



● **Board of Directors**  
***Legal and Claims Committee***

11/14/2023 Board Meeting

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**7-11**

**Subject**

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Approve amendments to the Metropolitan Water District Administrative Code to conform to current law, practices, and regulations; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

**Executive Summary**

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The proposed amendments to the Administrative Code will update the Code so that the Code conforms to current law, practices, and regulations.

**Details**

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This letter proposes amendments to Metropolitan's Administrative Code to conform the Code to current law, practices, and regulations. The proposed amendments are set forth in **Attachment 1**, with overstrikes reflecting deletions and underlining reflecting additions. **Attachment 2** sets forth the sections as they will appear in the Administrative Code if the changes are approved.

The Administrative Code is proposed to be amended as follows:

1. Amend Administrative Code sections 2108, 2121(b) and 2142 to delete the "mailing" of the Board meeting minutes, consent calendar and monthly staff reports to the Board, and replace it with "providing" because the current practice is to provide these documents in electronic form.
2. Amend Administrative Code section 2501 to delete the dissolved Agricultural and Industry Relations Special Committee and section 2502 to delete the dissolved Integrated Resources Plan Special Committee.
3. Amend Administrative Code sections 4304(b) and 4305(a) and (b) to delete obsolete references to the dissolved Finance and Insurance Committee and the Audit and Ethics Committee, as applicable, and replace them with the Finance, Audit, Insurance, and Real Property Committee.
4. Repeal Administrative Code section 4520, adopted on December 8, 2020, which allowed Member Agencies to defer payment obligations to Metropolitan during COVID-19. By its own terms, this section expired January 1, 2022.
5. Amend Administrative Code sections 6201, 6203, 6226, 6231, and 6246 as follows, regarding benefits paid to temporary employees, leave accrual and usage, and annual leave to conform to current law and practice:
  - a. Section 6201(b) is amended to clarify that leave benefits for temporary employees apply to unrepresented temporary employees, both full-time and part-time.
  - b. Section 6203 is amended to clarify that leave accrual and usage for employees rehired within twelve (12) months have their prior service hours and unpaid leave balances reinstated.
  - c. Section 6226 is amended to conform the annual leave hours accumulated to current practice, as follows:

- i. Section 6226(a) is amended to clarify the maximum number of allowable annual leave hours for unrepresented employees is 560.51 hours.
    - ii. Section 6226(c) is amended to add May 15 to November 15 as one of two annual leave paydown dates each year for employees with more than 400 hours of leave credit.
    - iii. Section 6226(e) is amended to clarify that employees who are hired within twelve (12) months (or are reinstated from a non-cause involuntary separation) shall continue to earn vacation hours at the rate of their total cumulative service hours.
    - iv. Section 6226(g) is amended to clarify that employees shall be paid out their unused annual leave at time of separation based on the regular hourly base pay.
  - d. Section 6231(m)(3) is amended to add exempt time off, as recently negotiated with the bargaining units, to the leave ordering rule applicable when leave is taken for the birth or adoption of a child, to care for seriously ill family members, as specified, or for military family leave for eligible employees.
  - e. Section 6246(a) is amended to conform to past and present practice entitling all members of the military with one or more year(s) service with Metropolitan to leave with pay for a period not to exceed thirty (30) days per fiscal year.
- 6. Amend Administrative Code sections 6416 and 6436(b) to have the General Auditor make required annual and quarterly reports to the Finance, Audit, Insurance, and Real Property Committee and likewise, have the Ethics Officer report to the Ethics, Organization and Personnel Committee instead of these department heads reporting to the dissolved Audit and Ethics Committee.
  - 7. Amend Administrative Code section 6472 to delete an obsolete reference in the section title to the dissolved Audit and Ethics Committee and replace it with the Ethics, Organization and Personnel Committee.
  - 8. Amend Administrative Code sections 7405(a) and (b), 7411(b), and 7412(e) with respect to the Ethics Officer's investigative duties in order to delete obsolete references to the dissolved Audit and Ethics Committee and replace it with the Ethics, Organization and Personnel Committee.

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## Policy

Metropolitan Water District Administrative Code Section 2451(g): Duties and Functions [Legal and Claims Committee]

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

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## California Environmental Quality Act (CEQA)

### CEQA determination for Option #1:

The proposed action is not subject to CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed action is not subject to CEQA because it involves organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment (Section 15378(b)(5) of the State CEQA Guidelines).

### CEQA determination for Option #2:

None required

## Board Options

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### Option #1

Approve amendments to the Metropolitan Water District Administrative Code to conform to current law, practices, and regulations.

**Fiscal Impact:** None

**Business Analysis:** The Administrative Code will be amended to conform to current law, practices, and regulations.

### Option #2

Do not approve amendments to the Metropolitan Water District Administrative Code to conform to current law, practices, and regulations.


**Fiscal Impact:** None

**Business Analysis:** The Administrative Code will not be amended to conform to current law, practices, and regulations.

## Staff Recommendation

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### Option #1

  
\_\_\_\_\_  
Marcia L. Scully  
General Counsel

11/3/2023  
\_\_\_\_\_  
Date

**Attachment 1 – The Administrative Code of The Metropolitan Water District of Southern California excerpts (with changes marked)**

**Attachment 2 – The Administrative Code of The Metropolitan Water District of Southern California excerpts (clean copy)**

Ref# Ic12697911

**Division II****PROCEDURES PERTAINING TO BOARD, COMMITTEES  
AND DIRECTORS****Chapter 1****BOARD OF DIRECTORS****Article 1****MEETINGS****§ 2108. Minutes.**

Minutes of the Board meeting shall be prepared and ~~mailed~~provided to each director as soon as convenient after each meeting. Such minutes shall not include the text of ordinances and resolutions adopted, which shall be recorded in separate volumes by the Board Executive Secretary. Minutes of the Board and monthly reports filed therewith are to be sent to the city clerks and water departments of the member public agencies who have requests on file with the Board Executive Secretary for such material.

**Article 2****CONSENT CALENDAR****§ 2121. Consent Calendar.**

(a) Consent Calendar items shall be set forth in a separate section of the Board's agenda.

(b) Matters for the Consent Calendar shall be recommended by the Department Heads and shall be submitted to the Board Executive Secretary not less than seven working days prior to the meeting of the Board and, except as provided below, pertinent materials sufficient to enable a member to formulate an opinion on each Consent Calendar item shall be included with the agenda ~~mailed~~provided to directors. Such materials need not be included with the agenda as to matters which are to be considered in committee in closed session, but such materials shall be available at the meeting of the Board for distribution to directors who request them.

(c) Matters may not be placed on the Consent Calendar if a roll call vote is required; if a vote other than a simple majority is required; or if the amount involved is \$2,000,000 or more.

**Article 4****MISCELLANEOUS BOARD RULES****§ 2142. Monthly Staff Reports.**

The monthly departmental reports of the General Manager and General Counsel shall be ~~mailed~~provided in advance of the Board meeting to each director by the department organizing the report but they are not to be distributed at such meeting. These reports are to be orally summarized at the Board meeting mentioning only significant changes from previous reports.

## Chapter 5

### OTHER COMMITTEES: MISCELLANEOUS COMMITTEE MATTERS

#### Article 1

#### SPECIAL COMMITTEES

~~See-~~

~~2500.—General~~

~~2501.—Agriculture and Industry Relations Special Committee~~

~~2502.—Integrated Resources Plan Special Committee~~

#### § 2500. General.

Special committees may be created by the Board to undertake special assignments on behalf of the Board and shall report directly to the Board unless otherwise directed. A special committee shall continue in existence indefinitely. Unless otherwise specified, members of a special committee shall be appointed by the Chair of the Board and shall serve at the Chair's pleasure.

