

# 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.

## **OP&T Committee**

A. Fellow, Chair  
J. Morris, Vice Chair  
S. Blois  
M. Camacho  
G. Cordero  
S. Faessel  
F. Jung  
R. Lefevre  
T. McCoy  
A. Ortega  
G. Peterson  
T. Smith  
S. Tamaribuchi  
H. Williams

## **Organization, Personnel and Technology Committee - Final - Revised**

**1**

Meeting with Board of Directors \*

**September 13, 2022**

**9:30 a.m.**

Teleconference meetings will continue until further notice. Live streaming is available for all board and committee meetings on [mwdh2o.com](http://mwdh2o.com) ([Click Here](#))

A listen only phone line is also available at 1-877-853-5257; enter meeting ID: 831 5177 2466. Members of the public may present their comments to the Committee on matters within the committee's jurisdiction as listed on the agenda via in-person or teleconference. To participate via teleconference (833) 548-0276 and enter meeting ID: 815 2066 4276.

**Tuesday, September 13,  
2022**

**08:30 a.m. L&C  
09:30 a.m. OP&T  
10:30 a.m. RP&AM  
12:00 p.m. BOD**

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

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\* 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))**

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

## **2. CONSENT CALENDAR OTHER ITEMS - ACTION**

- A. Approval of the Minutes of the Meeting of the Organization, Personnel and Technology Committee held August 16, 2022 [21-1494](#)

**Attachments:** [09132022 OPT 2A Minutes](#)

## **3. CONSENT CALENDAR ITEMS - ACTION**

- 7-7 Adopt resolution designating Metropolitan’s maximum contribution for medical benefits in order to comply with the current authorized Memoranda of Understanding; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA [21-1474](#)

**Attachments:** [09132022 OPT 7-7 B-L](#)  
[09132022 OPT 7-7 Presentation](#)  
[9321 Resolution](#)

- 7-12 Authorize an increase in the maximum amount payable under contract with Meyers Nave by \$190,000 to an amount not to exceed \$439,000 to continue providing legal advice and support services for the Equal Employment Opportunity Office; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [ADDED ITEM 9/9/22] [21-1515](#)

**Attachments:** [09132022 OPT 7-12 B-L](#)

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

**4. OTHER BOARD ITEMS - ACTION**

NONE

**5. BOARD INFORMATION ITEMS**

NONE

**6. COMMITTEE ITEMS**

- a. Update on Status of Recommendation from Independent Review of Workplace Concerns [21-1495](#)

**Attachments:** [09132022 OPT 6A Presentation](#)

**7. MANAGEMENT REPORTS**

- a. Human Resources Manager's Report [21-1509](#)
- b. Information Technology Manager's Report [21-1510](#)

**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. Agendas for the meeting of the Board of Directors may be obtained from the Board Executive Secretary. 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 <http://www.mwdh2o.com>.**

**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.**

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**MINUTES**

**ADJOURNED ORGANIZATION, PERSONNEL AND TECHNOLOGY COMMITTEE**

**August 16, 2022**

Vice Chair McCoy called the teleconference meeting to order at 10:31 a.m.

Members present: Directors Blois, Camacho (entered after rollcall), Cordero, Faessel, Fellow, Jung, Lefevre, McCoy, Morris, Peterson, Smith, Tamaribuchi and Williams

Members absent: Director Ortega

Other Board Members present: Directors Abdo, Ackerman, Atwater, De Jesus, Dennstedt, Dick, Erdman, Fong-Sakai, Goldberg, Gray, Hawkins, Miller, Quinn, Ramos, Record and Sutley.

Committee Staff present: H. Beatty, Chapman, Eckstrom, Hagekhalil, Kasaine, Munoz Marroquin, and H. Torres.

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

None

**CONSENT CALENDAR ITEMS — ACTION**

**2. CONSENT CALENDAR OTHER ITEMS – ACTION**

A. Approval of the Minutes of the meeting of the Organization, Personnel and Technology Committee held July 12, 2022

**3. CONSENT CALENDAR ITEMS – ACTION**

None

Director Blois made a motion, seconded by Director Fellow to approve the consent calendar consisting of item 2A.

The vote was:

Ayes: Directors Blois, Cordero, Faessel, Fellow, Jung, Lefevre, McCoy, Morris, Ortega, Peterson, Smith, and Tamaribuchi.

Noes: None

Abstentions: Director Williams

Absent: Director Ortega and Camacho

The motion passed by a vote of 11 ayes, 0 noes, 1 abstention, and 2 absent.

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

Director Camacho entered the meeting.

#### **4. OTHER BOARD ITEMS - ACTION**

None

#### **5. BOARD INFORMATION ITEMS**

None

#### **6. COMMITTEE ITEMS**

- a. Subject: Quarterly Cybersecurity Oral Update [Conference with Metropolitan Cybersecurity Unit Manager of Information Technology, Jacob Margolis, or designated agents on threats to public services or facilities; to be heard in closed session pursuant to Gov. Code Section 54957(a)]

Presented by: Jacob Margolis, Director of Info Tech Services

No action was taken in closed session.

#### **7. MANAGEMENT REPORT**

- a. Human Resources Manager's Report

None

- b. Information Technology Manager's Report

Mr. Eckstrom presented an overview of Metropolitan's IT environment and technology roadmap.

The following Directors provided comments or asked questions

1. Fong-Sakai

2. Sutley

Staff responded to the Directors questions and comments.

