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# **MONTICELLO PUBLIC CEMETERY DISTRICT**

Bylaws, Policy and Procedures Manual

January 2018

## **POLICIES AND PROCEDURES**

### **1.0 INTRODUCTION**

#### **1.1 Summary**

The Monticello Public Cemetery District (the “District”) was established in 1936 to operate and maintain the Monticello Public Cemetery. This District is governed by the Board of Trustees of the District. The District contracts with the County of Napa for most day-to-day administration of the District. Under the auspices of the Board, a Committee has been established to assist in rendering decisions required for the proper maintenance and operation of the District’s facilities. The District Manager or designee acts as the liaison between the Committee and the Board. The primary statute governing the District is the Public Cemetery District Law set forth in California Health and Safety Code section 9000 et seq., but a variety of other statutes directly affect the authority and operations of the District (see Appendix C).

#### **1.2 Geographical Boundaries of the District**

The District consists of approximately 141,300 acres of land used primarily for agriculture, watershed, and recreation in northeastern Napa County. The District’s geographical boundaries are shown on the map attached as Appendix A. In 1982, the District’s boundaries were slightly altered through annexation of a 293-acre parcel of land located adjacent to and south of the Berryessa Highlands development.

#### **1.3 Cemetery Facilities**

The District’s public cemetery facilities are located on a 3.7-acre parcel adjacent to Spanish Flat Loop Road in the Lake Berryessa area of Napa County. The initial burials in the current public cemetery facilities were reinterments by the Army Corps of Engineers beginning in 1956 of those persons who were originally buried in the cemetery which the District had owned and operated in the town of Monticello or who had been buried in isolated sites surrounding the town. The reinterments were necessary due to flooding of the town of Monticello and surrounding areas when construction of a dam on Putah Creek resulted in the creation of Lake Berryessa.

The District’s public cemetery facilities at the Spanish Flat site currently contain approximately 1075 burial plots, divided into three blocks. Two of the blocks contain 40 lots and the third

contains 35 lots. In general, each lot consists of between 8 and 10 burial plots. The number of plots was designed to be sufficient to accommodate all of the reinterments following relocation of the cemetery to this site, and to replace the previously unused plots, whether or not deeded at the time of the relocation, with at least an equal number of new unused plots.

## **1.4 Revenue and Tax Information**

The District is supported in part through a share of the property taxes generated by properties located within the District, which can be expected to increase over time with the growth in assessed property values except when adversely impacted by shifts of local property tax revenues to the State of California when required to balance the State budgets. The other primary source of revenue for the District is earnings generated by the District's endowment care fund. The sale of plots accounts for the remainder of the revenue generated by the District.

## **1.5 Definitions**

Except where otherwise expressly stated in this Policy and Procedures Manual, the following definitions shall apply to these Policies and Procedures:

“Block” means a specific group of Lots in the Cemetery, use for the interment of human remains.

“Board” means the Board of Trustees of the Monticello Public Cemetery District.

“Budget” means the proposed and approved financial plan for the District.

“Cemetery” means the Monticello Public Cemetery located at Spanish Flat.

“Committee” means the Monticello Public Cemetery District Committee.

“Cremains” means cremated remains.

“Department” means the Napa County Department of Public Works, or its employees, when providing services to the District.

“District” means the Monticello Public Cemetery District.

“District Engineer” or “District Manager” means the Napa County Director of Public Works or designee, when providing management services to the District and performing such other duties as authorized in this Manual or by Board action.

“District Office” means the management office of the District located at County Administration Building, Room 101, 1195 Third Street, Napa, California 94559.

“Double Burial” means the interment of two caskets in one grave space in a companion garden crypt liner.

“Eligible Non Resident” means a person who is not a resident or taxpayer of the District but who is eligible to be buried in the Cemetery because the person meets the requirements set forth in Health and Safety Code section 9061.

“Eligible Person” shall mean any person eligible by statute to be buried in the Cemetery, including those persons described in Sections 9060, 9061 and 9062 of the California Health and Safety Code.

“Employee” means any person other than Management personnel who provides services to the District for compensation and who is either directly employed by the District or is employed by the County of Napa to provide such services to the District with the consent of the Board, whether such consent is indicated by contract, budget narratives, adopted job descriptions or a combination thereof.

“Endowment Care Fund” shall be as defined in Health and Safety Code sections 9065-9079.

“Fiscal Year” means a year of twelve consecutive months, beginning upon the first day of July and terminating on the last day of June of the following calendar year.

“Lot” means a specific group of Plots within a specific Block in the Cemetery which are used for the interment of human remains.

“Management” or “Management personnel” means Department employees in key positions assigned by either the Board or the District Manager to administer the affairs of the District.

“Marker” means a permanent plaque affixed to a grave site to indicate the location and identity of the remains of a person interred in the site.

“Monument” or “headstone” refers to a permanent memorial located on a grave site.

“Plot” means the specific space within a specific Lot in the Cemetery which is used or intended to be used for the interment of the remains of a single human being or, in the case of a Double Burial, for the interment of the remains of no more than two human beings.

“Pre-Need Contract” means pre-payment of the fee for the right to be interred in a particular plot as well for the actual burial expenses.

“Purchase Order” means a written authorization to a vendor to deliver, repair, construct or otherwise deliver specified goods at a stipulated price. Once accepted by the supplier, vendor or contractor, the purchase order becomes a legally binding purchase contract.

“Self-Help” means the use on District projects of Employees or volunteers in lieu of paying for other contracted or subcontracted workers.

“Specification” means the written description of work to be accomplished for a project within the Cemetery, including the provision of details such as square footage, quality of materials and time frame for accomplishment, except that in relation to monuments, markers and headstones, “specification” shall mean the District’s regulations regarding such items.

“Trustee” or Trustees” means one or more of the members of the Board.

## **2.0 ADMINISTRATION**

### **2.1 Board of Trustees of the Monticello Public Cemetery District**

#### **2.1.1 Board of Trustees as the Governing Board**

Pursuant to Health and Safety Code section 9020, a legislative body of at least three members known as the board of trustees governs every public cemetery District. The board of trustees establishes policies for the operation of the District. The board of trustees provides for the faithful implementation of those policies, which is the responsibility of the employees of the District.

#### **2.1.2 Composition of the Board; Designation of District Manager**

By Resolution No. 88-117, enacted on October 4, 1988, the Napa County Board of Supervisors became the Board of Trustees of the Monticello Public Cemetery District and in its capacity as the Board of Trustees appointed the Napa County Director of Public Works to act as the District Engineer/ Manager to manage and maintain the Cemetery.

#### **2.1.3 Bylaws of the Board**

##### **2.1.3.1 Meetings of the Board**

##### **2.1.3.1.1 Date of Regular Meetings; Cancellation**

~~The Board's regular meetings shall coincide with the regular meetings indicated on the calendar approved by the Napa County Board of Supervisors on or before December 31 of each year. When the Board has business to be brought before it at its next regular meeting, the Board's business shall appear on the consolidated agenda for the respective meeting. When the Board has no business to be brought before it at its next regular meeting, no items or business relating exclusively to the Board shall appear on the consolidated agenda for the respective meeting, and the Board's meeting for that date shall be considered cancelled. shall have six regular meetings per year comprising one meeting per quarter and two meetings in the month of June to facilitate budget adoption. Any regular meeting of the Board may be cancelled by majority vote of the Board for any reason, or by the District Secretary for lack of business or lack of a quorum.~~

##### **2.1.3.1.2 Time of Regular Meetings**

Regular meetings shall start at 9:00 a.m. or as soon afterwards as is feasible and continue until all business is completed unless the Board determines by majority vote to continue some or all of the remaining items to a later time during the same day or to a later meeting.

#### **2.1.3.1.3 Location of Meetings**

Unless specially noticed, meetings shall be held in Room 305 of the County Administration Building, 1195 Third Street, Napa, California.

#### **2.1.3.1.4 Emergency or Special Meetings**

Emergency or special meetings shall be called as provided in California Government Code section 54950, et seq. (the Brown Act).

### **2.1.3.2 Agendas**

#### **2.1.3.2.1 Regular Agenda Items**

An agenda shall be prepared by the District Manager and District Secretary for each meeting of the Board. Any matter to be considered by the Board shall first be properly filed in compliance with the policies, standards and procedures established by the Board. The District Secretary shall not accept for presentation to the Board any matter unless it is set forth on the prescribed forms, if any, properly filled out with all required data attached. Late submission (i.e., at a Board meeting or immediately prior to a Board meeting) of lengthy written reports or technical material by any person may be considered by the Chairperson as grounds for an automatic continuation to the Board's next regular meeting of the item to which said reports or materials relate.

#### **2.1.3.2.2 Supplemental Agenda Items**

No matter may be considered or acted upon unless it is included on the agenda. A supplemental agenda will be prepared and considered by the Board only under the conditions authorized by the then-current version of the Brown Act.

#### **2.1.3.2.3 Order of Business**

The regular order of business of the Board shall be:

- Call to order.
- Approval of the minutes of the previous meeting.
- Agenda of the Board.

- Adjournment.

### **2.1.3.3 Officers**

#### **2.1.3.3.1 Chair and Vice-Chair**

The Board shall annually elect a Chair, who shall be the presiding officer of the Board, and a Vice-Chair who shall serve as the presiding officer in the absence of the Chair. The election shall take place at the first meeting of the Board each calendar year. It shall be the policy of the Board to rotate the offices of Chair and Vice-Chair on an annual basis. If a Trustee does not wish to act in either office and so advises the Board prior to the election of officers, that Trustee shall be passed over, except that if a newly elected Trustee is scheduled to serve as Chair during the first year after being appointed, that Trustee may instead elect to serve as Vice-Chair during that year, and then serve as Chair the following year. Thereafter, the normal rotation shall resume. Each Chair and Vice-Chair shall serve until a successor is elected and assumes office.

#### **2.1.3.3.2 Secretary**

Unless otherwise determined by the Board, the Clerk of the Board of the Napa County Board of Supervisors or designee shall act as the Secretary of the Board.

#### **2.1.3.3.3 Legal Counsel**

Unless otherwise determined by the Board, or unless the Napa County Board of Supervisors withdraws its assent to such dual representation, the Napa County Counsel shall serve as the general legal counsel of the Board. Upon recommendation by its general legal counsel, the Board may from time to time contract with special legal counsel as needed.

