The Metropolitan Water District of Southern California



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

L&C Committee

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

Legal and Claims Committee - Final - Revised 1

Meeting with Board of Directors *

December 9, 2024

11:00 a.m.

Monday, December 9, 2024 Meeting Schedule

09:00 a.m. EOT 11:00 a.m. LEGAL 01:30 p.m. Break 02:00 p.m. OWS

Agendas, live streaming, meeting schedules, and other board materials are available here:

https://mwdh2o.legistar.com/Calendar.aspx. Written public comments received by 5:00 p.m. the business days before the meeting is scheduled will be posted under the Submitted Items and Responses tab available here:

https://mwdh2o.legistar.com/Legislation.aspx.

If you have technical difficulties with the live streaming page, a listen-only phone line is available at 1-877-853-5257; enter meeting ID: 873 4767 0235.

Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via in-person or teleconference. To participate via teleconference 1-833-548-0276 and enter meeting ID: 876 9484 9772 or to join by computer click here.

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

525 Via La Selva • Redondo Beach, CA 90277
Bluffton Library • 120 Palmetto Way • Bluffton, SC 29910
8700 Beverly Boulevard, Room 342 • Los Angeles, CA 90048
3008 W. 82nd Place • Inglewood, CA 90305
Conference Room 2nd Floor • 1545 Victory Blvd 2nd FL • Glendale CA 91505

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

1. Opportunity for members of the public to address the committee on matters within the committee's jurisdiction (As required by Gov. Code Section 54954.3(a))

2. MANAGEMENT ANNOUNCEMENTS AND HIGHLIGHTS

A. General Counsel's report of monthly activities

21-4026

Attachments: 12092024 LC 2A Report

** CONSENT CALENDAR ITEMS -- ACTION **

3. CONSENT CALENDAR OTHER ITEMS - ACTION

A. Approval of the Minutes of the Special Legal and Claims Committee for November 18, 2024 (Copies have been submitted to each Director, any additions, corrections, or omissions)

<u>21-4027</u>

<u>Attachments</u>: <u>12092024 Sp LC 3A (11182024) Minutes</u>

4. CONSENT CALENDAR ITEMS - ACTION

7-3 Authorize an increase of \$250,000, to a maximum amount not to exceed \$500,000, for workers' compensation legal services contract with the law firm Hanna, Brophy, MacLean, McAleer & Jensen, LLP; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

21-4028

Attachments: 12102024 LC 7-3 B-L

12102024 LC 7-3 Presentation

** END OF CONSENT CALENDAR ITEMS **

5. OTHER BOARD ITEMS - ACTION

8-5 Approve amendments to the Metropolitan Water District Administrative Code to conform surplus water provisions to current law and practice, update the list of active District funds, and clarify employee benefits for unrepresented employees; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [DEFERRED on 11/27/2024]

21-4029

6. BOARD INFORMATION ITEMS

NONE

7. COMMITTEE ITEMS

21-4030

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Report on litigation in San Diego County Water Authority v. a. Metropolitan Water District of Southern California, et al., San Francisco County Superior Court Case Nos. CPF-10-510830, CPF-12-512466. CPF-14-514004. CPF-16-515282 . CPF-16-515391, CGC-17-563350, and CPF-18-516389; the appeals of the 2010 and 2012 actions. Court of Appeal for the First Appellate District Case Nos. A146901, A148266, A161144, and A162168, and California Supreme Court Case No. S243500; the petition for extraordinary writ in the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case No. A155310; the petition for extraordinary writ in the second 2016 action, Court of Appeal for the First Appellate District Case No. A154325 and California Supreme Court Case No. S251025; the Metropolitan Water District of Southern California v. San Diego County Water Authority cross-complaints in the 2014, 2016, and 2018 actions; and the appeals of the 2014, 2016, and 2018 actions, Court of Appeal for the First Appellate District Case No. A170156; including report on discussions regarding potential settlement of the 2014, 2016, and 2018 actions, including the cross-complaints and Francisco County Superior appeals. San Court Nos.CPF-14-514004, CPF-16-515282, and CPF-18-516389 and Court of Appeal for the First Appellate District Case No. A170156 [Conference with legal counsel – existing litigation; may be heard in closed session pursuant to Gov. Code Sections 54956.9(d)(1)]