#### ~~§ 2501. Agriculture and Industry Relations Special Committee.~~

~~—(a) The Agriculture and Industry Relations Special Committee shall hold meetings as required to accomplish committee objectives.~~

~~—(b) Duties and Functions~~

~~The Agriculture and Industry Relations Special Committee shall work to:~~

- ~~(1) Expand Metropolitan's understanding of business and agriculture water issues;~~
- ~~(2) Identify opportunities for collaboration to advance the mutual interests of urban and agricultural water users; and~~
- ~~(3) Make recommendations to the Board on policies and programs that will strengthen relationships with agricultural and business communities and related customer groups.~~

#### ~~§ 2502. Integrated Resources Plan Special Committee.~~

~~(a) The Integrated Resources Plan Special Committee shall hold meetings as needed to accomplish the objectives of the committee.~~

~~(b) The Integrated Resources Plan Special Committee shall review, consider and make recommendations with regard to the Integrated Resources Planning Process, and options for updating the Integrated Resources Plan, including those recommended by the One Water (Conservation and Local Resources) Committee and the Water Planning and Stewardship Committee.~~

## Division IV

### WATER SERVICE POLICIES

#### Chapter 3

#### WATER TRANSACTIONS REVENUE

#### § 4304. Apportionment of Revenues and Setting of Water Rates.

(a) Not later than at its February meeting the General Manager shall present to the Finance, Audit, Insurance, and Real Property Committee of the Board:

(1) Determinations of the revenue requirements and cost of service analysis supporting the rates and charges required during the biennial period beginning the following July 1, as determined by the General Manager in accordance with current Board policies, and,

(2) Recommendations of rates including, but not limited to, the System Access Rate, Water Stewardship Rate, System Power Rate, Treatment Surcharge, and the Supply Rates for the various classes of water service to become effective each January 1 of the biennial period. These recommended rates shall be the General Manager's determination, made in accordance with current Board policies, of the rates necessary to produce substantially the revenues to be derived from water transactions, including, but not limited to, sales, exchanges, and wheeling, during the biennial period beginning the following July 1.

(b) Not later than at its February meeting, the General Manager shall also present to the Finance, Audit, Insurance, and Real Property Committee recommendations regarding the continuation of a water standby charge or the imposition of an availability of service charge (such as the readiness-to-serve charge and capacity charge), which shall be the General Manager's determination, made in accordance with current Board policies, of the charge necessary to produce substantially the revenues to be derived from fixed revenue sources, if any, exclusive of taxes, during the biennial period beginning the following July 1 which the Finance, ~~Audit, and~~ Insurance, and Real Property Committee has determined to be necessary.

#### **§ 4305. Setting of Charges to Raise Fixed Revenue.**

(a) Not later than at its regular May meeting each year, the Finance, ~~Audit, and~~ Insurance, and Real Property Committee shall make its final determination regarding the water standby charge or other fixed revenue charge, if any, for the fiscal year beginning the following July 1, and shall recommend such charge, if any, to the Board at its regular May meeting.

(b) Not later than at such May meeting, the Board shall consider and take action upon the recommendations, if any, of the Finance, ~~Audit, and~~ Insurance, and Real Property Committee regarding a fixed revenue source, exclusive of taxes, to become effective the following January 1 or for the fiscal year beginning the following July 1, as determined by the Board for each fixed revenue source.

### **Chapter 5**

#### **WATER SERVICE REGULATIONS – GENERAL**

Sec.

- 4500. Adoption of Regulations
- 4501. Obligation to Pay for Water Delivered
- 4502. Liability and Indemnification
- 4503. Suspension of Deliveries
- 4504. Rates of Flow
- 4505. Estimates of Water Requirements and Schedules of Deliveries
- 4506. Metering of Water
- 4507. Billing and Payment for Water Deliveries
- 4508. Additional Payment and Reporting in the Event of Delinquency in Payment for Water
- 4509. Water Restricted to Use Within the District
- 4510. Application of Regulations
- 4511. Notices
- 4512. Sales Subject to System and Water Availability

- 4513. Equal Opportunity Requirements
- [4514. Repealed]
- [4515. Repealed]
- [4516. Repealed]
- 4517. Cooperative Storage Program
- 4518. Emergency Storage Program
- 4519. Emergency Deliveries of Member Agency Water Supplies in Metropolitan's System
- [4520. Repealed] COVID-19 Member Agency Payment Deferment Program

**~~§ 4520~~ — ~~COVID-19 Member Agency Payment Deferment Program~~**

- ~~(a) The Treasurer of the District shall defer payment obligations of any amount due to Metropolitan on invoices subject to Section 4501 for water transactions occurring from January 1, 2021 to June 30, 2021, as approved by the General Manager pursuant to the criteria specified in this Section. Payment obligations and additional charges under Sections 4507 and 4508 shall apply to any payment obligation deferred pursuant to this Section.~~
- ~~(b) The General Manager shall approve an application for deferment of amounts due to Metropolitan by member agencies, in accordance with Subsection (c), so long as the member agency has met the following criteria:~~
  - ~~i. — The member agency has experienced an increased rate of delinquency in the payments from its customers to that agency, as a result of the COVID-19 pandemic;~~
  - ~~ii. — The member agency has suspended or deferred payment obligations of its customers to that agency, whether the obligations suspended or deferred consists of the total amount due or a partial amount due;~~
  - ~~iii. — The member agency does not have sufficient financial reserves that can be used to buffer the financial impacts of the increased delinquencies, suspension, or deferments in (i) and (ii);~~
  - ~~iv. — The member agency has not received sufficient federal or state financial assistance to absorb the financial impacts described in (i) and (ii); and~~
  - ~~v. — The member agency has submitted a letter to the General Manager certifying it meets the criteria in (i) through (iv) and permitting Metropolitan to audit the submission.~~
- ~~(c) The following terms shall apply to amounts deferred pursuant to an application approved by the General Manager under this Section:~~
  - ~~i. — The Treasurer of the District shall defer a percentage of the member agency's payment obligation equal to the member agency's delinquency rate for up to six Metropolitan invoices, but not to exceed **ten percent** (10%) of each monthly invoice;~~
  - ~~ii. — The member agency shall pay all amounts deferred under this Section no later than December 29, 2021; and~~
  - ~~iii. — Any deferred amount not paid by December 20, 2021, is subject to Section 4508 as of December 30, 2021.~~
- ~~(d) This Section does not apply to transactions governed by agreements containing payment terms and obligations separate from Sections 4501, 4507, and 4508.~~
- ~~(e) This Section shall be repealed effectively January 1, 2022, unless extended by the Board of Directors.~~

## Division VI

### PERSONNEL MATTERS

#### Chapter 2

### PERSONNEL REGULATIONS

### § 6201. Benefits Paid Temporary Employees.

(a) Temporary employees shall be entitled only to be paid an hourly rate determined in accordance with this Code.