### **2.1.3.4 Rights and Duties of the Chair**

The Chair of the Board shall preserve order and decorum, and shall decide questions of order subject to being overruled by a four-fifths vote of the Board and shall perform such other duties as are required by law. The Chair may make or second any motion and present and discuss any matter on the agenda as any other member of the Board. The Chair shall have all the rights and duties enjoyed by any other member of the Board.

### **2.1.3.5 Persons Addressing the Board**

The Chair may, in the interest of facilitating the business of the Board, limit the amount of time



which a person may use in addressing the Board.

#### **2.1.3.6 Order of Testimony - Noticed Public Hearing Not Involved**

Testimony and argument relative to any agenda item not requiring a noticed public hearing shall, unless otherwise ordered by the Chair, be presented in the following order:

- The Chair shall identify the item.
- Staff report.
- Persons wishing to speak in favor of the matter.
- Persons wishing to speak in opposition to the matter.
- Rebuttal in the same order (if there is opposition).
- Questions by the Board.
- Board discussion.
- Voting.

#### **2.1.3.7 Order of Testimony - Noticed Public Hearings**

Proceedings which involve public hearings and can be heard only after notice of the public hearing has been given shall, unless otherwise ordered by the Chairperson, be conducted as follows:

- The Chair shall identify the matter and declare the public hearing open.
- The staff report shall be presented.
- If the Chair deems it necessary, all persons wishing to testify shall be sworn by the District Secretary.
- A reasonable opportunity to present evidence and/or argument shall be afforded those persons entitled to notice or who may be affected or aggrieved by the decision.
- A reasonable opportunity to cross-examine witnesses, including District staff, shall be afforded those persons entitled to notice of the hearing or aggrieved by the decision, provided that right is asserted at the first reasonable opportunity. District staff similarly shall be entitled to reasonable cross-examination of witnesses.
- A reasonable opportunity for rebuttal of new material shall be afforded those persons entitled to notice of hearing or who may be affected or aggrieved by the decision.
- Questions by the Board, during which District legal counsel may be consulted.
- The Chair shall declare the public hearing closed.
- Board discussion, including questions by the Board to legal counsel without re-opening the public hearing.
- Voting.

#### **2.1.3.8 Rules for Presentations**

The Chair may set in advance of the presentation of testimony reasonable time limits for oral presentations. The Chair may determine not to receive cumulative, repetitious, immaterial, derogatory or abusive testimony. Persons may be required to submit written testimony in lieu of oral if the Chair determines that a reasonable opportunity for oral presentations has been provided, and in such a case, the hearing will be continued to a date that will allow such submittals to occur. The Chair shall preserve order at all public hearings and shall decide business questions of order subject to being overruled by a four-fifths vote of the Board. Persons who become disruptive or abusive may be ejected from the hearing.

### **2.1.3.9 Evidence**

Cumulative, repetitious, immaterial or irrelevant evidence may be excluded. Evidence shall be admissible if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of serious affairs. Evidence may be received subject to a later ruling regarding its admissibility. Erroneous admission of evidence shall not invalidate any action taken unless it is shown to have prejudiced the substantial rights of a party. All material offered to the Board shall be marked upon submission to provide identification in the record of the proceeding. All submitted materials shall become records of the District and shall not be returned.

### **2.1.3.10 Failure to Comply with Rules**

Failure to comply with any of these rules shall invalidate an action only if it prejudices the substantial rights of the person alleging the error. Persons alleging procedural error shall have the burden of proof as to whether the error occurred and whether the error has prejudiced the person's substantial rights.

### **2.1.3.11 Voting**

#### **2.1.3.11.1 Declaration of Outside Evidence**

Any member, who has received evidentiary information outside of a Board meeting or has viewed the property or site of a matter pending before the Board or is familiar with the property or site, should publicly disclose the fact of such information, viewing or familiarity with the site prior to the Board's final vote on the matter.

#### **2.1.3.11.2 Quorum; Vote Required**

A majority of the members of the Board shall constitute a quorum for the transaction of business. No action or recommendation of the Board shall be valid and binding unless at least three (3)

members of the Board concur therein. A tie vote shall constitute denial of the motion.

#### **2.1.3.11.3 Continuance**

In any case where, due to the absence of one or more Trustees, three votes cannot be obtained on a question before the Board, the District Secretary shall automatically cause the matter to be placed on the next agenda for further consideration and vote. No motion shall be required to take such action.

#### **2.1.3.11.4 Conflict of Interest**

No Board member shall participate as a Board member in any discussion or voting if to do so would constitute a conflict of interest. If three votes cannot be obtained because a conflict of interest exists that prevents the absent Trustees from voting on the matter, and the conflict is such that the absent Trustees will be unable to vote at a later date even if the matter is continued, the matter shall not be continued and the following motion or proposal shall be deemed denied.

#### **2.1.3.11.5 Roll Call Vote**

A roll call vote may be required in voting upon any motion of the Board at the discretion of the Chair or where expressly required by law. Any member present who does not vote in an audible voice shall be recorded as voting “aye”.

#### **2.1.3.12 Motion to Reconsider**

A final vote on any matter which required specific statutory notice in addition to the notice required by Government Code section 54954.2 may be reconsidered only during the meeting at which the vote was taken provided that all persons who were present when the matter was originally voted on are still present. In all other cases, motions for reconsideration may be made at the same meeting or at the next meeting, unless prior to the time such motion is made something that cannot be undone has been done as the result of the original vote, for example, a contract has been entered into, money has been paid or a time limit has passed. Any motion to reconsider must be made by a member voting with the majority on the final vote. A motion for reconsideration shall have precedence over every motion except a motion to adjourn.

#### **2.1.3.13 Recordation**

All official actions or decisions by the Board shall be entered in the minute book of the Board. The vote of each member on every question shall be recorded.

#### **2.1.3.14 Parliamentary Procedure**

Unless otherwise provided by these Bylaws, all proceedings before the Board shall be conducted in accordance with and pursuant to the Parliamentary Rules of Procedure as prescribed in the most current edition of “Sturgis Standard Code of Parliamentary Procedure.”

#### **2.1.3.15 Recording of Proceedings**

Any proceeding before the Board, other than a proceeding held in closed session, recorded by any person unless the Board determines that such recording could constitute a disruption of the proceedings.

#### **2.1.3.16 Administrative Adjudication of Disputes Relating to the Ownership of Burial Plots**

Disputes relating to the Ownership of Burial Plots shall be processed and administratively adjudicated in accordance with the Resolution adopted by the Board on June 14, 2005 entitled “Resolution of the Napa County Board of Supervisors, State of California, Acting as the Board of Trustees of the Monticello Public Cemetery District to Adopt Procedures for the Processing and Adjudication of Disputes Relating to the Ownership of Burial Plots” (see Appendix B).

#### **2.1.3.17 Changes to the Bylaws**

The Bylaws of the Board may be altered, amended, or repealed by majority vote of the Board at any time.

### **2.1.4 Goals**

#### **2.1.4.1 Financial Accountability**

It shall be the objective of the Board to plan for and manage the overall financial operations and activities of the Cemetery in order to protect the interests of the District’s taxpayers while developing a sound financial program that will preserve the public trust and preserve continued management for future generations of taxpayers, residents, and the families and loved ones of the persons interred in the Cemetery.

#### **2.1.4.2 Oversight of District Management.**

#### **2.1.4.2.1 General Objectives**

It shall be the objective of the Board to hire competent management to oversee the quality of care given to the deceased, family members and the public. Setting policies regarding interments and furthering perpetual care are additional duties of the Trustees. The Board shall also review both short and long-range burial needs within the community served by the District and the effect on such needs of development, land use regulations, and the actions of other public agencies located within the District's jurisdiction.

#### **2.1.4.2.2 Roles of Board and District Manager**

The Board will review and evaluate how well the Cemetery is being administered. The District Manager shall be directly responsible to the Board to operate the Cemetery in accordance with the provisions of the Health and Safety Codes governing public cemetery Districts. In this regard, the District Manager shall keep the Board informed regarding income, expenditures, operating statistics, staffing, salaries and financial data and, on request, aspects of the day-to-day operations pertinent to the running of the District cemetery. It shall be the goal of the Board to question and seek to be fully informed when dealing with and adopting policies associated with the District.

#### **2.1.4.2.3 Evaluation of District Manager**

The Board should evaluate the performance of the District Manager on an annual basis. Both positive and negative feedback should be provided, with the best interests of the Cemetery being the main priority.

#### **2.1.4.2.4 Oversight of Other Personnel**

While not directly involved with personnel matters at the Department level, the Board shall be informed through periodic reports from the District Manager regarding overall staff and contractor performance and be alerted to signs of problems such as grievances, staff dissension, or disgruntled customers.

### **2.1.5 CEQA Guidelines**

As permitted by law, the District hereby adopts as its local CEQA Guidelines the State CEQA Guidelines and the local Napa County CEQA guidelines, including the objectives, criteria and procedures adopted by the Napa County Board of Supervisors for the local implementation of CEQA, as such may be amended from time to time.

### **2.1.6 Conflict of Interest**

The District has adopted a Conflict of Interest Code which is required by law to be reviewed and, if necessary, updated biennially. Under this Code, the Trustees file taking office, annual and leaving office Statements of Economic Interest (FPPC Form 700) as required by the Political Reform Act of 1974 (Government Code section 81000 et seq.). A copy of the current Conflict of Interest Code shall be made available to the public upon request through the office of the District Secretary.

## **2.2 Advisory Committee of the Monticello Public Cemetery District**

### **2.2.1 Operational Policies**

The Monticello Public Cemetery District Advisory Committee (“Committee”) shall be governed by the following Operational Policies, replacing in full all policies, resolutions and bylaws previously adopted or approved by the Board for the Committee:

#### **2.2.1.1 Establishment**

The Committee, first established by the Board on or about January 10, 1989, shall constitute an ongoing citizens advisory committee for the District.

#### **2.2.1.2 Functions of the Committee**

The Committee shall perform the following advisory functions for the District:

- Develop recommendations to the Board regarding the type, extent and level of services to be provided and financed by the District;
- Develop recommendations to the Board for the establishment or revision of policies to be utilized within the District;
- Develop recommendations to the Board on establishment and/or modification of rates, fees and other charges to be imposed by the District;
- Review and make recommendations to the Board regarding the annual budget for the District; and
- Develop recommendations to the Board on any other matters pertaining to the District, upon request by the Board.

