



● **Board of Directors**  
***Audit and Ethics Committee***

11/9/2021 Board Meeting

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**7-1**

**Subject**

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Recommend that the Board approve proposed ethics-related amendments to the Administrative Code; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

**Executive Summary**

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On November 4, 2019, the Audit and Ethics Committee approved a package of amendments to the ethics provisions within the Administrative Code for the Board of Directors' consideration, after applicable staff communication with the bargaining units. As directed by the Audit and Ethics Committee (the Committee), the Ethics Office developed additional language for three provisions and made some minor additional changes for clarity and organization. Staff discussed the proposal with the bargaining units. This item contains the full set of proposed amendments to the Administrative Code that resulted from more than three years of discussion and deliberation by the Committee and staff, as well as review with the bargaining units. It represents a complete overhaul of Metropolitan's ethics policies.

On February 23, 2021, after considering staff's presentation on this matter, the Committee decided to defer action until after completion of Shaw Law Group's review of Equal Employment Opportunity-related workplace concerns. Now that its review is complete, staff requests board approval of this package of ethics-related amendments, along with the modifications to provisions concerning Equal Employment Opportunity (EEO) investigations of Directors or Department Heads. The substance of the proposed amendments is the same as presented in February 2021, with two exceptions; this update proposes to: (1) make the EEO Officer available for optional consultation by an ad hoc subcommittee in the course of an EEO investigation of a Director or Department Head; and (2) remove the conflict of interest code from the Administrative Code and instead incorporate it by reference, to facilitate regular state-mandated amendments.

**Timing and Urgency**

At present, Metropolitan is out of compliance with specific elements of Senate Bill 60, the state law that mandated establishment of the Ethics Office. The Administrative Code also needs amendment to comply with Fair Political Practices Commission (FPPC) regulations. More broadly, it is necessary to amend the Administrative Code to comport with recommendations of the three-year review process initiated by the Board in spring 2018. Ethics Office staff are unable to begin education for new ethics policies and procedures unless the Board provides final approval. Delay of board approval also could preclude implementation of consensus improvements to Ethics Office investigations procedures.

**Details**

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**Background**

In July 2017, Metropolitan retained the law firm of Wilmer Hale to conduct a review of the policies and procedures of the Ethics Office. Wilmer Hale presented its final public report to the Executive Committee in February 2018.

After issuance of the report, Metropolitan retained the law firm of Olson Hagel & Fishburn, now Olson Remcho, to assist with re-drafting Metropolitan's ethics rules. In May 2018, Olson Remcho gave the Audit and Ethics Committee an initial overview of Metropolitan's ethics rules and its approach for revisions. Over the following

18 months, Olson Remcho participated in an extensive collaborative effort involving Ethics Office staff, the General Counsel, and Human Resources Group.

Olson Remcho and the staff participating in the project concurred in the following observations: (1) the ethics rules were not organized coherently; (2) the investigative jurisdiction of the Ethics Office was unclear; (3) the ethics rules were sometimes confusing, and some rules were likely unenforceable; and (4) many of the substantive ethics rules affecting employees were in internal policies but not the Administrative Code.

The primary objectives of this project were to: (1) fulfill requirements of Senate Bill 60, the legislation that mandated establishment of the Ethics Office; (2) clarify ethics rules and organize them in a logical order within the Administrative Code; and (3) establish clear lines for what rules are within the jurisdiction of the Ethics Office.

The review of ethics policies and processes proceeded in four phases:

1. Reporting structure for the Ethics Officer.
2. Duties of the Audit and Ethics Committee and Ethics Officer.
3. Review and clarification of the jurisdiction, powers, and responsibilities of the Ethics Office, including:
  - a. Clear ethics rules over which the Ethics Office has authority and jurisdiction to investigate and administer.
  - b. Clear and consistent investigative processes.
  - c. Access by the Ethics Officer to records and other information from within Metropolitan.
  - d. Confidentiality during the investigation process.
  - e. Public information about investigation results.
4. Education, training, advice, and compliance.

#### **Phases One and Two: Reporting Structure; Duties of Audit and Ethics Committee and Ethics Officer**

In September 2018, Olson Remcho presented several recommendations to the Audit and Ethics Committee (Committee), including:

1. SB 60 requirements can be harmonized by the adoption of a reporting structure that ensures that the Ethics Office has the ability to fulfill its responsibilities in an unbiased manner that is free of conditions that would threaten its independence or objectivity while still remaining ultimately accountable to the Board of Directors.
2. A direct line of communication from the Ethics Office to the Committee and its Chair is supportive of the independence of the Office in the fulfillment of its mission. While the Audit and Ethics Committee and its Chair should exercise direct oversight over the Ethics Office, the full Board of Directors should retain ultimate responsibility for the hiring, evaluation, compensation, and termination of the Ethics Officer.
3. Elevate the Audit and Ethics Committee to a standing committee of the Board of Directors.
4. To provide assurance of both collaboration and independence, the Ethics Officer should confirm to the Board of Directors annually that he or she has maintained independence, along with a collaborative relationship with the General Manager, General Counsel, and General Auditor.

At its September 2018 meeting, the Board of Directors adopted these recommendations, and at its November 2018 meeting, the Board approved amendments to the Administrative Code to implement them.

#### **Phase Three: Jurisdiction, Powers, and Responsibilities of the Ethics Office**

Phase Three addressed the most complex and challenging issues for the project. In accordance with discussions among the staff working group, at Committee meetings in January, February, March, June, October, and November 2019, Olson Remcho presented recommendations on appropriate ethics rules, conduct of investigations, and compliance with SB 60. After discussions at Committee meetings on the recommendations and various related issues, at its November 2019 meeting, the Committee recommended the Board's approval of a

set of ethics-related amendments to the Administrative Code, following applicable staff communication with the bargaining units. The main elements of the revisions are summarized below:

**1. *Jurisdiction and Scope of Authority***

Both of the firms reviewing the Ethics Office noted substantial lack of clarity about the nature and scope of the Ethics Office's authorities and jurisdiction. One of the primary goals of this project has been to make the scope of the jurisdiction and authority of the Ethics Officer as clear as possible. For example, some ethics rules are contained in management policies that assign responsibilities to other departments. The proposal places all ethics rules applicable to all Metropolitan officials in one place within the Administrative Code. (See Proposal, Section 7102)

**2. *Incorporation of State Ethics Laws into Administrative Code***

Olson Remcho observed that several existing internal ethics rules address topics that are subjects of the California Political Reform Act (PRA) and regulations from the California Fair Political Practices Commission. Further, the existing Metropolitan rules do not address some of the most significant topics of the PRA. When these laws and regulations change, the internal ethics rules do not always automatically change to match the new state standards.

Under the recommended approach, the internal ethics rules as stated in the Administrative Code will incorporate by reference the parallel state laws and regulations, as modified over time. These cross-references will replace the existing provisions addressing these topics. Further, the proposal clarifies that the Ethics Officer has exclusive authority to investigate potential violations of these rules.

*a. Conflicts of interest regarding contracts*

Existing: Admin. Code, Section 7105(d).

Proposed: Delete and replace with cross-reference to Government Code Section 1090, the most serious conflict of interest law, which prohibits public officials from being financially interested in government contracts. (Proposal, Section 7111)

*b. Conflicts of interest regarding governmental decisions*

Current: Admin. Code, Section 7105(b).

Proposed: Delete and replace with cross-reference to Government Code Section 87100, the basic conflict of interest law, which prohibits government officials from participating in decisions affecting their personal financial interests. (Proposal, Section 7112)

*c. Campaign contributions ("pay to play")*

Current: Not explicitly addressed in Administrative Code.

Proposed: Add cross-reference to Government Code Section 84308, which imposes restrictions and recusal requirements on campaign contributions from entities with interests in certain decisions pending before Metropolitan. (Proposal, Section 7113)

*d. Influencing prospective employment*

Current: Not explicitly addressed in Administrative Code; a prohibition exists in internal Operating Policy H-03.

Proposed: Add cross-reference to Government Code Section 87407, which prohibits public officials from making, participating in, or using their position to influence governmental decisions directly relating to a person or entity with whom they are negotiating, or have a prospective employment arrangement. (Proposal, Section 7114)

*e. Honoraria*

Current: Admin. Code, Section 7131.

Proposed: Delete and add cross-reference to Government Code Section 89502, which restricts public officials from receiving honoraria, such as payments for giving a speech. (Proposal, Section 7115)

*f. Gift limitations*

Current: Admin. Code, Section 7130.

Proposed: Delete and add cross-reference to Government Code Section 89503, which imposes certain limitations and reporting requirements on government officials who must file Statements of Economic Interests. (Proposal, Section 7116)

*g. Loans to public officials*

Current: Not explicitly addressed in Administrative Code.

Proposed: Add cross-reference to Government Code Section 87460(b), which imposes certain limitations on loans to government officials. (Proposal, Section 7117)

*h. Statements of Economic Interests*

Current: Admin. Code, Sections 7200, 7205.

Proposed: Add cross-reference to Government Code Sections 87200 and 87300, which establish reporting requirements for personal financial interests for directors and designated employees. (Proposal, Section 7118)

**3. Metropolitan-specific ethics rules**

Under the recommended approach, the Administrative Code will place Metropolitan-specific ethics rules (i.e., those not set forth in state law) into a separate Article of the Administrative Code. This bifurcation will make it clear that these rules go above and beyond the requirements of incorporated state ethics laws. Also, the amendments include several definitions that are used to clarify the meaning of the rules.

*a. Director recusal due to bias*

Current: Admin. Code, Section 7121. Current language does not clarify that strict adherence to the prohibition applies only in quasi-adjudicative proceedings (such as debarment hearings). A non-bias requirement for policymaking is aspirational and alone not enforceable due to free speech and due process rights of public officials.

Proposed: Move rule to Board of Directors section of Administrative Code; clarify types of proceedings to which the rule applies. (Proposal, Section 2130)

*b. Purposes, policies, and values*

Current: Admin. Code, Sections 7100-7103.

Proposed: Revise statements about policies and purposes underlying the ethics provisions; clarify that these two provisions are aspirational goals, not enforceable rules. (Proposal, Sections 7100-7102)

*c. Misuse of position or authority*

Current: Admin. Code, Section 7104.

Proposed: Clarify and streamline provision prohibiting officials from misusing their governmental position or authority. Clarify that impermissible personal gain can be for the benefit of either the government official or a third party. (Proposal, Section 7121)

*d. Additional gift limits and compensation restrictions*

Current: Admin. Code, Section 7130.

Proposed: Add ban on accepting gifts from restricted sources and other restrictions. (Proposal, Section 7122)

Primary elements of the proposed rule:

1. Applies to all employees.

2. Defines “restricted source” as any non-governmental person or entity that seeks or receives funding from, or seeks or has contracts with, Metropolitan (Proposal, Section 7103(q)).
3. To be subject to the restrictions, the employee must know that the donor was a “restricted source.”
4. Exempts food/beverages at work-related events or items of nominal value, limited to \$50 per calendar year from a single source.
5. Maintains and clarifies bans on compensation or other consideration (for example, tips or gratuities) from any source other than Metropolitan connected with their performance of official duties.

*e. Political contributions and activities*

Current: Admin. Code, Section 7108; related provisions in Operating Policy H-03.

Proposed: Clarify and add more comprehensive guidelines for political activities, including solicitation of campaign contributions by or from Metropolitan officials or on Metropolitan property; require employees elected to public office to disclose assumption of office to Metropolitan. (Proposal, Section 7123)

Primary elements of the proposed rule:

1. Directors may not solicit political contributions from employees.
2. Employees may not solicit political contributions from employees who are subject to their supervisory authority.
3. Officials may not use any Metropolitan resources or time to engage in political activities.
4. Employees who assume elected office must notify the Ethics Office and General Manager of the office and term at the time of their election to office. This notice will allow supervisors to consider whether adjustments are necessary to the employee’s work assignments to avoid real or apparent conflicts of loyalty.

*f. Restrictions on misleading associations*

Current: Admin. Code, Section 7112. This section is related to SB 60, which requires Metropolitan’s ethics rules to prohibit certain types of misleading associations. The existing rule does not provide adequate clarity for meeting the statutory requirement.

Proposed: Clarify the current rule to meet SB 60 requirement prohibiting misleading associations. Add an additional requirement that the General Manager identify on Metropolitan’s public website all outside associations to which Metropolitan provides monetary or in-kind support, along with a description of the support provided and link to the association’s website. (Proposal, Section 7133)

*g. Limits on contracts and grants with former directors*

Current: Admin. Code, Section 7105, subdivisions (d) and (e).

Proposed: Maintain existing one-year ban and clarify application of rule to private businesses associated with former directors. (Proposal, Section 7124)

*h. Prohibited director communications*

Current: Admin. Code, Section 7106, which applies only to procurements.

Proposed: Clarify and enhance prohibition on directors influencing staff on any of the following decisions. (Proposal, Section 7125)

1. Selection of a specific vendor, contractor, consultant, or other entity for a contract or other procurement.

2. Hiring or employment of any individuals other than Department Heads.
3. Real property transactions.

*i. Use of confidential information*

Current: Admin. Code, Section 7107. Existing rule is unclear as to what information is subject to the prohibition.

Proposed: Clarify that the prohibition applies only to information that would not otherwise be subject to public disclosure and applies to any disclosure, whether for financial gain or any other reason. (Proposal, Section 7126)

*j. Duty to report violations*

Current: Admin. Code, Section 7109; obligation to report apparent ethics violations is encouraged but not mandatory.

Proposed: Expressly require all employee managers to report all apparent violations of ethics policies by any Metropolitan official, contractor, or lobbyist. (Proposal, Section 7127)

*k. Whistleblower and witness protections*

Current: Admin. Code, Section 7110. Existing criteria lacks certain details about what protected activities are covered and what reporting requirements are necessary to trigger protections, and provisions are not centralized in one location.

Proposed: Clarify and enhance requirements. (Proposal, Section 7128)

Primary elements of the proposed rule:

1. Clarifies protected activity as good faith reporting of any apparent work-related violation of law, Metropolitan policy, threat to public safety, or other specified conduct or cooperating with an ethics investigation. Disagreements with policy decisions are not covered.
2. To reflect current practice, expressly omits retaliation allegations arising from Equal Employment Opportunity reports.
3. Reporting requirements for triggering whistleblower protection.

*l. Failure to cooperate with Ethics Officer investigation*

Current: Not explicitly addressed in Administrative Code. General employee obligations to cooperate arise from other personnel regulations.

Proposed: Add explicit requirement that all Metropolitan officials, contractors, and lobbyists have an affirmative obligation to cooperate with investigations; specify that providing misleading statements or destroying evidence are examples of prohibited conduct. (Proposal, Section 7129)

*m. Employment with persons doing business with Metropolitan*

Current: Not explicitly addressed in Administrative Code; some restrictions in internal Operating Policy H-03.

Proposed: Add prohibition against employees attempting to obtain employment from, or be compensated by, any entity while it is doing business with or negotiating with Metropolitan concerning a matter within the employee's areas of responsibility, or over which the employee exercises discretionary authority. (Proposal, Section 7130(a))

*n. Contacting Metropolitan contractors regarding employment of relatives*

Current: Addressed in Operating Policy H-03.

Proposed: Move provision to Administrative Code. Prohibit employees from contacting Metropolitan contractors about potential employment for the employee's relatives. (Proposal, Section 7130(b))

*o. Public reporting of contracts of \$50,000 or more, as required by SB 60*

Current: Not explicitly addressed in Administrative Code.

Proposed: Require Metropolitan to post information about all existing contracts of \$50,000 or more in a centralized location on its public website. (Proposal, Section 7132)

*p. Compliance with Metropolitan contracting procedures and guidelines*

Current: Not explicitly addressed in Administrative Code; guidelines are set forth in internal policy documents but not connected to ethics provisions.

Proposed: Add provision that makes it an ethics violation to intentionally fail to comply with Metropolitan contracting procedures and guidelines as contained in the Administrative Code or Operating Policies; enhance compliance with SB 60 mandate regarding contracting policies. (Proposal, Section 7131)

#### **4. Ethics Office investigations**

*a. Authority to investigate and jurisdiction*

Current: Descriptions of the Ethics Officer's investigative authority and jurisdiction are split between internal Ethics Office Investigative Guidelines, internal Operating Policy H-03, and Administrative Code provisions. Some of the delegations and authorities need clarification.

Proposed:

1. *Scope:* The Ethics Officer's authority to investigate is limited to potential violations of the ethics rules contained in the Division VII (Governmental Ethics) of the Administrative Code. (Proposal, Section 7102)
2. *Self-initiation:* The Ethics Officer has authority to investigate a potential ethics violation with or without a complaint or referral from a third party. (Proposal, Section 7400(b))
3. *Five-year statute of limitations:* The Ethics Officer may not commence an investigation more than five years after the alleged violation, unless the subject concealed information. (Proposal, Section 7400(c))
4. *Discretion to investigate:* The Ethics Officer has sole discretion to decide if the Office lacks jurisdiction or if there is an insufficient basis to conduct an investigation. (Proposal, Section 7401)
5. *Concurrent investigations:* Regarding facts implicating both ethics violations and violations of other Metropolitan policies, the Ethics Officer has discretion (but is not required) to conduct investigations concurrently and in coordination with other departments. (Proposal, Section 7402)
6. *Mandatory referrals to Ethics Officer:* Other Metropolitan departments (e.g., Human Resources and General Counsel's Office) have an affirmative obligation to refer any alleged violations of the ethics rules to the Ethics Officer. (Proposal, Section 7403)
7. *Investigations of Directors or Department Heads* (Proposal, Section 7405)
  - a. For alleged ethics violations by directors, the General Manager, General Counsel, or General Auditor, the Ethics Officer will retain an independent outside counsel or investigator to conduct the investigation.
  - b. The Ethics Officer will make final determinations about violations, based on the results of the independent investigator.

- c. At the outset of any such matter, the Ethics Officer will notify the Chair of the Audit and Ethics Committee.
- d. For any alleged violations by the Ethics Officer or members of Ethics Office staff, the same procedures shall apply, except that the General Counsel will fulfill the duties described above for the Ethics Officer.

8. *Related matters*: The Ethics Officer has authority to investigate other potential ethics-related violations based on information obtained in the course of an investigation. (Proposal, Section 7406)

*b. Due process requirements*

Current: The existing internal Ethics Office Investigation Guidelines contain numerous due process protections for subjects of an Ethics Office investigation. Some elements of these provisions need improvement.

Proposed: Move due process provisions into Administrative Code; modifies some procedural requirements to streamline investigation process.

1. *Notice to subject*: Ethics Officer must notify a Subject of allegations and investigation within 30 days (Proposal, Section 7410). Exceptions:
  - a. No notice to subject is required if an investigation is not warranted.
  - b. Delayed notice permissible if necessary to maintain integrity of investigation.
2. *Investigation timeframe* (Proposal, Section 7411)
  - a. In general, investigations will be completed within 180 calendar days.
  - b. In specified circumstances and with notice to subject and Audit and Ethics Chair, investigations may extend beyond 180 days.
3. *Confidentiality* (Proposal, Section 7412)
  - a. Ethics Officer will maintain confidentiality of investigation information to the fullest extent possible.
  - b. Ethics Officer will not unnecessarily disclose the identity of a subject.
  - c. Ethics Officer will protect the identity of a complainant, to the extent possible.
  - d. Ethics Officer may confer with the Committee Chair, Vice-Chair, and Board Chair on any investigation matter, subject to strict confidentiality requirements.
4. *Right to review investigation report*: After preparing a final investigation report, the Ethics Officer will notify the subject and provide 14 calendar days for the subject to review the report along with all evidence cited in the report and provide objections or other comments. The Ethics Officer may revise the report in response to such comments. (Proposal, Section 7416)

*c. Access to Metropolitan records*

Current: Not explicitly addressed in Administrative Code.

Proposed: Add provision clarifying authority of Ethics Officer to access records and other information from within Metropolitan. (Proposal, Section 7413)

1. In general, the Ethics Officer will have access to all Metropolitan documents, files, records, or other materials deemed relevant to an investigation.
2. If questions arise about access to information that may be subject to an applicable privilege, the Ethics Officer and General Counsel will attempt to resolve the matters informally. In the event a disagreement remains, the matter will be referred to an ad hoc committee and to the full Board, if not resolved by ad hoc committee.



*d. Public information on investigations*

Current: Not explicitly addressed in Administrative Code. Questions have arisen about how to interpret SB 60's mandate to report ethics investigation findings.

Proposed: Add provision clarifying standards for public disclosure of information about investigation results. Criteria seeks appropriate balance between transparency goals and privacy rights. (Proposal, Section 7420)

1. Employees: Ethics Officer will post on Metropolitan's website summary results of completed investigations, limited to the general nature of the allegations, the conclusions reached, and any referrals made. The published summary will not identify the subject of the investigation.
2. Directors: These provisions do not prevent a director's identity from becoming public in any open board meeting addressing such violation.
3. Referrals: When a referral to an external agency has been made, these provisions do not prevent the agencies from revealing investigatory information in accordance with their policies.

*e. Penalties for violations*

Current: Not explicitly addressed in Administrative Code. Human Resources has requested guidelines from the Ethics Office for determining relative seriousness of violations. SB 60 requires adoption of a "schedule of penalties" for ethics violations.

Revisions: Add provision establishing tiered system for gauging severity of any specific violation. Require that this finding be in the Ethics Officer's investigation reports, for use by Human Resources in determining appropriate discipline for employees, or by the Executive Committee for violations by directors or Executive Officers. (Proposal, Sections 7430 - 7432)

*f. Referrals to external agencies*

Current: Admin. Code, Section 7140. No explicit criteria for referrals to outside law enforcement in cases involving employees.

Proposed: Add more specific criteria for mandatory referrals of violations to outside enforcement and regulatory agencies. (Proposal, Section 7433)

**5. Ethics rules for Contractors**

Current: Not explicitly addressed in Administrative Code. Currently no mechanism for requiring contractors to comply with Metropolitan ethics requirements, although it is required by SB 60.

Proposed: Add new provisions to ensure contractor compliance with Metropolitan's ethics standards; enhances compliance with SB 60. (Proposal, Sections 7210, 7211)

- a. The General Manager, Ethics Officer, and General Counsel will jointly approve the terms of a Contractor Code of Conduct.
- b. All contractors shall be subject to a Code of Conduct, to be included in written contracts.
- c. Terms shall include, in part:
  - i. Contractual obligation to abide by Metropolitan ethics provisions and Contractor Code of Conduct.
  - ii. Cooperation with any Ethics Officer investigation required, including access to information at no additional charge to Metropolitan.
  - iii. Potential contract termination or debarment as a result of violations of Code of Conduct.

**6. *Lobbyist and lobbying firm registration and reporting requirements***

Current: Lobbying policies are not explicitly addressed in the Administrative Code but are required by SB 60.

Proposed: Add new provisions establishing registration and reporting requirements for lobbyists and lobbying firms, to be administered by the Ethics Office. Maintain and clarify Metropolitan's "revolving door" restrictions on former Metropolitan officials, who may not represent private entities in matters before Metropolitan for one year after leaving Metropolitan (Proposal, Sections 7220, 7221)

Proposed lobbying provisions include:

- a. Lobbyists are generally defined as individuals paid to influence Metropolitan officials on behalf of a client. (Proposal, Section 7103(l))
- b. Registration and reporting provisions do not apply to lobbyists representing member agencies.
- c. Lobbyists must register with the Ethics Office prior to their communications with Metropolitan officials and submit quarterly reports disclosing topics of attempts to influence, names of lobbyist employers, and whether the contacts were with directors or staff.

**7. *Responsibility for investigating discrimination, harassment, or retaliation allegations involving directors or Department Heads***

Current: Admin. Code Section 7111. In past practice, the Ethics Officer was expected to investigate allegations against directors through an outside firm.

Proposed: Remove provision from listed ethics rules and moves to Executive Committee. Replace former language with new guidelines for investigation of discrimination, harassment, and related retaliation allegations involving directors or Department Heads. (Proposal, addition of Section 2416, subdivision (f)(5))

- a. To address allegations involving a director or Department Head, the Executive Committee will create a three-member ad hoc subcommittee.
- b. The ad hoc subcommittee will hire an outside counsel or investigator to conduct the investigation and report its findings to the subcommittee.
- c. If appropriate and desired by the ad hoc subcommittee, it may consult with the EEO Officer, Ethics Officer, and/or General Counsel about the investigation.
- d. Ad hoc subcommittee will report findings to the Executive Committee for appropriate action for allegations against directors and the General Manager, to the Legal and Claims Committee for the General Counsel, and to the Audit and Ethics Committee for allegations involving the General Auditor or Ethics Officer.

**8. *Codify Ethics Office authority to submit draft Conflict of Interest Code amendments to Fair Political Practices Commission for final approval***

Current: Admin. Code Sections 7500, 7501. Metropolitan's Conflict of Interest Code (COI Code) is the list of Metropolitan employee positions designated for filing Form 700s and the disclosure categories applicable to each position. Because Metropolitan is a multi-county jurisdiction, the FPPC has sole authority to approve Metropolitan's COI Code.

Today, the full text of the COI Code, including hundreds of positions and accompanying disclosure categories, are listed verbatim within the Administrative Code. Any change to the COI Code, however minor, requires approval by the Board.

The decision whether specific positions must file Form 700 and what disclosure should apply to each position is based upon applying FPPC regulations to the duties described in each individual job

description. This process requires periodic detailed review of over 600 in-effect job descriptions. The biennial review takes months of staff time and involves extensive discussions with Metropolitan and FPPC staff.

By the time the FPPC provisionally approves amendments for 45-day public review, virtually all substantive determinations have been made and only a public comment period remains. In past practice, staff has requested the Board to: (1) authorize submitting the provisionally-FPPC-approved amendments for final FPPC approval; and (2) pre-authorize amendments to the Administrative Code to comport with the final FPPC-approved amendments.

Proposed: Rather than continue past practice of asking the Board to amend the Administrative Code each time the FPPC approves biennial amendments, staff proposes to streamline the process by removing the COI Code from the Administrative Code and instead incorporating it by reference, as approved by FPPC. (Proposal, amendment of Section 7500, 7501, and addition of 7502).

- a. Authorize the Ethics Officer to submit COI Code amendments to the FPPC for approval.
- b. Remove the list of over 300 designated positions and disclosure categories from the text of the Administrative Code and instead simply incorporate the terms by reference.

The Ethics Officer shall make the approved COI Code accessible to employees and the general public on Metropolitan's internal and external websites.

#### **Phase Four: Education, Advice, and Compliance**

Mr. Olson presented recommendations on ethics education, training, advice, and compliance at the Committee's March 2019 meeting. The following is a summary of the changes proposed for each of these areas.

##### ***1. Education on Metropolitan ethics rules***

Current: Admin. Code, Section 6470(f).