**8. FOLLOW-UP ITEMS**

None

**9. FUTURE AGENDA ITEMS**

None

**10. ADJOURNMENT**

Next meeting will be held on September 13, 2022

Meeting adjourned at 11:41 a.m.

Tana McCoy  
Vice Chair



● **Board of Directors**  
***Organization, Personnel and Technology Committee***

9/13/2022 Board Meeting

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7-7

**Subject**

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Adopt resolution designating Metropolitan’s maximum contribution for medical benefits in order to comply with the current authorized Memoranda of Understanding; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

**Executive Summary**

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Metropolitan is required to set the employer contribution for medical benefits, as necessary, on an annual basis under the Public Employees’ Medical and Hospital Care Act, and CalPERS requires that a resolution be approved by the Board of Directors in order to reflect any changes as required to comply with current Memoranda of Understandings (MOUs). Metropolitan’s maximum contribution is currently based upon the highest Health Maintenance Organization (HMO) rate, Anthem HMO Traditional, Region 2, Basic rate. Under the authorized MOUs between Metropolitan and the Employees Association/AFSCME Local 1902, MAPA/AFSCME 1001, Supervisors Association, and Association of Confidential Employees, the maximum premium Metropolitan pays for medical insurance is 100 percent of the highest cost HMO plan in either Region 2 (Other Southern California) or Region 3 (Los Angeles, Riverside, San Bernardino), not to exceed the premiums of the medical plan elected by the employee. These two regions are where the vast majority of Metropolitan employees are located.

**Timing and Urgency**

A new resolution must be received by CalPERS no later than October 28, 2022, to be effective January 1, 2023

**Details**

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**Background**

The CalPERS board adopted the new regions in 2020 following a year-long evaluation that included a cost-of-care analysis, assessment of market trends, options for different regional scenarios, and comprehensive outreach with employers and stakeholders. The regional rates are designed to bring premiums more into alignment with the actual cost of care to members living in those areas and keep prices competitive with the market. CalPERS will reassess regions every five years to ensure that our premiums remain competitive with area market prices.

In order to comply with our current MOUs, CalPERS requires Metropolitan to evaluate the following year’s medical premiums and to select a specific plan in a specific geographic region upon which to base its maximum employer contributions. Whenever the selected plan and geographic region changes, Metropolitan is required to submit a board-approved resolution to CalPERS 60 days prior to any change being implemented. Effective January 1, 2020, Metropolitan complied with the new MOU agreements by selecting Anthem HMO Traditional, Region 2, Basic rate, which was the highest HMO plan of CalPERS’ two geographic regions. Effective January 1, 2023, to comply with the current MOU language, the highest HMO plan will be Anthem HMO Traditional, Region 3, Basic rate. Therefore, a new resolution must be adopted, which reflects this new plan effective January 1, 2023. (**Attachment 1**).

**Policy**

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Current authorized Memoranda of Understanding between Metropolitan and the Employees Association/AFSCME Local 1902, MAPA/AFSCME 1001, Supervisors Association and the Association of Confidential Employees Metropolitan Water District Administrative Code Section 6522: Medical Insurance.

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 the proposed action will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and 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 defined as a project under CEQA because it involves other government fiscal activities, which do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines).

**CEQA determination for Option #2:**

None required

**Board Options**

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**Option #1**

Adopt a resolution designating Metropolitan’s maximum contribution for medical benefits in order to comply with the current authorized Memoranda of Understanding.

**Fiscal Impact:** The current budget for FY 22/23 and FY 23/24 includes estimated costs, and the fiscal impact will be absorbed in the current and future budgets.

**Business Analysis:** A revised resolution is required based on the current authorized Memoranda of Understanding and to provide benefits to Metropolitan employees.

**Option #2**

Do not adopt a resolution providing for a change in Metropolitan’s health benefit premium contribution for employees and annuitants under Government Code Section 22892(a).

**Fiscal Impact:** Unknown

**Business Analysis:** This option would require a renegotiation of the current MOU’s and may result in an unfair labor practice for not complying with the existing MOU.

**Staff Recommendation**

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Option #1

  
\_\_\_\_\_  
Diane Pitman  
Human Resources Group Manager

9/1/2022  
Date

  
\_\_\_\_\_  
Adel Hagekhalil  
General Manager

9/2/2022  
Date

**Attachment 1 – 2023 Health Plan Board Resolution**

Ref# hr12685767



**RESOLUTION NO. Number**  
**FIXING THE EMPLOYER CONTRIBUTION**  
**UNDER THE PUBLIC EMPLOYEES’ MEDICAL AND HOSPITAL CARE ACT**  
**AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS**

WHEREAS, (1) Metropolitan Water District of Southern California is a contracting agency under Government Code Section 22920 and subject to the Public Employees’ Medical and Hospital Care Act (the “Act”); and

WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and

WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; now, therefore be it

RESOLVED, (a) That the employer contribution for each employee or annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of:

<b>Medical Group</b>	<b>Monthly Employer Health Contribution</b>
001 Unrepresented	100% Anthem HMO Traditional Region 3 Basic (Party Rates 1-3)
002 Employees Association	100% Anthem HMO Traditional Region 3 Basic (Party Rates 1-3)
003 Field Supervisors & Professional Employees Association	100% Anthem HMO Traditional Region 3 Basic (Party Rates 1-3)
004 Management & Professional Employees Association	100% Anthem HMO Traditional Region 3 Basic (Party Rates 1-3)
005 Association of Confidential Employees	100% Anthem HMO Traditional Region 3 Basic (Party Rates 1-3)

plus administrative fees and Contingency Reserve Fund assessments; and be it further

