

The Metropolitan Water District of Southern California

Agenda

The mission of the Metropolitan Water District of Southern California is to provide its service area with adequate and reliable supplies of high-quality water to meet present and future needs in an environmentally and economically responsible way.

L&C Committee

M. Luna, Chair
J. Garza, Vice Chair
M. Camacho
G. Cordero
L. Dick
C. Douglas
C. Kurtz
T. McCoy
C. Miller
G. Peterson
M. Ramos
K. Seckel

Legal and Claims Committee - Final - Revised 3

Meeting with Board of Directors *

March 12, 2024

8:30 a.m.

Agendas, live streaming, meeting schedules, and other board materials are available here: <https://mwdh2o.legistar.com/Calendar.aspx>. If you have technical difficulties with the live streaming page, a listen-only phone line is available at 1-877-853-5257; enter meeting ID: 862 4397 5848. Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via in-person or teleconference. To participate via teleconference 1-833-548-0276 and enter meeting ID: 815 2066 4276 or click <https://us06web.zoom.us/j/81520664276pwd=a1RTQWh6V3h3ckFhNmdsUWpKR1c2Zz09>

**Tuesday, March 12, 2024
Meeting Schedule**

**08:30 a.m. LC
10:00 a.m. FAM
01:00 p.m. Break
01:30 p.m. BOD**

MWD Headquarters Building • 700 N. Alameda Street • Los Angeles, CA 90012

Teleconference Locations:

Princess Cruise / Emerald Princess • 3721 S.W. 30th Avenue, Fort Lauderdale, FL 33312

3008 W. 82nd Place • Inglewood, CA 90305

525 Via La Selva • Redondo Beach, CA 90277

Cedars Sinai Medical Center • 8700 Beverly Blvd • Los Angeles, CA 90048

934 16th Street • Denver, CO 80202

* The Metropolitan Water District's meeting of this Committee is noticed as a joint committee meeting with the Board of Directors for the purpose of compliance with the Brown Act. Members of the Board who are not assigned to this Committee may participate as members of the Board, whether or not a quorum of the Board is present. In order to preserve the function of the committee as advisory to the Board, members of the Board who are not assigned to this Committee will not vote on matters before this Committee.

1. **Opportunity for members of the public to address the committee on matters within the committee's jurisdiction (As required by Gov. Code Section 54954.3(a))**
2. **MANAGEMENT ANNOUNCEMENTS AND HIGHLIGHTS**
 - A. General Counsel's report of monthly activities [21-3113](#)
Attachments: [03122024 LC 2A Report](#)

**** CONSENT CALENDAR ITEMS -- ACTION ****

3. CONSENT CALENDAR OTHER ITEMS - ACTION

- A. Approval of the Minutes of the Legal and Claims Committee for February 13, 2024 (Copies have been submitted to each Director, any additions, corrections, or omissions) [21-3114](#)

Attachments: [03122024 LC 3A \(02132024\) Minutes](#)

4. CONSENT CALENDAR ITEMS - ACTION

- 7-8 Approve amendments to the Metropolitan Water District Administrative Code to provide an exempt time off benefit to unrepresented employees equivalent to the time off benefit provided to Metropolitan’s management unit, create a new reproductive leave loss benefit as required by state law, conform personnel regulations for unrepresented employees to current practices and regulations; and authorize the General Manager to adjust unrepresented salaries to conform with the equity wage and cost-of-living adjustments provided to Metropolitan’s management unit. The General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [REVISED SUBJECT 3/8/2024] [21-3115](#)

Attachments: [03122024 LC 7-8 B-L REVISED ATTACHMENTS](#)
[03122024 LC 7-8 Presentation](#)

**** END OF CONSENT CALENDAR ITEMS ****

5. OTHER BOARD ITEMS - ACTION

NONE

6. BOARD INFORMATION ITEMS

NONE

7. COMMITTEE ITEMS

- a. Update on pending and recently resolved employment litigation and employment legal claims. [UPDATED SUBJECT 3/7/2024] [21-3144](#)

Attachments: [03122024 LC 7a Presentation](#)

- b. Report on litigation in Darren A. Reese v. Metropolitan Water District of Southern California, Riverside County Superior Court Case No. CVPS2204312; Dane Crawford v. Metropolitan Water District of Southern California, Riverside County Superior Court Case No. CVPS2304015; Alicia Lorentzen v. Metropolitan Water District of Southern California, Los Angeles County Superior Court Case No. 23STCV19214; and Ryan Tiegs v. Metropolitan Water District of Southern California, Riverside County Superior Court Case No. CVPS2306176; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d) (1)]. [ADDED SUBJECT 3/7/2024]

[21-3168](#)

8. FOLLOW-UP ITEMS

NONE

9. FUTURE AGENDA ITEMS

10. ADJOURNMENT

NOTE: This committee reviews items and makes a recommendation for final action to the full Board of Directors. Final action will be taken by the Board of Directors. Committee agendas may be obtained on Metropolitan's Web site <https://mwdh2o.legistar.com/Calendar.aspx>. This committee will not take any final action that is binding on the Board, even when a quorum of the Board is present.

Writings relating to open session agenda items distributed to Directors less than 72 hours prior to a regular meeting are available for public inspection at Metropolitan's Headquarters Building and on Metropolitan's Web site <https://mwdh2o.legistar.com/Calendar.aspx>.

Requests for a disability-related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Board Executive Secretary in advance of the meeting to ensure availability of the requested service or accommodation.



Matters Impacting Metropolitan

EPA Proposes Listing Nine PFAS As RCRA Hazardous Constituents and Revising Definition of RCRA Hazardous Waste

On February 8, 2024, the U.S. Environmental Protection Agency (EPA) proposed two rules under the Resource Conservation and Recovery Act (RCRA): (1) to add nine per- and polyfluoroalkyl substances (PFAS) to RCRA's list of hazardous constituents (PFAS Listing Rule); and (2) to revise RCRA's regulatory definition of "hazardous waste" to clarify EPA's and authorized states' authority to require cleanup of the full range of substances that RCRA intended, including emerging chemicals of concern such as PFAS, that may present substantial hazards at permitted facilities (Definition Rule). Both rules were developed in response to a June 2021 petition filed by the governor of New Mexico requesting that EPA list PFAS as RCRA hazardous wastes either as a class of chemicals or individually.

PFAS Listing Rule

The PFAS Listing Rule proposes to classify nine PFAS -- perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS), perfluorobutanesulfonic acid (PFBS), hexafluoropropylene oxide-dimer acid (HFPO-A or GenX), perfluorononanoic acid (PFNA), perfluorohexanesulfonic acid (PFHxS), perfluorodecanoic acid (PFDA), perfluorohexanoic acid (PFHxA), and perfluorobutanoic acid (PFBA), as well as their salts and structural isomers -- as RCRA hazardous constituents. If this proposed rule is finalized, when RCRA corrective action requirements are imposed at a facility, these nine PFAS would be among the hazardous constituents expressly identified for consideration in RCRA facility assessments and, where necessary, further investigation and cleanup through the RCRA corrective action process at RCRA treatment, storage, and disposal facilities (TSDFs). Corrective action is a requirement under RCRA that facilities that treat, store, or dispose of hazardous wastes must investigate and clean up hazardous releases into soil, groundwater, surface water, and air.

Unlike hazardous wastes, hazardous constituents are not subject to RCRA's "cradle-to-grave" waste management system. Also, listing chemicals as RCRA hazardous constituents does not make them, or the wastes containing them, RCRA hazardous wastes, although EPA has described a hazardous constituent listing as "a step toward a potential hazardous waste listing." To list a waste as a RCRA hazardous waste, EPA must show that the waste contains a listed hazardous constituent and determine that it is capable of posing a substantial hazard. For these nine PFAS, EPA has not reached the hazardous waste step yet. Significantly, this means that the listed PFAS hazardous constituents would not be automatically designated as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) because they have not been listed as RCRA hazardous waste.

Definition Rule

Currently, RCRA's implementing regulations do not expressly apply RCRA's statutory definition of "hazardous waste." EPA's proposed Definition Rule would clarify EPA's longstanding position that it has the authority to require corrective action for the full array of substances meeting the statutory definition of "hazardous waste" and is not limited to the listed and identified "hazardous waste" and listed "hazardous constituents" specified in the regulations. The statutory definition of "hazardous waste" is more expansive than the regulatory definition and considers any waste that may cause or significantly contribute to an increase in mortality or serious illness, or pose a substantial hazard to human health or the environment, to be a "hazardous waste."

For any facility otherwise already subject to the RCRA corrective action regime, EPA could also rely on the more-expansive statutory "hazardous waste" definition to require additional corrective action measures for these specific PFAS, for other PFAS, and/or for non-PFAS emerging contaminants. Thus, while this proposed rule would not directly address PFAS, it would facilitate the use of RCRA corrective action authority to address emerging contaminants such as PFAS, if



they meet the statutory definition of “hazardous waste.”

EPA expects that its attention on addressing risks associated with PFAS under the PFAS Listing Rule will likely result in additional corrective action to address releases of these substances. Furthermore, EPA acknowledges that the Listing Rule could increase the number of permitted facilities engaging in corrective action. In turn,

these additional requirements could increase the time and cost for completing corrective action.

Comments on the proposed Definition Rule are due on or before March 26, 2024, and comments on the proposed PFAS Listing Rule are due on or before April 8, 2024. Metropolitan staff will continue to monitor EPA’s proposed rules and submit comments.

Other Matters

Continuing Education

On February 26 the Legal Department provided an MCLE presentation by JB Hamby, a member if the Imperial Irrigation District Board. His presentation was entitled “California’s Stake in the Colorado River”. He provided a history of the development of the Colorado River and an update on the current negotiations to develop new guidelines for the

allocation/use of Colorado River supplies going forward. It was a hybrid presentation with over 50 Metropolitan staff attending. The presentation was well received and JB stayed to respond to questions. The presentation was recorded, please see link below.

[MCLE California's Stake in the Colorado River by JB Hamby 20240226.mp4](#)

Matters Received

<u>Category</u>	<u>Received</u>	<u>Description</u>
Government Code Claims	4	Claims relating to: (1) a tent collapsed onto claimant’s vehicle that was parked in MWD’s Eagle Rock parking lot; (2) nail punctured the tire of the vehicle belonging to an MWD employee who had to park on the dirt to work on the West Valley/Calabasas feeder shutdown; and (3) two motor vehicle accidents involving MWD vehicles
Subpoenas	3	Two Deposition Subpoenas for Production of Business Records, served by the two different defendants in the same case, Defendants Wells Fargo Bank, N.A. and Jaffray & Co., in the case <i>State of California es. Rel. Edelweise Fund, LLC v. JP Morgan Chase Bank, N.A., et al.</i> , San Francisco County Superior Court, Case No. CGC-14-540777 requesting documents relating to Variable Rate Demand Obligations (VRDOs) issued by MWD during the time period January 1, 2008 to present, including official statements, annual financial reports, lists of remarketing agents and VRDOs issued, agreements, interest rates, strategic business plans, MWD's reliance on defendants' representations, fees and charges, documents prepared by any financial advisor, policies and procedures for the issuance of variable rate debt, any litigation by MWD, any concerns that VRDO interest rates were inflated/distorted, excessive or unsupported fees and inflated interest rates Subpoena for employee’s personnel, wage, and medical records, and other employee’s files



Requests Pursuant to the Public Records Act	12	<u>Requestor</u>	<u>Documents Requested</u>
		AFSCME Local 1902	All communications relating to Tony Butka, CityWatch LA, and/or Los Angeles Times, and all records relating to Tony Butka
		CiviGrid	GIS data/map of MWD underground water utilities in MWD's service area
		Ph.D. Candidate in Economics, Imperial College Business School	Reversion study on residents who received rebates from 2014-2018 and converted to drought-tolerant landscapes, then later replaced the landscape by re-installing grass
		MWD Supervisors Association	Transcript, digital media, chats, and Q&A from the Coffee with the General Manager session on February 20, 2024
		Private Citizens (3 requests)	(1) MWD's taste and odor report on source water reservoirs; (2) last three contracts between MWD and BNSF; and (3) deed for land sale from Jose and Nellie Miranda to MWD around 1930 in the San Jacinto, Riverside County area
		Rangel Landscapes	Current contractor's rates and copies of the bids submitted for the past five years for Landscape Maintenance and Tree Trimming Services for the Henry J. Mills Filtration Plant
		SmartProcure	Purchase order data including purchase order number, purchase order date, line item details, line item quantity, line item price, vendor information from August 18, 2023 to current
		Towill	Proposals submitted in response to Request for Proposals for Pure Water Southern California Program - Conveyance Reaches 1 & 2
		vPrime Tech	Tabulation of bids for Annual Trend Micro Deep Security Software Maintenance Support
		WestWater Research	Data including recharge costs, recovery cots, O&M costs, storage losses, and number of banking partners for water banks led by MWD



Other Matters	1	Letter from the California Civil Rights Department forwarding a complaint filed by an MWD employee alleging discrimination, harassment and retaliation
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PLEASE NOTE

- ADDITIONS ONLY IN THE FOLLOWING TWO TABLES WILL BE SHOWN IN RED.
- ANY CHANGE TO THE *OUTSIDE COUNSEL AGREEMENTS* TABLE WILL BE SHOWN IN REDLINE FORM (I.E., ADDITIONS, REVISIONS, DELETIONS).



