



- **Board of Directors**
Ethics, Organization, and Personnel Committee

5/14/2024 Board Meeting

8-6

Subject

Update on labor negotiations and approve entering into two-year extension of 2022-24 Memorandum of Understanding between The Metropolitan Water District of Southern California and The Association of Confidential Employees; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA [Conference with Labor Negotiators; to be heard in closed session pursuant to Gov. Code 54957.6. Metropolitan representatives: Katano Kasaine, Assistant General Manager, Chief Financial Officer, Mark Brower, Human Resources Group Manager, and Gifty J. Beets, Human Resources Section Manager of Labor Relations. Employee organization: Association of Confidential Employees]

Executive Summary

The current Memorandum of Understanding (MOU) between Metropolitan and The Association of Confidential Employees (ACE) is set to expire on December 31, 2024. The parties have negotiated changes to a defined list of issues and have reached a tentative agreement, extending the term of the parties' agreement by two years, to December 31, 2026. The tentative agreement is attached (Attachment 1) and before the Board for approval and adoption and is contingent upon ratification by the ACE membership.

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

Staff Recommendation: Option #1

Option #1

Authorize the General Manager to exercise discretion under Administrative Code Section 610(k) to enter into a new Memorandum of Understanding with ACE.

Fiscal Impact: The cost of the new MOU for the 134 budgeted ACE positions is approximately \$2.4 million in FY 2023/24, \$4.1 million in FY 2024/25, \$7.9 million in FY 2025/26.

Business Analysis: If approved, the MOU with ACE will be implemented.

Option #2

Do not authorize agreement; direct staff to continue negotiations with ACE.

Fiscal Impact: Unknown

Business Analysis: If the agreement is not approved, there will be no agreement with ACE, and the parties will resume negotiations.

Alternatives Considered

Note applicable

Applicable Policy

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

Metropolitan Water District Administrative Code Section 6101(k): As a result of negotiations, as set forth in Section 6101 (k), the General Manager is authorized with Board approval to enter into a contractual agreement with ACE.

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

Not applicable

California Environmental Quality Act (CEQA)

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 involves continuing administrative or maintenance activities which will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed action is not defined as a project under CEQA because 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).

Option #2:

None required

Details and Background

Background

ACE represents 134 budgeted positions, including Security Specialists, Health & Safety personnel, Legislative Representatives, Legal support staff and Legal Counselors, Equal Employment Opportunity Analysts and Managers, and most positions performing work in the Ethics and Human Resources Departments. Most classifications in ACE are FLSA exempt and not eligible for overtime.

Key economic elements of the tentative agreement are consistent with provisions recently approved by the Board for other bargaining units as follows:

- This action extends the MOU by two years, with a new end date of December 31, 2026.
- Each of the two additional years provide an across-the-board salary increase. In the first full pay period of July 2025 and July 2026, an across-the-board increase will be provided of 4 percent.
- One-time merit wage adjustment of 5.5 percent effective July 1, 2023 in addition to the 3 percent COLA already received for 2023.
- One-time lump sum payment of three thousand five hundred dollars (\$3,500) to current employees who were unable to utilize teleworking options on a regular or recurrent basis during the pandemic.
- An additional 40 hours of Management Exempt Time Off effective January 1, 2025 for exempt employees who do not earn overtime; and an allotment to cover the period of FY 2022/23.
- Modify Fatigue Time language consistent with the AFSCME agreement.
- 5 percent incentive pay to employees assigned at Gene Camp and Intake. 15 percent incentive pay to employees assigned to Eagle Mountain, Hinds, and Iron Mountain. This will replace the remote location pay employees assigned in the desert currently receive.
- Update to medical language, consistent with Metropolitan philosophy of paying for coverage of one HMO Plan. Also provides additional enhancements to Desert staff who face limited medical options.

Other important language and policy issues in the tentative agreement include:

- Updated recruitment and selection language to provide efficiencies to accelerate the hiring process and in compliance with the state audit.
- An agreement to conduct a classification study.