(b) An eligible temporary employee shall be entitled to personal leave. A temporary ~~unrepresented~~ full-time employee employed by the District for more than 1,044 hours of current full-time service is eligible for forty-eight (48) hours of personal leave per calendar year. A temporary ~~unrepresented~~ part-time employee employed by the District for more than 1,044 hours of current service is eligible for twenty-four (24) hours of personal leave per calendar year. Personal leave must be used in the calendar year in which it is received. Personal leave shall not be carried over into the year following year in which it is received nor will it be paid upon separation from District employment. The District shall be responsible for scheduling personal leave periods of temporary employees in such a manner as to achieve the most efficient functioning of the District. The District shall determine whether or not a request for personal leave will be granted; however, an employee's timely request for personal leave shall only be denied for good and sufficient business reasons.

(c) Temporary employees shall not be entitled to any benefits or rights of any nature whatsoever provided for under this Code, except as provided by subsections (a) and (b) above and as specifically required by applicable law.

### § 6203. Leave Accrual and Usage.

Hours of service shall be recorded to the nearest half hour. Leave shall not be used before it is earned. Employees who separate service from Metropolitan and are rehired within twelve (12) months, and employees who are reinstated from a non-cause involuntary separation shall have their Metropolitan service hours and any unpaid leave balances reinstated upon rehire or reinstatement. Employees must be re-employed into a category of employment that is eligible to receive leave accrual for unpaid leave balances to be reinstated.

### § 6226. Annual Leave.

(a) Subject to any applicable memorandum of understanding, or employment agreement, employees shall accumulate annual leave with full pay at the following rates for each hour of total service:

Range of Hours From Through		Accumulation Factor For Each Hour Within Range	Approximate- <del>Vacation-</del> Hours
1	8,352	.038625	80
8,353	18,792	.057472	120
18,793	20,880	.061610	128
20,881	22,968	.065288	136
22,969	25,056	.068966	144
25,057	27,144	.073104	152
27,145	39, <del>762</del> 672	.076782	160
39, <del>763</del> 673	41,760	.080453	168
41,761	43,848	.084291	176
43,849	45,936	.088123	184



45,937	48,024	.091954	192
48,025	Last hour of total service	.095785	200

Notwithstanding the above, the maximum accumulation for those unrepresented classifications eligible for annual leave listed in Section 6500, shall be 560.51 hours.

(b) Subject to the restrictions contained in subsection (d) and any applicable memorandum of understanding, annual leave usage will be authorized as it is earned up to the maximum permitted by subsection (a). The District shall be responsible for scheduling annual leave periods of employees in such a manner as to achieve the most efficient functioning of the District. The District shall determine whether or not a request for annual leave will be granted. However, an employee's timely request for annual leave shall only be denied for good and sufficient business reasons.

(c) Subject to any applicable memorandum of understanding, if on the last day of the payroll cycles that includes May 15 and November 15 of any year, the total of accumulated annual leave exceeds the limitation on accumulation applicable to the hours of total service, the excess accumulated annual leave may not be used but shall, as soon as practicable after the end of the twenty fourth pay period of the annual payroll cycle, be paid to the employee entitled thereto an employee has credit for more than four hundred (400) hours, the employee shall be paid for all hours in between four hundred (400) and the maximum set forth in section 6226(a) above. Such payment shall be paid at the employee's hourly pay rate in effect at the end of said twenty fourth pay period for the current pay period for one hundred percent (100%) of the excess accumulated hours of such annual leave.

(d) No vacation may be granted, or paid for, unless the employee has completed 1,044 hours current service, including military leave. No vacation may be extended past an employee's date of termination.

(e) Employees returning from leave for military service shall earn vacation at the rate appropriate to the total time of District employment plus military service. Employees who separate service from Metropolitan and are rehired within twelve (12) months, and employees who are reinstated from a non-cause involuntary separation shall continue to earn vacation at the rate of their total cumulative Metropolitan service hours.

(f) Notwithstanding any provision of this Section 6226 to the contrary, a Department Head may approve the accumulation of annual leave at a rate of .0574720 hours for each hour of service for the first through the fourth year of service and .076782 for each hour of service for the first through the thirteenth (13<sup>th</sup>) year of service for an employee recruited by that Department Head.

(g) Employees will be paid out their unused annual leave at the time of separation based on the regular hourly base pay. Employees on temporary promotion performing higher level duties in a temporary capacity, upon separation of service will be returned to their regular classification and unpaid leave will be paid at their regular hourly base pay.

#### **§ 6231. Family and Medical Leave.**

(a) The District will provide Family and Medical Leave for an employee as required by state and federal law.

(b) For purposes of this section, “employee” shall mean an employee who has at least one (1) year of service with the District and at least 1,250 hours active service during the one year period immediately preceding the commencement of the request for a Family and Medical Leave.

(c) For purposes of this section, per the U.S. Department of Labor definition at 29 USC Sec. 2611(7) and 29 CFR Sec. 825.122(c), “parent” shall mean a biological, adoptive, step or foster father or mother, or any other individual who stood in *loco parentis* to the employee when the employee was a son or daughter. This term does not include any “parents-in law.”

(d) For purposes of this section, “designated person” shall mean a person identified by the employee at the time the employee requests Leave with pay and may include any individual related by blood or whose association with the employee is the equivalent of a family relationship. An employee is limited to one (1) designated person per 12-month period for Family and Medical Leave purposes. (Government Code Sec. 12945.2(b)(2).)

(e) The following provisions set forth certain of the rights and obligations with respect to Family and Medical Leave. Rights and obligations which are not specifically set forth or defined below are contained in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (“FMLA”) and the California Fair Employment and Housing Commission regulations implementing the California Family Rights Act (“CFRA”)(Government Code Sec. 12945.2).

(f) Unless otherwise provided by this section, “Family and Medical Leave” and “Leave” shall mean leave pursuant to the FMLA and/or CFRA.

(g) An employee is entitled to a total of twelve (12 ) weeks of Leave during any 12-month period to care for a newborn child, due to the placement of an adopted or foster child, to care for a son or daughter, parent (as defined by the U.S. Department of Labor in 29 USC Sec. 2611(7); 29 CFR Sec. 825.122(c).), spouse, state-registered domestic partner, grandparent, grandchild, sibling or designated person who has a serious health condition, or because of the employee’s own serious health condition that prevents the employee from performing any one or more of the essential functions of the employee’s position. The 12-month period for calculating Leave entitlement will be the 12-month period measured backward from the date an employee uses any Leave.

(h) An employee’s entitlement to Leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the birth or placement. Parents who are both employed by the District are each entitled up to twelve (12) weeks of Leave for the birth or adoption of a child or the replacement of a foster care child.

(i) Married employees or state-registered domestic partners, who are both employees of the District, and who have an active-duty service member in their family, shall be entitled to qualifying exigency Leave, to manage active duty-related family affairs, and to injured service member care Leave, consistent with FMLA. Refer to military Leave at subsection (r)(1) and (r)(2) of this Section 6231 regarding qualifying exigency Leave and injured service member care Leave.

(j) An employee shall provide at least thirty (30) calendar days written advance notice for foreseeable events. For events which are not foreseeable, the employee shall notify the District as soon as the employee learns of the need for the Leave. To be eligible for a Leave, the employee must follow the District’s usual and customary call-in procedures for reporting an absence as detailed in section 6241.

(k) An employee who takes a Leave for their own serious health condition is required to submit a Return to Work / Doctor’s Release prior to returning to work.