#### **2.2.1.3 Composition of the Committee**

The Committee shall consist of five (5) members and one (1) alternate. To qualify for membership on the Committee, a person must reside within the District, own real property within the District as determined by the last Assessor's tax roll, or own a plot within the Cemetery. When making appointments to the Committee, the Board will endeavor to maintain a diversity of interest and qualifications, to the extent practicable, while maintaining a majority of members who are descendants of families originally displaced by the Bureau of Reclamation. The alternate shall serve as a full member of the Committee whenever one or more Committee members are absent from a meeting.

## **2.2.2 Quorum; Vote Required**

A majority of the members of the Committee shall constitute a quorum for the transaction of business. No action or recommendation of the Committee shall be valid and binding unless at least three (3) members of the Board concur therein. A tie vote shall constitute denial of the motion.

### **2.2.1.4 Officers of the Committee**

The Committee shall elect a Chair and Vice-Chair from among its members annually at the first regular meeting held each calendar year. The District Manager shall serve as Secretary of the Committee.

### **2.2.1.5 Appointment of Committee Members**

Committee members shall be appointed by the Board from written applications received by the Board. Appointments to positions whose terms are expiring on December 31 shall be made no later than December 1 of that same year and the appointees (if not reappointees) shall be encouraged to attend the last meeting of that year as observers to facilitate the transition process. Appointment to a position which is unexpectedly vacant prior to expiration of the term shall be made for the remainder of the term only. While the District is not subject by law to the appointments procedures set forth in the Maddy Act (Government Code section 54970 et seq.), the District Manager or designee may use the recruitment and advertising procedures of the Maddy Act as guidelines, to the extent practicable.

### **2.2.1.6 Term of Committee Members**

Members of the Committee and alternate shall be appointed for four year terms. The terms of the Committee members and alternate shall be staggered.

### **2.2.1.7 Vacancies**

For purposes of new appointment or reappointment, the position of a member of the Committee shall be considered vacant upon expiration of the appointed term even if the member is holding over under 2.2.1.8. Vacancies may also occur during a member's term as the result of resignation, death, removal for non-attendance at three consecutive meetings without prior excuse to the Committee's Secretary, Chair or Vice-Chair, or removal by the Board at the will and pleasure of the Board. If a member no longer meets qualifications for membership set forth in 2.2.1.3, the position shall be deemed to have become vacant without further action as of the date the District Manager or the Board is made aware of the lapse in qualifications.

#### **2.2.1.7.1 Notice of Vacancies**

Except as otherwise provided in this Policy Manual, notice of all vacancies on the Committee, whether scheduled or unscheduled, shall be given in compliance with and appointments will be made by the Board following advertising and posting in the manner required by Government Code section 54970 et seq..

### **2.2.1.8 Holdover**

Upon expiration of the term of a Committee member, the member shall continue to serve until a replacement member has been appointed in accordance with these Operational Policies unless the member has resigned, died, no longer meets the requirements for appointment, or has been removed by action of the Board.

### **2.2.1.9 Meetings**

#### **2.2.1.9.1 Date of Meetings**

Regular meetings of the Committee shall be held on the third Wednesday of February and August each year. Special meetings may be held at other times upon call of the Chair in accordance in Government Code section 54956. Any regular or special meeting of the Committee may be cancelled by the Chair or the Secretary for lack of business or lack of a quorum.

#### **2.2.1.9.2 Brown Act**

The Committee shall comply with all provisions of the Brown Act (Government Code Sections

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54950 et seq.) pertaining to open meetings, notice and agenda, as such may from time to time be amended, which are applicable to advisory commissions of local agencies.

#### **2.2.1.10 Compliance with Certain Policies Adopted by the County of Napa**

When acting as a member of the Committee or otherwise engaged in activities for the District, each Committee member shall comply with the following policies, except that all references in the policies to “County” and “County of Napa” shall instead mean the District; to “Board” or “Board of Supervisors” shall mean the District Board of Trustees; and to “Personnel” or “Human Resources” shall mean the District Manager:

- Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Napa County Board of Supervisors on March 26, 1991.
- County of Napa “Policy for Maintaining a Harassment and Discrimination Free Work Environment” revised effective August 23, 2005.
- County of Napa Drug and Alcohol Policy adopted by resolution of the Napa County Board of Supervisors on June 25, 1991.
- Napa County Information Technology Use and Security Policy adopted by resolution of the Napa County Board of Supervisors on April 17, 2001. All persons having access to any portion of the computer network used by Napa County other than access available to the public generally shall sign and have on file with the Napa County ITS Department prior to receiving such access the certification attached to said Policy.
- Napa County Workplace Violence Policy, adopted by the Napa County Board of Supervisors effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.
- Napa County Purchasing Policy, adopted by the Napa County Board of Supervisors effective December 7, 2010 and subsequently revised effective January 13, 2011 and September 20, 2016, which is located in the County of Napa Policy Manual Part I: Section 39.

#### **2.2.1.11 Bylaws**

The Committee may adopt any additional Bylaws for the governance of its own affairs that are not inconsistent with these Operational Policies. The Secretary of the Committee shall maintain the most current version of such additional Bylaws in the District Policies Manual.

### **2.2.2 Committee Procedures Relating to the District Budget**

#### **2.2.2.1 Budget Review**

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The budget for the District will be proposed to the Committee by the District Manager during the month of February and will include financial figures for the next fiscal year. Estimates for cost of equipment, vehicles and other programmed items will be included and will be the best estimate that is available at the time of planning the budget.

#### **2.2.2.2 Monthly Report**

The District Manager shall also provide the Committee a “Funds Available” report on a monthly basis. This will provide the Committee with a running review of the budget and available funds for the remainder of the budget period.

#### **2.2.2.3 Ranking of Expenditures**

In reviewing the proposed budget, the Committee shall rank expenditures according to necessity. Top priority will be given to items that have legal and or liability connotations. Items to be spent in the first half of the new budget year will be earmarked. Items designated as projected equipment earmarked for the second half of the fiscal year will be recommended to be expended only as funds permit.

#### **2.2.2.4 Characterization of Items or Projects**

The Committee will rank items or projects as fixed assets or maintenance projects.

#### **2.2.2.5 Labor Costs Review**

Labor costs shall be reviewed as part of the budget process and recommendations made to the Board to control costs through labor efficiencies to the extent possible.

#### **2.2.2.6 June Budget Recommendations**

A budget worksheet shall be reviewed by the Committee during the month of February. After review and comment from the Committee, District staff will prepare the final proposed budget for presentation to the Board in June.

#### **2.2.2.7 Mid-Year Changes**

Any necessary but unexpected major changes during the year will be brought before the Committee for review and recommendation for Board approval.

### **2.2.3 Conflict of Interest**

Under the District's adopted Conflict of Interest Code, the members of the Committee shall file taking office, annual and leaving office Statements of Economic Interest (FPPC Form 700) as required by the Political Reform Act of 1974 (Government Code section 81000 et seq.). Discussion of filing the annual Form 700 shall be a required agenda item for the Committee meeting immediately preceding the filing deadline each calendar year.

## **2.3 District Records**

### **2.3.1 Maps**

A master map of the location, ownership and use status of each block, lot and plot shall be kept and updated on a monthly basis by the Department.

### **2.3.2 Record of Interments**

A system of maintaining an accurate record of all interments and disinterments shall be kept at the Department, showing date of interment or disinterment, the location (by block, lot and plot) of each plot, the plot owner, the name of any person or persons buried in the plot, and the name and address of the firm conducting the burial service, if any.

#### **2.3.2.1 Interment Order**

The family member or successor heir shall submit to the District an interment order authorizing the disposition of remains, holding the District harmless from liability and attesting to the eligibility of the decedent for burial in the Cemetery.

#### **2.3.2.2 Interment Authorization Form**

An Interment Authorization form shall be signed by the District Manager and by the person in charge of opening the plot for interment.

### **2.3.3 Financial Records**

The appropriate District forms shall be completed at the time of interment, disinterment or transfer of Burial Rights as detailed in section 3.2. The original form will be retained by the District and a copy provided to the purchaser or person requesting the service.

### **2.3.4 Bookkeeping System**

A complete double entry bookkeeping system, or electronic equivalent, shall be maintained of all financial transactions of the District. An audit of the District books by a Certified Public Accountant shall be made at the end of each fiscal year or as required by law or by order of the Board.

## **2.4 Expenditures of Funds**

### **2.4.1 Purpose**

To outline and prescribe the procedures that need to be followed in the expenditure of funds for construction/renovation projects, the purchase of supplies, vehicles and equipment for the District. It is the objective of the District to purchase only needed supplies, equipment and vehicles which will add to the overall effectiveness of the District and to obtain the best possible product for the taxpayer's money expended.

### **2.4.2 Procedures**

The key to the District's financial program and status is the proposed budget, which must be reviewed by the Committee and recommended to the Board for approval. Management is responsible for planning the budget, which will include the programmed replacement of equipment and vehicles and construction or renovation projects to be considered. Management is also responsible for identifying which facilities and grounds which must be repaired, upgraded, developed and/or replaced. It is the responsibility of the Committee to review, recommend for approval and/or modify the budget as necessary to assure continued availability of funds for short-term and/or long-term operational and maintenance expenses.

### **2.4.3 Self-Help**

Whenever legally possible and practically feasible, the District will use self-help to complete facility upgrades or repairs. Throughout the process consideration will be given to the qualifications of existing Employees of the District. The cost in work hours to the District, and whether or not the work can be accomplished without detracting from the primary purpose of the District will be evaluated by the District Manager, in consultation with the Committee when time permits. If Self-Help cannot be utilized then the District Manager may recommend that the District contract the work to an outside organization.

### **2.4.4 Contract Procedures**

Competitive bidding procedures following the procedures required by statute for general law counties will be utilized whenever the estimated cost of a construction project is more than \$25,000, except that in the event of an emergency the District Manager may approve construction contracts above this amount in accordance with the procedures, limits and reporting requirements set forth in Public Contracts Code section 22050. Construction work will be performed only by licensed contractors who are licensed by the state to perform the type of work needed. Payment (“Labor and Materials”) bonds shall be obtained for all construction projects where the estimated cost is more than \$25,000, even if the project is an emergency project which is not competitively bid. Bid and performance bonds may be required if the District Manager so desires at the time a construction project is advertised for bids.