The tentative agreement also includes language to reopen subjects such as teleworking, Temporary Upgrade Assignment, and Limited Term Employees during the course of the extended MOU.



Mark A. Brower,
Human Resources Group Manager

5/10/2024
Date



Adel Hagekhalil
General Manager

5/10/2024
Date

Attachment 1 – Tentative Agreement Between Metropolitan Water District of Southern California and the Association of Confidential Employees

**TENTATIVE AGREEMENT
BETWEEN
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
AND
THE ASSOCIATION OF CONFIDENTIAL EMPLOYEES**

Pursuant to the 2023-24 Reopener negotiations, which incorporated ACE's request under Favored Nations, the District and ACE have reached agreement on a package that will extend the 2023-24 MOU by two (2) years through December 31, 2026. In addition, the parties have reached tentative agreement on the following:

1. Article II, Section 1 – Salaries and one-time COVID Essential Worker Pay
2. Article II, Section 5 – Fatigue Time
3. Article III, Section 17 - Management Exempt Time Off
4. Article III, Section 2 – Medical Benefits
5. Article IV, Section 3 – Recruitment & Selection
6. NEW – Desert Branch Location Pay
7. NEW – Classification Study

The parties agree to continue negotiations on the following topics:

1. Article IV, Section 1 - Limited-Term Employees (no earlier than July 1, 2025)
2. Article IV, Section 7 - Temporary Upgrade
3. Article V, Section 5 - Grievance Procedures
4. Teleworking
5. Release Time

The parties have reached tentative agreement on a Reopener MOU, the terms of which are attached. Such agreement is tentative until agreement by the Board of Directors. However, the General Manager agrees to recommend its approval to the Board. The Union likewise agrees to recommend positive ratification to its membership.

For the District:



Gifty J. Beets
Employee Relations Officer

For ACE:



Olivia Sanchez
President

Date: 5/9/24

Date: 5-9-24

Article II, Section 1 – Salaries and one-time COVID Essential Worker Pay

1.6 Equity Wage Adjustment: All individuals currently in job classifications within the ACE bargaining unit shall receive an equity wage adjustment effective the pay period including July 1, 2023, of 5.5%.

1.7 COLA: Effective the first day of the pay period including July 1, 2025, there shall be an increase of 4% (four percent) for each employee who is represented by the bargaining unit as of that date. Should additional COLAs be granted to any of the other bargaining units for the fiscal year, the District agrees that it will provide those same increases to ACE.

1.8 COLA: Effective the first day of the pay period including July 1, 2026, there shall be an increase of 4% (four percent) for each employee who is represented by the bargaining unit as of that date. Should additional COLAs be granted to any of the other bargaining units for the fiscal year, the District agrees that it will provide those same increases to ACE.

1.9 The District shall provide a one-time lump-sum non-PERSable COVID Essential Worker payment to current eligible employees in the amount of Three Thousand Five Hundred Dollars (\$3,500) within 90 days following approval of this MOU by the Board of Directors. To be eligible for this payment, employees must have met the following criterion during the time-period of April 2020 to April 2022:

- 1) the employee must have been required by the District to report to work on a daily basis; and
- 2) the employee must not have been able to utilize teleworking options on a regular/recurring basis.

ACE and the District agree to develop a list of ACE employees who continued to work without the ability to telework on a regular/recurring basis during April 2020 to April 2022. Employees who have left District employment as of the date of the adoption of this Agreement by the Board of Directors shall not be eligible for this lump sum payment.

1.10 The terms described above shall become effective once Metropolitan's Board of Directors and ACE formally approve this tentative agreement, and will apply to the current ACE membership.

Article II, Section 5: Fatigue Time

The intent of fatigue time is to provide a sufficient time for rest between a significant period of work and the start of the next regularly scheduled workday by replacing regularly scheduled straight time hours with paid rest time.



