance District and of benefit to said Maintenance District but no of benefit to the City of Indian Wells as a whole, which district said Council hereby determines will be the District benefited by the maintenance and operation of said improvements."

1.01.020 HISTORY.

In 1973 the City Council was asked to consider a proposal to convert the public streets in the area then known as the Indian Wells Country Club to a private status. At that time, all the streets were open, public and ungated. The City Council implemented this proposal by abandoning all the public streets within the area, and placed said area in a Maintenance District pursuant to Chapter 26 of Division 7 of the Streets and Highways Code, Section 5820-5856. Formation of the maintenance area gave the City Council the authority to impose a property tax rate to pay for the district.

The abandonment of the streets changed their character from public streets to private streets. However, at the time the public easements in the streets were vacated, the Council reserved an emergency vehicle easement. The easement granted emergency vehicles access to the streets. The City Council was to be ultimately responsible for the expenditure of FAMD funds and FAMD activities. The FAMD is the City Council and over the years the City Council has employed different means to operate and govern the maintenance area.

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From 1973 to 1982 the City Council directly handled all of the area's operations. From 1982 through 1996 the City Council created and sought the advice of an Advisory Council composed of members living within the assessment area. In 1996 the City Council reorganized the governance of the FAMD and adopted Chapter 2.18 of the Indian Wells Municipal Code (the "I.W.M.C.").

The FAMD was formed for the exclusive benefit of those people living behind the gates of the Indian Wells Country Club. It was logical that the authority to spend the moneys collected in the District should be the responsibility of those persons living inside the District.

The Ordinance creating this Chapter of the I.W.M.C. established a Board elected by the property owners of the assessment area. In addition, by resolution the City Council granted the Board of Directors authority to make and execute agreements, contract for services and otherwise manage the affairs of the maintenance area. (Resolution No. 2005-52) Generally, it is the desire and intent of the City and the F.A.M.D that the election or selection of FAMD Directors, selection of officers, letting of contracts, handling of disputes pertaining to contracts let by the FAMD, and resolution of disputes between FAMD members shall all be the responsibility of the Directors of the FAMD and not the City.

The establishment of a Board by City Council Resolution in January, 1996, included nine (9) "Districts" each of which were to be served by a Director, including the Indian Wells Country Club as one District and Director. Resolution No. 1996-44 adopted by the City Council on April 18, 1996 reduced the number of districts to seven (7), one of which was and is the Indian Wells Country Club, to be represented by the Club Manager or their designee, and not subject to election, or related term rules, but possessing equal power (one vote) as a Board Member. The additional six (6) Districts were and are to be represented by Directors elected to serve four (4) year terms. The Districts were established and memorialized by map entitled "FAMD Sub District Boundary Map" made a part of said Resolution. (See Appendix)

1.01.030 POWERS.

The Board of Directors shall administer the affairs of the FAMD.

1.01.030(a) Sole Source of Directors' Powers.

The sole source of the Directors' powers is derived from Resolution Nos. 1973-7, 197318, 1996-44, 1996-117 and this Policy Manual adopted by Resolution and State legislation. The District is wholly a creature of statute (Division 7 of the Streets and Highways Code, the Improvement Act of 1911) and the aforementioned Resolutions.

As authorized by the City of Indian Wells Ordinance No. 372, the Board of Directors may authorize and direct the Chairperson to execute contracts relating to the above or for the employment of engineers, management services, legal counsel and other professional services. All contracts shall be terminable without penalty on June 30 of each year (if not earlier terminated). No contract shall be valid or enforceable unless countersigned by the City Treasurer certifying there are adequate budgeted funds and countersigned by the City Attorney or his representative certifying that the contract is authorized by this resolution and conforms to laws applicable to general law cities (except insofar as the status of the City of Indian Wells as a charter city may

permit the City's charter and powers to be controlling and applicable) and Maintenance Districts. (Streets and Highways Code §5820).

1.01.030(b) Limitations of Directors' Powers.

The powers of the Board of Directors are effective only in the geographical boundaries of the District.

1.01.030(c) Basic Maintenance and Operating Powers.

The basic powers of the Board of Directors are maintaining and operating access roadways, rights of way and easements for fire protection.

1.01.030(c)(1) Incidental to these powers are the following:

1. grading or regrading
2. paving or repaving
3. planking or replanking
4. macadamizing or remacadamizing
5. graveling or regravelling
6. oiling or reoiling
7. any structures, barriers, gates or other facilities necessary to restrict the use thereof to fire access purposes.
8. Such other powers as are reasonably related to the above and which serve to carry out or facilitate the primary powers and purposes of the District.

1.01.030(c)(2) Required Powers to be Exercised by the FAMD. All of the above powers, and those which are logically related thereto, must be exercised within the boundaries and/or for the benefit of the District (not the City of Indian Wells as a whole) and include, without limitation, the following:

1. Engage a private security firm on a contract basis to furnish personnel to operate the guard gates and a roving patrol.
2. Arrange for building, rebuilding, and maintenance of the guard houses and collateral equipment such as gates, gate arms, lighting, plumbing, air conditioning, signs, etc.
3. Arrange for temporary and emergency gates, and fencing within the District.
4. Arrange for street repairs, striping, restriping, installation of stop and speed limit signs, and other appropriate signs.
5. Arrange for keeping of records, such as a list of each owner in the District and authorized guests and the issuance of entry decals to owners, entry passes to guests, tenants, and employees.
6. Arrange for gardening in the area around the gate houses, payment of utility bills, telephone bills and performance of other routine maintenance.
7. Provide information to the owners and residents of the District on matters of special interest or concern to the District.
8. To the extent permitted by law, Standard Operating Procedures governing security within the District, including speed limits, conduct of its citizens

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regarding care for property, trimming of trees, fire hazards on property, and related matters; prescribe sanctions for violations of published rules and regulations by such citizens or visitors to the community.

9. Arrange for the keeping of records including all official agendas, minutes, bid specifications, bids, contracts and correspondence of the FAMD, a copy of each to be submitted to the City. Record retention shall be required and dictated by City's policy for all FAMD records.

1.01.030(d) Performance of Duties Pursuant to Applicable Laws.

The Board of Directors shall exercise its powers and perform its duties pursuant to the FAMD Budget, the rules, regulations, resolutions, and ordinances of the City of Indian Wells, laws applicable to a general law city (except insofar as the status of the City of Indian Wells as a charter city may permit the City's charter and powers to be controlling and applicable) and laws applicable to a Maintenance District.

CHAPTER 1.02 MEMBERS OF BOARD OF DIRECTORS

Sections:

- 1.02.010 Qualifications of Directors.
- 1.02.020 Selection of Directors.
- 1.02.030 Director Compensation.
- 1.02.040 Financial Protection.
- 1.02.050 Terms of Office.
- 1.02.060 Vacancies.
- 1.02.070 Failure to Fill Vacancies by District.
- 1.02.080 Recall of Directors.
- 1.02.090 Removal of Directors.
- 1.02.100 Interpretation of Rules.

1.02.010 QUALIFICATIONS OF DIRECTORS.

The Board of Directors shall consist of seven (7) members. Each Director, (other than the Club Manager or their designated representative for the Indian Wells Country Club, if applicable), shall be the legal or equitable owner of real property within the FAMD at the time of nomination and during the entire period the Director serves. All Directors shall be elected at large by electors within the FAMD and shall each collectively represent in the aggregate the various Director Districts (the "District") within the FAMD, which the City Council established and depicted on the Map entitled "FAMD Sub-District Boundary Map" dated April, 1996, which Map is hereby adopted and made a part of these Rules.

In order to be a Candidate for Director, a proposed Candidate meeting all qualifications set forth hereinafter shall file with the Election Official a self-nomination letter or similar document signed and dated by the proposed candidate. A Candidate for Director shall be a registered voter within the FAMD and qualified to vote for matters related to the FAMD Special Tax as required by California Proposition 218. A Candidate shall also be the legal or equitable owner of real property within the FAMD at the time the Candidate self nominates to be a Director. At the time of nomination, a nominee shall not be in default for payment of real property taxes on property within the FAMD.

Candidates shall be required to sign a declaration under penalty of perjury that they are "qualified" under the provisions of these Rules. Board Members shall be responsible for notifying the Board immediately upon any change which affects their qualifications to serve as a Director. [City Council Resolution No. 2017-32, 06/23/2017]

1.02.010(a) Definition of Legal or Equitable Owner.

Legal or equitable ownership of property shall consist of any of the following:

1.02.010(a)(1). Listing of ownership in the name of the Candidate/Director on the County of Riverside certified tax rolls, or

1.02.010(a)(2). Recorded deed showing the Candidate/Director as fee owner, or

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1.02.010(a)(3). Escrow papers, showing that property purchase has been completed together with deed showing the Candidate/Director as fee owner (if deed has been recorded but not yet returned by the County Assessor’s Office).

For each residential dwelling unit owned by a corporation, family trust or partnership, only one person may qualify as the legal or equitable owner of property and qualification may be established by one of the following and shall require the filing of a Multiple Ownership Document (in a form established by the City) signed by all parties possessing fractional ownership as determined by official corporate, family trust or partnership documentation.

1.02.010(a)(4). The corporation or family trust bears the name of the person seeking to qualify as the legal or equitable owner of property.

1.02.010(a)(5). The proposed legal or equitable owner of property is a shareholder of the corporation or a partner of the partnership, and a resolution/certification of the board of directors or the partnership designates the Candidate/Director by name as the person who qualifies as the legal or equitable owner of property for purposes of eligibility to declare candidacy and/or hold the position of Director.

1.02.010(a)(6). A trustee of the family trust, executes a declaration under penalty of perjury that the proposed Candidate/Director qualifies as the legal or equitable owner of property for purposes of eligibility to declare candidacy and/or hold a position as Director.

The requirements which establish the legal or equitable ownership of property for purposes of serving as Director shall be the same as those required by City Council Resolution No. 97-14 adopting a policy for the issuance of Property Owner Identification Cards. The same person who qualifies under that Resolution and these Rules, and no other person, shall be entitled to hold simultaneously the Indian Wells Property Owner Identification Card and eligibility for Candidate/Director.

1.02.020 SELECTION OF DIRECTORS.

On or before November 10 of the calendar year immediately preceding the year in which a Director’s term expires, the Board shall advertise by U.S. mail and additional means selected by the Board to reasonably give notice to all property owners within the FAMD, that nominations for a Director position will be accepted by the Board on or before December 1. Such notice shall include a summary description of the duties required of all Board Members and any additional information the Board deems necessary.

All nominations shall be received in writing by the Election Official on or before December 1 of the calendar year immediately preceding the year in which the Director’s term expires. The Election Official shall be responsible for certifying that each candidate is qualified as defined in Section 1.02.010 of these Rules. All certified candidates shall be provided a copy of the FAMD Policy Manual.

An election by mail for each Board position vacancy shall be conducted by the Board. Each ballot shall list the names of all qualified nominees, and shall specifically permit other names of qualified candidates to be written-in by voters. Ballots shall clearly indicate instructions to voters concerning

how to complete and return to the Board each ballot. In order to be valid, each ballot shall conspicuously indicate thereon the address or parcel number of the property for which the ballot is cast.

Property owners shall be entitled to receive and vote a ballot for each lot they own within the FAMD. Each ballot shall be signed by at least one of the legal or equitable owners of the property, (as shown on the last equalized property tax assessment roll) on or before December 15 of the calendar year immediately preceding the year in which the Director's term expires.

Voted ballots must be received by mail or in person by the Election Official on or before January 15 of the calendar year in which the Director's term expires. The Board shall establish such other procedures and standards for conducting elections as the Board deems reasonable and appropriate.

The election of Directors shall be confirmed by the Board. The Board shall enter into its meeting minutes the total number of valid ballots received, and the number of valid ballots voting for each candidate. The Board shall give all ballots, whether valid or not, to the City Clerk for retention in a secure place for a minimum of three (3) months or as specified by the City's Record Retention Policy. In the event the FAMD Board does not confirm the results of the election within thirty (30) days of the deadline for receipt of ballots, then the City Council may confirm the election results. [City Council Resolution No. 2017-32, 06/23/2017]

1.02.030 DIRECTOR COMPENSATION.

The Directors shall serve without compensation. No Director shall become a paid employee of the District while serving as such.

1.02.040 FINANCIAL PROTECTION.

The Directors shall operate under the same statutory protection as that presently (or in the future) applicable to members of the City Council and shall continue to be covered under the City of Indian Wells Blanket Faithful Performance Bond for their term of office.

1.02.050 TERMS OF OFFICE.

The term of office for each Director shall be four (4) years. The Directors shall serve in staggered terms. Notwithstanding their prior election "by District" instead of "at large," the terms of three (3) of the current Directors who have been elected prior to April 30, 2017 shall next expire on the last Friday in February, 2018. The terms of the remaining three (3) elected Directors shall next expire on the last Friday in February, 2020.

The Director representing the Indian Wells Country Club shall be the Club Manager or their designee and shall serve until further notice from the Club Manager. [City Council Resolution No. 2017-32, 06/23/2017]

1.02.060 VACANCIES.

Board Member vacancies created by resignation, dismissal, recall or removal shall be confirmed by the Board. The Board shall enter into its meeting minutes applicable documentation to substantiate

the cause of such vacancy. The City Council reserves the right to determine that a vacancy exists for any District Director.

All vacancies on the Board shall be filled using procedures set forth in Section 1.02.020; provided, however, that following the Board's determination that there is or will be a vacancy, there shall be at least a twenty (20) day nomination period, followed by a fifteen (15) day period for ballots to be mailed to all property owners, followed by at least a twenty-five (25) day period for receipt of voter ballots by the Secretary of the Board. [City Council Resolution No. 2017-32, 06/23/2017]

1.02.070 FAILURE TO FILL VACANCIES THROUGH NOMINATION.

If after the prescribed nomination period, there are no nominations to fill the Director vacancy, the FAMD Board of Directors may appoint a Director from within the FAMD, provided that the Director meets the requirements set forth in Section 1.02.020. Such appointed Director shall serve the remainder of the vacated term. [City Council Resolution No. 2017-32, 06/23/2017]

1.02.080 RECALL OF DIRECTORS.

Directors shall be subject to recall as follows. If a recall petition expressly seeking the recall of a Director is, within a forty-five (45) day period, signed by the legal or equitable owners of real property within the FAMD (as shown on the last equalized property tax assessment roll) equal to at least twenty-five percent (25%) of the number of valid ballots at the most recent regular election of Directors within the FAMD received by the Secretary of the Board, then the Board shall conduct a recall election using the procedures set forth in Section 1.020.060 concerning vacancies. The recall ballot shall ask voters to indicate whether the named Director shall be recalled. The ballot shall then allow voters to indicate their selection of a replacement Director if the recall is approved by the voters. [City Council Resolution No. 2017-32, 06/23/2017]

1.02.090 REMOVAL OF DIRECTORS.

The Board may remove any Director for cause upon the affirmative vote of at least two-thirds of the total number of Directors then in office. "For cause" shall be deemed to include, without limitation, three (3) or more unexcused absences from Board meetings within any twelve (12) month period, participating in any decision in which the Director has a conflict of interest, and participating in any violation of law in his/her capacity as Director.

1.02.100 INTERPRETATION OF RULES.

In the event of any dispute concerning the interpretation or implementation of these Rules, the City Council may, in its discretion, make a final determination.

CHAPTER 1.03 TRANSACTION OF BUSINESS

Sections:

- 1.03.010 Form of Action
- 1.03.020 Quorum.

1.03.010 FORM OF ACTION.

The FAMD Board shall act only by motion or resolution.

1.03.020 QUORUM.

A majority of the Board shall constitute a quorum for the transaction of business. For purposes of the FAMD, the definition of a quorum shall be a majority of the seven (7) District positions minus any vacancies, but not less than three (3).

CHAPTER 1.04 OFFICERS AND EMPLOYEES

Sections:

- 1.04.010 Officers and Employees
- 1.04.020 Term of Office
- 1.04.030 Other Officers and Employees

1.04.010 OFFICERS AND EMPLOYEES

The FAMD Board of Directors shall annually elect from its members a Chairperson, a Vice Chairperson, and a Secretary to serve for a one year term.

1.04.020 TERM OF OFFICE.

The officers of the FAMD Board of Directors shall serve at the pleasure of a majority of the Board.

1.04.030 OTHER OFFICERS AND EMPLOYEES.

As necessary to fulfill the functions of the FAMD, (a) the Board may appoint other officers from among its members; (b) the Board may hire employees who are not members of the Board or FAMD residents or property owners, provided that such expense is provided for in the budget.

CHAPTER 1.05 MEETING REQUIREMENTS

Sections:

- 1.05.010 Meetings
- 1.05.020 Required Attendance by Board Members
- 1.05.030 Public Sessions
- 1.05.040 Minutes
- 1.05.050 By-Laws
- 1.05.060 Submission of Records and Contracts to City

1.05.010 MEETINGS

By resolution, the Board shall establish the time and place of regular meetings and the manner of calling special meetings. All meetings shall be held and conducted in accordance with the Ralph M. Brown Act, Government Code Section 54950, et seq. (the "Brown Act").

