



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

11/14/2023 Board Meeting

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**7-12**

**Subject**

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Approve amendments to Metropolitan Water District Administrative Code sections 6431 and 6453 to increase the authority of the General Counsel to obtain legal and related services to an amount not to exceed \$250,000 and the General Auditor to obtain professional services to an amount not to exceed \$100,000; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

**Executive Summary**

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The proposed amendments to Administrative Code sections 6431 and 6453 will increase the contracting authority of the General Counsel to obtain legal and related services to an amount not to exceed \$250,000 in any one year in connection with any General Counsel assignment and the General Auditor to obtain independent auditors or other professional or technical consultants relevant to the designated scope and mission in the Administrative Code to an amount not to exceed \$100,000 in any one year under any one contract. With the last increases approved decades ago, the current maximum contract authority to obtain the foregoing services is \$100,000 for the General Counsel and \$40,000 for the General Auditor. The proposed increases would not exceed the general contracting authority of the General Manager per Administrative Code section 8121 or the contracting authority of the Ethics Officer for outside investigators per Administrative Code section 6471(b) and would further streamline the Board's agenda. Adoption would not change the requirement to report these contracts to the Board.

**Timing and Urgency**

A delay in approval would fail to further streamline the Board's agenda thus depriving the Board additional time to consider major policy matters.

**Details**

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This letter proposes amendments to Metropolitan's Administrative Code to increase the contracting authority of the General Counsel to obtain legal and related services to an amount not to exceed \$250,000 in any one year in connection with any General Counsel assignment and the General Auditor to obtain related professional services to an amount not to exceed \$100,000 in any one year under any one contract.

The following proposed amendment for the General Counsel's authority is to Division VI, Chapter 4, Article 3 with overstrikes reflecting deletions and underlining reflecting additions:

**§ 6431. Authority to Obtain Expert Assistance.**

The General Counsel is authorized to employ special counsel and investigators to advise or assist them in representing the District, and such technical experts as necessary for proper preparation and presentation of the District's interest in any court action, special proceedings, legislative hearings, or other proceedings whether in or out of court where the assistance of technical experts may be necessary in order to represent the District adequately, so long as the amount to be expended in fees, costs, and expenses in any one year in connection with any assignment will not exceed ~~\$100,000~~ \$250,000.

The following proposed amendment for the General Auditor's authority is to Division VI, Chapter 4, Article 4 with overstrikes reflecting deletions and underlining reflecting additions:

**6453. Authority to Obtain Professional Services.**

The General Auditor is authorized to employ the services of independent auditors or other professional or technical consultants to advise or assist them in performing their assigned duties as may be required or as they deem necessary provided that the amount to be expended in fees, costs, and expenses under any one contract in any one year shall not exceed ~~\$40,000~~ \$100,000. External auditors, while employed as external auditors for Metropolitan, are prohibited from performing any other consulting work for Metropolitan or performing any work for other clients that conflicts, or may conflict, with their responsibilities as Metropolitan's external auditors. These prohibitions shall be included in Metropolitan's agreements with external auditors. The General Auditor shall inform the Finance, Audit, Insurance and Real Property Committee whenever they exercise the authority granted under this section and they shall further report quarterly to the Legal and Claims Committee concerning any agreements entered into under this section.

**Attachment 1** (with changes marked) and **Attachment 2** (clean copy) are attached.

The proposed increases pertain to activities within the normal work plans and activities of the respective department heads. Contracts let under this authority typically include special counsel, investigators, claims consultants, technical experts and trial support services for General Counsel, and for General Auditor the services of independent auditors and other professional or technical consultants, who are needed when the staff does not have the expertise to handle the matter, when a conflict may develop, or when technical experts are necessary to ensure adequate information to protect Metropolitan's interests.

The foregoing contracts are required to be reported quarterly by the General Counsel and the General Auditor to the Legal and Claims Committee per Administrative Code sections 2721 and 6453, and at least quarterly by the General Auditor to the Finance, Audit, Insurance and Real Property Committee per Administrative Code sections 2722 and 6453. These reporting requirements will remain unchanged if the proposed amendments are adopted.

The proposed new maximum amounts payable do not exceed the general contracting authority of the General Manager per Administrative Code section 8121 or the authority of the Ethics Officer to obtain professional services for external investigations, which was increased from \$100,000 to \$250,000 at the August 15, 2023 Board meeting amending Administrative Code section 6471(b). The General Counsel's authority was last approved 29 years ago, on April 12, 1994, when it was increased from \$25,000 to the present \$100,000. The General Auditor's authority was last approved 22 years ago, on April 11, 2000, when it was increased from \$25,000 to the present \$40,000.

The proposed increases in the authority to the maximum amounts payable of \$250,000 and \$100,000, respectively, would further streamline the Board's agenda thus allowing the Board additional time to consider major policy matters.