#### **2.4.5 Purchases of Equipment, Vehicles and Supplies**

All equipment, vehicle and supply purchases will be made by the District Manager within the constraints of the budget adopted by the Board. Purchase of vehicles and equipment with a unit price greater than the then-current fixed asset level adopted by the County of Napa for its own property shall be reported to the Board by the District Manager at the next meeting of the Board, explaining the methods used. Particular emphasis shall be given to purchase proposals which provide written guarantees, service and/or warranties not provided by other sellers.

#### **2.4.6 Obligation of Funds**

Only the Board, or the District Manager in accordance with these Policies or otherwise with specific Board approval, can obligate funds of the District. This approval shall not be delegated to other District employees or contractors, who are not authorized to enter into any verbal or written contract which may obligate the District, unless acting with the express written authorization of the Board or District Manager in relation to the particular item or service.

### **3.0 BURIAL RIGHTS**

#### **3.1 Acquisition of Burial Rights**

##### **3.1.1 Ownership and Use of Cemetery Property**

All property situated in the Cemetery is the sole property of the District. An interment right is a transferrable property interest to the person listed as the owner in the records of the cemetery District. An interment right does not confer title to the property burdened by the transferable property interest. No person, firm organization or corporation shall have any right to use such property for interment except as authorized by the provisions of this Manual or by other action of the Board.

##### **3.1.2 Uniform System for Sale, Transfer and Escheat of Burial Rights**

The Board intends by the provisions of this Manual to prescribe a uniform system for the sale, transfer and escheat of burial rights in the Cemetery in accordance with the laws of the State of California for burial or interment rights within cemeteries operated by public cemetery Districts.

##### **3.1.3 Resolution of Disputes Regarding Ownership of Burial Rights**

Until otherwise prescribed by the Board, disputes regarding the ownership of burial rights shall be resolved under the adjudication procedures adopted by resolution of the Board and set forth in Appendix "B".

#### **3.2 Purchase and Transfer of Burial Rights**

An Agreement to Purchase Burial Rights and Endowment Care contract shall be issued and signed by the District Manager at the time of purchase. The form shall include the name of the buyer, the Plot/Block/Lot location, and the fees. A fully completed and executed copy shall be given to the buyer. The District Manager is authorized and designated to sign the Certificate for Burial Right. A fully executed copy will be provided to the purchaser. Executed Certificates will be presented to the Board of Trustees for ratification. The purchaser of Burial Rights must submit a completed Burial Rights Successor Affidavit which will include the purchaser's name and address and the name and address of the person designated to be interred in the plot. The purchaser may assign and designate successors in interest of the interment rights by completing a Succession of Ownership of Certificate of Burial Right form. If the form is not submitted to the District, rights of succession will be followed as stated in section 3.2.13. Owners of Burial

Rights may release interest by submitting a signed and notarized Release of Interest in Plot form. This form must designate either a transfer of interest back to the District or to a designated individual.

### **3.2.1 Fees for Purchase and Transfer of Burial Rights**

The schedule of fees for purchase and transfer of burial rights shall be maintained on file in the District Office. Modifications of these fees shall be made only by the Board, in accordance with the procedures set forth in Government Code section 66018 (See Appendix C).

### **3.2.2 Who May Purchase or Accept Transfer of Burial Rights**

Except as provided in 3.2.4, on and after April 4, 2006, any purchase or other transfer of burial rights, including by gift, devise, bequest or other inheritance must be made in the name of the natural person or persons to be buried in the plot. At the time of the purchase or transfer, the transferee must be an Eligible Person or Eligible Non-resident to be buried in a plot in the Cemetery. Persons designated for Burial Right must complete a Burial Right Recipient Acceptance Statement attesting eligibility. Proof of eligibility, in the forms acceptable to the District Manager, must be submitted to the District at the time of purchase or transfer.

#### **3.2.2.1 Armed Forces**

Where there is adequate space in the cemetery for the foreseeable future, the District Manager may authorize the sale or transfer of Burial Rights on behalf of an otherwise non-eligible person who died while either (1) serving in the Armed Forces or the active militia, or (2) in the line of duty as a peace officer or firefighter. (Health & Safety code Section 9061(e).) Any interment under this subsection entitles immediate family members rights to future burial outside of Veterans Corner. For the purpose of this section, immediate family members include spouse, parents, step-parents, siblings, children, step-children, grandparents, and grandchildren.

### **3.2.3 Ownership of Burial Rights in Multiple Plots**

#### **3.2.3.1 Plots Inherited or Transferred before April 4, 2006**

If an Eligible Person (“transferee”) has been transferred the rights to burial in more than one plot in the Cemetery prior to April 4, 2006, for any reason, and such transfer has been confirmed by the Board, then upon burial of the transferee in any of those plots, ownership of the burial rights in the remaining plots must be transferred to one or more other Eligible Persons in accordance with the transferee’s will, trust, intestate succession, or other manner of designation which may

be recognized by the Public Cemetery District Law, unless such transfer would transfer the rights to a person or persons who do not qualify as Eligible Persons, in which case the rights shall revert to the District. The owner of such rights to burial in multiple plots may, while still living, transfer the rights to all or any of the plots to other Eligible Persons, upon confirmation by the Board.

### **3.2.3.2 Plots Acquired on or after April 4, 2006**

Except as provided in 3.2.3.1, on or after April 4, 2006, no person may be the named purchaser or owner of burial rights to more than one plot. If an Eligible Person wishes to pay the purchase fees for multiple plots, the District will consider that all of the other plots are being purchased as a gift or gifts to other Eligible Persons. The acquisition of such burial rights, when paid for by a person who already owns a burial plot or is otherwise purchasing the interment rights for another person, shall be valid only when accepted by the donee(s) or their legal representatives and confirmed by the Board. Such donees shall thereafter be deemed owners of the burial rights to those plots for all purposes and shall be noted as such on the records of the District.

### **3.2.4 Post-Need Acquisition**

Notwithstanding any other provision, a representative of a deceased Eligible Person who had not purchased Burial Rights prior to death may purchase Burial Rights on behalf of the deceased Eligible Person for immediate interment. The District Manager is authorized to sell burial plots consistent with these policies and procedures.

### **3.2.5 Veterans Corner**

The area in the southeast corner of the cemetery shall be designated Block 4, containing Lot 1, Plots 1-8, and shall be reserved for interment of military personnel who die in active combat while serving in the US Armed Forces. Any interment under this section entitles immediate family members rights to future burial outside of Veterans Corner. For the purpose of this section, immediate family members include spouse, parents, step-parents, siblings, children, step-children, grandparents, and grandchildren.

### **3.2.6 Multiple Owners of Burial Rights in the Same Plot**

#### **3.2.6.1 Rights Acquired before April 4, 2006**

If, prior to April 4, 2006, more than one (or two, in the case of Double Burial rights) Eligible



Persons have been recognized by the records of the District to own rights to burial in the same plot, then when the first of such persons (or the second in the case of Double burial rights) has exercised the right to be buried in the plot, the rights of any remaining owners in that plot shall cease to exist..

### **3.2.6.2 Rights Acquired on or after April 4, 2006; Double Burial Exception**

On and after April 4, 2006, the District shall confirm no multiple rights of ownership in the same plot unless such confirmation is to two persons who have both consented to Double Burial or unless such confirmation merely recognizes pre-existing multiple ownership of burial rights as described in 3.2.4.1. If the transferee of burial rights to a plot whose transfer is confirmed on or after April 4, 2006 dies without using those rights and leaves multiple heirs, devisees, or beneficiaries who are Eligible Persons but has not designated which of these Eligible Persons shall inherit the burial rights in that particular plot, it shall be the responsibility of the personal representative of the decedent's estate to resolve, or seek resolution of the dispute without involving the District. The personal representative shall inform the District within one year of the owner's date of death of the name of the single heir, devisee or beneficiary (or two, in the case of Double Burial rights) to whom the transfer should be confirmed. If the District is not notified of the name of such person (or two persons in the case of Double Burial rights) within one year after the death of the decedent, the burial rights to the plot shall revert to the District as provided in 3.2.5.

### **3.2.7 Cremains**

Burial Rights for Cremains may be purchased pursuant to the current District fee schedule.

#### **3.2.7.1 Lot Limitations for Cremains**

A maximum of four (4) Cremains may be interred in a single plot; one in each quadrant. If a plot is designated to receive one Cremains, only Cremains may be interred in that Plot in the future.

#### **3.2.7.2 Cremains Container**

Cremains must be delivered in a durable container suitable for interment, and may not be scattered within the Cemetery.

### **3.2.8 Reversion of Burial Rights to the District**

Pursuant to Health and Safety Code Section 9069.25, if the owner of the burial rights in a plot dies without a written designation pursuant to section 3.2, is interred elsewhere and has no heirs at law, the District shall follow the abandonment procedures established under Section 9069.

### **3.2.9 Abandonment of Burial Rights**

The District may seek the abandonment of Burial Rights when the current owner is unknown pursuant to Health and Safety Code section 9069.

### **3.2.10 Confirmation of Transfer or Sale of Burial Rights**

The District Manager is authorized as agent of the District to issue Certificates of Burial Right upon purchase or transfer of burial rights. All transfers and issuance of burial rights by the District Manager shall be reported to the Board for ratification at the next Board meeting. Ratification shall be noted in the records of the District.

### **3.2.11 Repurchase of Burial Rights by the District**

The owner of burial rights in a specific plot may transfer his or her rights to the District at any time during the owner's life for the amount originally paid for the plot or \$200, whichever is greater. If there are multiple confirmed owners of burial rights to the same plot, the amount paid by the District to any one owner shall be pro-rated.

### **3.2.12 Limitation on Reuse of Plots for Interments**

After a person, or two persons in the event of an authorized double burial, has been interred in a plot, such plot shall thereafter not be reused for further interments unless all such bodies have been disinterred by court order and reinterred (or cremated and disposed of) elsewhere in accordance with all applicable laws.