1.05.020 REQUIRED ATTENDANCE BY BOARD MEMBERS.

Unless excused, all Board Members shall be in their respective seats at the hour appointed for each regular, special or adjourned meeting of the FAMD Board of Directors. The Board minutes shall document the attendance of Board Members absent without cause.

1.05.030 PUBLIC SESSIONS.

Except as otherwise provided by law, all meetings of the Board shall be open to the public. The meetings of the Board shall be called, conducted and adjourned in the time, form and manner prescribed under the Ralph M. Brown Act (Section 54950, et seq. of the Government Code).

1.05.040 MINUTES.

The Board Secretary shall prepare, keep and maintain a written record of the actions taken at meetings of the Board.

1.05.050 BY-LAWS.

The Board shall adopt appropriate by-laws and rules of order consistent with the Brown Act, no later than November 1, 1996 and shall make revisions as necessary by resolution.

1.05.060 SUBMISSION OF RECORDS AND CONTRACTS TO CITY.

The Board Secretary shall promptly submit within ten (10) days to the City Liaison (a) a copy of minutes of each Board meeting after they are approved by the Board, and (b) a copy of all specifications and bid documents which were published or disseminated for purposes of obtaining bids or proposals to perform public works or services for the FAMD.

TITLE 2

ADMINISTRATIVE

TITLE 2 ADMINISTRATIVE

Chapters:

- 2.01 Policy Manual Purpose
- 2.02 Form of Government
- 2.03 Board of Directors Plan
- 2.04 Code of Ethics for all City Officials, Employees, Consultants and Contracted Personnel
- 2.05 Conflict of Interest Code
- 2.06 City and District's Non-Discrimination Policy
- 2.07 Contract Management Duties
- 2.08 Contract Engineer Duties
- 2.09 Press Relations
- 2.10 Use of City Personnel for Outside Activities

CHAPTER 2.01 POLICY MANUAL PURPOSE

Sections:

- 2.01.010 City Council
- 2.01.020 Indian Wells FAMD Board of Directors

2.01.010 CITY COUNCIL

The City Council adopted a FAMD Policy Manual by resolution detailing the rules of order and procedures by which the City Council, City Manager and City Attorney shall conduct City Council business and activities as they relate to the FAMD.

2.01.010(a) Amending and Updating the Policy Manual.

The City Council shall amend and update the Policy Manual on an as needed basis.

2.01.010(b) Amendments Requiring a Resolution.

The amendments shall be adopted and incorporated by resolution.

2.01.010(c) Amendments Not Requiring a Resolution.

The City Clerk shall update the Table of Contents and information sections, or nouns or personal pronouns, not changing the substantive matters, on an as needed basis. Amendments to the Table of Contents and information sections, or nouns or personal pronouns not changing the substantive matters, shall not require a resolution or action of the City Council and shall be considered an administrative act.

2.01.020 INDIAN WELLS FAMD BOARD OF DIRECTORS.

The Policy Manual shall apply to the FAMD Board of Directors and for purposes of this document, the terms City and City Council shall not be considered interchangeable with FAMD Board of Directors.

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CHAPTER 2.02 FORM OF GOVERNMENT

Sections:

- 2.02.010 Charter Law City.
- 2.02.020 City Council Authority in the FAMD.
- 2.02.030 Duties of the FAMD Board of Directors.
- 2.02.040 FAMD Policy Manual.

2.02.010 CHARTER LAW CITY.

The City of Indian Wells is a Charter Law City of the State of California operating under the Council/Manager Plan. The Council/ Manager Plan adopted by the International City Manager's Association shall generally define how the City Council and City Manager interact and how policy matters and administrative matters are defined and handled. The Council/Manager Plan and the City Manager's duties shall specifically define how the City Council and City Manager interact and perform their respective duties and responsibilities.

2.02.020 CITY COUNCIL AUTHORITY IN THE FAMD.

According to the statutes governing the FAMD, the City Council is responsible for approving the budget, disbursing the moneys collected, and assuring that all contracts entered into by the FAMD comply with the statutes governing the FAMD. The FAMD is a subsidiary of the City of Indian Wells, and therefore subject to specific municipal requirements.

Generally, it is the desire and intent of the City and FAMD that the election or selection of FAMD Directors, selection of officers, letting of contracts, handling of disputes pertaining to contracts let by the FAMD, and resolution of disputes between FAMD members shall all be the responsibility of the Directors of the FAMD and not the City.

Notwithstanding the establishment by the City Council of the District's Board for purposes of taking certain actions on behalf of the District and providing advice to the City Council concerning matters pertaining to the District, the City Council shall retain the right to terminate the authority conferred on the Board by this document. Furthermore, the City Council and City staff shall have the authority, without any need for concurrence or approval from the Board, to take any and all actions on behalf of the District deemed reasonable or necessary by the City Council or the City Manager, or his/her designee, from time to time in instances where the City Council or City Manager, or his/her designee, determines that either (a) prompt action by or on behalf of the District is necessary, and the Board is unavailable to meet in a timely manner for purposes of taking such prompt action; (b) the Board has not acted in accordance with law or has otherwise acted improperly concerning any matter; or (c) the Board has had the opportunity, but has failed, to take action in the best interests of the District. (Resolution No. 2005-52)

2.02.030 DUTIES OF THE FAMD BOARD OF DIRECTORS.

The FAMD Board of Directors shall also serve to carry out or facilitate the primary powers and purposes of the District. The City Manager and his/her designees and the City Attorney shall serve as liaisons for the City Council in all matters related to the District. The City Manager appointed

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liaison shall serve as the coordinator for all matters related to the FAMD and City Staff and the City Council, and therefore be duly notified of all such activity by the FAMD Board and their sub-contractors. The FAMD Board of Directors shall annually appoint a Chairperson, Vice Chairperson and Secretary by legal action.

As necessary to fulfill the functions of the FAMD (a) the Board may appoint other officers from among its members; (b) the Board may hire employees who are not members of the Board or FAMD residents or property owners, provided that such expense is provided for in the budget.

The Board of Directors shall exercise its powers and perform its duties pursuant to the FAMD Budget, the rules, regulations, resolutions, and ordinances of the City of Indian Wells, laws applicable to a general law city (except insofar as the status of the City of Indian Wells as a charter city may permit the City's charter and powers to be controlling and applicable) and laws applicable to a Maintenance District.

As authorized by the City of Indian Wells Ordinance No. 372, the Board of Directors may authorize and direct the Chairperson to execute contracts relating to the above or for the employment of engineers, management services, legal counsel and other professional services. All contracts shall be terminable without penalty on June 30 of each year (if not earlier terminated). No contract shall be valid or enforceable unless countersigned by the City Treasurer certifying there are adequate budgeted funds, countersigned by the City Attorney or his representative certifying that the contract is authorized by this resolution and conforms to laws applicable to general law cities (except insofar as the status of the City of Indian Wells as a charter city may permit the City's charter and powers to be controlling and applicable) and Maintenance Districts. (Streets and Highways Code §5820), and countersigned by the City's Public Safety Director certifying that the insurance specifications required in said contract conforms to current requirements set forth by the City.

2.02.040 FAMD POLICY MANUAL.

The Policy Manual shall provide the general guidelines on how the City Council, FAMD Board of Directors and City Staff shall conduct District business.

CHAPTER 2.03 BOARD OF DIRECTORS PLAN

Sections:

- 2.03.010 Introduction
- 2.03.020 Board of Directors Functions
- 2.03.030 City Council/City Staff Functions

2.03.010 INTRODUCTION

The FAMD shall exercise its powers in accordance with the adopted form of a local government plan to combine the strong policy of leadership of elected officials in the form of a Board of Directors and with the strong managerial and administrative abilities of a qualified Professional Manager. The FAMD being a District within the City shall additionally be accountable to the City Council who shall determine the policies governing the operations of the District. The Plan establishes a representative government system in which the entire Board of Directors determines the policies and services of the community within the guidelines and duties set forth by the City Council, and the District Manager effectively and efficiently implements the policies and delivery of these services.

2.03.020 BOARD OF DIRECTOR’S FUNCTIONS.

The FAMD Board of Directors (the “Board”) is the legislative body; its members are the district's decision makers. Power is centralized in the elected Board collectively and not in individual members of the Board. The Board approves the budget and determines the public services to be provided and fees to pay for these public services. It focuses on the FAMD's goals, major projects and such long term considerations as capital improvements, financing and strategic planning, and the administrative details of such. The Board shall hire a professional manager to carry out the administrative responsibilities and they shall supervise the manager's performance. The Board shall hire a professional engineer to carry out all duties to be done by a registered professional engineer or registered surveyor, including the preparation of all plans, specifications, details, estimates of cost, and submit forms of contracts for the construction, maintenance, and repair of all bridges, culverts, roads, drains, ditches, and other public improvements and the Board will supervise the engineer’s performance.

The Board prepares a recommended budget for the Council's consideration; recruits, hires, and supervises the District’s contractors and consultants; reports all activity to the City Council and City Manager via the Staff Liaison; and implements the Council's policies and programs and public services in an effective and efficient manner. The Board provides or supervises the delivery of complete and objective information, pros and cons, and long term consequences on operations, services, finances, and needs.

2.03.030 CITY COUNCIL/CITY STAFF FUNCTIONS

The City Council and City Staff continue to oversee all functions of the FAMD. The FAMD Board of Directors is empowered by the City Council to maintain and operate the District in accordance with the FAMD Fiscal Procedures Manual and the FAMD Policy Manual approved by the City Council on March 2, 2006 by Resolution. (FAMD Fiscal Procedures Manual, see Appendix)

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The City Staff provides professional advice on policy matters, intergovernmental affairs and economic status pertaining to the District. The City Staff verifies and confirms the negotiation of all FAMD contracts and agreements and, the Board of Directors except for changes made by or at the request of the City Council or City Staff, is ultimately responsible for the content of such contracts and agreements. The City Staff follows the direction of the entire Board and not individual members of the Board or public, and serves at the sole discretion of the City Council.

The City Treasurer shall continue to receive, hold and disburse all public funds of the FAMD. The City shall bill the District for costs incurred by the City arising out of District operations and the City's oversight, review or assistance with respect thereto. The FAMD shall follow all bidding procedures, purchasing procedures, contracting requirements and accounts payable procedures adopted by the City. All such procedures and requirements are currently set forth in the FAMD Fiscal Procedures Manual, and may be amended and/or updated by the City Council as necessary. The City may establish for the FAMD "agreed upon procedures review" annually or on any schedule as the City may establish.

**CHAPTER 2.04 CODE OF ETHICS FOR ALL FAMD OFFICIALS, EMPLOYEES,
CONSULTANTS, AND CONTRACTED PERSONNEL**

Sections:

- 2.04.010 Policy.
- 2.04.020 Waiver.
- 2.04.030 Conflict of Interest.
- 2.04.040 Conduct of Professional and Management Exempt Employees.
- 2.04.050 Enforcement.
- 2.04.060 Administration.

2.04.010 POLICY.

The Code of Ethics is approved and established as follows:

2.04.010(a) Definition.

The proper operation of democratic government requires that public officials, employees, consultants, and contracted personnel be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a code of ethics for all officials, employees, consultants, and contracted personnel whether elected or appointed, paid or unpaid. The purpose of this chapter is to establish ethical standards of conduct for all such officials, employees, consultants, and contracted personnel by setting forth those acts or actions that are incompatible with the best interests of the FAMD and the City and by directing the disclosure by such officials, employees, consultants, and contracted personnel of private financial or other interests in matters affecting the FAMD. The provisions of this chapter and such rules and regulations as may be established are hereby declared to be in the best interest of the FAMD and the City and for the protection of the public health, safety and welfare of its citizens.

2.04.010(b) Responsibilities of Public Office.

Public officials, employees, consultants, and contracted personnel are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the United States and State of California Constitutions and to carry out impartially the laws of the nation, State and the City and thus to foster respect for all governments. They are bound to observe, in their official acts, the highest standards of performance and to discharge faithfully the duties of their office, regardless of personal considerations. Recognizing that the public interests must be their primary concern, their conduct in both their official and private affairs should be above reproach.

2.04.010(c) Dedicated Service.

All officials, employees, consultants, and contracted personnel of the FAMD owe a duty of loyalty to the political objectives expressed by the electorate and the programs developed by the FAMD Board to attain those objectives. Appointive officials and employees should adhere to the

rules of work and performance established as the standards for their positions by the appropriate authority.

Officials and employees should not exceed their authority or breach the law, or ask others to do so, and owe a duty to cooperate fully with other public officials and employees unless prohibited from so doing by law or by the officially recognized confidentiality of their work.

2.04.010(d) Fair and Equal Treatment.

2.04.010(d)(1) Interest in appointments. The canvassing of members of the FAMD Board or the City, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to municipal service, shall disqualify the candidate for appointment except with reference to positions filled by appointment by the City Council or the FAMD Board.

2.04.010(d)(2) Use of public property. No officials, employees, consultants, and contracted personnel shall request or permit the use of City-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.

2.04.010(d)(3) Obligations to citizens. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

2.04.010(e) Conflicts of Financial Interest.

With regards to conflicts of financial interests, the following shall be deemed the "Conflict of Interest Code" of the City of Indian Wells and the FAMD as required by Government Code Section §87300 et seq.:

2.04.010(e)(1) Incorporation of state statutes and regulations. The definitions and disclosure requirements contained in the Political Reform Act of 1974 (Government Code Section §81000 et seq.), and in the regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Section §18730, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this section.

2.04.010(e)(2) Designated persons. The City Council shall adopt and periodically review a resolution designating City and FAMD employees, Board Members, Commissioners, Committee Members, officers and consultants (herein designated persons), who must file conflict of financial interest statements. In that resolution designating persons required to file, the City Council shall set forth the corresponding disclosure categories for such persons. By said resolution the City Council has determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on said person's financial interests. All persons holding positions listed in this resolution shall file conflict of interest statements consistent with the disclosure categories and this section.

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For purposes of this chapter the term "designated employee" as used in Government Code Section §81000 et seq. and 2 Cal. Code of Regs. Section §18730, et seq. shall be included within the definition of designated persons as used herein.

2.04.010(e)(3) Disclosure categories. Being listed as an FAMD designated person under this section does not establish any additional disclosure obligation for those persons who are also specified in Government Code Section 87200 (FAMD Board Members, City Manager, City Attorney, City Treasurer and candidates for FAMD Board Directors) and, as a result, obligated to file under state law.

This section does not establish any additional disclosure obligation for any designated person who is designated in a conflict of interest code for another agency, if all of the following apply:

- (1) The geographical jurisdiction of the FAMD is the same as or is wholly included within the jurisdiction of the other agency;
- (2) The disclosure category assigned in the code of the other agency is the same as the FAMD's; and
- (3) The filing officer is the same for both agencies.

Designated persons who are required to file statements of economic interests under any other agency's conflict of interest code may expand their statement to cover all reportable interests required for both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated person as if it were an original.

2.04.010(e)(4) Statements of economic interests. Designated persons shall file their statements of economic interests with the City Clerk who is deemed the filing officer for purposes of this section.

2.04.010(e)(5) Manner of disqualification. When a designated person determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of the District Manager, District Engineer or District Attorney this determination and disclosure shall be made in writing to the FAMD Board.

2.04.010(e)(6) Assistance of the commission and counsel. Any designated person who is unsure of his or her duties under this Code may request assistance from the City Attorney or the Fair Political Practices Commission pursuant to Government Code Section §83114, provided that nothing in this section requires the City Attorney to issue any formal or informal opinion.

2.04.010(e)(7) Violations. Designated persons violating any provision of this section are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections §81000 through 91015. In addition, a decision in relation to which a violation of the disqualification provisions of this section, or of Government Code Section §87100 or 87450, has occurred may be set aside by the Superior Court as void pursuant to Government Code Section §91003. (§ 1, Ord. 868-NS, eff. September 18, 1984, as amended by § 1, Ord. 911-NS, eff.

March 4, 1986, § 1, Ord. 1226-NS, eff. January 3, 1995, and § 1, Ord. 1329-NS, eff. January 7, 1999)

2.04.010(f) Ex parte communications.

No officials, employees, consultants, or contracted personnel shall encourage, make or accept any ex parte or other unilateral application or communication that excludes the interests of other parties in a matter under consideration when such application or communication is designed to influence the official decision or conduct of the official or other officials, employees or agencies in order to obtain a more favored treatment or special consideration to advance the personal or private interests of him/herself or others. The purpose of this provision is to guarantee that all interested parties to any matter shall have equal opportunity to express and represent their interests.

Any written ex parte communication received by an official or employee in matters where all interested parties should have an equal opportunity for a hearing shall be made a part of the record by the recipient.

Any oral ex parte communication received under such conditions should be written down in substance by the recipient and also be made a part of the record.

A communication concerning only the status of a pending matter shall not be regarded as an ex parte communication.

2.04.010(g) Avoidance of Impressions of Corruptibility.