(l) When the Leave is due to the health condition of the employee, the employee shall utilize Leave in the following order:

(1) All sick leave;

(2) Forty (40) hours of annual leave. If annual leave is exhausted, the employee must choose to use other paid or unpaid leave to complete the forty (40) hours. For regular part-time and Recurrent employees, hours will be adjusted to their standard weekly hours;

(3) The employee has the option of using additional paid leave at full pay. If the employee chooses to use additional paid leave at full pay, it must be used in the following order:

- (i) The balance of the employee's annual leave;
- (ii) Other paid leave;

(4) If the employee elects to not use additional paid leave at full pay, then the employee shall utilize leave in the following order:

- (i) 75% disability;
- (ii) 50% disability;
- (iii) Annual leave;
- (iv) Other paid leave at the employee's option;
- (v) Unpaid leave;

(5) The exhaustion of the paid leave shall run concurrently with the Leave.

(m) When the Leave is taken for the birth of a child of the employee, for the placement of a child with the employee for adoption or foster care, or to care for the employee's spouse, state-registered domestic partner, son or daughter, parent (as defined by the U.S. Department of Labor in 29 USC Sec. 2611(7); 29 CFR Sec. 825.122 (c).), grandparent, grandchild, sibling or designated person who has a serious health condition or a military family leave, the employee shall utilize Leave in the following order:

(1) Special leave;

(2) Optionally, to use a maximum of 240 hours of available sick leave;

(3) Optionally, to use annual, personal, compensatory time, exempt time off, or recurrent leave;

(4) Unpaid leave.

The exhaustion of the paid leave shall run concurrently with the Leave. For purposes of this section, leave taken to care for a "designated person" does not apply to military family Leave.

(n) If an employee takes sick leave or partial pay disability leave without requesting Family and Medical Leave, within five (5) days of the employee's return to work and advisement of the District concerning the purpose of the sick leave, the District shall make a determination as to whether the sick leave shall be considered Family and Medical Leave.

(o) The District shall maintain coverage under any group health plan for the duration of the Leave at the level and under conditions that would have been provided had the employee been working.

However, the District shall only maintain such group health plan coverage for such employee for up to twelve (12) weeks within a 12-month period commencing with the start of the Leave.

(p) An employee has the right to reinstatement to the same or a comparable position unless the employee is exempted from such right under the provisions of the FMLA or CFRA.

(q) Any leave taken by an employee under the California Fair Employment and Housing Act's provisions applicable to pregnancy-related disabilities cannot be counted against the 12-week limitation on Family and Medical Leaves authorized under CFRA.

(r) Military Family Leave:

The two types of military family Leave available are:

(1) Qualifying Exigency Leave. An employee is entitled to a total of twelve (12) weeks of Leave during any 12-month period to help manage the family affairs of a member who is their spouse, state-registered domestic partner, son, daughter or parent (as defined by the U.S. Department of Labor in 29 USC Sec. 2611 (7); 29 CFR Sec. 825.122(c).) who is on active duty or is being called to active duty status.

(2) Injured Service Member Care Leave. An employee is entitled to a total of twenty-six (26) weeks of Leave during any 12-month period to care for a covered service member with a serious injury or illness incurred in the line of duty or within five (5) years of the date the service member or veteran undergoes medical treatment, recuperation, treatment, or therapy including aggravation of existing or pre-existing injuries while in the line of duty while on active duty. Employees entitled to this Leave are the spouse, state-registered domestic partner, parent (as defined by U.S. Labor in 29 USC Sec. 2611(7); 29 CFR Sec. 825.122(c).), child or next of kin of the injured or ill service member.

Married employees and state-registered domestic partners who are both employees of the District may be subject to a combined twelve (12) weeks or twenty-six (26) weeks of Leave based on specified family and medical reasons pursuant to FMLA.

#### **§ 6246. Military Leave.**

(a) Every employee who is a member of the National Guard or Naval Militia, or a member of the reserve corps or force in the Federal military, naval or marine service, or in the State Guard, shall be entitled to military leave in accordance with the applicable provisions of the Military and Veterans Code of the State of California. Metropolitan will also comply with Title 38, Chapter 43 of the United State Code (Uniformed Services Employment and Reemployment Rights Act) ("USERRA"). The present law provides, in general, that a person having one (1) year or more of service with the District is entitled to military leave with pay for a period not exceeding thirty (30) calendar days per fiscal year. ~~Members of the State Guard are entitled to military leave without pay not to exceed fifteen (15) calendar days per fiscal year.~~ The military service time of a new employee who comes to the District directly from military service may be applied to the one-year employment requirement necessary to the granting of military leave.

(b) Veterans are entitled, in general, to reemployment if they serve not more than five (5) years in the military, although exceptions allowed by federal law may apply per USERRA. The period a service member has to make a request for reemployment or report back to work after military service is based on time spent on military duty.

(1) For service of less than thirty-one (31) days, the service member must return as the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight-hour rest period.

(2) For service of more than thirty (30) days but less than 181 days, the service member must submit certification of military service for reemployment within fourteen (14) days or release from service.

(3) For service of more than 180 days, certification of military service for reemployment must be submitted within ninety (90) days of completion of a service member's military service.

Metropolitan may request that an employee who is absent for a period of service of thirty-one (31) days or more provide document showing that their request for reemployment is timely, the employee has not exceeded the five-year service limitation, and the employee's separation from military service was other than disqualifying under federal law. Military documents may include Military Discharge Documents, DD-214, or Certification of Military Service record.

A reemployed employee may not be discharged without cause: (1) for one (1) year after the date of reemployment if the employee's period of military service was for 181 days or more; (2) For 180 days after the date of reemployment if the employee's period of military service was for thirty-one (31) to 180 days.

Cause for discharge may be based on conduct or the application of legitimate nondiscriminatory reasons. Employees who serve for thirty (30) or fewer days are not protected from discharge without cause. However, they are protected from discrimination because of military service or obligation.

(c) Employees on military leave do not lose their accumulated sick leave credits. The District will restore the veteran to employment as though no interruption of District service has occurred. The District will apply all general pay adjustments enacted by the Board to the old base salary as though the veteran had not been absent. The veteran need not be returned to the former position but will be given a position of status and pay equivalent to the former position. Although the veteran earns no leave while absent on military leave, neither does the veteran lose any leave balances while absent on military leave. Military service time is added to the length of District service for purpose of computing the rate at which a returning veteran will earn annual leave.

(d) If the employee returns to work within six (6) months of their active duty discharge date, and the release was not due to a dishonorable discharge, the employee may submit to CalPERS the Military Leave Service Credit application and documentation for review. CalPERS will determine if the military leave of absence service time will be added to the employee's CalPERS service credit, and if it will be at no cost to the employee, or if the employee will have an option to purchase the additional service credit.

(e) Military Spousal Leave. Every employee who has worked at least an average of twenty (20) hours a week in the last six (6) months and is married to a service member is entitled to ten (10) days leave when their spouse returns from active duty. Employees must notify the District of their intention to take this leave within two (2) business days of receiving official notice that the spouse will be on leave from military deployment, and inform their manager if they intend to use annual, personal or no-pay leave.

## Chapter 4

## OFFICERS

### Article 2

#### GENERAL MANAGER

##### § 6416. Annual Report to Executive Committee.

The General Manager shall annually submit to the Executive Committee a business plan containing the General Manager's key priorities for the coming year. The business plan shall be submitted in conjunction with similar plans by the General Auditor to the Finance, Audit, Insurance, and Real Property Committee, and the Ethics Officer to the ~~Audit and~~ Ethics, Organization and Personnel Committee and the General Counsel to the Legal and Claims Committee.