Proposed: Add more specific guidelines for Ethics Office education program; enhances education mandate under SB 60. (Proposal, Sections 7600-7605). Primary elements of the proposed education section include:

- a. Directors: Ethics Officer will provide ethics orientation training for new directors, periodic in-person training at Committee or Board of Director meetings, and updates on changes in state ethics laws.
- b. Employees: All employees will receive governmental ethics training at least once every two years.
- c. Form 700: For all officials required to file Statements of Economic Interests, the Ethics Officer will provide mandatory training on identifying when personal financial interests are reportable and when they are not reportable.
- d. Oversight of Contractors: Employees who oversee contractors will receive mandatory training on the Contractor Code of Conduct at least once every two years.

##### ***2. Advice: scope and incentives***

Current: Admin. Code, Section 6470(f). Very limited guidelines on the advice process.

Proposed: Add new provisions to encourage seeking advice from the Ethics Office, including express incentives for obtaining advice about ethics considerations prior to taking official actions such as immunity from disciplinary action. (Proposal, Sections 7610-7613)

- a. Authorizes the Ethics Officer to advise officials, contractors, and lobbyists about application and interpretation of ethics rules to future conduct. Advice not available for past conduct. The Ethics Officer also has discretion to decline advice request in specified circumstances.

- b. Immunity: Subject to specified conditions, receipt of advice provides immunity against Metropolitan penalties or referrals to other agencies.
- c. Directs the Ethics Officer to maintain confidentiality of communications regarding advice, to the extent possible.

### 3. *Compliance*

Current: Admin. Code, Section 6470(h), which designates the Ethics Officer as filing officer for Statements of Economic Interests.

Proposed: Add new provisions for affirmative review of Form 700s, assistance with recusal obligations, and other compliance functions. (Proposal, Sections 7620-7623)

- a. Expressly assigns state-mandated AB 1234 ethics training compliance responsibilities to the Ethics Officer.
- b. Directs the Ethics Officer to comply with the state's filing officer requirements and conduct an expanded review of all Statements of Economic Interests of directors, the General Manager, and the Chief Financial Officer.
- c. If there is reason to believe that any Metropolitan filer's duties could affect a declared financial interest, the Ethics Officer will contact the filer and offer advice to ensure no inadvertent conflicts of interest arise.
- d. The Ethics Officer will implement procedures to assist directors in complying with recusal requirements triggered by campaign contributions and campaign solicitation restrictions pursuant to Government Code Section 84308.

**Attachments 1 and 3** contain the set of ethics-related amendments to the Administrative Code developed in Phases Three and Four, which are now recommended for the Board's approval. The proposed amendments include language developed by the Ethics Office for three provisions as directed by the Committee at its November 2019 meeting, and some minor additional changes for clarity and organization. Staff communicated with the bargaining units about the proposed amendments, and the bargaining units did not request changes. **Attachments 2 and 4** contain redline comparisons of the proposed amendments to the current Administrative Code, and **Attachment 5** contains the current Administrative Code provisions.

## **Policy**

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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 because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines).

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

None required

**Board Options**

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**Option #1**

Approve recommended ethics-related amendments to the Administrative Code.

**Fiscal Impact:** Not applicable

**Business Analysis:** Enhancement of Metropolitan's government ethics program

**Option #2**

Do not approve recommended ethics-related amendments to the Administrative Code.

**Fiscal Impact:** Not applicable

**Business Analysis:** Delay enhancement of Metropolitan's government ethics program

**Staff Recommendation**

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Option #1



Abel Salinas  
Ethics Officer

10/19/2021

Date

**Attachment 1 – Clean Version Administrative Code Divisions II and VI, proposed amendments**

**Attachment 2 – Redline Version Administrative Code Divisions II and VI, proposed amendments**

**Attachment 3 – Clean Version Administrative Code Division VII, proposed amendments**

**Attachment 4 – Redline Version Administrative Code Division VII, proposed amendments**

**Attachment 5 – Applicable Sections of Current Administrative Code**

Ref# e12680297

**Division II****PROCEDURES PERTAINING TO THE BOARD, COMMITTEE AND DIRECTORS****Chapter 1****BOARD OF DIRECTORS****Article 3****BOARD CONDUCT RULES**

Sec.

2130. Avoiding Personal Bias

2131. Nondiscrimination, Harassment, and Retaliation by Directors

**§ 2130. Avoiding Personal Bias.**

In any matter involving a contract, permit, license, or other entitlement for use, a Board member shall not make, participate in or attempt to influence any decision, if he or she is incapable of providing fair treatment to a matter before the Board due to bias, prejudice or because he or she has prejudged a matter.

**§ 2131. Nondiscrimination, Harassment, and Retaliation by Directors.**

Directors shall not, in the performance of their official functions, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex (gender or pregnancy), sexual orientation, medical condition, genetic information, disability (physical or mental), protected veteran status, or other characteristic protected by law and they shall cooperate in achieving the equal opportunity and affirmative action goals and objectives of Metropolitan. Metropolitan directors, officers, employees, and guests have the right to participate in official Metropolitan functions in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive, or disruptive. Harassment based on any characteristic protected by law will not be sanctioned nor tolerated. Directors also shall not retaliate against any person for reporting discrimination or harassment prohibited by this section. Reports of discrimination or harassment based on a characteristic protected by law, or related retaliation, are taken seriously, and appropriate action will be taken against individuals found to have engaged in such conduct. The prohibition against discrimination, harassment, and retaliation applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site. Allegations regarding director conduct in violation of this section shall be reported to the Board Chair, except allegations regarding conduct by the Board Chair in violation of this section shall be reported to the Chair and Vice Chair of the Audit and

Ethics Committee. An employee also has the option of submitting allegations regarding director conduct in violation of this section to Metropolitan's Equal Employment Opportunity Investigations staff for that staff's transmission to the Board Chair, or to the Chair and Vice Chair of the Audit and Ethics Committee, as applicable.

**§ 2410. Membership.**

The Executive Committee shall have a maximum of 16 members and shall consist of the Chair, Vice Chairs, Secretary, all past Chairs of the Board who are directors of the District, and the Chairs of the standing committees in addition to the Executive Committee, and two additional directors as nonofficer members.

**§ 2416. Duties and Functions. [Executive Committee]**

(a) The Executive Committee shall study, advise, and make recommendations with regard to:

- (1) Public information for governmental and other entities and officials, and for the citizens of California regarding matters affecting the District's interests;
- (2) Official dealings with the United States Government, the State of California or other states, member public agencies or their sub-agencies, foreign governments and other entities or persons in matters of public policy or other activities as deemed appropriate;
- (3) Policies and procedures to be considered by the Board or committees thereof, except for policy matters within the jurisdiction of a specific standing committee;
- (4) Matters relating to the Colorado River Board of California;
- (5) Major policy issues to be considered by the Board, including proposed amendments to the Metropolitan Water District Act;
- (6) Questions raised by the officers and staff in intervals between meetings of the Board and in unexpected situations and emergencies.
- (7) The terms and conditions of employment of all consultants and advisors not within the jurisdiction of other committees;
- (8) Resolution of conflicting committee recommendations pursuant to §2314;
- (9) The progress of, and propose modifications to, the Board's goals in light of then existing and projected future conditions; and
- (10) Such other matters as may be required by Division II of this Code.

(b) The Executive Committee shall:

(1) Review and approve board and committee agendas and, notwithstanding the jurisdiction of the other standing committees in the Code, have the authority to direct which committee shall consider an item;

(2) Review and approve the scheduling of board and committee meetings;

(3) Be responsible for the oversight and management of the organization including, but not limited to, the form of the District's organization and the flow of the authority and responsibility. This includes monitoring and overseeing the duties and responsibilities of management; and

(4) Consider the effectiveness of the District's internal control system, including information technology security and control.

(c) The Executive Committee shall retain ultimate responsibility for those duties as are specifically assigned to the subcommittees of the Executive Committee.

(d) The Executive Committee shall be responsible for reviewing and approving the annual business plan containing the General Manager's key priorities for the coming year.

(e) As part of the Department Head annual evaluation process, the Executive Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Manager.

(f) The Executive Committee shall also:

(1) Act on behalf of the Board in unexpected situations and emergencies, subject to subsequent approval or ratification of the actions taken whenever such approval or ratification is required by law.

(2) Provide policy guidance where appropriate to those directors and District staff members who are associated with organizations in which the District has membership.

(3) Conduct hearings on vendors' protests:

(i) Hearings requested pursuant to Section 8142(d), and other hearings granted on the Executive Committee's own motion, unless delegated pursuant to Section 8148 shall be held by the committee at its next regular meeting to be held at least 72 hours after filing of the notice of protest. The hearing shall be conducted in accordance with such rules as the Chair of the committee shall announce. The committee shall make a decision on the bidder's or applicant's protest, shall set forth its reasons therefor, and shall cause the Board Executive Secretary to serve a copy of the decision on the bidder or applicant. The decision of the committee shall be final unless the committee chooses to refer the notice of protest to the Board.



(ii) The Chair of the Executive Committee may re-delegate hearings provided for under subparagraph (i) above to a minimum of three members of the Executive Committee who shall act in place of the committee in the conduct of the hearing and who shall at the conclusion thereof make their recommendations to the full committee. Such recommendations shall be accompanied by copies of any materials submitted in evidence. Any hearing held and recommendations made pursuant to such delegated authority shall be completed in advance of the time set for the next regular meeting of the full committee following the meeting at which the matter would otherwise have been heard by the committee.

(4) Resolve disputes over inspection dates and monitor conduct of inspection trips to assure maximum effectiveness.

(5) Investigate allegations of discrimination, harassment, and retaliation against directors, the General Manager, General Counsel, General Auditor, and Ethics Officer:

(i) The Executive Committee shall create an ad hoc subcommittee of three members to investigate any allegations of discrimination, harassment, or retaliation in violation of Section 2131 made against a director or allegations in violation of Section 6305 made against the General Manager, General Counsel, General Auditor, or Ethics Officer. No director who is the subject of an allegation of discrimination, harassment, or retaliation shall be appointed to the subcommittee.

(ii) The ad hoc subcommittee shall hire an outside counsel or investigator who shall report findings to the ad hoc subcommittee. At its discretion, the ad hoc subcommittee may consult with the General Counsel, Ethics Officer, and/or Equal Employment Opportunity Officer in the course of an investigation into allegations of discrimination, harassment, or retaliation involving a director.

(iii) The ad hoc subcommittee shall report its findings for appropriate action as follows:

a. To the Executive Committee for allegations involving a director or the General Manager.

b. To the Legal and Claims Committee for allegations involving the General Counsel.

c. To the Audit and Ethics Committee for allegations involving the General Auditor or Ethics Officer.

## **§ 2496. Duties and Functions**

(a) Duties and Functions with respect to General Auditor

- (1) The Audit and Ethics Committee shall study, advise and make recommendations with regard to:
  - (i) All reports of the General Auditor and external auditors, including the audited financial statements of the District;
  - (ii) The Audit Department's annual business plan and biennial budget;
  - (iii) Requests from other committees of the Board for audits and reviews not included in the Audit Department's annual business plan;
- (2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Audit Department and the external auditors as those duties and responsibilities relate to the effectiveness of the District's internal control system. It shall review and approve the business plan containing the key priorities for the coming year of the General Auditor and the Audit Department in advance of the July Board meeting.
- (3) As part of the Department Head annual evaluation process, the Audit and Ethics Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Auditor.

(b) Duties and Functions with respect to Ethics Officer

- (1) The Audit and Ethics Committee shall be responsible for recommending to the Board of Directors employment and termination of the Ethics Officer. The Committee shall further conduct periodic performance reviews of the Ethics Officer and provide a written report to the Board of Directors regarding that review.
- (2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Ethics Officer to ensure the independence of the Ethics Officer and to ensure the Ethics Officer is working in a collaborative manner with the Board of Directors, General Manager, General Counsel and General Auditor. Such review and monitoring shall include resolution of any issues between the Ethics Officer and the General Manager, General Counsel and General Auditor regarding requests for access to documents and information maintained by those Department Heads.
- (3) The Audit and Ethics Committee shall review and receive quarterly status reports of pending investigations by the Ethics Officer. The reports shall include the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.

- (4) The Audit and Ethics Committee shall review and receive quarterly reports from the Ethics Officer on any engagement of professional and technical consultants.
- (5) The Audit and Ethics Committee shall review and approve the business plan containing the key priorities for the coming year for the Ethics Office. It shall review and approve the business plan in advance of the July Board meeting.

## **Division VI**

### **PERSONNEL MATTERS**

#### **Chapter 3**

#### **GENERAL EMPLOYEE MATTERS**

##### **Article 1**

#### **EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION**

Sec.

6300. Statement of Equal Employment Opportunity Policy

6301. Good Faith Efforts Required

6302. General Manager's Responsibility to Implement Affirmative Action Program

6303. Objectives of Affirmative Action Program

6304. General Manager's Report on Equal Employment Opportunity Policy and Affirmative Action Program

6305. Nondiscrimination, Harassment, and Retaliation by Officers and Employees

6306. Definitions

#### **§ 6305. Nondiscrimination, Harassment, and Retaliation by Officers and Employees**

Officers and employees shall not, in the performance of their official functions, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex (gender or pregnancy), sexual orientation, medical condition, genetic information, disability (physical or mental), protected veteran status, or other characteristic protected by law and they shall cooperate in achieving the equal opportunity and affirmative action goals and objectives of Metropolitan. Metropolitan directors, officers, employees, and guests have the right to participate in official Metropolitan functions in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive, or disruptive. Harassment based on any characteristic protected by law will not be sanctioned nor tolerated. Officers and employees also shall not retaliate against any person for reporting discrimination or harassment prohibited by this section. Reports of

discrimination or harassment based on a characteristic protected by law, or related retaliation, are taken seriously, and appropriate action will be taken against individuals found to have engaged in such conduct. The prohibition against discrimination, harassment, and retaliation applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site. Allegations regarding officer or employee conduct in violation of this section shall be reported to Metropolitan's Equal Employment Opportunity Investigations staff.

#### **§ 6306. Definitions.**

Terms, whenever used in this Article, shall have the meaning provided for in applicable law. In conformance with applicable law, the following terms shall have the meanings indicated herein:

(a) Protected veteran - a disabled veteran, a special disabled veteran, a Vietnam era veteran, a recently separated veteran, an armed forces service medal veteran, or any other protected veteran as defined by law.

(b) Age - 40 and above.

(c) Medical condition - Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer, or genetic characteristics.

#### **§6470. Powers and Duties.**

The powers and duties of the Ethics Officer shall be as follows:

(a) The Ethics Officer shall report to the Board, through the Audit and Ethics Committee.

(b) The Ethics Officer shall oversee an Ethics Office staffed with professional, qualified persons.

(c) The Ethics Officer shall be free from political interference in fulfilling his/her responsibilities detailed in this article.

(d) The Ethics Officer shall maintain a collaborative relationship with the Board, General Manager, General Counsel, and General Auditor.

(e) The Ethics Officer shall propose amendments to the Administrative Code to the Audit and Ethics Committee for approval and adoption by the Board, relating to:

- (1) Regulation of lobbying activities;
- (2) Conflicts of interest and financial disclosure;
- (3) Public notice and approval procedures for contracts of \$50,000 or more;
- (4) Disclosure of campaign contributions related to potential conflicts of interest;
- (5) Such other ethics rules for application to board members, officers, employees, lobbyists, lobbying firms, and contractors as deemed appropriate.

(f) The Ethics Officer shall educate, train, provide advice and seek compliance from board members, officers, applicable employees, lobbyists, lobbying firms, and Metropolitan contractors and subcontractors concerning:

- (1) The rules prescribed in Division VII;
- (2) The Political Reform Act of 1974, as amended, and applicable regulations;
- (3) The conflict of interest rules of Government Code section 1090.

(g) The Ethics Officer shall investigate potential violations of ethics rules in Division VII by board members, officers, applicable staff, lobbyists, lobbying firms, and contractors consistent with the rules specified in Division VII. The Ethics Officer shall prepare status reports of pending investigations on a quarterly basis. The reports shall include the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.

(h) The Ethics Officer shall be the filing officer on behalf of the District to receive and file Statements of Economic Interest pursuant to the California Government Code and Section 7501 of this Administrative Code.

(i) The Ethics Officer shall have the authority to confer with the Chair of the Board and the Chair and Vice Chair of the Audit and Ethics Committee for the purpose of seeking advice and feedback on any policy, operational, or investigative matters, subject to the confidentiality requirements in section 7412 of the Administrative Code.

## Division II

### PROCEDURES PERTAINING TO THE BOARD, COMMITTEE AND DIRECTORS

#### Chapter 1

#### BOARD OF DIRECTORS

#### Article 3

#### BOARD CONDUCT RULES

Sec.

2130. Avoiding Personal Bias

2131. Nondiscrimination, Harassment, and Retaliation by Directors

#### § 2130. Avoiding Personal Bias.

In any matter involving a contract, permit, license, or other entitlement for use, a Board member shall not make, participate in or attempt to influence any decision, if he or she is incapable of providing fair treatment to a matter before the Board due to bias, prejudice or because he or she has prejudged a matter.

#### § 2131. Nondiscrimination, Harassment, and Retaliation by Directors.

Directors shall not, in the performance of their official functions, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex (gender or pregnancy), sexual orientation, medical condition, genetic information, disability (physical or mental), protected veteran status, or other characteristic protected by law and they shall cooperate in achieving the equal opportunity and affirmative action goals and objectives of Metropolitan. Metropolitan directors, officers, employees, and guests have the right to participate in official Metropolitan functions in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive, or disruptive. Harassment based on any characteristic protected by law will not be sanctioned nor tolerated. Directors also shall not retaliate against any person for reporting discrimination or harassment prohibited by this section. Reports of discrimination or harassment based on a characteristic protected by law, or related retaliation, are taken seriously, and appropriate action will be taken against individuals found to have engaged in such conduct. The prohibition against discrimination, harassment, and retaliation applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site. Allegations regarding director conduct in violation of this section shall be reported to the Board Chair, except allegations regarding conduct by the Board Chair in violation of this section shall be reported to the Chair and Vice Chair of the Audit and

Ethics Committee. An employee also has the option of submitting allegations regarding director conduct in violation of this section to Metropolitan's Equal Employment Opportunity Investigations staff for that staff's transmission to the Board Chair, or to the Chair and Vice Chair of the Audit and Ethics Committee, as applicable.

#### **§ 2410. Membership.**

The Executive Committee shall have a maximum of 1~~65~~ members and shall consist of the Chair, Vice Chairs, Secretary, all past Chairs of the Board who are directors of the District, and the Chairs of the standing committees in addition to the Executive Committee, and two additional directors as nonofficer members.

#### **§ 2416. Duties and Functions. [Executive Committee]**

(a) The Executive Committee shall study, advise, and make recommendations with regard to:

- (1) Public information for governmental and other entities and officials, and for the citizens of California regarding matters affecting the District's interests;
- (2) Official dealings with the United States Government, the State of California or other states, member public agencies or their sub-agencies, foreign governments and other entities or persons in matters of public policy or other activities as deemed appropriate;
- (3) Policies and procedures to be considered by the Board or committees thereof, except for policy matters within the jurisdiction of a specific standing committee;
- (4) Matters relating to the Colorado River Board of California;
- (5) Major policy issues to be considered by the Board, including proposed amendments to the Metropolitan Water District Act;
- (6) Questions raised by the officers and staff in intervals between meetings of the Board and in unexpected situations and emergencies.
- (7) The terms and conditions of employment of all consultants and advisors not within the jurisdiction of other committees;
- (8) Resolution of conflicting committee recommendations pursuant to §2314;
- (9) The progress of, and propose modifications to, the Board's goals in light of then existing and projected future conditions; and
- (10) Such other matters as may be required by Division II of this Code.

(b) The Executive Committee shall:

(1) Review and approve board and committee agendas and, notwithstanding the jurisdiction of the other standing committees in the Code, have the authority to direct which committee shall consider an item;

(2) Review and approve the scheduling of board and committee meetings;

(3) Be responsible for the oversight and management of the organization including, but not limited to, the form of the District's organization and the flow of the authority and responsibility. This includes monitoring and overseeing the duties and responsibilities of management; and

(4) Consider the effectiveness of the District's internal control system, including information technology security and control.

(c) The Executive Committee shall retain ultimate responsibility for those duties as are specifically assigned to the subcommittees of the Executive Committee.

(d) The Executive Committee shall be responsible for reviewing and approving the annual business plan containing the General Manager's key priorities for the coming year.

(e) As part of the Department Head annual evaluation process, the Executive Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Manager.

(f) The Executive Committee shall also:

(1) Act on behalf of the Board in unexpected situations and emergencies, subject to subsequent approval or ratification of the actions taken whenever such approval or ratification is required by law.

(2) Provide policy guidance where appropriate to those directors and District staff members who are associated with organizations in which the District has membership.

(3) Conduct hearings on vendors' protests:

(i) Hearings requested pursuant to Section 8142(d), and other hearings granted on the Executive Committee's own motion, unless delegated pursuant to Section 8148 shall be held by the committee at its next regular meeting to be held at least 72 hours after filing of the notice of protest. The hearing shall be conducted in accordance with such rules as the Chair of the committee shall announce. The committee shall make a decision on the bidder's or applicant's protest, shall set forth its reasons therefor, and shall cause the Board Executive Secretary to serve a copy of the decision on the bidder or applicant. The decision of the committee shall be final unless the committee chooses to refer the notice of protest to the Board.



(ii) The Chair of the Executive Committee may re-delegate hearings provided for under subparagraph (i) above to a minimum of three members of the Executive Committee who shall act in place of the committee in the conduct of the hearing and who shall at the conclusion thereof make their recommendations to the full committee. Such recommendations shall be accompanied by copies of any materials submitted in evidence. Any hearing held and recommendations made pursuant to such delegated authority shall be completed in advance of the time set for the next regular meeting of the full committee following the meeting at which the matter would otherwise have been heard by the committee.

(4) Resolve disputes over inspection dates and monitor conduct of inspection trips to assure maximum effectiveness.

(5) Investigate allegations of discrimination, harassment, and retaliation against directors, the General Manager, General Counsel, General Auditor, and Ethics Officer:

(i) The Executive Committee shall create an ad hoc subcommittee of three members to investigate any allegations of discrimination, harassment, or retaliation in violation of Section 2131 made against a director or allegations in violation of Section 6305 made against the General Manager, General Counsel, General Auditor, or Ethics Officer. No director who is the subject of an allegation of discrimination, harassment, or retaliation shall be appointed to the subcommittee.

(ii) The ad hoc subcommittee shall hire an outside counsel or investigator who shall report findings to the ad hoc subcommittee. At its discretion, the ad hoc subcommittee may consult with the General Counsel, Ethics Officer, and/or Equal Employment Opportunity Officer in the course of an investigation into allegations of discrimination, harassment, or retaliation involving a director.

(iii) The ad hoc subcommittee shall report its findings for appropriate action as follows:

a. To the Executive Committee for allegations involving a director or the General Manager.

b. To the Legal and Claims Committee for allegations involving the General Counsel.

c. To the Audit and Ethics Committee for allegations involving the General Auditor or Ethics Officer.

## **§ 2496. Duties and Functions**

(a) Duties and Functions with respect to General Auditor

- (1) The Audit and Ethics Committee shall study, advise and make recommendations with regard to:
  - (i) All reports of the General Auditor and external auditors, including the audited financial statements of the District;
  - (ii) The Audit Department's annual business plan and biennial budget;
  - (iii) Requests from other committees of the Board for audits and reviews not included in the Audit Department's annual business plan;
- (2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Audit Department and the external auditors as those duties and responsibilities relate to the effectiveness of the District's internal control system. It shall review and approve the business plan containing the key priorities for the coming year of the General Auditor and the Audit Department in advance of the July Board meeting.
- (3) As part of the Department Head annual evaluation process, the Audit and Ethics Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Auditor.

(b) Duties and Functions with respect to Ethics Officer

- (1) The Audit and Ethics Committee shall be responsible for recommending to the Board of Directors employment and termination of the Ethics Officer. The Committee shall further conduct periodic performance reviews of the Ethics Officer and provide a written report to the Board of Directors regarding that review.
- (2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Ethics Officer to ensure the independence of the Ethics Officer and to ensure the Ethics Officer is working in a collaborative manner with the Board of Directors, General Manager, General Counsel and General Auditor. Such review and monitoring shall include resolution of any issues between the Ethics Officer and the General Manager, General Counsel and General Auditor regarding requests for access to documents and information maintained by those Department Heads.
- (3) The Audit and Ethics Committee shall review and receive quarterly status reports of pending investigations by the Ethics Officer ~~at each regular meeting of the Committee~~. The reports shall ~~be limited to include~~ the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.

- (4) The Audit and Ethics Committee shall review and receive quarterly reports from the Ethics Officer on any engagement of professional and technical consultants.
- (5) The Audit and Ethics Committee shall review and approve the business plan containing the key priorities for the coming year for the Ethics Office. It shall review and approve the business plan in advance of the July Board meeting.

## **Division VI**

### **PERSONNEL MATTERS**

#### **Chapter 3**

#### **GENERAL EMPLOYEE MATTERS**

##### **Article 1**

#### **EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION**

Sec.

6300. Statement of Equal Employment Opportunity Policy

6301. Good Faith Efforts Required

6302. General Manager's Responsibility to Implement Affirmative Action Program

6303. Objectives of Affirmative Action Program

6304. General Manager's Report on Equal Employment Opportunity Policy and Affirmative Action Program

6305. Nondiscrimination, Harassment, and Retaliation by Officers and Employees

6306. Definitions

#### **§ 6305. Nondiscrimination, Harassment, and Retaliation by Officers and Employees**

Officers and employees shall not, in the performance of their official functions, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex (gender or pregnancy), sexual orientation, medical condition, genetic information, disability (physical or mental), protected veteran status, or other characteristic protected by law and they shall cooperate in achieving the equal opportunity and affirmative action goals and objectives of Metropolitan. Metropolitan directors, officers, employees, and guests have the right to participate in official Metropolitan functions in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive, or disruptive. Harassment based on any characteristic protected by law will not be sanctioned nor tolerated. Officers and employees also shall not retaliate against any person for reporting discrimination or harassment prohibited by this section. Reports of

discrimination or harassment based on a characteristic protected by law, or related retaliation, are taken seriously, and appropriate action will be taken against individuals found to have engaged in such conduct. The prohibition against discrimination, harassment, and retaliation applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site. Allegations regarding officer or employee conduct in violation of this section shall be reported to Metropolitan's Equal Employment Opportunity Investigations staff.

**§ 63065. Definitions.**

Terms, whenever used in this Article, shall have the meaning provided for in applicable law. In conformance with applicable law, the following terms shall have the meanings indicated herein:

(a) Protected veteran - a disabled veteran, a special disabled veteran, a Vietnam era veteran, a recently separated veteran, an armed forces service medal veteran, or any other protected veteran as defined by law.

(b) Age - 40 and above.

(c) Medical condition - Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer, or genetic characteristics.