5.1 An employee shall be eligible for fatigue time if any of the following apply:

- A. They have worked an extension of their workday and their extension has been completed with less than eight (8) hours between the completion of the extension and the start of the employee's next regularly scheduled shift.
- B. They have worked scheduled overtime on a day off which overtime has been completed with less than eight (8) hours between the completion of the overtime and the start of the employee's next regularly scheduled shift.
- C. They were called back to work pursuant to Section 3.1 - Call Back and the work has been completed with less than eight hours, plus commute time, before the start of their next regularly scheduled shift.
- D. They have worked a portion of his regular work shift and is excused to rest prior to working their next regularly scheduled shift.
- E. They are excused for the remainder of a night, overtime, and shutdown assignment that ends early, in order to return to their next regularly scheduled shift.

5.2 When an employee is eligible for fatigue time, they shall not be required to report to work for up to eight (8) hours plus commute time after the completion of the overtime or the extension of their workday and shall receive full pay for any regularly scheduled hours not worked.

5.3 Each year ACE shall elect to adjust this Fatigue Time provision, to reflect any changes to compensation as negotiated by AFSCME, Local I902 (Bargaining Unit 02). Such adjustment shall be made in the same manner as outlined in Article III, Section 1.2, meaning that ACE shall elect adjustments to Fatigue Time, whether such adjustments represent increases or decreases to compensation.

Article III, Section 17.9- Management Exempt Time Off

- a) Each calendar year, all exempt classifications that do not earn overtime shall receive an annual allotment of 40 hours of Management Exempt Time Off to be used within the calendar year it is allotted. The annual allotment of Management Exempt Time Off becomes available for use the first District business day of the calendar year and shall not roll over into the following calendar year. Only employees that are active at the time of distribution on the first business day of the calendar year will be eligible for the hours. Any unused portion of Management Exempt Time Off will be automatically cashed out by the District to the employee on the pay period that includes November 15 of each calendar year.
- b) Effective January 1, 2025 and each calendar year thereafter, exempt employees that do not earn overtime with a current overall annual evaluation rating of

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Meets Standards and above for the prior evaluation year, shall receive an additional annual allotment of 40 hours of Exempt Time Off to be used within the calendar year it is allotted. The annual allotment of Management Exempt Time Off becomes available for use the first District business day of the calendar year and shall not roll over into the following calendar year. Only employees that are active at the time of distribution on the first business day of the calendar year will be eligible for the hours. Any unused portion of Management Exempt Time Off will be automatically cashed out by the District to the employee on the pay period that includes November 15 of each calendar year.

- 1) The District will provide an additional allotment as described in 17.9b to ACE exempt employees that were a part of the ACE bargaining unit and the evaluation period from July 1, 2022 - June 30, 2023. This shall be implemented as soon as administratively possible.
- c) For both a and b, a member shall make a request for Exempt Time Off to their direct supervisor. The District shall determine whether or not a request for Exempt Time off shall be granted. However, an employee's timely request for Exempt Time Off under this provision shall only be denied for good and sufficient business reasons.

Article III, Section 2 – Medical Benefits

2.1 The District shall continue to provide medical plans maintained by the California Public Employees' Retirement System ("CalPERS").

2.2 The District's monthly contribution shall be equal to 100% of the total premium of the highest cost Health Maintenance Organization ("HMO") basic medical plan for either CalPERS Region 2 or CalPERS Region 3, whichever is higher, but shall not exceed the monthly premium for the medical plan selected by the employee.

2.3 Desert employees enrolled in PERS Gold (formerly Pers Choice) or PERS Platinum (formerly PERSCare) will continue to receive the dollar amounts specified below and shall continue receiving such amounts through the term of the MOU.

Employee Only:	\$172/month
Employee + 1 Dependent:	\$343/month
Employee + 2 or More Dependents:	\$445/month

Effective January 1, 2024 through December 31, 2026, Desert Region employees enrolled in PERS Gold or Platinum PPO through Metropolitan will continue to receive the amounts listed above as a taxable cash incentive. In addition, Desert Region employees enrolled in PERS Gold or Platinum PPO with an employee cost shall receive an additional credit equivalent to the employee cost. This credit shall be applied within the employee's paycheck at the same time as the deduction.