Public officials, employees, consultants, and contracted personnel, whether appointed or elected, full time or part time, paid or unpaid, should conduct their official and private affairs so as not to give a reasonable basis for the impression that any such official or employee can be improperly influenced in the performance of his/her public duties. Such officials or employees should so conduct themselves as to maintain public confidence in their performance of the public trust in the government they represent. They should not be a source of embarrassment to that government and should avoid even the appearance of conflict between their public duties and private interests.

2.04.010(h) Discrimination in Appointments.

No person shall be appointed to, removed from, or in any way favored or discriminated against with respect to any appointive administrative office because of such person's race, color, age, religion, sex, national origin, political opinions, affiliations, or functional limitation as defined by applicable State or Federal laws, if otherwise qualified for the position or office. This provision shall not be construed to impair administrative discretion in determining the requirements of a position or in a job assignment of a person holding such a position, subject to review by the FAMD Board and/or the City Council.

2.04.010(i) City Allegiance and Proper Conduct.

2.04.010(i)(1) Incompatible employment. No Board Member, official or employee shall engage in or accept any private employment, or render services for private interest, when such employment or service is incompatible with proper discharge of his or her official duties or would tend to impair his or her independence or judgment or action in the performance of those duties.

2.04.010(i)(2) Disclosure of confidential information. No Board Member, official or employee shall, without proper authorization of the Board, disclose confidential information concerning the property, government, or affairs of the FAMD, nor shall he or she use such information to advance the financial interest of himself, herself or others.

2.04.010(i)(3) Gifts and favors. No Board Member, official or employee shall knowingly accept any gift which creates a conflict of financial interest and is given by any person, firm, or corporation which to his or her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the FAMD. No Board Member, official or employee shall accept any gift regardless of amount, retainer or compensation that is contingent upon a specific action by the City Council, the FAMD, a City Commission or a City Agency.

2.04.010(i)(4) Representing private interest before the City agencies or courts. No Board Member, official or employee whose salary is paid in whole or in part by the City or the FAMD shall appear on behalf of business or private interests of another before any agency of the City or FAMD where such appearance would create a potential of having to abstain from officials participating on that matter or be incompatible with that Board Member's, official's or employee's official duties. In addition, he or she shall not represent any private interest of another person or entity in any action or proceeding against the interest of the FAMD or the City in any litigation to which the FAMD or the City is a party.

2.04.010(i)(5) Interest in FAMD contracts. Regardless of whether he or she abstained from participating in the FAMD decision to award or enter into the contract, no Board Member, official or employee shall have an investment or monetary interest in any contract with the FAMD or the City made by them in their official capacity, or by any board or body of which they are members, except as permitted by Government Code Section 1090, et seq. (§ 1, Ord. 868-NS, eff. September 18, 1984, as amended by § 2, Ord. 911-NS, eff. March 4, 1986, and § 2, Ord. 1226-NS, eff. January 3, 1995)

2.04.010(j) Future Employment.

It shall be improper for any former officer or employee to appear as a compensated representative at any time before the Board, or any of its staff or agents, in connection with any case or other matter concerning the FAMD, for one (1) year following the termination of the term of office or employment of the officer or employee.

2.04.010(k) Giving Testimony.

It is the duty of municipal employees to answer questions submitted to them by respectfully constituted authority that may reflect upon the employees' fitness for municipal office or employment. If any FAMD or City officer or employee, after reasonable notice and an opportunity to answer, is called upon or requested to give testimony or to produce evidence upon relevant

matters pertaining to his/her office or position in connection with any lawful or constitutional inquiry conducted by the FAMD Board, the City Council, the Riverside County Grand Jury, and State or Federal legislative committee, or the Attorney General of the State, such officer shall, to the best of his/her ability, answer such inquiries or shall submit a statement of his/her reasons for refusal thereof to the City Council and the FAMD Board for its consideration. The City Council and/or FAMD Board, where permitted by law, shall thereafter inform such officer or employee whether or not such officer or employee is required, as a condition of continued employment, to answer such questions and the officer or employee continues to refuse to answer the questions thus propounded, such officer or employee shall resign immediately on the request of the City Council and/or FAMD Board or shall forfeit his/her position at the suit of the City and or FAMD Board. Nothing in this provision shall be construed to impair a constitutional or civil right.

2.04.010(I) Sanctions.

In addition to any other penalties or remedies provided by law, any violation of the provisions of this chapter shall constitute a cause for suspension, removal from office or employment or other disciplinary action after notice and hearing conducted by the appropriate appointed authority or, in the case of the Council, a majority of such Council.

2.04.020 WAIVER.

This policy is not intended to supersede, negate or otherwise invalidate any statute, ordinance or City Civil Service rule or regulation or laws and regulations of the State or Federal government.

2.04.030 CONFLICT OF INTEREST.

Every elected official, officer, appointee, employee, consultant, or contract personnel of the FAMD shall disclose completely the nature and extent of any interest, direct or indirect, which conflicts with his/her responsibility or duty.

2.04.040 CONDUCT OF PROFESSIONAL AND MANAGEMENT EXEMPT EMPLOYEES.

All professional and management exempt employees shall also conduct themselves in conformance with the Code of Ethics, Rules of Conduct and Guidelines described by the International City Management Association.

2.04.050 ENFORCEMENT.

The Board and the City shall enforce this Code of Ethics with all employees, consultants, and contract personnel.

2.04.060 ADMINISTRATION.

The FAMD and its District Manager, District Legal Counsel, District Engineer, the City Council and the City Attorney shall administer this Code of Ethics for all elected and appointed officials.

CHAPTER 2.05 CONFLICT OF INTEREST ORDINANCE

Sections:

2.05.010 Conflict of Interest Ordinance.

2.05.010 CONFLICT OF INTEREST ORDINANCE.

The City has adopted a Conflict of Interest Code for the City of Indian Wells by Ordinance No. 261 [9/5/1992], which is found in Chapter 2.36 of the Indian Wells Municipal Code. §2.36.020(b) entitled FAMD Advisory Commissioners states the following: All sources of income, interests in real property, and investments and business positions in business entities including but not limited to: land development companies and individual contractors, planning consultants and firms, engineering consultants and firms, EIR consultants and firms, and architectural consultants and firms.

The City Manager may determine in writing that a particular consultant is a "designated position," hired to perform a range of duties that is similar to a staff position or participates in governmental decisions, as defined by the Fair Political Practices Act (GC §82048) and Regulations (§18701); and thus is required to comply fully with the disclosure requirements described in the I.W.M.C. Chapter 2.36. Such determination shall include a description of the consultant's duties and, based upon that description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

The terms of California Code of Regulations Section §18730 and any amendments to be duly adopted by the Fair Political Practices Commission and the ordinance codified in Chapter 2.36 of the Indian Wells Municipal Code and found on file in the Office of the City Clerk in which officials and employees are designated and disclosure categories are set forth, are incorporated by reference and constitute the Conflict of Interest Code for the City of Indian Wells.

Designated parties shall file statements of economic interest annually with the City. Statements shall be retained by the City. Designated parties shall notify the City Clerk immediately upon any change in their status as an elected official or contractor for the FAMD.

CHAPTER 2.06 CITY AND DISTRICT’S NON-DISCRIMINATION POLICY

Sections:

- 2.06.010 Background.
- 2.06.020 Purpose
- 2.06.030 Policy.

2.06.010 BACKGROUND.

Non-toleration of race, sex, age, or ethnic origin discrimination or harassment in any form is and has been the policy of the City of Indian Wells and therefore the FAMD. The United States Constitution grants equal protection of the law to all citizens. The City Council and the FAMD Board of Directors recognizes that prejudice ferments strife and unrest and adversely affects the interests of employees, the City, the District and the public in general. Discrimination or harassment has resulted in the denial of complete citizenship and individual liberty to many citizens of this country. It is the intent of the City Council and therefore the FAMD to reaffirm its policy of not tolerating discrimination or harassment.

2.06.020 PURPOSE.

The purpose of this policy is to place in the FAMD Policy Manual and to reaffirm the official position of the City to the effect that discrimination will not be tolerated at any level of City government by the City Council. It is the purpose of this policy to protect and safeguard the right and opportunity of all persons to live free of discrimination; to promote racial equality; to eliminate the effects of racial inequality and prejudice when it is found; and to assure that there shall not be any decision, policy, program, or act of administration, at any level of City government, that is inconsistent with this policy.

2.06.030 POLICY.

The City of Indian Wells and the FAMD, in its government, shall not tolerate discrimination.

CHAPTER 2.07 CONTRACT MANAGEMENT DUTIES

Sections:

- 2.07.010 District Manager-Duties and Responsibilities.
- 2.07.020 Removal.

2.07.010 DISTRICT MANAGER-DUTIES AND RESPONSIBILITIES.

The duties and responsibilities of the FAMD District Manager will be to act as the administrative head of the District under the direction and control of the FAMD Board of Directors (the "Board"). The District Manager shall be responsible for the efficient administration of all affairs of the District which are under their control. The District Manager shall be selected based upon the procedures set forth in the Financial section of this Manual and shall possess the legal knowledge, administrative qualifications and understanding of municipal government and applicable State and Federal laws. In addition to these general powers as administrative head, District Manager will have the power to:

2.07.010(a) Enforcement of Laws.

To see that the FAMD Standard Operation Procedures and all laws, Ordinances and Resolutions of the City are duly enforced and that all franchises, permits and privileges granted by the City are faithfully observed;

2.07.010(b) Control of Sub-Contractors and Employees.

To control, order and give directions to all sub-contractors and employees of the FAMD, except those contractors and employees specifically excluded by the Board, and any board, commission or committee heretofore or hereafter established by the Board.

2.07.010(c) Attendance at FAMD Meetings.

To attend all meetings of the FAMD, unless excused there from by the Board, except when District Manager's removal is under consideration by the Board.

2.07.010(d) Attendance at Committee and City Meetings.

To attend, when requested by the Board, the meetings of the City Council or FAMD committees; provided that nothing contained in this section shall be deemed to grant to the District Manager the power to control or give directions to any board, commission or committee heretofore or which may hereafter be appointed by the Board.

2.07.010(e) Supervision over Contracts.

To negotiate, draft, supervise and cooperate on the performance of contracts with governmental agencies or private contractors or any other service or agency having a contract with the District.

2.07.010(f) Recommend Ordinances and Resolutions.

To recommend to the City Council for adoption such measures, ordinances and resolutions as the Board deems necessary or expedient at the direction of the Board.

2.07.010(g) Advice as to Finances.

To keep the Board, at all times, fully advised as to the financial condition and needs of the District.

2.07.010(h) Preparation of Budget.

To prepare and submit to the FAMD Board the annual operating budget and the five (5) year Capital Improvement Budget. To present such budget as approved by the FAMD Board to the City Council and or City Staff as directed by the Board, and as stipulated in the FAMD Fiscal Policies and Procedures Manual (Appendix).

2.07.010(i) Approval of Purchases.

To approve the purchases by the FAMD of all supplies necessary for the operations of the District and maintain all District contracts and agreements.

No expenditure shall be submitted or recommended to the Board, except on report and approval of the Board as agendized at a publicly noticed meeting of such Board.

2.07.010(j) Investigations of FAMD Affairs.

To make investigations and recommendations regarding the affairs of the District, and any contract or the proper performance of any obligations running within the District.

2.07.010(k) Approval of Bonds and Contracts.

To incorporate, with the advice and approval of the City's Public Safety Director and the City Attorney, the bonds and insurance requirements for the FAMD's contracts and bid specifications, including professional services when such bonds are required.

2.07.010(l) Investigation of Complaints.

To investigate all complaints in relation to matters concerning the administration of the District and in regard to the service maintained by public utilities in the District and to see that all contracts, franchises, permits and privileges made or granted by the City are faithfully performed and observed.

2.07.010(m) Supervision of Public Buildings and Parks.

To exercise general supervision over all District properties which are under the control and jurisdiction of the Board and not specifically delegated to a particular board member or alternate contractor for the Board.

2.07.010(n) Devotion of Entire Time to Duties.

To devote their entire time as specified by contract to the duties of their contract and the interests of the FAMD without other outside employment or services, except as may be provided in an employment agreement or approved by the Board.

2.07.010(o) Representing District in Governmental Affairs.

To represent the District in discussions of administrative and policy questions between the District and the City when and if required to do so by the Board.

2.07.010(p) Performance of Delegated Duties.

To perform such other duties and exercise such other powers as may be delegated to them from time to time.

2.07.010(q) District Manager and Board Relationship.

The Board and its members shall deal with the administration of the District only through the District Manager, except for the purpose of inquiry, and neither the Board, nor any members thereof, shall give orders or direction to any subordinates of the District Manager.

2.07.010(r) Communications.

The FAMD is required to retain all official records for the FAMD and submit copies of same to the City Liaison in accordance with the City's adopted Records Retention Policy.

The District Manager shall provide periodic reports keeping the Board and the City Council informed of the District's activities and involvement with individual Board Members. Such reports to the City Council shall be made quarterly and additionally at the request of the City Council to the FAMD Board.

2.07.020 REMOVAL.

The following procedure shall be followed in the removal of the District Manager:

2.07.020(a) Intention to Remove.

The removal of the District Manager shall be only on a majority vote of the whole Board. In case of the District Manager's intended removal by the Board, the District Manager shall be furnished with a written notice stating the Board's intention to remove District Manager and the reasons therefore, at least thirty (30) days before the effective date of their removal or as otherwise stated in their Contract.

2.07.020(b) Public Hearing.

Within seven (7) days after the delivery to the District Manager of such notice, the District Manager may by written notification to the Board and the City Clerk, request a public hearing before the Board. Thereafter, the Board shall fix a time for the public hearing which shall be held at

its usual meeting place, but before the expiration of the thirty (30) day period, and at which the District Manager shall appear and be heard.

2.07.020(c) Negotiation.

The Board and District Manager shall first meet and attempt to negotiate an agreeable resolution to their differences, including resignation or retirement, thirty (30) days prior to any issues of written notice to removal. Removal must also be in conformance with any provisions of a Professional Agreement.

2.07.020(d) Suspension from Duty.

After furnishing the District Manager with written notice of intended removal, the Board may suspend the Manager from duty, and compensation shall continue until the removal by resolution of the Board in compliance with any professional agreement is passed subsequent to the aforesaid public hearing.

2.07.020(e) Discretion of the Board.

In removing the District Manager, the Board shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the District Manager to publicly present to the Board the grounds of opposition to removal prior to its action.

CHAPTER 2.08 CONTRACT ENGINEER’S DUTIES

Sections:

- 2.08.010 Appointment of District Engineer.
- 2.08.020 Duties and Responsibilities.
- 2.08.030 Removal.

2.08.010 APPOINTMENT OF DISTRICT ENGINEER.

The District Engineer shall be appointed by the Board based upon the procedures set forth in the FAMD Fiscal Procedures and shall possess the legal knowledge, administrative qualifications and understanding of municipal government and applicable State and Federal laws. The District Engineer may be an individual or a firm. If a firm is selected, an individual shall be designated as the District Engineer and shall be the primary contact with the firm for all engineering matters. The District Engineer, if a member of a firm, may designate other members of the firm to perform specific assignments but shall remain responsible for the quantity and quality of all engineering work performed by the firm. The FAMD Board shall enter into a contract defining the scope of services and outlining the terms and conditions for total compensation.

2.08.020 DUTIES AND RESPONSIBILITIES.

The duties and responsibilities of the District Engineer, pursuant to FAMD, City, State and Federal laws, will be to oversee and plan, the design, construction, operation and maintenance of roads, bridges, water supply schemes, sewerage systems, transportation and District Buildings and act as the engineering counsel to the District. The District Engineer shall provide assistance and representation in matters pertaining to the to the FAMD; and to give opinions concerning their actions, duties and powers in all engineering matters. The District Engineer shall coordinate, cooperate and assist the City’s Engineer/Public Works Department in the administration all engineering projects for the District. The FAMD Board shall retain the administrative authority in all District matters. The general duties of the District Engineer include but are not limited to the following:

2.08.020(a) Street Work.

The District Engineer shall serve as the general advisor and coordinator to the District on all street work before the District or requested by the District or City Council. Street Improvement Projects shall be submitted to the City’s Public Works Department for project plan review and special provisions prior to the required encroachment permit issued to the Contractor by the City. The District Engineer shall submit a letter to the City’s Public Works Department stating that all plans and specs are in accordance with City standards and the Green Book, with documentation per the Fiscal Procedures of the FAMD Board approval.

2.08.020(b) Capital Improvement Projects.

The District Engineer shall submit to the City Planning Department all projects requiring Architectural and Landscape Committee, Planning Commission, and/or City Council approval. All

applicable fees will be charged directly to the FAMD. The District Engineer shall be responsible for any and all appearances before any of the applicable bodies if required in connection to the project.

2.08.020(c) Project Contracts.

The District Engineer shall prepare bid specifications for all projects in conjunction with the purchasing policies set forth Fiscal Procedures Manual. The District Engineer shall prepare and present bid specifications to the FAMD Board for approval prior to publication. All proposals shall be analyzed and presented to the FAMD Board with a recommendation for action related to such proposals in writing. In the case of Major Construction Contracts requiring formal bidding, an officer of the Board and the District Engineer shall be present and conduct the bid openings. District Engineer shall prepare all contracts for submittal to the Board for approval and shall be responsible to monitor the project progress and provide approval on all invoices submitted for projects.