Bay-Delta and SWP Litigation	
Subject	Status
<p>Delta Conveyance Project CEQA Cases</p> <p><i>City of Stockton v. California Department of Water Resources</i></p> <p><i>County of Butte v. California Department of Water Resources</i></p> <p><i>County of Sacramento v. California Department of Water Resources</i></p> <p><i>County of San Joaquin et al. v. California Department of Water Resources</i></p> <p><i>Sacramento Area Sewer District v. California Department of Water Resources</i></p> <p><i>San Francisco Baykeeper, et al. v. California Department of Water Resources</i></p> <p><i>Sierra Club, et al. v. California Department of Water Resources</i></p> <p><i>South Delta Water Agency and Rudy Mussi Investment L.P. v. California Department of Water Resources</i></p> <p><i>Tulare Lake Basin Water Storage District v. California Department of Water Resources</i></p>	<ul style="list-style-type: none"> • DWR is the only named respondent/defendant • All alleged CEQA violations • Most allege violations of the Delta Reform Act, Public Trust Doctrine and Delta and Watershed Protection Acts • Two allege violations of the fully protected bird statute • One alleges violations of Proposition 9 (1982) and the Central Valley Project Act • All but South Delta Water Agency’s case were filed in Sacramento County Superior Court • South Delta Water Agency filed in San Joaquin County Superior Court • <u>First case management conference held in Sacramento County Superior Court February 16, 2024</u> • <u>Second case management conference set for May 31, 2024</u> • <u>Sacramento County Water Agency joined County of Sacramento’s case when they filed a First Amended Petition on February 16, 2024</u> • <u>July 23, 2024 Case Management Conference in the San Joaquin County Superior Court case of <i>South Delta Water Agency et al. v. DWR</i></u>
<p>Consolidated DCP Revenue Bond Validation Action and CEQA Case</p> <p><i>Sierra Club, et al. v. California Department of Water Resources</i> (CEQA, designated as lead case)</p> <p><i>DWR v. All Persons Interested</i> (Validation)</p> <p>Sacramento County Superior Ct. (Judge Kenneth C. Mennemeier)</p>	<ul style="list-style-type: none"> • Validation Action • Metropolitan, Mojave Water Agency, Coachella Valley Water District, and Santa Clarita Valley Water Agency have filed answers in support • Kern County Water Agency, Tulare Lake Basin Water Storage District, Oak Flat Water District, County of Kings, Kern Member Units & Dudley Ridge Water District, and City of Yuba City filed answers in opposition • North Coast Rivers Alliance et al., Howard Jarvis Taxpayers Association, Sierra Club et al., County of Sacramento & Sacramento County Water Agency, CWIN et al., Clarksburg Fire Protection District, Delta Legacy Communities, Inc, and South Delta



Subject	Status
	<p>Water Agency & Central Delta Water Agency have filed answers in opposition</p> <ul style="list-style-type: none"> • Case ordered consolidated with the DCP Revenue Bond CEQA Case for pre-trial and trial purposes • Trial on the merits held May 15-18, 2023 • Final Judgment and Final Statement of Decision issued January 16, 2024 <ul style="list-style-type: none"> ○ Judgment in DWR’s favor on CEQA, Delta Reform Act, Public Trust Doctrine and jurisdictional causes of action or defenses ○ Bonds ruled not valid based on the broad definition of “Delta Program facilities” in the General Bond Resolution • <u>DWR, Metropolitan and other supporting public water agencies filed Notices of Appeal on or before the February 16, 2024 deadline</u>
<p>SWP-CVP 2019 BiOp Cases</p> <p><i>Pacific Coast Fed’n of Fishermen’s Ass’ns, et al. v. Raimondo, et al. (PCFFA)</i></p> <p><i>Calif. Natural Resources Agency, et al. v. Raimondo, et al. (CNRA)</i></p> <p>Federal District Court, Eastern Dist. of California, Fresno Division (Judge Thurston)</p>	<ul style="list-style-type: none"> • SWC intervened in both <i>PCFFA and CNRA</i> cases • Federal defendants reinitiated consultation on Oct 1, 2021 • Nov. 16, 2023 parties filed a joint status report • Federal defendants and state plaintiffs seek another 1-year stay and proposed a 2024 Interim Operations Plan (IOP); PCFFA seeks to extend the 2023 IOP until the court rules on the 2024 IOP • Briefing on stay extension and 2024 IOP concludes March 6, 2024 • Dec. 29, 2023 order extended the stay and 2023 IOP until March 2024 or new order, whichever is earlier
<p>CESA Incidental Take Permit Cases</p> <p>Coordinated Case Name <i>CDWR Water Operations Cases, JCCP 5117</i> (Coordination Trial Judge Gevercer)</p> <p><i>Metropolitan & Mojave Water Agency v. Calif. Dept. of Fish & Wildlife, et al. (CESA/CEQA/Breach of Contract)</i></p> <p><i>State Water Contractors & Kern County Water Agency v. Calif. Dept. of Fish & Wildlife, et al. (CESA/CEQA)</i></p>	<ul style="list-style-type: none"> • All 8 cases ordered coordinated in Sacramento County Superior Court • Stay on discovery issued until coordination trial judge orders otherwise • All four Fresno cases transferred to Sacramento to be heard with the four other coordinated cases • Certified administrative records lodged March 4, 2022 • State Water Contractors et al. granted leave to intervene in Sierra Club, North Coast Rivers



Subject	Status
<p><i>Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources</i> (CEQA)</p> <p><i>San Bernardino Valley Municipal Water Dist. v. Calif. Dept. of Water Resources, et al.</i> (CEQA/CESA/ Breach of Contract/Takings)</p> <p><i>Sierra Club, et al. v. Calif. Dept. of Water Resources</i> (CEQA/Delta Reform Act/Public Trust)</p> <p><i>North Coast Rivers Alliance, et al. v. Calif. Dept. of Water Resources</i> (CEQA/Delta Reform Act/Public Trust)</p> <p><i>Central Delta Water Agency, et. al. v. Calif. Dept. of Water Resources</i> (CEQA/Delta Reform Act/Public Trust/ Delta Protection Acts/Area of Origin)</p> <p><i>San Francisco Baykeeper, et al. v. Calif. Dept. of Water Resources, et al.</i> (CEQA/CESA)</p>	<p>Alliance, Central Delta Water Agency, and San Francisco Baykeeper cases by stipulation</p> <ul style="list-style-type: none"> • SWC, et al. granted leave to intervene as respondents in <i>Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources</i> CEQA case • SWC’s renewed motion to augment the administrative records granted in part; a court-appointed referee will review withheld records to determine if the deliberative process privilege applies • Sept. 8, 2023 hearing on DWR’s and CDFW’s motion to modify the referral to exclude certain withheld records • CDFW’s motion denied, DWR’s motion subject to the Court’s in camera review of records proposed for exclusion • Referee’s recommendation is to grant in part, deny in part SWC parties’ motion to augment the administrative records • Oct. 13, 2023 objections or responses to Referee’s recommendation due • Oct. 27, 2023 court’s ruling granting in part, and denying in part, the SWC parties’ motion to augment DWR’s and CDFW’s administrative records became final • Parties are conferring on a merits briefing schedule



Subject	Status
<p>CDWR Environmental Impact Cases Sacramento Superior Ct. Case No. JCCP 4942, 3d DCA Case No. C091771 (20 Coordinated Cases)</p> <p>Validation Action <i>DWR v. All Persons Interested</i></p> <p>CEQA 17 cases</p> <p>CESA/Incidental Take Permit 2 cases</p> <p>(Judge Arguelles)</p>	<ul style="list-style-type: none"> • Cases dismissed after DWR rescinded project approval, bond resolutions, decertified the EIR, and CDFW rescinded the CESA incidental take permit • January 10, 2020 – Nine motions for attorneys’ fees and costs denied in their entirety • Parties have appealed attorneys’ fees and costs rulings • May 11, 2022, court of appeal reversed the trial court’s denial of attorney fees and costs in an unpublished opinion • Opinion ordered published • Coordinated cases remitted to trial court for re-hearing of fee motions consistent with the court of appeal’s opinion • Sept. 15, 2023 re-hearing on fee motions • Dec. 26, 2023 order denying fee motions • Feb. 26, 2024 deadline to file notice of appeal • Six notices of appeal filed
<p>COA Addendum/ No-Harm Agreement</p> <p><i>North Coast Rivers Alliance v. DWR</i> Sacramento County Superior Ct. (Judge Rockwell)</p>	<ul style="list-style-type: none"> • Plaintiffs allege violations of CEQA, Delta Reform Act & public trust doctrine • USBR Statement of Non-Waiver of Sovereign Immunity filed September 2019 • Westlands Water District and North Delta Water Agency granted leave to intervene • Metropolitan & SWC monitoring • Deadline to prepare administrative record last extended to Nov. 18, 2022



Subject	Status
<p>SWP Contract Extension Validation Action Court of Appeal for the Third App. Dist. Case No. C096316 <i>DWR v. All Persons Interested in the Matter, etc.</i></p>	<ul style="list-style-type: none"> • DWR seeks a judgment that the Contract Extension amendments to the State Water Contracts are lawful • Metropolitan and 7 other SWCs filed answers in support of validity to become parties • Jan. 5-7, 2022 Hearing on the merits held with CEQA cases, below • Final statement of decision in DWR’s favor filed March 9, 2022 • Final judgment entered and served • C-WIN et al., County of San Joaquin et al. and North Coast Rivers Alliance et al. filed notices of appeal • Validation and CEQA cases consolidated on appeal • Briefing completed May 30, 2023 • Oral argument held November 15, 2023 • January 5, 2024 court of appeal affirmed the trial court judgment • CWIN et al. NCRA et al.’s petitions for reconsideration denied • <u>PCL et al. filed a petition for California Supreme Court review on validation grounds</u> • <u>NCRA et al. and CWIN et al. filed petitions for California Supreme Court review on CEQA grounds</u>
<p>SWP Contract Extension CEQA Cases Court of Appeal for the Third App. Dist. Case Nos. C096384 & C096304 <i>North Coast Rivers Alliance, et al. v. DWR</i> <i>Planning & Conservation League, et al. v. DWR</i></p>	<ul style="list-style-type: none"> • Petitions for writ of mandate alleging CEQA and Delta Reform Act violations filed on January 8 & 10, 2019 • Deemed related to DWR’s Contract Extension Validation Action and assigned to Judge Culhane • Administrative Record completed • DWR filed its answers on September 28, 2020 • Metropolitan, Kern County Water Agency and Coachella Valley Water District have intervened and filed answers in the two CEQA cases • Final statement of decision in DWR’s favor denying the writs of mandate filed March 9, 2022 • Final judgments entered and served • North Coast Rivers Alliance et al. and PCL et al. filed notices of appeal



Subject	Status
	<ul style="list-style-type: none"> • Appeals consolidated with the validation action above
<p>Delta Conveyance Project Soil Exploration Cases</p> <p><i>Central Delta Water Agency, et al. v. DWR</i> Sacramento County Superior Ct. (Judge Chang)</p> <p><i>Central Delta Water Agency, et al. v. DWR (II)</i>, Sacramento County Super. Ct. (Judge Acquisto)</p>	<ul style="list-style-type: none"> • Original case filed August 10, 2020; new case challenging the second addendum to the CEQA document filed Aug. 1, 2022 • Plaintiffs Central Delta Water Agency, South Delta Water Agency and Local Agencies of the North Delta • One cause of action alleging that DWR's adoption of an Initial Study/Mitigated Negative Declaration (IS/MND) for soil explorations needed for the Delta Conveyance Project violates CEQA • March 24, 2021 Second Amended Petition filed to add allegation that DWR's addendum re changes in locations and depths of certain borings violates CEQA • DWR's petition to add the 2020 CEQA case to the <i>Department of Water Resources Cases</i>, JCCP 4594, San Joaquin County Superior Court denied • Hearing on the merits held Oct.13, 2022 • Dec. 2, 2022 ruling on the merits granting the petition with respect to two mitigation measures and denying on all other grounds • Dec. 23, 2022 court order directing DWR to address the two mitigation measures within 60 days while declining to order DWR to vacate the IS/MND • March 27, 2023 court entered judgment and issued a writ after ordering and considering supplemental briefing • May 5, 2023 court granted DWR's motion to discharge the writ and dismiss the case • May 18, 2023 Notice of Appeal filed • <u>Hearing on motion for attorneys' fees continued to February 29, 2024vacated</u> • <u>Appeal dismissed after DWR settled on attorney fees</u>
<p>Water Management Tools Contract Amendment</p> <p><i>California Water Impact Network et al. v. DWR</i> Sacramento County Superior Ct. (Judge Aquisto)</p>	<ul style="list-style-type: none"> • Filed September 28, 2020 • CWIN and Aqualliance allege one cause of action for violation of CEQA • NCRA et al. allege four causes of action for violations of CEQA, the Delta Reform Act,



Subject	Status
<i>North Coast Rivers Alliance, et al. v. DWR</i> Sacramento County Super. Ct. (Judge Aquisto)	Public Trust Doctrine and seeking declaratory relief <ul style="list-style-type: none">• SWC motion to intervene in both cases granted• Dec. 20, 2022 DWR filed notice of certification of the administrative record and filed answers in both cases



<i>San Diego County Water Authority v. Metropolitan, et al.</i>		
Cases	Date	Status
2014, 2016	Aug. 28, 2020	SDCWA served first amended (2014) and second amended (2016) petitions/complaints.
	Sept. 28	Metropolitan filed demurrers and motions to strike portions of the amended petitions/complaints.
	Sept. 28-29	Member agencies City of Torrance, Eastern Municipal Water District, Foothill Municipal Water District, Las Virgenes Municipal Water District, Three Valleys Municipal Water District, Municipal Water District of Orange County, West Basin Municipal Water District, and Western Municipal Water District filed joinders to the demurrers and motions to strike.
	Feb. 16, 2021	Court issued order denying Metropolitan’s demurrers and motions to strike, allowing SDCWA to retain contested allegations in amended petitions/complaints.
	March 22	Metropolitan filed answers to the amended petitions/complaints and cross-complaints against SDCWA for declaratory relief and reformation, in the 2014, 2016 cases.
	March 22-23	Member agencies City of Torrance, Eastern Municipal Water District, Foothill Municipal Water District, Las Virgenes Municipal Water District, Three Valleys Municipal Water District, Municipal Water District of Orange County, West Basin Municipal Water District, and Western Municipal Water District filed answers to the amended petitions/complaints in the 2014, 2016 cases.
	April 23	SDCWA filed answers to Metropolitan’s cross-complaints.
	Sept. 30	Based on the Court of Appeal’s Sept. 21 opinion (described above), and the Board’s Sept. 28 authorization, Metropolitan paid \$35,871,153.70 to SDCWA for 2015-2017 Water Stewardship Rate charges under the Exchange Agreement and statutory interest.
2017	July 23, 2020	Dismissal without prejudice entered.
2018	July 28, 2020	Parties filed a stipulation and application to designate the case complex and related to the 2010-2017 cases, and to assign the case to Judge Massullo’s court.
	Nov. 13	Court ordered case complex and assigned to Judge Massullo’s court.
	April 21, 2021	SDCWA filed second amended petition/complaint.
	May 25	Metropolitan filed motion to strike portions of the second amended petition/complaint.