2.4 An employee who opts out of District provided medical insurance will receive \$125 per month (\$1,500 per year), provided the employee provides proof of alternative medical insurance coverage.

2.5 If subsequent to December 31, 2026, the insurance premium increases and the parties have not agreed to an increased District contribution, then the District's contribution shall continue at the same amount reflected above in Sections 26.1 through 26.4 until the parties agree in writing to change the District's contributions.

2.6 The parties agree to establish a Health Benefits Advisory Committee, at the request of either party. The Committee will examine such issues as benefit levels, plan design, administration, and cost containment. Committee recommendations will be presented to the parties for their use in negotiations for a successor Agreement. Additionally, the Benefits home page on the MWD Intranet provides various resources about medical and other benefits available to employees and their families.

Article IV, Section 3 – Recruitment & Selection

1 The following definitions shall apply to this Article.

3.1.1. *Employee* — Category A, Category B and Category E employees as referenced in ARTICLEIV/SECTION 1 — CATEGORIES OF EMPLOYMENT, are eligible to participate in the Internal Recruitment Process.

3.1.2. *Recruitment* — Process of locating individuals to fill the District's personnel (staffing) requirements.

3.1.3. *Selection* — The goal of the selection process is to identify qualified candidates in an equitable, fair, objective and transparent manner and rank them according to their assessed scores. The hiring manager has the obligation to select the best-qualified candidate for a vacant position from amongst the qualified candidates.

3.1.4. *Screening of Material* – HR Recruiters shall screen resumes to determine who meets the minimum qualifications. Specifics of minimum qualifications related to degree and experience will be clearly defined and documented in advance of any job announcement.

3.1.5. *Employment Testing* — A test is an instrument administered by the Human Resources Group, used as a basis for any selection decision including, but not limited to, hiring and competitive-bid promotion. Such tests may measure aptitude, achievement, and other proficiencies. Examples include, but are not limited to, a review of records, interview, typing, computer skills, basic skills, job knowledge, work sample or other cognitive, physical ability or demonstration tests deemed reliable and job-related as approved by the Human Resources Group Manager.



3.1.6. Panel Member – A panel member is an individual participating in the formal/structured interview, and may be an internal employee or an external subject matter expert. A conflict of interest form is required to be completed by panel members.

3.1.7 Panel Interview -- The purpose of the panel interview is to give each candidate an equal opportunity to reveal the knowledge, skills and abilities which would enable them to perform the job. The interview consists of an evaluation of work-related experience, knowledge and training.

3.1.8. Final Hiring Interview Recommendation (FHIR) – An FHIR list may be developed through a recruitment process as outlined below. The posting announcement will specifically state that recruitment process will be used to develop an FHIR or eligibility list. The FHIR list may be used for up to twelve (12) months, and may be extended for a specific period of time with mutual agreement of the Human Resources Group Manager and ACE. The FHIR list may be closed by the HR Group Manager once there are three (3) or fewer candidates remaining.

3.1.9 Feedback for Internal Candidates – Upon request by any internal candidate, the District shall provide the candidate with feedback through a debriefing where they can receive their score, ranking and rater feedback. Any request for feedback shall be made no later than 90 days after receipt of recruitment results, to provide the most relevant and meaningful feedback.

3.2 Recruitment and Selection Process

3.2.1 Transfers:

- (1) Before an Internal or Open Recruitment is conducted, the District will first consider employees on a Transfer List prior to a job announcement for a vacant position and follow the process described in Article III/Section 8 Employee-Initiated Transfers.
 - a) The District will post the requisition utilizing the Internal Recruitment process if:
 - i. no person is on the transfer list for the relevant position;
 - ii. a transfer list candidate is not hired;
 - iii. or a FHIR list does not exist.

The Internal and Open recruitment processes below shall follow the same guiding principles.