### **3.2.13 Rights of Succession**

The owner of burial rights shall, at the time of purchase, designate a successor owner or owners of the interment right in a signed written designation deposited with the District in accordance with Section 9069.20 of the Health and Safety Code. If the owner had neither designated successors at the time of purchase nor subsequently provided the District with a list of successors, the interment right shall pass according to the laws of intestate succession as set forth in Sections 6400 to 6413, inclusive, of the Probate Codes. A surviving spouse, registered

domestic partner, child, parent, or heir who has an interment right may waive that right in favor of any other relative of the deceased owner or spouse of a relative of the deceased owner. Ownership and use of interment rights transferred shall be in compliance with applicable provisions of state and local law and the policies of the District. If the owner has no heirs at law, the District shall follow the procedures set forth in Health and Safety Code Section 9069. Rights of succession of ownership of interment rights do not confer rights of interment; owners may only designate Eligible Persons or Eligible Non-Resident persons for interment.

#### **3.2.1.13.1 Notification of Rights of Succession**

Upon the sale of burial rights the District shall notify the purchaser, in writing, of the District's duly adopted policies, rules, and regulations governing the use, sale or other transfer of interment rights. The written notification shall reference the applicable sections of the Health and Safety Code.

#### **3.2.13.2 Affidavit of Rights of Succession**

A person who purports to be the successor owner of an interment right shall execute a written affidavit declaring, under penalty of perjury, all of the information required by Health and Safety Code Section 9069.35.

## **4.0 GRAVES AND INTERMENTS**

### **4.1 Opening and Closing of Graves**

#### **4.1.1 Who May Open and Close Graves**

The District shall open and close graves for any and all burials and shall install any and all liners and vaults therein. No person or persons shall be permitted to perform any of the work or labor in connection therewith except those employed or contracted by the District, provided the District may order the work to be done or performed by any other person or persons when in the opinion of the District Manager it is necessary and for the best interests of the District to have such person or persons perform or assist in the performance of such work.

#### **4.1.2 Designation of Grave to be Opened; Authorization for Interment**

The designated grave to be opened shall be indicated by the plot owner or authorized agent, including the person authorized by law to authorize burial if the interment is of the owner of the burial rights. An "Authorization for Interment" form must be signed by such agent or person authorized by law to authorize burial of the decedent as stated in section 2.3.2.2.

#### **4.1.3 Fees for Opening and Closing Graves and Installation of Liners and Vaults**

##### **4.1.3.1 Schedule of Fees**

The fees for opening and closing of graves and installation of liners and vaults shall be regulated and set by the Board in accordance with Government Code section 66018. The current schedule of fees shall be maintained on file in the District Office for inspection during all reasonable business hours.

##### **4.1.3.2 Time for Payment of Fees**

All fees (other than the endowment fee) must be paid no later than 48 hours before a grave will be opened, unless the Authorization indicates that the decedent's religious affiliation requires burial within 24 hours of death, in which case the fees must be paid no later than 12 hours prior to the time the grave will be opened. If burial earlier than 48 hours following death is required by the County Health Officer, the fees shall be paid prior to the time the grave is opened. The fees for endowment care must be paid in full prior to the burial.

#### **4.1.4 Religious Services; Prohibition on Animal Sacrifices**

Any religious service may be performed at any burial of any person when such burial properly complies with these rules and regulations, except that no religious rituals involving the sacrifice of animals at the Cemetery are permitted.

### **4.2 Interments and Disinterments**

#### **4.2.1 Scheduling of Burials**

Each person, firm, association, corporation or funeral home requesting a burial by the District shall contact and schedule such burial with the District Manager before making public the time of burial. Services scheduled for burial shall be approved by the District no later than 10:00 a.m. two workdays preceding the requested burial time, unless the Authorization for burial indicates that the decedent's religious affiliation requires burial within 24 hours of the time of death, in which case the services shall be approved no later than 10:00 a.m. one day prior to the requested burial time. If that day is a weekend or holiday, the fees for opening and closing the grave and scheduling the services may include a surcharge. The District is not responsible for any service set by any funeral home without first coordinating the time with the District Manager.

#### **4.2.2 Time of Burial**

Final graveside committal services shall begin no earlier than 8:00 a.m. and no later than 3:00 p.m. on the date of burial and shall be completed within one hour. The time requirements specified herein are made for the purpose of giving the supervisory personnel of the Cemetery and District employees and contractors sufficient opportunity to properly prepare for all burials.

#### **4.2.3 Burial Permits**

A properly prepared burial permit must, in all cases, accompany the body to the cemetery. If this is not done, the funeral director shall return the body to the funeral home until a legal burial permit is obtained and brought to the Cemetery. The permit shall be signed by the representative of the company with whom the District has contracted for burial services. District staff shall return the permit to the appropriate District Registrar. The District Manager shall sign an Interment Authorization for as representative of the Monticello Cemetery. The service provider shall sign the Interment Authorization form attesting that the burial was completed.

#### **4.2.4 Opening of Caskets**

No casket shall be opened before, during or following a service without the direct permission of the deceased family and then only under supervision of the funeral director in charge.

#### **4.2.5 Lowering of Caskets**

A casket will not be lowered below ground level in the presence of the decedent's family or other mourners attending the burial services unless such persons are located at least 15 feet (or such greater distance as may be required by law) from the grave and remain at that distance after the lowering of the casket until the grave has been completely closed and filled. Exceptions may be made at the discretion of the supervisor on site, but safety and District liability shall always be a priority when such discretion is exercised. The liner shall not be filled with dirt.

#### **4.2.6 Disinterment Regulations**

##### **4.2.6.1 Application for Removal**

An interment right does not include the right for disinterment of human remains except on consent of the cemetery District and the written consent of the surviving spouse, child, parent, or sibling, in that order or priority, pursuant to Section 9069.10 of the Health and Safety Code. Applications for removal of bodies must be made at the District Office. No body shall be taken from the Cemetery without a permit from the Napa County Health Officer and a disinterment form issued by the District for the disinterment and removal of the body. The application shall include a copy of the original death certificate or, if none exists, an appropriate court order. All required fees must be paid prior to any disinterment.

##### **4.2.6.2 Approval of Application for Removal**

In the case of the decedent having died as the result of any communicable disease, the application for disinterment must be approved by the Board in addition to obtaining all permits required by law, and the District shall have the discretion to deny the request unless the disinterment is ordered by a court of competent jurisdiction. In all other cases, the District

Manager shall approve the application upon receipt of all permits required by law. In either instance, the District Manager is hereby designated as the entity in charge of the Cemetery for purposes of the provisions of the Health and Safety Code of the State of California pertaining to disinterment. The District Manager is hereby authorized and directed to sign, endorse and return all disinterment permits to the District office in accordance with the provisions of such statutes, and shall document all removals with the particulars thereof in the record of interments.

#### **4.2.6.3 Manner of Removal**

Disinterments made by District personnel will be made in compliance with all applicable laws and in the most protected environment possible. Any employees within 10 feet of the grave are required to be clothed in full protective attire and fitted with respirators. The family or other person or authority requesting the disinterment shall provide the services of a funeral director and the appropriate legal papers required for the particular case.

#### **4.2.6.4 Removal and Reinterment by District in Case of Necessity**

In case of necessity, when the best interests of the District require and then only in the manner required by all applicable statutes, Management shall, under the direction of the Board, remove and reinter bodies that have been interred in accordance with Section 9069.15 of the Health and Safety Code. The District shall use best efforts to allot the same amount of space as occupied before and in as close proximity as reasonably feasible. All such disinterments and reinterments shall be recorded in the interment records of the District.

### **4.3 Containers, Caskets and Liners**

#### **4.3.1 Burial Containers**

Except when more restrictive requirements are specified by law, all burial containers brought for interment shall be of sturdy construction, equipped with a minimum of 4 handles, and securely closed with a secure fastening mechanism. If the container is oversized, the funeral home must check first with Management to make sure the proper liner is sufficient for the container/ crypt/ niche. The body will remain under the jurisdiction of the funeral home until the proper liner is installed and the burial is completed.

#### **4.3.2 Liners and Vaults**

No burials, interments or reinterments shall be made of any bodies in the Cemetery unless the body and the container containing the body is protected by a liner or a vault of a type approved

by the District Manager upon consultation with the Committee.

#### **4.3.3 Cost for Replacement of Undersized Liners or Vaults**

If any person or firm orders a liner or vault for a burial and thereafter, at the time of burial, the casket is found to be too wide, too long or too high to fit into the liner or vault ordered, the person or firm shall pay an additional cost set forth in the District's fee schedule for removal of the undersized liner or vault and replacement with the proper size liner or vault.

### **4.4 Markers and Monuments**

#### **4.4.1 Professional Headstones or District Markers; Exception**

All burials will be marked with a professional marker and/or monument or with a District marker provided under 4.4.3.1, although this policy may be waived in regard to graves relocated from the original Monticello Cemetery. To insure that all graves are marked, on or after April 4, 2006, no interment shall be made unless a deposit has been made into the marker fund to cover the cost of a District marker.

#### **4.4.2 Setting of Markers; Fees**

All setting of markers or bases of any monument in the Cemetery shall be done by District personnel according to the current fee schedule on file in the District office.

#### **4.4.3 Marker Fund Deposit; Use and Refund; Pre-Need Markers**

##### **4.4.3.1 Time for Ordering Marker**

Each person requesting interment of an individual shall have up to 90 days following the date of interment to order a professional monument or other marker for the grave. If no monument or marker has been ordered at the end of the 90-day period, the District will provide a cement marker ("District marker"), using the money in the marker fund deposit that was collected prior to the time of the interment. The District shall not recommend or endorse any dealer for professional monuments or markers, but Management may maintain a current list of all area dealers in the District Office.

##### **4.4.3.2 Use of Deposit**

The marker setting fee, plus tax, will automatically be deducted from the marker fund deposit unless the monument dealer pays these fees at the time the marker is delivered to the Cemetery.



#### **4.4.3.3 Refund of Deposit**

Any unused monies remaining in the marker fund deposit will be refunded to the person(s) requesting the interment after the marker has been set and notification has been given to the District office.

#### **4.4.3.4 Pre-Need Markers**

If the marker deposit is paid for as part of a Pre-Need Contract prior to the death of the person to be interred, the monies paid into the marker fund deposit will remain in the trust account and be used for the additional engraving charges incurred at the time of burial. Setting charges shall be paid when the pre-need marker is set. Any excess money will be refunded back to the person or estate making the deposit or paying the fees after the additional engraving is completed.