Cases	Date	Status
2018 (cont.)	May 25-26	Member agencies City of Torrance, Eastern Municipal Water District, Foothill Municipal Water District, Las Virgenes Municipal Water District, Three Valleys Municipal Water District, Municipal Water District of Orange County, West Basin Municipal Water District, and Western Municipal Water District filed joinders to the motion to strike.
	July 19	Court issued order denying Metropolitan’s motion to strike portions of the second amended petition/complaint.
	July 29	Metropolitan filed answer to the second amended petition/complaint and cross-complaint against SDCWA for declaratory relief and reformation.
	July 29	Member agencies City of Torrance, Eastern Municipal Water District, Foothill Municipal Water District, Las Virgenes Municipal Water District, Three Valleys Municipal Water District, Municipal Water District of Orange County, West Basin Municipal Water District, and Western Municipal Water District filed answers to the second amended petition/complaint.
	Aug. 31	SDCWA filed answer to Metropolitan’s cross-complaint.
	April 11, 2022	Court entered order of voluntary dismissal of parties’ WaterFix claims and cross-claims.
2014, 2016, 2018	June 11, 2021	Deposition of non-party witness.
	Aug. 25	Hearing on Metropolitan’s motion for further protective order regarding deposition of non-party witness.
	Aug. 25	Court issued order consolidating the 2014, 2016, and 2018 cases for all purposes, including trial.
	Aug. 30	Court issued order granting Metropolitan’s motion for a further protective order regarding deposition of non-party witness.
	Aug. 31	SDCWA filed consolidated answer to Metropolitan’s cross-complaints in the 2014, 2016, and 2018 cases.
	Oct. 27	Parties submitted to the court a joint stipulation and proposed order staying discovery through Dec. 8 and resetting pre-trial deadlines.
	Oct. 29	Court issued order staying discovery through Dec. 8 and resetting pre-trial deadlines, while the parties discuss the prospect of settling some or all remaining claims and crossclaims.
	Jan. 12, 2022	Case Management Conference. Court ordered a 35-day case stay to allow the parties to focus on settlement negotiations, with weekly written check-ins with the court; and directed the parties to meet and confer regarding discovery and deadlines.



Cases	Date	Status
2014, 2016, 2018 (cont.)	Feb. 22	Court issued order resetting pre-trial deadlines as proposed by the parties.
	Feb. 22	Metropolitan and SDCWA each filed motions for summary adjudication.
	April 13	Hearing on Metropolitan’s and SDCWA’s motions for summary adjudication.
	April 18	Parties filed supplemental briefs regarding their respective motions for summary adjudication, as directed by the court.
	April 18	Court issued order resetting pre-trial deadlines as proposed by the parties.
	April 29	Parties filed pre-trial briefs.
	April 29	Metropolitan filed motions in limine.
	May 4	Court issued order granting Metropolitan’s motion for summary adjudication on cross-claim for declaratory relief that the conveyance facility owner, Metropolitan, determines fair compensation, including any offsetting benefits; and denying its motion on certain other cross-claims and an affirmative defense.
	May 11	Court issued order granting SDCWA’s motion for summary adjudication on cross-claim for declaratory relief in the 2018 case regarding lawfulness of the Water Stewardship Rate’s inclusion in the wheeling rate and transportation rates in 2019-2020; certain cross-claims and affirmative defenses on the ground that Metropolitan has a duty to charge no more than fair compensation, which includes reasonable credit for any offsetting benefits, with the court also stating that whether that duty arose and whether Metropolitan breached that duty are issues to be resolved at trial; affirmative defenses that SDCWA’s claims are untimely and SDCWA has not satisfied claims presentation requirements; affirmative defense in the 2018 case that SDCWA has not satisfied contract dispute resolution requirements; claim, cross-claims, and affirmative defenses regarding applicability of Proposition 26, finding that Proposition 26 applies to Metropolitan’s rates and charges, with the court also stating that whether Metropolitan violated Proposition 26 is a separate issue; and cross-claims and affirmative defenses regarding applicability of Government Code section 54999.7, finding that section 54999.7 applies to Metropolitan’s rates. Court denied SDCWA’s motion on certain other cross-claims and affirmative defenses.
	May 13	Pre-trial conference; court denied Metropolitan’s motions in limine.
	May 16	Court issued order setting post-trial brief deadline and closing arguments.
	May 16-27	Trial occurred but did not conclude.



Cases	Date	Status
2014, 2016, 2018 (cont.)	May 23, June 21	SDCWA filed motions in limine.
	May 26, June 24	Court denied SDCWA's motions in limine.
	June 3, June 24, July 1	Trial continued, concluding on July 1.
	June 24	SDCWA filed motion for partial judgment.
	July 15	Metropolitan filed opposition to motion for partial judgment.
	Aug. 19	Post-trial briefs filed.
	Sept. 14	Court issued order granting in part and denying in part SDCWA's motion for partial judgment (granting motion as to Metropolitan's dispute resolution, waiver, and consent defenses; denying motion as to Metropolitan's reformation cross-claims and mistake of fact and law defenses; and deferring ruling on Metropolitan's cost causation cross-claim).
	Sept. 21	Metropolitan filed response to order granting in part and denying in part SDCWA's motion for partial judgment (requesting deletion of Background section portion relying on pleading allegations).
	Sept. 22	SDCWA filed objection to Metropolitan's response to order granting in part and denying in part SDCWA's motion for partial judgment.
	Sept. 27	Post-trial closing arguments.
	Oct. 20	Court issued order that it will rule on SDCWA's motion for partial judgment as to Metropolitan's cost causation cross-claim simultaneously with the trial statement of decision.
	Dec. 16	Parties filed proposed trial statements of decision.
	Dec. 21	SDCWA filed the parties' stipulation and proposed order for judgment on Water Stewardship Rate claims for 2015-2020.
	Dec. 27	Court entered order for judgment on Water Stewardship Rate claims for 2015-2020 as proposed by the parties.
	March 14, 2023	Court issued tentative statement of decision (tentatively ruling in Metropolitan's favor on all claims litigated at trial, except for those ruled to be moot based on the rulings in Metropolitan's favor)
March 14	Court issued amended order granting in part and denying in part SDCWA's motion for partial judgment (ruling that Metropolitan's claims for declaratory relief regarding cost causation are not subject to court review).	



Cases	Date	Status
	March 29	SDCWA filed objections to tentative statement of decision
	April 3	Metropolitan filed response to amended order granting in part and denying in part SDCWA's motion for partial judgment (requesting deletion of Background section portion relying on pleading allegations).
	April 25	Court issued statement of decision (ruling in Metropolitan's favor on all claims litigated at trial, except for those ruled to be moot based on the rulings in Metropolitan's favor)
	Jan. 10, 2024	Parties filed joint status report and stipulated proposal on form of judgment
	Jan. 17	Court issued order approving stipulated proposal on form of judgment (setting briefing and hearing)
	Jan. 26	Parties filed opening briefs on proposed form of judgment
	<u>Feb. 26</u>	<u>Parties filed response briefs on proposed form of judgment</u>
	March 13	Hearing on proposed form of judgment
All Cases	April 15, 2021	Case Management Conference on 2010-2018 cases. Court set trial in 2014, 2016, and 2018 cases on May 16-27, 2022.
	April 27	SDCWA served notice of deposition of non-party witness.
	May 13-14	Metropolitan filed motions to quash and for protective order regarding deposition of non-party witness.
	June 4	Ruling on motions to quash and for protective order.



Outside Counsel Agreements				
Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Albright, Yee & Schmit, APC	Employment Matter	211923	05/23	\$60,000
Andrade Gonzalez LLP	MWD v. DWR, CDFW and CDNR Incidental Take Permit (ITP) CESA/CEQA/Contract Litigation	185894	07/20	\$250,000
Aleshire & Wynder	Oil, Mineral and Gas Leasing	174613	08/18	\$50,000
Atkinson Andelson Loya Ruud & Romo	Employee Relations	59302	04/04	\$1,277,187
	Delta Conveyance Project Bond Validation-CEQA Litigation	185899	09/21	\$250,000
	MWD Drone and Airspace Issues	193452	08/20	\$50,000
	AFSCME Local 1902 in Grievance No. 1906G020 (CSU Meal Period)	201883	07/12/21	\$30,000
	AFSCME Local 1902 v. MWD, PERB Case No. LA-CE-1438-M	201889	09/15/21	\$20,000
	MWD MOU Negotiations**	201893	10/05/21	\$100,000
Best, Best & Krieger	Bay-Delta Conservation Plan/Delta Conveyance Project (with SWCs)	170697	08/17	\$500,000
	Environmental Compliance Issues	185888	05/20	\$100,000
	Grant Compliance Issues	211921	05/23	\$75,000
	Pure Water Southern California	207966	11/22	\$100,000
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP	FCC and Communications Matters	110227	11/10	\$100,000
Buchalter, a Professional Corp.	Union Pacific Industry Track Agreement	193464	12/07/20	\$50,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Burke, Williams & Sorensen, LLP	Real Property – General	180192	01/19	\$100,000
	Labor and Employment Matters	180207	04/19	\$75,000
	General Real Estate Matters	180209	08/19	\$200,000
	Rancho Cucamonga Condemnation Actions (Grade Separation Project)	207970	05/22	\$100,000
Law Office of Alexis S.M. Chiu*	Bond Counsel	200468	07/21	N/A
Cislo & Thomas LLP	Intellectual Property	170703	08/17	\$100,000
Curls Bartling P.C.*	Bond Counsel	200470	07/21	N/A
Duane Morris LLP	SWRCB Curtailment Process	138005	09/14	\$615,422
Duncan, Weinberg, Genzer & Pembroke	Power Issues	6255	09/95	\$3,175,000
Ellison, Schneider, Harris & Donlan	Colorado River Issues	69374	09/05	\$175,000
	Issues re SWRCB	84457	06/07	\$200,000
Erin Joyce Law, PC	Employment Matter	216039	11/23	\$100,000
Greines, Martin, Stein & Richland LLP	SDCWA v. MWD	207958	10/22	\$100,000
	Colorado River Matters	207965	11/22	\$100,000
Haden Law Office	Real Property Matters re Agricultural Land	180194	01/19	\$50,000
Hanna, Brophy, MacLean, McAleer & Jensen, LLP	Workers' Compensation	211926	06/23	\$100,000
Hanson Bridgett LLP	SDCWA v. MWD	124103	03/12	\$1,100,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
	Finance Advice	158024	12/16	\$100,000
	Deferred Compensation/HR	170706	10/17	\$500,000
	Tax Issues	180200	04/19	\$50,000
	Alternative Project Delivery (ADP)	207961	10/22	\$250,000
	Ad Valorem Property Taxes	216042	11/23	\$100,000
Hawkins Delafield & Wood LLP*	Bond Counsel	193469	07/21	N/A
Hemming Morse, LLP	Baker Electric v. MWD	211933	08/23	\$100,000
Horvitz & Levy	SDCWA v. MWD	124100	02/12	\$1,250,000
	General Appellate Advice	146616	12/15	\$200,000
	Colorado River	203464	04/22	\$100,000
Innovative Legal Services, P.C.	Employment Matter	211915	01/19/23	\$125,000
Internet Law Center	Cybersecurity and Privacy Advice and Representation	200478	04/13/21	\$100,000
	Systems Integrated, LLC v. MWD	201875	05/17/21	\$100,000
Amira Jackmon, Attorney at Law*	Bond Counsel	200464	07/21	N/A
Jackson Lewis P.C.	Employment: Department of Labor Office of Contract Compliance	137992	02/14	\$45,000
Jones Hall, A Professional Law Corp*	Bond Counsel	200465	07/21	N/A
Kronenberger Rosenfeld, LLP	Systems Integrated, LLC v. MWD	211920	04/23	\$250,000
Kutak Rock LLP	Delta Islands Land Management	207959	10/22	\$10,000
Liebert Cassidy Whitmore	Labor and Employment	158032	02/17	\$229,724
	FLSA Audit	180199	02/19	\$50,000
	EEO Advice	216041	12/23	\$100,000

Date of Report: March 6, 2024



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Manatt, Phelps & Phillips	SDCWA v. MWD rate litigation	146627	06/16	\$4,400,000
	Raftelis-Subcontractor of Manatt, Agr. #146627: Per 5/2/22 Engagement Letter between Manatt and Raftelis, MWD paid Raftelis Financial Consultants, Inc.	Invoice No. 23949		\$56,376.64 for expert services & reimbursable expenses in SDCWA v. MWD
Marten Law LLP	PFAS Multi-District Litigation	216034	09/23	\$400,000
Martenson, Hasbrouck & Simon LLP	Employment Matter	211932	08/23	\$50,000
Meyers Nave Riback Silver & Wilson	Pure Water Southern California	207967	11/22	\$100,000
	PFAS Compliance Issues	207968	11/14/22	\$100,000
Miller Barondess, LLP	SDCWA v. MWD	138006	12/14	\$600,000
Morgan, Lewis & Bockius	SDCWA v. MWD	110226	07/10	\$8,750,000
	Project Labor Agreements	200476	04/21	\$100,000
Musick, Peeler & Garrett LLP	Colorado River Aqueduct Electric Cables Repair/Contractor Claims	193461	11/20	\$2,500,000
	Arvin-Edison v. Dow Chemical	203452	01/22	\$100,000
	Semitropic TCP Litigation	207954	09/22	\$75,000
Nixon Peabody LLP*	Bond Counsel [re-opened]	193473	07/21	\$100,000
	Special Finance Project	207960	10/22	\$50,000
Norton Rose Fulbright US LLP*	Bond Counsel	200466	07/21	N/A
Olson Remcho LLP	Government Law	131968	07/14	\$400,000
	Executive Committee/Ad Hoc Committees Advice	207947	08/22	\$60,000
	Public Records Act	207950	08/22	\$54,000
	Advice/Assistance re Proposition 26/Election Issues	211922	05/23	\$100,000
Pearlman, Brown & Wax, L.L.P.	Workers' Compensation	216037	10/23	\$100,000

Date of Report: March 6, 2024



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
<u>Procopio, Cory, Hargreaves & Savitch, LLP</u>	<u>CityWatch Los Angeles Public Records Act Request</u>	<u>216046</u>	<u>02/24</u>	<u>\$75,000</u>
Rains Lucia Stern St. Phalle & Silver, PC	Employment Matter	211919	4/23	\$60,000
Renne Public Law Group, LLP	ACE v. MWD (PERB Case No. LA-CE-1574-M)	203466	05/22	\$100,000
	ACE v. MWD (PERB Case No. LA-CE-1611-M)	207962	10/22	\$50,000
	Employee Relations and Personnel Matters	216045	01/24	\$50,000
Ryan & Associates	Leasing Issues	43714	06/01	\$200,000
	Oswalt v. MWD	211925	05/23	\$100,000
Seyfarth Shaw LLP	Claim (Contract #201897)	201897	11/04/21	\$350,000
	Claim (Contract #203436)	203436	11/15/21	\$350,000
	Claim (Contract #203454)	203454	01/22	\$210,000
	Reese v. MWD	207952	11/22	\$750,000
	General Labor/Employment Advice	211917	3/23	\$100,000
	Civil Rights Department Complaint	211931	07/23	\$100,000
	Crawford v. MWD	216035	09/23	\$100,000
	Tiegs v. MWD	216043	12/23	\$250,000
	Zarate v. MWD	216044	01/24	\$250,000
Sheppard Mullin Richter & Hampton	Rivers v. MWD	207946	07/22	\$250,000
	Lorentzen v. MWD	216036	09/23	\$100,000
Stradling Yocca Carlson & Rauth*	Bond Counsel	200471	07/21	N/A
Theodora Oringher PC	Construction Contracts - General Conditions Update	185896	07/20	\$100,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Thompson Coburn LLP	NERC Energy Reliability Standards	193451	08/20	\$300,000
Van Ness Feldman, LLP	General Litigation	170704	07/18	\$50,000
	Colorado River MSHCP	180191	01/19	\$50,000
	Bay-Delta and State Water Project Environmental Compliance	193457	10/15/20	\$50,000
	Colorado River Issues	211924	05/23	\$100,000

*Expenditures paid by Bond Proceeds/Finance

**Expenditures paid by another group

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MINUTES

LEGAL AND CLAIMS COMMITTEE

February 13, 2024

Chair Luna called the meeting to order at 8:31 a.m.

