

ORDINANCE NO. 86

AN ORDINANCE OF THE INLAND EMPIRE UTILITIES AGENCY*, SAN BERNARDINO COUNTY, CALIFORNIA, ESTABLISHING AUTHORITY FOR ADMINISTRATION OF THE AGENCY'S RISK MANAGEMENT PROGRAM

BE IT ORDAINED by the Board of Directors of the Inland Empire Utilities Agency* ("Agency") as follows:

Section 1. Risk Management Program Amendment. The Agency's Risk Management Program is hereby amended.

Section 2. Risk Management Program Administration. The Agency's Risk Management Program shall be administered by the Safety & Risk Section, or as designated by the Chief Executive Officer/General Manager. The Manager of Safety & Risk Management, or other designated staff, shall serve as the Agency's Risk Manager.

Section 3. Risk Management Objectives. The Agency's policy, with respect to management of risks and loss, shall have as its objectives, to the extent physically and financially practicable:

- A. The establishment and maintenance of a suitable work environment in which Agency personnel, and the public, can enjoy safety and security in the course of their daily pursuits.
- B. The security and preservation of Agency assets and service capabilities from loss, destruction or theft.
- C. To protect the Agency against the financial consequences of accidental losses, which are catastrophic in nature, through a program of prevention, avoidance, insurance and/or funded reserves.
- D. To minimize the long term cost, to the Agency, of all activities resulting from accidental losses, through a program of prevention, avoidance, insurance and/or funded reserves.
- E. To mitigate the Agency's risk of loss in all third party transactions, either through insurance requirements, with the Agency named as an insured, faithful performance bonds, hold harmless clauses, and/or appropriate contractual provisions.

Section 4. Risk Management Program Functions. The purpose of the Risk Management Program is to provide protection for the Agency's assets, employees and the general public by:

- A. Identifying risk exposure areas.
- B. Addressing identified risk exposure areas using methods of risk avoidance, reduction or prevention.
- C. Recommending the best technique, or combination of risk techniques, to address risk exposure that cannot be avoided or reduced, such as, but not limited to, risk retention, self-insurance, funded reserves, decision to non-insure, use of insurance on risks too great to be assumed by the Agency, the use of pooled protection or transfer of exposure to a third party.
- D. Administration of the Agency's Workers' Compensation and Safety programs.
- E. Prudent and cost-effective management of claims filed against the Agency.

Section 5. Authority of the Risk Manager. The Risk Manager may, with the concurrence of the Chief Executive Officer/General Manager, or the Chief Financial Officer:

- A. Conduct audits, inspections or reviews of any Division, Department or operation of the Agency, and recommend such corrections, modifications or changes that might be required to minimize or reduce risk to Agency assets, employees or the general public.
- B. Allow, deny, compromise or settle any tort liability claim or action that is filed against or on behalf the Agency, its officers or employees, provided that:
 - 1. The amount to be paid pursuant to such allowance, compromise or settlement does not exceed \$25,000; provided further, that the allowance, compromise or settlement has the concurrence of the Agency's Legal Counsel or other Legal Counsel retained by the Agency, its officers or employees. If the amount to be paid exceeds the \$25,000 allowance, compromise or settlement must be approved by the Agency's Board of Directors.
 - 2. The claim, or action, is not subject to the terms of an insurance policy wherein the insurer is granted the authority to allow, deny, compromise or settle claims or actions within the scope of such insurance policy.
- C. Allow, deny, compromise or settle any Workers' Compensation claim, or case, that is filed against or on behalf of the Agency provided:

1. The claim or action is for benefits, as defined under the Workers' Compensation Laws of the State of California.
 2. The claim or action is not subject to the terms of an insurance policy wherein the insurer is granted the authority to allow, deny, compromise or settle claims or actions within the scope of such insurance policy.
 3. That such compromise or settlement is approved by the Workers' Compensation Appeals Board (WCAB).
 4. Except as hereinafter provided, and to enable the Agency to settle claims within those time frames and regulations established by the State's Workers' Compensation program, the amount to be paid pursuant to such compromise or settlement does not exceed \$25,000, or with the concurrence of the Chief Executive Officer/General Manager, or Chief Financial Officer, does not exceed \$50,000; provided further, that if the matter is in litigation, the compromise or settlement is with the concurrence of the legal counsel retained to represent the Agency. If the amount to be paid exceeds \$50,000, the compromise or settlement must be approved by the Agency's Board of Directors, unless the amount of compromise or settlement is to meet State-mandated payments or benefits under the Workers' Compensation Laws of the State of California, such as Workers' Compensation Appeals Board approved lump-sum payments for permanent disability, life pension, burial expense and/or death benefits, or unless the Workers' Compensation Appeals Board enters an award or other judgment or order.
- D. May approve invoices, statements, or court orders, in all claims or actions that are allowed, compromised or settled, and in accordance with the terms of such allowance, compromise or settlement, cause the necessary warrant to be issued, by the Agency's Fiscal Management Department, in an amount for which such tort liability or Workers' Compensation claim or action has been allowed, compromised or settled pursuant to this Ordinance.
- E. Require levels of insurance in contracts, agreements, bid documents and requests for proposals, within the guidelines provided in this Ordinance, necessary to protect the Agency, its employees and the general public.
- F. Provide specialized services to Agency Departments including, but not limited to, risk analysis, loss prevention programs, claims administration,

insurance procurement, and training, as well as contract, lease agreement, bid document and request for proposal reviews, etc.

- G. Shut down any Agency operation or facility, which represents an existing or imminent hazard to Agency employees or to the general public.

Section 6. Filing of Claims with the Risk Manager. All tort liability claims required to be presented to the Agency, under the provisions of Government Code Section 900 et seq., shall be filed with the Risk Manager. For purposes of Government Code Section 915 only, the Risk Manager is designated as a Deputy Secretary of the Board of Directors. Any such claims received for filing by the Clerk of the Board shall be transmitted forthwith to the Risk Manager

Section 7. Serving the Agency with a Summons. The Manager of Safety and Risk, the Human Resources/Support Services and the Board Secretary are the only Agency employees who should accept service of summons, complaints, and claims served on and naming the Agency, the Board of Directors, or any Agency Department. The first contact should be the Board Secretary, second, the Manager of Safety & Risk, third, the Manager of Human Resources.

If the server wishes to leave the Summons at the Agency, the server may leave it with the receptionist, who must be at least eighteen years of age, and must advise the server know that this is not an "official" serving of the papers and that the server must mail the papers to the Board Secretary via the U.S. Postal Service, and the official serving date would be 10 DAYS FROM THE POSTMARK DATE. No other Agency employees should accept service of any summons, complaint, or claim where the party named is the Agency, the Board of Directors, or any Agency Department.

Section 8. Minimum Levels of Insurance the Risk Manager May Accept. Except as identified elsewhere in this Section, the following minimum levels of insurance, or self-insurance retentions, are required to be included in all contracts, agreements, purchase orders for services or leases the Agency enters into with third parties. Unless specifically authorized by the Board of Directors, or the Chief Executive Officer/General Manager, levels of insurance or self-insurance retentions, at the time of award, shall not be less than as set forth in this section. In the event of an emergency, where the safety and/or welfare of Agency employees, or the public, are compromised, the Risk Manager may accept proximate levels of insurance or self-insurance retentions, notwithstanding the requirements of this section.

Type of Contract

***Types of Insurance:** (If required)

Combined single limits for bodily injury and/or property damage per occurrence with an aggregate total of either twice the occurrence limit, or separately to the project or contract.

All

Workers' Compensation and Employers Liability Insurance as prescribed by the California Labor Code.

Professional Services

\$100,000 General Liability
\$300,000 Automobile Liability
\$100,000 Professional Liability
\$1,000,000 Employer Liability

Service/Maintenance

\$100,000 General Liability
\$100,000 Automobile Liability
\$1,000,000 Employer Liability

Type of Contract

***Types of Insurance:** (If required)

Construction on Agency

\$300,000 General Liability

Property

\$300,000 Automobile Liability
\$1,000,000 Employer Liability
Builders Risk (Fire "All Risk") equal to 100% of completed value of the contract.

**Construction in the Public
Right-of-Way**

\$3,000,000 General Liability
\$300,000 Automobile Liability
\$1,000,000 Employer Liability
Builders Risk (Fire, "All Risk") equal to 100% of completed value of the contract.

**Leases of Agency Property
for Agricultural Purposes**

\$300,000 General Liability
Fire ("All Risk") to cover replacement of the buildings/facilities.

**Leases of Agency Property
for Non-Agricultural Purposes**

\$1,000,000 General Liability
Fire ("All Risk") to cover replacement of the buildings/facilities.