3.2.2 Internal Recruitment:

- (1) No external candidates will be invited to apply during the Filing Period.
- (2) The District may run an Open Recruitment prior to the completion of an Internal only Recruitment or instead of an Internal only Recruitment if any of the following exceptions exist:



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- (a) Three (3) or fewer internal candidates applied;
 - (b) The vacancy requires specialized skills not known to exist in the current workforce (ex: Security Specialist)
 - (c) Documented evidence showing the last recruitment for that specific classification had three (3) or fewer applicants. In this instance, a specific classification cannot move directly to Open Recruitment more than 3 consecutive times;
 - (d) There is a need for external outreach for a job classification where underutilization is identified or where significant underrepresentation exists to ensure a diverse candidate pool as determined by the Equal Employment Opportunity Office and/or Office of Diversity, Equity and Inclusion;
 - (e) If an employee is on leave during the entire filling period and returns from leave before the next phase of the recruitment process, the employee will be allowed to submit their application within five (5) working days of returning from leave or file prior to the date of test whichever comes first.
- (3) After a hire is selected by the Hiring Manager, unhired qualified candidates will be added to the FHIR List and are eligible to be considered for hire for subsequent vacancies in the same classification for up to twelve (12) months.

3.3.3 Open Recruitment:

- (1) A job announcement will be posted as an Open Recruitment if the vacancy was not filled using the Transfer (Section 3.2.1) or Internal Recruitment (Section 3.2.3) processes and is subject to the Filing Period.
- (2) After a hire is selected by the Hiring Manager, unhired qualified internal and external candidates will be added to the FHIR List and are eligible to be considered for hire for subsequent vacancies in the same classification for up to twelve (12) months.

3.3.4 FHIR Lists:

- (1) The FHIR list shall be developed utilizing a specific posting that states it is building an FHIR or eligibility list.
 - a) The FHIR list will be valid for twelve (12) months from the date a candidate accepts the position for the original requisition, or it is mutually agreed upon by the Human Resource Group Manager and ACE to extend for a specific period of time. The FHIR list may be closed once there are three (3) or fewer candidates remaining.
 - b) HR will provide the Hiring Manager with the top five ranked candidates. In the case of tie ranks, more than five candidates may be provided to the Hiring Manager.
 - c) All provided candidates must be interviewed by the Hiring Manager. A candidate must be selected by the Hiring Manager from the FHIR. Candidates not selected will return

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to the FHIR for future consideration. If all eligible candidates on the FHIR list elect to not be considered for a specific vacancy, Human Resources will open a new recruitment specific to the need.

Example, if there is a FHIR and all listed candidates elect not to accept the position based on specific location. In this instance, HR can open a new recruitment for that specific classification and location, beginning with Transfers, then Internal per the process above, and then Open Recruitment, which would result in a new FHIR for that specific location.

- d) Upon completion of all phases of the assessment process, the applicants will be ranked from highest to lowest cumulative score. Based on the testing process, a FHIR list may be established by classification and location. The FHIR list will be maintained by Human Resources and shall follow the guidance above regarding use and retention of FHIR lists.

3.3.5 Internal Only Job Bid Promotion Process:

(1) Upon staffing requisition approval by Budget and HR, a recruitment may be conducted within a specific Group, Section, Unit or Team to fill a position in which there is no vacant position number. These recruitments shall follow the same process used for Internal Recruitments.

(2) This is not intended to circumvent the in-family promotion process (management requested promotion process). This process will not be utilized when employees on a team or unit could reasonably promote to the position through in-family promotion.

(3) Applications will be reviewed for minimum qualifications by Human Resources. Upon completion of the recruitment process, the Hiring Manager will complete the Final Hiring Interview Recommendation Form to notify Human Resources of their decision of which candidate to hire and HR shall notify all candidates whether they were (un)successful in the recruitment at approximately the same period.

(4) At no time are positions/requisitions which are posted utilizing this process permitted to utilize the Open or FHIR processes.

3.6. Job Announcement and Application Filing Process

3.6.1. Job Announcement

Job announcements will be advertised through the District's available communication mediums, including but not limited to website and email.



The District shall also include, at minimum, the following in all job announcements: Number of openings, open/closed dates, work schedule (days/hours), Group/Section/Unit/Team, work location, bargaining unit, minimum and maximum hourly rate, teleworking options (if applicable), overview and/or summary which is reflective of job description, job duties, minimum requirements (education, experience, certifications, licenses).