Members present: Directors Camacho (entered after roll call), Cordero (entered after roll call, teleconference posted location), Dick, Douglas, Garza (entered after roll call), Kurtz (entered after roll call), Luna, Miller (entered after roll call), Peterson, and Seckel.

Members absent: Directors McCoy and Ramos.

Other Directors present: Directors Ackerman, Armstrong, Bryant, Dennstedt, Erdman, Fong-Sakai, Goldberg, Gray (teleconference posted location), Kassakhian, Lefevre, McMillan, Morris, Ortega, and Smith.

Committee Staff present: Beatty, Gaxiola, Hagekhalil, and Scully.

1. OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMITTEE ON MATTERS WITHIN THE COMMITTEE'S JURISDICTION

None

2. MANAGEMENT ANNOUNCEMENTS AND HIGHLIGHTS

- a. Subject: General Counsel's report of monthly activities
General Counsel Scully had nothing to add to her written report.

Directors Camacho entered the meeting.

Chair Luna re-ordered the agenda to hear the closed session Item 7c first.

Directors Kurtz and Miller entered the meeting.

7. COMMITTEE ITEMS

- c. Subject Report on Sierra Club et al. v. California Department of Water Resources, Sacramento County Superior Court Case No. 34-2020-80003517 (consolidated with California Department of Water Resources v. All Persons Interested in the Matter, etc., Sacramento County Superior Court Case No. 34-2020-00283112) [Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]

Presented by: Robert Horton, Chief Deputy General Counsel

In closed session, the committee discussed the item. No action was taken.

Director Cordero entered the meeting.

Announcement was made that teleconference location 34819 Calle Del Sol • Capistrano Beach CA 92624 was not available as previously noted on agenda.

CONSENT CALENDAR ITEMS – ACTION

3. CONSENT CALENDAR OTHER ITEMS – ACTION

- A. Subject: Approval of the Minutes of the Legal and Claims Committee for November 14, 2023.

4. CONSENT CALENDAR ITEMS – ACTION

- 7-10** Subject Approve amendments to the Metropolitan Water District Administrative Code to modify the structure and duties of various committees; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA
- Motion: Approve amendments to the Metropolitan Water District Administrative Code to modify the structure and duties of various committees.

- 7-11** Subject Approve: (1) changes to the Metropolitan Water District 457(b) and 401(k) deferred compensation plans to establish an investment committee and adopt investment committee bylaws; and (2) amendments necessary to conform the plans and the Metropolitan Administrative Code to the proposed changes, current law, practices, and regulations; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA
- Motion: Approve: (1) changes to the Metropolitan Water District 457(b) and 401(k) deferred compensation plans to establish an investment committee and adopt investment committee bylaws; and (2) amendments necessary to conform the plans and the Metropolitan Administrative Code to the proposed changes, current law, practices, and regulations.

No presentations were given. Director Peterson made a motion, seconded by Director Camacho, to approve items 3A, 7-10, and 7-11.

The vote was:

- Ayes: Directors Camacho, Cordero, Dick, Douglas, Kurtz, Luna, Miller, Peterson, and Seckel
- Noes: None
- Abstentions: None
- Absent: Directors Garza, McCoy, and Ramos
- The motion for Items 3A, 7-10 and 7-11 passed by a vote of 9 ayes, 0 noes, 0 recusals, 0 abstention, and 3 absent.

END OF CONSENT CALENDAR ITEMS

Director Garza entered the meeting.

5. OTHER BOARD ITEMS – ACTION

None

6. BOARD INFORMATION ITEMS

None

7. COMMITTEE ITEMS

- a. Subject Quarterly Report on General Auditor Professional Services Contracts executed between September 1, 2023 and December 31, 2023, as required by Administrative Code Section 6453
- Presented by: General Auditor Scott Suzuki
- b. Subject Update on litigation challenging the California Department of Water Resources' compliance with the California Environmental Quality Act and other environmental laws regarding its certification of a Final Environmental Impact Report for and approval of the Delta Conveyance Project in the following nine cases: City of Stockton v. California Department of Water Resources, Sacramento County Superior Court Case No. 24WM000009; County of Butte v. California Department of Water Resources, Sacramento County Superior Court Case No. 24WM000011; County of Sacramento v. California Department of Water Resources, Sacramento County Superior Court Case No. 24WM000014; County of San Joaquin et al. v. California Department of Water Resources, Sacramento County Superior Court Case No. 24WM000010; Sacramento Area Sewer District v. California Department of Water Resources, Sacramento County Superior Court Case No. 24WM000012; San Francisco Baykeeper, et al. v. California Department of Water Resources, Sacramento County Superior Court Case No. 24WM000017; Sierra Club, et al. v. California Department of Water Resources, Sacramento County Superior Court Case No. 24WM000008; South Delta Water Agency and Rudy Mussi Investment L.P. v. California Department of Water Resources, San Joaquin County Superior Court Case No. STK-CV-UCP-2024-0000816; Tulare Lake Basin Water Storage District v. California Department of Water Resources, Sacramento County Superior Court Case No. 24WM000006
- Presented by: Chief Deputy General Counsel Robert Horton

The following Directors provided comments or asked questions:

1. Luna
2. Peterson
3. Ortega
4. Garza

Staff responded to the Directors' questions and comments.

8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

None

Next meeting will be held on March 12, 2024.

Meeting adjourned at 9:22 a.m.

Miguel Luna
Chair



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

3/12/2024 Board Meeting

REVISED 7-8

Subject

Approve amendments to the Metropolitan Water District Administrative Code to provide an exempt time off benefit to unrepresented employees equivalent to the time off benefit provided to Metropolitan's management unit, create a new reproductive leave loss benefit as required by state law, conform personnel regulations for unrepresented employees to current practices and regulations; and authorize the General Manager to adjust unrepresented salaries to conform with the equity wage and cost-of-living adjustments provided to Metropolitan's management unit. The General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. **[Revised Subject]**

Executive Summary

The proposed amendments to Administrative Code Division VI, Chapters 2 and 5 will add two new key benefits (exempt time off for unrepresented employees, and reproductive loss leave in accordance with state law), update the Code to currently and going forward provide benefits for unrepresented employees to correspond with benefits provided to Metropolitan's management unit, along with other changes to conform personnel regulations, including benefits, for unrepresented employees to current practices and regulations.

Proposed Action(s)/Recommendation(s) and Options

Staff Recommendation: Option #1 [Revised]

Option #1

Approve amendments to the Metropolitan Water District Administrative Code to provide an exempt time off benefit for unrepresented employees, create a new reproductive loss leave benefit, and to conform personnel regulations for unrepresented employees to current practices and regulations; and authorize the General Manager to adjust unrepresented salaries to conform with the equity wage and cost-of-living adjustments provided to Metropolitan's management unit.

Fiscal Impact: Up to \$400,000 per year

Business Analysis: The Administrative Code will be amended to add benefits required by state law and provide consistency between unrepresented employees and Metropolitan's management unit.

Option #2

Do not approve the proposed amendments to the Metropolitan Water District Administrative Code.

Fiscal Impact: None

Business Analysis: The Administrative Code will not be amended to conform to state law and provide consistency between unrepresented employees and Metropolitan's management unit.

Alternatives Considered

No alternatives were considered to providing specified benefits for unrepresented employees and conforming personnel regulations, policies and practices for unrepresented employees with those of Metropolitan's management unit.

No alternatives were considered to amendment of the Administrative Code to conform to State law.

Applicable Policy

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

Metropolitan Water District Administrative Code Section 6200: Personnel Regulations

Metropolitan Water District Administrative Code Section 6500: Management and Confidential Employees – General

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

Related Board Action(s)/Future Action(s)

Not applicable

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

Details and Background

This letter proposes amendments to Metropolitan's Administrative Code Division VI, Chapters 2 and 5 by adding two new benefits, as well as other amendments to update the Code to, currently and going forward, provide benefits for unrepresented employees to correspond with benefits provided to Metropolitan's management unit. Other amendments will also conform some of Metropolitan's personnel regulations, found in Chapter 2, regarding benefits for unrepresented employees, to current practices and regulations. This letter also proposes authorizing the General Manager to adjust unrepresented salaries to conform with the equity wage and cost-of-living adjustments provided to Metropolitan's management unit.

The amendments would also add section 6268, which will provide all employees unpaid leave of up to five (5) days in the event of a failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction. This new benefit is required by SB 848, which was signed into law by Governor Newsom on October 11, 2023, and went into effect on January 1, 2024.

The amendments also adds section 6536, which provides a forty (40) hour allotment of exempt time off to qualifying unrepresented employees and an additional forty (40) hour allotment for qualifying unrepresented employees who receive at least an overall meets standards performance evaluation. This benefit will be added to provide qualifying unrepresented employees with a time off benefit equivalent to one recently negotiated by the MAPA bargaining unit for its members.

In addition to amendments, this letter seeks authorization for the General Manager to provide unrepresented employees with salary adjustments equivalent to those recently negotiated by MAPA. The proposed salary adjustments are as follows:

Year	Adjustment
2023	5.5% equity adjustment from July 1, 2023
2024	3% cost of living adjustment
2025	4% cost of living adjustment
2026	4% cost of living adjustment

Other amendments are being sought to clarify existing benefits language or to conform to existing practices regulations. The entire list of proposed amendments is 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 6227(b)(3) and 6242 and add section 6268 to add a new state-mandated “reproductive loss leave” benefit to provide employees unpaid leave of up to five (5) days in the event of a failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction.
2. Amend Administrative Code section 6227(d)(3) to clarify the use of unpaid sick leave for certain rehired employees, the payout basis for unused sick leave at time of separation, and to clarify that employees on temporary promotion will be classified to their regular classification and paid unused leave at their regular hourly pay at the at time of separation.
3. Amend Administrative Code section 6500(a) to update the hourly pay rate schedule for positions occupied by unclassified service employees including their pay grades and positions.
4. Amend Administrative Code section 6500(d) to conform the practice of regularly updating the hourly pay rate schedule rather than annually.
5. Amend Administrative Code section 6520 to clarify that temporary and less than part-time employees are not entitled to Article 2 benefits unless otherwise provided and to conform benefits for unclassified service employees to correspond with benefits provided to the District’s management unit, which means the current rule regarding how unclassified service employees receive benefit adjustments will change, as specified.
6. Amend Administrative Code section 6521 to clarify that retirement contributions made by employees deemed CalPERS Classic Members do not to exceed 7% of employee’s salary while those deemed New Members of CalPERS pay their own contributions.
7. Amend Administrative Code section 6523 to update the dental insurance policy to include any covered participant and revise the annual policy limits for orthodontics (up to \$2,000) and for diagnostic and preventative care (up to \$2,500).
8. Amend Administrative Code section 6524 to clarify that the tuition reimbursement policy allows an additional \$2,000 reimbursement for higher degrees, not to exceed a total of \$11,000 annually.
9. Amend Administrative Code section 6525 to clarify that the maximum upper limit available is \$400,000 for combined coverage term life insurance.
10. Amend Administrative Code section 6531 to clarify the order in which sick leave must be exhausted to receive long-term disability insurance benefits and the conditions under which such benefits expire.

- 11. Amend Administrative Code section 6532 to clarify that reimbursements for state-mandated licenses and fees are not capped whereas professional development expenses, such as seminars, books, and electronic equipment, are capped. The current cap is \$900 annually.
- 12. Add Administrative Code section 6535, the Wellness Enhancement Program, which provides reimbursements for health and fitness services and equipment, capped at \$400 annually.
- 13. Add Administrative Code section 6536, Exempt Time Off, which provides an annual allotment of time off, any unused portion of which shall be automatically cashed out towards the end of each calendar year. Retroactivity rules shall apply, as specified.
- 14. Amend Administrative Code sections 6227(c)(2), 6521, 6522, 6523, 6524, 6525, 6528, 6529, 6530, 6531, 6533, and 6534 to make minor, non-substantive changes.

All amendments are effective upon Board approval unless specified otherwise.

Project Milestone

Not applicable because amendments conform the Administrative Code to current law, practices, and regulations.



Adel Hagekhalil
General Manager

Date



Marcia Scully
General Counsel

Date

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

Attachment 2 - The Administrative Code of The Metropolitan Water District of Southern (clean copy)

Ref# I12696090

Division VI**PERSONNEL MATTERS**

Chapter		Sec.
1	Employee Relations	6100
2	Personnel Regulations	6200
3	General Employee Matters	6300
4	Officers	6400
5	Management and Confidential Employees - General	6500
[6	Repealed	6600]
[7	Repealed	6700]
8	Employee Deferred Compensation and Savings Plans	6810

Chapter 2**PERSONNEL REGULATIONS**

Sec.	
6200.	Definitions
6201.	Benefits Paid Temporary Employees
6202.	Hourly Pay Rate Calculations
6203.	Leave Accrual and Usage
6204.	Merit System
6205.	Eligibility and Qualifications for Employment
6206.	Appointments and Removals
6207.	Positions Authorized
6208.	Pay Rate Administration
6209.	Discharge
6210.	Employee Evaluation
6211.	Merit Increases
[6212 - 6216	reserved for future use]
6217.	Disciplinary Procedure
6218.	Appeal Procedure
6219.	Disciplinary Actions
6220.	Suspension
6221.	Demotion
6222.	Reduction in Force
6223.	Hours of Work
6224.	Overtime
6225.	Holidays
6226.	Annual Leave
6227.	Sick Leave
6228.	Disability Leave
6229.	Special Leave

- 6230. Employee Leave Transfers
- 6231. Family and Medical Leave
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- 6234. Domestic Partners
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- 6241. Notice of Absence
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- 6265. Service Awards
- 6266. Insurance Pertaining to Employees
- 6267. Relocation Expenses for Unrepresented and Officer Employees
- 6268. Reproductive Loss Leave

§ 6227. Sick Leave.