2.08.020(d) Notice of Completion.

District Engineer shall cause to be hand-delivered to the Indio County Recorder's Office a Notice of Completion, obtaining a "Filed for Record" as proof of date of recordation/receipt. As soon thereafter as possible, the District Engineer shall provide the FAMD District Manager with a final contractor invoice; the "Filed for Record" copy of the Notice of Completion and a report stating that all work has been performed according to the approved plans with the original record drawings approved by the FAMD Board.

2.08.020(e) Personal Requirements.

The District Engineer shall have the ability to identify, analyze and solve problems. They shall have good oral and written communication skills and an aptitude for computing and designing. They shall be practical and creative and have the ability to work without supervision. They shall have the ability to respond to Board, District Manager and Resident concerns in a timely manner as stipulated in professional services contract document.

2.08.020(f) Tasks.

The District Engineer shall investigate sites to work out the most suitable foundation for a proposed construction or mitigation.

2.08.020(F)(1). The District Engineer shall research and advise the FAMD Board and the City on the best engineering solution to meet District needs and budget constrictions.

2.08.020(F)(2). The District Engineer shall produce detailed designs and documentation for the construction and implementation of all District engineering projects.

2.08.020(F)(3). The District Engineer shall organize the delivery of materials, plant and equipment needs for the project and supervise labor in connection with a detailed program for the coordination of site activities and timelines.

2.08.020(F)(4). The District Engineer shall assist and advise the FAMD Board in preparing annual and five (5) year Capital Improvement Plans within set budgets to accommodate immediate and future needs of the District.

2.08.030 **REMOVAL.**

The following procedure shall be followed in the removal of the District Engineer:

2.08.030(a) Vote.

The removal of the District Engineer or firm shall be only a majority vote of the entire FAMD Board.

2.08.030(b) Intended Removal.

In the case of the intended removal by the FAMD Board, the District Engineer or firm shall be given a written notice of at least thirty (30) days before the effective date of removal.

2.08.030(c) Negotiation.

The FAMD Board, District Manager and District Engineer shall first meet and attempt to negotiate a mutually agreeable resolution to their differences including resignation or retirement. Removal shall be in conformance with any agreement or contract.

2.07.020(d) Discretion of the Board.

In removing the District Engineer, the Board shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the District Engineer to publicly present to the Board the grounds of opposition to removal prior to its action.

CHAPTER 2.09 PRESS RELATIONS

Sections:

- 2.09.010 Official Position of the FAMD.
- 2.09.020 Board Members Speaking on their Own Behalf.
- 2.09.030 Board Communication to City Manager.

2.09.010 OFFICIAL POSITION OF THE FAMD.

In responding to inquiries from the media, the Board and its District Manager shall represent the official position of the FAMD and shall limit their comments to stating the facts and circumstances, without personal opinions or conclusions.

2.09.020 BOARD MEMBERS SPEAKING ON THEIR OWN BEHALF.

If Board members respond outside the above policy, they must clearly identify that they are responding on their own behalf and do not represent the Board or the FAMD in their comments.

2.09.030 BOARD COMMUNICATION TO THE CITY MANAGER.

All Board members responding to the media shall advise the City's Staff Liaison of the nature of the inquiry and their response.

CHAPTER 2.10 USE OF CITY PERSONNEL FOR OUTSIDE ACTIVITIES

Sections:

- 2.10.010 City Manager Authorization
- 2.10.020 Non-FAMD Business

2.10.010 CITY MANAGER AUTHORIZATION.

The use of City personnel for FAMD activities, such as community meetings, by an individual Board Member shall be authorized by the City Manager. The City Manager shall keep the Council informed of all special use of City Staff.

2.10.020 NON-FAMD BUSINESS.

Use of City Personnel for any personal use or personal business activity not related to City business is prohibited.

TITLE 3

LEGISLATIVE

TITLE 3 LEGISLATIVE

Chapters:

- 3.01 Open Meetings - Brown Act
- 3.02 Meeting Agendas
- 3.03 Conduct of Meetings
- 3.04 Preparation of FAMD Meeting Minutes
- 3.05 Election of the Chairperson and Duties
- 3.06 Election of the Vice-Chairperson and Duties
- 3.07 Election of the Secretary and Duties
- 3.08 Selection and Appointment of Committees and Panels
- 3.09 Ad Hoc and Standing Committees
- 3.10 Filling Vacant Board Positions
- 3.11 Rules of Conduct for Board Members
- 3.12 Contract Requirements

CHAPTER 3.01 OPEN MEETINGS - BROWN ACT

Sections:

- 3.01.010 Policy.
- 3.01.020 Procedure.
- 3.01.030 Distribution of Agendas.

3.01.010 POLICY.

This Section is established to comply with the Ralph M. Brown Act (the "Brown Act") to ensure that almost all aspects of the decision-making process of legislative bodies of local agencies and their subsidiaries are conducted in public and open to public scrutiny. The law requires local agencies to post an agenda prior to each meeting of the Board, requires local agencies to provide an opportunity for the public to address the Board, generally prohibits the Board from acting on items not appearing on the agenda, and authorizes bringing suit to void certain actions taken in violation of the Brown Act.

It is the policy of the FAMD Board that the subject matter to be considered at meetings be announced to the public through a written agenda, posted at least seventy-two (72) hours prior to such meetings and issued in writing to the FAMD Board and the Presidents of all Homeowner Associations located within the boundaries of the FAMD.

3.01.010(a) Exceptions.

The Board is prohibited from taking action on any item not appearing on the posted agenda unless:

3.01.010(a)(1) Emergency Situation. A Board majority determines that an "emergency situation" exists;

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3.01.010(a)(2) Need to Take Action. The Board determines, by a two-thirds (2/3) vote, or by a unanimous vote, if less than two-thirds (2/3) of the Board members are present, that the "need to take action" on the item came to the attention of the Board subsequent to posting of the agenda; or

3.01.010(a)(3) Continued Agenda Item. The item was included in a properly posted agenda for a prior meeting occurring not more than five (5) days prior to the meeting at which action is taken and was continued to the meeting at which action is taken.

3.01.010(b) Quorum Requirement.

This policy does not apply to meetings of less than a quorum of the entire Board of the local agency. For purposes of the FAMD, the definition of a quorum shall be a majority of the seven (7) District positions minus any vacancies, but not less than three (3).

3.01.020 PROCEDURE.

The following procedure shall be followed:

3.01.020(a) Posting the Agenda.

A minimum of seventy-two (72) hours preceding a regular FAMD Board meeting, the City Clerk will post an agenda submitted during the City's regular business hours by the District Secretary at the three regular posting locations for the City.

The District Manager shall post same agenda at guard houses located at both the Club and Manitou Gates at the entrance of the FAMD property.

3.01.020(a)(1) Required agenda information. The agenda must be submitted by the FAMD Board Secretary or their designee no later than 12:00 p.m. prior to the required seventy-two (72) hour requirement for a regularly scheduled FAMD Board meeting to the City Clerk's office. The agenda will include the following:

3.01.020(A)(1)(I) TIME AND LOCATION. The time and location of the meeting.

3.01.020(A)(1)(II) DESCRIPTION OF AGENDA ITEMS. A description of each item of business to be transacted at the FAMD Board meeting. The description should be reasonably calculated to adequately inform the public, and should include the contemplated Board action.

3.01.020(A)(1)(III) PUBLIC COMMENTS SECTION. No action or discussion shall be taken on any item not appearing on the posted agenda, except that members of the Board may briefly respond to comments made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative, or in response to questions posed by the public, members of the Board may ask a question for clarification, provide a reference to FAMD District Manager or other resources for factual information, or request District Manager to report back to the body at a subsequent meeting concerning any matter. Furthermore, a member of the Board or the body itself may take action to direct the District Manager to place a matter of business on a future agenda.

3.01.020(b) Affidavit of Posting.

The City Clerk will prepare and sign an affidavit of posting, declaring the time and place where the agenda was posted. The District Manager shall prepare and sign an affidavit of posting declaring the time and places that they posted. The FAMD will retain the affidavits in accordance with the City's adopted Records Retention Policy.

3.01.030 DISTRIBUTION OF AGENDAS.

The District Secretary shall be responsible for the delivery of agenda packets, including all reports and supporting documentation to the FAMD Board Members at least seventy-two (72) hours prior to a regularly scheduled meeting.

The District Secretary shall also be responsible for the delivery by mail of the agenda for each FAMD Meeting to each Homeowner Association President within the FAMD.

CHAPTER 3.02 MEETING AGENDAS

Sections:

- 3.02.010 Background.
- 3.02.020 Purpose.
- 3.02.030 Procedure.

3.02.010 BACKGROUND.

The FAMD Board meets, normally, on the third Tuesday of every month. The date and time of the FAMD Board meetings may be changed and shall be determined within forty-five (45) days following a regular election as determined by the staggered four-year terms of said Board Members. The planning, preparation, printing and dissemination of the agenda for these meetings, is an ongoing, interdependent activity. Board Members and District Manager must adhere to fundamental format and procedure requirements.

3.02.020 PURPOSE.

The purpose of an agenda is to provide a framework within which an open, public meeting can be conducted and to comply with all legal requirements for actions of the FAMD Board. An agenda should:

3.02.020(a).

Set the stage for conducting business.

3.02.020(b).

Present items or proposals for Board Members to consider matters on which action is required.

3.02.020(c).

Provide well organized information on which Board Members can base their decisions.

3.02.020(d).

Facilitate the deliberations and actions of the Board and make it easier for them to conduct the business which has been brought before them.

3.02.020(e).

Provide guidelines which allow for efficient conduct of meetings.

3.02.020(f).

Provide an appropriate means for public comment and inquiry of the FAMD Board.

3.02.030 PROCEDURE.

The preparation of the Agenda shall be the responsibility of the FAMD Board Secretary or their Designee, who shall establish, by administrative directive, the procedures, process and format for compiling and distributing the agenda.

3.02.030(a) Compliance Requirements.

The Board meetings shall comply with the "Brown Act" and all State or Federal laws affecting the conduct of such meetings.

3.02.030(b) Time of Regular Meetings.

The Board shall hold regular meetings at 2:00 p.m. on the third Tuesday of each calendar month at City Hall. The date and time of the FAMD Board meetings may be changed and shall be determined within forty-five (45) days following a regular election as determined by the staggered four-year terms of said Board Members.

3.02.030(b)(1) Holidays. If any regular meeting falls on a holiday, such meeting may be held on such day as the Board may designate.

3.02.030(b)(2) Adjourning or scheduling meetings. The FAMD Board may adjourn regular meetings, schedule workshop meetings, special meetings, special adjourned meetings or emergency meetings as determined to be needed by the FAMD Board or their District Manager with concurrence of the Chairperson and one other Board Member.

3.02.030(c) Criteria for Matters Covered.

The Board shall consider only motions, or matters which affect the conduct of the business of the FAMD or its duties as a Special District of the City of Indian Wells and the Board shall consider only motions supporting or disapproving any legislation or action pending in the Legislature of the State of California, the Congress of the United States or before any officer or agency of said State or nation when such proposed legislation or action, if adopted, will affect the conduct of the Special District business or the powers and duties of the FAMD or its officers or contractors as such. Communications on matters not meeting these criteria shall be provided to the Board on an information basis only.

3.02.030(d) Scheduling Items on the Agenda.

All items requested to be scheduled for the agenda shall be in writing.

3.02.030(d)(1) Items to be placed on the agenda. FAMD Board Members may place items on the agenda. Residents of the FAMD may place a request to agendaize a matter on the agenda for Board consideration.

3.02.030(d)(1)(i) Required information for written requests. Requests must state the subject of the request, who is making the request, what decision is being requested of the FAMD Board and any cost associated with the request.

3.02.030(d)(1)(ii) Time requirement. All requests must be delivered to the FAMD Manager on the Wednesday of the week prior to the FAMD Board meeting or by noon of the day prior to the official posting required under the Brown Act which specifies seventy-two (72) hours prior to a regularly scheduled meeting.

3.02.030(d)(1)(iii) Determination of completeness of request and additional work needed. The FAMD Manager (City Clerk may be called on to advise) shall determine the completeness of the request prior to scheduling. The District Manager shall determine if any additional work is needed prior to scheduling the item on the agenda. If an item is not scheduled for the next agenda, the District Manager shall notify the requester of the reasons for not scheduling.

3.02.030(d)(2) Urgency items. Items of an emergency nature may be added to the agenda by a 2/3 [two-thirds] vote during approval of the final agenda by the FAMD Board.

3.02.030(e) Order of Business on the Agenda.

Regular business of the Board shall be taken up for consideration in substantially the following order, except as may be otherwise ordered by the FAMD Board.

3.02.030(e)(1) Approved Format. The approved format includes:

- A. Call to Order, Pledge of Allegiance, and Roll Call
- B. Ceremonial Matters
- C. Approval of Final Agenda
- D. FAMD Board Minutes
- E. Payments of Warrants and Demands
- F. Consent Calendar
- G. Public Comments
- H. Board Comments
- I. General Business
- J. Written Communications
- K. District Manager and District Engineer Briefings
- L. Committee Reports
- M. Board Requests for Future Agenda Items, Analysis Work, or Absences
- N. Announcements
- O. Adjourn or Recess to Closed Session
- P. Adjourn or Recess to Special Meeting Date

3.02.030(e)(2) Description of Approved Format Categories. The following further defines the purpose and subject of the various sections of the agenda.

“A”. **Call to Order, Pledge of Allegiance, and Roll Call.** The determination that a quorum is present and the official opening of the FAMD Board meeting for business.

“B”. **Ceremonial Matters.** The time for official recognition of individuals, groups, or events and the public presentation of resolutions or proclamations.

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"C". **Approval of the Final Agenda.** The determination that all items to be discussed by the City Council during the meeting are listed on the agenda. If urgent or emergency items exist that must be added to the agenda, this is the time to add them to the agenda in accordance with the City Rules and Procedures and applicable State and Federal laws.

"D". **FAMD Minutes.** The official review, modification, and approval of the official minutes of prior FAMD Board meetings.

"E". **Payments of Warrants and Demands.** Review and approval or denial of payment of warrants and demands on the City for goods and services purchased by the FAMD or the City on the District's behalf.

"F". **Consent Calendar.** Those items on the Council agenda which are considered routine by the District Manager, e.g., Treasurer's Month End Report, bid awards, final maps and various leases, agreements, and other routine items, are listed on the "Consent Calendar" and will appear in the Council minutes in their proper form (i.e. resolution accepting grant deed or easement, award of bid, etc.).

"G". **Public Comments.** See Section 3.01.020(a)(1)(iii).

"H". **FAMD Board Comments.** Time has been reserved on each regular meeting agenda to provide an opportunity for the Board to introduce items not currently before the Board for consideration. Action generally may not be taken on such items other than to ask a question for clarification, provide a reference to District Manager or District Engineer or other resources for factual information, or to direct District Manager to place the matter on a future agenda. However, any Board Member may submit "Board Member Comment" items on a regular meeting agenda to the District Manager prior to the deadline for submitting items for that meeting.

"I". **General Business.** All policy items requiring action of the FAMD Board that are not routine in nature and not eligible for the Consent Calendar.

"J". **Written Communication.** The placement of all written requests by the public for actions by the FAMD Board. The Board shall determine to receive and file, refer to the District Manager, or schedule for a future agenda with Manager/Engineer analysis or take direct action.

"K". **Staff Briefing.** The District Manager, District Engineer and City Staff may make a brief report on his/her own activities.

"L". **Council/Management Requests for Future Agenda Items, Analytical Work or Absences.** These include: (1) requests by Board Members to schedule items for future agenda items, special meetings, or workshops; (2) requests for work, analytical information, or assistance from District Contractors by individual Board Members which will require anything other than a nominal expenditure of Manager time to relay or copy information, as determined by the District Manager, shall be placed on the next available Board agenda for action by the full Council; and (3) notice and approval of known absences from Board meetings by Board Members, District Manager or District Engineer.

"M". **Announcements.** The announcement of meetings and activities of the Board Members, external organizations and governmental agencies.

"N". **Closed Sessions.** The Board may hold closed sessions during a regular or special meeting, or at any time otherwise authorized by law, to consider or hear any matter which it is authorized by State law to hear or consider in closed session. If a closed session is included on the agenda, the description of the item must identify the statutory basis for the closed session, and need not include the specific topic which is the subject of the closed session. During closed session, the Board may exclude any person or persons which it is authorized by State law to exclude from a closed session. No minutes of the proceedings of the Board during a closed session are required. There shall be no closed session during any special emergency meeting.

When a Board Member has a conflict of interest in a Closed Session matter, that Member shall not receive confidential information that he/she would otherwise be given.

"O". **Recess or Adjournment.** The recess of the Board meeting to a date certain or the adjournment of the meeting until the next regularly scheduled meeting.

3.02.030(f) Posting the Agenda.

For every regular or special meeting, the City Clerk or his/her designee shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all the items of business to be discussed at the meeting. The notice and agenda may be combined in a single document. For any regular meeting of the Board, the notice and agenda shall be posted at the three regular posting locations no later than seventy-two (72) hours prior to the time set for the meeting.