RESOLVED, (b) Metropolitan Water District of Southern California has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further

RESOLVED, (c) That the participation of the employees and annuitants of Metropolitan Water District of Southern California shall be subject to determination of its status as an “agency or instrumentality of the state or political subdivision of a State” that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that Metropolitan Water District of Southern California would not qualify as an agency or instrumentality of the

state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer; and be it further

RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, Human Resources Group Manager to file with the Board a verified copy of this resolution, and to perform on behalf of Metropolitan Water District of Southern California all functions required of it under the Act; and be it further

RESOLVED, (e) That coverage under the Act be effective on January 1, 2023.

Adopted at a regular meeting of the Board of Directors at Metropolitan Water District of Southern California at Los Angeles, CA, this 13 day of September, 2022.

Signed: \_\_\_\_\_  
Gloria D. Gray, Chairwoman of the Board

Attest: \_\_\_\_\_  
Rosa Castro, Board Administrator



Organization, Personnel, and Technology Committee

# Resolution to Update Medical Insurance Contributions

Item 7-7

September 13, 2022

## Agenda

# Resolution to Update Medical Insurance Contributions

- Purpose
- CalPERS Requirements
- MOU Requirements
- Cost Impact
- Board Options
- Staff Recommendation

# Purpose

## Purpose

- Board Approval of CalPERS Resolution for Medical Plan Contributions effective January 1, 2023.

# Requirements

## Review of CalPERS Requirements

- CalPERS adopts medical rates based on different regions throughout California and out of state.
- MWD must base its maximum contribution on one specific plan *in one region* to comply with its MOU language and CalPERS requirements.
- Board must approve a new Resolution whenever the maximum contribution or region changes.

## Regional Model

# CalPERS' Geographic Regions

- 43 Northern California counties = **Region 1**
- 12 Southern California counties = **Region 2**
- Los Angeles, San Bernardino and Riverside counties = **Region 3**
- **Out of State**

## Premium Changes

### Premiums will increase in 2023:

- Combined average premium increase, 6.8%
  - HMO plan premiums, 4.2%
  - PPO plan premiums, 15.76%



## MOU Language

### What Do Our MOUs Require?

- MWD contributes up to highest cost HMO in either Region 2 or Region 3.
- For 2023, Board to adopt Anthem Traditional HMO Plan, for Region 3

# How Is MWD Contributions Impacted?

## Fiscal Impact

	<u>2022</u>	<u>2023 (New Resolution)</u>
1-Party	\$1,007	\$943
2-Party	\$2,014	\$1,885
Family	\$2,618	\$2,451

- Current budget for FY22/23 and FY 23/24 includes estimated costs
- Fiscal impact will be absorbed in the current and future budgets

## Board Options

- Option #1 – Adopt a resolution designating Metropolitan's maximum contribution for medical benefits in order to comply with the current authorized Memoranda of Understanding.
- Option #2 – Do not adopt a resolution providing for a change in Metropolitan's health benefit premium contribution for employees and annuitants under Government Code Section 22892(a).

Next Step

## Staff Recommendation

- Option #1



**RESOLUTION NO. 9321  
FIXING THE EMPLOYER CONTRIBUTION  
UNDER THE PUBLIC EMPLOYEES’ MEDICAL AND HOSPITAL CARE ACT  
AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS**

WHEREAS, (1) Metropolitan Water District of Southern California is a contracting agency under Government Code Section 22920 and subject to the Public Employees’ Medical and Hospital Care Act (the “Act”); and

WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and

WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; now, therefore be it

RESOLVED, (a) That the employer contribution for each employee or annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of:

<b>Medical Group</b>	<b>Monthly Employer Health Contribution</b>
001 Unrepresented	100% Anthem HMO Traditional Region 3 Basic (Party Rates 1-3)
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004 Management & Professional Employees Association	100% Anthem HMO Traditional Region 3 Basic (Party Rates 1-3)
005 Association of Confidential Employees	100% Anthem HMO Traditional Region 3 Basic (Party Rates 1-3)

plus administrative fees and Contingency Reserve Fund assessments; and be it further


RESOLVED, (b) Metropolitan Water District of Southern California has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further

RESOLVED, (c) That the participation of the employees and annuitants of Metropolitan Water District of Southern California shall be subject to determination of its status as an “agency or instrumentality of the state or political subdivision of a State” that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that Metropolitan Water District of Southern California would not qualify as an agency or instrumentality of the

state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer; and be it further

- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, Human Resources Group Manager to file with the Board a verified copy of this resolution, and to perform on behalf of Metropolitan Water District of Southern California all functions required of it under the Act; and be it further
- RESOLVED, (e) That coverage under the Act be effective on January 1, 2023.

Adopted at a regular meeting of the Board of Directors at Metropolitan Water District of Southern California at Los Angeles, CA, this 13 day of September, 2022.