(a) Employees shall accumulate sick leave at the following rates:

(1) Regular and Recurrent employees shall accumulate sick leave with full pay at the rate of .045978 hours for each hour of service.

(2) Temporary employees, excluding Annuitants, shall accumulate sick leave with full rate pay at the rate of .033333 hours for each hour of service effective July 1, 2015.

(b) Such leave may be taken for absences from duty made necessary by:

(1) Incapacity due to illness.

(2) Incapacity due to injury incurred in the line of duty with the District to the extent provided in Section 6244 of this Code, or to injury not incurred in the line of such duty.

(3) A female employee's incapacity due to pregnancy, childbirth, miscarriage, abortion, or a reproductive loss event.

(4) Medical, dental or ocular examination or treatment of an employee, without incapacity, for which appointment cannot be made outside working hours, but limited to four hours for each appointment.

(5) To attend to the illness or injury in the employee's immediate family, other than the employee's own illness, to the extent permitted by Section 6229 of this Code. For the purposes of this section, "immediate family" means spouse, state-registered domestic partner, child, parent, sibling, grandparent, or grandchild, or designated person. A "designated person" for purposes of this section means a person identified by the employee at the time the employee requests special 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 paid sick days.

(6) To seek medical attention for injuries, obtain services from a shelter, program, or crisis center, psychological counseling or to participate in safety planning, including temporary or permanent relocation when an employee is a victim or survivor of domestic violence, sexual assault or stalking to the extent and limitation provided in Section 6229 of this Code.

(c) Physician Certification.

(1) A physician's certification or other proof of incapacity or treatment may be required if an employee's supervisor believes that a medical verification is justified in order for the employee to fulfill their job requirements or if the employee has a leave abuse problem. Notice of this requirement shall be given in advance in all cases of prior leave abuse. A physician's certification shall be required for all sick leave absences exceeding ten (10) working days.

(2) A physician's certification authorizing an employee's return to work from serious illness or injury shall be reviewed by the District's medical support in ~~Workplace Health & Safety~~ Human Resources Medical prior to the employee's return to work. An illness or injury may require additional medical examinations/testing in order to determine whether the employee can safely perform their duties, or to determine appropriate work restrictions. Such examination/testing will be done at District expense and on District time if the District requires that it be conducted by District-selected medical personnel.

(3) In the event sick leave is requested while an employee is on vacation, a certification by an attending physician is required for the granting of sick leave.

(d) Accumulation of Sick Leave for Regular and Recurrent Employees.

(1) Accumulation of sick leave as of the pay period of any annual payroll cycle which includes November 15, shall not be in excess of 1,000 hours of sick leave.

(2) If, during any period of any annual payroll cycle which includes November 15, an employee's total of accumulated sick leave exceeds the limitation on accumulation stated in Section 6227(d)(1), the excess accumulated sick leave shall, as soon as practicable after that payroll period, be paid to the employee entitled thereto at the employee's hourly pay rate at the end of said payroll period for 52.2 percent of the excess accumulated hours of such sick leave.

(3) An employee who separates from employment with the District, and has an accumulation of 10,440 hours of service with the District without interruption, will be paid at the employee's hourly rate of 52.2 percent of all accumulated sick leave. If the employee is rehired within twelve (12) months from their separation date, then any unused and unpaid sick leave will be reinstated. Employees will be paid out their unused sick 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.

(4) If an employee retires in accordance with the Public Employees' Retirement Law, as stated in Government Code Section 20965, the employee may elect one of two options: (1) to be paid at the employee's hourly rate for 52.2 percent of the excess accumulated hours of sick leave at the time of separation with the remaining 47.8 percent converted to additional service credit; or (2) to have 100 percent of such accumulated hours converted to additional service credit. If the employee makes no election, the employee will be defaulted to option (1).

(5) Except as provided in Section 6248 and Section 6227, there shall be no cancellation of earned but unused sick leave.

(e) Employees on military leave, either reserve, National Guard, State Guard or extended military service do not lose their accumulated sick leave credit.

(f) Accumulation of Sick Leave for Temporary employees, excluding Annuitants.

(1) A Temporary employee's accumulation of sick leave shall be limited to a total not to exceed sixty (60) hours.

(2) Upon separation from employment with the District, a Temporary employee will not be compensated for unused paid sick time.

(3) A Temporary employee who separates from employment with the District, and is rehired by the District within twelve (12) months from the date of separation, shall have his or her previously accrued and unused paid sick days reinstated.

(g) The unauthorized use of sick leave may result in disciplinary action.

§ 6242. Reinstatement Upon Return From Leave Necessitated by Pregnancy, Childbirth, Miscarriage, or Abortion.

An employee returning from leave necessitated by pregnancy, childbirth, miscarriage, ~~or~~ abortion, or a reproductive loss event shall be entitled to reinstatement to the employee's position held at the time the leave status began or, if the position has been deleted, to a position of like status in the same geographic area. Except as otherwise specifically provided by this Code or by rule of the District, such an employee shall, while on leave status, accumulate seniority credit for the purpose of determining ranking in the event of a reduction in force, but shall accumulate other benefits only as specifically provided for the type of leave taken by the employee.

§ 6268. Reproductive Loss Leave

Upon a reproductive loss event of an employee, the employee shall be allowed such reproductive loss leave for up to five (5) days without pay per reproductive loss event (RLE). RLE is defined as the day or, for a multiple day event, the final day of a failed adoption, failed surrogacy (applies to the would-be parent), miscarriage, stillbirth, or an unsuccessful assisted reproduction. If the employee experiences more than one RLE within 12 months, the employee is entitled to a maximum of 20 days of reproductive loss leave (“RLL”) within a 12 month period, not to exceed five (5) days per RLE. Employees are required to complete their RLL within three (3) months of the RLE, but if the employee is taking other specified leave (e.g., CFRA, FMLA, pregnancy disability leave, personal leave, sick leave, comp time) prior to or immediately after an RLE, the three (3) months does not start until the other leave completes. RLE need not be taken consecutively. The employee is not required to provide documentation to verify the RLE, but will be required to submit a leave request. Only an employee with thirty (30) days or greater of service is eligible for reproductive loss leave.

Chapter 5

MANAGEMENT AND CONFIDENTIAL EMPLOYEES - GENERAL

Article		Sec.
1	Salaries	6500
2	Benefits	6520
3	Grievances	6540
4	Miscellaneous	6560

Article 1

SALARIES

§ 6500. Hourly Pay Rate Schedule.

(a) The hourly pay rate (as that term is defined in subdivision (h) of Section 6200) and schedule of positions occupied by unclassified service employees not in an appropriate unit recognized pursuant to Section 6108 shall be as follows:

<u>Grade</u>	<u>Range</u>	<u>Title</u>
14	\$12.74-17.39 (\$26,499-36,171) <u>14.77-</u> <u>20.16</u> (\$30,722-41,933)	*Student Youth Intern
24 <u>2</u>	\$15.40-21.07 <u>18.43-25.06</u> (\$32,032-43,826) <u>38,334-</u> <u>52,125)</u>	*Student Intern
66	\$52.78-71.96 <u>61.18-83.42</u> (\$109,782-149,677) <u>127,254-</u> <u>173,514)</u>	Principal Administrative Analyst
67	\$62.75-85.70 (\$130,520-178,256)	Executive Office Manager
68	\$55.61-75.95 <u>64.47-88.05</u> (\$115,669-157,976) <u>134,098-</u> <u>183,144)</u>	Program Manager I
71	\$0.24-82.35 <u>69.83-95.46</u> (\$125,299-171,288) <u>145,246-</u> <u>198,557)</u>	Program Manager II
72	\$61.87-84.55 <u>71.73-98.01</u> (\$128,690-175,864) <u>149,198-</u> <u>203,861)</u>	Board Executive Secretary <u>Special Assistant to the GM</u> Staff Assistant to General Manager
73	\$63.58-86.83 <u>73.70-100.65</u> (\$153,296-209,352) <u>132,246-</u> <u>180,606)</u>	Audit Administrator <u>Senior Audit Manager</u>
74	\$75.74-103.33 <u>65.33-89.14</u> (\$157,539-214,926) <u>135,866-</u> <u>185,411)</u>	Program Manager III
75	\$67.05-91.64 <u>77.72-106.23</u> (\$139,464-190,611) <u>161,658-</u> <u>220,958)</u>	Human Resources Manager I

77	\$70.80-96.75 <u>82.07-112.16</u> (\$147,264-201,240 <u>170,706-233,293</u>)	Deputy General Auditor
78	\$72.73-99.38 <u>84.31-115.21</u> (\$151,278-206,710 <u>75,365-239,637</u>)	Human Resources Manager II
79	\$86.64 <u>74.74-118.43</u> <u>102.16</u> (\$180,211 <u>155,459-246,334</u> <u>212,493</u>)	Sr. Deputy General Counsel-Labor Relations
80	\$89.01 \$76.79-121.67 <u>104.96</u> (\$185,141 \$159,723- <u>253,074</u> <u>218,317</u>)	<u>Chief Deputy DE&I Officer</u> <u>Deputy Chief EEO Officer</u> Human Resources Section Manager Manager of Colorado River Resources
81	\$91.51 78.93-125.03 <u>107.85</u> (\$190,341 \$164,174- <u>260,062</u> <u>224,328</u>)	Assistant General Auditor Budget and Treasury Manager Executive Legislative Representative Human Resources Manager III Strategic Comm. & Policy Advisor
<u>82</u>	<u>\$93.96-128.42</u> (<u>\$195,437-267,114</u>)	<u>Manager of Bay-Delta Programs</u> <u>Manager of Bay-Delta Science & Regulator Strategy</u>
85	\$101.98 87.97-139.31 <u>120.17</u> (\$212,118 \$182,978- <u>289,765</u> <u>249,954</u>)	Assistant Group Manager <u>Bay-Delta Initiatives Policy Manager</u> <u>Chief EEO Officer</u> <u>Chief Diversity, Equity & Inclusion Officer</u> <u>Chief Safety, Security & Protection Officer</u> <u>Chief Sustainability, Resiliency & Innovation Officer</u> <u>Chief Principal Deputy General Counsel-Labor Relations</u>
86	\$9104.78 0.39-1143.14 <u>23.47</u> (\$217,942 \$188,011- <u>297,731</u> <u>256,818</u>)	Assistant General Counsel <u>Executive Advisor: Water Resources & Capital Improvements</u> <u>Bay-Delta Initiatives Manager</u> Group Manager <u>Group Manager—Bay Delta Initiatives</u> Group Manager—External Affairs <u>Group Manager—Finance</u> Group Manager—Human Resources Group Manager—Real Property <u>Manager of Colorado River Resources</u>
88	\$110.62 <u>95.42-151.13</u> <u>130.37</u>	<u>Board Executive Officer</u>

	(\$230,090-\$198,474- 314,350-271,170)	<u>Group Manager—Conveyance & Distribution</u> Group Manager—Info Technology <u>Group Manager—Water Resources Management</u> <u>Group Manager—Treatment & Water Quality</u> Group Manager—Water Resources Mgmt. <u>Management</u>
89	\$113.62-98.01-155.33-134.00 (\$236,330-323,086-203,861- 278,720)	Group Manager—Engineering Services Group Manager—Water System Operations
93	\$126.71-109.30- 173.11-149.33 (\$263,557-227,344- 360,069-310,606)	Assistant General Manager – Chief Administrative— Officer Assistant General Manager—Chief External Affairs Officer Assistant General Manager – Chief Financial Officer Assistant General Manager – Strategic Water Initiatives
94	\$130.15-112.27- 177.89-153.46 (\$270,712-233,522- \$370,011-319,197)	Assistant General Manager—Chief Operating Officer
97	\$141.25-192.98 (\$293,800-\$401,398)	<u>Executive Officer & Assistant General Manager—Water & Technology Resources</u>

() Shows approximate annual salary range for convenience; Board approved rates are hourly. Asterisk * positions are Fair Labor Standards (FLSA) “non-exempt” (i.e., eligible for overtime).

(b) Unrepresented FLSA “exempt” employees are eligible to receive a monthly transportation allowance. Transportation allowance amounts are to be administered by the General Manager based on a schedule approved by the Board of Directors.

(c) Unrepresented FLSA “exempt” employees are eligible to participate in a pay-for-performance incentive program promulgated by the General Manager. The Board shall establish the total expenditure for the program.

(d) Unless otherwise directed by the Board, the range of base hourly pay rates for the employees in the positions identified in Section 6500(a) will be adjusted ~~annually~~ to correspond with the ~~annual~~ across-the-board salary adjustments provided to the District’s management unit. Actual pay rates for these employees will be based on merit pursuant to employee evaluations. Department Heads are authorized to move a position to a different salary grade in accordance with practices, policies and procedures promulgated by the General Manager.

Article 2

BENEFITS

Sec.

- 6520. General
- 6521. Retirement
- 6522. Medical Insurance
- 6523. Dental Insurance
- 6524. Tuition Reimbursement
- 6525. Term Life Insurance
- [6526 repealed]
- [6527 repealed]
- 6528. Personal Leave
- 6529. Part-Time Disability Leave
- 6530. Bereavement Leave
- 6531. Long-Term Disability Insurance
- 6532. ~~Professional Dues~~ Professional Development and Productivity Enhancement
- 6533. Deferred Compensation
- 6534. Vision Plan
- 6535. Wellness Enhancement Program
- 6536. Exempt Time Off

§ 6520. General.

In addition to other benefits set forth in this Administrative Code, employees, other than temporary or less than part-time employees, and to the extent specified, annuitants, shall be entitled to the following benefits effective June 28, 1987, unless otherwise provided hereinafter. Further, unless otherwise directed by the Board, benefits for the employees in the positions referenced in Section 6500(a) shall be provided to correspond with the across-the-board salary and benefits adjustments provided to the District's management unit.

§ 6521. Retirement.

The District shall pay to the California Public Employees' Retirement System (CalPERS) on behalf of each employee an amount equal to the required employee contribution to CalPERS, not to exceed seven percent (7%) of each employee's salary for employees deemed Classic Members by CalPERS. Employees deemed as New Members are subject to the Public Employees' Pension Reform Act (PEPRA) and shall pay their own employee contributions.

The contribution shall be treated as an employer contribution made pursuant to Section 414(h)(2) of the Internal Revenue Code ~~of the United States~~ in determining the tax treatment of the contribution. Such contributions shall be treated for all purposes other than taxation in the same manner and to the same extent as contributions made by employees prior to June 30, 1985. Such contributions shall be paid from the same source of funds as used in paying wages to the affected employees. The employee does not have the option to receive the District-contributed amount paid pursuant to this section directly instead of having it paid to CalPERS.

