

BYLAWS
OF
LOS OLIVOS IRRIGATION WATER DELIVERY DISTRICT
NO. 1

Section 1 Organization

1.1 Name.

The name of the district is the LOS OLIVOS IRRIGATION WATER DELIVERY DISTRICT NO. 1.

1.2 Principal Office.

The board of trustees may designate a principal office of the district located within the County of Maricopa. The principal mailing address of the district is P.O. Box 34082, Phoenix, AZ 85067.

1.3 Fiscal Year.

The fiscal year of the district shall be the same as the fiscal year of the County Maricopa.

1.4 Purpose, Initial Business and Powers.

1.4.1 These bylaws are formed and adopted by the district to govern and facilitate its business as a provider of irrigation water to district lands pursuant to Arizona Revised Statutes § 48-3401, et. seq. (or the corresponding provisions of any future law).

1.4.2 The character of the business and affairs that this district intends to conduct in the State of Arizona is to construct, operate and maintain a water distribution system to carry and deliver water produced or acquired by the district to the lots of the members within the district, and purchase water as necessary to provide water, to the extent reasonably necessary for the conduct of the district's business and affairs, all for the sole and exclusive use and benefit of the lands within the district.

1.4.3 The district may also establish or determine the plans or specifications for ditches, pipe lines, conduits, valves, headgates and/or other facilities of the irrigation system necessary to ensure safe operation and appropriate levels of service to district customers.

1.4.4 The district may do and perform such acts as may be necessary or appropriate in carrying out the foregoing purposes of the district and, in connection therewith, exercise any of the powers granted by the laws of the State of Arizona consistent with the district's status under Arizona Revised Statutes § 48-3401, et. seq. (or the corresponding provisions of any future law).

1.4.5 The district may borrow money, incur indebtedness and issue warrants against the district treasurer for the payment of the compensation of employees, purchase of material or equipment, and payment of obligations of the district incurred in the contracts for water service or other district expense.

1.4.6 The delivery of water to landowners within the district shall be subject to the laws of the State of Arizona with respect thereto, these bylaws, such rules and regulations not inconsistent with the law as the board of trustees may adopt, and the provision of any contract made by the district.

Section 2 Board of Trustees

The management of the affairs of this district shall be vested in a board of trustees. This board shall consist of three trustees who are landowners within the district, and who shall serve without compensation. The board may employ personnel necessary to conduct the affairs of the district.

2.1 Qualification, Election and Terms.

2.1.1 The trustees appointed at the organization of the district, or elected thereafter, shall hold office for two years from January 1 following their appointment or election and until their successors are elected or appointed and qualified.

2.1.2 The office of a trustee who removes from the district or who ceases to possess the qualifications of a trustee shall become vacant, and the remaining members shall within thirty (30) days appoint a successor to fill the vacancy for the unexpired term, and issue a certificate of appointment.

2.2 Biennial Election of Trustees.

2.2.1 The regular election for trustees shall be held biennially on the third Wednesday in November next prior to the expiration of the regular term of the incumbent board. The election shall be held at a convenient place within the district, or in proximity thereto, to be determined by resolution of the board, after notice thereof posted in three conspicuous places within the district for ten (10) days next preceding the election.

2.2.2 Prior to the time for posting election notices, the board shall appoint one inspector, one judge and one clerk, who shall constitute a board of election. If the board of trustees fails to appoint the election board, or if the persons appointed, or any of them, do not attend at the opening of the polls on the morning of the election, the electors present at that hour may appoint members to fill the vacancies. The board of trustees shall prescribe the form of ballot, poll lists and tally lists, and shall furnish the necessary number thereof for the conduct of the election.

2.2.3 The polls shall be opened at nine o'clock in the morning and shall remain open until four o'clock in the afternoon. Members of the election board may administer oaths in connection with the election substantially as required by law for elections in similar districts.

2.2.4 Every owner of land within the district shall be qualified to vote at the election and shall be entitled to cast one vote for each one-fifth acre of land owned in the district.

2.2.5 The conduct of elections, the determination and certification of results and other details not specifically provided for in this section shall be substantially in accordance with the procedure prescribed in Arizona Revised Statutes §§ 48-2386 through 48-2389. The expense of the election shall be a district charge.