**§6470. Powers and Duties.**

The powers and duties of the Ethics Officer shall be as follows:

(a) The Ethics Officer shall report to the Board, through the Audit and Ethics Committee.

(b) The Ethics Officer shall oversee an Ethics Office staffed with professional, qualified persons.

(c) The Ethics Officer shall be free from political interference in fulfilling his/her responsibilities detailed in this article.

(d) The Ethics Officer shall maintain a collaborative relationship with the Board, General Manager, General Counsel, and General Auditor.

(e) The Ethics Officer shall propose amendments to the Administrative Code to the Audit and Ethics Committee for approval and adoption by the Board, relating to~~The Ethics Officer shall propose rules for the conduct of the Ethics Office's decision-making processes. The Ethics Officer shall propose amendments to the Administrative Code to the Audit and Ethics Committee for approval and adoption by the Board, relating to:~~

- (1) Regulation of lobbying activities;
- (2) Conflicts of interest and financial disclosure;

- (3) ~~review of Metropolitan contracts for compliance with ethics rules~~Public notice and approval procedures for contracts of \$50,000 or more;
- (4) ~~D~~Disclosure of campaign contributions related to potential conflicts of interest;
- (5) ~~S~~such other ethics rules for application to board members, officers, ~~and~~ employees, lobbyists, lobbying firms, and contractors as deemed appropriate.

(f) The Ethics Officer shall educate, train, provide advice and seek compliance from board members, officers, applicable employees, lobbyists, lobbying firms, and Metropolitan contractors and subcontractors concerning:

- (1) The rules prescribed in ~~subsection (e)~~Division VII;
- (2) The Political Reform Act of 1974, as amended, and applicable regulations;
- (3) The conflict of interest rules of Government Code section 1090.

(g) The Ethics Officer shall investigate potential violations of ~~the matters specified in subsection (e)~~ethics rules in Division VII by board members, officers, applicable staff, lobbyists, lobbying firms, and contractors consistent with the rules specified in Division VII. The Ethics Officer shall prepare status reports of pending investigations ~~at each regular meeting of the Committee~~on a quarterly basis. The reports shall ~~be limited to include~~ the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.

(h) The Ethics Officer shall be the filing officer on behalf of the District to receive and file Statements of Economic Interest pursuant to the California Government Code and Section 720501 of this Administrative Code.

(i) The Ethics Officer shall have the authority to confer with the Chair of the Board and the Chair and Vice Chair of the Audit and Ethics Committee for the purpose of seeking advice and feedback on any policy, operational, or investigative matters, subject to the confidentiality requirements in section 7412 of the Administrative Code.

**GOVERNMENTAL ETHICS**

Chapter	Sec.
1 Ethics Rules for Metropolitan Officials	7100
2 Ethics Rules for Metropolitan Contractors and Lobbyists	7200
3 Ticket Distribution Policy	7300
4 Investigations by the Ethics Officer	7400
5 Disclosure of Economic Interests	7500
6 Education, Advice, and Compliance	7600

**Chapter 1****ETHICS RULES FOR METROPOLITAN OFFICIALS**

Article	
1 Purposes and Principles	7100
2 State Ethics Laws Incorporated into Administrative Code	7110
3 Metropolitan Ethics Requirements	7120

**Article 1****PURPOSES AND PRINCIPLES**

Sec.
7100. Purpose and Scope
7101. Purposes, Policy, and Values
7102. Ethics Officer Jurisdiction
7103. Definition of Terms

**§7100. Purpose and Scope.**

Metropolitan is subject to the Political Reform Act of 1974, as amended (the “Political Reform Act”), and regulations of the California Fair Political Practices Commission. The purposes of this Chapter are to incorporate specific applicable provisions of the Political Reform Act and related ethics laws into the Administrative Code, to impose additional ethics requirements on Metropolitan officials as permitted by Section 81013 of the Political Reform Act, and to implement the District’s statutory obligations with respect to Metropolitan District Act section 126.7 (SB 60, Chapter 415, Statutes of 1999). These obligations require compliance with applicable state government ethics laws and additional Metropolitan ethics requirements as specified in the Administrative Code.

**§ 7101. Purposes, Policy, and Values.**

The policy of Metropolitan is to maintain the highest standards of ethics from Metropolitan officials. Metropolitan is a public agency that shall conduct its business with integrity in an honest and ethical manner. The proper operation of Metropolitan requires decisions and policy to be made in the proper channels of governmental structure, that public office not be used for unauthorized personal gain, and that all individuals associated with Metropolitan remain impartial and responsible towards the public. Accordingly, it is the policy of Metropolitan that Metropolitan officials shall strive to maintain the highest standard of personal honesty and fairness in carrying out their duties. Metropolitan officials shall conduct Metropolitan’s business in compliance with the law, this Chapter, and other Metropolitan policies, and shall exercise good judgment based on Metropolitan’s values and goals. In carrying out their duties, Metropolitan officials should exercise fairness, impartiality, and avoid behavior that is likely to create an appearance of impropriety. This policy sets forth the minimal ethical standards to be followed by Metropolitan officials. Strict compliance with this Chapter is not necessarily sufficient, and any attempt to evade or circumvent any requirements of the Chapter is improper.

**§ 7102. Ethics Officer Jurisdiction.**

The Ethics Officer’s jurisdiction to provide education and training, issue advice, ensure compliance, and conduct investigations shall be limited to specific state ethics laws incorporated into the Administrative Code in Article 2 of this Chapter, specific Metropolitan ethics

requirements specified in Article 3 of this Chapter and the ethics rules for Metropolitan contractors, lobbying firms, and lobbyists specified in Chapter 2 of this Division.

**§ 7103. Definition of Terms.**

The terms defined in this section shall apply throughout this Division.

(a) “Complaint” means any communication to the Ethics Officer alleging violations of Metropolitan ethics rules.

(b) “Complainant” means the individual who files a complaint with the Ethics Officer alleging violations of Metropolitan ethics rules.

(c) “Conflict of interest code” means the Code required by Government Code section 87300 and approved by the Fair Political Practices Commission on a biennial basis.

(d) “Contractor” means any non-governmental individual or entity providing goods, services, or other consideration through a contract with Metropolitan, or any non-governmental individual or entity seeking such a contract. For purposes of Division VII only, “Contractor” includes subcontractors and subconsultants.

(e) “Designated employee” means a Metropolitan employee or consultant who must file Statements of Economic Interest pursuant to Government Code section 87300 and Metropolitan’s Conflict of Interest Code.

(f) “Disclosure category” means the types of financial interests that a Designated Employee must disclose on his or her Statement of Economic Interests.

(g) “Formal complaint” means a complaint made in writing where the complainant is identified with contact information.

(h) “FPPC” means the California Fair Political Practices Commission.

(i) “Gift” shall have the same meaning as that in Government Code section 82028 and regulations of the FPPC, or any succession statute or regulation.



(j) “Informal complaint” means a complaint where the complainant is not identified or lacks sufficient contact information.

(k) “Lobbying firm” means 1) any business entity, including an individual contract lobbyist, which receives compensation for the purpose of influencing a specific decision of any Metropolitan official including a decision to enter into a contract, and 2) any owner or employee of the business entity is a lobbyist.

(l) “Lobbyist” means any individual who receives or is entitled to receive \$2,000 or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate directly with a Metropolitan official for the purpose of influencing a specific decision of any Metropolitan official, including a decision to enter into a contract. For purposes of this definition, oral statements made during a public hearing or written statements made as part of the public record shall not be considered communications for the purpose of influencing a decision of any Metropolitan official. Individuals employed by, retained by, or holding office with other governmental agencies and individual employees of private entities, other than lobbying firms, seeking to influence a Metropolitan decision are not lobbyists. Decisions involving ministerial acts, personnel matters, and collective bargaining shall not be considered “decisions” for purposes of this definition.

(m) “Metropolitan ethics rules” means the rules contained in Articles 2 and 3 of Chapter 1 of this Division commencing with section 7110, and in Articles 2 and 3 of Chapter 2 of this Division commencing with section 7210.

(n) “Metropolitan official” means a public official as that term is defined by Government Code section 82048, or any successor statute, and includes Metropolitan directors, officers, and all employees.

(o) “Office” means the Office of Ethics.

(p) “Political contribution” shall have the same meaning as that in Government Code section 82015 and interpretative regulations of the FPPC, or any successor statute or regulation.

(q) “Restricted source” means 1) any non-governmental individual or entity that seeks or

receives financial support from Metropolitan and 2) any contractor, as that term is defined in subdivision (d).

(r) “Subject of the complaint” means a Metropolitan official, lobbyist, lobbying firm, or contractor against whom a complaint has been filed, a Metropolitan official, lobbyist, lobbying firm, or contractor referred from a Metropolitan department to the Ethics Officer regarding possible violations of Metropolitan ethics rules, or a Metropolitan official, lobbyist, lobbying firm or contractor who is the subject of an investigation initiated by the Ethics Officer.

## **Article 2**

### **STATE CONFLICT OF INTEREST LAWS INCORPORATED INTO ADMINISTRATIVE CODE**

Sec.

- 7110. Incorporation of State Ethics Laws into the Administrative Code
- 7111. Conflicts of Interest Regarding Contracts
- 7112. Conflicts of Interest Regarding Governmental Decisions
- 7113. Campaign Contributions
- 7114. Influencing Prospective Employment
- 7115. Honoraria
- 7116. Gift Limitations
- 7117. Loans to Public Officials
- 7118. Statement of Economic Interests

#### **§ 7110. Incorporation of State Ethics Laws into the Administrative Code.**

The purpose of this Article is to incorporate specific state ethics laws into this Administrative Code. The state ethics laws incorporated herein shall include any relevant state laws defining or limiting the application of the incorporated law, state regulations, or formal opinions interpreting these laws, as well as any successor laws and regulations or opinions. As a result of such incorporation, the Ethics Officer shall have the jurisdiction to investigate alleged violations as well as a duty to educate, advise and train Metropolitan officials, and seek compliance by such officials. Metropolitan officials shall have an obligation to abide by these

incorporated rules and are subject to the provisions of Article 4 of Chapter 4 of this Division for any violations.

**§ 7111. Conflicts of Interest Regarding Contracts.**

Government Code section 1090 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

**§ 7112. Conflicts of Interest Regarding Governmental Decisions.**

Government Code section 87100 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

**§ 7113. Campaign Contributions.**

Government Code section 84308 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

**§ 7114. Influencing Prospective Employment.**

Government Code section 87407 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

**§ 7115. Honoraria.**

Government Code section 89502 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

**§ 7116. Gift Limitations.**

Government Code section 89503 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code. (As of the time of the initial adoption of this section the gift limit is \$500 per calendar year per source. See section 7122 for additional limits on gifts from restricted sources).

**§ 7117. Loans to Public Officials.**

Government Code section 87460(b) is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

**§ 7118. Statement of Economic Interests.**

Metropolitan officials shall file complete and accurate Statements of Economic Interests pursuant to Government Code section 87200 or 87300, as applicable, consistent with the requirements of the Political Reform Act. Any failure to file complete and accurate Statements of Economic Interest shall be considered a violation of this Code.

**Article 3****METROPOLITAN ETHICS REQUIREMENTS**

Sec.

- 7120. Application of Metropolitan Ethics Requirements
- 7121. Misuse of Position or Authority
- 7122. Additional Gift Limits and Compensation Restrictions
- 7123. Political Contributions and Activities
- 7124. Limits on Contracts and Grants with Former Directors
- 7125. Prohibited Director Communications
- 7126. Use of Confidential Information
- 7127. Duty to Report
- 7128. Whistleblower and Witness Protections
- 7129. Failure to Cooperate with Ethics Officer Investigation
- 7130. Employment with Persons Doing Business with Metropolitan
- 7131. Compliance with Metropolitan Contracting Procedures and Guidelines
- 7132. Public Reporting for Contracts of \$50,000 or More
- 7133. Restrictions on Misleading Associations

**§ 7120. Application of Metropolitan Ethics Requirements.**

Metropolitan officials shall have an obligation to abide by the rules listed in this Article and are subject to the provisions of Article 4 of Chapter 4 of this Division for any violations.

**§ 7121. Misuse of Position or Authority.**

Metropolitan officials shall not misuse their governmental position or authority to obtain, or attempt to obtain, a private benefit, or advantage for themselves or any other individual or entity, or a disadvantage for any other individual or entity.

**§ 7122. Additional Gift Limits and Compensation Restrictions.**

(a) No Metropolitan employee shall accept any gift from a donor who the employee knows is a restricted source. This limitation shall not apply to modest food or beverages provided during a work-related event or items of nominal intrinsic value, so long as the total value does not exceed \$50 in a calendar year from a single source.

(b) Metropolitan employees shall not receive, directly or indirectly, any compensation from any source, except from Metropolitan, for performance of their duties as Metropolitan employees.

**§ 7123. Political Contributions and Activities.**

(a) Metropolitan officials shall not solicit or receive political contributions at any Metropolitan facility or on any District property.

(b) Metropolitan officials shall not use Metropolitan's seal, trademark, stationery, or other indicia of Metropolitan's identity, or facsimile thereof, in any solicitation for political contributions.

(c) Directors shall not solicit political contributions from Metropolitan employees.

(d) Metropolitan employees shall not solicit political contributions from other employees over whom they exercise authority or otherwise supervise.

(e) At the time of his or her election to any elective public office, the Metropolitan employee shall disclose the office elected to and the term of office to the Ethics Officer and General Manager.

(f) Metropolitan officials shall not use Metropolitan assets, property, equipment, or other resources to engage in political activities.

(1) For purposes of this subdivision, Metropolitan resources include, but are not limited to, computers, e-mail systems, Internet services, telephones, photocopying and fax machines, office supplies, postage, vehicles, office spaces, open spaces, facilities, staff, and field sites owned, leased, or controlled by Metropolitan.

(2) Sending emails or otherwise using Metropolitan resources to support or oppose a candidate or ballot measure, or to solicit political contributions for a candidate or ballot measure is prohibited.

(g) Metropolitan employees shall not engage in political activities during their work hours with Metropolitan.

#### **§ 7124. Limits on Contracts and Grants with Former Directors.**

(a) Directors shall not contract for professional services with Metropolitan during the Director's term of office and for a period of one year thereafter.

(b) For a period of one year after a Director leaves office, Metropolitan shall not contract with any for-profit entity in which a former Director is an officer, partner, or shareholder who holds more than ten percent (10%) of the stock in the for-profit entity.

(c) These restrictions on contracting after leaving office may be waived by a two-thirds vote of the Board of Directors.

#### **§ 7125. Prohibited Director Communications.**

Except for statements on the record at a public meeting, Directors shall not use their position of authority to communicate directly or indirectly with Metropolitan employees to

influence: (1) the selection of a specific vendor, contractor, consultant, or other entity for a specific contract or procurement; (2) any hiring or employment decisions other than Department Heads; or, (3) real property transactions.

The requirements of this section shall in no way restrict Directors from communicating with Metropolitan employees about Metropolitan procurement policies, procedures or other general matters, including requesting or receiving information about matters to be considered by Directors at public meetings.

#### **§ 7126. Use of Confidential Information.**

(a) Metropolitan officials shall not willfully or knowingly disclose or use any confidential or privileged information unless authorized to do so or required to do so by law or Metropolitan policy.

(b) “Confidential or privileged information” as used in this section shall mean information, whether contained in a document, recorded, or communicated in another manner, which is maintained confidentially at or by Metropolitan and if contained in a writing, would not be subject to disclosure under the California Public Records Act.

#### **§ 7127. Duty to Report.**

Each Metropolitan Management Employee shall report to the Ethics Officer any facts made known to the Management Employee which would indicate that a Metropolitan official, lobbyist, lobbying firm, or contractor has engaged in activities which appear to violate any provisions of Chapters 1 or 2 of this Division. For purposes of this section, “Management Employee” shall have the same meaning as used in section 6101(i) of this Code.

#### **§ 7128. Whistleblower and Witness Protections.**

Metropolitan officials shall not take or threaten to take an action as a reprisal for, or to prevent, discourage, or interfere with a person from:

(a) Reporting in good faith to a Metropolitan Management Employee, the Ethics Office, or other appropriate department or government agency information (other than information about

a disagreement with a policy decision within the lawful discretion of a Metropolitan official) the person reasonably believes indicates:

(1) A work-related violation of any law or Metropolitan policy, other than an equal employment opportunity-related law or policy,

(2) A gross waste or abuse of Metropolitan resources, or

(3) A gross public health or safety danger.

(b) Cooperating with investigations of matters reported pursuant to subdivision (a).

**§ 7129. Failure to Cooperate with Ethics Officer Investigation.**

(a) Metropolitan officials, lobbyists, lobbying firms, and contractors shall cooperate with the Ethics Officer during an investigation. Conduct including, but not limited to, intentionally destroying relevant documents, refusing to be interviewed, or obstructing an investigation shall be a deemed a failure to cooperate.

(b) Metropolitan officials, lobbyists, lobbying firms, and contractors shall not provide false or misleading information to the Ethics Officer during an investigation.

**§ 7130. Employment with Persons Doing Business with Metropolitan.**

(a) Metropolitan employees shall not accept, solicit, or apply for employment with, or be compensated by, any individual or entity while that individual or entity is doing business with or engaged in negotiations with Metropolitan concerning a matter within the employee's areas of responsibility or upon which the employee must act or make a recommendation.

(b) Metropolitan employees shall not recommend the employment or hiring of a relative to a Metropolitan contractor known by the employee to be dealing with Metropolitan on matters within the employee's area of responsibility or upon which the employee must act or make a recommendation



**§ 7131. Compliance with Metropolitan Contracting Procedures and Guidelines.**

Metropolitan officials shall not intentionally fail to comply with Metropolitan contracting procedures and guidelines, including public notice procedures and contract approval procedures, as contained in this Administrative Code or any Metropolitan Operating Policy.

**§ 7132. Public Reporting for Contracts of \$50,000 or More.**

Metropolitan shall post information about all existing contracts of \$50,000 or more in a centralized location on its website.

**§ 7133. Restrictions on Misleading Associations.**

(a) No Metropolitan official shall authorize, direct, or otherwise cause Metropolitan to participate in, or provide Metropolitan resources to, any association if its structure or identification is likely to mislead the public as to the association's true identity, its source of funding, or its purpose.

(b) In order to avoid the potential of misleading the public about any aspect of Metropolitan's participation in associations, Metropolitan's General Manager shall disclose on its public website all associations to which it provides funding or in-kind staff support, along with a description of the support provided and a link to that association's website, if any.

**Chapter 2****ETHICS RULES FOR METROPOLITAN CONTRACTORS AND LOBBYISTS**

Article	Sec.
1 Policy	7200
2 Metropolitan Contractors	7210
3 Lobbyists	7220

**POLICY**

Sec.

**§ 7200. Policy**

The policy of Metropolitan is to maintain the highest standards of conduct from persons doing business with Metropolitan. Accordingly, it is the policy of Metropolitan that contractors and those attempting to influence Metropolitan decisions shall maintain the highest standard of personal honesty and fairness in dealing with Metropolitan and in carrying out duties on behalf of Metropolitan. This policy sets forth the minimal ethical standards to be followed by Metropolitan contractors, lobbying firms, and lobbyists.

**Article 2****METROPOLITAN CONTRACTORS**

Sec.

7210. Contractor Code of Conduct

7211. Contractor Code of Conduct Provisions

**§ 7210. Contractor Code of Conduct.**

(a) All Metropolitan contractors shall be subject to a Contractor Code of Conduct.

(b) This Contractor Code of Conduct shall be included in all written contracts with Metropolitan and shall be posted on Metropolitan's public website.

**§ 7211. Contractor Code of Conduct Provisions.**

The General Manager, Ethics Officer, and General Counsel shall jointly approve the terms of the Contractor Code of Conduct. This Contractor Code of Conduct shall include, but not be limited to, the following provisions:

(a) Contractors shall abide by all Metropolitan ethics rules and policies applicable to contractors.

(b) Contractors shall timely cooperate with any investigation by the Ethics Officer, which includes permitting access to their books, records and accounts, and responding to inquiries as may be necessary to complete any investigation at no additional charge to Metropolitan.

(c) Failure to comply with the Contractor Code of Conduct shall be a basis for termination of existing contracts and debarment from future contracts as provided in section 8170.

(d) Contractors shall not provide political contributions to Metropolitan board members in violation of Government Code section 84308 nor cause any Metropolitan official to violate section 7123.

(e) Notice and a requirement that a contractor providing consulting services, including an employee of the contractor, comply with the conflict of interest and disclosure requirements of the Political Reform Act and Government Code section 1090 if the contractor qualifies as a public official.

### **Article 3**

### **LOBBYISTS**

Sec.

7220. Lobbyist and Lobbying Firm Registration and Reporting Requirements

7221. Revolving Door Restrictions on Former Metropolitan Officials

#### **§ 7220. Lobbyist and Lobbying Firm Registration and Reporting Requirements.**

The Ethics Officer shall prescribe forms to comply with the requirements of this section and shall make all information listed on any registration statement and all quarterly disclosures publicly available on the Metropolitan public website within 14 calendar days of filing.

(a) Lobbyists shall file a registration statement with the Ethics Officer prior to communicating with a Metropolitan official for the purpose of influencing a decision of a Metropolitan official. The registration statement shall include the lobbyist's full name, business address, email address, telephone number and name of lobbying firm owned by the lobbyist or employing the lobbyist.

(b) Lobbyists shall file quarterly reports with the Ethics Officer disclosing all topics they attempted to influence, the name of the lobbyist employer for whom they were engaged for the purpose of influencing, and whether they communicated with board members and/or staff members. Reports shall be due on or before the last day of the month following each calendar quarter.

(c) Lobbying firms shall file a registration statement with the Ethics Officer at the same time the firm's lobbyist registers. The registration statement shall include the lobbying firm's name, business address, email address, telephone number, lobbyist employed by or who owns the firm, and name of the entity compensating the lobbying firm.

(d) Lobbying firms shall file quarterly reports with the Ethics Officer disclosing the names of lobbyists who own or are employed by the firm, all topics the firm's lobbyists attempted to influence, and the name of the entity for whom the firm is compensated for the purpose of influencing. Reports shall be due on or before the last day of the month following each calendar quarter.

(e) Lobbyists and lobbying firms which have ceased lobbying Metropolitan officials shall file a termination statement with the Ethics Officer.

**§ 7221. Revolving Door Restrictions on Former Metropolitan Officials.**

(a) For a period of one year after leaving office or employment with Metropolitan:

(1) Directors shall not represent for compensation non-governmental entities before Metropolitan.

(2) All other Metropolitan officials shall not represent for compensation non-governmental entities before Metropolitan with regard to any issues over which they had decision-making authority during the three years prior to leaving office or employment.

(b) For purposes of this section, “represent” shall mean being compensated to communicate directly with a Metropolitan official for the purpose of influencing a Metropolitan decision.

(c) These restrictions shall not apply to representation of not-for-profit charitable entities before Metropolitan.

### **Chapter 3**

## **TICKET DISTRIBUTION POLICY**

Article	Sec.
1 Ticket Distribution Policy	7300

### **Article 1**

## **TICKET DISTRIBUTION POLICY**

Sec.

7300. Definition

7301. Purpose of Ticket Distribution Policy

7302. Ticket Distribution Policy

### **§ 7300. Definition.**

“Ticket” or “pass” shall mean and refer to a ticket or pass as these terms are defined in FPPC Regulation 18946, as amended from time to time.

**§ 7301. Purpose of Ticket Distribution Policy.**

The purpose of this Policy is to ensure that all tickets and/or passes Metropolitan receives from public and private entities and individuals, which Metropolitan purchases or which Metropolitan owns because of its control of the event or facility, are distributed in furtherance of a public purpose of Metropolitan. This ticket distribution policy shall only apply to Metropolitan's distribution of tickets and/or passes to, or at the request of, a Metropolitan official.

**§ 7302. Ticket Distribution Policy.**

(a) Ticket Distribution Public Purposes. Metropolitan may accomplish one or more public purposes of Metropolitan through the distribution of tickets and/or passes to, or at the request of, a Metropolitan official. The following list is illustrative rather than exhaustive of the public purposes of Metropolitan that may be served by Metropolitan officials attending events using tickets and/or passes distributed to them by Metropolitan:

(1) Support of general employee morale, retention or to reward public service.

(2) Promotion of water conservation within Metropolitan's service area and the State of California.

(3) Promotion of the quality of the water served by Metropolitan and the water service provided by Metropolitan.

(4) Promotion of Metropolitan recognition, visibility, and/or profile on a local, state, national or international scale.

(5) Recognition of a Metropolitan program or purpose.

(6) Promotion of Metropolitan issues and interests.

(b) Public Purpose Requirement. The distribution of any ticket and/or pass by Metropolitan to, or at the request of, a Metropolitan official shall accomplish one or more public purposes of Metropolitan.

(c) Transfer Prohibition. The transfer by any Metropolitan official of any ticket and/or passes distributed to that official pursuant to this ticket distribution policy to any other individual is prohibited except to members of the official's immediate family for their personal use, or to no more than one guest solely for their attendance at the event.

(d) Metropolitan shall not disproportionately distribute tickets and/or passes to Directors, Executive Officers, or other senior management.

(e) Designation of Agency Head. For the purpose of implementing and posting this ticket distribution policy, and completing and posting the required FPPC form for distribution of tickets and/or passes, Metropolitan's General Manager, or his or her designee, is the responsible official.

(f) Website Posting. This ticket distribution policy shall be posted on Metropolitan's public website in a prominent fashion and the link to this website shall be submitted to the FPPC for posting on the FPPC website.

(g) The distribution of a ticket and/or passes pursuant to this ticket distribution policy shall be posted on Metropolitan's website in a prominent fashion within forty-five (45) days after the ticket distribution. Such posting shall use the required FPPC form.

## **Chapter 4**

### **INVESTIGATIONS BY THE ETHICS OFFICER**

Article	Sec.
1 Authority to Investigate and Jurisdiction	7400
2 Procedures for Investigations	7410
3 Procedures for Making Investigations Public	7420
4 Penalties for Violation of Metropolitan Ethics Rules	7430

**AUTHORITY TO INVESTIGATE AND JURISDICTION**

Sec.

7400. Jurisdiction to Investigate

7401. Discretion to Investigate

7402. Concurrent Investigations

7403. Referrals to the Ethics Officer

7404. Determinations to Not Investigate

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

7406. Scope of Investigation

7407. Consultation with the General Counsel

7408. Requirements for Investigations

**§ 7400. Jurisdiction to Investigate.**

(a) The Ethics Officer shall investigate all formal and informal complaints if the alleged actions would, if true, constitute a violation of a Metropolitan ethics rule.

(1) The Ethics Officer shall provide written acknowledgement of the receipt of a formal complaint to the complainant, request that the complainant keep the complaint confidential, and inform the complainant that no additional updates regarding the complaint will be provided.