### Article 3

#### GENERAL COUNSEL

##### § 6436. Annual and Quarterly Reports to Legal and Claims Committee.

(a) The General Manager and General Counsel shall report quarterly to the Legal and Claims Committee the exercise of any power delegated to them by Sections 6433 and 6434. The General Counsel shall report quarterly to the Legal and Claims Committee the exercise of any power delegated to them by Section 6431.

(b) The General Counsel shall annually, in advance of the July Board meetings, submit to the Legal and Claims Committee a business plan containing the Legal Department's key priorities for the coming year for review and approval. The business plan shall be submitted in conjunction with similar plans by the General Manager to the Executive Committee and the General Auditor to the Finance, Audit, Insurance, and Real Property Committee, and the and Ethics Officer to the ~~Audit and~~ Ethics, Organization and Personnel Committee.

### Article 5

#### ETHICS OFFICER

Sec.

6470. Powers and Duties

6471. Authority to Obtain Professional Services

6472. Reports to ~~Audit and~~ Ethics, Organization and Personnel Committee

##### § 6472. Reports to ~~Audit and~~ Ethics, Organization and Personnel Committee.

(a) The Ethics Officer shall annually, in advance of the July Board meetings, submit to the Ethics, Organization and Personnel Committee a business plan for the Ethics Office containing key priorities for the coming year for review and approval.

(b) The Ethics Officer shall prepare quarterly reports to the Ethics, Organization and Personnel Committee on activities concerning agreements executed pursuant to the authority given to the Ethics

Officer in Section 6471, and bi-monthly reports related to pending investigations as specified in Section 6470.

## **Division VII**

### **GOVERNMENTAL ETHICS**

#### **Chapter 4**

#### **INVESTIGATION BY THE ETHICS OFFICER**

##### **Article 1**

##### **AUTHORITY TO INVESTIGATE AND JURISDICTION**

##### **§ 7405. Investigations of Directors, General Manager, General Counsel, General Auditor, or Ethics Officer.**

(a) The Ethics Officer shall retain an outside counsel or investigator to conduct any investigation of alleged violations of Metropolitan ethics rules by a Director, General Manager, General Counsel or General Auditor. The investigation shall be conducted in consultation with the Ethics Officer. The Ethics Officer shall, based on the results of the investigation, make the final determination as to whether a violation has occurred. Prior to retaining the outside counsel or investigator, the Ethics Officer shall notify the ~~Audit and~~ Ethics, Organization and Personnel Committee Chair, unless the Chair is the subject of the investigation, in which case the Vice Chair shall be notified.

(b) The Ethics Officer shall refer to the General Counsel any complaint of alleged violations of Metropolitan ethics rules by the Ethics Officer or any member of the Office staff. The General Counsel shall retain an outside counsel or investigator to conduct the investigation in consultation with the General Counsel. The General Counsel shall, based on the results of the investigation, make the final determination as to whether a violation has occurred. Prior to retaining the outside counsel or investigator, the General Counsel shall notify the ~~Audit and~~ Ethics, Organization and Personnel Committee Chair.

(c) The General Counsel shall review any contract with an outside counsel or investigator to ensure compliance with Metropolitan contracting requirements.

##### **Article 2**

##### **PROCEDURES FOR INVESTIGATIONS**

##### **§ 7411. Investigation Timeframe.**

(a) Investigations shall be conducted expeditiously and completed within 180 calendar days, except as provided in subparagraph (b). An investigation commences upon the Ethics Officer's determination to open an investigation, but in no event later than 30 calendar days from receipt of the complaint or referral.

(b) For good cause, an investigation may extend beyond 180 calendar days; provided, however, the Ethics Officer shall provide written notice to the subject of the investigation with an expected completion date. The Ethics Officer shall also notify the ~~Audit and~~ Ethics, Organization and Personnel

Committee Chair whenever an investigation extends beyond 180 calendar days and provide periodic updates on the status of the investigation thereafter.

(c) For purposes of the 180 calendar day period specified in this section, an investigation terminates upon service of the Ethics Officer's report upon the subject of the investigation, or upon notice of no violation given to the subject of the investigation, pursuant to section 7416.

**§ 7412. Confidentiality of Investigations.**

(a) Investigations by the Ethics Officer shall be confidential to the fullest extent possible.

(b) The Ethics Officer has the discretion to disclose information related to investigations for significant operational or safety reasons.

(c) The Ethics Officer shall not unnecessarily disclose the identity of the subject of a complaint, except as needed in furtherance of the investigation or otherwise provided by Article 3 of this chapter.

(d) During the investigation, the Ethics Officer shall advise the subject of the investigation, the complainant, and any witnesses of the confidentiality of the investigation.

(e) The Ethics Officer may confer with the Chair of the Board and the Chair and Vice Chair of the ~~Audit and~~ Ethics, Organization and Personnel Committee on any investigative matter subject to the following:

(1) The communications shall be for the purpose of feedback.

(2) The communications shall be confidential.

(3) The restrictions on interference with investigations in section 7129(d).

(f) The Ethics Officer shall, to the extent possible, protect the identity of any complainant.



**Division II****PROCEDURES PERTAINING TO BOARD, COMMITTEES  
AND DIRECTORS****Chapter 1****BOARD OF DIRECTORS****Article 1****MEETINGS****§ 2108. Minutes.**

Minutes of the Board meeting shall be prepared and provided to each director as soon as convenient after each meeting. Such minutes shall not include the text of ordinances and resolutions adopted, which shall be recorded in separate volumes by the Board Executive Secretary. Minutes of the Board and monthly reports filed therewith are to be sent to the city clerks and water departments of the member public agencies who have requests on file with the Board Executive Secretary for such material.

**Article 2****CONSENT CALENDAR****§ 2121. Consent Calendar.**

(a) Consent Calendar items shall be set forth in a separate section of the Board's agenda.

(b) Matters for the Consent Calendar shall be recommended by the Department Heads and shall be submitted to the Board Executive Secretary not less than seven working days prior to the meeting of the Board and, except as provided below, pertinent materials sufficient to enable a member to formulate an opinion on each Consent Calendar item shall be included with the agenda provided to directors. Such materials need not be included with the agenda as to matters which are to be considered in committee in closed session, but such materials shall be available at the meeting of the Board for distribution to directors who request them.

(c) Matters may not be placed on the Consent Calendar if a roll call vote is required; if a vote other than a simple majority is required; or if the amount involved is \$2,000,000 or more.

**Article 4****MISCELLANEOUS BOARD RULES****§ 2142. Monthly Staff Reports.**

The monthly departmental reports of the General Manager and General Counsel shall be provided in advance of the Board meeting to each director by the department organizing the report but they are not to be distributed at such meeting. These reports are to be orally summarized at the Board meeting mentioning only significant changes from previous reports.

**Chapter 5****OTHER COMMITTEES: MISCELLANEOUS COMMITTEE MATTERS****Article 1****SPECIAL COMMITTEES****§ 2500. General.**

Special committees may be created by the Board to undertake special assignments on behalf of the Board and shall report directly to the Board unless otherwise directed. A special committee shall continue in existence indefinitely. Unless otherwise specified, members of a special committee shall be appointed by the Chair of the Board and shall serve at the Chair's pleasure.