Signed:   
Gloria D. Gray, Chairwoman of the Board

Attest:   
Rosa Castro, Board Administrator



● **Board of Directors**  
***Organization, Personnel and Technology Committee***

9/13/2022 Board Meeting

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7-12

**Subject**

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Authorize an increase in the maximum amount payable under contract with Meyers Nave by \$190,000 to an amount not to exceed \$439,000 to continue providing legal advice and support services for the Equal Employment Opportunity Office; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

**Executive Summary**

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In February 2022, Meyers Nave began providing Metropolitan with legal advice and support services for the Equal Employment Opportunity (EEO) office. The General Manager had authorized a not-to-exceed amount of \$249,000, but additional support for Human Resources (HR) and EEO Office is ongoing and will require additional funds exceeding the General Manager's authority. To continue support of these critical and ongoing efforts, we are requesting Board authorization to increase the maximum amount payable under the existing contract to \$439,000.

**Details**

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**Background**

In February 2022, Meyers Nave was retained by the General Manager as a consultant to provide outside legal counsel services to the General Manager and to support the transition of EEO cases to the newly established EEO Office. In addition, Meyers Nave was tasked with the implementation of various EEO and HR policies and procedures, as well as helping with the management of current investigations. To date, Meyers Nave has assisted with new core EEO policies and procedures required by the State Audit, including Operating Policies H-07 (EEO) and H-13 (Sexual Harassment), and provided appropriate training to support the policies per the State Audit recommendations and meet deadlines in June 2022. The initial contract authorized a not-to-exceed amount of \$225,000. In July 2022, the General Manager authorized an increase of \$24,000 to the contract.

Under the initial contract, the scope of work for Meyers Nave includes, but is not limited to, the following areas:

- 1) Provide Metropolitan legal advice and support services regarding new core EEO policies and procedures, including presenting these policies and procedures for review by the Joint Labor Management Advisory Committee and Diversity, Equity, and Inclusion Council in March 2022 and to the Board of Directors in April 2022.
- 2) Assist the Chief EEO Officer with building the EEO Office, including personnel and compliance investigations, and assisting with the transition of outside investigations to the EEO Office.
- 3) Provide training to support the EEO policies and procedures.
- 4) Provide legal advice and support services as needed regarding internal and outside personnel and compliance investigations and related issues; personnel matters and related issues; and labor and employment matters and related issues.

From July 2022 through June 2023, Meyers Nave will assist and advise the Chief EEO Officer and HR with additional new core personnel policies and procedures, including Operating Policies H-04 (Abusive Conduct and Workplace Violence), Investigation Procedures, and Discipline Procedures per State Audit recommendations and



October 2022 deadlines. In addition, Meyers Nave will provide ongoing assistance and advice to the Chief EEO Officer regarding compliance investigations, the transition of outside investigations from the Legal Department to the EEO Office, building and staffing the EEO Office, and related issues.

For these reasons, the General Manager requests authorization to increase the maximum amount payable under this existing contract to \$439,000.

## **Policy**

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Administrative Code Sections 8120-8124: Authority to Contract

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 because it involves 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).

### **CEQA determination for Option #2:**

None required

## **Board Options**

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### **Option #1**

Authorize an increase in the maximum amount payable under contract with Meyers Nave by \$190,000 to an amount not to exceed \$439,000 to assist and advise the Chief EEO Officer with additional new core personnel policies and procedures, including Operating Policies H-04 (Abusive Conduct and Workplace Violence), Investigation Procedures and Discipline Procedures per State Audit recommendations and deadlines in October 2022. In addition, Meyers Nave will provide ongoing assistance and advice to the Chief EEO Officer regarding compliance investigations, the transition of outside investigations from the Legal Department to the EEO Office, building and staffing the EEO Office, and related issues.

**Fiscal Impact:** An additional increase in expenditure for professional services by \$190,000 to an amount not to exceed \$439,000. These funds are budgeted in the General Manager's budget.

**Business Analysis:** Necessary to support the General Manager in the implementation of both Independent Assessment of Workplace Concerns and the State Audit recommendations. The updated policies and procedures will provide the support the Board needs to improve Metropolitan's implementation of recommendations from the Independent Assessment of Workplace Concerns and the State Audit and provide for good governance in the areas of management of HR and Equal Employment Opportunity.

### **Option #2**

Do not authorize an increase in the maximum amount payable under this contract.

**Fiscal Impact:** Not applicable

**Business Analysis:** Workplace concerns will not be addressed to comply with the State Audit timeline and timely implementation of the recommendations from the Independent Assessment of Workplace Concerns.

**Staff Recommendation**

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Option #1



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*Adel Hagekhalil*  
General Manager

9/9/2022

*Date*

Ref# hr12689576



## Organization, Personnel and Technology Committee

Update on implementation of  
recommendations from State Audit and  
independent review of workplace concerns

Item 6a

September 13, 2022

## Update

### State Audit

- Updates submitted on June 20, 2022
- Updates on recommendations due
  - October 2022
  - April 2023

### Independent Review of Workplace Concerns

- Update on status of recommendations
- Summary

# Update on Implementation of Recommendations from State Audit

# Recommendations due June 2022

# Update on State Audit

June 2022

Number of Recommendations:  
Due: 4  
Fully implemented: 5

## State Audit Recommendations

A progress dashboard outlining Metropolitan's progress on addressing recommendations from the California State Auditor's report.