2.2.6 If for any reason an election is not held on the day appointed therefor, or any trustee fails to be elected, the board of supervisors upon petition of the owners of the majority of the acreage in the district, shall appoint a trustee or trustees to fill the vacancy or vacancies. Until the appointment is made, the former trustee or trustees shall continue to hold the offices or offices.

2.3 Meetings.

Meetings of the board may be called by the chairman or a majority of the members of the board. Subject to the posting requirement of the State open meetings law and unless otherwise specified in the notice thereof, any and all business may be transacted at a meeting.

2.3.1 Open meetings. All official meetings at which any legal action is taken by the board shall be a public meeting and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. Legal action means a collective decision, commitment or promise made by a majority of the members of the board of trustees.

2.3.2 Notice of Meetings. The board of trustees shall give public notice of all regular meetings by posting on the district's website and within the boundaries of the district a notice stating the date, time, and place of the meeting and an agenda of the matters to be considered by the board.

2.3.3 Executive Sessions. An executive session of the board of trustees may be held upon a public majority vote of the members constituting a quorum for the purpose of:

2.3.3.1 Discussing or considering the employment, assignment, appointment, promotion, demotion, dismissal, salary, disciplining or resignation of a member of the board, officer, or any employee of the district, except that, with the exception of salary discussions, the member, officer, or employee may demand that such discussion or consideration occur at a public meeting.

2.3.3.2 Discussion or consideration of records exempt by law from public inspection.

2.3.3.3 Discussion or consultation for legal advice with the attorney or attorneys of the district.

2.3.3.4 For such other purposes as are authorized by Arizona Revised Statutes § 38-431.03 or any successor provision in the Arizona Revised Statutes.

No executive session may be held for the purpose of taking any legal action involving a final vote or decision.

Minutes of executive sessions shall be kept confidential except from members of the board of trustees.

If an executive session is to be held, any notice of that meeting shall be given to the members of the board and to the public stating the specific provision of law authorizing such a session and a general description of the matters to be considered.

2.3.4 Special Meetings. Meetings other than regularly scheduled meetings, previously posted, shall not be held without at least twenty-four (24) hours notice to the members of the

governing body and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances.

2.3.5 Place of Meeting. The trustees shall hold their meetings at such location within the State of Arizona as the board of trustees from time to time may determine. The place of each meeting shall be specified in the public notice posted on the district website and within the district boundaries in accordance with subsection 2.3.2 of these bylaws.

2.4 Quorum.

Two members of the board shall constitute a quorum for the transaction of business. The act of the majority of the trustees present at a meeting at which a quorum is present shall be the act of the board of trustees.

2.5 Chairman.

At all meetings of the board of trustees, the chairman, or in the chairman's absence, the secretary, shall preside.

2.6 Compensation.

The trustees of the district and all members of the committees shall serve without salary. However, they shall be reimbursed the necessary expenses incurred in the execution of their duties.

Section 3. Officers

3.1 Executives.

The officers of the district shall be a chairman, a secretary, and a clerk.

3.2 Tenure of Office.

The chairman, secretary, and clerk shall be elected by the board for a term of two years and shall be subject to removal at any time, with or without cause, by an affirmative vote of a majority of the board.

3.3 Chairman.

The chairman shall be the executive officer of the district and shall preside at all meetings of the trustees. The chairman may, from time to time, call special meetings of the board of trustees whenever he/she shall deem it proper to do so and shall do so when a majority of the board of trustees requests the chairman, in writing, to do so. The chairman may sign and execute all authorized contracts, other instruments or obligations in the name of the district. Subject to the board of trustees, the chairman shall have general charge of the business and affairs of the district. The chairman shall do and perform such other duties and have such other powers as from time to time may be assigned to him/her by the board of trustees. In the event of the chairman's absence or inability to act, the secretary shall have all of the powers of the chairman.

3.4 Secretary.

The secretary shall keep the minutes of all proceedings of the board which shall, when approved by the board, be signed by at least two (2) members of the board. Such person shall attend to the giving and serving of all notices for the district when directed by the chairman. Such person may sign with the chairman, in the name of the district, all contracts authorized by the board. Such person shall have charge of all such books and records as the board may direct. Such person shall, in general, perform all the duties incident to the office of the secretary, subject to the control of the board. If the secretary is absent from any board meeting, any member present may be appointed to act in his/her stead. The board may delegate any or all duties of the secretary described herein to an administrator or such other person as a majority of the board may designate.