**Division IV****WATER SERVICE POLICIES****Chapter 3****WATER TRANSACTIONS REVENUE****§ 4304. Apportionment of Revenues and Setting of Water Rates.**

(a) Not later than at its February meeting the General Manager shall present to the Finance, Audit, Insurance, and Real Property Committee of the Board:

(1) Determinations of the revenue requirements and cost of service analysis supporting the rates and charges required during the biennial period beginning the following July 1, as determined by the General Manager in accordance with current Board policies, and,

(2) Recommendations of rates including, but not limited to, the System Access Rate, Water Stewardship Rate, System Power Rate, Treatment Surcharge, and the Supply Rates for the various classes of water service to become effective each January 1 of the biennial period. These recommended rates shall be the General Manager's determination, made in accordance with current Board policies, of the rates necessary to produce substantially the revenues to be derived from water transactions, including, but not limited to, sales, exchanges, and wheeling, during the biennial period beginning the following July 1.

(b) Not later than at its February meeting, the General Manager shall also present to the Finance, Audit, Insurance, and Real Property Committee recommendations regarding the continuation of a water standby charge or the imposition of an availability of service charge (such as the readiness-to-serve charge and capacity charge), which shall be the General Manager's determination, made in accordance with current Board policies, of the charge necessary to produce substantially the revenues to be derived from fixed revenue sources, if any, exclusive of taxes, during the biennial period beginning the following July 1 which the Finance, Audit, Insurance, and Real Property Committee has determined to be necessary.

**§ 4305. Setting of Charges to Raise Fixed Revenue.**

(a) Not later than at its regular May meeting each year, the Finance, Audit, Insurance, and Real Property Committee shall make its final determination regarding the water standby charge or other fixed

revenue charge, if any, for the fiscal year beginning the following July 1, and shall recommend such charge, if any, to the Board at its regular May meeting.

(b) Not later than at such May meeting, the Board shall consider and take action upon the recommendations, if any, of the Finance, Audit,, Insurance, and Real Property Committee regarding a fixed revenue source, exclusive of taxes, to become effective the following January 1 or for the fiscal year beginning the following July 1, as determined by the Board for each fixed revenue source.

## **Chapter 5**

### **WATER SERVICE REGULATIONS – GENERAL**

Sec.

- 4500. Adoption of Regulations
- 4501. Obligation to Pay for Water Delivered
- 4502. Liability and Indemnification
- 4503. Suspension of Deliveries
- 4504. Rates of Flow
- 4505. Estimates of Water Requirements and Schedules of Deliveries
- 4506. Metering of Water
- 4507. Billing and Payment for Water Deliveries
- 4508. Additional Payment and Reporting in the Event of Delinquency in Payment for Water
- 4509. Water Restricted to Use Within the District
- 4510. Application of Regulations
- 4511. Notices
- 4512. Sales Subject to System and Water Availability
- 4513. Equal Opportunity Requirements
- [4514. Repealed]
- [4515. Repealed]
- [4516. Repealed]
- 4517. Cooperative Storage Program
- 4518. Emergency Storage Program
- 4519. Emergency Deliveries of Member Agency Water Supplies in Metropolitan's System
- [4520. Repealed]

## **Division VI**

### **PERSONNEL MATTERS**

## **Chapter 2**

### **PERSONNEL REGULATIONS**

#### **§ 6201. Benefits Paid Temporary Employees.**

(a) Temporary employees shall be entitled only to be paid an hourly rate determined in accordance with this Code.

(b) An eligible temporary employee shall be entitled to personal leave. A temporary unrepresented full-time employee employed by the District for more than 1,044 hours of current full-time service is eligible for forty-eight (48) hours of personal leave per calendar year. A temporary unrepresented part-time employee employed by the District for more than 1,044 hours of current service

is eligible for twenty-four (24) hours of personal leave per calendar year. Personal leave must be used in the calendar year in which it is received. Personal leave shall not be carried over into the year following year in which it is received nor will it be paid upon separation from District employment. The District shall be responsible for scheduling personal leave periods of temporary employees in such a manner as to achieve the most efficient functioning of the District. The District shall determine whether or not a request for personal leave will be granted; however, an employee's timely request for personal leave shall only be denied for good and sufficient business reasons.

(c) Temporary employees shall not be entitled to any benefits or rights of any nature whatsoever provided for under this Code, except as provided by subsections (a) and (b) above and as specifically required by applicable law.

### **§ 6203. Leave Accrual and Usage.**

Hours of service shall be recorded to the nearest half hour. Leave shall not be used before it is earned. Employees who separate service from Metropolitan and are rehired within twelve (12) months, and employees who are reinstated from a non-cause involuntary separation shall have their Metropolitan service hours and any unpaid leave balances reinstated upon rehire or reinstatement. Employees must be re-employed into a category of employment that is eligible to receive leave accrual for unpaid leave balances to be reinstated.

### **§ 6226. Annual Leave.**

(a) Subject to any applicable memorandum of understanding, or employment agreement, employees shall accumulate annual leave with full pay at the following rates for each hour of total service:

Range of Hours From Through		Accumulation Factor For Each Hour Within Range	Approximate Vacation Hours
1	8,352	.038625	80
8,353	18,792	.057472	120
18,793	20,880	.061610	128
20,881	22,968	.065288	136
22,969	25,056	.068966	144
25,057	27,144	.073104	152
27,145	39,672	.076782	160
39,673	41,760	.080453	168
41,761	43,848	.084291	176
43,849	45,936	.088123	184
45,937	48,024	.091954	192
48,025	Last hour of total service	.095785	200

Notwithstanding the above, the maximum accumulation for those unrepresented classifications eligible for annual leave shall be 560.51 hours.

(b) Subject to the restrictions contained in subsection (d) and any applicable memorandum of understanding, annual leave usage will be authorized as it is earned up to the maximum permitted by subsection (a). The District shall be responsible for scheduling annual leave periods of employees in such a manner as to achieve the most efficient functioning of the District. The District shall determine whether

or not a request for annual leave will be granted. However, an employee's timely request for annual leave shall only be denied for good and sufficient business reasons.

(c) Subject to any applicable memorandum of understanding, if on the last day of the payroll cycles that include May 15 and November 15 of any year, an employee has credit for more than four hundred (400) hours, the employee shall be paid for all hours in between four hundred (400) and the maximum set forth in section 6226(a) above. Such payment shall be paid at the employee's hourly pay rate in effect for the current pay period for one hundred percent (100%) of the excess accumulated hours of such annual leave.

(d) No vacation may be granted, or paid for, unless the employee has completed 1,044 hours current service, including military leave. No vacation may be extended past an employee's date of termination.

(e) Employees returning from leave for military service shall earn vacation at the rate appropriate to the total time of District employment plus military service. Employees who separate service from Metropolitan and are rehired within twelve (12) months, and employees who are reinstated from a non-cause involuntary separation shall continue to earn vacation at the rate of their total cumulative Metropolitan service hours.

(f) Notwithstanding any provision of this Section 6226 to the contrary, a Department Head may approve the accumulation of annual leave at a rate of .0574720 hours for each hour of service for the first through the fourth year of service and .076782 for each hour of service for the first through the thirteenth (13<sup>th</sup>) year of service for an employee recruited by that Department Head.

(g) Employees will be paid out their unused annual leave at the time of separation based on the regular hourly base pay. Employees on temporary promotion performing higher level duties in a temporary capacity, upon separation of service will be returned to their regular classification and unpaid leave will be paid at their regular hourly base pay.

#### **§ 6231. Family and Medical Leave.**

(a) The District will provide Family and Medical Leave for an employee as required by state and federal law.

(b) For purposes of this section, "employee" shall mean an employee who has at least one (1) year of service with the District and at least 1,250 hours active service during the one year period immediately preceding the commencement of the request for a Family and Medical Leave.