EEO		
RECOMMENDATION	DEADLINE	STATUS
<p>To ensure that it is complying with state and federal laws as well as best practices, by October 2022 MWD should update its EEO policy to:</p> <ul style="list-style-type: none"> <li>• Include a robust definition and examples of retaliation.</li> <li>• Include information about an employee's right to file a complaint directly with the California Department of Fair Employment and Housing (DFEH) or the U.S. Equal Employment Opportunity Commission (EEOC).</li> <li>• Make explicit reference to written investigatory procedures and describe where employees can obtain a copy of those procedures.</li> <li>• Ensure that the policy accurately reflects all other requirements in state and federal law. In order to do so, MWD should establish a process for regularly reviewing the policy to determine whether changes are needed.</li> </ul>	10/22	Fully Implemented
<p>To ensure that it has effective and up-to-date policies on related personnel matters, by October 2022 MWD should review and update its sexual harassment policy as needed and develop an official policy defining and prohibiting abusive conduct.</p>	10/22	In Progress
<p>To better position itself to handle all EEO responsibilities required by state and federal law and best practices, by October 2022 MWD should implement the following improvements to its EEO office:</p> <ul style="list-style-type: none"> <li>• Create and fill additional positions that are commensurate with the workload of the EEO office, including additional staff to handle investigations, training, and compliance.</li> <li>• Assign formal, written responsibilities for specific staff within the office.</li> <li>• Structure the EEO office in such a manner that it can operate independently, with minimal potential threats to impartiality.</li> </ul>	10/22	In Progress
<p>To ensure timely response to EEO complaints, by October 2022 MWD should update its investigation procedures to include timeframes that match DFEH best practices for responding to, investigating, and closing EEO complaints and should adhere to those time frames. MWD should report to its board</p>	10/22	In Progress

### Status Tracker



# Recommendations due October 2022



# Update on State Audit

## EEO

### On Schedule to Fully Implement

Due: October 21, 2022

Recommendation	Status
<p>5 Review and update its sexual harassment policy as needed and develop an official policy defining and prohibiting abusive conduct.</p>	<p>EEO-The Sexual Harassment Policy (H-13) was implemented in June 2022 and disseminated to the MWD workforce in July 2022.</p> <p>HR-The Abusive Conduct and Workplace Violence Policy (H-04) has been updated and is being reviewed with bargaining units.</p>
<p>6 Implement the following improvements to EEO office:</p> <ul style="list-style-type: none"><li>▪ Create and fill additional positions that are commensurate with the workload of the EEO office, including additional staff to handle investigations, training, and compliance.</li><li>▪ Assign formal, written responsibilities for specific staff within the office.</li><li>▪ Structure the EEO office in such a manner that it can operate independently, with minimal potential threats to impartiality.</li></ul>	<p>The EEO Office created and hired a Deputy Chief EEO Officer in May 2022. It also created a new investigator position entitled Chief EEO Investigator. Two candidates have been selected for this position and are scheduled to start this month. The EEO Office is no longer within HR and serves as an independent office that reports directly to the GM.</p>

# Update on State Audit

## EEO

### On Schedule to Fully Implement

Due: October 21, 2022

Recommendation	Status
7 Update its investigation procedures to include time frames that match DFEH best practices for responding to, investigating, and closing EEO complaints and should adhere to those time frames. MWD should report to its board quarterly on how many EEO complaints have been received and investigated, including how many of those investigations surpassed the time frames in MWD's procedures.	EEO Complaint & Investigative Procedures have been developed and shared with bargaining unit leadership for review in August 2022. The procedures were developed based on best practices and include the requirement to report EEO statistics to the board quarterly.
10 Implement an electronic recordkeeping system that will allow for accurate and complete tracking of EEO complaints in a single location. MWD also should designate an individual to be responsible for logging, tracking, and updating EEO complaint records.	An electronic case database system is being customized for MWD. The Go Live date is scheduled for October 2022. The Deputy Chief EEO Officer is responsible for ensuring the database is updated.

# Update on State Audit

## EEO/ Human Resources

### On Schedule to Fully Implement

Due: October 21, 2022

Recommendation	Status
<p>11 Implement a written, formal process that outlines the steps that it must follow and the factors it must consider when deciding whether and how to issue discipline. MWD should also develop a recordkeeping policy that documents the disciplinary process so that it can demonstrate that its process is thorough and consistent.</p>	<p>A process has been documented to outline the factors and steps within the disciplinary process, including appropriate documentation to ensure consistency.</p>
<p>12 Develop written procedures for identifying and intervening in potential retaliation while EEO investigations are ongoing.</p> <p>Dedicate a person to follow up with complainants after EEO investigations to ensure that incidents involving potential retaliation are not occurring, as well as track these follow-up discussions.</p>	<p>This recommendation is included in the EEO Complaint and Investigative Procedures mentioned in the previous slide.</p>

# Update on State Audit

## EEO/ Human Resources

### On Schedule to Fully Implement

Due: October 21, 2022

Recommendation	Status
<p>13</p> <ul style="list-style-type: none"><li>Amend its administrative code to require that all personnel-related settlements that invoke confidentiality or have any financial impact—including paid and reinstated leave—be reported quarterly to the board's Legal and Claims Committee, regardless of settlement type.</li><li>Develop a written policy that outlines mandatory information required when reporting settlements. This reporting on each settlement should include whether EEO issues were implicated, whether the employee is still employed by MWD, the existence and type of any financial or confidentiality terms, and whether MWD has taken any corrective action in response to the alleged issues.</li><li>Implement centralized recordkeeping procedures for all employee settlement agreements, including a means of confidentially indicating the existence of such settlements in the EEO complaint database, its personnel database, or some other central repository.</li></ul>	<p>Board Letter 7-8 (Administrative Code Amendment) addresses the first two bullets of this recommendation and will be presented to the Board in September 2022 for consideration.</p> <p>An electronic case database system is being customized for MWD to include recordkeeping of settlement agreements. The Go Live date is scheduled for October 2022. HR is responsible for tracking all employee settlement agreements.</p>