Notwithstanding any provision in this Code to the contrary, the wages of each unrepresented employee shall be reduced by the indicated percentage of the amount of such employee's contribution paid by the District pursuant to the provisions of this section:

For such employees employed prior to January 1, 1981: 64.3%

For such employees employed on or after January 1, 1981: 100.0%

This section shall be operative only so long as the District pickup of the retirement contribution continues to be excluded from the gross income of the employee under the provisions of the Internal Revenue Code.

§ 6522. Medical Insurance.

Metropolitan's monthly contribution for employees in classifications referenced listed in Section 6500 and related annuitants to the medical plans maintained by CalPERS the Public Employees' Retirement System shall be established by Board resolution pursuant to the provisions of the Public Employees' Medical and Hospital Care Act.

§ 6523. Dental Insurance.

The District shall fully pay premiums for employees in classifications referenced listed in Section 6500 and their qualified dependents under the group dental insurance provided by Delta Dental Company. Any reserve funds developed under the policy may be applied towards paying the premium of any policy obtained pursuant to this section.

During the policy year beginning with September 1, 1992, the District shall amend its policy to provide for an increase in orthodontic coverage under the prior terms of the policy to \$1,5002,000 lifetime maximum per eligible dependent child to age 19 covered participant; and to increase the prophylaxis (cleaning) benefit by providing for such cleaning once every four (4) months. In addition, the District shall amend its policy to provide for an increase in the maximum payable for diagnostic and preventative care per calendar year per eligible person to \$2,0002,500 a year; and to provide for sealant treatment for dependent children.

§ 6524. Tuition Reimbursement.

Tuition reimbursement for unrepresented-all employees in classifications referenced listed in Section 6500 shall be one-hundred percent (100%) percent of tuition, registration fees, books, and laboratory fees for up to twelve (12) units per quarter or semester; provided however, that employees who receive tuition reimbursement approval for a course or curriculum on or after August 1, 1992 shall be eligible for tuition reimbursement at the rate of one-hundred+00 percent (100%), to a maximum of \$9,000 per calendar year, and up to an additional \$2,000 per calendar year for graduate or doctorate degrees.

§ 6525. Term Life Insurance.

All employees in classifications referenced-listed in Section 6500 will be provided with District-paid term life insurance affording coverage in an amount equal to 2,080 times the employee's hourly rate rounded off to the next higher thousand dollars, with employees having the option at their own expense to obtain additional coverage not to exceed a maximum combined coverage of four hundred thousand dollars (\$400,000).

§ 6528. Personal Leave.

Employees in classifications referenced-listed in Section 6500 who are exempt from overtime pay and have been employed by the District for more than 1,044 hours of current service, including military leave during the period of current service, may take personal leave with pay up to twenty-four (24) hours each annual payroll cycle which shall not be charged against accumulated sick leave. Such personal leave may be taken for any personal reason, so long as such leave does not interfere with the mission of the District.

§ 6529. Part-Time Disability Leave.

An unrepresented employee, otherwise eligible for disability leave pursuant to Section 6228, may be permitted by the employee's Department Head to work for a period, subject to termination by the Department Head, on a part-time basis if a physician's statement is furnished, satisfactory to and accepted by the District, stating the employee is physically able to work on a part-time basis. The Department Head may not re-delegate the authority provided by this section. Notwithstanding any provision to the contrary in Sections 6200 through 626~~85~~, the employee shall be permitted to accrue leave in accordance with District regulation for those hours not on disability leave, but shall not be allowed to use leave until returning to work on a full-time basis and a physician's statement, satisfactory to and accepted by the District, is received stating the employee is physically able to return to work on a full-time basis for an indefinite time. For all other purposes of Section 6228, an employee on part-time disability leave shall be considered to be on full-time disability leave and shall not be considered as having returned to work.

§ 6530. Bereavement Leave.

Upon the death of a member of an employee's immediate family, a classification referenced-listed in Section 6500 shall be allowed such bereavement leave with pay as is actually necessary to take care of funeral arrangements or to attend the funeral, but not to exceed three (3) working days, or, one workweek as determined by the employee's assigned work schedule, if the death occurs 250 miles or more from the employee's place of residence. If the death does not occur 250 miles or more from the employee's place of residence, then the employee shall be allowed additional bereavement leave without pay not to exceed two (2) working days, except that an employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee. For the purposes of this section, "immediate family" means spouse, state-registered domestic partner, or the employee's or spouse's/domestic partner's child, parent, brother, sister, stepparent, stepchild, grandparent, grandchild, aunt or uncle. An employee, if requested by Metropolitan, within thirty (30) days of the first day of the leave, shall provide documentation of the death of

the family member. As used in this section, “documentation” includes, but is not limited to, a death certificate, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency. The bereavement leave shall be completed within three (3) months of the date of death of the family member.

§ 6531. Long-Term Disability Insurance.

The District shall provide long-term disability (LTD) insurance to employees in classifications referenced listed in Section 6500. Commencing July 1, 1998, or as soon thereafter as practical, the insurance shall provide a benefit of \$8,000 per month, but not to exceed sixty-six 66 percent (66%) of the employee's monthly salary. The benefit shall commence ninety (90) days after the employee's disability commences. Benefit payments are paid after the employee first exhausts all sick leave, exhausting disability leave payable at the rate of 75 percent (75%) of full pay, and exhausting disability leave at the rate of 50 percent (50%) of full pay, in that order. Benefit payments and shall expire 2 1/2 years at age 65 after commencement, unless the employee's disability terminates sooner. If the employee applies for LTD benefits at age 65 or older, payments will expire within twelve (12) to twenty-four (24) months depending on age when the first payment begins. The District's insurance carrier shall determine eligibility including whether an employee is disabled. Preexisting conditions shall be excluded from coverage. The District shall have the right to change carriers and coverage so long as the replacement insurance is at least as advantageous.

§ 6532. Professional Development and Productivity Enhancement ~~Dues~~.

Any employee in an unrepresented position referenced listed in Section 6500 shall be reimbursed for professional dues, pursuant to authorization by the employee's Department Head, when professional dues are related to the fulfillment of the District's purposes. professional development and productivity enhancement expenses, as follows:

(a) The District shall reimburse employees for state-mandated license for certification fees.

(b) The District shall reimburse unrepresented employees, to correspond with adjustments provided to the District's management unit, for the costs incurred for professional development, certifications, licenses, or other costs incurred for professional development or productivity enhancement including seminars, journals, periodicals, books, travel expenses, professional association dues, pre-approved electronic equipment software and hardware, computing or communication devices, and other equipment pursuant to authorization by the employee's Department Head, to a specified annual maximum, when related to their job duties and/or to the fulfillment of the District's purposes. Any unused monies will roll over for one and only one subsequent year, from odd calendar years to even years, and unused monies during even years will be neither rolled over nor paid out.

§ 6533. Deferred Compensation.

The District shall provide a matching contribution, on behalf of each employee in a classification ~~referenced listed~~ in Section 6500 who is a participant in the 401(k) Plan provided for in Division VI, Chapter 8, Article 1 of this Code, in the amount of one (1) dollar for each dollar contributed by the employee in accordance with a compensation-reduction election made by the participant pursuant to the 401(k) Plan Section 3.2. Commencing July 1, 2004, or as soon thereafter as practical, the maximum District matching contribution shall not exceed four and one-half percent (4.5%) of the employee's total cash compensation and salary reductions permitted under Sections 401(k), 414(b) and 457 of the Internal Revenue Code during that time period. This section shall only be operative to the extent that the District can make matching contributions and maintain compliance with the Internal Revenue Code.

§ 6534. Vision Plan.

The District shall on behalf of each employee in a classification ~~referenced listed~~ in Section 6500 provide for a vision care program through a District-approved vision plan provider~~Vision Service Plan (VSP)~~. The vision care program shall provide coverage of standard ophthalmic materials when necessary for the eligible employee's visual welfare. This program shall provide for eye examinations, lenses, and frames under ~~VIP's Plan "B"~~the program. The District shall fully pay the employee only premium rate. Employees will, however, be permitted the option to purchase family coverage through the program.

§ 6535. Wellness Enhancement Program.

The District shall on behalf of each employee in a classification referenced in Section 6500, provide a wellness enhancement reimbursement benefit for common health and fitness services not to exceed four hundred dollars (\$400) annually for District-approved activities, services, equipment and products that promote physical activity, wellness and work-life balance. All submissions for reimbursement must be submitted by January 31 for the prior year. This benefit is annual and any unused remainder may not be carried over to subsequent years.

§ 6536. Exempt Time Off

(a) Effective January 1, 2024, and each calendar year thereafter, all full-time FLSA-exempt employees with a classification referenced in Section 6500 are eligible for an annual allotment of forty (40) hours of Exempt Time Off (ETO) to be used within the calendar year it is allotted. The annual allotment of ETO becomes available for use on the first District business day of the calendar year and shall not roll over into the following calendar year. Employees hired after the annual allotment in January, and existing employees who are promoted or transferred into an applicable classification after the annual allotment in January, are not eligible to receive ETO until the following calendar year. Existing employees with an ETO allotment or balance from a previous classification will retain their unused ETO for that calendar year. Any unused portion of ETO will be automatically cashed out by the District to the employee on the first paycheck following December 1 of each calendar year.

(b) Effective January 1, 2025 and each calendar year thereafter, all eligible employees under this section with a current overall annual evaluation rating of Meets Standards and above for the prior evaluation year, shall receive an additional annual allotment of forty (40) hours of ETO to be used within the calendar year it is allotted. This additional annual allotment of ETO becomes available for use on the first District business day of the calendar year and shall not roll over into the following calendar year. Only persons who are actively employed by the District at the time of the annual allotment in January will be eligible for the allotment. Any unused portion of ETO will be automatically cashed out by the District to the employee on the paycheck following December 1 of each calendar year.

(c) Eligible employees shall make a request to use ETO hours to their direct supervisor. The District shall determine whether a request for ETO shall be granted. However, an eligible employee's timely request to use ETO hours under this provision shall only be denied for good and sufficient business reasons.

(d) Any ETO hours not used by an employee prior to separation of service will be automatically cashed out by the District at separation.

(e) Effective July 1, 2022 through December 31, 2022, all employees eligible under this section, who were employed by the District during that timeframe, shall receive a retroactive payment equivalent to an allotment of twenty-four (24) hours of ETO for that timeframe.

(f) Effective January 1, 2023 through December 31, 2023, all employees eligible under this section who were employed by the District during that timeframe shall receive a retroactive payment equivalent to an allotment of forty (40) hours of ETO for that timeframe.

(g) Eligible employees who received an overall annual evaluation rating of Meets Standards and above for the 2022-2023 evaluation year shall receive an additional allotment of 40 hours of ETO for that evaluation period. Any unused portion of ETO awarded under this provision will be automatically cashed out by the District to the employee on the first paycheck following December 1, 2024.

(h) Only persons employed by the District at the time this section becomes effective may be awarded retroactive allotments and/or retroactive payments, as set forth above.

Division VI

PERSONNEL MATTERS

Chapter	Sec.
1 Employee Relations	6100
2 Personnel Regulations	6200
3 General Employee Matters	6300
4 Officers	6400
5 Management and Confidential Employees - General	6500
[6 Repealed	6600]
[7 Repealed	6700]
8 Employee Deferred Compensation and Savings Plans	6810

Chapter 2

PERSONNEL REGULATIONS

Sec.
6200. Definitions
6201. Benefits Paid Temporary Employees
6202. Hourly Pay Rate Calculations
6203. Leave Accrual and Usage
6204. Merit System
6205. Eligibility and Qualifications for Employment
6206. Appointments and Removals
6207. Positions Authorized
6208. Pay Rate Administration
6209. Discharge
6210. Employee Evaluation
6211. Merit Increases
[6212 - 6216 reserved for future use]
6217. Disciplinary Procedure
6218. Appeal Procedure
6219. Disciplinary Actions
6220. Suspension
6221. Demotion
6222. Reduction in Force
6223. Hours of Work
6224. Overtime
6225. Holidays
6226. Annual Leave
6227. Sick Leave
6228. Disability Leave
6229. Special Leave

- 6230. Employee Leave Transfers
- 6231. Family and Medical Leave
- 6232. Paid Leave While Caring For A Newly Born Or Newly Adopted Child
- 6233. Benefits Paid Regular Part-Time Employees
- 6234. Domestic Partners
- [6235 - 6239 reserved for future use]
- [6240 - Repealed]
- 6241. Notice of Absence
- 6242. Reinstatement Upon Return from Leave Necessitated by Pregnancy, Childbirth, Miscarriage, or Abortion
- 6243. Bereavement Leave
- 6244. Use of Accumulated Leave - Industrial Injury
- 6245. Use of Accumulated Leave - Quarantine
- 6246. Military Leave
- 6247. Leave Without Pay
- 6248. Severance Pay
- 6249. Jury Duty Leave
- [6250 - 6259 reserved for future use]
- 6260. Shift Pay and Diving Pay
- 6261. Time Off for Voting
- 6262. Leave for Subpoenaed Employees
- 6263. Modification of Work Schedules
- 6264. Retention of Travel Incentives
- 6265. Service Awards
- 6266. Insurance Pertaining to Employees
- 6267. Relocation Expenses for Unrepresented and Officer Employees
- 6268. Reproductive Loss Leave

§ 6227. Sick Leave.

(a) Employees shall accumulate sick leave at the following rates:

(1) Regular and Recurrent employees shall accumulate sick leave with full pay at the rate of .045978 hours for each hour of service.

(2) Temporary employees, excluding Annuitants, shall accumulate sick leave with full rate pay at the rate of .033333 hours for each hour of service effective July 1, 2015.

(b) Such leave may be taken for absences from duty made necessary by:

(1) Incapacity due to illness.

(2) Incapacity due to injury incurred in the line of duty with the District to the extent provided in Section 6244 of this Code, or to injury not incurred in the line of such duty.

(3) A female employee's incapacity due to pregnancy, childbirth, miscarriage, abortion, or a reproductive loss event.

(4) Medical, dental or ocular examination or treatment of an employee, without incapacity, for which appointment cannot be made outside working hours, but limited to four hours for each appointment.

(5) To attend to the illness or injury in the employee's immediate family, other than the employee's own illness, to the extent permitted by Section 6229 of this Code. For the purposes of this section, "immediate family" means spouse, state-registered domestic partner, child, parent, sibling, grandparent, or grandchild, or designated person. A "designated person" for purposes of this section means a person identified by the employee at the time the employee requests special 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 paid sick days.

(6) To seek medical attention for injuries, obtain services from a shelter, program, or crisis center, psychological counseling or to participate in safety planning, including temporary or permanent relocation when an employee is a victim or survivor of domestic violence, sexual assault or stalking to the extent and limitation provided in Section 6229 of this Code.