(2) If the Ethics Officer determines that the complaint does not involve a Metropolitan official, lobbyist, lobbying firm, or contractor, does not involve Metropolitan ethics rules, or lacks sufficient information to establish a potential violation, then the Ethics Officer shall not conduct an investigation. The complainant shall be so notified in writing of any such determination by the Ethics Officer. Nothing in this section shall preclude a complainant from filing a subsequent complaint.



(b) The Ethics Officer may initiate investigations involving potential violations of Metropolitan ethics rules without a formal or informal complaint or referral from another Metropolitan department.

(c) The Ethics Officer shall not commence an investigation of alleged violations more than five years after the date on which the violation occurred. If the subject of the complaint concealed information underlying the alleged violation, the five-year period shall be tolled for the period of the concealment.

**§ 7401. Discretion to Investigate.**

The Ethics Officer shall have the sole discretion to determine if the Office lacks jurisdiction or the complaint lacks sufficient information to establish a potential violation.

**§ 7402. Concurrent Investigations.**

The Ethics Officer may conduct an investigation concurrently and in coordination with other Metropolitan departments regarding matters over which the Ethics Officer and other Metropolitan departments have jurisdiction.

**§ 7403. Referrals to the Ethics Officer.**

Metropolitan departments shall refer any alleged violation of Metropolitan ethics rules to the Ethics Officer.

**§ 7404. Determinations to Not Investigate.**

An initial determination by the Ethics Officer to not open an investigation shall not preclude a future investigation based upon additional or further information.

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

(a) The Ethics Officer shall retain an outside counsel or investigator to conduct any investigation of alleged violations of Metropolitan ethics rules by a Director, General Manager,

General Counsel or General Auditor. The investigation shall be conducted in consultation with the Ethics Officer. The Ethics Officer shall, based on the results of the investigation, make the final determination as to whether a violation has occurred. Prior to retaining the outside counsel or investigator, the Ethics Officer shall notify the Audit and Ethics Committee Chair, unless the Chair is the subject of the investigation, in which case the Vice Chair shall be notified.

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

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

#### **§ 7406. Scope of Investigation.**

The Ethics Officer may during the course of an investigation investigate potential violations of Metropolitan ethics rules beyond those identified in any complaint or referral received by the Ethics Officer or identified in the notification to the subject of the complaint made pursuant to section 7410.

#### **§ 7407. Consultation with the General Counsel.**

The Ethics Officer may consult the General Counsel regarding any investigation at the Ethics Officer's discretion.

#### **§ 7408. Requirements for Investigations.**

The Ethics Officer shall abide by the requirements set forth in this Chapter for conducting any investigation.

**PROCEDURES FOR INVESTIGATIONS**

Sec.

7410. Notice to Subject of Investigation

7411. Investigation Timeframe

7412. Confidentiality of Investigations

7413. Access to Metropolitan Records

7414. Opportunity for Subject to Respond

7415. Preponderance of the Evidence Standard

7416. Ethics Officer Report

**§ 7410. Notice to Subject of Investigation.**

(a) Upon receipt of a complaint, referral from a Metropolitan department, or determination by the Ethics Officer to conduct an investigation pursuant section 7400(b), the Ethics Officer shall notify the subject of the complaint in writing within 30 calendar days: provided, however, if the integrity of the investigation may be compromised by notifying the subject, then the Ethics Officer may withhold notice until an appropriate time. No notice need be given to the subject of the complaint if the Ethics Officer determines that an investigation is not warranted.

(b) As a part of the notice provided in subdivision (a) of this section, the Ethics Officer shall provide the nature of the allegations, advise the subject of the investigation regarding Metropolitan's rules against retaliation, and advise the subject of their obligation to cooperate with the investigation and that the failure to cooperate may lead to disciplinary action, regardless of the outcome of the investigation.

**§ 7411. Investigation Timeframe.**

(a) Investigations shall be conducted expeditiously and completed within 180 calendar days, except as provided in subparagraph (b). An investigation commences upon the Ethics

Officer's determination to open an investigation, but in no event later than 30 calendar days from receipt of the complaint or referral.

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

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

#### **§ 7412. Confidentiality of Investigations.**

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

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

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

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

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

(1) The communications shall be advisory in nature, and

(2) The communications shall be confidential.

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

**§ 7413. Access to Metropolitan Records.**

(a) Subject to applicable law, the Ethics Officer shall have access to all Metropolitan documents, files, records, or other materials deemed relevant by the Ethics Officer to an investigation.

(b) If there is a disagreement regarding access to documents, files, records, or other materials, including those that may be protected by the attorney-client privilege or attorney work product doctrine, the Ethics Officer and General Counsel shall discuss the matter with the affected Metropolitan department, and shall make a reasonable good faith effort to resolve the dispute.

(c) If the disagreement is not resolved pursuant to subdivision (b) of this section, the Ethics Officer and General Counsel shall jointly present the matter to an ad hoc committee consisting of the Chairs of the Audit and Ethics Committee, the Legal and Claims Committee and the Board who shall resolve any disagreement that does not involve the attorney-client privilege. If the dispute involves the attorney-client privilege and is not satisfactorily resolved by the ad hoc committee, the matter will be considered by the Board, as a majority of the Board is required to waive Metropolitan's attorney-client privilege.

**§ 7414. Opportunity for Subject to Respond.**

The subject of the complaint shall be afforded a reasonable opportunity to present any facts, legal arguments, or other relevant information to the Ethics Officer concerning an investigation and alleged violations prior to completion of the investigation.

**§ 7415. Preponderance of the Evidence Standard.**

The Ethics Officer shall use the preponderance of the evidence standard for making any determination of a violation of Metropolitan ethics rules.

**§ 7416. Ethics Officer Report.**

(a) Upon the completion of an investigation, the Ethics Officer shall prepare a written report that summarizes the evidence considered, any exculpatory evidence, a legal analysis, and a determination as to whether a violation has occurred.

(b) If the Ethics Officer determines by a preponderance of the evidence that the subject of the complaint has committed an ethics violation, the Ethics Officer shall provide the subject of the complaint, and the General Counsel, the written report specified in subdivision (a) of this section, along with any relevant evidence considered by the Ethics Officer. The subject shall have 14 calendar days from receipt of the report to file any response with the Ethics Officer. The Ethics Officer may grant an extension for good cause. The Ethics Officer shall consider the response and make any final changes to the written report as deemed appropriate by the Ethics Officer within 14 calendar days of receipt of the response, if any, unless the Ethics Officer determines additional time is required. The Ethics Officer shall provide a copy of any revised written report to the subject of the complaint.

(c) If the Ethics Officer determines after an investigation that there has been no violation, the Ethics Officer shall notify the subject of the complaint within 14 calendar days of such determination.

(d) The Ethics Officer shall notify the General Counsel of the determination that there has been no violation at the same time the subject is notified of a no violation finding.

(e) Any referral to a local or state agency, an appropriate Metropolitan department or the Executive Committee pursuant to Article 4 of Chapter 4 of this Division, shall include the written report prepared by the Ethics Officer, relevant documents as determined by the Ethics Officer, and any response to the written report submitted by the subject of the complaint.

**PROCEDURES FOR MAKING INVESTIGATIONS PUBLIC**

Sec.

7420. Public Information on Investigations

7421. Confidential Investigation Files

**§ 7420. Public Information on Investigations.**

(a) At the conclusion of an investigation, the Ethics Officer shall post on Metropolitan's website the results of the investigation that describe: (1) the general nature of any alleged violations, (2) the conclusions reached by the Ethics Officer, and (3) any referral made to another Metropolitan department, the Executive Committee, or a local or state agency. The published results of the investigation shall not reveal the identity of the subject of the investigation. The Ethics Officer's report specified in section 7416(a) shall not be posted on Metropolitan's public website or otherwise be publicly disseminated.

(b) If the Ethics Officer determines that a Director has violated Metropolitan ethics rules, nothing in this Division prevents the Director's identity from becoming public in a board proceeding to address that violation.

(c) Nothing in this Division prevents a state or local agency to which a referral has been made by the Ethics Officer pursuant to section 7438(a) from revealing the identity of the subject of an investigation in accordance with the agency's policies.

**§ 7421. Confidential Investigation Files.**

The investigation files of the Ethics Officer, including the complaint and materials and information obtained by the Ethics Officer during the course of the investigation, are confidential and shall be subject to release only as required by law and as appropriate and necessary.

**PENALTIES FOR VIOLATION OF METROPOLITAN ETHICS RULES**

Sec.

7430. Schedule of Penalties

7431. Levels of Violations

7432. Penalties for Violations

7433. Serious Violations of the Political Reform Act or Government Code section 1090

**§ 7430. Schedule of Penalties.**

Penalties for violations of Metropolitan ethics rules shall be administered according to the penalties schedule in this article. Only Metropolitan officials, lobbyists, lobbying firms and contractors shall be subject to the penalties specified in this Article.

**§ 7431. Levels of Violations.**

In any Ethics Officer Report that finds a violation, the finding shall include a conclusion about the severity of the violation. This conclusion shall be based upon the severity of the underlying offense, along with any relevant mitigating or extenuating circumstances.

(a) Levels of violations:

(1) Level I (Severe Violation): One or more violations that seriously undermine or threaten the integrity of Metropolitan's governmental decision-making processes.

(2) Level II (Significant Violation): One or more violations that undermine or threaten the integrity of Metropolitan's governmental decision-making processes.

(3) Level III (Violation): One or more violations that are isolated or limited in nature, and that provide no more than a minimal personal benefit.



(4) Level IV (Incidental Violation): A minor infraction that is technical in nature and does not constitute a Level III violation. Multiple or repeated Level IV infractions collectively may constitute a Level III violation.

(b) Mitigating and aggravating factors.

In determining the appropriate level for a specific violation, the Ethics Officer Report shall include any applicable mitigating or aggravating factors including, but not limited to, the following:

(1) The nature and seriousness of the offense, and its relationship to the employee's duties and responsibilities.

(2) The official position of the subject, including its responsibilities, prominence, or fiduciary role.

(3) Acceptance of responsibility by the subject.

(4) The degree to which the subject cooperated in the investigation.

(5) Whether the subject had notice of the rules that were violated, or had been warned about the conduct in question.

(6) Whether the offense was intentional, technical, negligent, or inadvertent, or was frequent.

#### **§ 7432. Penalties for Violations.**

(a) Whenever the Ethics Officer finds a violation of a Metropolitan ethics rule, the Ethics Officer shall determine the level of violation pursuant section 7431.

(b) Whenever the Ethics Officer finds a violation of a Metropolitan ethics rule, the Ethics Officer shall refer the Ethics Officer report and the accompanying determination of level of violation as follows:

(1) Violations by Directors shall be referred to the Executive Committee for review and consideration of further action if appropriate under the circumstances which may include counseling, training, a private warning letter, public censure, temporary or permanent removal from committee assignments, or referral to the Director's appointing authority requesting appropriate action.

(2) Violations by the Executive Officers shall be referred to the Executive Committee for review and the consideration of further action including counseling, performance review, or the imposition of discipline as deemed appropriate under the circumstances.

(3) Violations by employees, other than the Executive Officers, shall be referred to the Human Resources Group and the appropriate Department Head or Group Manager for review and the consideration of further action which may include counseling, performance review, or the imposition of discipline as deemed appropriate under the circumstances.

(4) Violations by Metropolitan contractors shall be referred to the General Manager or designee for review and the consideration of further action which may include counseling, warning, termination of a contract, monetary penalties as specified in the contract, any other remedy available by contract, or debarment from future contracts pursuant to Article 5 of Chapter 1 of Division VIII as deemed appropriate under the circumstances.

(5) Violations by Metropolitan lobbyists and lobbying firms shall be referred to the General Manager or designee for review and the consideration of further action which may include counseling, warning, suspension of the Metropolitan registration of the lobbyist and lobbying firm, or publication of the violation on Metropolitan's webpage as deemed appropriate under the circumstances.

**§ 7433. Serious Violations of the Political Reform Act or Government Code Section 1090.**

(a) In addition to the disciplinary penalties in this Article, the Ethics Officer shall refer serious violations to the FPPC, Attorney General, or a District Attorney as determined by the Ethics Officer.

(b) Serious violations, as used in this section, shall include any of the following violations:

(1) Intentional and knowing violations of sections 7114 (influencing prospective employment), 7115 (honoraria ban), 7116 (gift limitations), 7117 (loans to public officials) and 7118 (Form 700).

(2) Violations of sections 7111 (conflicts of interest regarding contracts) and 7112 (conflicts of interest regarding governmental decisions).

(3) Any violation for failing to disclose reportable financial interests pursuant to section 7118 (Form 700) where a violation of section 7111 (conflicts of interest regarding contracts) or 7112 (conflicts of interest regarding governmental decisions) is also found.

(4) Violations of section 7113 (campaign contributions).

(5) Any violation of section 7116 (gift limitations) where the unlawful gift is from an individual or entity under contract with, otherwise engaged in doing business with, or is seeking to do business with, Metropolitan.

(6) At the discretion of the Ethics Officer, violations where the Metropolitan official has a prior serious violation.

## **Chapter 5**

### **CONFLICT OF INTEREST CODE**

Article	Sec.
1 Conflict of Interest Code	7500

**CONFLICT OF INTEREST CODE**

Sec.

7500. Metropolitan's Conflict of Interest Code

7501. Biennial Amendments to Conflict of Interest Code

7502. Filing of Statements of Economic Interest

**§ 7500. Metropolitan's Conflict of Interest Code**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes and biennial amendments thereto. The FPPC has sole authority to approve Metropolitan's conflict of interest code and amendments thereto. After final approval from the FPPC, Metropolitan's conflict of interest has the force and effect of law.

**§ 7501. Amendments to Conflict of Interest Code.**

The Ethics Officer has sole authority to formulate and propose biennial and other amendments to Metropolitan's conflict of interest code to the FPPC. Upon the FPPC's final review and approval of the proposed amendments to the conflict of interest code, the conflict of interest code shall be deemed promulgated and incorporated by reference into this Article of the Administrative Code. The Ethics Officer shall maintain a copy of Metropolitan's approved conflict of interest code and post it to Metropolitan's internal and external websites.

**§ 7502. Filing Statements of Economic Interests.**

Individuals holding designated positions in the conflict of interest code shall file their statements of economic interests with the Office of Ethics, which will make copies of the statements available for public inspection and reproduction. Metropolitan officials whom the FPPC designates as public officials who manage public investments, including members of the

Board of Directors, shall file their statements of economic interests with the FPPC. The Office of Ethics shall make copies of the statements available for public inspection and reproduction.

## **Chapter 6**

### **EDUCATION, ADVICE, AND COMPLIANCE**

#### **Article**

1 Education and Training	7600
2 Ethics Advice	7610
3 Compliance	7620

#### **Article 1**

### **EDUCATION AND TRAINING**

#### **Sec.**

- 7600. Education on Metropolitan Ethics Rules
- 7601. Ethics Education and Training Materials
- 7602. Ethics Training for the Board of Directors
- 7603. Ethics Training for Employees
- 7604. Ethics Training for Oversight of Contractors
- 7605. Additional Training for Statements of Economic Interest Filers

#### **§ 7600. Education on Metropolitan Ethics Rules.**

It shall be the policy of Metropolitan that its officials, lobbyists, lobbying firms, and contractors be held to the highest ethical standards. To achieve that policy goal, it shall be the responsibility of the Ethics Officer to educate and train Metropolitan officials, lobbyists, lobbying firms, and contractors regarding Metropolitan ethics rules to ensure compliance with applicable state government ethics laws and additional Metropolitan ethics requirements as specified in this Division.

**§ 7601. Ethics Education and Training Materials.**

(a) The Ethics Officer shall prepare materials for use in educating and training Metropolitan officials, lobbyists, lobbying firms, and contractors, including a guide to Metropolitan ethics rules.

(b) The Ethics Officer shall prepare training materials for use by Metropolitan officials, lobbyists, lobbying firms, and contractors on Metropolitan's Intramet or any successor system, or Metropolitan's webpage.

**§ 7602. Ethics Training for the Board of Directors.**

(a) The Ethics Officer shall provide an orientation ethics training for all newly appointed board members.

(b) The Ethics Officer shall provide periodic in-person ethics training at meetings of the Board of Directors or committees thereof.

(c) The Ethics Officer shall provide regular written updates on changes in state ethics laws to the Board of Directors.

(d) The Ethics Officer shall certify Directors' compliance with mandatory state ethics training required by AB 1234.

**§ 7603. Ethics Training for Employees.**

All employees shall receive training on Metropolitan's ethics provisions at least once every two years. In addition, all designated employees shall receive training on Statements of Economic Interest and disclosure categories at least once every two years. This training may be either in-person or online. The Ethics Officer shall certify that all employees have completed this training.

**§ 7604. Ethics Training for Oversight of Contractors.**

All employees whose duties include substantive oversight of contractors shall receive training on the Contractor Code of Conduct at least once every two years. These trainings may be either in-person or online. The Ethics Officer shall certify that all employees have completed this training.

**§ 7605. Additional Training for Statements of Economic Interest Filers.**

The Ethics Officer shall provide trainings to Metropolitan officials and consultants required to file Statements of Economic Interest pursuant to section 87200 of the Government Code and sections 7118, 7511, 7512 and 7513 of this Division.

**Article 2****ETHICS ADVICE**

Sec.

7610. Ethics Advice

7611. Requirements for Ethics Advice

7612. Advice Immunity

7613. Confidentiality of Ethics Advice

**§ 7610. Ethics Advice.**

Metropolitan officials, lobbyists, lobbying firms and contractors may request advice from the Ethics Officer related to their duties and Metropolitan ethics rules under this Division.

**§ 7611. Requirements for Ethics Advice.**

(a) The Ethics Officer shall provide advice in writing to the requestor or in a memorandum to file, if the requestor declines a written response.

(b) The Ethics Officer shall only provide advice regarding questions concerning prospective acts, and not for prior conduct.

(c) Requests for advice may be declined in any of the following circumstances:

- (1) The requestor is seeking advice relating to past conduct.
- (2) The requestor is seeking advice regarding a third party.
- (3) Relevant and material information provided in the request is inaccurate or incomplete.
- (4) The request does not present a question under the Ethics Officer's jurisdiction.

**§ 7612. Advice Immunity.**

(a) Written advice by the Ethics Officer shall provide the requestor immunity from Metropolitan penalties or referral to a state or local agency by the Ethics Officer, as provided in Article 4 of Chapter 4 of this Division, if all of the following conditions are met.

- (1) The request for advice was in writing and provides all material facts for the Ethics Officer to conduct a complete analysis, and
- (2) The requestor complied with any guidance or recommendations contained within the written advice.

(b) Advice in response to a written request shall not provide immunity to any individual other than the requestor.

(c) Advice by the Ethics Officer does not provide immunity from enforcement by any state regulatory agency, including the FPPC, or any law enforcement agency.



**§ 7613. Confidentiality of Ethics Advice.**

(a) The Ethics Officer shall treat all ethics advice as confidential, but shall notify, in advance, the recipient of advice that:

(1) The communications associated with the advice and the advice itself are not protected by the attorney-client privilege.

(2) The advice is not necessarily confidential and exempt from disclosure under the Public Records Act or other legal process such as an internal investigation, subpoena, or production request.

(3) The advice will be provided for prospective conduct only and that information provided regarding past conduct could result in an investigation.

(b) The Ethics Officer shall keep confidential any communications regarding advice for prospective conduct, to the extent possible.

**Article 3****COMPLIANCE**

Sec.

7620. Ethics Training Required by Government Code

7621. Filing Officer Duties

7622. Additional Review of Statements of Economic Interest

7623. Compliance with Government Code Section 84308

**§ 7620. Ethics Training Required by Government Code.**

The Ethics Officer shall monitor and maintain the records of compliance for Directors and employees designated by the Board to participate in mandatory state ethics training requirements imposed by AB 1234. The Ethics Officer shall notify Metropolitan officials that are not in compliance with this section and seek their compliance.

**§ 7621. Filing Officer Duties.**

(a) The Ethics Officer shall comply with the Duties of Filing Officers as required by section 18115 of Title 2 of Division 6 of the California Code of Regulations or any superseding law or regulations.

(b) The Ethics Officer shall provide reminders regarding the filing deadline for Statements of Economic Interests required to be filed.

(c) The Ethics Officer shall assist persons with technical and substantive compliance questions related to their Statements of Economic Interests.

(d) The Ethics Officer shall track the status of Assuming Office, Annual, and Leaving Office Statements of Economic Interests of Metropolitan officials and shall notify non-filers of their obligation to file. After the Ethics Officer sends two written communications following the filing deadline, non-filers shall be referred to the FPPC for further action.

**§ 7622. Additional Review of Statements of Economic Interests.**

(a) The Ethics Officer shall review all Statements of Economic Interests required to be filed pursuant to section 87200 of the Government Code. This review shall include:

- (1) Evaluating internal consistency and consistency with prior filings;
- (2) Reviewing individual filers' declared financial interests; and
- (3) Advising whether to file an amendment, if necessary.

(b) If the Ethics Officer has reason to believe a filer's official duties could potentially affect a declared financial interest, the Ethics Officer shall contact the filer and offer to provide advice to ensure no inadvertent conflict of interest arises.

**§ 7623. Compliance with Government Code Section 84308.**

The Ethics Officer shall implement procedures to assist Directors with complying with Government Code section 84308, including alerting Directors to matters on meeting agendas that may require recusal.

~~CONFLICTS OF INTEREST AND ETHICS REQUIREMENTS~~GOVERNMENTAL  
ETHICS

Chapter	Sec.
1 Ethics <del>Requirements</del> <u>Rules</u> for <del>Directors, Officers, and Employees</del> <u>Metropolitan Officials</u>	
7100	
2 <u>Ethics Rules for Metropolitan Contractors and Lobbyists</u>	<u>7200</u>
3 <u>Ticket Distribution Policy</u>	<u>7300</u>
4 <u>Investigations by the Ethics Officer</u>	<u>7400</u>
5 <u>Disclosure of Economic Interests</u>	
<del>6</del> <u>Renumbered Chapter 1 and amended Education, Advice, and Compliance</u>	
<del>7</del> <u>6300</u>	

**Chapter 1**

**ETHICS ~~REQUIREMENTS~~ RULES FOR DIRECTORS,  
OFFICERS, AND EMPLOYEES METROPOLITAN OFFICIALS**

Article	
1 <del>General Provisions</del> <u>Purposes and Principles</u>	
	7100
2 <del>Conflicts of Interest</del> <u>State Ethics Laws Incorporated into Administrative Code</u>	
	<del>711</del> <u>720</u>
3 <del>Gifts and Honoraria</del> <u>Metropolitan Ethics Requirements</u>	
	<del>741</del> <u>730</u>
<del>4</del> <u>Enforcement</u>	<u>7140</u>

**Article 1**

**GENERAL PURPOSES AND PRINCIPLE OVISIONS**

Sec.

## 7100. Purpose and Scope

7101. Purposes, Policy, and Values7102. Responsibilities of Public Office Ethics Officer Jurisdiction7103. Fair and Equal Treatment Definition of Terms7104. Proper Use and Safeguarding of Metropolitan Property and Resources7105. Contracts with Metropolitan7106. Communications on Procurements7107. Use of Confidential Information7108. Soliciting Political Contributions7109. Improper Activities and the Reporting of Such Activities7110. Protection of "Whistleblowers"7111. Nondiscrimination and Harassment7112. Limitation on Associations7113. Ethics Advice**§7100. Purpose and Scope.**

~~The Metropolitan Water District of Southern California~~ is subject to the Political Reform Act of 1974, as amended (the "Political Reform Act"), and regulations of the California Fair Political Practices Commission. The purposes of this ~~division~~ Chapter are to ~~impose~~ incorporate specific additional applicable ethics provisions of the Political Reform Act and related ethics laws into the Administrative Code, to impose additional ethics requirements on the ~~directors, officers and employees~~ Metropolitan officials of the District as permitted by Section 81013 of the Political Reform Act, and to implement the District's statutory obligations with respect to Metropolitan District Act section 126.7 (SB 60, Chapter 415, Statutes of 1999). These obligations require compliance with applicable state government ethics laws and additional Metropolitan ethics requirements as specified in the Administrative Code.

**§ 7101. Purposes, Policy, and Values.**

The policy of ~~The Metropolitan Water District of Southern California~~ is to maintain the highest standards of ethics from ~~its Board members, officers and employees~~ Metropolitan officials. Metropolitan is a public agency that shall conduct its business with integrity in an honest and ethical manner. The proper operation of Metropolitan requires decisions and policy to

be made in the proper channels of governmental structure, that public office not be used for unauthorized personal gain, and that all individuals associated with Metropolitan remain impartial and responsible towards the public. Accordingly, it is the policy of Metropolitan that Metropolitan ~~Board members, officers, and employees~~officials shall strive to maintain the highest standard of personal honesty and fairness in carrying out their duties. Metropolitan officials shall conduct Metropolitan's business in compliance with the law, this Chapter, and other Metropolitan policies, and shall exercise good judgment based on Metropolitan's values and goals. In carrying out their duties, Metropolitan officials should exercise fairness, impartiality, and avoid behavior that is likely to create an appearance of impropriety. This policy sets forth the minimal ethical standards to be followed by ~~the Board of Directors, officers, and employees of The Metropolitan Water District of Southern California~~officials. Strict compliance with this Chapter is not necessarily sufficient, and any attempt to evade or circumvent any requirements of the Chapter is improper.