3.5 Treasurer.

The treasurer of the county in which the district is located shall be treasurer ex officio of the district. The treasurer shall keep all monies of the district in a separate fund, or upon the direction of the board of trustees, in more than one separate fund, and shall pay from such fund or funds only on warrants drawn on the fund or funds and signed by at least two board members. All district monies shall within two weeks after receipt thereof by the board be deposited with the treasurer by the secretary of the district.

Section 4 Conflict of Interest.

4.1 Any trustee, officer, or employee of the district who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to the district shall make known that interest in the official records of the district and shall refrain from voting upon or otherwise participating in any manner as a trustee, officer or employee in such contract, sale or purchase.

4.2 Any trustee, officer or employee who has, or whose relative has, a substantial interest in any decision of the district shall make known such interest in the official records of the district and shall refrain from participating in any manner as a trustee, officer, or employee in such decision.

4.3 Notwithstanding the provisions of 4.1 and 4.2 of this section, no trustee, officer, or employee of the district shall supply to the district any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that the district may purchase through its board of trustees, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the board of trustees if the policy for such purchases is approved annually.

4.4 For purposes of this section, the term “substantial interest” shall be defined as set forth in Arizona Revised Statutes § 38-502 or any successor provision of the Arizona Revised Statutes.

Section 5 Indemnification

5.1 Authority to Indemnify.

Except as provided in 5.3 and 5.7, a district may indemnify an individual made a party to a proceeding because the individual is or was a trustee against the liability incurred in the proceeding if all of the following conditions exist:

5.1.1 The individual’s conduct was in good faith.

5.1.2 The individual reasonably believed:

- (a) In the case of conduct in an official capacity with the district, that the conduct was in its best interest.
- (b) In all other cases, that the conduct was at least not opposed to its best interest.

5.1.3 In the case of any criminal proceedings, the individual had no reasonable cause to believe the conduct was unlawful.

5.2 The termination of a proceeding by judgment, order, settlement or conviction or on a plea of no contest or its equivalent, is not of itself determinative that the trustee did not meet the standard of conduct described in 5.1.

5.3 A district may not indemnify a trustee under this section either:

5.3.1 In connection with a proceeding by or in the right of the district in which the trustee was adjudged liable to the district.

5.3.2 In connection with any other proceeding charging improper personal benefit to the trustee, whether or not involving action in the trustee's official capacity, in which the trustee was adjudged liable on the basis that personal benefit was improperly received by the trustee.

5.4 Indemnification permitted under this section in connection with a proceeding by or in the right of the district is limited to reasonable expenses incurred in connection with the proceeding.

5.5 Mandatory Indemnification.

A district shall indemnify a trustee who was the prevailing party, on the merits or otherwise, in the defense of any proceeding to which the trustee was a party because the trustee is or was a trustee of the district against reasonable expenses incurred by the trustee in connection with the proceeding.

5.6 Advance for Expenses.

A district may pay for or reimburse the reasonable expenses incurred by a trustee who is a party to a proceeding in advance of final disposition of the proceeding if all of the following conditions exist:

5.6.1 The trustee furnishes the district with a written affirmation of the trustee's good faith belief that the trustee has met the standard of conduct described in 5.1.

5.6.2 The trustee furnishes the district with a written undertaking, executed personally or on the trustee's behalf, to repay the advance if it is ultimately determined that the trustee did not meet the standard of conduct.

5.6.3 A determination is made that the facts then known to those making the determination would not preclude indemnification under this section.

5.6.4 The undertaking required by 5.6.2 is an unlimited general obligation of the trustee but need not be secured and may be accepted without reference to financial ability to make repayment.

5.6.5 Determinations and authorizations of payments under 5.6 shall be made in the manner specified in 5.8.

5.7 Court Ordered Indemnification.

A trustee of the district who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court after giving any notice the court considers necessary may order indemnification if it determines either:

5.7.1 The trustee is entitled to mandatory indemnification under 5.5, in which case the court shall also order the district to pay the trustee's reasonable expenses incurred to obtain court ordered indemnification.