(c) Physician Certification.

(1) A physician's certification or other proof of incapacity or treatment may be required if an employee's supervisor believes that a medical verification is justified in order for the employee to fulfill their job requirements or if the employee has a leave abuse problem. Notice of this requirement shall be given in advance in all cases of prior leave abuse. A physician's certification shall be required for all sick leave absences exceeding ten (10) working days.

(2) A physician's certification authorizing an employee's return to work from serious illness or injury shall be reviewed by the District's medical support in Human Resources Medical prior to the employee's return to work. An illness or injury may require additional medical examinations/testing in order to determine whether the employee can safely perform their duties, or to determine appropriate work restrictions. Such examination/testing will be done at District expense and on District time if the District requires that it be conducted by District-selected medical personnel.

(3) In the event sick leave is requested while an employee is on vacation, a certification by an attending physician is required for the granting of sick leave.

(d) Accumulation of Sick Leave for Regular and Recurrent Employees.

(1) Accumulation of sick leave as of the pay period of any annual payroll cycle which includes November 15, shall not be in excess of 1,000 hours of sick leave.

(2) If, during any period of any annual payroll cycle which includes November 15, an employee's total of accumulated sick leave exceeds the limitation on accumulation stated in Section 6227(d)(1), the excess accumulated sick leave shall, as soon as practicable after that payroll period, be paid to the employee entitled thereto at the employee's hourly pay rate at the end of said payroll period for 52.2 percent of the excess accumulated hours of such sick leave.

(3) An employee who separates from employment with the District, and has an accumulation of 10,440 hours of service with the District without interruption, will be paid at the employee's hourly rate of 52.2 percent of all accumulated sick leave. If the employee is rehired within twelve (12) months from their separation date, then any unused and unpaid sick leave will be reinstated. Employees will be paid out their unused sick 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.

(4) If an employee retires in accordance with the Public Employees' Retirement Law, as stated in Government Code Section 20965, the employee may elect one of two options: (1) to be paid at the employee's hourly rate for 52.2 percent of the excess accumulated hours of sick leave at the time of separation with the remaining 47.8 percent converted to additional service credit; or (2) to have 100 percent of such accumulated hours converted to additional service credit. If the employee makes no election, the employee will be defaulted to option (1).

(5) Except as provided in Section 6248 and Section 6227, there shall be no cancellation of earned but unused sick leave.

(e) Employees on military leave, either reserve, National Guard, State Guard or extended military service do not lose their accumulated sick leave credit.

(f) Accumulation of Sick Leave for Temporary employees, excluding Annuitants.

(1) A Temporary employee's accumulation of sick leave shall be limited to a total not to exceed sixty (60) hours.

(2) Upon separation from employment with the District, a Temporary employee will not be compensated for unused paid sick time.

(3) A Temporary employee who separates from employment with the District, and is rehired by the District within twelve (12) months from the date of separation, shall have his or her previously accrued and unused paid sick days reinstated.

(g) The unauthorized use of sick leave may result in disciplinary action.

§ 6242. Reinstatement Upon Return From Leave Necessitated by Pregnancy, Childbirth, Miscarriage, or Abortion.

An employee returning from leave necessitated by pregnancy, childbirth, miscarriage, abortion, or a reproductive loss event shall be entitled to reinstatement to the employee's position held at the time the leave status began or, if the position has been deleted, to a position of like status in the same geographic area. Except as otherwise specifically provided by this Code or by rule of the District, such an employee shall, while on leave status, accumulate seniority credit for the purpose of determining ranking in the event of a reduction in force, but shall accumulate other benefits only as specifically provided for the type of leave taken by the employee.

§ 6268. Reproductive Loss Leave

Upon a reproductive loss event of an employee, the employee shall be allowed such reproductive loss leave for up to five (5) days without pay per reproductive loss event (RLE). RLE is defined as the day or, for a multiple day event, the final day of a failed adoption, failed surrogacy (applies to the would-be parent), miscarriage, stillbirth, or an unsuccessful assisted reproduction. If the employee experiences more than one RLE within 12 months, the employee is entitled to a maximum of 20 days of reproductive loss leave (“RLL”) within a 12 month period, not to exceed five (5) days per RLE. Employees are required to complete their RLL within three (3) months of the RLE, but if the employee is taking other specified leave (e.g., CFRA, FMLA, pregnancy disability leave, personal leave, sick leave, comp time) prior to or immediately after an RLE, the three (3) months does not start until the other leave completes. RLE need not be taken consecutively. The employee is not required to provide documentation to verify the RLE, but will be required to submit a leave request. Only an employee with thirty (30) days or greater of service is eligible for reproductive loss leave.

Chapter 5

MANAGEMENT AND CONFIDENTIAL EMPLOYEES - GENERAL

Article		Sec.
1	Salaries	6500
2	Benefits	6520
3	Grievances	6540
4	Miscellaneous	6560

Article 1

SALARIES

§ 6500. Hourly Pay Rate Schedule.

(a) The hourly pay rate (as that term is defined in subdivision (h) of Section 6200) and schedule of positions occupied by unclassified service employees not in an appropriate unit recognized pursuant to Section 6108 shall be as follows:

<u>Grade</u>	<u>Range</u>	<u>Title</u>
14	\$14.77-20.16 (\$30,722-41,933)	*Student Youth Intern
22	\$18.43-25.06 (\$38,334-52,125)	*Student Intern
66	\$61.18-83.42 (\$127,254-173,514)	Principal Administrative Analyst
67	\$62.75-85.70 (\$130,520-178,256)	Executive Office Manager
68	\$64.47-88.05 (\$134,098-183,144)	Program Manager I
71	\$69.83-95.46 (\$145,246-198,557)	Program Manager II
72	\$71.73-98.01 (\$149,198-203,861)	Board Executive Secretary Special Assistant to the GM Staff Assistant to General Manager
73	\$73.70-100.65 (\$153,296-209,352)	Senior Audit Manager
74	\$75.74-103.33 (\$157,539-214,926)	Program Manager III
75	\$77.72-106.23 (\$161,658-220,958)	Human Resources Manager I
77	\$82.07-112.16 (\$170,706-233,293)	Deputy General Auditor
78	\$84.31-115.21 (\$175,365-239,637)	Human Resources Manager II
79	\$86.64-118.43 (\$180,211-246,334)	Sr. Deputy General Counsel-Labor Relations
80	\$89.01-121.67 (\$185,141-253,074)	Chief Deputy DE&I Officer Deputy Chief EEO Officer Human Resources Section Manager

		Manager of Colorado River Resources
81	\$91.51-125.03 (\$190,341-260,062)	Assistant General Auditor Budget and Treasury Manager Executive Legislative Representative Human Resources Manager III Strategic Comm. & Policy Advisor
82	\$93.96-128.42 (\$195,437-267,114)	Manager of Bay-Delta Programs Manager of Bay-Delta Science & Regulator Strategy
85	\$101.98-139.31 (\$212,118-289,765)	Assistant Group Manager Bay-Delta Initiatives Policy Manager Chief EEO Officer Chief Diversity, Equity & Inclusion Officer Chief Safety, Security & Protection Officer Chief Sustainability, Resiliency & Innovation Officer Principal Deputy General Counsel-Labor Relations
86	\$104.78-143.14 (\$217,942-297,731)	Assistant General Counsel Executive Advisor: Water Resources & Capital Improvements Group Manager Group Manager—Bay Delta Initiatives Group Manager—External Affairs Group Manager—Finance Group Manager—Human Resources Group Manager—Real Property Manager of Colorado River Resources
88	\$110.62-151.13 (\$230,090-314,350)	Board Executive Officer Group Manager—Conveyance & Distribution Group Manager—Info Technology Group Manager—Water Resources Management Group Manager—Treatment & Water Quality Group Manager—Water Resources Management
89	\$113.62-155.33 (\$236,330-323,086)	Group Manager—Engineering Services Group Manager—Water System Operations
93	\$126.71-173.11 (\$263,557-360,069)	Assistant General Manager – Chief Administrative Officer Assistant General Manager—Chief External Affairs Officer Assistant General Manager – Chief Financial Officer Assistant General Manager – Strategic Water Initiatives
94	\$130.15-177.89 (\$270,712-\$370,011)	Assistant General Manager—Chief Operating Officer

97	\$141.25-192.98 (\$293,800-\$401,398)	Executive Officer & Assistant General Manager—Water & Technology Resources
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() Shows approximate annual salary range for convenience; Board approved rates are hourly. Asterisk * positions are Fair Labor Standards (FLSA) “non-exempt” (i.e., eligible for overtime).

(b) Unrepresented FLSA “exempt” employees are eligible to receive a monthly transportation allowance. Transportation allowance amounts are to be administered by the General Manager based on a schedule approved by the Board of Directors.

(c) Unrepresented FLSA “exempt” employees are eligible to participate in a pay-for-performance incentive program promulgated by the General Manager. The Board shall establish the total expenditure for the program.

(d) Unless otherwise directed by the Board, the range of base hourly pay rates for the employees in the positions identified in Section 6500(a) will be adjusted to correspond with the across-the-board salary adjustments provided to the District’s management unit. Actual pay rates for these employees will be based on merit pursuant to employee evaluations. Department Heads are authorized to move a position to a different salary grade in accordance with practices, policies and procedures promulgated by the General Manager.

Article 2

BENEFITS

Sec.

- 6520. General
- 6521. Retirement
- 6522. Medical Insurance
- 6523. Dental Insurance
- 6524. Tuition Reimbursement
- 6525. Term Life Insurance
- [6526 repealed]
- [6527 repealed]
- 6528. Personal Leave
- 6529. Part-Time Disability Leave
- 6530. Bereavement Leave
- 6531. Long-Term Disability Insurance
- 6532. Professional Development and Productivity Enhancement
- 6533. Deferred Compensation
- 6534. Vision Plan
- 6535. Wellness Enhancement Program
- 6536. Exempt Time Off

§ 6520. General.

In addition to other benefits set forth in this Administrative Code, employees, other than temporary or less than part-time employees, and to the extent specified, annuitants, shall be entitled to the following benefits effective June 28, 1987, unless otherwise provided hereinafter. Further, unless otherwise directed by the Board, benefits for the employees in the positions referenced in Section 6500(a) shall be provided to correspond with the across-the-board salary and benefits adjustments provided to the District's management unit.

§ 6521. Retirement.

The District shall pay to the California Public Employees' Retirement System (CalPERS) on behalf of each employee an amount equal to the required employee contribution to CalPERS, not to exceed seven percent (7%) of each employee's salary for employees deemed Classic Members by CalPERS. Employees deemed as New Members are subject to the Public Employees' Pension Reform Act (PEPRA) and shall pay their own employee contributions.

The contribution shall be treated as an employer contribution made pursuant to Section 414(h)(2) of the Internal Revenue Code in determining the tax treatment of the contribution. Such contributions shall be treated for all purposes other than taxation in the same manner and to the same extent as contributions made by employees prior to June 30, 1985. Such contributions shall be paid from the same source of funds as used in paying wages to the affected employees. The employee does not have the option to receive the District-contributed amount paid pursuant to this section directly instead of having it paid to CalPERS. Notwithstanding any provision in this Code to the contrary, the wages of each unrepresented employee shall be reduced by the indicated percentage of the amount of such employee's contribution paid by the District pursuant to the provisions of this section:

For such employees employed prior to January 1, 1981: 64.3%

For such employees employed on or after January 1, 1981: 100.0%

This section shall be operative only so long as the District pickup of the retirement contribution continues to be excluded from the gross income of the employee under the provisions of the Internal Revenue Code.

§ 6522. Medical Insurance.

Metropolitan's monthly contribution for employees in classifications referenced in Section 6500 and related annuitants to the medical plans maintained by CalPERS shall be established by Board resolution pursuant to the provisions of the Public Employees' Medical and Hospital Care Act.

§ 6523. Dental Insurance.

The District shall fully pay premiums for employees in classifications referenced in Section 6500 and their qualified dependents under the group dental insurance provided by Delta Dental Company. Any reserve funds developed under the policy may be applied towards paying the premium of any policy obtained pursuant to this section.

During the policy year beginning with September 1, 1992, the District shall amend its policy to provide for an increase in orthodontic coverage under the prior terms of the policy to \$2,000 lifetime maximum per covered participant; and to increase the prophylaxis (cleaning) benefit by providing for such cleaning once every four (4) months. In addition, the District shall amend its policy to provide for an increase in the maximum payable for diagnostic and preventative care per calendar year per eligible person to \$2,500 a year; and to provide for sealant treatment for dependent children.

§ 6524. Tuition Reimbursement.

Tuition reimbursement for all employees in classifications referenced in Section 6500 shall be one-hundred percent (100%) of tuition, registration fees, books, and laboratory fees for up to twelve (12) units per quarter or semester; provided however, that employees who receive tuition reimbursement approval for a course or curriculum on or after August 1, 1992 shall be eligible for tuition reimbursement at the rate of one-hundred percent (100%), to a maximum of \$9,000 per calendar year, and up to an additional \$2,000 per calendar year for graduate or doctorate degrees.

§ 6525. Term Life Insurance.

All employees in classifications referenced in Section 6500 will be provided with District-paid term life insurance affording coverage in an amount equal to 2,080 times the employee's hourly rate rounded off to the next higher thousand dollars, with employees having the option at their own expense to obtain additional coverage not to exceed a maximum combined coverage of four hundred thousand dollars (\$400,000).

§ 6528. Personal Leave.

Employees in classifications referenced in Section 6500 who are exempt from overtime pay and have been employed by the District for more than 1,044 hours of current service, including military leave during the period of current service, may take personal leave with pay up to twenty-four (24) hours each annual payroll cycle which shall not be charged against accumulated sick leave. Such personal leave may be taken for any personal reason, so long as such leave does not interfere with the mission of the District.

§ 6529. Part-Time Disability Leave.

An unrepresented employee, otherwise eligible for disability leave pursuant to Section 6228, may be permitted by the employee's Department Head to work for a period, subject to termination by the Department Head, on a part-time basis if a physician's statement is furnished, satisfactory to and accepted by the District, stating the employee is physically able to

work on a part-time basis. The Department Head may not re-delegate the authority provided by this section. Notwithstanding any provision to the contrary in Sections 6200 through 6268, the employee shall be permitted to accrue leave in accordance with District regulation for those hours not on disability leave, but shall not be allowed to use leave until returning to work on a full-time basis and a physician's statement, satisfactory to and accepted by the District, is received stating the employee is physically able to return to work on a full-time basis for an indefinite time. For all other purposes of Section 6228, an employee on part-time disability leave shall be considered to be on full-time disability leave and shall not be considered as having returned to work.