8. FOLLOW-UP ITEMS

NONE

9. FUTURE AGENDA ITEMS

10. ADJOURNMENT

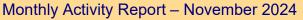
NOTE: This committee reviews items and makes a recommendation for final action to the full Board of Directors. Final action will be taken by the Board of Directors. Committee agendas may be obtained on Metropolitan's Web site https://mwdh2o.legistar.com/Calendar.aspx. This committee will not take any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

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

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



Office of the General Counsel





Matters Concluded and/or Terminated

Baker Electric, Inc. v. Metropolitan (Los Angeles County Superior Court)

On June 8, 2021, Baker filed a complaint in the Superior Court of Los Angeles County in connection with work performed on the Colorado River Aqueduct cable replacement project seeking approximately \$16 million in damages for alleged delays and extra work. Metropolitan subsequently filed a cross-complaint for approximately \$9 million for defective work and liquidated damages. As previously reported, Metropolitan entered into a

settlement agreement with Baker Electric and its subcontractors on September 26, 2024. On November 11, 2024, the case was dismissed in its entirety.

Darren Reese v. Metropolitan (Riverside County Superior Court)

On November 25, 2024, the Riverside County Superior Court entered a dismissal with prejudice of this case. The dismissal was due to the parties' settlement of the case.

Matters Received

<u>Category</u>	Received	<u>Description</u>		
Government Code Claims	3	Claims relating to: (1) an accident involving an MWD vehicle; (2) Claimant slipped and fell from stepping out of a vehicle from Lyft into a puddle; and (3) vehicle rented from Alamo by an MWD employee on MWD-related business that was damaged in hotel parking lot when MWD employee was not in the vehicle		
Subpoenas	1	Deposition Subpoena for Personal Appearance, served by Defendant Wells Fargo Bank, N.A. in the case <i>State of California ex. Rel. Edelweise Fund, LLC v. JP Morgan Chase Bank, N.A., et al.,</i> San Francisco County Superior Court, Case No. CGC-14-540777, seeking MWD's testimony regarding the third party advisors retained, selection of entities to provide, MWD involvement in connection with the Variable Rate Demand Obligations (VRDOs) issued by MWD that are subject of this action		
Requests Pursuant to the Public Records Act	17	Requestor	Documents Requested	
		22nd Century Technologies	Winning proposals and scoring sheets for Temporary Labor Services – Professional / Administrative, Scientific and Technical	
		CCS Global Tech	Winning proposals, awarded contracts, proposal evaluation tally sheets, and bid tabulations for Request for Proposal for Temp Labor Staffing Professional Administrative	

Requestor	Documents Requested
Center for Contract Compliance	Certified payroll records and fringe benefit statement for J. Orozco Enterprises Inc. dba Orozco Landscape and Tree Co.
Collins Kim LLP (2 requests)	(1) MWD responses to PRA requests re communications to or from Katano Kasaine, EEO and/or ethics complaints against Adel Hagekhalil from September 1, 2021 to present and related investigation reports, communications by and/or between Adel Hagekhalil and certain persons from September 1, 2021 to the present; and (2) all communications between Adel Hagekhalil and Director Lois Fong-Sakai
Deltek	Contract information for the Request for Qualifications for On-Call Value Engineering, Meeting Facilitation and Technical Engineering Services
Engineering Design & Testing Corp.	Documents relating to MWD assets, including transmission lines, storage, control devices such as valves or gates, and monitoring stations in the Tujunga Valley
Gibbs Giden Locher Turner Senet & Wittbrodt	Payment bond for James W. Fowler Company for the Interstate 215 Freeway Tunnel Crossing for the Perris Valley Pipeline
Los Angeles Times	Final EEO investigation report regarding discriminatory remarks about GM Adel Hagekhalil and related communications between MWD and member agencies about the investigation
MAPA/AFSCME Local 1001	Solicitation documents relating to the hiring of Shaw HR Consulting and employment contracts for Adel Hagekhalil, Mohsen Mortada, Martin Schlageter, and Elizabeth Crosson
Mott MacDonald	Task orders, date contract expires, and name of MWD Project Manager for the Request for Qualifications for Tunnel Design Engineering
PMCS Group	Request for proposal, all submittals, and evaluation sheets relating to the Request for Proposal for Pure Water Southern