3.02.030(f)(1) Posting locations. The notice and agenda shall be posted in a place to which the public has unrestricted access during at least normal business hours and where the notice and agenda are not likely to be removed or obscured by other posted material. Specifically, the official notice and agenda shall be posted in the three regular posting locations for the City.

In addition to the official City posting, the FAMD Secretary shall cause the meeting agenda to be posted at both entrances to the FAMD property in a place to which the public has unrestricted access during at least normal business hours and where the notice and agenda are not likely to be removed or obscured by other posted material. Specifically, the sites shall be posted at the guard houses at the Club and Manitou Gate entrances to the FAMD.

3.02.030(f)(2) Time requirement for posting for regular meetings. For any regular meeting of the Board, the notice and agenda shall be posted at the three regular posting locations for the City and the guardhouses at Club and Manitou Drives no later than seventy-two (72) hours prior to the time set for the meeting.

3.02.030(g) Affidavit of Posting.

Immediately following the posting of the notice and agenda, the City Clerk, or his/her designee, shall complete an Affidavit of Posting in a form to be developed by the City Clerk.

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3.02.030(g)(1) Content. The Affidavit of Posting shall indicate the time of the posting, the location(s) of the posting and shall be signed under penalty of perjury.

3.02.030(g)(2) Retention of records. The FAMD shall retain all such affidavits, together with a copy of each notice and agenda so posted in his/her files. The affidavit, notice, and agenda shall be retained at least two (2) years subsequent to the date of posting and pursuant to Government Code Section §34090, (or shall be retained in accordance with the City’s adopted Record Retention Policy).

CHAPTER 3.03 CONDUCT OF MEETINGS

Sections:

- 3.03.010 Background.
- 3.03.020 Types of Meetings.
- 3.03.025 Teleconference of FAMD Board Meetings.
- 3.03.030 Posting Agendas for Regular and Special Meetings.
- 3.03.040 Agenda Requirement for Action Taken.
- 3.03.050 Presiding Officer.
- 3.03.060 Legal Officer.
- 3.03.070 Parliamentarian.
- 3.03.080 Motions.
- 3.03.090 Public Comment Period.
- 3.03.100 Board Comment Period.
- 3.03.110 Reconsideration of a Board Action.
- 3.03.120 Personal Privilege.
- 3.03.130 Board Conduct.
- 3.03.140 Interpretation of Policy.

3.03.010 BACKGROUND.

This outline shall establish the procedures for the conduct of all meetings of the FAMD Board. The purpose of this outline is to provide that the FAMD's procedures will be consistent with the Brown Act (Government Code Sections 54950 et seq.) and also to establish procedures which will be convenient for the public and contribute to the orderly conduct of the District's business.

3.03.020 TYPES OF MEETINGS.

The different types of meetings described below are governed by different requirements.

3.03.020(a) Regular Meetings.

The Board shall conduct its regular meetings at the time and place established. Regular meetings are currently held on the second Thursday of each month at 2:00 p.m. at the City Hall Council Chambers. The date and time of the FAMD Board meetings may be changed and shall be determined and established within forty-five (45) days following a regular election as determined by the staggered four-year terms of said Board Members.

3.03.020(b) Special Meetings.

A special meeting, workshop, study session, or Town Hall Meeting may be called at any time by the Presiding Officer or by determination of the majority of the Board.

3.03.020(b)(1) Written notice. Written notice of any such meeting must be given to all members of the Board. Such notice may be given either personally or by mail, but must be received at least twenty-four (24) hours before the time set for the special meeting.

3.03.020(c) Special Emergency Meetings.

A special emergency meeting may be called by the Presiding Officer or by a majority of the Board where there exists:

3.03.020(c)(1) Emergency situation. A work stoppage, crippling disaster or other activity which severely impairs public health or safety; or

3.03.020(c)(2) Special authority. Such other circumstances specified by State law as authorizing the conduct of an emergency meeting.

Any special emergency meeting shall be called, noticed, and conducted only in accordance with the procedures set forth in State law.

3.03.020(d) Adjourned Meetings.

The Board may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment.

3.03.020(d)(1) Quorum. If a quorum is not present, less than a quorum may so adjourn. For purposes of the FAMD, the definition of a quorum shall be a majority of the seven (7) District positions minus any vacancies, but not less than three (3).

3.03.020(d)(2) Adjournment by district manager. If all members, or a quorum, are absent from any regular or adjourned regular meeting, the District Manager may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be delivered, personally, to each Board Member.

3.03.020(d)(3) Posting notice of adjournment. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held, within twenty-four (24) hours after the time of adjournment. When a regular or adjourned regular meeting is adjourned as provided herein, the resulting adjourned regular meeting shall be a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

3.03.025 TELECONFERENCE OF FAMD BOARD MEETINGS.

In the event that any member of the Board elects to use teleconferencing as a means of participating in any meeting of the Board, he/she may do so provided the FAMD Board is informed in time for proper Brown Act compliance. The teleconferenced meeting or proceeding shall comply with all provisions of law and include the following requirements:

3.03.025(a).

All votes taken during a teleconferenced meeting shall be by roll call.

3.03.025(b).

The agenda for any teleconferenced meeting shall be posted at any teleconference location to be utilized, subject to the same time and content regulations applicable to non-teleconferenced meetings.

3.03.025(c).

A teleconferenced meeting shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board.

3.03.025(d).

Any teleconference location to be utilized shall be identified in the notice and agenda of the meeting or proceeding.

3.03.025(e).

Any teleconference location to be utilized shall be accessible to the public and the public shall be provided an opportunity to address the Board directly.

3.03.025(f).

Any member of the Board wishing to use teleconferencing, shall be required to notify the District Manager and the City Clerk within sufficient time to allow the FAMD Board to meet the requirements of posting the agenda 72 hours prior to the time set for the meeting, and shall be responsible for making sure all other requirements for use of teleconferencing as well as all other applicable provisions of law are adhered to at the teleconferenced site.

3.03.025(g).

The FAMD will pay for any phone charges incurred as a result of teleconferencing.

3.03.030 POSTING AGENDAS FOR SPECIAL MEETINGS.

For every special meeting, the City Clerk or his/her designee shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all the items of business to be discussed at the meeting. The notice and agenda may be combined in a single document.

3.03.030(a) Posting Time Requirements.

For any Special Meeting of the Board, the notice and agenda shall be posted at City Hall no later than twenty-four (24) hours prior to the time set for the meeting.

3.03.030(b) Posting Locations.

The notice and agenda shall be posted in a place to which the public has unrestricted access during at least normal business hours and where the notice and agenda are not likely to be

removed or obscured by other posted material. Specifically, the official notice and agenda shall be posted at the City's three regular posting locations and the gate houses at Club and Manitou Drives.

3.03.040 AGENDA REQUIREMENT FOR ACTION TAKEN.

No discussion or action shall be undertaken by the Board on any item not appearing on a posted agenda, subject only to the exceptions listed in subsection below.

"Discussion", as used herein, shall mean any conversation between Board Members or between Board Members and audience other than questions for clarification, provision of reference to Manager/Engineer or other resources for factual information, or a request for District Manager to report back to the Board.

"Action taken", as used herein, shall mean a collective decision made by a majority of the members of the Board, a collective commitment or promise by a majority of the members of the Board to make a positive or a negative decision, or an actual vote by a majority of the members of the Board upon a motion, proposal, resolution, order or ordinance.

3.03.040(a) Non-Agenda Matters Raised During Public Comments.

With regard to matters not on the agenda, the members of the Board may ask questions of persons who raise such matters during the Public Comment period or otherwise, and the Presiding Officer should handle such matters as provided, but such questions should be limited to informational purposes and the Board should avoid discussions of the merits or giving directions regarding such subjects.

3.03.040(b) Non-Agenda Matters Raised During Board Comments.

With regard to matters raised by members of the Board under Board Members Comments, such matters should normally be placed on a subsequent agenda and the Presiding Officer should handle such matters without discussion by the Board. Board Members may ask a question for clarification, provide a reference to District Manager or Engineer or other resources for factual information, or request Manager/Engineer to report back to the Board at a subsequent meeting concerning any matter.

3.03.040(c) Exceptions to Agenda Requirement for Action Taken.

The Board may take action at a meeting on an item not appearing on the agenda for that meeting only under one of the following circumstances:

3.03.040(c)(1) Emergency situation. Upon a majority determination that an "emergency situation", as that term is defined by State law, exists.

3.03.040(c)(2) "Need to take action" arises subsequent to the agenda posting. Upon a determination by a two-thirds (2/3) vote of the Board, or if less than two-thirds (2/3) of the members are present by a unanimous vote of those members present, that there is a need to take immediate action and the need came to the attention of the Board subsequent to the agenda posting. For the purposes of this subsection, the term "need to take action" shall mean those

circumstances whose occurrence creates a situation which is materially different from that which existed at the time the agenda was posted, and which requires the immediate attention of the Board.

3.03.040(c)(3) Documentation of "need to take action" The mere failure of any person to notify the Board or their Manager of a pre-existing situation requiring Board attention until after the time for the posting of the agenda shall not be deemed to constitute a "need to take action" hereunder. If the Board makes a determination pursuant to this subsection, the minutes of the meeting at which the determination is made shall reflect what circumstances gave rise to the "need to take action" and why the item could not be placed on the agenda.

3.03.050 PRESIDING OFFICER.

The meeting shall be presided over and chaired by the Presiding Officer (Chairperson), or, in the Presiding Officer's absence, the Vice-Chair. In the absence of both the Chairperson and the Vice-Chairperson, the FAMD Secretary shall preside over the meeting.

3.03.050(a) Authority to Rule Out of Order.

The Presiding Officer shall have the authority to rule any speaker out of order, including speakers during the Public Comment period, if the subject raised is not within the subject matter jurisdiction of the Board, or during a public hearing if the speaker is not presenting testimony or evidence relevant to the matter which is the subject of the public hearing or if the speaker becomes disruptive to the proceedings and conduct of the meeting.

3.03.050(b) Authority to Conduct Meeting in an Orderly Manner.

The Presiding Officer shall have the responsibility for the conduct of meetings in an orderly manner and to prevent the obstruction of business, and in carrying out this responsibility shall have the authority to give the floor to any member of the Board or public by recognizing them, to prevent the misuse of legitimate forms of motions or privileges, to take matters up out of order, and to order any persons willfully interrupting the meeting to be removed from the room.

3.03.050(c) Motion to Appeal the Ruling.

Any determination made by the Presiding Officer may be appealed by the making of a Motion to Appeal the Ruling by any other member of the Board. The Presiding Officer's determination will stand unless a majority of the Board votes in favor of the Motion to Appeal the Ruling, in which case the ruling of the Presiding Officer will be overridden. The Motion to Appeal the Ruling is debatable, and the Presiding Officer may participate in the debate and the voting on the motion. A vote upon a Motion to Appeal the Ruling is purely a procedural matter and shall not constitute "action taken" on any substantive question.

3.03.060 LEGAL OFFICER.

In any case of ambiguity or uncertainty in the interpretation or application of this outline to any procedure, the Presiding Officer may direct such question for a ruling to the Board's chief legal officer who shall be the parliamentarian of the Board.

3.03.070 PARLIAMENTARIAN.

The FAMD Attorney shall decide all questions of interpretations of these rules and any other questions of a parliamentary nature which may arise at an FAMD meeting.

3.03.080 MOTIONS.

The following procedures shall apply to making motions:

3.03.080(a) Obtaining the Floor.

Any member of the Board wishing to speak, or any member of the public wishing to address the Board, must first obtain the floor by being recognized by the Presiding Officer. The Presiding Officer must recognize any member of the Board who seeks the floor when appropriately entitled to address the Board.

3.03.080(b) Making a Motion.

Any member of the Board, including the Presiding Officer, may bring a matter of business properly before the Board by making a motion. Any member, including the Presiding Officer, except the member making the motion, may second a motion. Once a motion is seconded, it may be opened for discussion and debate.

3.03.080(c) Motion to Call the Question.

After a full opportunity for debate, any member of the Board may call for a vote by a Motion to Call the Question.

3.03.080(c)(1) Consensus of opinion. If it appears that there is a consensus of opinion among the Members of the Board on the matter to be voted upon, the Presiding Officer may state the consensus of the Board and ask if there is any objection. If there is no objection, the consensus as so stated shall become the order of the Board.

3.03.080(c)(2) No consensus of opinion. Otherwise, all votes of the Board shall be by voice vote.

3.03.080(c)(3) Abstention votes. Except in the cases of a described conflict of interest, in the event that one less than the necessary number of "aye" votes has been cast, then an "abstain" vote shall constitute concurrence and the District Secretary shall set forth in the minutes that the matter was passed pursuant to this rule.

3.03.080(c)(4) Declaration of result. After every vote the Presiding Officer shall declare the result and on all but consensus votes, shall note, for the record, the number of votes for or against the question.

3.03.080(d) Related Motions.

Once a main motion is properly brought before the Board and seconded, related motions may be employed in addressing the main motion.

3.03.080(d)(1) Form and precedence. These motions take precedence over the main motion and, if properly made and seconded, must be resolved before the main motion can be acted upon. If a main motion is pending, no related motion except as stated below, may be made and any such motion may be declared out of order by the Presiding Officer.

3.03.080(d)(2) Categories of related motions. Related motions fall into two categories: Subsidiary Motions and Motions of Privilege, Order, or Convenience. Despite the pendency of a main motion or a Subsidiary Motion thereto, any member of the Board or the presiding Officer may make a Motion of Privilege, Order, or Convenience, which once made takes precedence.

3.03.090 PUBLIC COMMENT PERIOD.

Every agenda posted for any regular or special meeting shall contain an item consisting of an opportunity for the public to address the Board on items of interest to the public within the Board's subject matter jurisdiction. In addition to receiving comment from the public during the Public Comment period, the Presiding Officer shall have the discretion to recognize persons from the audience who wish to address the Board on a particular agenda item; at the time that item is considered by the Board.

3.03.090(a) Speaker Information.

Upon addressing the Board, each speaker must first state his/her name and address and then identify the subject(s) upon which she/he intends to speak. The speaker may be asked to provide the District Secretary with an official Speaker's Request form prior to speaking.

3.03.090(b) Time Limitations.

The public comment period should be limited to no more than thirty (30) minutes for all speakers, to be apportioned among all speakers who request time. No single speaker should be recognized more than one time or allotted more than three (3) minutes during the Public Comment period, unless this limitation is waived by the Board. Speakers not able to complete their testimony within the time allowed shall be allowed to present written comments to the FAMD Board.

3.03.090(c) Response to Speaker's Comments.

At the close of the speaker's comments, the Presiding Officer or Board may ask District Manager, Engineer or Legal Counsel to respond to the speaker's comments. Thereafter, the Presiding Officer shall make one of the following three determinations:

3.03.090(c)(1) No response. The subject(s) raised do not require investigation or response.

3.03.090(c)(2) Refer to manager, engineer or legal counsel. The subject(s) raised should be referred to staff for investigation and/or response.

3.03.090(c)(3) Placed on the next agenda. The subject(s) raised should be placed on the agenda for the next meeting for action by the Board.

3.03.100 BOARD COMMENTS.

In addition to receiving comment from the public, there is a specific item on the agenda for receiving general comments, announcements, and/or suggestions from Board Members. These matters may not be discussed and if they do not concern an item on the agenda, shall be handled by the Presiding Officer according to the same procedures set out for Public Comment. No action may be taken on such matters without their being placed on a subsequent agenda.

3.03.110 RECONSIDERATION OF A BOARD ACTION.

Any member of the Board not voting in the minority on any action of the Board may, at the same meeting, or at any subsequent meeting, move to reconsider such action.

3.03.110(a) Reconsideration Motion.

A reconsideration motion - made by a member of the Board voting in the minority shall not be allowed except when made more than one (1) year after the date of the original action.

3.03.110(b) Written Requests for Reconsideration.

Written requests for reconsideration of a Board action shall be provided to each Board Member on an informational basis. Requests for reconsideration shall be submitted by Board Members to the District Secretary and shall be placed on a Board agenda under "General Business". At the Board meeting, the request shall be introduced, at which time the Board, by majority vote, shall determine if the action is to be reconsidered.

3.03.120 PERSONAL PRIVILEGE.

The right of any Board Member to address the Board on a question of personal privilege shall be limited to cases in which his/her integrity, character or motives are questioned.

3.03.130 BOARD CONDUCT.

No member of the Board shall act in such a manner as to call into disrepute the public image of the Board or which is discourteous to or results in the constant interruption of other members of the Board or members of the public.

3.03.140 INTERPRETATION OF POLICY.

This policy shall be liberally construed to effectuate its purpose and no ordinances, resolutions, proceedings, or other actions of the FAMD Board shall be invalidated or the legality thereof otherwise affected by any failure or omission of the Board to comply with, observe, or follow the rules and procedures stated in this Policy Manual.

CHAPTER 3.04 PREPARATION OF FAMD MEETING MINUTES SECTIONS:

Sections:

- 3.04.010 Introduction.
- 3.04.020 Objective.
- 3.04.030 Form and Content of Board Meeting Minutes.
- 3.04.040 Standard Format.
- 3.04.050 Meeting Tapes.