3.6.2. Filing Period

- (1) The filing period for submitting applications will be a minimum of 10 working days and shall be indicated on the job announcement.
- (2) Employees on disability or workers' compensation leave are permitted to apply for vacant positions following the same timelines and testing procedures as other applicants, provided their participation is within their medical restrictions.

3.6.3. Application

Each employee applying for a position shall complete an application.

3.6.4. Exemptions

An employee shall be excluded from the recruitment and selection process if that individual:

- (1) Has a current overall performance evaluation rating of less than "meets standards;" or
- (2) Has received an appealable disciplinary action in the last six (6) months.
- (3) Has not completed their current probationary period.

3.7 Selection Process

3.7.1 Invitation to Test

Qualified employees shall be notified of the time and location of a test at least three (3) days in advance. For purposes of this Section, Recurrent employees (defined as Category E employees under Article IV, Section 1.1 of the Agreement) shall be permitted to apply for positions as "internal" candidates.

3.7.2 Release/Leave Time

- (1) If requested, an employee shall be entitled to release time to participate in and commute to, a test.
- (2) Alternatively, an employee may use accumulated annual leave or personal leave to participate in and commute to, a test.
- (3) The employee shall give reasonable, prior notice of his/her need for release or leave time.



NEW – Desert Branch Location Pay

The intention of this Article X is to improve recruitment and retention at Metropolitan’s desert facilities. The sunseting of the previous program, Desert Remote Location Pay and the terms of the newly negotiated Incentive Pay shall be as follows:

X. The Incentive Pay program will be setup to provide a Desert Branch Assignment Premium to qualifying employees as follows:

X.1. Effective January 21, 2024, employees assigned to work in desert facilities will be eligible to receive one of the premium pay options below:

- 1) 5% for all employees assigned to Gene Camp or Intake.
- 2) 15% for all employees assigned to Hinds Pumping Plant, Eagle Mountain, or Iron Mountain.
- 3) This incentive pay will be applicable to the base pay for the normal work schedule. This incentive pay will not apply to overtime/additional hours.

X.2. Following approval by Metropolitan’s Board of Directors and the ACE membership, employees shall begin entering the incentive pay premium as part of their bi-weekly payroll, (including authorized medical leaves) for pay period beginning 2/28/24 on or around the first week of March. A retroactive payment for the period of 1/21/24 through 2/17/24 will be processed as soon as administratively possible.

X.3. This incentive payment program for Desert Branch Locations applies specifically to regular full-time employees at these locations, and does not apply to any other category of employment.

X.4. Qualifying service at a Desert Branch Location shall include:

- A. Assignment to a Desert Branch Location as the regular reporting location.
 1. Employees temporarily assigned to a desert facility for assignments of 30 days or more will be eligible for the premium associated with the facility they are assigned to for the entirety of the time at the location.
- B. All scheduled and assigned hours in a paid status, not including overtime/additional hours and including authorized medical leaves.

X.5. Employees assigned to a Desert Branch Location after the date the Incentive Pay program is implemented as agreed above, shall begin qualifying on the first day of the pay period of assignment to the Desert Branch Location.

NEW – Classification Study

a. This study will analyze compensation and job specifications and develop a policy relating to compression, compaction, and market percentile comparison (e.g., 75th or 90th percentile).

b. The study will include a review for redundancy and unused job descriptions within ACE; any job description that is determined to be redundant or no longer necessary shall be subject to meet and confer between the parties. In no event shall this study result in the elimination of any occupied position.

c. This study will review driver's license requirements within class descriptions.

d. The District agrees to begin this study no later than October 2024 and will complete this study by the end of the contract extension, December 31, 2026.

e. In no event shall this classification study result in a reduction of the base pay for any ACE employee.

f. The parties have discussed ACE's concerns of different base pay assigned to classifications in ACE versus other bargaining units. The desire of the parties is to not have such pay differentials exist. The parties have agreed to reconvene if this is discovered.

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