5.7.2 The trustee is fairly and reasonably entitled to indemnification in view of all other relevant circumstances, whether or not the trustee met the standard of conduct set forth in 5.1 or was adjudged liable as described in 5.3, but if the trustee was adjudged liable under 5.3, indemnification is limited to reasonable expenses incurred.

5.8 Determination and Authorization of Indemnification.

5.8.1 A district may not indemnify a trustee under 5.1 unless authorized in the specific case after a determination has been made that indemnification of the trustee is permissible in the circumstances because the trustee has met the standard of conduct set forth in 5.1.

5.8.2 The determination shall be made either:

5.8.2.1 By the board of trustees by a majority vote of the trustees not at the time parties to the proceeding.

5.8.2.2 By special legal counsel:

- (a) Selected by majority vote of the disinterested trustees.
- (b) If there are no disinterested trustees, selected by majority vote of the board.

5.8.3 Special legal counsel has no liability whatsoever for a determination made pursuant to this section. In voting pursuant to 5.8.2, trustees shall discharge their duty in accordance with Arizona Revised Statutes § 10-830.

5.8.4 Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under 5.8.2.2 to select counsel.

5.9 Insurance.

The district shall have power to purchase and maintain insurance on behalf of any person who is or was trustee, officer or employee of the district against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the district would have the power to indemnify him or her against such liability under Section 5 of these bylaws.

Section 6 Amendment and Repeal.

These bylaws, except as otherwise provided herein, may be amended or repealed, or new bylaws may be adopted by the board of trustees in such instance as the board may determine to be advisable. Unless properly waived, notice of any meeting at which any action concerning the bylaws is proposed shall be mailed to all trustees at least ten (10) days prior to such meeting. Such notice shall state in general terms the nature of any proposed action concerning the bylaws. All preexisting district bylaws, and all resolutions or parts thereof that are inconsistent with these bylaws, are hereby repealed and superseded by these bylaws.

Section 7 Taxation, Assessment and Water Service Charges

The necessary funds for the district's annual expenses may be provided by taxes levied against district lands, user fees, or any combination thereof, which taxes and user fees shall be established by the board and collected in accordance with Arizona Revised Statutes §§ 48-3471 through -3477.

7.1 District Taxes

District taxes shall be assessed, levied, and collected in the same manner as Maricopa County taxes. District taxes shall raise the amount of money sufficient to defray capital expenses of the district, including the district's expenses to maintain, repair, and/or construct district works, reasonable overhead and office expenses, and any assessments or charges to irrigation projects. The board shall annually estimate the amount of money necessary to meet the forgoing expenses, taking into account any deficit or surplus from the preceding year or years, and certify such estimate to the board of supervisors of Maricopa County. If, in any year, the board does not certify an estimate of the district's annual expenses to the board of supervisors of Maricopa County, the district tax levy shall be for the amount of the most-recent estimate certified by the board.

7.2 Annual User Fees

The board may establish annual user fees for water service from time to time. Annual user fees established by the board shall be fixed at a per-acre rate and shall be based on the estimated annual expense to be incurred by the district to deliver irrigation water to lots within the district.

7.3 Advance Payment of Taxes and Service Charges

No lot shall be entitled to water service until all applicable district taxes and user fees have been paid. User fees must be paid annually in full.

Section 8 Water Deliveries

8.1 Water shall be delivered to lots within the district in accordance with the irrigation schedule prescribed by the Salt River Project. The annual water delivery schedule shall be posted on the district website.

8.2 No water shall be delivered to any lands for which district taxes are delinquent, or for which applicable user fees have not been paid.

8.3 Members of the district shall be responsible for maintaining on their respective lots, adequate berms or other conditions sufficient to prevent the waste of water. No water shall be delivered to any lands the conditions of which are insufficient to prevent the waste of water.

8.4 The district may terminate water service to any member of the district who, in any manner, unreasonably interferes with, obstructs, or renders unsafe the operations of the district performed by its trustees, employees, agents, or contractors. Except in the case of an emergency, prior to terminating water service to a member under this subsection 8.4, the district shall notify the member in writing of the unreasonable interference, obstruction, or unsafe condition and grant the member 30 days to remedy such condition.

8.5 The district does not warrant the quality of water delivered to district lands and is under no obligation to construct or furnish facilities to maintain or improve the quality of water.

These bylaws are adopted as of the ____ day of _____, 2020.

By _____

Its _____

ATTEST:

By _____

Its _____