(c) For purposes of this section, per the U.S. Department of Labor definition at 29 USC Sec. 2611(7) and 29 CFR Sec. 825.122(c), "parent" shall mean a biological, adoptive, step or foster father or mother, or any other individual who stood in *loco parentis* to the employee when the employee was a son or daughter. This term does not include any "parents-in law."

(d) For purposes of this section, "designated person" shall mean a person identified by the employee at the time the employee requests Leave with pay and may include any individual related by blood or whose association with the employee is the equivalent of a family relationship. An employee is limited to one (1) designated person per 12-month period for Family and Medical Leave purposes. (Government Code Sec. 12945.2(b)(2).)

(e) The following provisions set forth certain of the rights and obligations with respect to Family and Medical Leave. Rights and obligations which are not specifically set forth or defined below are contained in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 ("FMLA") and the California Fair Employment and Housing Commission regulations implementing the California Family Rights Act ("CFRA") (Government Code Sec. 12945.2).

(f) Unless otherwise provided by this section, "Family and Medical Leave" and "Leave" shall mean leave pursuant to the FMLA and/or CFRA.

(g) An employee is entitled to a total of twelve (12) weeks of Leave during any 12-month period to care for a newborn child, due to the placement of an adopted or foster child, to care for a son or daughter, parent (as defined by the U.S. Department of Labor in 29 USC Sec. 2611(7); 29 CFR Sec. 825.122(c).), spouse, state-registered domestic partner, grandparent, grandchild, sibling or designated person who has a serious health condition, or because of the employee's own serious health condition that prevents the employee from performing any one or more of the essential functions of the employee's position. The 12-month period for calculating Leave entitlement will be the 12-month period measured backward from the date an employee uses any Leave.

(h) An employee's entitlement to Leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the birth or placement. Parents who are both employed by the District are each entitled up to twelve (12) weeks of Leave for the birth or adoption of a child or the replacement of a foster care child.

(i) Married employees or state-registered domestic partners, who are both employees of the District, and who have an active-duty service member in their family, shall be entitled to qualifying exigency Leave, to manage active duty-related family affairs, and to injured service member care Leave, consistent with FMLA. Refer to military Leave at subsection (r)(1) and (r)(2) of this Section 6231 regarding qualifying exigency Leave and injured service member care Leave.

(j) An employee shall provide at least thirty (30) calendar days written advance notice for foreseeable events. For events which are not foreseeable, the employee shall notify the District as soon as the employee learns of the need for the Leave. To be eligible for a Leave, the employee must follow the District's usual and customary call-in procedures for reporting an absence as detailed in section 6241.

(k) An employee who takes a Leave for their own serious health condition is required to submit a Return to Work / Doctor's Release prior to returning to work.

(l) When the Leave is due to the health condition of the employee, the employee shall utilize Leave in the following order:

(1) All sick leave;

(2) Forty (40) hours of annual leave. If annual leave is exhausted, the employee must choose to use other paid or unpaid leave to complete the forty (40) hours. For regular part-time and Recurrent employees, hours will be adjusted to their standard weekly hours;

(3) The employee has the option of using additional paid leave at full pay. If the employee chooses to use additional paid leave at full pay, it must be used in the following order:

(i) The balance of the employee's annual leave;

(ii) Other paid leave;

(4) If the employee elects to not use additional paid leave at full pay, then the employee shall utilize leave in the following order:

- (i) 75% disability;
- (ii) 50% disability;
- (iii) Annual leave;
- (iv) Other paid leave at the employee's option;
- (v) Unpaid leave;

(5) The exhaustion of the paid leave shall run concurrently with the Leave.

(m) When the Leave is taken for the birth of a child of the employee, for the placement of a child with the employee for adoption or foster care, or to care for the employee's spouse, state-registered domestic partner, son or daughter, parent (as defined by the U.S. Department of Labor in 29 USC Sec. 2611(7); 29 CFR Sec. 825.122 (c).), grandparent, grandchild, sibling or designated person who has a serious health condition or a military family leave, the employee shall utilize Leave in the following order:

- (1) Special leave;
- (2) Optionally, to use a maximum of 240 hours of available sick leave;
- (3) Optionally, to use annual, personal, compensatory time, exempt time off, or recurrent leave;
- (4) Unpaid leave.

The exhaustion of the paid leave shall run concurrently with the Leave. For purposes of this section, leave taken to care for a "designated person" does not apply to military family Leave.

(n) If an employee takes sick leave or partial pay disability leave without requesting Family and Medical Leave, within five (5) days of the employee's return to work and advisement of the District concerning the purpose of the sick leave, the District shall make a determination as to whether the sick leave shall be considered Family and Medical Leave.

(o) The District shall maintain coverage under any group health plan for the duration of the Leave at the level and under conditions that would have been provided had the employee been working. However, the District shall only maintain such group health plan coverage for such employee for up to twelve (12) weeks within a 12-month period commencing with the start of the Leave.

(p) An employee has the right to reinstatement to the same or a comparable position unless the employee is exempted from such right under the provisions of the FMLA or CFRA.

(q) Any leave taken by an employee under the California Fair Employment and Housing Act's provisions applicable to pregnancy-related disabilities cannot be counted against the 12-week limitation on Family and Medical Leaves authorized under CFRA.

(r) Military Family Leave:

The two types of military family Leave available are:

(1) Qualifying Exigency Leave. An employee is entitled to a total of twelve (12) weeks of Leave during any 12-month period to help manage the family affairs of a member who is their spouse,

state-registered domestic partner, son, daughter or parent (as defined by the U.S. Department of Labor in 29 USC Sec. 2611 (7); 29 CFR Sec. 825.122(c).) who is on active duty or is being called to active duty status.

(2) Injured Service Member Care Leave. An employee is entitled to a total of twenty-six (26) weeks of Leave during any 12-month period to care for a covered service member with a serious injury or illness incurred in the line of duty or within five (5) years of the date the service member or veteran undergoes medical treatment, recuperation, treatment, or therapy including aggravation of existing or pre-existing injuries while in the line of duty while on active duty. Employees entitled to this Leave are the spouse, state-registered domestic partner, parent (as defined by U.S. Labor in 29 USC Sec. 2611(7); 29 CFR Sec. 825.122(c).), child or next of kin of the injured or ill service member.

Married employees and state-registered domestic partners who are both employees of the District may be subject to a combined twelve (12) weeks or twenty-six (26) weeks of Leave based on specified family and medical reasons pursuant to FMLA.

#### **§ 6246. Military Leave.**

(a) Every employee who is a member of the National Guard or Naval Militia, or a member of the reserve corps or force in the Federal military, naval or marine service, or in the State Guard, shall be entitled to military leave in accordance with the applicable provisions of the Military and Veterans Code of the State of California. Metropolitan will also comply with Title 38, Chapter 43 of the United State Code (Uniformed Services Employment and Reemployment Rights Act) (“USERRA”). The present law provides, in general, that a person having one (1) year or more of service with the District is entitled to military leave with pay for a period not exceeding thirty (30) calendar days per fiscal year. The military service time of a new employee who comes to the District directly from military service may be applied to the one-year employment requirement necessary to the granting of military leave.

(b) Veterans are entitled, in general, to reemployment if they serve not more than five (5) years in the military, although exceptions allowed by federal law may apply per USERRA. The period a service member has to make a request for reemployment or report back to work after military service is based on time spent on military duty.

(1) For service of less than thirty-one (31) days, the service member must return as the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight-hour rest period.

(2) For service of more than thirty (30) days but less than 181 days, the service member must submit certification of military service for reemployment within fourteen (14) days or release from service.