**§ 7102. Ethics Officer Jurisdiction~~Responsibilities of Public Office.~~**

The Ethics Officer's jurisdiction to provide education and training, issue advice, ensure compliance, and conduct investigations shall be limited to specific state ethics laws incorporated into the Administrative Code in Article 2 of this Chapter, specific Metropolitan ethics requirements specified in Article 3 of this Chapter and the ethics rules for Metropolitan contractors, lobbying firms, and lobbyists specified in Chapter 2 of this Division. ~~In the course of their official duties, Board members, officers, and employees are obliged to uphold the Constitution of the United States and the Constitution of the State of California, and to comply with federal, state, and local laws regulating their conduct, including conflict of interests and financial disclosure laws. Board members, officers, and employees should work in full cooperation with other public officials unless prohibited from so doing by law or officially recognized confidentiality of their work.~~

**§ 7103. Definition of Terms~~Fair and Equal Treatment.~~**

~~No Board member, officer, or employee shall grant any special consideration, treatment, or advantage to any person or group beyond that which is available to every other person or group in the same circumstances.~~

**§ 7104. ~~Misuse of Position or Authority.~~**

~~No Board member, officer, or employee shall use his or her position or the power or authority of his or her office or position in any manner intended to induce or coerce any person to provide, directly or indirectly, anything of value that will accrue to the private advantage, benefit, or economic gain, of the Board member, officer, or employee, or of any other person.~~

~~———(a) As used in this section, the term “private advantage, benefit, or economic gain” means any advantage, benefit, or economic gain, distinct from that enjoyed by members of the public without regard to official status or not resulting naturally from lawful and proper performance of official duties.~~

~~———(b) A Board member, officer, or employee engages in a prohibited use of official position when he or she engages in activities other than the lawful and proper performance of duties, including creating deliberately false or misleading records in the course of official duties.~~

#### ~~§ 7105. Contracts and Grants With Metropolitan.~~

The terms defined in this section shall apply throughout this Division. ~~(a) Board members, officers, and employees are prohibited from offering inducements to a potential vendor, contractor, grantee, or other party, to the exclusion of similar persons or firms, in hopes of obtaining reciprocal favors. Metropolitan policies pertaining to the procurement of goods, services, and contractors, as well as the hiring of personnel, must be followed to ensure fairness to the participants.~~

~~———(b) No Board member, officer, employee or consultant shall make, participate in making or attempt to influence any transaction, contract, grant or sale to which Metropolitan is a party, if the Board member, officer, employee, or consultant or an immediate relative thereof, has a financial interest (as defined in the California Political Reform Act). “Immediate relative” means a spouse, domestic partner, child, parent, parent in law, brother, sister, stepparent, stepchild, grandparent or grandchild. Metropolitan may require potential contractors or grantees to submit verified written statements regarding any financial interests of Board members, officers, employees, consultants or their immediate relatives in proposed transactions, contracts, grants or sales.~~

~~———(c) No Board member, officer, or employee shall grant any special consideration, treatment or advantage to any person or group beyond that available to every other person or group in the same circumstances, as prohibited by Section 7103 of this Administrative Code, in connection with any transaction, contract, grant or sale to which Metropolitan is a party. Proposed relationships with former Board members or Metropolitan employees subject to Board approval must be evaluated carefully in advance of completing any agreement with such persons to ensure that no unfair advantage is given to them and that Metropolitan's interest are fully protected in such situations.~~

~~———(d) Metropolitan shall not make any contract or award any grant in which a Metropolitan Board member, officer or employee has a financial interest, unless a remote interest or non-interest, as defined in the California Government Code, applies.~~

~~———(e) Metropolitan shall not contract for services of any director during the Director's term of office and a period of one year thereafter. The restriction on contracting after leaving office may be waived in specific cases by a 2/3 vote of the Board of Directors.~~

(a) "Complaint" means any communication to the Ethics Officer alleging violations of Metropolitan ethics rules.

(b) "Complainant" means the individual who files a complaint with the Ethics Officer alleging violations of Metropolitan ethics rules.

(c) "Conflict of interest code" means the Code required by Government Code section 87300 and approved by the Fair Political Practices Commission on a biennial basis.

(d) "Contractor" means any non-governmental individual or entity providing goods, services, or other consideration through a contract with Metropolitan, or any non-governmental individual or entity seeking such a contract. For purposes of Division VII only, "Contractor" includes subcontractors and subconsultants.

(e) "Designated employee" means a Metropolitan employee or consultant who must file Statements of Economic Interest pursuant to Government Code section 87300 and Metropolitan's Conflict of Interest Code.



(f) “Disclosure category” means the types of financial interests that a Designated Employee must disclose on his or her Statement of Economic Interests.

(g) “Formal complaint” means a complaint made in writing where the complainant is identified with contact information.

(h) “FPPC” means the California Fair Political Practices Commission.

(i) “Gift” shall have the same meaning as that in Government Code section 82028 and regulations of the FPPC, or any succession statute or regulation.

(j) “Informal complaint” means a complaint where the complainant is not identified or lacks sufficient contact information.

(k) “Lobbying firm” means 1) any business entity, including an individual contract lobbyist, which receives compensation for the purpose of influencing a specific decision of any Metropolitan official including a decision to enter into a contract, and 2) any owner or employee of the business entity is a lobbyist.

(l) “Lobbyist” means any individual who receives or is entitled to receive \$2,000 or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate directly with a Metropolitan official for the purpose of influencing a specific decision of any Metropolitan official, including a decision to enter into a contract. For purposes of this definition, oral statements made during a public hearing or written statements made as part of the public record shall not be considered communications for the purpose of influencing a decision of any Metropolitan official. Individuals employed by, retained by, or holding office with other governmental agencies and individual employees of private entities, other than lobbying firms, seeking to influence a Metropolitan decision are not lobbyists. Decisions involving ministerial acts, personnel matters, and collective bargaining shall not be considered “decisions” for purposes of this definition.

(m) “Metropolitan ethics rules” means the rules contained in Articles 2 and 3 of Chapter 1 of this Division commencing with section 7110, and in Articles 2 and 3 of Chapter 2 of this Division commencing with section 7210.

(n) “Metropolitan official” means a public official as that term is defined by Government Code section 82048, or any successor statute, and includes Metropolitan directors, officers, and all employees.

(o) “Office” means the Office of Ethics.

(p) “Political contribution” shall have the same meaning as that in Government Code section 82015 and interpretative regulations of the FPPC, or any successor statute or regulation.

(q) “Restricted source” means 1) any non-governmental individual or entity that seeks or receives financial support from Metropolitan and 2) any contractor, as that term is defined in subdivision (d).

(r) “Subject of the complaint” means a Metropolitan official, lobbyist, lobbying firm, or contractor against whom a complaint has been filed, a Metropolitan official, lobbyist, lobbying firm, or contractor referred from a Metropolitan department to the Ethics Officer regarding possible violations of Metropolitan ethics rules, or a Metropolitan official, lobbyist, lobbying firm or contractor who is the subject of an investigation initiated by the Ethics Officer.

#### **~~§ 7106. Communications on Procurements.~~**

~~—— (a) Except for statements on the record in a scheduled public meeting, Directors shall not directly or indirectly communicate with the General Manager, General Counsel, or General Auditor (or their staffs) regarding the selection of vendors, contractors, consultants, or other business entities for a specific procurement of goods or services.~~

~~—— (b) This policy in no way restricts open communication between Directors and the General Manager, General Counsel, or General Auditor on district wide procurement policies, procedures, or other general matters.~~

#### **~~§ 7107. Use of Confidential Information.~~**

~~—— Confidential information must not be released to unauthorized persons unless the disclosure is approved by the Board of Directors, the Chair of the Board of Directors, or the~~

~~Office of the General Counsel. Board members, officers, and employees are prohibited from using any confidential information for personal advantage or profit.~~

**~~§ 7108. Soliciting Political Contributions.~~**

~~———(a) Board members, officers, and employees are prohibited from soliciting political funds or contributions at Metropolitan facilities.~~

~~———(b) No Director, officer, or employee of Metropolitan shall use Metropolitan's seal, trademark, stationery, or other indicia of Metropolitan's identity, or facsimile thereof, in any solicitation for political contributions contrary to state or federal law.~~

**~~§ 7109. Improper Activities and the Reporting of Such Activities.~~**

~~———Board members, officers, and employees shall not interfere with the proper performance of the official duties of others. Board members, officers, and employees are strongly encouraged to fulfill their own moral obligations to the public and Metropolitan by disclosing to the extent not expressly prohibited by law, improper activities within their knowledge. No Board member, officer, or employee shall directly or indirectly use or attempt to use the authority or influence of his or her position for the purpose of intimidating, threatening, coercing, commanding, or influencing any person with the intent of interfering with that person's duty to disclose improper activity.~~

**~~§ 7110. Protection of "Whistleblowers."~~**

~~———(a) No Board member, officer, or employee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Office of Ethics, other appropriate agency, Metropolitan office or department any information which, if true, would constitute: a work-related violation by a Metropolitan Board member, officer, or employee of any law or regulation, gross waste of agency funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of a Metropolitan official or employee, use of a Metropolitan office or position or of Metropolitan resources for personal gain, or a conflict of interest of a Metropolitan Board member, officer, or employee.~~

~~———(b) No Board member, officer, or employee shall use or threaten to use any official authority or influence to effect any action as a reprisal against a Metropolitan Board member, officer, or employee who reports or otherwise brings to the attention of the Office of Ethics or other appropriate agency, Metropolitan office or department any information regarding the subjects described in Paragraph (a) of this Section.~~

~~———(c) Any person who believes that he or she has been subjected to any action prohibited by this section may file a confidential complaint with the Office of Ethics. The Office of Ethics shall thereupon investigate the complaint. Upon the conclusion of its investigation, the Office of Ethics shall take appropriate action as otherwise provided by Metropolitan's ethics rules and procedures.~~

~~———(d) In the event the Office of Ethics has a conflict of interest in an investigation of the retaliation complaint, the General Manager shall refer the investigation of the retaliation complaint to the Equal Employment Opportunities Office and the Office of the General Counsel, which shall take appropriate action as otherwise provided under Metropolitan rules and procedures and applicable law.~~

#### **~~§ 7111. Nondiscrimination and Harassment.~~**

~~———Board members, officers, and employees shall not, in the performance of their official functions, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex (gender or pregnancy), sexual orientation, medical condition, genetic information, disability (physical or mental), protected veteran status, or other characteristic protected by law and they shall cooperate in achieving the equal opportunity and affirmative action goals and objectives of Metropolitan. Metropolitan Board members, officers, employees, and guests have the right to participate in official Metropolitan functions in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive, or disruptive. Harassment based on any characteristic protected by law will not be sanctioned nor tolerated. Reports of harassment are taken seriously, and appropriate action will be taken against individuals found to have engaged in harassing conduct. The prohibition against discrimination and harassment applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site. Allegations regarding officer or employee conduct in violation of this section shall be reported to Metropolitan's Equal~~

~~Employment Opportunity Investigations Staff. Allegations regarding director conduct in violation of this section shall be reported to the Ethics Officer or Board Chair.~~

~~§ 7112. Limitation on Associations.~~

~~Metropolitan shall not participate in any association structure or identification that is likely to mislead the public as to the association's true identity, its source of funding, or its purpose.~~

~~§ 7113. Ethics Advice.~~

~~Any Board member, officer or employee who is unsure of any right or obligation arising under this Code may seek the assistance of the Ethics Officer, request an opinion from the General Counsel of Metropolitan, or seek oral or written advice from the Fair Political Practices Commission.~~

**STATE CONFLICT OF INTEREST LAWS INCORPORATED INTO**  
**ADMINISTRATIVE CODE**~~CONFLICT OF INTEREST~~

Sec.

~~71120. Conflict of Interest; Method of Recusal~~Incorporation of State Ethics Laws into the Administrative Code

~~71121. Conflicts of Interest Regarding Contracts~~Recusal Due to Bias

~~71122. Conflicts of Interest Regarding Governmental Decisions~~“Revolving Door”; Additional Requirements

7113. Campaign Contributions

7114. Influencing Prospective Employment

7115. Honoraria

7116. Gift Limitations

7117. Loans to Public Officials

7118. Statement of Economic Interests

**~~§ 71120. Conflict of Interest; Method of Recusal~~Incorporation of State Ethics Laws into the Administrative Code.**

The purpose of this Article is to incorporate specific state ethics laws into this Administrative Code. The state ethics laws incorporated herein shall include any relevant state laws defining or limiting the application of the incorporated law, state regulations, or formal opinions interpreting these laws, as well as any successor laws and regulations or opinions. As a result of such incorporation, the Ethics Officer shall have the jurisdiction to investigate alleged violations as well as a duty to educate, advise and train Metropolitan officials, and seek compliance by such officials. Metropolitan officials shall have an obligation to abide by these incorporated rules and are subject to the provisions of Article 4 of Chapter 4 of this Division for any violations. (a) A Board member who has a financial conflict of interest in a decision to be considered at a noticed public meeting shall do all of the following:

—————(1) Publicly identify the economic interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

~~\_\_\_\_\_ (2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of the Political Reform Act.~~

~~\_\_\_\_\_ (3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded.~~

~~\_\_\_\_\_ (b) Exceptions:~~

~~\_\_\_\_\_ (1) When a Board member has a financial conflict of interest in a matter on the consent calendar, the member is not required to leave the room.~~

~~\_\_\_\_\_ (2) Even when a financial conflict of interest is present, a Board member may appear before the Board as a member of the general public in order to represent himself or herself on matters related solely to his or her personal interests. The Board member also may listen to the public discussion of the matter with the members of the public. The member must comply with subsections (a)(1) (disclosure) and (a)(2) (recusal) and leave the dais to speak from the same area as members of the public. Such an appearance does not constitute making, participating in making, or influencing a governmental decision. Such "personal interests" include, but are not limited to:~~

~~\_\_\_\_\_ (A) An interest in real property that is wholly owned by the official or members of his or her immediate family;~~

~~\_\_\_\_\_ (B) A business entity that is wholly owned by the official or members of his or her immediate family;~~

~~\_\_\_\_\_ (C) A business entity over which the official exercises sole direction and control, or over which the official and his or her spouse jointly exercises sole direction and control.~~

~~(c) Any other officer (as identified in Administrative Code Section 6400) or employee who has a financial conflict of interest in a decision shall promptly disclose such conflict in writing to his or her supervisor or appointing authority and not take any action with respect to such decision. A separate disclosure is required each time the officer or employee determines not to act with respect to a decision on the basis of a financial conflict of interest.~~

**§ 71121. ~~Conflicts of Interest Regarding Contracts~~Recusal Due to Bias.**

~~A Board member shall not make, participate in or attempt to influence any decision, if he or she is incapable of providing fair treatment to a matter before the Board due to bias, prejudice or because he or she has prejudged a matter.~~ Government Code section 1090 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

**§ 71122. ~~“Revolving Door”; Additional Requirements~~Conflicts of Interest Regarding Governmental Decisions.**

Government Code section 87100 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code. ~~(a) In addition to complying with the post-employment restrictions set forth in the Political Reform Act and regulations of the Fair Political Practices Commission, for a period of one year after leaving office or employment with Metropolitan:~~

**§ 7113. Campaign Contributions.**

Government Code section 84308 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

**§ 7114. Influencing Prospective Employment.**

Government Code section 87407 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

**§ 7115. Honoraria.**

Government Code section 89502 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.



~~—————(1) Directors shall not represent for compensation non-governmental entities before Metropolitan.~~

~~—————(2) Other officers of Metropolitan (as identified in Administrative Code Section 6400) and Metropolitan employees shall not represent for compensation non-governmental entities before Metropolitan with regard to any issues over which that officer or employee had decision-making authority during the three years prior to leaving office or employment.~~

~~—————(b) For purposes of this Section, “represent” shall mean for compensation to actively support or oppose a particular decision in a proceeding by lobbying in person the officers or employees of Metropolitan, testifying in person before Metropolitan, or otherwise acting to influence the officers of Metropolitan.~~

~~—————(c) These restrictions shall not apply to representation of not-for-profit charitable entities before Metropolitan.~~

**§ 7116. Gift Limitations.**

Government Code section 89503 is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code. (As of the time of the initial adoption of this section the gift limit is \$500 per calendar year per source. See section 7122 for additional limits on gifts from restricted sources).

**§ 7117. Loans to Public Officials.**

Government Code section 87460(b) is incorporated by reference into this section. Any violation of this section shall be considered a violation of this Code.

**§ 7118. Statement of Economic Interests.**

Metropolitan officials shall file complete and accurate Statements of Economic Interests pursuant to Government Code section 87200 or 87300, as applicable, consistent with the requirements of the Political Reform Act. Any failure to file complete and accurate Statements of Economic Interest shall be considered a violation of this Code.

**GIFTS AND HONORARIA METROPOLITAN ETHICS REQUIREMENTS**

Sec.

- 71230. Gifts; Additional RequirementsApplication of Metropolitan Ethics Requirements
- 71231. Misuse of Position or AuthorityHonoraria; Additional Requirements
- 71232. Additional Gift Limits and Compensation RestrictionsTicket Distribution Policy
- 7123. Political Contributions and Activities
- 7124. Limits on Contracts and Grants with Former Directors
- 7125. Prohibited Director Communications
- 7126. Use of Confidential Information
- 7127. Duty to Report
- 7128. Whistleblower and Witness Protections
- 7129. Failure to Cooperate with Ethics Officer Investigation
- 7130. Employment with Persons Doing Business with Metropolitan
- 7131. Compliance with Metropolitan Contracting Procedures and Guidelines
- 7132. Public Reporting for Contracts of \$50,000 or More
- 7133. Restrictions on Misleading Associations

**§ 71230. Application of Metropolitan Ethics ~~Gifts; Additional~~ Requirements.**

Metropolitan officials shall have an obligation to abide by the rules listed in this Article and are subject to the provisions of Article 4 of Chapter 4 of this Division for any violations. ~~(a) Board members, officers, and employees are subject to the rules and restrictions regarding the receipt of gifts set forth in the Political Reform Act and regulations of the Fair Political Practices Commission.~~

~~————(b) No Board member, officer, or employee, shall receive or agree to receive, directly or indirectly, any compensation, reward or gift from any source, except from his or her appointing authority or employer, for any action related to the conduct of Metropolitan's business.~~

~~————(c) A gift or gratuity, the receipt of which is prohibited under this Section shall be returned to the donor within 30 days. If return is not possible, the gift or gratuity shall be turned~~

~~over to a public or charitable institution without being claimed as a charitable deduction and a report of such action, and the reasons why return was not feasible shall be made on the records of the Board or in the cases of officers and employees, on the records of Metropolitan. When possible, the donor also shall be informed of this action.~~

**§ 71231. Misuse of Position or Authority~~Honoraria; Additional Requirements.~~**

~~Metropolitan officials shall not misuse their governmental position or authority to obtain, or attempt to obtain, a private benefit, or advantage for themselves or any other individual or entity, or a disadvantage for any other individual or entity. Board members, officers, and employees are subject to the prohibition on the receipt of honoraria set forth in the Political Reform Act and regulations of the Fair Political Practices Commission.~~

**§ 71232. ~~Ticket Distribution Policy~~Additional Gift Limits and Compensation Restrictions.**

(a) No Metropolitan employee shall accept any gift from a donor who the employee knows is a restricted source. This limitation shall not apply to modest food or beverages provided during a work-related event or items of nominal intrinsic value, so long as the total value does not exceed \$50 in a calendar year from a single source.

(b) Metropolitan employees shall not receive, directly or indirectly, any compensation from any source, except from Metropolitan, for performance of their duties as Metropolitan employees.

**§ 7123. Political Contributions and Activities.**

(a) Metropolitan officials shall not solicit or receive political contributions at any Metropolitan facility or on any District property.

(b) Metropolitan officials shall not use Metropolitan's seal, trademark, stationery, or other indicia of Metropolitan's identity, or facsimile thereof, in any solicitation for political contributions.

(c) Directors shall not solicit political contributions from Metropolitan employees.

(d) Metropolitan employees shall not solicit political contributions from other employees over whom they exercise authority or otherwise supervise.

(e) At the time of his or her election to any elective public office, the Metropolitan employee shall disclose the office elected to and the term of office to the Ethics Officer and General Manager.

(f) Metropolitan officials shall not use Metropolitan assets, property, equipment, or other resources to engage in political activities.

(1) For purposes of this subdivision, Metropolitan resources include, but are not limited to, computers, e-mail systems, Internet services, telephones, photocopying and fax machines, office supplies, postage, vehicles, office spaces, open spaces, facilities, staff, and field sites owned, leased, or controlled by Metropolitan.

(2) Sending emails or otherwise using Metropolitan resources to support or oppose a candidate or ballot measure, or to solicit political contributions for a candidate or ballot measure is prohibited.

(g) Metropolitan employees shall not engage in political activities during their work hours with Metropolitan.

#### **§ 7124. Limits on Contracts and Grants with Former Directors.**

(a) Directors shall not contract for professional services with Metropolitan during the Director's term of office and for a period of one year thereafter.

(b) For a period of one year after a Director leaves office, Metropolitan shall not contract with any for-profit entity in which a former Director is an officer, partner, or shareholder who holds more than ten percent (10%) of the stock in the for-profit entity.

(c) These restrictions on contracting after leaving office may be waived by a two-thirds vote of the Board of Directors.

#### **§ 7125. Prohibited Director Communications.**

Except for statements on the record at a public meeting, Directors shall not use their position of authority to communicate directly or indirectly with Metropolitan employees to influence: (1) the selection of a specific vendor, contractor, consultant, or other entity for a specific contract or procurement; (2) any hiring or employment decisions other than Department Heads; or, (3) real property transactions.

The requirements of this section shall in no way restrict Directors from communicating with Metropolitan employees about Metropolitan procurement policies, procedures or other general matters, including requesting or receiving information about matters to be considered by Directors at public meetings.

**§ 7126. Use of Confidential Information.**

(a) Metropolitan officials shall not willfully or knowingly disclose or use any confidential or privileged information unless authorized to do so or required to do so by law or Metropolitan policy.

(b) “Confidential or privileged information” as used in this section shall mean information, whether contained in a document, recorded, or communicated in another manner, which is maintained confidentially at or by Metropolitan and if contained in a writing, would not be subject to disclosure under the California Public Records Act.

**§ 7127. Duty to Report.**

Each Metropolitan Management Employee shall report to the Ethics Officer any facts made known to the Management Employee which would indicate that a Metropolitan official, lobbyist, lobbying firm, or contractor has engaged in activities which appear to violate any provisions of Chapters 1 or 2 of this Division. For purposes of this section, “Management Employee” shall have the same meaning as used in section 6101(i) of this Code.

(a) Definitions: The following terms shall have the meanings set forth herein:

**§ 7128. Whistleblower and Witness Protections.**

Metropolitan officials shall not take or threaten to take an action as a reprisal for, or to prevent, discourage, or interfere with a person from:

(a) Reporting in good faith to a Metropolitan Management Employee, the Ethics Office, or other appropriate department or government agency information (other than information about a disagreement with a policy decision within the lawful discretion of a Metropolitan official) the person reasonably believes indicates:

(1) A work-related violation of any law or Metropolitan policy, other than an equal employment opportunity-related law or policy,

(2) A gross waste or abuse of Metropolitan resources, or

(3) A gross public health or safety danger.

(b) Cooperating with investigations of matters reported pursuant to subdivision (a).

#### **§ 7129. Failure to Cooperate with Ethics Officer Investigation.**

(a) Metropolitan officials, lobbyists, lobbying firms, and contractors shall cooperate with the Ethics Officer during an investigation. Conduct including, but not limited to, intentionally destroying relevant documents, refusing to be interviewed, or obstructing an investigation shall be a deemed a failure to cooperate.

(b) Metropolitan officials, lobbyists, lobbying firms, and contractors shall not provide false or misleading information to the Ethics Officer during an investigation.

(1) “Metropolitan Official” shall mean and refer to a Metropolitan public official as that term is defined by Government Code section 82048, which includes directors, officers, and employees.

#### **§ 7130. Employment with Persons Doing Business with Metropolitan.**

(a) Metropolitan employees shall not accept, solicit, or apply for employment with, or be compensated by, any individual or entity while that individual or entity is doing business with or engaged in negotiations with Metropolitan concerning a matter within the employee’s areas of responsibility or upon which the employee must act or make a recommendation.

(b) Metropolitan employees shall not recommend the employment or hiring of a relative to a Metropolitan contractor known by the employee to be dealing with Metropolitan on matters within the employee's area of responsibility or upon which the employee must act or make a recommendation

**§ 7131. Compliance with Metropolitan Contracting Procedures and Guidelines.**

Metropolitan officials shall not intentionally fail to comply with Metropolitan contracting procedures and guidelines, including public notice procedures and contract approval procedures, as contained in this Administrative Code or any Metropolitan Operating Policy.

~~(2) "FPPC" shall mean and refer to the California Fair Political Practices Commission.~~

~~(3) "Policy" shall mean and refer to this Ticket Distribution Policy.~~

~~(4) "Ticket" or "pass" shall mean and refer to a ticket or pass as these terms are defined in FPPC Regulation 189044.1, as amended from time to time. (As of the time of the initial adoption of this policy the term "ticket" or "pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.)~~

~~(b) Purpose of Policy. The purpose of this Policy is to ensure that all tickets and passes Metropolitan receives from public and private entities and individuals, which Metropolitan purchases or which Metropolitan owns because of its control of the event or facility, are distributed in furtherance of a public purpose of Metropolitan.~~

~~(c) Limitation. This Policy shall only apply to Metropolitan's distribution of tickets and/or passes to, or at the request of a Metropolitan Official.~~

~~(d) Ticket Distribution Public Purposes. Metropolitan may accomplish one or more public purposes of Metropolitan through the distribution of tickets to, or at the request of, a Metropolitan Official. The following list is illustrative rather than exhaustive of the public purposes of Metropolitan that may be served by Metropolitan Officials attending events using tickets distributed to them by Metropolitan:~~

~~(1) Support of general employee morale, retention or to reward public service.~~

~~(2) Promotion of water conservation within Metropolitan's service area and the State of California.~~

~~(3) Promotion of the quality of the water served by Metropolitan and the water service provided by Metropolitan.~~

~~(4) Promotion of Metropolitan recognition, visibility, and/or profile on a local, state, national or international scale.~~

~~(5) Recognition of a Metropolitan program or purpose.~~

~~(6) Promotion of Metropolitan issues and interests.~~

~~(e) Public Purpose Requirement. The distribution of any ticket and/or pass by Metropolitan to, or at the request of, a Metropolitan Official shall accomplish one or more public purposes of Metropolitan.~~

~~(f) Transfer Prohibition. The transfer by any Metropolitan Official of any ticket distributed to that official pursuant to this policy to any other person is prohibited except to members of the official's immediate family for their personal use, or to no more than one guest solely for their attendance at the event.~~

~~(g) Designation of Agency Head. For the purpose of implementing and posting this policy, and completing and posting the required FPPC form for distribution of tickets, Metropolitan's General Manager or his designee, is the responsible official.~~

~~(h) Website Posting. This Ticket Distribution Policy shall be posted on Metropolitan's public website in a prominent fashion and the link to this website shall be submitted to the FPPC for posting on the FPPC website.~~



~~(i) The distribution of a ticket or tickets pursuant to this Policy shall be posted on Metropolitan's website in a prominent fashion within forty five (45) days after the ticket distribution. Such posting shall use the required FPPC form.~~

**§ 7132. Public Reporting for Contracts of \$50,000 or More.**

Metropolitan shall post information about all existing contracts of \$50,000 or more in a centralized location on its website.

**§ 7133. Restrictions on Misleading Associations.**

(a) No Metropolitan official shall authorize, direct, or otherwise cause Metropolitan to participate in, or provide Metropolitan resources to, any association if its structure or identification is likely to mislead the public as to the association's true identity, its source of funding, or its purpose.

(b) In order to avoid the potential of misleading the public about any aspect of Metropolitan's participation in associations, Metropolitan's General Manager shall disclose on its public website all associations to which it provides funding or in-kind staff support, along with a description of the support provided and a link to that association's website, if any.