## **Policy**

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Metropolitan Water District Administrative Code Section 2721: General Counsel's Quarterly Reports

Metropolitan Water District Administrative Code Section 2722: General Auditor's Quarterly Reports

Metropolitan Water District Administrative Code Section 6431: Authority to Obtain Expert Assistance

Metropolitan Water District Administrative Code Section 6453: Authority to Obtain Professional Services

Metropolitan Water District Administrative Code Section 6471: Authority to Obtain Professional Services

Metropolitan Water District Administrative Code Section 8121: General Authority of the General Manager to Enter Contracts

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

## California Environmental Quality Act (CEQA)

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### CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378) because it would not cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and it involves the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines). In addition, the proposed action is not defined as a project under CEQA because it involves organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment (Section 15378(b)(5) of the State CEQA Guidelines).

### CEQA determination for Option #2:

None required

## Board Options

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### Option #1

Approve amendments to Metropolitan Water District Administrative Code sections 6431 and 6453 to increase the authority of the General Counsel to obtain legal and related services to an amount not to exceed \$250,000 and the General Auditor to obtain professional services to an amount not to exceed \$100,000.

**Fiscal Impact:** None

**Business Analysis:** Approval will further streamline the Board's agenda thus allowing the Board additional time to consider major policy matters.

### Option #2

Do not approve amendments to Metropolitan Water District Administrative Code sections 6431 and 6453 to increase the authority of the General Counsel to obtain legal and related services to an amount not to exceed \$250,000 and the General Auditor to obtain professional services to an amount not to exceed \$100,000.

**Fiscal Impact:** None

**Business Analysis:** Not approving will fail to further streamline the Board's agenda.

## Staff Recommendation

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Option #1



Marcia Scully  
General Counsel

11/7/2023

Date



Scott Suzuki  
General Auditor

11/7/2023

Date

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

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

**Division VI****Chapter 4****OFFICERS****Article 3****GENERAL COUNSEL****§ 6431. Authority to Obtain Expert Assistance.**

The General Counsel is authorized to employ special counsel and investigators to advise or assist them in representing the District, and such technical experts as necessary for proper preparation and presentation of the District's interest in any court action, special proceedings, legislative hearings, or other proceedings whether in or out of court where the assistance of technical experts may be necessary in order to represent the District adequately, so long as the amount to be expended in fees, costs, and expenses in any one year in connection with any assignment will not exceed ~~\$100,000~~ \$250,000.

**Article 4****GENERAL AUDITOR****§ 6453. Authority to Obtain Professional Services.**

The General Auditor is authorized to employ the services of independent auditors or other professional or technical consultants to advise or assist them in performing their assigned duties as may be required or as they deem necessary provided that the amount to be expended in fees, costs, and expenses under any one contract in any one year shall not exceed ~~\$40,000~~ \$100,000. External auditors, while employed as external auditors for Metropolitan, are prohibited from performing any other consulting work for Metropolitan or performing any work for other clients that conflicts, or may conflict, with their responsibilities as Metropolitan's external auditors. These prohibitions shall be included in Metropolitan's agreements with external auditors. The General Auditor shall inform the Finance, Audit, Insurance and Real Property Committee whenever they exercise the authority granted under this section and they shall further report quarterly to the Legal and Claims Committee concerning any agreements entered into under this section.

**Division VI****Chapter 4****OFFICERS****Article 3****GENERAL COUNSEL****§ 6431. Authority to Obtain Expert Assistance.**

The General Counsel is authorized to employ special counsel and investigators to advise or assist them in representing the District, and such technical experts as necessary for proper preparation and presentation of the District's interest in any court action, special proceedings, legislative hearings, or other proceedings whether in or out of court where the assistance of technical experts may be necessary in order to represent the District adequately, so long as the amount to be expended in fees, costs, and expenses in any one year in connection with any assignment will not exceed \$250,000.

**Article 4****GENERAL AUDITOR****§ 6453. Authority to Obtain Professional Services.**

The General Auditor is authorized to employ the services of independent auditors or other professional or technical consultants to advise or assist them in performing their assigned duties as may be required or as they deem necessary provided that the amount to be expended in fees, costs, and expenses under any one contract in any one year shall not exceed \$100,000. External auditors, while employed as external auditors for Metropolitan, are prohibited from performing any other consulting work for Metropolitan or performing any work for other clients that conflicts, or may conflict, with their responsibilities as Metropolitan's external auditors. These prohibitions shall be included in Metropolitan's agreements with external auditors. The General Auditor shall inform the Finance, Audit, Insurance and Real Property Committee whenever they exercise the authority granted under this section and they shall further report quarterly to the Legal and Claims Committee concerning any agreements entered into under this section.