# Update on State Audit

## Human Resources

On Schedule to  
Fully Implement

Due: October 21, 2022

	Recommendation	Status
14	<p>Adopt and publish comprehensive formal hiring procedures that include the following elements.</p> <ul style="list-style-type: none"><li>▪ A documented process for screening applications based on defined criteria.</li><li>▪ Clear instructions for justifying hiring decisions, with examples of appropriate justifications.</li><li>▪ Document retention requirements for human resources staff and hiring managers that align with the steps of the hiring process required in MWD's hiring procedures.</li></ul>	<p>HR consultants have been retained to draft a formal recruitment procedure document to include best practices and include all State Audit and SLR recommendations. The final draft is under review by management and will be shared with the bargaining units in September.</p>
16	<p>Reinstate the EEO office's role in the hiring process and develop formal procedures describing that role.</p>	<p>The EEO Concurrence Process has been drafted and is being reviewed.</p>



# Update on State Audit

## Ethics

On Schedule to Fully Implement

Due: October 21, 2022

Recommendation	Status
<p>19 Revise administrative code to:</p> <ul style="list-style-type: none"><li>▪ Prohibit interested parties from participating in the office's investigation process, except when necessary to provide information or otherwise respond to allegations.</li><li>▪ Establish the best practices highlighted in this report for protecting the independence of the ethics office, such as ensuring that the ethics officer has sole authority to interpret MWD's ethics rules and that the ethics office can obtain advice from outside legal counsel.</li></ul>	<p>In August, the Board approved amendments to the Administrative Code which:</p> <ul style="list-style-type: none"><li>• Establish the Ethics Officer as the sole authority for interpreting MWD ethics rules</li><li>• Grant the Ethics Officer authority to obtain independent legal counsel</li><li>• Explicitly prohibit interference and unnecessary participation in ethics investigations</li><li>• Add additional enhancements to Office consistent with state audit recommendations</li></ul>

# Update on State Audit

## Housing

On Schedule to  
Fully Implement

Due: October 21, 2022

	Recommendation	Status
20	<ul style="list-style-type: none"><li>▪ Improve the detail and consistency of its current procedures for responding to maintenance requests. These enhanced procedures should detail when MWD will handle a request on its own and when it will address a request as part of a larger effort, and they should establish clear and reasonable time frames for each scenario.</li><li>▪ Establish procedures for more reliably tracking the length of time it takes to respond to housing issues and regularly report its performance on these issues to the board, including any measures it has taken to improve this performance.</li><li>▪ Develop a contingency plan for comprehensively addressing its long-term issues with housing—such as installing prefabricated homes or renovating existing units—in case its current plan for replacing employee housing is delayed.</li></ul>	A draft work order procedure, work order priority matrix, priority timeline, and draft contingency plan is being developed.

# Update on State Audit

## Safety

On Schedule to  
Fully Implement

Due: October 21, 2022

Recommendation	Status
22 Enhance its written policies to formally define retaliation and include specific steps responsible parties should take when performing the duties laid out in policy, such as protecting employees from retaliation.	Revised Safety Policy HSEM 101.4 - Safety Communications to incorporate retaliation policy improvements adopted by the Board on August 16, information on reporting retaliation to the Ethics Office, and managers' mandatory duty to report retaliation to the Ethics Office.  MWD Retaliation Policy now includes definition of retaliation and expanded coverage of safety concerns.  Ethics Office providing live retaliation policy training to MWD workforce in Sept/Oct. in coordination with safety staff.



# Recommendations due April 2023

# Update on State Audit

## Human Resources/ DE&I

Due: April 2023

	<b>Recommendation</b>	<b>Status</b>
15	Formally train hiring managers and human resources staff on their roles and responsibilities.	Training will be conducted after recruitment procedures are finalized.
17	Develop formal procedures for analyzing employee demographics and taking appropriate action based on those data. As part of this process, MWD should report to its board on the results of these analyses and actions.	Formal procedures are being drafted for analyzing employee demographics.

# Independent Review of Workplace Concerns

# Independent Review of Workplace Concerns

## Status of Recommendations

#	Recommendation	Action	Status
2	Implement a policy to address abusive conduct, even if not EEO-related.	In Progress	Draft H-04: Abusive Conduct & Workplace Violence Prevention Policy is under final review to be completed in October.
18	Update the District's "EEO Discrimination Complaint Procedures," and provide copies to complainant(s) and respondent(s) in each investigation.	In Progress	EEO Complaint & Investigative Procedures
23	Take appropriate steps to prevent any form of retaliation against individuals involved in the complaint process.	In Progress	H-07, H-13, and EEO Complaint & Investigative Procedures
45	Require Directors to model professionalism and respectful behavior at all times and reinforce these expectations on a regular basis.	Addressed/ Ongoing	<ul style="list-style-type: none"> <li>Adopted Board's Principles of Governance Statement (11/2021)</li> <li>Adopted civility resolution (7/2022)</li> </ul>
47	Conduct an annual employee survey for at least the next five years to evaluate the District's progress in implementing the recommendations in the Report, and the effectiveness of those recommendations.	In Progress	Annual survey scheduled to be conducted in June 2023 to allow time for evaluation.