**ArticleChapter 24****ENFORCEMENTETHICS RULES FOR METROPOLITAN CONTRACTORS AND  
LOBBYISTS**

<u>Article</u>	<u>Sec.</u> <u>See.</u>
<u>1 7140. ——— Policy</u>	
<u>7200 Violation of Ethics Provisions</u>	
<u>2 Metropolitan Contractors</u>	<u>7210</u>
<u>3 Lobbyists</u>	<u>7220</u>

**Article 1****POLICY**Sec.**§ 720140. Violation of Ethics ProvisionsPolicy**

(a) When the Ethics Officer concludes, with the advice of General Counsel, that a preponderance of evidence exists that indicates that a member of the Board is in non-compliance with state law, the matter will be referred to the Fair Political Practices Commission, Attorney General, or District Attorney, as applicable, with notice of the referral provided to the Audit and Ethics Committee, director and the appointing member agency at the time of the referral. When the Ethics Officer concludes, after investigation, with the advice of General Counsel, that preponderance of evidence exists that indicates that a member of the Board is in non-compliance with the ethics provisions contained in the Administrative Code, the matter will be referred to a designated subcommittee of the Audit and Ethics Committee, with prompt notice to the Board member. A director shall not participate in the selection of, or as a member of this designated subcommittee with regard to any matters in which the director is a subject of the investigation. This subcommittee shall make a recommendation to the Executive Committee for appropriate action, which can include, but is not limited to: (1) find that the complaint was unsubstantiated or substantiated; (2) public or private censure by the Executive Committee with or without a copy of the letter to the appointing agency; (3) temporary or permanent removal of the Board member from one or more Board committees; (4) request to the appointing agency for

~~replacement of the Board member; or (5) any other sanction determined by the Executive Committee to be appropriate and reasonable based upon the nature of the violation. All sanctions are subject to review of General Counsel for legal compliance. The Chair will be responsible for carrying out the determination of the Executive Committee. For the purposes of this section, “preponderance of evidence” means that the evidence indicates it is more likely than not that a violation has occurred.~~

~~———(b) The Ethics Officer, prior to making findings on the investigation of a complaint, shall notify the Director, officer, or employee of the investigation and provide him or her with an opportunity to submit any material he or she would like the Ethics Officer to review and to meet with the Ethics Officer.~~

~~———(c) Any Director, including one who has brought a concern to the Ethics Office, who is dissatisfied with a determination by the Ethics Officer that no violation or non-compliance occurred, may appeal to the Executive Committee for further review.~~

~~———(d) Violations of the ethics provisions contained in the Administrative Code by officers or employees will be handled through existing disciplinary procedures. Findings from the Ethics Officer will be referred to the appropriate Department Head for further action. An officer or employee who is subject to a finding of non-compliance with the ethics provisions contained in the Administrative Code may challenge such determination pursuant to Section 6218(b) and (c) of the Administrative Code or the applicable memorandum of understanding.~~

~~———(e) The Ethics Officer shall review and summarize all ethics complaints in a monthly report to the Board of Directors. The General Counsel shall receive a copy of all findings, reports and actions concerning complaints. The policy of Metropolitan is to maintain the highest standards of conduct from persons doing business with Metropolitan. Accordingly, it is the policy of Metropolitan that contractors and those attempting to influence Metropolitan decisions shall maintain the highest standard of personal honesty and fairness in dealing with Metropolitan and in carrying out duties on behalf of Metropolitan. This policy sets forth the minimal ethical standards to be followed by Metropolitan contractors, lobbying firms, and lobbyists.~~

## **Chapter Article 2**

### **DISCLOSURE OF ECONOMIC INTERESTS METROPOLITAN CONTRACTORS**

~~Article~~Sec.~~7210.1 Contractor Code of Conduct~~Conflict of Interest Code~~7200~~~~7211.2 Contractor Code of Conduct Provisions~~~~§ 7210. Contractor Code of Conduct.~~Designated Positions and Categories of Disclosure Index~~7210~~

(a) All Metropolitan contractors shall be subject to a Contractor Code of Conduct.

(b) This Contractor Code of Conduct shall be included in all written contracts with Metropolitan and shall be posted on Metropolitan's public website.

**Article 1****Conflict of Interest Code**~~Sec.~~~~7200. Political Reform Act—Incorporation of Title 2, California Code of Regulations~~~~7205. Filing of Statements of Economic Interest~~~~§ 7200.~~**§ 7211. Contractor Code of Conduct Provisions.**

The General Manager, Ethics Officer, and General Counsel shall jointly approve the terms of the Contractor Code of Conduct. This Contractor Code of Conduct shall include, but not be limited to, the following provisions:

(a) Contractors shall abide by all Metropolitan ethics rules and policies applicable to contractors.

(b) Contractors shall timely cooperate with any investigation by the Ethics Officer, which includes permitting access to their books, records and accounts, and responding to inquiries as may be necessary to complete any investigation at no additional charge to Metropolitan.

(c) Failure to comply with the Contractor Code of Conduct shall be a basis for termination of existing contracts and debarment from future contracts as provided in section 8170.

(d) Contractors shall not provide political contributions to Metropolitan board members in violation of Government Code section 84308 nor cause any Metropolitan official to violate section 7123.

(e) Notice and a requirement that a contractor providing consulting services, including an employee of the contractor, comply with the conflict of interest and disclosure requirements of the Political Reform Act and Government Code section 1090 if the contractor qualifies as a public official.

### **Article 3**

#### **LOBBYISTS**

Sec.

7220. Lobbyist and Lobbying Firm Registration and Reporting Requirements

7221. Revolving Door Restrictions on Former Metropolitan Officials

#### **§ 7220. Lobbyist and Lobbying Firm Registration and Reporting Requirements.**

The Ethics Officer shall prescribe forms to comply with the requirements of this section and shall make all information listed on any registration statement and all quarterly disclosures publicly available on the Metropolitan public website within 14 calendar days of filing.

(a) Lobbyists shall file a registration statement with the Ethics Officer prior to communicating with a Metropolitan official for the purpose of influencing a decision of a Metropolitan official. The registration statement shall include the lobbyist's full name, business address, email address, telephone number and name of lobbying firm owned by the lobbyist or employing the lobbyist.

(b) Lobbyists shall file quarterly reports with the Ethics Officer disclosing all topics they attempted to influence, the name of the lobbyist employer for whom they were engaged for the purpose of influencing, and whether they communicated with board members and/or staff members. Reports shall be due on or before the last day of the month following each calendar quarter.

(c) Lobbying firms shall file a registration statement with the Ethics Officer at the same time the firm's lobbyist registers. The registration statement shall include the lobbying firm's name, business address, email address, telephone number, lobbyist employed by or who owns the firm, and name of the entity compensating the lobbying firm.

(d) Lobbying firms shall file quarterly reports with the Ethics Officer disclosing the names of lobbyists who own or are employed by the firm, all topics the firm's lobbyists attempted to influence, and the name of the entity for whom the firm is compensated for the purpose of influencing. Reports shall be due on or before the last day of the month following each calendar quarter.

(e) Lobbyists and lobbying firms which have ceased lobbying Metropolitan officials shall file a termination statement with the Ethics Officer.

#### **§ 7221. Revolving Door Restrictions on Former Metropolitan Officials.**

(a) For a period of one year after leaving office or employment with Metropolitan:

(1) Directors shall not represent for compensation non-governmental entities before Metropolitan.

(2) All other Metropolitan officials shall not represent for compensation non-governmental entities before Metropolitan with regard to any issues over which they had decision-making authority during the three years prior to leaving office or employment.

(b) For purposes of this section, "represent" shall mean being compensated to communicate directly with a Metropolitan official for the purpose of influencing a Metropolitan decision.

(c) These restrictions shall not apply to representation of not-for-profit charitable entities before Metropolitan.

### **Chapter 3**

## **TICKET DISTRIBUTION POLICY**

### **Article**

### **Sec.**

### **1 Ticket Distribution Policy**

### **7300**

### **Article 1**

## **TICKET DISTRIBUTION POLICY**

### **Sec.**

### **7300. Definition**

### **7301. Purpose of Ticket Distribution Policy**

### **7302. Ticket Distribution Policy**

### **§ 7300. Definition.**

“Ticket” or “pass” shall mean and refer to a ticket or pass as these terms are defined in FPPC Regulation 18946, as amended from time to time.

### **§ 7301. Purpose of Ticket Distribution Policy.**

The purpose of this Policy is to ensure that all tickets and/or passes Metropolitan receives from public and private entities and individuals, which Metropolitan purchases or which Metropolitan owns because of its control of the event or facility, are distributed in furtherance of a public purpose of Metropolitan. This ticket distribution policy shall only apply to Metropolitan’s distribution of tickets and/or passes to, or at the request of, a Metropolitan official.

**§ 7302. Ticket Distribution Policy.**

(a) Ticket Distribution Public Purposes. Metropolitan may accomplish one or more public purposes of Metropolitan through the distribution of tickets and/or passes to, or at the request of, a Metropolitan official. The following list is illustrative rather than exhaustive of the public purposes of Metropolitan that may be served by Metropolitan officials attending events using tickets and/or passes distributed to them by Metropolitan:

(1) Support of general employee morale, retention or to reward public service.

(2) Promotion of water conservation within Metropolitan's service area and the State of California.

(3) Promotion of the quality of the water served by Metropolitan and the water service provided by Metropolitan.

(4) Promotion of Metropolitan recognition, visibility, and/or profile on a local, state, national or international scale.

(5) Recognition of a Metropolitan program or purpose.

(6) Promotion of Metropolitan issues and interests.

(b) Public Purpose Requirement. The distribution of any ticket and/or pass by Metropolitan to, or at the request of, a Metropolitan official shall accomplish one or more public purposes of Metropolitan.

(c) Transfer Prohibition. The transfer by any Metropolitan official of any ticket and/or passes distributed to that official pursuant to this ticket distribution policy to any other individual is prohibited except to members of the official's immediate family for their personal use, or to no more than one guest solely for their attendance at the event.

(d) Metropolitan shall not disproportionately distribute tickets and/or passes to Directors, Executive Officers, or other senior management.



(e) Designation of Agency Head. For the purpose of implementing and posting this ticket distribution policy, and completing and posting the required FPPC form for distribution of tickets and/or passes, Metropolitan's General Manager, or his or her designee, is the responsible official.

(f) Website Posting. This ticket distribution policy shall be posted on Metropolitan's public website in a prominent fashion and the link to this website shall be submitted to the FPPC for posting on the FPPC website.

(g) The distribution of a ticket and/or passes pursuant to this ticket distribution policy shall be posted on Metropolitan's website in a prominent fashion within forty-five (45) days after the ticket distribution. Such posting shall use the required FPPC form.

#### **Chapter 4**

### **INVESTIGATIONS BY THE ETHICS OFFICER**

<u>Article</u>	<u>Sec.</u>
<u>1 Authority to Investigate and Jurisdiction</u>	<u>7400</u>
<u>2 Procedures for Investigations</u>	<u>7410</u>
<u>3 Procedures for Making Investigations Public</u>	<u>7420</u>
<u>4 Penalties for Violation of Metropolitan Ethics Rules</u>	<u>7430</u>

#### **Article 1**

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

<u>Sec.</u>
<u>7400. Jurisdiction to Investigate</u>
<u>7401. Discretion to Investigate</u>
<u>7402. Concurrent Investigations</u>
<u>7403. Referrals to the Ethics Officer</u>
<u>7404. Determinations to Not Investigate</u>

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

7406. Scope of Investigation

7407. Consultation with the General Counsel

7408. Requirements for Investigations

**§ 7400. Jurisdiction to Investigate.**

(a) The Ethics Officer shall investigate all formal and informal complaints if the alleged actions would, if true, constitute a violation of a Metropolitan ethics rule.

(1) The Ethics Officer shall provide written acknowledgement of the receipt of a formal complaint to the complainant, request that the complainant keep the complaint confidential, and inform the complainant that no additional updates regarding the complaint will be provided.

(2) If the Ethics Officer determines that the complaint does not involve a Metropolitan official, lobbyist, lobbying firm, or contractor, does not involve Metropolitan ethics rules, or lacks sufficient information to establish a potential violation, then the Ethics Officer shall not conduct an investigation. The complainant shall be so notified in writing of any such determination by the Ethics Officer. Nothing in this section shall preclude a complainant from filing a subsequent complaint.

(b) The Ethics Officer may initiate investigations involving potential violations of Metropolitan ethics rules without a formal or informal complaint or referral from another Metropolitan department.

(c) The Ethics Officer shall not commence an investigation of alleged violations more than five years after the date on which the violation occurred. If the subject of the complaint concealed information underlying the alleged violation, the five-year period shall be tolled for the period of the concealment.

**§ 7401. Discretion to Investigate.**

The Ethics Officer shall have the sole discretion to determine if the Office lacks jurisdiction or the complaint lacks sufficient information to establish a potential violation.

**§ 7402. Concurrent Investigations.**

The Ethics Officer may conduct an investigation concurrently and in coordination with other Metropolitan departments regarding matters over which the Ethics Officer and other Metropolitan departments have jurisdiction.

**§ 7403. Referrals to the Ethics Officer.**

Metropolitan departments shall refer any alleged violation of Metropolitan ethics rules to the Ethics Officer.

**§ 7404. Determinations to Not Investigate.**

An initial determination by the Ethics Officer to not open an investigation shall not preclude a future investigation based upon additional or further information.

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

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

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

retaining the outside counsel or investigator, the General Counsel shall notify the Audit and Ethics Committee Chair.

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

#### **§ 7406. Scope of Investigation.**

The Ethics Officer may during the course of an investigation investigate potential violations of Metropolitan ethics rules beyond those identified in any complaint or referral received by the Ethics Officer or identified in the notification to the subject of the complaint made pursuant to section 7410.

#### **§ 7407. Consultation with the General Counsel.**

The Ethics Officer may consult the General Counsel regarding any investigation at the Ethics Officer's discretion.

#### **§ 7408. Requirements for Investigations.**

The Ethics Officer shall abide by the requirements set forth in this Chapter for conducting any investigation.

## **Article 2**

### **PROCEDURES FOR INVESTIGATIONS**

Sec.

7410. Notice to Subject of Investigation

7411. Investigation Timeframe

7412. Confidentiality of Investigations

7413. Access to Metropolitan Records

7414. Opportunity for Subject to Respond

7415. Preponderance of the Evidence Standard7416. Ethics Officer Report**§ 7410. Notice to Subject of Investigation.**

(a) Upon receipt of a complaint, referral from a Metropolitan department, or determination by the Ethics Officer to conduct an investigation pursuant section 7400(b), the Ethics Officer shall notify the subject of the complaint in writing within 30 calendar days; provided, however, if the integrity of the investigation may be compromised by notifying the subject, then the Ethics Officer may withhold notice until an appropriate time. No notice need be given to the subject of the complaint if the Ethics Officer determines that an investigation is not warranted.

(b) As a part of the notice provided in subdivision (a) of this section, the Ethics Officer shall provide the nature of the allegations, advise the subject of the investigation regarding Metropolitan's rules against retaliation, and advise the subject of their obligation to cooperate with the investigation and that the failure to cooperate may lead to disciplinary action, regardless of the outcome of the investigation.

**§ 7411. Investigation Timeframe.**

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

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

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

**§ 7412. Confidentiality of Investigations.**

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

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

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

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

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

(1) The communications shall be advisory in nature, and

(2) The communications shall be confidential.

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

**§ 7413. Access to Metropolitan Records.**

(a) Subject to applicable law, the Ethics Officer shall have access to all Metropolitan documents, files, records, or other materials deemed relevant by the Ethics Officer to an investigation.

(b) If there is a disagreement regarding access to documents, files, records, or other materials, including those that may be protected by the attorney-client privilege or attorney work

product doctrine, the Ethics Officer and General Counsel shall discuss the matter with the affected Metropolitan department, and shall make a reasonable good faith effort to resolve the dispute.

(c) If the disagreement is not resolved pursuant to subdivision (b) of this section, the Ethics Officer and General Counsel shall jointly present the matter to an ad hoc committee consisting of the Chairs of the Audit and Ethics Committee, the Legal and Claims Committee and the Board who shall resolve any disagreement that does not involve the attorney-client privilege. If the dispute involves the attorney-client privilege and is not satisfactorily resolved by the ad hoc committee, the matter will be considered by the Board, as a majority of the Board is required to waive Metropolitan's attorney-client privilege.

**§ 7414. Opportunity for Subject to Respond.**

The subject of the complaint shall be afforded a reasonable opportunity to present any facts, legal arguments, or other relevant information to the Ethics Officer concerning an investigation and alleged violations prior to completion of the investigation.

**§ 7415. Preponderance of the Evidence Standard.**

The Ethics Officer shall use the preponderance of the evidence standard for making any determination of a violation of Metropolitan ethics rules.

**§ 7416. Ethics Officer Report.**

(a) Upon the completion of an investigation, the Ethics Officer shall prepare a written report that summarizes the evidence considered, any exculpatory evidence, a legal analysis, and a determination as to whether a violation has occurred.

(b) If the Ethics Officer determines by a preponderance of the evidence that the subject of the complaint has committed an ethics violation, the Ethics Officer shall provide the subject of the complaint, and the General Counsel, the written report specified in subdivision (a) of this section, along with any relevant evidence considered by the Ethics Officer. The subject shall have 14 calendar days from receipt of the report to file any response with the Ethics Officer. The Ethics Officer may grant an extension for good cause. The Ethics Officer shall consider the

response and make any final changes to the written report as deemed appropriate by the Ethics Officer within 14 calendar days of receipt of the response, if any, unless the Ethics Officer determines additional time is required. The Ethics Officer shall provide a copy of any revised written report to the subject of the complaint.

(c) If the Ethics Officer determines after an investigation that there has been no violation, the Ethics Officer shall notify the subject of the complaint within 14 calendar days of such determination.

(d) The Ethics Officer shall notify the General Counsel of the determination that there has been no violation at the same time the subject is notified of a no violation finding.

(e) Any referral to a local or state agency, an appropriate Metropolitan department or the Executive Committee pursuant to Article 4 of Chapter 4 of this Division, shall include the written report prepared by the Ethics Officer, relevant documents as determined by the Ethics Officer, and any response to the written report submitted by the subject of the complaint.

### **Article 3**

#### **PROCEDURES FOR MAKING INVESTIGATIONS PUBLIC**

Sec.

7420. Public Information on Investigations

7421. Confidential Investigation Files

#### **§ 7420. Public Information on Investigations.**

(a) At the conclusion of an investigation, the Ethics Officer shall post on Metropolitan's website the results of the investigation that describe: (1) the general nature of any alleged violations, (2) the conclusions reached by the Ethics Officer, and (3) any referral made to another Metropolitan department, the Executive Committee, or a local or state agency. The published results of the investigation shall not reveal the identity of the subject of the investigation. The



Ethics Officer's report specified in section 7416(a) shall not be posted on Metropolitan's public website or otherwise be publicly disseminated.

(b) If the Ethics Officer determines that a Director has violated Metropolitan ethics rules, nothing in this Division prevents the Director's identity from becoming public in a board proceeding to address that violation.

(c) Nothing in this Division prevents a state or local agency to which a referral has been made by the Ethics Officer pursuant to section 7438(a) from revealing the identity of the subject of an investigation in accordance with the agency's policies.

#### **§ 7421. Confidential Investigation Files.**

The investigation files of the Ethics Officer, including the complaint and materials and information obtained by the Ethics Officer during the course of the investigation, are confidential and shall be subject to release only as required by law and as appropriate and necessary.

### **Article 4**

#### **PENALTIES FOR VIOLATION OF METROPOLITAN ETHICS RULES**

Sec.

7430. Schedule of Penalties

7431. Levels of Violations

7432. Penalties for Violations

7433. Serious Violations of the Political Reform Act or Government Code section 1090

#### **§ 7430. Schedule of Penalties.**

Penalties for violations of Metropolitan ethics rules shall be administered according to the penalties schedule in this article. Only Metropolitan officials, lobbyists, lobbying firms and contractors shall be subject to the penalties specified in this Article.

**§ 7431. Levels of Violations.**

In any Ethics Officer Report that finds a violation, the finding shall include a conclusion about the severity of the violation. This conclusion shall be based upon the severity of the underlying offense, along with any relevant mitigating or extenuating circumstances.

(a) Levels of violations:

(1) Level I (Severe Violation): One or more violations that seriously undermine or threaten the integrity of Metropolitan's governmental decision-making processes.

(2) Level II (Significant Violation): One or more violations that undermine or threaten the integrity of Metropolitan's governmental decision-making processes.

(3) Level III (Violation): One or more violations that are isolated or limited in nature, and that provide no more than a minimal personal benefit.

(4) Level IV (Incidental Violation): A minor infraction that is technical in nature and does not constitute a Level III violation. Multiple or repeated Level IV infractions collectively may constitute a Level III violation.

(b) Mitigating and aggravating factors.

In determining the appropriate level for a specific violation, the Ethics Officer Report shall include any applicable mitigating or aggravating factors including, but not limited to, the following:

(1) The nature and seriousness of the offense, and its relationship to the employee's duties and responsibilities.

(2) The official position of the subject, including its responsibilities, prominence, or fiduciary role.

(3) Acceptance of responsibility by the subject.

(4) The degree to which the subject cooperated in the investigation.

(5) Whether the subject had notice of the rules that were violated, or had been warned about the conduct in question.

(6) Whether the offense was intentional, technical, negligent, or inadvertent, or was frequent.

#### **§ 7432. Penalties for Violations.**

(a) Whenever the Ethics Officer finds a violation of a Metropolitan ethics rule, the Ethics Officer shall determine the level of violation pursuant section 7431.

(b) Whenever the Ethics Officer finds a violation of a Metropolitan ethics rule, the Ethics Officer shall refer the Ethics Officer report and the accompanying determination of level of violation as follows:

(1) Violations by Directors shall be referred to the Executive Committee for review and consideration of further action if appropriate under the circumstances which may include counseling, training, a private warning letter, public censure, temporary or permanent removal from committee assignments, or referral to the Director's appointing authority requesting appropriate action.

(2) Violations by the Executive Officers shall be referred to the Executive Committee for review and the consideration of further action including counseling, performance review, or the imposition of discipline as deemed appropriate under the circumstances.

(3) Violations by employees, other than the Executive Officers, shall be referred to the Human Resources Group and the appropriate Department Head or Group Manager for review and the consideration of further action which may include counseling, performance review, or the imposition of discipline as deemed appropriate under the circumstances.

(4) Violations by Metropolitan contractors shall be referred to the General Manager or designee for review and the consideration of further action which may include

counseling, warning, termination of a contract, monetary penalties as specified in the contract, any other remedy available by contract, or debarment from future contracts pursuant to Article 5 of Chapter 1 of Division VIII as deemed appropriate under the circumstances.

(5) Violations by Metropolitan lobbyists and lobbying firms shall be referred to the General Manager or designee for review and the consideration of further action which may include counseling, warning, suspension of the Metropolitan registration of the lobbyist and lobbying firm, or publication of the violation on Metropolitan's webpage as deemed appropriate under the circumstances.

**§ 7433. Serious Violations of the Political Reform Act or Government Code Section 1090.**

(a) In addition to the disciplinary penalties in this Article, the Ethics Officer shall refer serious violations to the FPPC, Attorney General, or a District Attorney as determined by the Ethics Officer.

(b) Serious violations, as used in this section, shall include any of the following violations:

(1) Intentional and knowing violations of sections 7114 (influencing prospective employment), 7115 (honoraria ban), 7116 (gift limitations), 7117 (loans to public officials) and 7118 (Form 700).

(2) Violations of sections 7111 (conflicts of interest regarding contracts) and 7112 (conflicts of interest regarding governmental decisions).

(3) Any violation for failing to disclose reportable financial interests pursuant to section 7118 (Form 700) where a violation of section 7111 (conflicts of interest regarding contracts) or 7112 (conflicts of interest regarding governmental decisions) is also found.

(4) Violations of section 7113 (campaign contributions).

(5) Any violation of section 7116 (gift limitations) where the unlawful gift is from an individual or entity under contract with, otherwise engaged in doing business with, or is seeking to do business with, Metropolitan.

(6) At the discretion of the Ethics Officer, violations where the Metropolitan official has a prior serious violation.

## Chapter 5

### CONFLICT OF INTEREST CODE

<u>Article</u>	<u>Sec.</u>
<u>1 Conflict of Interest Code</u>	<u>7500</u>
<u>2 Designated Positions and Categories of Disclosure Index</u>	<u>7510</u>

## Article 1

### CONFLICT OF INTEREST CODE

#### Sec.

7500. Political Reform Act—Incorporation of the Title 2, California Code of Regulations Metropolitan's Conflict of Interest Code

7501. Biennial Amendments to Conflict of Interest Code

75024. Filing of Statements of Economic Interest

**§ 7500. Political Reform Act—Incorporation of the Title 2, California Code of Regulations. Metropolitan's Conflict of Interest Code**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes and biennial amendments thereto. The Fair Political Practices Commission-FPPC has sole authority to approve adopted a regulation, (2 Cal. Code of Regs. Sec. 18730) that contains the terms of a

~~standard Metropolitan's conflict of interest code and amendments thereto. After final approval from the FPPC, Metropolitan's conflict of interest has the force and effect of law., which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the following sections in this Division VII, designating positions and establishing disclosure categories, shall constitute the conflict of interest code of The Metropolitan Water District of Southern California ("Metropolitan").~~

**§ 752015. Filing of Statement of Economic InterestsAmendments to Conflict of Interest Code.**

The Ethics Officer has sole authority to formulate and propose biennial and other amendments to Metropolitan's conflict of interest code to the FPPC. Upon the FPPC's final review and approval of the proposed amendments to the conflict of interest code, the conflict of interest code shall be deemed promulgated and incorporated by reference into this Article of the Administrative Code. The Ethics Officer shall maintain a copy of Metropolitan's approved conflicts of interest code and post it to Metropolitan's internal and external websites.

**§ 7502. Filing Statements of Economic Interests.**

Individuals holding designated positions in the conflict of interest code shall file their statements of economic interests with ~~Metropolitan~~the Office of Ethics, which will make copies of the statements available for public inspection and reproduction. Metropolitan officials whom the FPPC designates as public officials who manage public investments, including members of the Board of Directors, shall file their statements of economic interests with the FPPC. The Office of Ethics shall make copies of the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) Upon receipt of the statements for the Board of Directors and other designated Public Officials Who Manage Public Investments (see Section 7221); Metropolitan shall make and retain copies and forward the originals to the Fair Political Practices Commission. All other statements will be retained by Metropolitan.