Services

California Program Management Support

Requestor	Documents Requested
Private Citizen	Claim correspondence from an MWD employee
SmartProcure	Purchase order data including purchase order number, purchase order date, line item details, line item quantity, line item price, vendor information from August 11, 2024 to current
Sonoma Water	Bidders lists, requests for proposals, evaluation forms, and reports from consultants on records management practices within the past 10 years
Tryfacta (2 requests)	(1) Data on awarded vendors and amount spent under the contract for Skilled/Technical Temp Labor Staffing; and (2) Proposals, amount of spend to date, and list of vendors under contract for On-Call Information Technology Services

PLEASE NOTE

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

Bay-Delta and SWP Litigation

Subject Status

Delta Conveyance Project CEQA Cases

City of Stockton v. California Department of Water Resources

County of Butte v. California Department of Water Resources

County of Sacramento v. California Department of Water Resources

County of San Joaquin et al. v. California Department of Water Resources

Sacramento Area Sewer District v. California Department of Water Resources

San Francisco Baykeeper, et al. v. California Department of Water Resources

Sierra Club, et al. v. California Department of Water Resources

South Delta Water Agency and Rudy Mussi Investment L.P. v. California Department of Water Resources

Tulare Lake Basin Water Storage District v. California Department of Water Resources

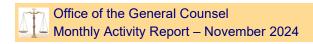
Sacramento County Superior Ct. (Judge Acquisto)

- DWR is the only named respondent/defendant
- All alleged CEQA violations
- Most allege violations of the Delta Reform Act,
 Public Trust Doctrine and Delta and
 Watershed Protection Acts
- Two allege violations of the fully protected bird statute
- One alleges violations of Proposition 9 (1982) and the Central Valley Project Act
- Deadline for DWR to prepare the administrative record extended to Nov 29, 2024
- June 20, 2024 trial court issued a preliminary injunction halting pre-construction geotechnical soil testing until DWR certifies that the DCP is consistent with the Delta Plan
- Aug. 19, 2024 DWR appealed the injunction
- Aug. 23, 2024 trial court denied DWR's motion to modify or stay the preliminary injunction
- Aug. 29, 2024 DWR filed a petition in the court of appeal seeking to stay the preliminary injunction pending a ruling on the merits of its appeal
- Oct. 18, 2024 stay petition denied.
- Oct. 24, 2024 cases ordered consolidated for all purposes under Tulare Lake Basin Water Storage District v. California Department of Water Resources
- April 4, 2025 next case management conference
- Briefing deadlines on the appeals will begin once the clerk's transcript of trial court proceedings is filed with the court of appeal

Subject	Status
Delta Conveyance Project Water Right Permit Litigation Central Delta Water Agency et al. v. State Water Resources Control Board Fresno County Superior Court (Judge Hamilton)	 Complaint filed April 16, 2024, alleges that the State Water Board must rule on DWR's 2009 petition to extend the time to perfect its State Water Project rights before the State Water Board may begin to adjudicate DWR's petition to change its water rights to add new points of diversion for the Delta Conveyance Project Sept. 19 hearing date for State Water Resources Control Board demurrer (motion to dismiss) and motion to strike and DWR's demurrer (motion to dismiss) taken off calendar by court-entered stipulation of the parties after DWR withdrew the 2009 petition to extend its SWP water rights Dec. 17, 2024 Case Status Conference
Consolidated DCP Revenue Bond Validation Action and CEQA Case Sierra Club, et al. v. California Department of Water Resources (CEQA, designated as lead case) DWR v. All Persons Interested (Validation) Sacramento County Superior Ct. (Judge Kenneth C. Mennemeier) 3d District Court of Appeal Case No. C100552	 Validation Action Final Judgment and Final Statement of Decision issued January 16, 2024 ruling the bonds are not valid DWR, Metropolitan and other supporting public water agencies filed Notices of Appeal on or before the February 16, 2024 deadline Eight opposing groups filed Notices of Cross Appeals by March 27, 2024 April 16, 2024 DWR moved to dismiss the cross appeals as untimely October 4, 2024 DWR's and Supporting SWP Contractors' Joint Opening Brief and Appellants' Appendix filed October 15, 2024 DWR's and Supporting SWP Contractors' joint motion for calendar preference was granted; the appeal will be accorded priority pursuant to statutory provisions, which should accelerate oral argument and the court's decision once briefing is completed in about March 2025 Respondents' and Cross-Appellants' briefs due December 3, 2024 Nov. 26, 2024 Respondents/Cross-Appellants moved for a 30-day extension of time Nov. 27, 2024 DWR, Metropolitan and Coachella Valley Water District filed an opposition to the time extension motion