§ 6530. Bereavement Leave.

Upon the death of a member of an employee's immediate family, a classification referenced in Section 6500 shall be allowed such bereavement leave with pay as is actually necessary to take care of funeral arrangements or to attend the funeral, but not to exceed three (3) working days, or, one workweek as determined by the employee's assigned work schedule, if the death occurs 250 miles or more from the employee's place of residence. If the death does not occur 250 miles or more from the employee's place of residence, then the employee shall be allowed additional bereavement leave without pay not to exceed two (2) working days, except that an employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee. For the purposes of this section, "immediate family" means spouse, state-registered domestic partner, or the employee's or spouse's/domestic partner's child, parent, brother, sister, stepparent, stepchild, grandparent, grandchild, aunt or uncle. An employee, if requested by Metropolitan, within thirty (30) days of the first day of the leave, shall provide documentation of the death of the family member. As used in this section, "documentation" includes, but is not limited to, a death certificate, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency. The bereavement leave shall be completed within three (3) months of the date of death of the family member.

§ 6531. Long-Term Disability Insurance.

The District shall provide long-term disability (LTD) insurance to employees in classifications referenced in Section 6500. Commencing July 1, 1998, or as soon thereafter as practical, the insurance shall provide a benefit of \$8,000 per month, but not to exceed sixty-six percent (66%) of the employee's monthly salary. The benefit shall commence ninety (90) days after the employee's disability commences. Benefit payments are paid after the employee first exhausts all sick leave, exhausting disability leave payable at the rate of 75 percent (75%) of full pay, and exhausting disability leave at the rate of 50 percent (50%) of full pay, in that order. Benefit payments shall expire at age 65, unless the employee's disability terminates sooner. If the employee applies for LTD benefits at age 65 or older, payments will expire within twelve (12) to twenty-four (24) months depending on age when the first payment begins. The District's insurance carrier shall determine eligibility including whether an employee is disabled. Preexisting conditions shall be excluded from coverage. The District shall have the right to change carriers and coverage so long as the replacement insurance is at least as advantageous.

§ 6532. Professional Development and Productivity Enhancement.

Any employee in an unrepresented position referenced in Section 6500 shall be reimbursed for professional development and productivity enhancement expenses, as follows:

(a) The District shall reimburse employees for state-mandated license for certification fees.

(b) The District shall reimburse unrepresented employees, to correspond with adjustments provided to the District's management unit, for the costs incurred for professional development, certifications, licenses, or other costs incurred for professional development or productivity enhancement including seminars, journals, periodicals, books, travel expenses, professional association dues, pre-approved electronic equipment software and hardware, computing or communication devices, and other equipment pursuant to authorization by the employee's Department Head, to a specified annual maximum, when related to their job duties and/or to the fulfillment of the District's purposes. Any unused monies will roll over for one and only one subsequent year, from odd calendar years to even years, and unused monies during even years will be neither rolled over nor paid out.

§ 6533. Deferred Compensation.

The District shall provide a matching contribution, on behalf of each employee in a classification referenced in Section 6500 who is a participant in the 401(k) Plan provided for in Division VI, Chapter 8, Article 1 of this Code, in the amount of one (1) dollar for each dollar contributed by the employee in accordance with a compensation-reduction election made by the participant pursuant to the 401(k) Plan Section 3.2. Commencing July 1, 2004, or as soon thereafter as practical, the maximum District matching contribution shall not exceed four and one-half percent (4.5%) of the employee's total cash compensation and salary reductions permitted under Sections 401(k), 414(b) and 457 of the Internal Revenue Code during that time period. This section shall only be operative to the extent that the District can make matching contributions and maintain compliance with the Internal Revenue Code.

§ 6534. Vision Plan.

The District shall on behalf of each employee in a classification referenced in Section 6500 provide for a vision care program through a District-approved vision plan provider. The vision care program shall provide coverage of standard ophthalmic materials when necessary for the eligible employee's visual welfare. This program shall provide for eye examinations, lenses, and frames under the program. The District shall fully pay the employee only premium rate. Employees will, however, be permitted the option to purchase family coverage through the program.

§ 6535. Wellness Enhancement Program.

The District shall on behalf of each employee in a classification referenced in Section 6500, provide a wellness enhancement reimbursement benefit for common health and fitness services not to exceed four hundred dollars (\$400) annually for District-approved activities, services, equipment and products that promote physical activity, wellness and work-life balance. All submissions for reimbursement must be submitted by January 31 for the prior year. This benefit is annual and any unused remainder may not be carried over to subsequent years.

§ 6536. Exempt Time Off

(a) Effective January 1, 2024, and each calendar year thereafter, all full-time FLSA-exempt employees with a classification referenced in Section 6500 are eligible for an annual allotment of forty (40) hours of Exempt Time Off (ETO) to be used within the calendar year it is allotted. The annual allotment of ETO becomes available for use on the first District business day of the calendar year and shall not roll over into the following calendar year. Employees hired after the annual allotment in January, and existing employees who are promoted or transferred into an applicable classification after the annual allotment in January, are not eligible to receive ETO until the following calendar year. Existing employees with an ETO allotment or balance from a previous classification will retain their unused ETO for that calendar year. Any unused portion of ETO will be automatically cashed out by the District to the employee on the first paycheck following December 1 of each calendar year.

(b) Effective January 1, 2025 and each calendar year thereafter, all eligible employees under this section with a current overall annual evaluation rating of Meets Standards and above for the prior evaluation year, shall receive an additional annual allotment of forty (40) hours of ETO to be used within the calendar year it is allotted. This additional annual allotment of ETO becomes available for use on the first District business day of the calendar year and shall not roll over into the following calendar year. Only persons who are actively employed by the District at the time of the annual allotment in January will be eligible for the allotment. Any unused portion of ETO will be automatically cashed out by the District to the employee on the paycheck following December 1 of each calendar year.

(c) Eligible employees shall make a request to use ETO hours to their direct supervisor. The District shall determine whether a request for ETO shall be granted. However, an eligible employee's timely request to use ETO hours under this provision shall only be denied for good and sufficient business reasons.

(d) Any ETO hours not used by an employee prior to separation of service will be automatically cashed out by the District at separation.

(e) Effective July 1, 2022 through December 31, 2022, all employees eligible under this section, who were employed by the District during that timeframe, shall receive a retroactive payment equivalent to an allotment of twenty-four (24) hours of ETO for that timeframe.

(f) Effective January 1, 2023 through December 31, 2023, all employees eligible under this section who were employed by the District during that timeframe shall receive a retroactive payment equivalent to an allotment of forty (40) hours of ETO for that timeframe.

(g) Eligible employees who received an overall annual evaluation rating of Meets Standards and above for the 2022-2023 evaluation year shall receive an additional allotment of 40 hours of ETO for that evaluation period. Any unused portion of ETO awarded under this provision will be automatically cashed out by the District to the employee on the first paycheck following December 1, 2024.

(h) Only persons employed by the District at the time this section becomes effective may be awarded retroactive allotments and/or retroactive payments, as set forth above.



Legal and Claims Committee

Approve Amendments to
Administrative Code to:

- Conform to State Law
- Provide Benefits to Unrepresented Employees
- Authorize the General Manager to Adjust Unrepresented Employees Salary and Benefits

Item 7-8

March 12, 2024

Item 7-8

Subject

Authorize amendments to the MWD Administrative Code to conform to state law, provide benefits to unrepresented employees and authorize the general manager to adjust unrepresented employees' salaries consistent with management unit

Purpose

Provide unrepresented employees with salary and benefits consistent with the management unit; conform administrative code to state law

Recommendation and Fiscal Impact

Approve amendments to the MWD Administrative Code
Fiscal impact: Up to \$400,000 annually

Item 7-8

Providing Benefits

Section 6520

- Provides exempt time off and other benefits for unrepresented employees
- Corresponding with MAPA's benefits
- Currently and going forward

Item 7-8

Reproductive Loss Leave

Section 6268

- Provides for state-mandated benefit
- Reproductive loss leave
- Failed adoptions and miscarriages
- 5-days unpaid leave

Item 7-8

Authorize the General Manager to provide unrepresented employees with salary adjustments equivalent to those approved for MAPA

Item 7-8

Updates to Current Benefits

For Unrepresented Employees

- 6521 – Retirement contributions
- 6523 – Dental insurance limits
- 6524 – Tuition reimbursement limits
- 6525 – Term life insurance limits
- 6531 – Long-term disability rules
- 6532 – Professional development
- 6535 – Wellness program reimbursements
- 6536 – Exempt Time Off

Item 7-8

Board
Options

Option # 1

Approve amendments to the Metropolitan Water District Administrative Code to provide an exempt time off benefit for unrepresented employees, create a new reproductive loss leave benefit, and to conform personnel regulations for unrepresented employees to current practices and regulations; and authorize the General Manager to adjust unrepresented salaries to conform with the equity wage and cost-of-living adjustments provided to Metropolitan's management unit.

Option #2

Do not approve the proposed amendments to the Metropolitan Water District Administrative Code





Legal and Claims Committee

Update on Pending and Recently Resolved Employment Litigation and Employment Legal Claims

Item 7a

March 12, 2024

Subject

Pending Employment Litigation and Claims

Purpose

Update the Committee

Item #7a

Update on
Pending and
Recently Resolved
Employment
Litigation and
Claims

Item #7a
April 2022
State Auditor's
Report

Litigation Data from 2003 to 2020 as Reported to State Auditor

- Activity: 26 Lawsuits filed for an average of 1.4 lawsuits per year [18 years]
 - Maximum # of filings: 2003 – 4 lawsuits filed
 - Minimal # of filings: 0 lawsuits filed in 2011, 2015, 2016
- Status/Outcomes:
 - 1 jury verdict in MWD's favor
 - 6 dismissals in response to MWD motions
 - 19 settlements

Item #7a
April 2022
State Auditor's
Report

Settlement Activity from 2003-2020 as Reported to State Auditor [19 Settlements]

- Total expenditure of \$2,465,843.24 in cash payments
 - Average settlement payment: \$129,781.00
 - Board authority required for settlements in excess of \$125,000 (Admin Code § 6433)
 - 5 Board-authorized settlements from 2007-2009: \$160,000 (Settled 2007); \$165,000 (Settled 2007); \$700,00 (Settled 2007), \$500,000 (Settled 2008), \$298,150 (Settled 2009)
 - 14 settlements under GM and GC settlement authority (Admin Code § 6433)
 - Average settlement payment of \$45,906.66

Item #7a

Litigation Activity from 2021 to 2024 [≈ 4 Yrs]

- Activity: 9 lawsuits filed and 4 pre-litigation demand letters lodged
 - 2021: 4 pre-litigation demand letters lodged
 - 2022: 2 lawsuits filed
 - 2023: 7 lawsuits filed
 - 2024: 0 lawsuits or demand letters
 - All 13 matters allege some form of FEHA discrimination, harassment or retaliation; and several allege LC whistleblowing and retaliation for whistleblowing
- Status:
 - 1 lawsuit and 2 pre-litigation demand letters settled within GM's and GC's settlement authority
 - Remaining matters, 8 lawsuits and 2 pre-litigation demand letters still pending

Update on pending and recently resolved litigation and claims

Matter	Mo/Yr Filed/Lodged	Causes of Action	Pending/ Dismissed /Settled	Employment Status
Plaintiff	Dec-23	Disability Discrimination, Harassment Based on Disability, Failure to Prevent, Investigate and Remedy, Failure to Accommodate, Failure to Engage in the Interactive Process, Aiding & Abetting, Retaliation, Wrongful Termination, Intentional Infliction, Negligent Infliction, Breach of Written Contract, Breach of Implied Contract, Breach of Implied Covenant of GFFD	Pending	Rejected Job Applicant

Update on pending and recently resolved litigation and claims

Matter	Mo/Yr Filed/Lodged	Causes of Action	Pending/Dismissed /Settled	Employment Status
Plaintiff	Dec-23	Race Discrimination, Race Harassment, Gender Discrimination, Gender Harassment, Retaliation, Failure to Prevent Harassment, Discrimination and Retaliation	Pending	Active Employee
Plaintiff	Nov-23	Race Discrimination, Age Discrimination, Retaliation, Failure to Prevent Discrimination, Failure to Promote, Failure to Permit Inspection of Personnel Records	Pending	Active Employee
Plaintiff	Aug-23	Retaliation, Failure to Prevent Retaliation	Pending	Active Employee

Update on pending and recently resolved litigation and claims

Matter	Mo/Yr Filed/Lodged	Causes of Action	Pending/Dismissed /Settled	Employment Status
Plaintiff	Aug-23	Race Discrimination, Race Harassment, Gender Discrimination, Gender Harassment, Retaliation, Failure to Prevent Harassment, Discrimination and Retaliation	Pending	Resigned
Plaintiff	Jul-23	Race, Color, National Origin Discrimination, Retaliation, Failure to Prevent Discrimination, Failure to Promote, Unfair Business Practice	Pending-Trial Date 10/22/2024	Active Employee
Plaintiff	May-23	Race Discrimination, Harassment, Gender Discrimination, Gender Harassment, Retaliation, Failure to Prevent Harassment and Retaliation	Pending-Trial Date 10/13/2025	Active Employee

Update on pending and recently resolved litigation and claims

Matter	Mo/Yr Filed/Lodged	Causes of Action	Pending/Dismissed /Settled	Employment Status
Plaintiff	Oct-22	Race Discrimination, Race Harassment, Gender Discrimination, Gender Harassment, Retaliation, Failure to Prevent Harassment, Discrimination and Retaliation	Pending	Active Employee
Plaintiff	Mar-22	LC Whistleblower Retaliation, FEHA Retaliation	Settled November 2023 - \$125,000	Probationary Release
Complainant	Oct-21	Gender Discrimination, Gender Harassment, FEHA Retaliation, LC Whistleblower Retaliation	Settled December 2023 - \$48,750	Active Employee

Update on pending and recently resolved litigation and claims

Matter	Mo/Yr Filed/Lodged	Causes of Action	Pending/Dismissed /Settled	Employment Status
Complainant	Oct-21	Association Discrimination, FEHA Retaliation, LC Whistleblower Retaliation	Settled November 2022 - \$45,000	Resigned
Complainant	Oct-21	Gender Discrimination, Gender Harassment, National Origin Discrimination, National Origin Harassment, Disability Discrimination, Disability Harassment, FEHA Retaliation, LC Whistleblower Retaliation	Pending	Active Employee
Complainant	Aug-21	Gender Discrimination, Gender Harassment, Pregnancy Discrimination, Pregnancy Harassment, FEHA Retaliation, LC Whistleblower Retaliation	Pending	Active Employee