**~~DESIGNATED POSITIONS AND CATEGORIES OF DISCLOSURE INDEX~~**

~~Sec.~~

~~75210. Reportable Interests~~

~~75211. Designated Positions~~

~~75212. Public Officials Who Manage Public Investments~~

~~75213. Consultants and New Positions~~

**~~§ 75210. Reportable Interests~~**

~~A reportable interest includes any investment, business position, source of income (including gifts, travel payments, or loans), or interest in real property.~~

~~(a) For investments, business positions, and sources of income, an interest is reportable if it is engaged in the industries, activities, or services described in the disclosure category applicable to the designated position.~~

~~(b) For interests in real property, an interest is reportable if it falls within the description for Category 11.~~

<b>Category</b>	<b>Subject Matter</b>	<b>Disclosable Interests</b>
<b>1</b>	<i>Full disclosure (excluding real</i>	<del>Any interest within Categories 2 through 10.</del>
<b>2</b>	<i>Legal, Audit, Ethics</i>	<del>Law practice, auditing, public accounting, ethics and compliance, investigations, risk management, workers</del>
<b>3</b>	<i>Finance</i>	<del>Banking, investments, financial services, insurance, financial analysis, accounting, municipal finance, rate-</del>
<b>4</b>	<i>Engineering &amp; Operations</i>	<del>Engineering, design, construction, power operations, project management, planning, environmental impacts analysis, geosciences, water treatment, water quality, water infrastructure operations and maintenance.</del>
<b>5</b>	<i>Information Technology</i>	<del>Information technology, computer hardware, software, graphics, or related field.</del>

<del>6</del>	<del><i>Water Resource Management, Bay-Delta, Colorado</i></del>	<del>Water resource management, planning, economics, engineering, water conservation, or related field.</del>
<del>7</del>	<del><i>Real Property Development</i></del>	<del>Real estate transactions, appraisals, financing, development, or related field.</del>
<del>8</del>	<del><i>Human Resources</i></del>	<del>Human resources planning, training, administration or related field. Any employee association or labor union.</del>
<del>9</del>	<del><i>External Affairs</i></del>	<del>Public policy, advocacy, public relations, lobbying, media, outreach, communications, travel, or related field.</del>
<del>10</del>	<del><i>Administrative</i></del>	<del>Goods or services of the type used or procured by the designated position's department, office, division, or area. —Examples of applicable goods may include: office equipment, office supplies, document management materials, vehicle parts, security-related materials, or maintenance materials. —Examples of applicable services may include: document</del>
<del>11</del>	<del><i>Real Property</i></del>	<del>Any interest in real property: (a) within the jurisdiction that is used by Metropolitan, or is of a type that Metropolitan has identified for potential acquisition, as well as real property within two miles of the property used or the potential site; (b) within two miles of any parcel or other location proposed for annexation to Metropolitan; or (c) within two miles of any parcel or</del>
<del>12</del>	<del><i>Subject of audit or investigation</i></del>	<del>Any investment, source of income (including gifts, travel payments, or loans) or real property that was the subject of an audit or investigation assignment during the period</del>

~~§ 75211. Designated Positions.~~

~~Listed below are the designated positions and the disclosure categories applicable for employees serving in those positions. Positions designated as public officials who manage public investments (indicated by “87200” in category field) file statements directly with the Fair Political Practices Commission based upon Government Code disclosure criteria.~~



<del>Assistant Ethics Officer</del>	<del>1</del>
<del>Assistant General Counsel</del>	<del>1, 11</del>
<del>Assistant General</del>	
<del>Manager/ Strategic Water</del>	<del>1, 11</del>
<del>Assistant General</del>	
<del>Manager/Chief</del>	<del>1, 11</del>
<del>Assistant General</del>	
<del>Manager/Chief External</del>	<del>9</del>
<del>Assistant General</del>	
<del>Manager/Chief Financial</del>	<del>87200</del>
<del>Assistant General</del>	
<del>Manager/Chief Operating</del>	<del>1, 11</del>
<del>Assistant Group Manager</del>	
<del>(Engineering Services)</del>	<del>2, 4, 6, 11</del>
<del>Assistant Group Manager</del>	
<del>(Water System</del>	<del>3, 4, 6, 11</del>
<del>Assistant Treasurer</del>	<del>87200</del>
<del>Assistant Unit Manager-</del>	
<del>Conveyance And</del>	<del>4</del>
<del>Bay-Delta Initiatives</del>	
<del>Manager</del>	<del>6, 11</del>
<del>Budget and Treasury</del>	
<del>Manager</del>	<del>87200</del>
<del>Chief Deputy General</del>	
<del>Counsel</del>	<del>1</del>
<del>Chief Deputy General</del>	
<del>Counsel, Labor Relations</del>	<del>1</del>
<del>Classification and</del>	
<del>Compensation Manager</del>	<del>9</del>
<del>Construction Inspector III,</del>	
<del>IV, V</del>	<del>4</del>
<del>Controller</del>	<del>3</del>
<del>Deputy Auditor III</del>	<del>12</del>
<del>Deputy Ethics Officer</del>	
<del>(Advice, Compliance and</del>	<del>2, 12</del>

<del>Deputy Ethics Officer</del>	
<del>(Investigations, Outreach,</del>	<del>2, 12</del>
<del>Deputy General Auditor</del>	<del>1</del>
<del>Deputy General Counsel</del>	<del>1</del>
<del>Engineer—Bay-Delta,</del>	
<del>Water Resource</del>	<del>6</del>
<del>Engineer—Engineering</del>	
<del>Services, Water System</del>	<del>4</del>
<del>Engineer—Information</del>	
<del>Technology</del>	<del>5</del>
<del>Environmental Specialist—</del>	
<del>Environmental Planning,</del>	<del>6</del>
<del>Environmental Specialist—</del>	
<del>Water Systems Operations</del>	<del>4</del>
<del>Equal Employment</del>	
<del>Opportunity Manager</del>	<del>2, 9</del>
<del>Ethics Officer</del>	<del>1</del>
<del>Executive Legislative</del>	
<del>Representative</del>	<del>0</del>
<del>Executive Strategist</del>	<del>1</del>
<del>General Auditor</del>	<del>1</del>
<del>General Counsel</del>	<del>1, 11</del>
<del>General Manager</del>	<del>87200</del>
<del>Group Manager-</del>	
<del>Engineering Services</del>	<del>2, 4, 6, 11</del>
<del>Group Manager-External</del>	
<del>Affairs</del>	<del>0</del>
<del>Group Manager-Human</del>	
<del>Resources</del>	<del>9</del>
<del>Group Manager-</del>	
<del>Information Technology</del>	<del>5</del>
<del>Group Manager-Real</del>	
<del>Property</del>	<del>7, 11</del>
<del>Group Manager-Water</del>	
<del>Resource Management</del>	<del>2, 4, 6, 11</del>
<del>Group Manager-Water</del>	
<del>System Operations</del>	<del>2, 4, 6, 11</del>

Human Resources	
Information Systems	5, 8
Information Technology	
Architect	5
Information Technology	
Specialist—Disaster	5
Inspection Trip Manager	9
Inspection Trip Specialist	9
Management Principal	
Analyst—Water Systems	4
Manager of	
Administrative Services	10
Manager of Colorado	
River Resources	6, 11
Manager of Financial	
Services	2
Operations and	
Maintenance Supervisor	4
Organizational	
Development and Training	8
Principal Administrative	
Analyst—Administrative	
Services, Facility	10
Principal Administrative	
Analyst—Bay Delta,	
Environmental Planning,	
Water Resource	6
Principal Administrative	
Analyst—Business	4
Principal Administrative	
Analyst—Contracting	4
Principal Administrative	
Analyst—Engineering	
Services, Water System	4
Principal Administrative	
Analyst—Finance	2

Principal Administrative	
Analyst—Information	5
Principal Administrative	
Analyst—Legal	2, 12
Principal Administrative	
Analyst—Real Property	7, 11
Principal Administrative	
Analyst—External Affairs	0
Principal Administrative	
Analyst—Finance	2
Principal Administrative	
Analyst—Human	8
Principal Architect	4
Principal Auditor	2, 12
Principal Buyer	4
Principal Employee	
Relations Specialist	8
Principal Engineer—Bay-	
Delta, Water Resource	6
Principal Engineer—	
Engineering Services,	4
Principal Engineer—	
Information Technology	5
Principal Engineering	
Technician—	
Administrative Services,	10
Principal Engineering	
Technician—Information	5
Principal Engineering	
Technician—Engineering	
Services, Water System	4
Principal Engineering	
Technician—Real Property	7, 11
Principal Engineering	
Technician—Water	6

Principal Environmental Specialist—Bay-Delta,	6
Principal Environmental Specialist—Water Systems	4
Principal Human Resources-Information	5, 8
Principal Human Resources-Training	8
Principal Information Technology Analyst	5
Principal Land Surveyor	4, 7
Principal Real Estate Representative	7, 11
Principal Resource Specialist—Administrative	10
Principal Resource Specialist—Bay-Delta, Water Resource	6
Principal Resource Specialist—Engineering Services, Water Systems	4
Principal Resource Specialist—Finance	2
Principal Systems Analyst	5
Principal Training Administrator	4
Production Planner	4
Program Manager—Business Outreach	1
Program Manager—Engineering Services	4
Program Manager—Executive Office	1
Program Manager—External Affairs	0
Program Manager—Finance	2

Program Manager—Human Resources	9
Program Manager—Information Technology	5
Program Manager—Real Property	7, 11
Program Manager—Water Resources (including Bay-Delta and Colorado River)	6
Program Manager—Water System Operations	4
Real Estate Representative III	7, 11
Resource Specialist—Administrative Services	10
Resource Specialist—Associations	7, 11
Resource Specialist—Bay-Delta, Water Resource	6
Resource Specialist—Engineering Services,	4
Resource Specialist—Finance	2
Section Manager—Human Resources	9
Section Manager—Business Outreach	1
Section Manager—Director of Information	5
Section Manager—Engineering Services	4
Section Manager—Environmental Planning	4, 6, 11
Section Manager—External Affairs	0
Section Manager—Water Resource Management	6
Section Manager—Finance	3
Section Manager—Water System Operations	4

Senior Administrative Analyst—Administrative Services, Facility	10
Senior Administrative Analyst—Bay Delta, Environmental Planning, Water Resources	6
Senior Administrative Analyst—Business	1
Senior Administrative Analyst—Contracting	1
Senior Administrative Analyst—Engineering Services, Water System	4
Senior Administrative Analyst—External Affairs	0
Senior Administrative Analyst—Finance	2
Senior Administrative Analyst—Information	5
Senior Administrative Analyst—Real Property	7, 11
Senior Administrative Analyst—Human	8
Senior Administrative Analyst—Legal	2, 12
Senior Architect	4
Senior Buyer	1
Senior Deputy Auditor	12
Senior Deputy General Counsel	1
Senior Employee Relations	8
Senior Engineer—Bay Delta, Water Resource	6

Senior Engineer—Engineering Services,	4
Senior Engineer—Information Technology	4, 5
Senior Engineer—Legal Department	2, 4, 6
Senior Engineering Technician—Engineering Services, Water System	4
Senior Engineering Technician—Information	5
Senior Engineering Technician—Real	7, 11
Senior Engineering Technician—Water	6
Senior Engineering Technician—Facility	10
Senior Environmental Specialist—Environmental Planning, Bay Delta, Water Resources	6
Senior Environmental Specialist—Water Systems	4
Senior Information Systems Auditor	5
Senior Information Technology Project	4, 5
Senior Information Technology Support Analyst—Laboratory Information Systems	5
Senior Occupational Safety & Health Specialist	4
Senior Project Controls Specialist	4, 5

Senior Real Estate Representative	7 11
Senior Resource Specialist Administrative Services	10
Senior Resource Specialist Bay Delta, Water	6
Senior Resource Specialist Engineering Services,	4
Senior Resource Specialist Finance	2
Senior Water Quality Technician	4
Special Projects Manager Engineering Services	4
Special Projects Manager External Affairs	0
Special Projects Manager Water Resource	6
Staffing Manager	8
Surveying and Mapping Technician IV	5
Team Manager Administrative Services	10
Team Manager Contracting Services	1
Team Manager Engineering Services	4
Team Manager Environmental Planning	4 6 11
Team Manager External Affairs	0
Team Manager Facility Management	10
Team Manager Finance	3
Team Manager Human Resources	9

Team Manager Information Technology	5
Team Manager Real Property	7 11
Team Manager Water Resource Management	6
Team Manager Water System Operations	4
Training Administrator	4
Treasurer / Assistant Section Manager	87200
Unit Manager Administrative Services,	10
Unit Manager Audit Department	2 12
Unit Manager Contracting Services	1
Unit Manager Engineering Services	4
Unit Manager External Affairs	0
Unit Manager Finance	3
Unit Manager Human Resources	9
Unit Manager Information Technology	5
Unit Manager Real Property	7 11
Unit Manager Risk Management	2
Unit Manager Water Resource Management	6
Unit Manager Water System Operations	4
Workers' Compensation Manager	2

~~§ 75212. Public Officials Who Manage Public Investments.~~

~~The following positions are not covered by the conflict of interest code because they must file under Government Code Section 87200 and, therefore, are listed for information purposes only:~~

~~Members of the Board of Directors~~ General Manager

~~Chief Financial Officer~~ Treasurer

~~Assistant Treasurer~~

~~Budget and Treasury Manager~~

~~——— An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Section 87200.~~

~~§ 75213. Consultants and New Positions.~~

~~——— A “designated position” includes an individual serving in a new position in which the individual makes or participates in the making of decisions and an individual who is a consultant as defined in FPPC Regulation 18701. These individuals must file under the broadest disclosure set forth in this conflict of interest code. However, the Ethics Officer may determine disclosure that is tailored to the range of duties or contractual obligations for such individuals as long a clear explanation of the duties and disclosure requirements is provided in writing. Individuals serving in a new position must file under this provision until the position is added to this conflict of interest code. The written determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. (Gov. Code Section 81008, 82019; FPPC Regulations 18219 and 18734.)~~

~~——— Consultants providing the services of designated positions shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:~~

~~The Ethics Officer may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written~~

~~determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Ethics Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. (Gov. Code Sec. 81008.)~~

## Chapter 6

### EDUCATION, ADVICE, AND COMPLIANCE

#### Article

<u>1 Education and Training</u>	<u>7600</u>
<u>2 Ethics Advice</u>	<u>7610</u>
<u>3 Compliance</u>	<u>7620</u>

#### Article 1

### EDUCATION AND TRAINING

#### Sec.

<u>7600. Education on Metropolitan Ethics Rules</u>	
<u>7601. Ethics Education and Training Materials</u>	
<u>7602. Ethics Training for the Board of Directors</u>	
<u>7603. Ethics Training for Employees</u>	
<u>7604. Ethics Training for Oversight of Contractors</u>	
<u>7605. Additional Training for Statements of Economic Interest Filers</u>	

#### § 7600. Education on Metropolitan Ethics Rules.

It shall be the policy of Metropolitan that its officials, lobbyists, lobbying firms, and contractors be held to the highest ethical standards. To achieve that policy goal, it shall be the responsibility of the Ethics Officer to educate and train Metropolitan officials, lobbyists, lobbying firms, and contractors regarding Metropolitan ethics rules to ensure compliance with applicable state government ethics laws and additional Metropolitan ethics requirements as specified in this Division.

**§ 7601. Ethics Education and Training Materials.**

(a) The Ethics Officer shall prepare materials for use in educating and training Metropolitan officials, lobbyists, lobbying firms, and contractors, including a guide to Metropolitan ethics rules.

(b) The Ethics Officer shall prepare training materials for use by Metropolitan officials, lobbyists, lobbying firms, and contractors on Metropolitan's Intramet or any successor system, or Metropolitan's webpage.

**§ 7602. Ethics Training for the Board of Directors.**

(a) The Ethics Officer shall provide an orientation ethics training for all newly appointed board members.

(b) The Ethics Officer shall provide periodic in-person ethics training at meetings of the Board of Directors or committees thereof.

(c) The Ethics Officer shall provide regular written updates on changes in state ethics laws to the Board of Directors.

(d) The Ethics Officer shall certify Directors' compliance with mandatory state ethics training required by AB 1234.

**§ 7603. Ethics Training for Employees.**

All employees shall receive training on Metropolitan's ethics provisions at least once every two years. In addition, all designated employees shall receive training on Statements of Economic Interest and disclosure categories at least once every two years. This training may be either in-person or online. The Ethics Officer shall certify that all employees have completed this training.

**§ 7604. Ethics Training for Oversight of Contractors.**



All employees whose duties include substantive oversight of contractors shall receive training on the Contractor Code of Conduct at least once every two years. These trainings may be either in-person or online. The Ethics Officer shall certify that all employees have completed this training.

**§ 7605. Additional Training for Statements of Economic Interest Filers.**

The Ethics Officer shall provide trainings to Metropolitan officials and consultants required to file Statements of Economic Interest pursuant to section 87200 of the Government Code and sections 7118, 7511, 7512 and 7513 of this Division.

**Article 2**

**ETHICS ADVICE**

Sec.

7610. Ethics Advice

7611. Requirements for Ethics Advice

7612. Advice Immunity

7613. Confidentiality of Ethics Advice

**§ 7610. Ethics Advice.**

Metropolitan officials, lobbyists, lobbying firms and contractors may request advice from the Ethics Officer related to their duties and Metropolitan ethics rules under this Division.

**§ 7611. Requirements for Ethics Advice.**

(a) The Ethics Officer shall provide advice in writing to the requestor or in a memorandum to file, if the requestor declines a written response.

(b) The Ethics Officer shall only provide advice regarding questions concerning prospective acts, and not for prior conduct.

(c) Requests for advice may be declined in any of the following circumstances:

(1) The requestor is seeking advice relating to past conduct.

(2) The requestor is seeking advice regarding a third party.

(3) Relevant and material information provided in the request is inaccurate or incomplete.

(4) The request does not present a question under the Ethics Officer's jurisdiction.

**§ 7612. Advice Immunity.**

(a) Written advice by the Ethics Officer shall provide the requestor immunity from Metropolitan penalties or referral to a state or local agency by the Ethics Officer, as provided in Article 4 of Chapter 4 of this Division, if all of the following conditions are met.

(1) The request for advice was in writing and provides all material facts for the Ethics Officer to conduct a complete analysis, and

(2) The requestor complied with any guidance or recommendations contained within the written advice.

(b) Advice in response to a written request shall not provide immunity to any individual other than the requestor.

(c) Advice by the Ethics Officer does not provide immunity from enforcement by any state regulatory agency, including the FPPC, or any law enforcement agency.

**§ 7613. Confidentiality of Ethics Advice.**

(a) The Ethics Officer shall treat all ethics advice as confidential, but shall notify, in advance, the recipient of advice that:

(1) The communications associated with the advice and the advice itself are not protected by the attorney-client privilege.

(2) The advice is not necessarily confidential and exempt from disclosure under the Public Records Act or other legal process such as an internal investigation, subpoena, or production request.

(3) The advice will be provided for prospective conduct only and that information provided regarding past conduct could result in an investigation.

(b) The Ethics Officer shall keep confidential any communications regarding advice for prospective conduct, to the extent possible.

### Article 3

## COMPLIANCE

Sec.

7620. Ethics Training Required by Government Code

7621. Filing Officer Duties

7622. Additional Review of Statements of Economic Interest

7623. Compliance with Government Code Section 84308

### § 7620. Ethics Training Required by Government Code.

The Ethics Officer shall monitor and maintain the records of compliance for Directors and employees designated by the Board to participate in mandatory state ethics training requirements imposed by AB 1234. The Ethics Officer shall notify Metropolitan officials that are not in compliance with this section and seek their compliance.

### § 7621. Filing Officer Duties.

(a) The Ethics Officer shall comply with the Duties of Filing Officers as required by section 18115 of Title 2 of Division 6 of the California Code of Regulations or any superseding law or regulations.

(b) The Ethics Officer shall provide reminders regarding the filing deadline for Statements of Economic Interests required to be filed.

(c) The Ethics Officer shall assist persons with technical and substantive compliance questions related to their Statements of Economic Interests.

(d) The Ethics Officer shall track the status of Assuming Office, Annual, and Leaving Office Statements of Economic Interests of Metropolitan officials and shall notify non-filers of their obligation to file. After the Ethics Officer sends two written communications following the filing deadline, non-filers shall be referred to the FPPC for further action.

**§ 7622. Additional Review of Statements of Economic Interests.**

(a) The Ethics Officer shall review all Statements of Economic Interests required to be filed pursuant to section 87200 of the Government Code. This review shall include:

(1) Evaluating internal consistency and consistency with prior filings;

(2) Reviewing individual filers' declared financial interests; and

(3) Advising whether to file an amendment, if necessary.

(b) If the Ethics Officer has reason to believe a filer's official duties could potentially affect a declared financial interest, the Ethics Officer shall contact the filer and offer to provide advice to ensure no inadvertent conflict of interest arises.

**§ 7623. Compliance with Government Code Section 84308.**

The Ethics Officer shall implement procedures to assist Directors with complying with Government Code section 84308, including alerting Directors to matters on meeting agendas that may require recusal.

The applicable sections of Metropolitan's current Administrative Code

**Division II**

**PROCEDURES PERTAINING TO BOARD, COMMITTEES  
AND DIRECTORS**

**Chapter 1**

**BOARD OF DIRECTORS**

**Chapter 4**

**STANDING COMMITTEES**

**Article 2**

**EXECUTIVE COMMITTEE**

**§ 2410. Membership.**

The Executive Committee shall have a maximum of 15 members and shall consist of the Chair, Vice Chairs, Secretary, all past Chairs of the Board who are directors of the District, and the Chairs of the standing committees in addition to the Executive Committee, and two additional directors as nonofficer members.

**§ 2416. Duties and Functions. [Executive Committee]**

(a) The Executive Committee shall study, advise, and make recommendations with regard to:

- (1) Public information for governmental and other entities and officials, and for the citizens of California regarding matters affecting the District's interests;
- (2) Official dealings with the United States Government, the State of California or other states, member public agencies or their sub-agencies, foreign governments and other entities or persons in matters of public policy or other activities as deemed appropriate;
- (3) Policies and procedures to be considered by the Board or committees thereof, except for policy matters within the jurisdiction of a specific standing committee;
- (4) Matters relating to the Colorado River Board of California;

(5) Major policy issues to be considered by the Board, including proposed amendments to the Metropolitan Water District Act;

(6) Questions raised by the officers and staff in intervals between meetings of the Board and in unexpected situations and emergencies.

(7) The terms and conditions of employment of all consultants and advisors not within the jurisdiction of other committees;

(8) Resolution of conflicting committee recommendations pursuant to §2314;

(9) The progress of, and propose modifications to, the Board's goals in light of then existing and projected future conditions; and

(10) Such other matters as may be required by Division II of this Code.

(b) The Executive Committee shall:

(1) Review and approve board and committee agendas and, notwithstanding the jurisdiction of the other standing committees in the Code, have the authority to direct which committee shall consider an item;

(2) Review and approve the scheduling of board and committee meetings;

(3) Be responsible for the oversight and management of the organization including, but not limited to, the form of the District's organization and the flow of the authority and responsibility. This includes monitoring and overseeing the duties and responsibilities of management; and

(4) Consider the effectiveness of the District's internal control system, including information technology security and control.

(c) The Executive Committee shall retain ultimate responsibility for those duties as are specifically assigned to the subcommittees of the Executive Committee.

(d) The Executive Committee shall be responsible for reviewing and approving the annual business plan containing the General Manager's key priorities for the coming year.

(e) As part of the Department Head annual evaluation process, the Executive Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Manager.

(f) The Executive Committee shall also:

(1) Act on behalf of the Board in unexpected situations and emergencies, subject to subsequent approval or ratification of the actions taken whenever such approval or ratification is required by law.

(2) Provide policy guidance where appropriate to those directors and District staff members who are associated with organizations in which the District has membership.

(3) Conduct hearings on vendors' protests:

(i) Hearings requested pursuant to Section 8142(d), and other hearings granted on the Executive Committee's own motion, unless delegated pursuant to Section 8148 shall be held by the committee at its next regular meeting to be held at least 72 hours after filing of the notice of protest. The hearing shall be conducted in accordance with such rules as the Chair of the committee shall announce. The committee shall make a decision on the bidder's or applicant's protest, shall set forth its reasons therefor, and shall cause the Board Executive Secretary to serve a copy of the decision on the bidder or applicant. The decision of the committee shall be final unless the committee chooses to refer the notice of protest to the Board.

(ii) The Chair of the Executive Committee may re-delegate hearings provided for under subparagraph (i) above to a minimum of three members of the Executive Committee who shall act in place of the committee in the conduct of the hearing and who shall at the conclusion thereof make their recommendations to the full committee. Such recommendations shall be accompanied by copies of any materials submitted in evidence. Any hearing held and recommendations made pursuant to such delegated authority shall be completed in advance of the time set for the next regular meeting of the full committee following the meeting at which the matter would otherwise have been heard by the committee.

(4) Resolve disputes over inspection dates and monitor conduct of inspection trips to assure maximum effectiveness.



**Article 9.5****AUDIT AND ETHICS COMMITTEE****§ 2496. Duties and Functions****(a) Duties and Functions with respect to General Auditor**

- (1) The Audit and Ethics Committee shall study, advise and make recommendations with regard to:
  - (i) All reports of the General Auditor and external auditors, including the audited financial statements of the District;
  - (ii) The Audit Department's annual business plan and biennial budget;
  - (iii) Requests from other committees of the Board for audits and reviews not included in the Audit Department's annual business plan;
- (2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Audit Department and the external auditors as those duties and responsibilities relate to the effectiveness of the District's internal control system. It shall review and approve the business plan containing the key priorities for the coming year of the General Auditor and the Audit Department in advance of the July Board meeting.
- (3) As part of the Department Head annual evaluation process, the Audit and Ethics Committee shall be responsible for engaging in periodic performance expectations discussions, including progress checks, with the General Auditor.

**(b) Duties and Functions with respect to Ethics Officer**

- (1) The Audit and Ethics Committee shall be responsible for recommending to the Board of Directors employment and termination of the Ethics Officer. The Committee shall further conduct periodic performance reviews of the Ethics Officer and provide a written report to the Board of Directors regarding that review.

- (2) The Audit and Ethics Committee shall be responsible for monitoring and overseeing the duties and responsibilities of the Ethics Officer to ensure the independence of the Ethics Officer and to ensure the Ethics Officer is working in a collaborative manner with the Board of Directors, General Manager, General Counsel and General Auditor. Such review and monitoring shall include resolution of any issues between the Ethics Officer and the General Manager, General Counsel and General Auditor regarding requests for access to documents and information maintained by those Department Heads.
- (3) The Audit and Ethics Committee shall review and receive status reports of pending investigations by the Ethics Officer at each regular meeting of the Committee. The reports shall be limited to the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.
- (4) The Audit and Ethics Committee shall review and receive quarterly reports from the Ethics Officer on any engagement of professional and technical consultants.
- (5) The Audit and Ethics Committee shall review and approve the business plan containing the key priorities for the coming year for the Ethics Office. It shall review and approve the business plan in advance of the July Board meeting.

## **Division VI**

### **PERSONNEL MATTERS**

#### **Chapter 3**

### **GENERAL EMPLOYEE MATTERS**

Article		Sec.
1	Equal Employment Opportunity and Affirmative Action	6300
2	Expense Account Regulations	6320
3	Employee Tours	6340
4	Miscellaneous	6350

## **Article 1**

### **EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION**

Sec.