Subject	Status
SWP-CVP 2019 BiOp Cases	SWC intervened in both PCFFA and CNRA cases
Pacific Coast Fed'n of Fishermen's Ass'ns, et al. v. Raimondo, et al. (PCFFA)	 Federal defendants reinitiated consultation on Oct 1, 2021
Calif. Natural Resources Agency, et al. v. Raimondo, et al. (CNRA)	March 28, 2024 order extending the Interim Operations Plan and the stay of the cases through the issuance of a new Record of
Federal District Court, Eastern Dist. of California, Fresno Division (Judge Thurston)	Decision or December 20, 2024, whichever is first
(Juage Fridistori)	
2020 CESA Incidental Take Permit Cases	Administrative records certified in October 2023
Coordinated Case Name <i>CDWR Water Operations Cases</i> , JCCP 5117 (Coordination Trial Judge Gevercer)	 Order entered to delay setting a merits briefing schedule by 90 days and extending the time to bring the action to trial by six months
Metropolitan & Mojave Water Agency v. Calif. Dept. of Fish & Wildlife, et al. (CESA/CEQA/Breach of Contract)	 Deadline to bring all the coordinated cases to trial is now December 5, 2025
State Water Contractors & Kern County Water Agency v. Calif. Dept. of Fish & Wildlife, et al. (CESA/CEQA)	
Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources (CEQA)	
San Bernardino Valley Municipal Water Dist. v. Calif. Dept. of Water Resources, et al. (CEQA/CESA/ Breach of Contract/Takings) Sierra Club, et al. v. Calif. Dept. of Water Resources (CEQA/Delta Reform Act/Public Trust)	
North Coast Rivers Alliance, et al. v. Calif. Dept. of Water Resources (CEQA/Delta Reform Act/Public Trust)	
Central Delta Water Agency, et. al. v. Calif. Dept. of Water Resources (CEQA/Delta Reform Act/Public Trust/ Delta Protection Acts/Area of Origin)	
San Francisco Baykeeper, et al. v. Calif. Dept. of Water Resources, et al. (CEQA/CESA)	

Subject	Status
2024 CESA Incidental Take Permit Cases San Francisco Baykeeper, et al. v. California Department of Water Resources (CEQA, Delta Reform Act, Public Trust Doctrine) Sacramento County Superior Ct. Case No. TBD (Judge TBD) California Sportfishing Protection Alliance, et al. v. California Department of Water Resources, et al. (CEQA, CESA, Delta Reform Act, Public Trust Doctrine) Sacramento County Superior Ct. Case No. 24WM000181 (Judge Arquelles) Tehama-Colusa Canal Authority, et al. v. California Department Of Water Resources, et al. (CEQA) Sacramento County Superior Ct. Case No. 24WM000183 (Judge Rockwell)	Cases challenge DWR's Final EIR and the California Department of Fish and Wildlife's California Endangered Species Act Incidental Take Permit for the updated Long Term Operations plan for the State Water Project
CDWR Environmental Impact Cases Sacramento Superior Ct. Case No. JCCP 4942, 3d DCA Case No. C100302 (20 Coordinated Cases) Validation Action DWR v. All Persons Interested CEQA 17 cases CESA/Incidental Take Permit 2 cases (Judge Arguelles)	 Cases dismissed after DWR rescinded project approval, bond resolutions, decertified the EIR, and CDFW rescinded the CESA incidental take permit January 10, 2020 – Nine motions for attorneys' fees and costs denied in their entirety May 11, 2022, court of appeal reversed the trial court's denial of attorney fees and costs Coordinated cases remitted to trial court for re-hearing of fee motions consistent with the court of appeal's opinion Dec. 26, 2023 order denying fee motions Six notices of appeal filed Appellants' opening briefs and appendices filed Oct. 29 and Oct. 31 Jan. 31, 2025 deadline for DWR's opposition brief
COA Addendum/ No-Harm Agreement North Coast Rivers Alliance v. DWR Sacramento County Superior Ct. (Judge Rockwell)	 Plaintiffs allege violations of CEQA, Delta Reform Act & public trust doctrine Westlands Water District and North Delta Water Agency granted leave to intervene Metropolitan & SWC monitoring Deadline to prepare administrative record last extended to Nov. 18, 2022