# Independent Review of Workplace Concerns Status of Recommendations Summary

	Referred	Completed	Addressed/ Ongoing	In Progress
General Manager/EEO	26	5	19	2
General Manager and Legal Departments	1	1	-	-
Legal and Ethics Departments	4	1	2	1
Joint Labor-Management Advisory Committee	9	1	7	1
Board	7	1	6	--
Total	47	9	34	4

# Comparison between State Audit and Independent Review of Workplace Concerns

**State Audit Recommendations**

**Assessment of Workplace Concerns Recommendations**

4.	<p>To ensure that it is complying with state and federal laws as well as best practices, by October 2022 MWD should update its EEO policy to:</p> <ul style="list-style-type: none"> <li>• Include a robust definition and examples of retaliation.</li> <li>• Include information about an employee’s right to file a complaint directly with the California Department of Fair Employment and Housing (DFEH) or the U.S. Equal Employment Opportunity Commission (EEOC).</li> <li>• Make explicit reference to written investigatory procedures and describe where employees can obtain a copy of those procedures.</li> <li>• Ensure that the policy accurately reflects all other requirements in state and federal law. In order to do so, MWD should establish a process for regularly reviewing the policy to determine whether changes are needed.</li> </ul>	1.	Update current EEO-related policies to reflect best practices.
		35.	Implement a District-wide communication program regarding what conduct may constitute retaliation under the District’s policy, and the District’s commitment to protecting employees from retaliation.
5.	<p>To ensure that it has effective and up-to-date policies on related personnel matters, by October 2022 MWD should review and update its sexual harassment policy as needed and develop an official policy defining and prohibiting abusive conduct.</p>	2.	Implement a policy to address abusive conduct, even if not EEO-related.
6.	<p>To better position itself to handle all EEO responsibilities required by state and federal law and best practices, by October 2022 MWD should implement the following improvements to its EEO office:</p> <ul style="list-style-type: none"> <li>• Create and fill additional positions that are commensurate with the workload of the EEO office, including additional staff to handle investigations, training, and compliance.</li> <li>• Assign formal, written responsibilities for specific staff within the office.</li> <li>• Structure the EEO office in such a manner that it can operate independently, with minimal potential threats to impartiality.</li> </ul>	6.	Continue to enhance the District’s current EEO training program.
		24.	Provide in-depth and regular training to all EEO Office personnel regarding complaint intake and investigation best practices, and ensure internal EEO investigators are trained in trauma-informed practices, including interview techniques and credibility assessments.
		14.	Elevate the EEO Office to an independent department reporting to the Board (including hiring an EEO Officer), and eliminate Legal’s direct involvement in most investigations.
		15.	Create at least three additional internal EEO investigator positions.
		43.	Encourage management transparency by providing appropriate support and resources to resolve EEO Issues.

**State Audit Recommendations**

**Assessment of Workplace Concerns Recommendations**

7.	To ensure timely response to EEO complaints, by October 2022 MWD should update its investigation procedures to include time frames that match DFEH best practices for responding to, investigating, and closing EEO complaints and should adhere to those time frames. MWD should report to its board quarterly on how many EEO complaints have been received and investigated, including how many of those investigations surpassed the time frames in MWD’s procedures.	8.	Require managers to promptly and consistently address EEO Issues and other employee concerns.
8.	To avoid future instances in which EEO complaints go unaddressed, by June 2022 MWD should develop written procedures that specify how non-EEO staff who receive complaints from employees should handle referrals of EEO complaints to the EEO office, and MWD should train staff on those procedures.	20.	Initiate and complete investigations of EEO Issues in a timely manner.
9.	To ensure that the EEO office has appropriate jurisdiction over EEO complaints, by June 2022 MWD should develop written procedures for handling potential threats to impartiality in investigations. These procedures should contain explicit conditions in which a party other than the EEO office, such as the ethics office or the general counsel’s office, plays a lead role in an EEO complaint.	39.	Require the District to provide monthly and annual reports to the OP&T Committee that include quantitative data regarding EEO Issues.
10.	To ensure that all EEO complaints and their outcomes are recorded accurately and promptly, by October 2022 MWD should implement an electronic recordkeeping system that will allow for accurate and complete tracking of EEO complaints in a single location. MWD also should designate an individual to be responsible for logging, tracking, and updating EEO complaint records.	18.	Update the District’s “EEO Discrimination Complaint Procedures,” and provide copies to complainant(s) and respondent(s) in each investigation.
11.	To help ensure equity and consistency in its disciplinary process, by October 2022 MWD should implement a written, formal process that outlines the steps that it must follow and the factors it must consider when deciding whether and how to issue discipline. MWD should also develop a recordkeeping policy that documents the disciplinary process so that it can demonstrate that its process is thorough and consistent.	16.	Regularly communicate with all employees regarding the separate components of the EEO Office and the Ethics Office, including direct messaging from the General Manager, the CAO, and the Ethics Officer.
		17.	Implement a hotline program to allow for anonymous reporting of EEO Issues.
		37.	Establish a system to ensure that the EEO Office maintains ongoing communication with the complainant(s) and the respondent(s) during an investigation