(* The designated insurance limits represent the minimum coverage for limited risk liability. These limits shall be adjusted upward, as necessary, based on an assessment of increased risk/liability to the Agency.)

The Risk Manager is authorized to require higher or lower limits of insurance or self-insurance retention, if it is found to be in the best interest of the Agency. Findings for higher or lower limits of insurance or self-insurance retention shall be based on, but not limited to, a review of the following issues: 1) prior dealings with the party; 2) prior losses incurred by the Agency or the party under similar situations; 3) the nature of work to be undertaken; 4) total contract amount; 5) location of the work to be performed; and, 6) other contractors/service providers having an interest in the work to be performed, and/or the availability of insurance.

With the exception of Workers' Compensation insurance and Professional Liability, and where insurance requirements are \$300,000 or more, all insurance required by this section shall name the Agency as an additional insured by endorsement to the current policy. Where the insurance requirements are less than \$300,000, the Risk Manager may accept Certificates of Insurance as proof of insurance; otherwise, proof of insurance must be by certificates of insurance with endorsements to the current policies.

The Risk Manager is authorized to accept deductibles or self-insured retentions up to \$250,000 where insurance requirements are \$1,000,000 or less, and up to \$500,000, where insurance requirement are greater than \$1,000,000. Where deductibles, or self-insured retentions, are greater than authorized in this section, the contractor/individual shall reduce or eliminate the difference as it relates to the Agency; procure a bond guaranteeing payment of losses and related investigation, claims administration and defense expenses incurred by their having higher deductibles or self-insured retention, as allowed, pursuant to this section; or, obtain formal approval of higher deductible or self-insured retention from the Agency's Board of Directors.

Section 9. Hold Harmless (Indemnity) Requirements. All contracts, leases and agreements entered into by the Agency shall contain an indemnity clause that has been approved by the Agency's Legal Counsel, Risk Manager, and/or the Chief Executive Officer/General Manager.

Section 10. Risk Retention. When deemed in the best interests of the Agency, and fiscally sound to do so, by the Board of Directors, the Agency may self-insure some, or all, risks associated with an activity of the Agency, including contracts, agreements, purchase orders for services or leases the Agency has entered into with a third party.

Section 11. Departmental Cooperation. All Agency employees shall cooperate with the Risk Manager to protect the health, safety and life of Agency employees and the public, as well as to safeguard Agency assets and public/private property. In the spirit of cooperation, all emergencies and accidents shall be reported to the Risk Manager, within 24 hours of the occurrence, by the respective Department Managers.

Section 12. Investigations/Dealings with claimants. All investigations and dealings with claimants, or their representatives, shall be coordinated through the Risk Manager. Information contained in the Risk Manager's files shall be considered CONFIDENTIAL and shall not be made available for use by claimants, or their representatives, except as ordered by the courts, the Workers' Compensation Appeals Board or the Agency's Board of Directors.

Section 13. Development of Policies and Procedures. The Risk Manager is hereby authorized to develop policies and procedures necessary to administer this ordinance.

Section 14. Severability. Should any section, subsection, subdivision, sentence, clause or phrase of this ordinance be held to be unconstitutional or otherwise invalid, for any reason, such invalidity shall apply *only* to that portion of the ordinance and not affect the validity of the remaining text of the document thereof. The Inland Empire Utilities Agency Board of Directors hereby declares that they would have passed this ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases are declared unconstitutional or otherwise invalid.

Section 15. Repeal of Prior Ordinance. Ordinance No. 71 is hereby repealed in its entirety.

Section 15. Effective Date. This Ordinance shall become effective upon its passage.

ADOPTED this 21st day of July, 2010.



President of the Inland Empire
Utilities Agency and of the Board of
Directors thereof

ATTEST:



Secretary of the Inland Empire
Utilities Agency and of
the Board of Directors thereof

(SEAL)

*A Municipal Water District

STATE OF CALIFORNIA)
)SS
COUNTY OF)
SAN BERNARDINO)

I, Michael Camacho, Secretary of the Inland Empire Utilities Agency*,
DO HEREBY CERTIFY that the foregoing Ordinance being No. 86, was adopted at a
Regular Board Meeting on July 21, 2010, of said Agency by the following vote:

AYES: Anderson, Santiago, Camacho, Catlin
NOES: None
ABSTAIN: None
ABSENT: Koopman



Secretary

*A Municipal Water District