Subject	Status
Water Management Tools Contract Amendment California Water Impact Network et al. v. DWR Sacramento County Superior Ct. (Judge Acquisto) North Coast Rivers Alliance, et al. v. DWR Sacramento County Super. Ct. (Judge Acquisto)	 Filed September 28, 2020 CWIN and Aqualliance allege one cause of action for violation of CEQA NCRA et al. allege four causes of action for violations of CEQA, the Delta Reform Act, Public Trust Doctrine and seeking declaratory relief SWC motion to intervene in both cases granted Dec. 20, 2022 DWR filed notice of certification of the administrative record and filed answers in both cases

San Diego County Water Authority v. Metropolitan, et al. Cases **Date Status** 2014, 2016 Sept. 30 Based on the Court of Appeal's Sept. 21 opinion in the parties' earlier 2010/2012 cases, and the Board's Sept. 28 authorization, Metropolitan paid \$35,871,153.70 to SDCWA for 2015-2017 Water Stewardship Rate charges under the Exchange Agreement and statutory interest. 2017 July 23, 2020 Dismissal without prejudice entered. 2018 April 11, 2022 Court entered order of voluntary dismissal of parties' WaterFix claims and cross-claims. 2014, 2016, June 11, 2021 Deposition of non-party witness. 2018 Aug. 25 Hearing on Metropolitan's motion for further protective order regarding deposition of non-party witness. Court issued order consolidating the 2014, 2016, and 2018 cases for Aug. 25 all purposes, including trial. Aug. 30 Court issued order granting Metropolitan's motion for a further protective order regarding deposition of non-party witness. Aug. 31 SDCWA filed consolidated answer to Metropolitan's cross-complaints in the 2014, 2016, and 2018 cases. Feb. 22 Metropolitan and SDCWA each filed motions for summary adjudication. April 13 Hearing on Metropolitan's and SDCWA's motions for summary adjudication. May 4 Court issued order granting Metropolitan's motion for summary adjudication on cross-claim for declaratory relief that the conveyance facility owner, Metropolitan, determines fair compensation, including any offsetting benefits; and denying its motion on certain other crossclaims and an affirmative defense. Court issued order granting SDCWA's motion for summary May 11 adjudication on cross-claim for declaratory relief in the 2018 case regarding lawfulness of the Water Stewardship Rate's inclusion in the wheeling rate and transportation rates in 2019-2020; certain crossclaims and affirmative defenses on the ground that Metropolitan has a duty to charge no more than fair compensation, which includes reasonable credit for any offsetting benefits, with the court also stating that whether that duty arose and whether Metropolitan breached that duty are issues to be resolved at trial; affirmative defenses that SDCWA's claims are untimely and SDCWA has not satisfied claims presentation requirements; affirmative defense in the 2018 case that SDCWA has not satisfied contract dispute resolution requirements;