#### **4.4.4 Monument Work**

All persons wishing to do monument work, monuments, markers, cutting, inscriptions or any work pertaining thereto, may be required to present a written order upon a blank furnished by the District, and signed by the owner or representative of the owner of the plot providing the authority to do such work. Attached to the order must be a copy of a plan showing all dimensions and the design or the character of the work to be done, which must be approved by Management before the erection or commencement of any such work within the Cemetery. Such approval shall be subject to any conditions deemed necessary by the District Manager to ensure that the work or design will not physically interfere with the operation of the Cemetery or the use of other burial plots. All such work must be performed or supervised by persons whose trade or business is directly connected with such work.

#### **4.4.5 Additional Engraving; Cost**

If additional engraving is needed on an existing stone, the District will collect the amount needed and will contract this work to be completed. Additional engraving is a contracted procedure which need be done no more frequently than quarterly during the year.

#### **4.4.6 Specifications for Markers, Monuments and Headstones**

##### **4.4.6.1 Composition**

Only the size and type of monument and markers set forth in a “Markers and Monument Schedule” approved by the Board will be allowed in the Cemetery. Unless otherwise specifically provided in the Schedule, only markers of granite, marble or bronze, or those manufactured or placed by the District are allowed in the Cemetery to maintain the high standards of appearance and maintenance of the Cemetery. It shall be the responsibility of the monument dealer to check with Management regarding any rules and regulations adopted by the Board regarding the compatibility of specifications for monuments. The District will not be responsible for setting any marker or monument unless these rules and regulations have been complied with.

#### **4.4.6.2 Headstone Foundations, Bases and Piers**

##### **4.4.6.2.1 Headstone Foundations**

All headstone installations must be set on a concrete foundation at least three inches thick, forty inches in length, and twenty-four inches wide, unless otherwise specified by Management. The top of each foundation shall be at least two inches (2”) above ground level, unless otherwise specified by the Department.

##### **4.4.6.2.2 Bases**

The thickness of any concrete base shall be increased as the width of the installation warrants, pursuant to the order of Management. Any weight-bearing surface and base of the headstone must be so roughened as to remove all polished surfaces so that the binding of the cement will have the maximum amount of holding ability.

##### **4.4.6.2.3 Piers**

Any concrete pier shall be made in accordance with the same specifications as the concrete base. A pier must be landed on solid earth unless the foundation is to be placed directly over a previously opened grave, in which case the landing may be made on the vault or garden crypt. Landings are not to be made on any sectional liners or other insecure materials. When a concrete base is three feet wide and eighteen inches deep or more, two piers of at least three inches in diameter and three feet deep will be sunk an equal distance from front to rear and on each side of the concrete base.

#### **4.4.6.3 Attachments and Pins**

Monuments over four inches thick and over three feet wide must use one dowel pin and comply with all other specifications. Monuments four inches thick but less than three feet wide shall be cemented to the base and pinned by at least two dowel pins, five inches long and 3/8 of an inch

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in diameter, projecting equal distance into the headstone and base. Pins to be used in headstones or in any marble monuments must be aluminum, copper, brass, bronze or any other non-corrosive metal.

#### **4.4.6.4 Commemorative Markers**

No commemorative markers shall be placed in the Cemetery unless approved by the District Manager, in consultation with the Committee on an individual basis. Each such marker will be reviewed as to content, size, shape and the site of placement for conformity with the surrounding area.

#### **4.4.6.5 Prohibited Structures**

Fences, posts, chains and all wood structures are prohibited on graves or within the plot where the grave is located.

### **4.5 Surface and Curbing of Graves**

#### **4.5.1 Grave Surface**

No new graves shall be covered with loose gravel or sand after April 4, 2006.

#### **4.5.2 Grave Curbing and Objects**

After April 4, 2006, no plot or grave within a plot shall be bounded or otherwise defined by any fence, railing, coping, hedge, embankment ditch or contain any bench, wire work, rock work, monument, marker, stone or any architectural object except as approved by the Board after consulting with the Committee.

### **4.6 Regulations Relating to Beautification and Decoration of Graves**

#### **4.6.1 Grave Beautification**

All grave beautifications shall be done by District employees unless otherwise specified by the Board after consultation with the Committee.

#### **4.6.2 Flowers and Plants**

#### **4.6.2.1 Planting and Removal**

The planting of roses or other bushes or plants for memorial purposes shall be done by Cemetery personnel under the direction of Management and only in designated areas. If any tree, shrub, plant or vine situated in any lot, plot, street or alley shall by reason of roots, branches, height, shade or otherwise become detrimental, hazardous or unsightly to the adjacent lots, plots, walks, streets or alleys, or dangerous or inconvenient to passersby, the District shall have the right to enter the area and remove such tree, shrub, plant or vine as it deems necessary.

#### **4.6.2.2 Gathering of Growing Flowers or Plants**

All persons are prohibited from gathering flowers or other growing plants growing in the Cemetery, except that nothing in this section shall preclude District personnel or authorized volunteers from engaging in pruning and other necessary landscape maintenance or improvement activities authorized by Management.

#### **4.6.2.3 Vases and Urns**

Any monument or marker erected on any grave may have vases or urns of the type approved by Management upon consultation with the Committee excepting those areas designated as single vase settings. Vases shall be placed in the ground, embedded in the concrete foundation at each end of the monument or marker, with the top of the vase or urn level with the top of the foundation or as otherwise specified by the Committee. Persons wishing to place cut flowers on graves not provided with vases or urns level with the top of the foundation shall use unbreakable containers. No glass, porcelain, or pottery containers are permissible. No person shall place or glue any figurine, statue, vase, container or any other substance on any marker, monument, foundation or plot unless so authorized by these rules and regulations or upon written approval of Management after consultation with the Committee. To avoid creating hazards to the District's mowing equipment, no person shall place or pour any sand, gravel, rocks, cement, casting plaster, wax or metal of any type into vases, jars, cans or flower containers placed in any location of the Cemetery.

#### **4.6.2.4 Removal of Funeral Designs, Floral Pieces and Related Containers**

Funeral designs, floral pieces and related containers shall be removed by the persons placing them as soon as they become unsightly and if not so removed, are subject to removal by or at the direction of Management. Every reasonable effort will be made to care for flowers and containers placed on graves. Neither the District nor any of its employees will be responsible for any items placed on graves that may be lost, stolen or misplaced.

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## **5.0 DRIVES AND WALKS**

### **5.1 Construction and Delivery Persons**

Outside workers and other persons bringing materials of any kind to the Cemetery grounds must report to Management for directions and instructions before entering the Cemetery.

### **5.2 Prohibition against Ground Disturbance; Litter Control**

Except under the direction of Management, no person shall remove earth or in any way disturb the streets and alleys or leave grass, dirt or rubbish of any kind on the Cemetery grounds. Receptacles for refuse shall be conveniently placed in the Cemetery.

### **5.3 Use of Vehicles**

Vehicles shall be operated in an appropriate manner on all Cemetery roadways. The District reserves the right to exclude automobiles, bicycles and any vehicle when in the opinion of Management upon consultation with the Committee it is necessary to so exclude such vehicles for the protection of the public and/or District.

## **6.0 MISCELLANEOUS**

### **6.1 Lost Articles**

Articles left upon the grounds shall be reported promptly to the District Office and articles found by employees, plot owners or visitors shall be reported at once to the District Office.

### **6.2 Prohibition against Solicitation or Advertising**

Soliciting for donations and/or conducting any private business for any kind of work is not allowed in the Cemetery. Contractors shall not place their names or place of business on any work erected on the grounds.

### **6.3 Animals**

No domestic animals or pets shall be permitted to enter the Cemetery grounds without express permission from the District Manager, except for guide or other trained disability assistance dogs when accompanying the person to whom the animal provides such assistance.

### **6.4 Firearms**

Firearms are not permitted on the Cemetery grounds unless expressly authorized by the District Manager, except when carried by those persons legally licensed or permitted to carry a concealed weapon.

### **6.5 Alcohol and Drugs**

No alcohol or drugs are allowed in the Cemetery except for token amounts of alcohol, not to be consumed, when required as part of the religious burial service, and except for prescription drugs when in the immediate possession of the person to whom the substances were prescribed.

### **6.6 Loan of District Equipment**

Cemetery equipment shall not be loaned to anyone other than another government agency who can provide an experienced operator. The agency borrowing equipment must first enter into a written agreement with the Board, including provision of the insurance to cover the operator(s) and any damage to the equipment. District personnel shall not operate Cemetery equipment outside of the Cemetery premises except in connection with a Cemetery-related project authorized by the Board or District Manager.

## **7.0 AMENDMENT AND REPEAL**

The Board reserves the rights to alter, amend, modify, repeal or add to any of the provisions of this Manual by action of the Board of Trustees.



**APPENDIX “A”**  
**MAP OF THE BOUNDARIES OF THE**  
**MONTICELLO PUBLIC CEMETERY DISTRICT**

**APPENDIX “B”**  
**MONTICELLO CEMETERY DISTRICT**  
**RESOLUTION NO. 05-01**

**RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS,  
STATE OF CALIFORNIA, ACTING AS THE BOARD OF TRUSTEES  
OF THE MONTICELLO PUBLIC CEMETERY DISTRICT TO ADOPT  
PROCEDURES FOR THE PROCESSING AND ADJUDICATION OF  
DISPUTES RELATING TO THE OWNERSHIP OF BURIAL PLOTS**

**WHEREAS**, since October of 1988 the Napa County Board of Supervisors has been acting as the Board of Trustees of the Monticello Public Cemetery District (“District”), a special District of the State of California organized on June 9, 1936, which is currently governed by the Public Cemetery District Law (Health and Safety Code section 9000 et seq., as comprehensively revised in 2004); and

**WHEREAS**, pursuant to Health and Safety Code section 9041(k), the Board of Trustees has the power to adopt and enforce rules and regulations relating to the administration, maintenance, operation, and use of the Monticello Cemetery (“Cemetery”), a public cemetery relocated to its present site in Spanish Flat in 1956 when Lake Berryessa was created by the federal Bureau of Reclamation; and

**WHEREAS**, the Board Trustees now desires to adopt procedures to resolve at the District level disputes which may arise from time to time regarding the ownership of burial plots within the Cemetery;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Trustees of the Monticello Public Cemetery District as follows:

1. The Board of Trustees hereby adopts effective immediately those procedures for the administrative processing and adjudication of claims relating to the ownership of burial plots in the Monticello Cemetery which are set forth in Attachment A, attached hereto and incorporated by reference herein.