State Audit Recommendations		Assessment of Workplace Concerns Recommendations	
12.	<p>To prevent and address mistreatment of complainants and potential violations of its retaliation policy, by October 2022 MWD should do the following:</p> <ul style="list-style-type: none"> <li>Develop written procedures for identifying and intervening in potential retaliation while EEO investigations are ongoing.</li> <li>Dedicate a person to follow up with complainants after EEO investigations to ensure that incidents involving potential retaliation are not occurring, as well as track these follow-up discussions.</li> </ul>	37.	Establish a system to ensure that the EEO Office maintains ongoing communication with the complainant(s) and the respondent(s) during an investigation.
		38.	Inform every employee interviewed during an investigation that District policy prohibits retaliation against any employee who submits a complaint, and against any witness who participates in the investigation, including the respondent.
13.	<p>To ensure that the board is informed of how often EEO matters are being settled and by what means, by October 2022 MWD should:</p> <ul style="list-style-type: none"> <li>Amend its administrative code to require that all personnel-related settlements that invoke confidentiality or have any financial impact—including paid and reinstated leave—be reported quarterly to the board’s Legal and Claims Committee, regardless of settlement type.</li> <li>Develop a written policy that outlines mandatory information required when reporting settlements. This reporting on each settlement should include whether EEO issues were implicated, whether the employee is still employed by MWD, the existence and type of any financial or confidentiality terms, and whether MWD has taken any corrective action in response to the alleged issues.</li> <li>Implement centralized recordkeeping procedures for all employee settlement agreements, including a means of confidentially indicating the existence of such settlements in the EEO complaint database, its personnel database, or some other central repository.</li> </ul>		

State Audit Recommendations

Assessment of Workplace Concerns Recommendations

14	<p>To ensure fairness and accountability in the hiring process, by October 2022 MWD should adopt and publish comprehensive formal hiring procedures that include the following elements:</p> <ul style="list-style-type: none"> <li>• A documented process for screening applications based on defined criteria.</li> <li>• Clear instructions for justifying hiring decisions, with examples of appropriate justifications.</li> <li>• Document retention requirements for human resources staff and hiring managers that align with the steps of the hiring process required in MWD’s hiring procedures.</li> </ul>	41.	<p>Require the District to provide monthly and annual reports to the OP&amp;T Committee that include quantitative data regarding EEO Issues.</p>
15.	<p>To promote consistency in the hiring process, by April 2023 MWD should formally train hiring managers and human resources staff on their roles and responsibilities.</p>		
16.	<p>To prevent bias in hiring, by October 2022 MWD should reinstate the EEO office’s role in the hiring process and develop formal procedures describing that role.</p>		
17.	<p>To better analyze its workforce demographics and identify potential barriers to employment, by April 2023 MWD should develop formal procedures for analyzing employee demographics and taking appropriate action based on those data. As part of this process, MWD should report to its board on the results of these analyses and actions.</p>	39.	<p>Require the District to provide monthly and annual reports to the OP&amp;T Committee that include quantitative data regarding EEO Issues.</p>
18.	<p>To ensure that responsible parties have the information they need to make improvements, by June 2022 MWD should annually share the results of its demographic analyses with its various management groups as well as its recruitment staff.</p>		
19.	<p>To ensure that its ethics office is independent, as required by state law, by October 2022 MWD should revise its administrative code to:</p> <ul style="list-style-type: none"> <li>• Prohibit interested parties from participating in the office’s investigation process, except when necessary to provide information or otherwise respond to allegations.</li> <li>• Establish the best practices highlighted in this report for protecting the independence of the ethics office, such as ensuring that the ethics officer has sole authority to interpret MWD’s ethics rules and that the ethics office can obtain advice from outside legal counsel.</li> </ul>		

State Audit Recommendations		Assessment of Workplace Concerns Recommendations	
20.	<p>To better protect those employees required to reside in employee housing from the issues threatening the safety and habitability of this housing, by October 2022 MWD should:</p> <ul style="list-style-type: none"> <li>• Improve the detail and consistency of its current procedures for responding to maintenance requests. These enhanced procedures should detail when MWD will handle a request on its own and when it will address a request as part of a larger effort, and they should establish clear and reasonable time frames for each scenario.</li> <li>• Establish procedures for more reliably tracking the length of time it takes to respond to housing issues and regularly report its performance on these issues to the board, including any measures it has taken to improve this performance.</li> <li>• Develop a contingency plan for comprehensively addressing its long-term issues with housing—such as installing prefabricated homes or renovating existing units—in case its current plan for replacing employee housing is delayed.</li> </ul>		
21.	To better protect the safety of its employees, by June 2022 MWD should revise its safety policies to establish a minimum level of collaboration between safety representatives and management, such as establishing requirements for regular meetings and requiring managers to attend safety committee meetings.		
22.	To better ensure the effective handling of safety complaints and the protection of workers who make them, by October 2022 MWD should enhance its written policies to formally define retaliation and include specific steps responsible parties should take when performing the duties laid out in policy, such as protecting employees from retaliation.	23.	Take appropriate steps to prevent any form of retaliation against individuals involved in the complaint process.
		35.	Implement a District-wide communication program regarding what conduct may constitute retaliation under the District’s policy, and the District’s commitment to protecting employees from retaliation.



## Discussion