3.04.010 INTRODUCTION.

The object of this policy is to set out the manner in which minutes are to be prepared following FAMD Board meetings. It is important that accurate, action minutes be prepared, which include the action taken, the vote, any pertinent information which may lend insight as to the Board's reasoning for use in the future, and notes concerning any dissenting votes.

3.04.020 OBJECTIVE.

The primary objective of keeping minutes is to preserve an accurate record of business transacted at a meeting. The original signed copy by the FAMD Board Secretary of all minutes shall be maintained by the FAMD in a Minutes Book and permanently preserved in a safe place. A signed copy of each shall be forwarded to the City Liaison and maintained as provided by the City's Records Retention Policy.

3.04.030 FORM AND CONTENT OF BOARD MEETING MINUTES.

For purposes of this policy Summary Minutes shall be utilized. Oral reports or communications will only be referenced in the minutes by name, address, subject matter and disposition made by the Board. A brief synopsis of the basis for the Board's reasoning will be included in the minutes along with a brief summary of any pertinent information that might be provided by Staff, Consultant or the public.

3.04.030(a) Presentations of Fewer than 500 Words.

Oral or written presentations by Board Members or members of the public will be paraphrased unless requested to be included in the minutes by reference. Written presentations consisting of fewer than 500 words will be included in the minutes in their entirety on specific request of the presenter and approval of the Board.

3.04.030(b) Presentations of More than 500 Words.

Presentations longer than 500 words will be paraphrased and incorporated into the record by reference.

3.04.030(c) Truthful Account.

Because the minutes as they appear in the Minutes Book may one day be produced and read in a court of law to support or defend a claim against the FAMD or the City, a truthful and

trustworthy account of the meeting's transactions is essential to the completeness of the official record. However, omission of items not specifically required does not constitute a flawed record.

3.04.030(d) Detail of Minutes.

Minutes shall be clear and concise. They shall show clearly what actions were taken and decisions were made at the meeting. It is not necessary to state everything that was said. Remarks that clarify the "intent" of the Board in its decisions shall be briefly noted.

3.04.030(e) Dissenting Vote.

In the event of a dissenting vote, the Board Member's position will be stated in detail.

3.04.040 STANDARD FORMAT.

The Board Secretary will use one standardized format for minutes to ensure uniformity of minute entries and to save time in composing the record. The minute format shall conform to the numbering practice used in the Board Agenda.

3.04.050 MEETING TAPES.

If the FAMD uses audio recording of the Board meetings, then such recordings of the Board meeting proceedings shall be retained by the Board and a copy by the City Clerk for a period of thirty days following the official Board approval of said minutes.

CHAPTER 3.05 ELECTION OF CHAIRPERSON AND DUTIES

Sections:

- 3.05.010 Election and Term of Office.
- 3.05.020 Duties and Responsibilities of the Chairperson.

3.05.010 ELECTION AND TERM OF OFFICE.

The FAMD has a seven (7) member Board of Directors. Six (6) of the seven (7) members of the Board of Directors are elected at large to four (4) year terms; the seventh (7th) member of the Board of Directors shall represent the Indian Wells Country Club and shall at all times be the Club Manager or their designated representative. The Chairperson is elected by the Board during the March meeting of the Board for a one (1) year term. The Chairperson can be changed at any time through a majority vote of the Board. The Chairperson remains as one member of the Board and has no rights or authority different from any member of the Board. [City Council Resolution No. 2017-32, 06/23/2017]

3.05.020 DUTIES AND RESPONSIBILITIES OF THE CHAIRPERSON.

The duties and responsibilities of the Chairperson are as follows:

3.05.020(a) Presiding Officer.

Acts as Presiding Officer at all Board Meetings assuring the meetings are conducted in an orderly manner and in accordance with legal requirements.

3.05.020(b) Ceremonial Head or Representative.

Acts as the ceremonial head or representative of the FAMD at any District events.

3.05.020(c) Spokesperson for the Board.

Acts as spokesperson for the Board when appropriate media or external organization requests are made.

3.05.020(d) Signatory Function.

Acts as signatory to all documents requiring Board execution.

3.05.020(e) Unofficial Appointments.

Makes appointments to Ad Hoc and special advisory committees that do not have official advisory capacity.

3.05.020(f) Declarations and Proclamations.

Makes declarations, extends official recognition of groups or events and issues proclamations.

3.05.020(g) Preparation of the Agenda for the Meetings of the Board.

The Chairperson shall prepare an agenda for each meeting with input of the Board Secretary.

CHAPTER 3.06 ELECTION OF THE VICE-CHAIRPERSON AND DUTIES

Sections:

- 3.06.010 Election and Term of Office.
- 3.06.020 Duties and Responsibilities of the Vice Chairperson.

3.06.010 ELECTION AND TERM OF OFFICE.

The Vice Chairperson is elected by and serves at the pleasure of the FAMD Board of Directors. All six (6) elected members of the Board of Directors are elected at large to four (4) year terms; the seventh (7th) member of the Board of Directors shall represent the Indian Wells County Club and shall at all times be the Club Manager or their designated representative. The Vice Chairperson is selected by the Board during the March meeting of the Board for a one (1) year term. The Vice Chairperson can be changed at any time through a majority vote of the Board. The Vice Chairperson remains as one member of the Board and has not rights or authority different from any member of the Board. [City Council Resolution No. 2017-32, 06/23/2017]

3.06.020 DUTIES AND RESPONSIBILITIES OF THE VICE CHAIRPERSON.

The duties and responsibilities of the Vice Chairperson are as follows:

3.06.020(a) Presiding Officer in the Chairperson's Absence.

In the Chairperson's absence, acts as the Presiding Officer at all Board meetings assuring all meetings are conducted in an orderly manner, and in accordance with legal requirements.

3.06.020(b) Ceremonial Head in the Chairperson's Absence.

In the Chairperson's absence, acts as the ceremonial head or representative of the FAMD at various District affairs.

3.06.020(c) Spokesperson for the Board in the Chairperson's Absence.

In the Chairperson's absence, acts as spokesperson for the Board.

3.06.020(d) Signatory Function in Chairperson's Absence.

In the Chairperson's absence, acts as signatory to all documents requiring Board execution.

3.06.020(e) Unofficial Appointments in Chairperson's Absence.

In the Chairperson's absence, makes appointments to Ad Hoc and special committees.

3.06.020(f) Preparation of the Agenda for the meetings of the Board.

In the Chairperson's absence, Vice Chairperson shall prepare an agenda for each meeting with input from the Board Secretary.

CHAPTER 3.07 ELECTION OF THE SECRETARY AND DUTIES SECTIONS:

Sections:

- 3.07.010 Election and Term of Office.
- 3.07.020 Duties and Responsibilities of the Secretary.

3.07.010 ELECTION AND TERM OF OFFICE.

The Secretary is elected by and serves at the pleasure of the FAMD Board of Directors. All six (6) elected members of the Board of Directors are elected at large to four (4) year terms; the seventh (7th) member of the Board of Directors shall represent the Indian Wells Country Club and shall at all times be the Club Manager or their designated representative. The Secretary is selected by the Board during the March meeting of the Board for a one (1) year term. The Secretary can be changed at any time through a majority vote of the Board. The Secretary remains as one member of the Board and has no rights or authority different from any member of the Board. [City Council Resolution No. 2017-32, 06/23/2017]

3.07.020 DUTIES AND RESPONSIBILITIES OF THE SECRETARY.

The duties and responsibilities of the Secretary are as follows:

3.07.020(a) Presiding Officer in the Chairperson and Vice Chairperson's Absence.

In the Chairperson and Vice Chairperson's absence, acts as the Presiding Officer at all Board meetings assuring all meetings are conducted in an orderly manner, and in accordance with legal requirements.

3.07.020(b) Preparation and Posting of Agendas.

The Secretary shall prepare an agenda with the Chairperson for each meeting of the Board and cause it to be published and posted in accordance to section 3.01.020(a).

3.07.020(c) Minutes.

The Secretary shall keep minutes of the meetings and on the decisions made at such meetings and the minutes shall be agendized, reviewed and signed at the following Board meeting. The Secretary shall sign the approved minutes and forward a copy to the City Liaison's office within ten (10) days of approval.

3.07.020(d) Procedural Responsibilities.

The Secretary shall be responsible for ensuring that Board procedures including those prescribed by law are followed and that the proper conduct is maintained at all official meetings. The Secretary shall be responsible for transmitting copies of all official FAMD Documents to the City Liaison's office and shall duly be responsible for maintaining all District records.

CHAPTER 3.08 SELECTION AND APPOINTMENT OF COMMITTEES AND PANELS

Sections:

- 3.08.010 Introduction.
- 3.08.020 Appointment of Members.
- 3.08.030 Policy for Selection and Appointment.

3.08.010 INTRODUCTION.

The Board shall establish such committees and panels as it deems appropriate to provide policy advice. Each committee and panel shall be advisory only, and shall be adopted by specific board resolution with its purpose, duties, and number of members defined by Resolution.

3.08.020 APPOINTMENT OF MEMBERS.

Members of each committee or panel shall be appointed by the Board during a regular meeting of the Board.

3.08.030 POLICY FOR SELECTION AND APPOINTMENT.

In order to secure broad and knowledgeable representation on the District's committees, it is desirable that a standard policy be formulated for selection to these bodies.

3.08.030(a) Eligibility Criteria.

The eligibility criteria for all committees and panels are designated "Legal or Equitable Property Owner."

3.08.030(b) Term Limitations.

Individuals appointed to serve on Board appointed Committees are appointed for a two-year term. At the end of any two-year term, the appointee may apply for reappointment and will be considered along with any other applicant.

3.08.030(c) Board Members' Participation on Committees and Panels.

Board Members may participate as ex-officio members of any Committees or Panels appointed by the Board and in accordance with the Brown Act.

3.08.030(d) Outreach Efforts.

The Board will employ one or more of the following methods of outreach to attract qualified candidates: (1) send letters to FAMD Property Owners; (2) notice vacancies in the District Newsletter as well as a separate flyer; (3) send postcards to residents; or (d) disseminate a brochure listing committees and panels.

3.08.030(e) Publication and Noticing.

In addition to outreach efforts mentioned in Section 3.07.040(d), information regarding vacancies on Committees shall be given broad dissemination. The Board Secretary will publish and post notification of vacancies and/or expired terms on the various committees and panels and in the designated places in the City, respectively.

3.08.030(f) Notification of Interest.

Any person expressing an interest in serving on a Committee or Panel will be informed that he/she should submit a letter and an application to the Board Secretary. Upon receipt of this letter and application, the Board Secretary will cause copies to be transmitted to each member of the Board.

3.08.030(g) Application Process.

Each applicant shall be given an application packet that will include:

3.08.030(g)(1) Committee or panel information. An informational document including the eligibility criteria for appointment, a description of the role and responsibilities of the committee or panel members, frequency, time, and location of meetings, Code of Ethics, Fair Political Practices Commission (FPPC) financial disclosure requirements, and California open meeting laws.

3.08.030(g)(2) Application. The information to be included on the application shall include name, address, telephone number, number of years as a resident in the City, work/professional experience, qualifications for appointment, and reasons for wishing to serve.

3.08.030(h) Selection Process.

As a part of the selection/appointment process, the Board will interview each of the individuals submitting applications. Each applicant will be interviewed by two (2) Board Members.

3.08.030(i) Voting Procedure.

In a regularly scheduled Board meeting, the Board shall vote by completing ballots listing all the candidates for a particular committee, or panel. The Board Secretary shall read the names of all the candidates that appear on the ballot into the record, as well as each Board Member's vote.

3.08.030(j) Appointment Requirements.

The following requirements apply to the schedule for filling vacancies created by the expiration of a term or vacancies created by a resignation requiring an appointment for the remainder of that term.

3.08.030(j)(1) Board appointments list. Pursuant to Government Code 54972, a "Board Appointments List" must be prepared annually listing all members of the FAMD's committees and panels, the dates of their appointment and the expiration of their terms, and the necessary qualifications for the positions.

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3.08.030(j)(2) Expired term. Three months prior to the expiration of the terms of said committees or panels, the Board Secretary shall submit to the Board a "Board Appointments List" of vacancies of the terms expiring in that year on all committees and panels. The procedure outlined in Section 3.08.040 shall be implemented and applications shall be accepted for a three (3) week period following the announcement of the vacancies. Incumbents shall be required to submit a letter of desire for reappointment only. New applicants must submit a letter of intent and an application. Appointments shall be made at a regularly scheduled meeting of the FAMD prior to the expiration of said terms.

3.08.030(j)(3) Unscheduled vacancies. In the event of an unscheduled vacancy on the FAMD Board's committees or panels, the Board Secretary must post a Special Vacancy Notice not earlier than twenty (20) days before or later than twenty (20) days after the vacancy occurs. Final appointment to the committee or panel cannot take place for at least ten (10) working days after the posting of the Notice (Gov. Code 54974).

CHAPTER 3.09 AD HOC AND STANDING COMMITTEES

Sections:

- 3.09.010 Establishment of Ad Hoc and Standing Committees.
- 3.09.020 Procedure for Making Appointments to Ad Hoc and Standing Committees.
- 3.09.030 Current Standing Committees.

3.09.010 ESTABLISHMENT OF AD HOC AND STANDING COMMITTEES.

The Board may establish a Standing, Ad Hoc, or Special Committee of the Board for policy review of a specific area of concern or a specific issue.

3.09.010(a) Membership.

The committee shall consist of either one or two members of the Board.

3.09.010(b) Responsibilities.

These committees shall deal solely with policy issues and not administration.

3.09.010(c) Staff and Consultant Involvement.

The committees may request information from the City Staff or from it's contracted Consultant, but shall not direct Staff/Consultant in the performance of their duties or in their recommendations to the Board or the City Council. All staff involvement with a committee shall be approved by the City Manager so as not to unduly interfere with day to day operations or priorities established by the City Council.

3.09.020 PROCEDURE FOR MAKING APPOINTMENTS TO AD HOC AND STANDING COMMITTEES.

The Board shall review, annually, the list of all committees and make appointments to the committees. Standing, Ad Hoc and Special Committees shall be appointed at the time of need and shall have a specific program of work to perform and shall automatically dissolve once the program of work is completed.

3.09.030 CURRENT STANDING COMMITTEES.

Current standing committees' lists shall be submitted to the City Clerks Office.

CHAPTER 3.10 FILLING VACANT BOARD POSITIONS

Sections:

3.10.010 Procedure for Filling a Vacant Board of Directors Seat.

3.10.010 PROCEDURE FOR FILLING A VACANT BOARD SEAT.

The following procedure is for handling the resignation of a Board Member (other than the Board Member representing the Indian Wells Country Club) and filling the position for the remainder of the term.

3.10.010(a) Notice of Intent to Resign.

A Board Member should submit his/her notice of intention to resign with the effective date of resignation to the Board Secretary who shall forward a copy to the City Clerk. The Board Secretary shall place the notice on the next available agenda under General Business.

3.10.010(b) Determination of Appointment or Election.

The Board shall schedule the matter on the agenda within thirty (30) days, or as soon thereafter as the Board is able to reasonably schedule a meeting, to determine if the vacancy shall be filled by appointment or election.

3.10.010(b)(1) Election. It is the Board's policy is to fill all vacant positions by election. (Resolution No. 2005-52)

3.10.010(b)(2) Failure to fill vacancies by district. If, after the prescribed nomination period, there are no nominations to fill the Director vacancy, the Board may appoint a Director from within the FAMD, provided that the Director meets the requirements set forth in Section 1.02.010. Such appointed Director shall serve the remainder of the vacated term.

3.10.010(b)(3) Appointment or leave vacant until next election. If the term of the vacant position would have the same election date as the regular Board election, the Board can determine if it will make an appointment or leave the position vacant until the next regular election. [City Council Resolution No. 2017-32, 06/23/2017]

CHAPTER 3.11 RULES OF CONDUCT FOR BOARD MEMBERS SECTIONS:

Sections:

- 3.11.010 Board Correspondence.
- 3.11.020 Press Releases.
- 3.11.030 Board Compensation.
- 3.11.040 Board Communication with City Staff.
- 3.11.050 Closed Sessions.

3.11.010 BOARD CORRESPONDENCE.

Board correspondence shall be handled in the following manner:

3.13.010(a) General Correspondence.

For the purpose of responding to general correspondence from FAMD residents to the Board the FAMD Chairperson shall answer correspondence to the Board, and shall provide a copy of such correspondence to the Board Members and City liaison.

3.11.010(b) Correspondence to Individual Board Members.

Correspondence addressed to specific members and not to each member or the entire Board will be handled by that Board Member. Copies of Board correspondence shall be provided to all Board Members and City liaison.

3.11.010(c) Statements of Board Policy.

Any correspondence sent on FAMD stationery to any outside party by the Chairperson or a member of the Board which expresses a position or viewpoint on any policy matter within the subject matter jurisdiction of the Board shall indicate whether such position or viewpoint is (1) personal to the writer or identified members of the Board; or (2) a consensus of a majority of the Board, though not formally adopted; or (3) an official policy position, formally adopted by a majority vote of the Board. Copies of all such correspondence shall be provided to all Board Members and the City liaison.