2. The Board of Trustees hereby directs that a copy of this Resolution be maintained on file in Section 25 of Part II of the County of Napa Policy Manual in order to improve public accessibility thereto.

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED**  
by the Napa County Board of Supervisors acting as the Board of Trustees of the Monticello  
Public Cemetery District at a regular meeting of the Board of Trustees on the 14th day of

2005, by the following vote:

AYES: TRUSTEES MOSKOWITE, WAGENKNECHT, DODD, LUCE  
and DILLON

NOES: TRUSTEES NONE

ABSENT: TRUSTEES NONE

[Diane Dillon]  
\_\_\_\_\_  
DIANE DILLON, Chair of the Board of  
Trustees

ATTEST: PAMELA A. MILLER  
Clerk of the Board of Trustees

By: [Pamela A. Miller]

**APPROVED AS TO FORM**  
Office of District Legal Counsel

By: *Margaret L. Woodbury*,  
Chief Deputy  
(by e-signature)  
Date: June 10, 2005

**APPROVED BY THE BOARD OF  
TRUSTEES OF THE  
MONTICELLO CEMETERY  
DISTRICT**

Date: June 14, 2005

Processed by:  
[Sherry Vattuone]  
\_\_\_\_\_  
Deputy Clerk of the Board

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**ATTACHMENT A**  
**PROCEDURES FOR DETERMINING**  
**OWNERSHIP OF BURIAL PLOTS WITHIN THE**  
**MONTICELLO CEMETERY AT SPANISH FLAT**

**I. PRESUMPTIONS OF OWNERSHIP**

**A. Conclusive Presumptions**

**(1) Conclusive Presumption that Burial Plot is Owned.**

A person shall be conclusively presumed to own the right to interment in a specific burial plot (hereinafter referred to as “ownership of the burial plot”) within the Monticello Cemetery located at Spanish Flat if any of the following has occurred:

**(a) The Burial Plot is Occupied by and Interment was Authorized by the District or Reinterment was Conducted by the Bureau of Reclamation.**

If a burial plot is occupied by human remains and the records in the possession of the District show that the interment was authorized by the District or that the interment was a reinterment conducted under the supervision of the Bureau of Reclamation, then the person interred in the burial plot shall be conclusively presumed to have been the owner of that burial plot at the time of such interment and no further documentation shall be required. If a double burial exists in the burial plot and each of the interments was authorized in the manner described above, each interred person shall be conclusively presumed to have been the owner at the time of interment of the portion of the burial plot occupied by that person. This conclusive presumption shall no longer apply if, for any reason, the person or persons interred in the burial plot are lawfully removed and reinterred in a different location; or

**(b) Deed or Certificate was Issued to Located Owner.**

If the burial plot is vacant and the District records indicate that ownership of the right to be buried within the burial plot was granted by deed or certificate of ownership approved by the District, the person named in the most recent deed or certificate of ownership or

transfer deed approved by the District shall be conclusively presumed to be the present owner if that person has been located by the District; or

**(c) Petition for Abandonment Dismissed.**

A burial plot shall be conclusively presumed to be owned if it is vacant but a petition for judicial abandonment of the burial plot filed by the District pursuant to Health and Safety Code section 9069 has been dismissed upon determination by the Court of the identity of the present owner of the burial plot, who shall be noted as such on the records of the District with no further documentation required.

**(2) Conclusive Presumption that Burial Plot has no Owner.**

A vacant burial plot shall be conclusively presumed to be vacant and may be resold by the District when either of the following has occurred:

**(a) Burial Plot Reconveyed to the District.**

The most recent person (or legal representative of such person) to whom the District granted or approved transfer of ownership of the burial plot has reconveyed the burial plot to the District by deed; or

**(b) Petition for Abandonment Granted by the Court.**

The District has filed a petition for judicial abandonment of the burial plot pursuant to Health and Safety Code section 9069 and, following conclusion of the proceedings on the petition, the court has ordered the burial plot to be abandoned and the order of abandonment has been recorded in the official records of the Napa County Recorder.

**B. Rebuttable Presumptions.**

**(1) Rebuttable Presumption that a Vacant Burial Plot has a Present Owner.**

If the District records indicate that ownership of a vacant burial plot has been granted by a deed or certificate of ownership issued by the District or

if the transfer of a deed or certificate issued by the District has been approved by the Board of Trustees, but the District is unable to locate either the grantee or transferee, the presumption that the burial plot has a present owner will be rebuttable rather than conclusive. This rebuttable presumption shall continue in effect and the vacant burial plot shall not be resold by the District until, after conducting a diligent search for the present owner, the District has filed, and a court has granted, a petition for judicial abandonment of the burial plot under Health and Safety Code section 9069 and the order of abandonment has been recorded in the official records of the Napa County Recorder.

**(2) Rebuttable Presumption that a Vacant Burial Plot has No Present Owner.**

If the District records indicate that ownership of a vacant burial plot has never been granted by deed or certificate of ownership approved by the District, the burial plot shall be rebuttably presumed to have no present owner. A petition for judicial abandonment of the burial lot may be commenced pursuant to Health and Safety Code section 9069 to revert title to the burial plot to the District unless, prior to the filing of the petition, one or more written claims of ownership to the burial plot are filed with the District Manager. If such claims are filed, they shall be administratively processed as provided in (II) and, if needed, shall be adjudicated by the Board of Trustees as provided in (III).

**II. PROCESSING CLAIMS OF OWNERSHIP TO VACANT BURIAL PLOTS REBUTTABLY PRESUMED TO HAVE NO PRESENT OWNER**

If a vacant burial plot within the Monticello Cemetery located at Spanish Flat is rebuttably presumed by the District to have no present owner, a person desiring to rebut that presumption and establish his or her present ownership of the burial plot shall file a written claim which shall be processed as follows:

**A. Filing the Claim.**

The claimant shall file a written claim with the District Manager, which shall be signed under penalty of perjury and contain all of the following information:

- (1)** The name and mailing address of the claimant.
- (2)** A summary of the basis for the claim.

- (3) Documentation supporting the claim which shall include, where applicable:
- (a) A copy of a deed or certificate of ownership to the burial plot issued by the District, or written documentation of approval by the District of transfer of a District-issued deed or certificate of ownership to the claimant, if the claimant bases the claim to ownership of the burial plot upon such a deed or certificate but the document is not in the present District records;
  - (b) Notarized affidavits or declarations under penalty of perjury of the claimant and/or other witnesses describing the contents and the circumstances of the destruction or loss of a deed, certificate of ownership or transfer deed for the burial plot if such documents are not mentioned and no longer exist in District records;
  - (c) A deed or certificate of ownership, or evidence showing the content and existence of lost or destroyed deed or certificate of ownership of a vacant burial plot in the former Monticello Cemetery, and any maps showing why ownership of a specific burial plot in the current Monticello Cemetery should be granted or transferred to the claimant as replacement for the plot in the former Cemetery, including documentation of the claimant's status as the legal heir to the claimed replacement rights, whether and when prior requests were made to the District for issuance of deeds or certificates of ownership to the replacement plot, and the District response to such requests;

**B. Administrative Processing of the Claim**

**1. Completeness Determination.**

**(a) Review for Completeness.**

Upon receipt of the written claim, the District Manager shall review the claim for completeness in light of (A), above.

**(b) Notification of Completeness.**

Within 30 days after receipt of the claim, the District Manager shall mail a written notice to the claimant stating whether the claim is complete or incomplete. If the documentation submitted by the claimant does not include the applicable items listed in (A), the

District Manager shall notify the claimant that the claim is incomplete and describe the information which needs to be supplied. If all of the missing items are not filed with the District Manager within 40 days after the District Manager mails the notice of incompleteness, the District Manager shall mail the claimant a notice that the claim is dismissed and that the vacant burial plot will no longer be presumed to have a present owner. If the claim is determined by the District Manager to be complete, the District Manager shall mail the claimant a notice of completeness.

**2. Investigation of Claim; Tentative Decision; Conflicting Claims.**

**(a) Investigation and Tentative Decision of a Single Claim.**

When a single claim to ownership of a vacant burial plot has been determined to be complete, the District Manager shall evaluate and investigate the claim and submitted documentation and shall render a tentative decision on the merits of that claim within 30 days after mailing notice of the determination of completeness.

**(b) Processing of Conflicting Claims.**

- (i)** Notwithstanding (a), above, if the District Manager determines, prior to rendering a tentative decision on a single claim, that one or more conflicting claims have been filed in relation to the same vacant burial plot, the District Manager shall process all of the conflicting claims through to completeness or dismissal for incompleteness as provided in II (A)(1)(b), above.
- (ii)** If only one claim is found to be complete when the period for achieving completeness expires for the latest-filed of the conflicting claims, the District Manager shall render his tentative decision on that claim within 30 days after the notice of completeness is mailed.
- (iii)** If more than one of the conflicting claims is found to be complete when the period for achieving completeness expires for the latest filed of the conflicting claims, the District Manager shall consolidate the complete conflicting claims and process them together from that point onward.



- (iv) Upon consolidation of the conflicting claims, the District Manager shall mail each claimant a written notice of the existence of the other claim(s) and the right of each claimant to review the other claim(s) and related documentation and to file supplemental documentation in opposition to the other claim(s).
- (v) To be considered by the District Manager, any supplemental documentation in opposition to the conflicting claim(s) must be received by the District Manager within 40 days of mailing of the notice of consolidation.
- (vi) The District Manager shall render a tentative decision on the consolidated claims within 15 days after expiration of the time for filing supplemental documentation set forth in (v), above.

**3. Notice of Tentative Decision.**

**(a) Time for Mailing of the Notice of Tentative Decision.**

Within 3 days of rendering the tentative decision on a claim or consolidated claims, the District Manager shall mail notice of the tentative decision to the claimant or claimants.

**(b) Contents of Notice of Tentative Decision; Request for Hearing.**

The notice of tentative decision shall state whether the claim is approved or denied or, if there are conflicting claims, which of the claims is approved or denied or if all are denied; the grounds for the tentative decision; the steps which the claimant must take to finalize the tentative decision if it is for approval; and a statement that a tentative decision denying a claim will become final unless the denied claimant files a written request with the Clerk of the Board of Trustees no later than 15 days after the date of mailing of the notice of tentative decision, requesting adjudication of the tentative decision of denial by the Board of Trustees as set forth in III, below.