(3) For service of more than 180 days, certification of military service for reemployment must be submitted within ninety (90) days of completion of a service member’s military service.

Metropolitan may request that an employee who is absent for a period of service of thirty-one (31) days or more provide document showing that their request for reemployment is timely, the employee has not exceeded the five-year service limitation, and the employee’s separation from military service was other than disqualifying under federal law. Military documents may include Military Discharge Documents, DD-214, or Certification of Military Service record.



A reemployed employee may not be discharged without cause: (1) for one (1) year after the date of reemployment if the employee's period of military service was for 181 days or more; (2) For 180 days after the date of reemployment if the employee's period of military service was for thirty-one (31) to 180 days.

Cause for discharge may be based on conduct or the application of legitimate nondiscriminatory reasons. Employees who serve for thirty (30) or fewer days are not protected from discharge without cause. However, they are protected from discrimination because of military service or obligation.

(c) Employees on military leave do not lose their accumulated sick leave credits. The District will restore the veteran to employment as though no interruption of District service has occurred. The District will apply all general pay adjustments enacted by the Board to the old base salary as though the veteran had not been absent. The veteran need not be returned to the former position but will be given a position of status and pay equivalent to the former position. Although the veteran earns no leave while absent on military leave, neither does the veteran lose any leave balances while absent on military leave. Military service time is added to the length of District service for purpose of computing the rate at which a returning veteran will earn annual leave.

(d) If the employee returns to work within six (6) months of their active duty discharge date, and the release was not due to a dishonorable discharge, the employee may submit to CalPERS the Military Leave Service Credit application and documentation for review. CalPERS will determine if the military leave of absence service time will be added to the employee's CalPERS service credit, and if it will be at no cost to the employee, or if the employee will have an option to purchase the additional service credit.

(e) Military Spousal Leave. Every employee who has worked at least an average of twenty (20) hours a week in the last six (6) months and is married to a service member is entitled to ten (10) days leave when their spouse returns from active duty. Employees must notify the District of their intention to take this leave within two (2) business days of receiving official notice that the spouse will be on leave from military deployment, and inform their manager if they intend to use annual, personal or no-pay leave.

## **Chapter 4**

### **OFFICERS**

#### **Article 2**

#### **GENERAL MANAGER**

##### **§ 6416. Annual Report to Executive Committee.**

The General Manager shall annually submit to the Executive Committee a business plan containing the General Manager's key priorities for the coming year. The business plan shall be submitted in conjunction with similar plans by the General Auditor to the Finance, Audit, Insurance, and Real Property Committee, and the Ethics Officer to the Ethics, Organization and Personnel Committee and the General Counsel to the Legal and Claims Committee.

**Article 3****GENERAL COUNSEL****§ 6436. Annual and Quarterly Reports to Legal and Claims Committee.**

(a) The General Manager and General Counsel shall report quarterly to the Legal and Claims Committee the exercise of any power delegated to them by Sections 6433 and 6434. The General Counsel shall report quarterly to the Legal and Claims Committee the exercise of any power delegated to them by Section 6431.

(b) The General Counsel shall annually, in advance of the July Board meetings, submit to the Legal and Claims Committee a business plan containing the Legal Department's key priorities for the coming year for review and approval. The business plan shall be submitted in conjunction with similar plans by the General Manager to the Executive Committee and the General Auditor to the Finance, Audit, Insurance, and Real Property Committee, and the and Ethics Officer to the Ethics, Organization and Personnel Committee.

**Article 5****ETHICS OFFICER**

Sec.

6470. Powers and Duties

6471. Authority to Obtain Professional Services

6472. Reports to Ethics, Organization and Personnel Committee

**§ 6472. Reports to Ethics, Organization and Personnel Committee.**

(a) The Ethics Officer shall annually, in advance of the July Board meetings, submit to the Ethics, Organization and Personnel Committee a business plan for the Ethics Office containing key priorities for the coming year for review and approval.

(b) The Ethics Officer shall prepare quarterly reports to the Ethics, Organization and Personnel Committee on activities concerning agreements executed pursuant to the authority given to the Ethics Officer in Section 6471, and bi-monthly reports related to pending investigations as specified in Section 6470.

**Division VII****GOVERNMENTAL ETHICS****Chapter 4****INVESTIGATION BY THE ETHICS OFFICER****Article 1****AUTHORITY TO INVESTIGATE AND JURISDICTION****§ 7405. Investigations of Directors, General Manager, General Counsel, General Auditor, or Ethics Officer.**

(a) The Ethics Officer shall retain an outside counsel or investigator to conduct any investigation of alleged violations of Metropolitan ethics rules by a Director, General Manager, General Counsel or General Auditor. The investigation shall be conducted in consultation with the Ethics Officer. The Ethics Officer shall, based on the results of the investigation, make the final determination as to whether a violation has occurred. Prior to retaining the outside counsel or investigator, the Ethics Officer shall notify the Ethics, Organization and Personnel Committee Chair, unless the Chair is the subject of the investigation, in which case the Vice Chair shall be notified.

(b) The Ethics Officer shall refer to the General Counsel any complaint of alleged violations of Metropolitan ethics rules by the Ethics Officer or any member of the Office staff. The General Counsel shall retain an outside counsel or investigator to conduct the investigation in consultation with the General Counsel. The General Counsel shall, based on the results of the investigation, make the final determination as to whether a violation has occurred. Prior to retaining the outside counsel or investigator, the General Counsel shall notify the Ethics, Organization and Personnel Committee Chair.

(c) The General Counsel shall review any contract with an outside counsel or investigator to ensure compliance with Metropolitan contracting requirements.

**Article 2****PROCEDURES FOR INVESTIGATIONS****§ 7411. Investigation Timeframe.**

(a) Investigations shall be conducted expeditiously and completed within 180 calendar days, except as provided in subparagraph (b). An investigation commences upon the Ethics Officer's determination to open an investigation, but in no event later than 30 calendar days from receipt of the complaint or referral.

(b) For good cause, an investigation may extend beyond 180 calendar days; provided, however, the Ethics Officer shall provide written notice to the subject of the investigation with an expected completion date. The Ethics Officer shall also notify the Ethics, Organization and Personnel Committee Chair whenever an investigation extends beyond 180 calendar days and provide periodic updates on the status of the investigation thereafter.

(c) For purposes of the 180 calendar day period specified in this section, an investigation terminates upon service of the Ethics Officer's report upon the subject of the investigation, or upon notice of no violation given to the subject of the investigation, pursuant to section 7416.

**§ 7412. Confidentiality of Investigations.**

- (a) Investigations by the Ethics Officer shall be confidential to the fullest extent possible.
- (b) The Ethics Officer has the discretion to disclose information related to investigations for significant operational or safety reasons.
- (c) The Ethics Officer shall not unnecessarily disclose the identity of the subject of a complaint, except as needed in furtherance of the investigation or otherwise provided by Article 3 of this chapter.
- (d) During the investigation, the Ethics Officer shall advise the subject of the investigation, the complainant, and any witnesses of the confidentiality of the investigation.
- (e) The Ethics Officer may confer with the Chair of the Board and the Chair and Vice Chair of the Ethics, Organization and Personnel Committee on any investigative matter subject to the following:
  - (1) The communications shall be for the purpose of feedback.
  - (2) The communications shall be confidential.
  - (3) The restrictions on interference with investigations in section 7129(d).
- (f) The Ethics Officer shall, to the extent possible, protect the identity of any complainant.