3.11.020 PRESS RELEASES.

All press releases pertaining to the Board shall be issued on FAMD letterhead on behalf of the entire Board. No press releases pertaining to the Board or FAMD shall be released by individual members of the Board.

3.11.030 BOARD COMPENSATION.

As provided by Resolution No. 2005-52, Section 2.03, The Directors shall serve without compensation.

3.11.040 BOARD COMMUNICATION WITH CITY STAFF.

The Board Members and their Contracted Consultants shall request research and analytical work only to the City Manager or City liaison. Requests which involve change of policy, expenditure of funds, research or analytical work, or use of significant City Staff time shall be submitted to the full Council for approval under the Council/Staff request for information section of the Agenda.

3.11.050 CLOSED SESSIONS.

Closed Sessions are by definition confidential. The welfare of the FAMD and the City rests on the seclusion and confidentiality of discussing legal and personnel matters and negotiations to develop strategies and actions in the best interests of the District and the City. The disclosure of information from a Closed Session could cause severe and costly harm to the District and the City. Any City employee breaching the confidentiality of a Closed Session will be subject to disciplinary action. Any elected or appointed official breaching the confidentiality of a Closed Session shall be subject to public censure by the City Council and such other remedies and/or sanctions as set forth in the Ralph M. Brown Act, Government Code Section 54950, et seq.

CHAPTER 3.12 CONTRACT REQUIREMENTS

Sections:

- 3.12.010 Policy.
- 3.12.020 Procedure.

3.12.010 POLICY.

This Section is established to comply with FAMD Fiscal Policies and Procedures Manual. The FAMD is a subsidiary of the City of Indian Wells and as such is required to certain requirements pertaining to the California Labor Code Sections 1720, et seq., and 1770, et seq., as well as California Code of Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects.

Additional requirements include insurance and indemnification from all contracts for services rendered which exceed One-Thousand (\$1,000) Dollars. All specifications must include requirements in detail prior to being approved by the Board and released in an attempt to garner bids. All street work needs an encroachment permit and applicable fees will be charged directly to the contractor who has been approved to perform work by the District Manager or the District Engineer and the Board. All projects must be submitted to the appropriate City Department for project plan review, special provisions and applicable approvals prior to final contract approval by the Board.

3.12.020 PROCEDURE.

Procedures related to Contracts are included in the Financial Section of this Manual. The City shall supply the most current "boiler plate" contracts for Professional Services and Construction

Services (on request) which can be used for all matter of services required by the FAMD. Prior to execution by any party, the draft contracts must be approved as to form by the City Attorney. All Contracts are required to be fully executed with appropriate, City approved, insurance and bonds for all regular monthly or annual services required by the FAMD prior to July 1 of each year.

Contracts pertaining to new projects, goods or services may be entered into at any time of the year, based on availability of funds.

TITLE 4

FINANCIAL

TITLE 4 FINANCIAL

Chapters:

- 4.01 FAMD Financial Policies
- 4.02 FAMD Financial Procedures

CHAPTER 4.01 FAMD FINANCIAL POLICIES

Sections:

- 4.01.010 Background.
- 4.01.020 Policy Purpose.

4.01.010 BACKGROUND.

4.01.010(a) Financial Responsibilities.

According to the statutes governing the FAMD, the City is responsible for approving the budget, disbursing the moneys collected, and assuring that all contracts entered into by the FAMD comply with the statutes governing the FAMD. It is logical that the authority to spend the moneys collected in the District should be the responsibility of those persons living inside the district, via the FAMD Board. Generally, it is the desire and intent of the City that the FAMD shall handle disputes pertaining to contracts for goods and services let by the FAMD.

4.01.010(b) Benefits.

Establishing financial policies has many benefits. One of the most important is that it can help officials view their present approach to financial management from an overall, long-range vantage point. In Indian Wells, policies already exist in budgets, in capital improvement plans, in the general plan, in grant applications, in City Council resolutions, in the annual financial report and in administrative practices. When financial policies are scattered among these kinds of documents, are unwritten, or are developed on a case-by-case basis, it is possible that decisions could be made without consideration of other current policy decisions, past policy decisions or future policy alternatives. This kind of policy making can lead to: conflicting policies, inconsistent policies and incomplete policies.

This Manual and the financial policies and procedures contained herein are intended to assist FAMD Board Members, officials, and FAMD contract management firm(s) in complying with laws, policies, and procedures that apply to the fiscal administration of the FAMD.

The financial section of this manual standardizes the accounting and financial policies and procedures that are within the authority of the City's Finance Department. The City's Treasurer, the City Manager and the City Council have approved document in whole, in order to establish rules and regulations governing the performance of all functions and duties of the City's Finance Department and the FAMD. The fiscal procedures define the functions and responsibilities of the FAMD, its Board Members, and Contract Management Firm(s) and the methods of fulfilling these responsibilities as authorized by the Indian Wells Municipal Code. Any errors of omission or

commission in this manual are not to be taken as an exemption from the code; full compliance with such code is required.

4.01.010(c) Financial Impact.

Implementation of the policies will have an effect on the way FAMD and City funds are utilized. No dollar value can be placed on the long-term effects of the policies. Their implementation, however, will guide the way funds are planned for and used in the long term resource allocation plans. Decisions on how to specifically appropriate District and City funds will remain a function of the budget review and approval process. Revisions to the manual will be made periodically as needed. Suggestions should be submitted to the City's Finance Department. Revisions will be presented to the City Finance Committee for review and approval.

4.01.020 POLICY PURPOSE.

The purposes of establishing financial policies are:

4.01.020(a).

Preserving and enhancing fiscal strength and sound fiscal practices;

4.01.020(b).

Providing a vehicle to insure that the fiscal aspects of policy issues are considered in the decision process;

4.01.020(c).

Avoiding decisions which solve a current problem while creating a future financial difficulty;

4.01.020(d).

Making clear the inter-relationship between various fiscal decisions;

4.01.020(e).

Establishing the relationship between FAMD and City goals and policies and their fiscal impacts; and

4.01.020(f).

Having basic fiscal policies expressed in an integrated way by the City Council.

CHAPTER 4.02 FAMD FINANCIAL PROCEDURES

Sections:

- 4.02.010 Program Budget and Summaries.
- 4.02.020 Approvals and Expenditures of Funds.
- 4.02.030 Contracts.
- 4.02.040 Adjustments to Annual Budget.
- 4.02.050 Purchasing Procedures.
- 4.02.060 Procurement Methods.
- 4.02.070 Invoice Payments.
- 4.02.080 Credit Card Purchases.

4.02.010 PROGRAM BUDGET AND SUMMARIES.

Annually, the FAMD Board shall cause the preparation of an operating and capital budget. The budget shall be developed in concert with the annual operating and capital budget prepared by the City's Finance Department. The FAMD Board shall formally adopt its annual operating and capital budget prior to submitting the budget no later than March 1 of each year for final approval by the City Council. In addition to preparing an annual operating and capital budgets, the FAMD Board shall be required maintain a five year capital improvement program developed by qualified engineer.

The Finance Department provides program quarterly status reports to the FAMD Board. The program status reports display the current budget and encumbrances for the FAMD. The quarterly summary update is designed to be used by FAMD Board to monitor and control their program and project budgets. Additionally, FAMD status reports are available upon request. It is the responsibility of the FAMD to maintain records regarding all financial status and details such that the FAMD and/or their designee is empowered on a daily basis to be of service to the residents and property owners of the FAMD.

In addition to the quarterly status reports, the Finance Department prepares a comprehensive budget review every six months. The Finance Department recommends changes to the budget based upon financial analysis of expected year-end estimates and will submit such recommendations to the FAMD quarterly. The FAMD Board shall agendize and review the proposed changes, make additional recommendations, and approve by adoption the proposed adjustments at the next regularly scheduled FAMD Board meeting.

The City's Finance Committee reviews the recommended changes and approves the proposed adjustments. Once the Finance Committee accepts the proposed adjustments, the revised budget is then placed on the City Council's agenda for consideration and adoption. Once adopted, the amended budget will be forwarded to the FAMD by the City's Finance Department.

4.02.020 APPROVALS AND EXPENDITURE OF FUNDS.

Following the official City Council approval of the FAMD Budget and at the beginning of a new fiscal year (July through June), the Board will appropriate the funds necessary to pay for expected FAMD expenses. An appropriation is an authorization to incur obligations on behalf of the FAMD and to

expend FAMD funds to pay those obligations. All purchases shall be limited to the procurement of materials, supplies, equipment and contractual services needed by the FAMD.

4.02.020(a) Purchase Orders.

Purchase of goods and services in excess of \$5,000 require Purchase Orders. It is expected that total spending for a program or a project will stay within the parameters set by the budget. However, payments against accounts which are under budgeted may still be authorized if there are sufficient funds budgeted overall within the program, to cover the expense. No expenditures can be authorized to an account whose deficit exceeds the total available budgeted balance of the program.

4.02.020(b) Approval Authority.

Except as provided herein, the FAMD Board shall have the authority to approve the following actions:

- Requisitions/Purchase Orders
- Develop or adjust the budget
- Change orders
- Payment of invoices
- Disbursement of funds (warrant list)
- Enter into contracts (see section 4)
- Take other actions as deemed necessary by the FAMD Board

All actions or approvals of the FAMD Board shall be taken at properly noticed FAMD public meetings. All FAMD Board actions or approvals shall be properly agendized and noticed to the public.

The District Manager shall approve all contracts below \$5,000.00 per fiscal year within the approved budget.

Authorized members of FAMD Board shall be required to sign all budget adjustments, supplemental appropriations, and contracts, except those contracts requiring approval of the District Manager. From time to time, the FAMD Board may be required to sign other public documents as well. The District Manager shall sign all requisitions, change orders, invoices, and accounting and administrative procedures. The District Manager shall schedule at minimum one hour per week at City Hall Finance Department to sign invoices and complete other accounting and administrative procedures.

Signature authority shall require two FAMD Board Members, one of which shall be an Officer of the Board. Officers of the Board include the Chairperson, the Vice-Chairperson and the Secretary. A current list of Board Members including their titles must be transmitted to the City's Finance Department for verification purposes.

The City Finance Department shall conduct all FAMD business, including producing and distributing warrants and demands absent regular business meetings of the FAMD Board. That is,

when the FAMD Board is “dark”. FAMD business conducted on behalf of the FAMD Board will be ratified during the next publicly held FAMD Board meeting.

4.02.030 CONTRACTS.

The FAMD Board shall be authorized to enter into contracts on behalf of the FAMD except the District Manager shall approve all contracts below \$5,000.00 per fiscal year within the approved budget. Contracts for annual maintenance services shall be finalized and fully executed prior to the beginning of each Fiscal Year. The FAMD may enter into a multiple year contract for services provided that it does not exceed five (5) years. The FAMD shall be required to seek new bids for annual services after contracting with the same provider for five (5) years to guarantee optimal service levels and value are being rendered. The FAMD is not required to change service providers at such time, but rather to take advantage of all opportunities and services available in today’s changing market.

4.02.030(a) Bid Specification and Contract Language.

The FAMD shall use City drafted and authorized contract forms (available upon request) for all Professional Services and Construction/Engineering Projects. Bid specifications shall incorporate all required language shown in the contract form, including prevailing wage requirements, insurance, and indemnification requirements. All Bid Specifications shall be reviewed and presented to the Board by their appropriate contract Management or Engineering firm.

4.20.030(b) Bid Procedures.

The FAMD Board shall formally approve Bid Specifications at a publicly noticed FAMD Board meeting prior to advertisement for contract proposals. Authorized members of the FAMD Board shall be present during the opening of sealed bids and award contract as a matter of business at a Board meeting only after certification that the bids were qualified and complete.

4.02.030(c) Contract Procedures.

Once awarded, the District Manager shall be responsible for drafting all contracts. Contracts (three (3) originals (all signatures on original contracts shall be in blue ink)) shall be forwarded to the City Attorney for approval as to form. Once signed by the City Attorney, contracts will be returned to the District Manager who shall be responsible for the completion and accuracy of all contract documentation with vendors including obtaining signatures, insurance, required indemnification, W9 forms and other documents as required. For all contract of \$5,000 or more, the FAMD Board shall formally approve the contract as a matter of business at an FAMD Board Meeting. FAMD contracts of \$5,000 or more must be signed by one officer of the Board and one additional member of the Board.

The three original copies of each contract shall be forwarded to the City’s Treasurer with all required bond/insurance certificates. The City Treasurer shall sign as to Budget allocation and availability as well as verification that all necessary additional documentation has been submitted and is acceptable to the City. The City Treasurer shall forward contract to City Clerk’s office for finalization. The City Clerk shall forward one original fully executed contract to the District Manager

and one to the Contractor, while maintaining the third original in the City's Contract File, subject to the City's Record Retention Policy.

4.02.040 ADJUSTMENTS TO ANNUAL BUDGET.

After the budget has been adopted, it is sometimes necessary to amend the budget or provide for the appropriation or transfer of additional funds. If, because of unusual or unexpected circumstances, the parameters of the budget are going to be exceeded, a request for a supplemental appropriation or transfer should be made by official action of the FAMD Board.

4.02.040(a) Supplemental Appropriations.

A supplemental appropriation is a legislative authorization to spend more money than what has already been appropriated by the FAMD Board. These are usually necessary to provide additional spending authority to meet unexpected events that impact operations or capital projects.

The FAMD Board will be responsible for initiating supplemental appropriations for their budgets as necessary. This will involve the preparation of a staff report requesting the supplemental appropriation for FAMD Board consideration. The staff report should cite the amount of the appropriation, the purpose for which the additional money is being requested, and why it is necessary.

After FAMD Board approval of a supplemental request, the Finance Department will complete a supplemental appropriation form, attach approved FAMD Board action support, and post the supplemental appropriation. The Finance Department will notify the FAMD Board that the transaction has been finalized.

4.02.040(b) Budget Adjustments.

Budget adjustments involve the reallocation of funds from one expenditure account to another. Budget adjustments do not change the overall budget within the fund or capital project. They usually involve a change in the intended use of the original appropriation. The FAMD Board shall formally approve all budget transfers which will be recommended quarterly by the City Treasurer.

4.02.050 PURCHASING PROCEDURES.

Purchasing procedures provide a process for the purchase of goods and services used for the operation of FAMD operations. These procedures enable the FAMD Board to coordinate the FAMD's purchasing process and to establish a system of financial controls for the efficient use and expenditure of public funds.

The FAMD Board shall have the authority to purchase or contract for any materials, supplies, equipment and contractual services of \$5,000 or more per fiscal year in accordance with the provisions of this Fiscal Procedures Manual. The District Manager shall approve purchases or contracts for any materials, supplies, equipment and contractual services below \$5,000 per fiscal year within the approved budget in accordance with the provisions of this Fiscal Procedures Manual.

No purchase order or contract shall be issued unless the City’s Treasurer has first certified that there exists an adequate unencumbered balance of the appropriation(s) to be charged with the cost of order or contract.

4.02.050(a) Purchasing Categories.

The City classifies purchases into five (5) purchasing categories. These categories are based on the dollar amount and type of purchase. Each category establishes a separate purchasing limit, authorization level and procedure.

<u>Category</u>	<u>Limitation</u>
A. Minor Purchases	\$5,000 or less
B. Intermediate Purchases	\$5,001 to \$25,000
C. Major Purchases	\$25,001 or more
D. Minor Construction Contracts	\$25,001 to \$100,000
E. Major Construction Contracts	\$100,001 or more

4.02.050(a)(1) Minor Purchases (\$5,000 or less). The District Manager shall initiate purchases for goods or services costing \$5,000 or less. All invoices for such purchases should be authorized, documented, processed with City Finance Department (see Invoice Payment). The District Manager is required to ensure the availability of budgeted funds prior to making any approved minor purchases.

Purchases under \$5,000 do not require a requisition. However, vendors who provide goods and services on a regular basis (monthly, quarterly, etc) require a requisition even though they do not meet the minimum \$5,000 purchase level. The City’s Treasurer shall reserve the right to require the District Manager to submit a requisition to a specific provider whose multiple invoices exceed \$5,000 annually.

4.02.050(a)(2) Intermediate Purchases (\$5,001 to \$25,000). The District Manager shall initiate intermediate purchases of goods, services, or construction services by preparing a requisition.

For intermediate purchases of goods, services or construction services over \$5,000 and up to \$25,000, the District Manager shall solicit and document price quotes in writing (via mail, email, or fax) from a minimum of three (3) vendors. The District Manager shall provide FAMD approved uniform specifications to potential providers. Attached to the requisition shall be the uniform specifications and solicited price quotes as required supporting documentation.

Construction contracts less than \$25,000 may be performed by a negotiated contract followed with a requisition.

Services requiring a contract shall conclude all necessary contract documentation prior to forwarding a requisition for those services to the City’s Finance Department. Goods or services provided by a vendor which do not require a contract may move forward to secure a requisition thereby encumbering FAMD funds to expedite the receipt of said goods or services.