**4. Finalization of Tentative Decision Without Hearing Before the Board of Trustees**

**(a) Time of Finalization When No Request for Hearing by the Board of Trustees is Filed.**

- (i) The tentative decision of the District Manager shall become final within 10 days after the mailing of the notice of the tentative decision if the tentative decision of the District Manager is for approval of a single claim.
- (ii) If the tentative decision of the District Manager is for denial of a single claim or denial of one or more of consolidated claims even if one of the consolidated claims is approved, then the tentative decision shall become final within 10 days of the mailing of the notice of the tentative decision only if the denied claimant(s) does not file a request for hearing before the Board of Trustees within the time period set forth in II(B)(3)(b), above.

**(b) Implementation of Final Decision.**

- (i) When tentative decision for approval of a claim has become final, or when the claim has been approved following adjudication by the Board of Trustees as provided in III, below, the District Manager shall take all steps which are deemed necessary in the discretion of District Manager to implement the decision including, but not limited to: preparation and submission of documents of title for reissuance or confirmation by the Board of Trustees, recordation of such documents and any recovered deeds or certificates of ownership in the District's records and, to the extent permitted by law, recordation of original or reissued deeds in the official records of the Napa County Recorder.
- (ii) When a tentative decision for denial of claim has become final, either by failure of the claimant to timely request adjudication by the Board of Trustees or by the tentative decision being upheld by the Board of Trustees following adjudication as provided in III, the District Manager shall prepare a recommendation to the Board of Trustees requesting that the District file a petition for judicial abandonment of the vacant burial plot under Health and Safety Code section 9069.

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**III. ADJUDICATION BY THE BOARD OF TRUSTEES OF VACANT BURIAL PLOT CLAIMS TENTATIVELY DENIED BY THE DISTRICT MANAGER****A. Time and Notice of Adjudication Hearing.**

When a claimant has filed a request for adjudication of a tentatively denied claim within the time period set forth in II(B)(3)(b), the Clerk of the Board of Trustees shall set a public hearing for the adjudication of the claim by the Board of Trustees and notify the requesting claimant, all other claimants if the claim involves a consolidated claim, the District Manager, and the District Legal Counsel of the date, time and location of the hearing. The adjudication hearing shall be set at a regular or special meeting of the Board of Trustees to be held no later than 90 days following receipt by the Clerk of the request for the hearing.

**B. Preparation of the Record.**

Upon receipt of notice of the adjudication hearing, the District Manager shall prepare the record of the tentative decision, including the decision, the claim(s), all supporting documentation filed with the District Manager by the claimant(s), and all other documentation, whether from District records or other sources, which were relied upon by the District Manager when rendering the tentative decision. The District Manager shall file a copy of this record with the Clerk of the Board of Trustees who shall prepare copies for the members of the Board of Trustees and the District Legal Counsel. The record on file with the Clerk of the Board of Trustees shall be a public record open to inspection by any person during reasonably business hours.

**C. Conduct of the Adjudication Hearing.**

On the date and time set for the adjudication hearing, the Board of Trustees shall conduct the hearing as follows:

1. The Chair of the Board of Trustees shall identify the matter and declare the public hearing open.
2. The Clerk of the Board of Trustees shall submit the record prepared under III (B) and the Chair shall admit the filed record as part of the record of the adjudication hearing.

3. All persons presenting evidence to the Board of Trustees shall be sworn by the Clerk of the Board of Trustees.
4. The order of testimony shall be as follows. All submitted documents evidence shall be clearly marked by the Clerk of the Board of Trustees, and copies shall be provided at the time of submission for each member of the Board of Trustees, the other parties to the hearing, District Legal Counsel, and one copy for public inspection:
  - (i) The District Manager shall present the tentative decision to the Board of Trustees, describing the procedural background and the basis for the tentative decision.
  - (ii) Each claimant who requested the hearing shall submit evidence and argument as to why the tentative decision should be overturned. The evidence may include the testimony of the claimant and witnesses called by the claimant, as well as documentary evidence supplemental to the filed record. The District Manager and the District Legal Counsel shall have the opportunity to cross-examine the claimant and witnesses called by the claimant and to examine and object to admission of any new documentary evidence offered by the claimant. The members of the Board of Trustees shall have the opportunity to ask questions of the claimant and the claimant's witnesses.
  - (iii) If tentative decision related to consolidated conflicting claims, then any claimant who had not requested the hearing, including a claimant whose claim had been approved by the District Manager, shall have an opportunity to present testimony and documentation to rebut the evidence presented by the claimant(s) in (ii), above. The evidence presented by such a claimant shall be submit to cross-examination by the claimant (s) who had requested the hearing, by the District Manager, by District Legal Counsel, and by the members of the Board of Trustees, in that order.
  - (iv) The District Manager shall have the opportunity to provide testimony and documentation to rebut any evidence or documentation submitted by any claimant(s) or the witnesses of the claimant(s).
  - (v) The claimant(s) requesting the hearing shall have the opportunity to provide testimony and documentation to rebut any new evidence or

documentation submitted in rebuttal by the District Manager or other claimants.

5. The Chair shall rule on admission of all evidence, including documentary evidence. The rules of evidence applicable in a court of law shall not apply, but evidence shall be admissible only if it is relevant to the adjudication of the claim and of a type commonly relied upon by reasonable and prudent persons in the conduct of serious affairs. The Chair may refuse to admit any evidence which is cumulative, repetitious, immaterial, derogatory or abusive. When ruling on evidence to which an objection has been filed by any of the parties entitled to cross-examine the witnesses, the Chair may rule at the time of the objection or may receive the evidence subject to later ruling prior to the close of the evidentiary portion of the adjudication hearing.
6. If, during the presentation of evidence by the parties the Chair determines that additional documentary evidence is reasonably available to the District Manager or the claimant(s) who requested the hearing and that the evidence is materially relevant to adjudication of the claims, the Chair may suspend the proceedings and continue the adjudication hearing to a date acceptable to the Board of Trustees to allow for such evidence to be obtained and presented to the Board of Trustees when the adjudication hearing recommences.
7. Following the conclusion of the presentation of evidence, closing arguments shall be heard, in the following order. Nothing stated during argument shall be deemed to evidence even if the person arguing has been sworn and previously testified:
  - (i) District Manager
  - (ii) Claimant(s) who requested the hearing.
  - (iii) Claimant(s) who did not request the hearing.
  - (iv) Rebuttal argument by District Manager.
  - (v) Rebuttal arguments by claimant(s) who requested the hearing.
8. The Chair shall close the public hearing portion of the adjudication hearing and the Board of Trustees shall deliberate. The Board may consult with

District Legal Counsel during the deliberations. The deliberations shall be held in open session.

9. The claimant(s) who requested the adjudication hearing shall have the burden of proving by a preponderance of the evidence that claim should have been granted, conflicting claims (if any) denied, and that the tentative decision of the District Manager for denial of the claim overturned.

**C. Decision of the Board of Trustees.**

1. Upon close of deliberations by the Board of Trustees, the Board shall vote whether to uphold, deny, or modify the tentative decision of the District Manager. The Board of Trustees may, in its sole discretion, direct its Legal Counsel to prepare written findings, in which case the motion of the Board following deliberations shall be a motion of intent to adopt its decision, direction for the preparation of the findings, and the setting of a date for the return of the proposed findings to the Board of Trustees. Upon return of the proposed findings, the Board of Trustees may modify the proposed findings and shall then vote on its final decision.
2. In making its decision, the Board of Trustees shall indicate whether the claim(s) are granted or denied. Where consolidated claims are involved, the Board of Trustees may approve or deny all or some of the claims, whether or not the claimants had requested the hearing. If all claims are denied in relation to a specific burial plot, the rebuttable presumption that the burial plot has a present owner shall no longer apply.
3. The decision of the Board of Trustees shall require an affirmative vote of the majority vote of the members present. In the event of a tie vote, the claim of the claimant(s) requesting the hearing shall be deemed denied.
4. The decision of the Board of Trustees shall be entered into the minutes of the Board of Trustees by the Clerk of the Board.
5. The Clerk of the Board of Trustees shall mail written notice of the decision to the District Manager, to the claimant(s) who requested the adjudication hearing and, if consolidated conflicting claims were involved, to all of the conflicting claimants. Notwithstanding the sending of this notice, the date of the decision shall be the date of the vote on the decision.
6. All exhibits submitted during the adjudication hearing, whether or not admitted into the record, shall be retained by the Clerk of the Board of

Trustees in the event the matter is litigated by the claimants until expiration of the applicable statute of limitations, at which time they shall be returned to the submitting party. Unclaimed exhibits shall be given by the Clerk of the Board of Trustees to the District Manager to become a part of the District records generally, if not reclaimed by the submitting party within 10 days after the expiration of the applicable statute of limitations.

## **APPENDIX “C”**

### **STATUTES APPLICABLE TO THE DISTRICT**

The following list identifies statutes of the State of California with particular application to administration of public cemetery Districts such as the District. This is not intended to be a complete list of all possible federal or state laws or local regulations which might apply to the District. The District Manager shall endeavor to maintain the full text of the most current version of these statutes in the Manual for the assistance of the Board, the Committee and members of the public or to indicate where the most current versions may be viewed on the internet.

Civil Code section 3247 (payment bonds for construction projects)  
Government Code section 53090 et seq. (local zoning and building ordinance compliance)  
Government Code section 53232 et seq. (expense reimbursement, ethics training)  
Government Code section 54201 et seq. (local agency purchasing policies)  
Government Code section 54220 et seq. (disposal of surplus property)  
Government Code section 54950 et seq. (The Ralph M. Brown Act)  
Government Code section 60200 et seq. (destruction of records)  
Government Code section 66018 (adoption of fees)  
Government Code section 65400 et seq. (compliance with local general plans)  
Government Code section 81000 et seq. (The Political Reform Act of 1974)  
Health & Safety Code section 7000 et seq. (burial definitions)  
Health & Safety Code section 8100-8120 (general provisions for cemeteries)  
Health and Safety Code section 9000 et seq. (The Public Cemetery District Law)  
Labor Code section 1720 et seq. (prevailing wage laws for public projects)  
Public Contract Code section 22050 (emergency contracting)  
Public Resources Code section 21000 et seq. (The California Environmental Quality Act)