6300. Statement of Equal Employment Opportunity Policy

6301. Good Faith Efforts Required

6302. General Manager's Responsibility to Implement Affirmative Action Program

6303. Objectives of Affirmative Action Program

6304. General Manager's Report on Equal Employment Opportunity Policy and Affirmative Action Program

6305. Definitions

#### **§ 6305. Definitions.**

Terms, whenever used in this Article, shall have the meaning provided for in applicable law. In conformance with applicable law, the following terms shall have the meanings indicated herein:

(a) Protected veteran - a disabled veteran, a special disabled veteran, a Vietnam era veteran, a recently separated veteran, an armed forces service medal veteran, or any other protected veteran as defined by law.

(b) Age - 40 and above.

(c) Medical condition - Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer, or genetic characteristics.

## **Chapter 4**

### **OFFICERS**

## **Article 5**

### **ETHICS OFFICER**

#### **§ 6470. Powers and Duties.**

The powers and duties of the Ethics Officer shall be as follows:

- (a) The Ethics Officer shall report to the Board, through the Audit and Ethics Committee.
- (b) The Ethics Officer shall oversee an Ethics Office staffed with professional, qualified persons.
- (c) The Ethics Officer shall be free from political interference in fulfilling his/her responsibilities detailed in this article.
- (d) The Ethics Officer shall maintain a collaborative relationship with the Board, General Manager, General Counsel, and General Auditor.
- (e) The Ethics Officer shall propose rules for the conduct of the Ethics Office's decision-making processes. The Ethics Officer shall propose amendments to the Administrative Code to the Audit and Ethics Committee for approval and adoption by the Board, relating to:
  - (1) regulation of lobbying activities;
  - (2) conflicts of interest and financial disclosure;
  - (3) review of Metropolitan contracts for compliance with ethics rules;
  - (4) disclosure of campaign contributions related to potential conflicts of interest;
  - (5) such other ethics rules for application to board members, officers, and employees as deemed appropriate.
- (f) The Ethics Officer shall educate, train, provide advice and seek compliance from board members, officers, applicable employees, and Metropolitan contractors and subcontractors concerning:
  - (1) The rules prescribed in subsection (e);
  - (2) The Political Reform Act of 1974, as amended and applicable regulations;
  - (3) The conflict of interest rules of Government Code section 1090.
- (g) The Ethics Officer shall investigate potential violations of the matters specified in subsection (e) by board members, officers, applicable staff and contractors consistent with the rules specified in Division VII. The Ethics Officer shall prepare status reports of pending investigations at each regular meeting of the Committee. The reports shall be limited to the general nature and status of the investigation, how long the investigation has been pending, when the investigation is expected to be completed and, when completed, the resolution of the investigation.

(h) The Ethics Officer shall be the filing officer on behalf of the District to receive and file Statements of Economic Interest pursuant to the California Government Code and Section 7205 of this Administrative Code.

## **Division VII**

### **CONFLICTS OF INTEREST AND ETHICS REQUIREMENTS**

Chapter	Sec.
1 Ethics Requirements for Directors, Officers, and Employees	7100
2 Disclosure of Economic Interests	7200
[3 Renumbered Chapter 1 and amended	7300]

#### **Chapter 1**

#### **ETHICS REQUIREMENTS FOR DIRECTORS, OFFICERS, AND EMPLOYEES**

Article	
1 General Provisions	7100
2 Conflicts of Interest	7120
3 Gifts and Honoraria	7130
4 Enforcement	7140

#### **Article 1**

#### **GENERAL PROVISIONS**

Sec.
7100. Purpose and Scope
7101. Policy
7102. Responsibilities of Public Office
7103. Fair and Equal Treatment
7104. Proper Use and Safeguarding of Metropolitan Property and Resources
7105. Contracts with Metropolitan
7106. Communications on Procurements
7107. Use of Confidential Information
7108. Soliciting Political Contributions
7109. Improper Activities and the Reporting of Such Activities

- 7110. Protection of “Whistleblowers”
- 7111. Nondiscrimination and Harassment
- 7112. Limitation on Associations
- 7113. Ethics Advice

#### **§ 7100. Purpose and Scope.**

The Metropolitan Water District of Southern California is subject to the Political Reform Act of 1974, as amended (the “Act”), and regulations of the Fair Political Practices Commission. The purpose of this division is to impose additional ethics requirements on the directors, officers and employees of the District as permitted by Section 81013 of the Act.

#### **§ 7101. Policy**

The policy of The Metropolitan Water District of Southern California is to maintain the highest standards of ethics from its Board members, officers and employees. The proper operation of Metropolitan requires decisions and policy to be made in the proper channels of governmental structure, that public office not be used for personal gain, and that all individuals associated with Metropolitan remain impartial and responsible towards the public. Accordingly, it is the policy of Metropolitan that Metropolitan Board members, officers, and employees shall maintain the highest standard of personal honesty and fairness in carrying out their duties. This policy sets forth the minimal ethical standards to be followed by the Board of Directors, officers, and employees of The Metropolitan Water District of Southern California.

#### **§ 7102. Responsibilities of Public Office.**

In the course of their official duties, Board members, officers, and employees are obliged to uphold the Constitution of the United States and the Constitution of the State of California, and to comply with federal, state, and local laws regulating their conduct, including conflict of interests and financial disclosure laws. Board members, officers, and employees should work in full cooperation with other public officials unless prohibited from so doing by law or officially recognized confidentiality of their work.

#### **§ 7103. Fair and Equal Treatment.**

No Board member, officer, or employee shall grant any special consideration, treatment, or advantage to any person or group beyond that which is available to every other person or group in the same circumstances.

**§ 7104. Misuse of Position or Authority**

No Board member, officer, or employee shall use his or her position or the power or authority of his or her office or position in any manner intended to induce or coerce any person to provide, directly or indirectly, anything of value that will accrue to the private advantage, benefit, or economic gain, of the Board member, officer, or employee, or of any other person.

(a) As used in this section, the term “private advantage, benefit, or economic gain” means any advantage, benefit, or economic gain, distinct from that enjoyed by members of the public without regard to official status or not resulting naturally from lawful and proper performance of official duties.

(b) A Board member, officer, or employee engages in a prohibited use of official position when he or she engages in activities other than the lawful and proper performance of duties, including creating deliberately false or misleading records in the course of official duties.

**§ 7105. Contracts and Grants With Metropolitan.**

(a) Board members, officers, and employees are prohibited from offering inducements to a potential vendor, contractor, grantee, or other party, to the exclusion of similar persons or firms, in hopes of obtaining reciprocal favors. Metropolitan policies pertaining to the procurement of goods, services, and contractors, as well as the hiring of personnel, must be followed to ensure fairness to the participants.

(b) No Board member, officer, employee or consultant shall make, participate in making or attempt to influence any transaction, contract, grant or sale to which Metropolitan is a party, if the Board member, officer, employee, or consultant or an immediate relative thereof, has a financial interest (as defined in the California Political Reform Act). “Immediate relative” means a spouse, domestic partner, child, parent, parent in-law, brother, sister, stepparent, stepchild, grandparent or grandchild. Metropolitan may require potential contractors or grantees to submit verified written statements regarding any financial interests of Board members, officers, employees, consultants or their immediate relatives in proposed transactions, contracts, grants or sales.

(c) No Board member, officer, or employee shall grant any special consideration, treatment or advantage to any person or group beyond that available to every other person or group in the same circumstances, as prohibited by Section 7103 of this Administrative Code, in connection with any transaction, contract, grant or sale to which Metropolitan is a party. Proposed relationships with former Board members or Metropolitan employees subject to Board approval must be evaluated carefully in advance of completing any agreement with such persons

to ensure that no unfair advantage is given to them and that Metropolitan's interest are fully protected in such situations.

(d) Metropolitan shall not make any contract or award any grant in which a Metropolitan Board member, officer or employee has a financial interest, unless a remote interest or non-interest, as defined in the California Government Code, applies.

(e) Metropolitan shall not contract for services of any director during the Director's term of office and a period of one year thereafter. The restriction on contracting after leaving office may be waived in specific cases by a 2/3 vote of the Board of Directors.

#### **§ 7106. Communications on Procurements.**

(a) Except for statements on the record in a scheduled public meeting, Directors shall not directly or indirectly communicate with the General Manager, General Counsel, or General Auditor (or their staffs) regarding the selection of vendors, contractors, consultants, or other business entities for a specific procurement of goods or services.

(b) This policy in no way restricts open communication between Directors and the General Manager, General Counsel, or General Auditor on district-wide procurement policies, procedures, or other general matters.

#### **§ 7107. Use of Confidential Information.**

Confidential information must not be released to unauthorized persons unless the disclosure is approved by the Board of Directors, the Chair of the Board of Directors, or the Office of the General Counsel. Board members, officers, and employees are prohibited from using any confidential information for personal advantage or profit.

#### **§ 7108. Soliciting Political Contributions.**

(a) Board members, officers, and employees are prohibited from soliciting political funds or contributions at Metropolitan facilities.

(b) No Director, officer, or employee of Metropolitan shall use Metropolitan's seal, trademark, stationery, or other indicia of Metropolitan's identity, or facsimile thereof, in any solicitation for political contributions contrary to state or federal law.

#### **§ 7109. Improper Activities and the Reporting of Such Activities.**



Board members, officers, and employees shall not interfere with the proper performance of the official duties of others. Board members, officers, and employees are strongly encouraged to fulfill their own moral obligations to the public and Metropolitan by disclosing to the extent not expressly prohibited by law, improper activities within their knowledge. No Board member, officer, or employee shall directly or indirectly use or attempt to use the authority or influence of his or her position for the purpose of intimidating, threatening, coercing, commanding, or influencing any person with the intent of interfering with that person's duty to disclose improper activity.

**§ 7110. Protection of “Whistleblowers.”**

(a) No Board member, officer, or employee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Office of Ethics, other appropriate agency, Metropolitan office or department any information which, if true, would constitute: a work-related violation by a Metropolitan Board member, officer, or employee of any law or regulation, gross waste of agency funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of a Metropolitan official or employee, use of a Metropolitan office or position or of Metropolitan resources for personal gain, or a conflict of interest of a Metropolitan Board member, officer, or employee.

(b) No Board member, officer, or employee shall use or threaten to use any official authority or influence to effect any action as a reprisal against a Metropolitan Board member, officer, or employee who reports or otherwise brings to the attention of the Office of Ethics or other appropriate agency, Metropolitan office or department any information regarding the subjects described in Paragraph (a) of this Section.

(c) Any person who believes that he or she has been subjected to any action prohibited by this section may file a confidential complaint with the Office of Ethics. The Office of Ethics shall thereupon investigate the complaint. Upon the conclusion of its investigation, the Office of Ethics shall take appropriate action as otherwise provided by Metropolitan’s ethics rules and procedures.

(d) In the event the Office of Ethics has a conflict of interest in an investigation of the retaliation complaint, the General Manager shall refer the investigation of the retaliation complaint to the Equal Employment Opportunities Office and the Office of the General Counsel,

which shall take appropriate action as otherwise provided under Metropolitan rules and procedures and applicable law.

#### **§ 7111. Nondiscrimination and Harassment.**

Board members, officers, and employees shall not, in the performance of their official functions, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex (gender or pregnancy), sexual orientation, medical condition, genetic information, disability (physical or mental), protected veteran status, or other characteristic protected by law and they shall cooperate in achieving the equal opportunity and affirmative action goals and objectives of Metropolitan. Metropolitan Board members, officers, employees, and guests have the right to participate in official Metropolitan functions in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive, or disruptive. Harassment based on any characteristic protected by law will not be sanctioned nor tolerated. Reports of harassment are taken seriously, and appropriate action will be taken against individuals found to have engaged in harassing conduct. The prohibition against discrimination and harassment applies to all transactions of Metropolitan's business, whether at a Metropolitan-operated facility or an external site. Allegations regarding officer or employee conduct in violation of this section shall be reported to Metropolitan's Equal Employment Opportunity Investigations Staff. Allegations regarding director conduct in violation of this section shall be reported to the Ethics Officer or Board Chair.

#### **§ 7112. Limitation on Associations.**

Metropolitan shall not participate in any association structure or identification that is likely to mislead the public as to the association's true identity, its source of funding, or its purpose.

#### **§ 7113. Ethics Advice.**

Any Board member, officer or employee who is unsure of any right or obligation arising under this Code may seek the assistance of the Ethics Officer, request an opinion from the General Counsel of Metropolitan, or seek oral or written advice from the Fair Political Practices Commission.

### **Article 2**

#### **CONFLICT OF INTEREST**

Sec.

7120. Conflict of Interest; Method of Recusal

7121. Recusal Due to Bias

7122. “Revolving Door”; Additional Requirements

**§ 7120 Conflict of Interest; Method of Recusal.**

(a) A Board member who has a financial conflict of interest in a decision to be considered at a noticed public meeting shall do all of the following:

(1) Publicly identify the economic interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of the Political Reform Act.

(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded.

(b) Exceptions:

(1) When a Board member has a financial conflict of interest in a matter on the consent calendar, the member is not required to leave the room.

(2) Even when a financial conflict of interest is present, a Board member may appear before the Board as a member of the general public in order to represent himself or herself on matters related solely to his or her personal interests. The Board member also may listen to the public discussion of the matter with the members of the public. The member must comply with subsections (a)(1) (disclosure) and (a)(2) (recusal) and leave the dais to speak from the same area as members of the public. Such an appearance does not constitute making, participating in making, or influencing a governmental decision. Such “personal interests” include, but are not limited to:

(A) An interest in real property that is wholly owned by the official or members of his or her immediate family;

(B) A business entity that is wholly owned by the official or members of his or her immediate family;

(C) A business entity over which the official exercises sole direction and control, or over which the official and his or her spouse jointly exercises sole direction and control.

(c) Any other officer (as identified in Administrative Code Section 6400) or employee who has a financial conflict of interest in a decision shall promptly disclose such conflict in writing to his or her supervisor or appointing authority and not take any action with respect to such decision. A separate disclosure is required each time the officer or employee determines not to act with respect to a decision on the basis of a financial conflict of interest.

#### **§ 7121. Recusal Due to Bias.**

A Board member shall not make, participate in or attempt to influence any decision, if he or she is incapable of providing fair treatment to a matter before the Board due to bias, prejudice or because he or she has prejudged a matter.

#### **§ 7122. “Revolving Door”; Additional Requirements**

(a) In addition to complying with the post-employment restrictions set forth in the Political Reform Act and regulations of the Fair Political Practices Commission, for a period of one year after leaving office or employment with Metropolitan:

(1) Directors shall not represent for compensation non-governmental entities before Metropolitan.

(2) Other officers of Metropolitan (as identified in Administrative Code Section 6400) and Metropolitan employees shall not represent for compensation non-governmental entities before Metropolitan with regard to any issues over which that officer or employee had decision-making authority during the three years prior to leaving office or employment.

(b) For purposes of this Section, “represent” shall mean for compensation to actively support or oppose a particular decision in a proceeding by lobbying in person the officers or employees of Metropolitan, testifying in person before Metropolitan, or otherwise acting to influence the officers of Metropolitan.

(c) These restrictions shall not apply to representation of not-for-profit charitable entities before Metropolitan.

### **Article 3**

#### **GIFTS AND HONORARIA**

Sec.

7130. Gifts; Additional Requirements

7131. Honoraria; Additional Requirements

7132. Ticket Distribution Policy

##### **§ 7130. Gifts; Additional Requirements.**

(a) Board members, officers, and employees are subject to the rules and restrictions regarding the receipt of gifts set forth in the Political Reform Act and regulations of the Fair Political Practices Commission.

(b) No Board member, officer, or employee, shall receive or agree to receive, directly or indirectly, any compensation, reward or gift from any source, except from his or her appointing authority or employer, for any action related to the conduct of Metropolitan's business.

(c) A gift or gratuity, the receipt of which is prohibited under this Section shall be returned to the donor within 30 days. If return is not possible, the gift or gratuity shall be turned over to a public or charitable institution without being claimed as a charitable deduction and a report of such action, and the reasons why return was not feasible shall be made on the records of the Board or in the cases of officers and employees, on the records of Metropolitan. When possible, the donor also shall be informed of this action.

##### **§ 7131. Honoraria; Additional Requirements.**

Board members, officers, and employees are subject to the prohibition on the receipt of honoraria set forth in the Political Reform Act and regulations of the Fair Political Practices Commission.

##### **§ 7132. Ticket Distribution Policy.**

(a) Definitions: The following terms shall have the meanings set forth herein:

(1) “Metropolitan Official” shall mean and refer to a Metropolitan public official as that term is defined by Government Code section 82048, which includes directors, officers, and employees.

(2) “FPPC” shall mean and refer to the California Fair Political Practices Commission.

(3) “Policy” shall mean and refer to this Ticket Distribution Policy.

(4) “Ticket” or “pass” shall mean and refer to a ticket or pass as these terms are defined in FPPC Regulation 189044.1, as amended from time to time. (As of the time of the initial adoption of this policy the term “ticket” or “pass” means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.)

(b) Purpose of Policy. The purpose of this Policy is to ensure that all tickets and passes Metropolitan receives from public and private entities and individuals, which Metropolitan purchases or which Metropolitan owns because of its control of the event or facility, are distributed in furtherance of a public purpose of Metropolitan.

(c) Limitation. This Policy shall only apply to Metropolitan’s distribution of tickets and/or passes to, or at the request of a Metropolitan Official.

(d) Ticket Distribution Public Purposes. Metropolitan may accomplish one or more public purposes of Metropolitan through the distribution of tickets to, or at the request of, a Metropolitan Official. The following list is illustrative rather than exhaustive of the public purposes of Metropolitan that may be served by Metropolitan Officials attending events using tickets distributed to them by Metropolitan:

(1) Support of general employee morale, retention or to reward public service.

(2) Promotion of water conservation within Metropolitan’s service area and the State of California.

(3) Promotion of the quality of the water served by Metropolitan and the water service provided by Metropolitan.

(4) Promotion of Metropolitan recognition, visibility, and/or profile on a local, state, national or international scale.

(5) Recognition of a Metropolitan program or purpose.

(6) Promotion of Metropolitan issues and interests.

(e) Public Purpose Requirement. The distribution of any ticket and/or pass by Metropolitan to, or at the request of, a Metropolitan Official shall accomplish one or more public purposes of Metropolitan.

(f) Transfer Prohibition. The transfer by any Metropolitan Official of any ticket distributed to that official pursuant to this policy to any other person is prohibited except to members of the official's immediate family for their personal use, or to no more than one guest solely for their attendance at the event.

(g) Designation of Agency Head. For the purpose of implementing and posting this policy, and completing and posting the required FPPC form for distribution of tickets, Metropolitan's General Manager or his designee, is the responsible official.

(h) Website Posting. This Ticket Distribution Policy shall be posted on Metropolitan's public website in a prominent fashion and the link to this website shall be submitted to the FPPC for posting on the FPPC website.

(i) The distribution of a ticket or tickets pursuant to this Policy shall be posted on Metropolitan's website in a prominent fashion within forty-five (45) days after the ticket distribution. Such posting shall use the required FPPC form.

## **Article 4**

### **ENFORCEMENT**

Sec.

7140. Violation of Ethics Provisions

#### **§ 7140. Violation of Ethics Provisions**

(a) When the Ethics Officer concludes, with the advice of General Counsel, that a preponderance of evidence exists that indicates that a member of the Board is in non-compliance with state law, the matter will be referred to the Fair Political Practices Commission, Attorney General, or District Attorney, as applicable, with notice of the referral provided to the Audit and Ethics Committee, director and the appointing member agency at the time of the referral. When

the Ethics Officer concludes, after investigation, with the advice of General Counsel, that preponderance of evidence exists that indicates that a member of the Board is in non-compliance with the ethics provisions contained in the Administrative Code, the matter will be referred to a designated subcommittee of the Audit and Ethics Committee, with prompt notice to the Board member. A director shall not participate in the selection of, or as a member of this designated subcommittee with regard to any matters in which the director is a subject of the investigation. This subcommittee shall make a recommendation to the Executive Committee for appropriate action, which can include, but is not limited to: (1) find that the complaint was unsubstantiated or substantiated; (2) public or private censure by the Executive Committee with or without a copy of the letter to the appointing agency; (3) temporary or permanent removal of the Board member from one or more Board committees; (4) request to the appointing agency for replacement of the Board member; or (5) any other sanction determined by the Executive Committee to be appropriate and reasonable based upon the nature of the violation. All sanctions are subject to review of General Counsel for legal compliance. The Chair will be responsible for carrying out the determination of the Executive Committee. For the purposes of this section, "preponderance of evidence" means that the evidence indicates it is more likely than not that a violation has occurred.

(b) The Ethics Officer, prior to making findings on the investigation of a complaint, shall notify the Director, officer, or employee of the investigation and provide him or her with an opportunity to submit any material he or she would like the Ethics Officer to review and to meet with the Ethics Officer.

(c) Any Director, including one who has brought a concern to the Ethics Office, who is dissatisfied with a determination by the Ethics Officer that no violation or non-compliance occurred, may appeal to the Executive Committee for further review.

(d) Violations of the ethics provisions contained in the Administrative Code by officers or employees will be handled through existing disciplinary procedures. Findings from the Ethics Officer will be referred to the appropriate Department Head for further action. An officer or employee who is subject to a finding of non-compliance with the ethics provisions contained in the Administrative Code may challenge such determination pursuant to Section 6218(b) and (c) of the Administrative Code or the applicable memorandum of understanding.

(e) The Ethics Officer shall review and summarize all ethics complaints in a monthly report to the Board of Directors. The General Counsel shall receive a copy of all findings, reports and actions concerning complaints.

## **Chapter 2**



## **DISCLOSURE OF ECONOMIC INTERESTS**

### Article

- |   |   |      |
|---|---|------|
| 1 | Conflict of Interest Code                               | 7200 |
| 2 | Designated Positions and Categories of Disclosure Index | 7210 |

### **Article 1**

#### **Conflict of Interest Code**

##### Sec.

7200. Political Reform Act - Incorporation of Title 2, California Code of Regulations

7205. Filing of Statements of Economic Interest

#### **§ 7200. Political Reform Act - Incorporation of the Title 2, California Code of Regulations.**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation, (2 Cal. Code of Regs. Sec. 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act.

Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the following sections in this Division VII, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of The Metropolitan Water District of Southern California ("Metropolitan").

#### **§ 7205. Filing of Statement of Economic Interests.**

Individuals holding designated positions shall file their statements of economic interests with Metropolitan, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) Upon receipt of the statements for the Board of Directors and other designated Public Officials Who Manage Public Investments (see Section 7221), Metropolitan shall make and retain copies and forward the originals to the Fair Political Practices Commission. All other statements will be retained by Metropolitan.

### **Article 2**

## DESIGNATED POSITIONS AND CATEGORIES OF DISCLOSURE INDEX

Sec.

7210. Reportable Interests

7211. Designated Positions

7212. Public Officials Who Manage Public Investments

7213. Consultants and New Positions

### § 7210. Reportable Interests

A reportable interest includes any investment, business position, source of income (including gifts, travel payments, or loans), or interest in real property.

- (a) For investments, business positions, and sources of income, an interest is reportable if it is engaged in the industries, activities, or services described in the disclosure category applicable to the designated position.
- (b) For interests in real property, an interest is reportable if it falls within the description for Category 11.

Category	Subject Matter	Disclosable Interests
<b>1</b>	<i>Full disclosure (excluding real property)</i>	Any interest within Categories 2 through 10.
<b>2</b>	<i>Legal, Audit, Ethics</i>	Law practice, auditing, public accounting, ethics and compliance, investigations, risk management, workers compensation, insurance, or related field.
<b>3</b>	<i>Finance</i>	Banking, investments, financial services, insurance, financial analysis, accounting, municipal finance, rate-setting, or related field.
<b>4</b>	<i>Engineering &amp; Operations</i>	Engineering, design, construction, power operations, project management, planning, environmental impacts analysis, geosciences, water treatment, water quality, water infrastructure operations and maintenance, operations related health and safety or related field
<b>5</b>	<i>Information Technology</i>	Information technology, computer hardware, software, graphics, or related field.

<b>6</b>	<i>Water Resource Management, Bay-Delta, Colorado River</i>	Water resource management, planning, economics, engineering, water conservation, or related field.
<b>7</b>	<i>Real Property Development</i>	Real estate transactions, appraisals, financing, development, or related field.
<b>8</b>	<i>Human Resources</i>	Human resources planning, training, administration or related field. Any employee association or labor union.
<b>9</b>	<i>External Affairs</i>	Public policy, advocacy, public relations, lobbying, media, outreach, communications, travel, or related field.
<b>10</b>	<i>Administrative Services</i>	<p>Goods or services of the type used or procured by the designated position's department, office, division, or area.</p> <ul style="list-style-type: none"> <li>- Examples of applicable goods may include: office equipment, office supplies, document management materials, vehicle parts, security-related materials, or maintenance materials.</li> <li>- Examples of applicable services may include: document support, archiving, records management, building services, maintenance services, security services, or automotive fleet services.</li> </ul>
<b>11</b>	<i>Real Property</i>	Any interest in real property: (a) within the jurisdiction that is used by Metropolitan, or is of a type that Metropolitan has identified for potential acquisition, as well as real property within two miles of the property used or the potential site; (b) within two miles of any parcel or other location proposed for annexation to Metropolitan; or (c) within two miles of any parcel or other location outside the jurisdiction that Metropolitan has identified for acquisition, sale, or as a potential
<b>12</b>	<i>Subject of audit or investigation</i>	Any investment, source of income (including gifts, travel payments, or loans) or real property that was the subject of an audit or investigation assignment during the period covered by the statement

### **§ 7211. Designated Positions.**

Listed below are the designated positions and the disclosure categories applicable for employees serving in those positions. Positions designated as public officials who manage public

investments (indicated by “87200” in category field) file statements directly with the Fair Political Practices Commission based upon Government Code disclosure criteria.

[DESIGNATED POSITIONS CHART OMITTED – NO PROPOSED CHANGES]

#### **§ 7212. Public Officials Who Manage Public Investments.**

The following positions are not covered by the conflict-of-interest code because they must file under Government Code Section 87200 and, therefore, are listed for information purposes only:

Members of the Board of Directors  
General Manager  
Chief Financial  
Officer Treasurer  
Assistant Treasurer  
Budget and Treasury Manager

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Section 87200.

#### **§ 7213. Consultants and New Positions.**

A “designated position” includes an individual serving in a new position in which the individual makes or participates in the making of decisions and an individual who is a consultant as defined in FPPC Regulation 18701. These individuals must file under the broadest disclosure set forth in this conflict-of-interest code. However, the Ethics Officer may determine disclosure that is tailored to the range of duties or contractual obligations for such individuals as long a clear explanation of the duties and disclosure requirements is provided in writing. Individuals serving in a new position must file under this provision until the position is added to this conflict-of-interest code. The written determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008, 82019; FPPC Regulations 18219 and 18734.)

Consultants providing the services of designated positions shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Ethics Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Ethics Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Sec. 81008.)