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The District Manager will submit a completed and signed requisition (form masters are available upon request from the City's Finance Department) displaying the vendor selected and describing the goods or services to the FAMD Board for approval. Upon FAMD Board approval, the requisition shall be submitted to the City's Finance Department. The Finance Department will review the submitted requisition to verify a minimum of three vendors were solicited, use of proper account numbers, availability of budgeted funds and compliance with proper purchasing procedures. The requisition shall be forwarded to the City's Treasurer for approval.

After receiving the necessary approval, the purchase amount will be encumbered by the Finance Department. The resulting purchase order will be distributed back to the District Manager. The District Manager and the FAMD Board shall not order goods or services from a vendor before a purchase order is distributed by the Finance Department. It is the responsibility of the District Manager to forward Purchase Orders to vendors should they request or require one.

4.02.050(a)(3) Major Purchases (over \$25,000). Purchases of goods or services over \$25,000 shall be awarded by formal bidding and require approval by the FAMD Board.

4.02.050(a)(4) Minor Construction Contracts (\$25,001 to \$100,000). Construction Contracts greater than \$25,000 but less than \$100,000 may be awarded by informal bidding. FAMD Board direction and approval is required on all construction contracts.

4.02.050(a)(5) Major Construction Contracts (\$100,000 or more). Construction contracts for \$100,000 or more must be awarded by formal bidding, or request for proposals.

4.02.060 PROCUREMENT METHODS.

Procurement methods set forth the approved procurement specifications for each purchase category. Once the purchasing category has been established for the goods or services to be provided, the FAMD Board shall determine the appropriate procurement method(s) available. The City reserves the right to negotiate a contract on behalf of the FAMD if it is in the best interest of the City and the District to do so as an alternative purchasing procedure. The following are the approved procurement methods for goods and services.

4.02.060(a) Request for Proposals.

An invitation for selected providers of a product or service to bid on the right to supply that product or service to the FAMD that issued the request for proposal. A minimum of three (3) proposals shall be sought and presented on each occasion that this option is used.

4.02.060(b) Informal Bid Procedures.

A notice inviting informal bids shall be mailed to selected contractors for the category of work to be bid, as shown on the Contractors List; and to all construction trade journals as specified by the FAMD, ten (10) calendar days before bids or proposals are due.

The FAMD Board shall maintain a list of licensed contractors (contractors list) in order to utilize the informal bidding procedures. The FAMD Board may notify additional contractors and/or construction trade journals at its discretion; provided however:

4.02.060(B)(1). There is no list of qualified contractors maintained by the FAMD Board for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the FAMD Board.

4.02.060(B)(2). The product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

4.02.060(c) Formal Bid Procedures.

A notice inviting formal bids shall be published fourteen (14) calendar days before the bid opening. Notice inviting formal bids shall also be mailed to all construction trade journals or web sites as determined by the FAMD Board, postmarked thirty (30) calendar days before the bid opening.

The use of formal bid procedures does not guarantee the award of contract for goods and services, professional services, nor construction services to the lowest bidder. The formal bidding procedure is as follows:

4.02.060(c)(1). The FAMD Board is responsible for initiating and administering purchases for activities under their control.

4.02.060(c)(2). The District Manager will send a notice inviting bids to potential bidders (within reason, but a minimum of three) of which he/she has knowledge. A copy shall be provided to the City's Finance Department.

4.02.060(c)(3). The bid package shall describe adequately and accurately the items to be purchased and will include necessary specifications. Bidders shall be advised of performance bonds, insurance, contract requirements, affirmative action, minority business enterprise requirements, prevailing wage requirements and other requirements as applicable.

4.02.060(c)(4). Bidders will be advised of date, time, place of bid opening, and contact information concerning the bid. All invitations will include a statement of the FAMD's right to reject all bids.

4.02.060(c)(5). All bids shall be sealed and in a separate envelope marked "Sealed Bid" and received by the Board Secretary to remain sealed until the date and time of the bid opening. Sealed bids shall be marked as to the date and time received. The District Manager or two Board Members, including one officer of the Board are required to be present and bear witness at all bid openings.

4.02.060(c)(6). The District Manager will analyze the bids and prepare a recommendation for the bid awarding.

After the FAMD Board has awarded a contract or purchase resulting from a formal bid or a request for proposal, the District Manager shall prepare a contract. Once approved, a copy of the contract and a requisition shall be accompanied by a copy of the FAMD Board's approved report, insurance certificate, and forwarded to the City's Finance Department for further processing. After

receiving a final approval, the purchase amount will be encumbered by the Finance Department. The resulting purchase order will be distributed back to the FAMD. The FAMD shall be responsible for maintaining all records related to these transactions and shall not rely solely on the City's record management system.

4.02.060(d) Change Orders.

When a change of condition or additional work is required to continue the progression of an authorized purchase, a change order shall be prepared by the District Manager. This will involve the preparation of a staff report requesting the change order for FAMD Board consideration and approval. The staff report should cite the amount of the change order, the purpose for which the additional money is being requested, and why it is necessary. If approved, the District Manager shall sign the change order.

4.02.060(e) Emergency Purchases and Procedures.

In certain situations, it may be necessary to make emergency purchases, which shortcut the pre-approvals required for intermediate or major purchases, as outlined above. For purchasing purposes, an emergency situation is one in which there is an immediate threat to life or property or a substantial disruption of a vital public service.

The emergency must be of such a nature that the FAMD Board would be contacted to advise them of the situation, regardless of when they occur. Appropriate authorization and appropriations if necessary shall be presented at the next regular or specially called FAMD Board meeting to ratify the action.

An emergency purchase of up to \$10,000 must be pre-approved verbally by the FAMD Board Chairperson and FAMD Board Vice-Chairperson.

4.02.070 INVOICE PAYMENTS.

Vendor invoices shall be mailed or e-mailed directly to City Hall Finance. The City will prepare FAMD invoices for payment and be paid directly by the City. Payments require a stamp ("stamp") used to generate a check or disbursement for a particular item. A stamp is required to pay all warrants and wires that the FAMD issues. The FAMD shall affix and complete a stamp directly to all invoices received for processing.

The stamp shall include the following information: payee/vendor/contractor name, payment amount, dates of service, service description, purchase order number, expenditure account number (if no P.O. was required for services), Invoice number, and signatures as required below. All invoices must be time and date stamped upon receipt of the FAMD or their designee. No invoices will be paid without the fully executed stamp, signifying approval of the District Manager.

4.02.070(a) Approval to Pay.

The District Manager is required to sign all invoices for payment via the stamp, Once received by the City's Finance Department, invoices will be reviewed for budget availability,

Purchase Order balances (if applicable), and correct accounting. Requests in excess of \$5,000 will require approval by the City's Treasurer, prior to payment by the City.

4.02.070(b) Vendor Communications.

It is the FAMD's responsibility to handle questions and concerns regarding payment with their vendors. The FAMD shall not forward statements to the City, as the City's policy requires payments to be made by invoice only. Any outstanding balances should be addressed by the FAMD directly to the Vendor.

4.02.070(c) City Payable Schedule.

It is the responsibility of the District Manager to forward invoices and any additional documentation, ready for payment to the Finance Department by the dates set forth in the annual accounts payable schedule. Invoices received after the deadline or which have not been fully executed will be paid on the next scheduled payment date. Prompt approval of invoices by the FAMD will enable the City's Finance Department to process payments on a timely basis and to maintain the FAMD's good credit standing.

4.02.070(d) Board Ratification of Warrants and Demands.

Completed warrants and demands shall be submitted to the FAMD following each payment cycle, and will be ratified during publicly held FAMD Board meetings.

4.02.080 CREDIT CARD PURCHASES.

The FAMD Board shall not issue FAMD credit cards.

TITLE 5

OPERATIONAL

TITLE 5 OPERATIONAL

Chapters:

- 5.01 Administrative Directives
- 5.02 Capital Improvement Project Procedures

CHAPTER 5.01 ADMINISTRATIVE DIRECTIVES

Sections:

- 5.01.010 Administrative Directives.

5.01.010 ADMINISTRATIVE DIRECTIVES.

The City Manager is authorized to issue administrative directives which specifically outline or clarify policies, procedures, rules and activities of the City and the District. These Administrative Directives shall become appendixes to the FAMD Policy Manual. The City Manager shall establish and keep current rules and procedures concerning the duties, activities, responsibilities, for all City Personnel.

CHAPTER 5.02 CAPITAL IMPROVEMENT PROJECT PROCEDURES SECTIONS:

Sections:

- 5.02.010 Roadway Projects.
- 5.02.020 Construction Projects.

Capital Improvement Projects are subject to requirements set forth in the Financial Section of this Manual and shall be included in the Five Year Capital Improvement Plan. Board approval is required for all Capital Improvement Projects. The District Engineer shall supervise all Capital Improvements and shall approve all invoices for said work prior to obtaining Board approval for payment. No work may commence until the completion of appropriate Contracts and the issuance of a Purchase Order by the City.

The District Engineer shall cause to be hand-delivered to a Riverside County Recorder’s Office a Notice of Completion, obtaining a “Filed for Record” as proof of the date of recordation/receipt. County documentation shall be promptly delivered to the City’s Finance Department with a letter from the District Engineer stating that all work has been performed according to the approved plans. The FAMD shall pay applicable recording fees. Final payment to the contractor shall not occur prior to the submission of required documentation and final inspection by the City’s Public Works Department.

5.02.010 ROADWAY PROJECTS.

The FAMD is responsible for the maintenance and operation of access roadways, rights of way and easements for fire protection purposes as specified in Chapter 1.01. All roadway projects are subject to the provisions of Standard Specifications for Public Work Construction “Greenbook”, latest edition, and all the terms, conditions, restrictions, specifications, standards and rules and regulations of the City of Indian Wells, County of Riverside. All work shall be performed to the satisfaction of the City’s Public Works Director. Streets shall not be closed – or vehicular and/or pedestrian traffic thereon restricted in any way without a valid “Temporary Street Closure Permit” issued by the City’s Public Works Department.

An Encroachment Permit is required for all roadway work and is subject to the conditions of such Permit. The Permit requires observance and compliance with all permit provisions, applicable sections of the Indian Wells Municipal Code and all applicable sections of the Standard Specifications for Public Works Construction. Completion of project shall be in accordance with the approved plan and or standard drawing and/or engineering directives.

Fees associated with securing an Encroachment Permit shall be charged directly to the permit applicant prior to issuance. Encroachment Permits contain specific requirements pertaining to insurance and Construction and Demolition Debris Plans.

Roadway improvement projects shall be submitted to the City’s Public Works Department by the District Engineer prior submission to the Board for official project approval. The Public Works Department shall review the project plans, special provisions and make comments. The District Engineer shall address each comment in writing to the Public Works Department. Prior to issuance of the encroachment permit, the District Engineer shall submit a letter to the Public Works

Department stating that all plans and specifications are in accordance with State, County, and City standards and the "Greenbook" in addition to a copy of the official Board minutes denoting approval of said project.

General Provisions and specific Special Provisions shall apply to all projects requiring an Encroachment Permit and are the responsibility of the Permittee. These responsibilities include working hours as specified in the Indian Wells Municipal Code in addition to, but not limited to the following:

5.02.010(a) Responsibilities of Permittee.

The Permittee shall indemnify and hold harmless the City of Indian Wells and the FAMD and all of its officials, officers and agents from all suits, or actions of every name and description that are brought for, or on account of, any injuries or damages received or sustained by any person or persons including the Permittee and his servants or agents resulting from the construction of the work, by or in consequence in guarding the same, or for improper materials or methods used in construction.

It is the responsibility of the Permittee to notify the utility and irrigation companies before starting any work which may involve their facilities and to make all necessary arrangements therewith, including any payments required or relocation work necessary.

Forty-Eight (48) hour advance notice is required for inspections. All affected property owners/tenants shall be notified seventy-two (72) hours prior to start of construction.

All workmanship and materials shall be guaranteed for a period of one year. Failure of the City inspector to detect flaws in work shall not relieve the Permittee of this responsibility.

5.02.020 CONSTRUCTION PROJECTS.

All new or remodeled construction projects shall be subject to review by the City's Architecture Landscape Committee. Preliminary plans shall be submitted to the City's Planning Department. It is understood that all applications presented for review shall comply with the basic zoning and design parameters set forth in the Municipal Zoning Code and such design guidelines established by the City. The City's Planning Department shall advise the District Engineer upon project submittal of all necessary review processes required for project approval as well as all applicable fees. Fees shall be charged directly to the FAMD.

A Conditional Use Permit may also be required. The Planning Department will provide the District Engineer with instructions should the discretionary review of a project be subject to this requirement.

TITLE 6

LEGISLATIVE ACTIONS

TITLE 6 LEGISLATIVE ACTIONS REGARDING THE FAMD POLICY MANUAL

CHAPTER 6.01 ORDINANCES

Ordinance No. 261: Establishing the Conflict of Interest Code Requiring Designated Employees to File Statements of Economic Interest with the City of Indian Wells [4/19/90]

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CHAPTER 6.02 RESOLUTIONS

Resolution No. 73-7: A RESOLUTION OF INTENTION TO FORM THE INDIAN WELLS FIRE ACCESS MAINTENANCE DISTRICT NO. 1 [4/5/73]

Resolution No. 73-18: A RESOLUTION ORDERING FORMATION OF THE INDIAN WELLS FIRE ACCESS MAINTENANCE DISTRICT NO. 1 [4/26/73]

Resolution No. 89-50: A RESOLUTION CONFIRMING A COMPUTERIZED FIRE ACCESS MAINTENANCE DISTRICT SUPPLEMENT REPORT AND BILL AND PROVIDING THAT COSTS THEREOF ON EACH PARCEL OF LAND SHALL CONSTITUTE A SPECIAL ASSESSMENT AGAINST THE PROPERTY AND SHALL BE MADE A LIEN ON SAID PARCELS OF LAND [8/3/89]

Resolution No. 82-33: A RESOLUTION CREATING AN ADVISORY COMMISSION FOR THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1 AND ADOPTING RULES OF PROCEDURE THEREFORE [6/3/82]

Resolution No. 83-74: A RESOLUTION AUTHORIZING THE NOMINATION FOR MEMBERSHIP ON THE ADVISORY COMMISSION FOR THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1 [10/20/83]

Resolution No. 85-5: A RESOLUTION REPEALING RESOLUTION NO 83-74 [2/21/85]

Resolution No. 86-24: A RESOLUTION ESTABLISHING RULES OF PROCEDURE FOR THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1 ADVISORY COMMISSION (FAMD). Repealing Resolution No. 82-33 and 85-5. [6/5/86]

Resolution No. 92-176: A RESOLUTION ESTABLISHING AND AMENDING RULES OF PROCEDURE FOR THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1 ADVISORY COMMISSION (FAMD). Repealing Resolution Nos. 82-33, 85-5, and 86-24. [11/19/92]

Resolution No. 96-7: A RESOLUTION ESTABLISHING AND AMENDING RULES OF PROCEDURE FOR THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1 ADVISORY BOARD (FAMD). (Repealed Resolution No. 92-176) [1/18/96]

Resolution No. 96-12: A RESOLUTION ESTABLISHING AND AMENDING RULES OF PROCEDURE FOR THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1 ADVISORY COMMISSION (FAMD). [2/1/96]

Resolution No. 96-15: A RESOLUTION AMENDING RESOLUTION NO. 96-12 WHICH ESTABLISHES AND AMENDS RULES OF PROCEDURE FOR THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1 ADVISORY COMMISSION (FAMD). [2/15/96]

Resolution No. 96-44: A RESOLUTION ANMENDING RESOLUTION NO. 96-15 WHICH ESTABLISHES AND AMENDS RULES OF PROCEDURE FOR THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1 ADVISORY COMMISSION (FAMD) [4/18/96]

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Resolution No. 96-117: A RESOLUTION AMENDING RESOLUTION NO. 96-44 WHICH ESTABLISHES AND AMENDS RULES OF PROCEDURE FOR THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1 ADVISORY COMMISSION (FAMD). [11/3/96]

Resolution No. 2005-52: A RESOLUTION AMENDING RESOLUTION NO. 96-44 AND RESOLUTION NO. 96-117 WHICH ESTABLISH AND AMEND RULES OF PROCEDURE FOR THE FIRE ACCESS DISTRICT NO. 1. [10/20/05]

Resolution No. 2017-32: A RESOLUTION AMENDING THE RULES OF PROCEDURE FOR BOARD OF DIRECTORS AND THE FIRE ACCESS MAINTENANCE DISTRICT NO. 1 POLICY MANUAL CONCERNING SELECTION AND MEMBERSHIP ON THE INDIAN WELLS FIRE ACCESS MAINTENANCE DISTRICT NO. 1 BOARD OF DIRECTORS [06/23/2017]

Resolution No. 2020-20: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING THE FINANCIAL PROCEDURES FOR FIRE ACCESS MAINTENANCE DISTRICT NO. 1 POLICY MANUAL TO STREAMLINE THE PROCESS OF WARRANTS AND DEMANDS.

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CHAPTER 6.03 AMENDMENTS TO THE FAMD MANUAL

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