claim, cross-claims, and affirmative defenses regarding applicability of

Cases	Date	Status
2014, 2016, 2018 (cont.)		Proposition 26, finding that Proposition 26 applies to Metropolitan's rates and charges, with the court also stating that whether Metropolitan violated Proposition 26 is a separate issue; and cross-claims and affirmative defenses regarding applicability of Government Code section 54999.7, finding that section 54999.7 applies to Metropolitan's rates. Court denied SDCWA's motion on certain other cross-claims and affirmative defenses.
	May 16-27	Trial occurred but did not conclude.
	June 3, June 24, July 1	Trial continued, concluding on July 1.
	June 24	SDCWA filed motion for partial judgment.
	July 15	Metropolitan filed opposition to motion for partial judgment.
	Aug. 19	Post-trial briefs filed.
	Sept. 14	Court issued order granting in part and denying in part SDCWA's motion for partial judgment (granting motion as to Metropolitan's dispute resolution, waiver, and consent defenses; denying motion as to Metropolitan's reformation cross-claims and mistake of fact and law defenses; and deferring ruling on Metropolitan's cost causation cross-claim).
	Sept. 21	Metropolitan filed response to order granting in part and denying in part SDCWA's motion for partial judgment (requesting deletion of Background section portion relying on pleading allegations).
	Sept. 22	SDCWA filed objection to Metropolitan's response to order granting in part and denying in part SDCWA's motion for partial judgment.
	Sept. 27	Post-trial closing arguments.
	Oct. 20	Court issued order that it will rule on SDCWA's motion for partial judgment as to Metropolitan's cost causation cross-claim simultaneously with the trial statement of decision.
	Dec. 16	Parties filed proposed trial statements of decision.
	Dec. 21	SDCWA filed the parties' stipulation and proposed order for judgment on Water Stewardship Rate claims for 2015-2020.
	Dec. 27	Court entered order for judgment on Water Stewardship Rate claims for 2015-2020 as proposed by the parties.
	March 14, 2023	Court issued tentative statement of decision (tentatively ruling in Metropolitan's favor on all claims litigated at trial, except for those ruled to be moot based on the rulings in Metropolitan's favor)

Cases	Date	Status
2014, 2016, 2018 (cont.)	March 14	Court issued amended order granting in part and denying in part SDCWA's motion for partial judgment (ruling that Metropolitan's claims for declaratory relief regarding cost causation are not subject to court review).
	March 29	SDCWA filed objections to tentative statement of decision
	April 3	Metropolitan filed response to amended order granting in part and denying in part SDCWA's motion for partial judgment (requesting deletion of Background section portion relying on pleading allegations).
	April 25	Court issued statement of decision (ruling in Metropolitan's favor on all claims litigated at trial, except for those ruled to be moot based on the rulings in Metropolitan's favor)
	Jan. 10, 2024	Parties filed joint status report and stipulated proposal on form of judgment
	Jan. 17	Court issued order approving stipulated proposal on form of judgment (setting briefing and hearing)
	April 3	Court entered final judgment
	April 3	Court issued writ of mandate regarding demand management costs
	April 3	SDCWA filed notice of appeal
	April 17	Metropolitan filed notice of cross-appeal
	May 3	Participating member agencies filed notice of appeal
	May 31	Parties filed opening briefs on prevailing party
	June 28	Parties filed response briefs on prevailing party
	July 17	Court issued tentative ruling that there is no prevailing party due to mixed results
	July 18	Hearing on prevailing party; court took matter under submission, stating it expects to rule in mid-Aug.
	Aug. 15	Court issued ruling that Metropolitan is the prevailing party and is entitled to SDCWA's payment of its litigation costs and fees under the Exchange Agreement
	Sept. 25	Court issued order extending time for Metropolitan to file its memorandum of costs and motion for attorneys' fees
	Sept. 27	Metropolitan filed its memorandum of costs in the amount of \$372,788.64



Cases	Date	Status
2014, 2016, 2018 (cont.)	Oct. 18	Parties filed a joint application to extend the briefing schedule in the Court of Appeal
	Oct. 21	Court of Appeal granted parties' joint briefing schedule; briefing begins April 11, 2025 and ends October 10, 2025
	Oct. 29	SDCWA filed its motion to tax (reduce) Metropolitan's costs
	Dec. 11	Hearing on SDCWA's motion to tax (reduce) Metropolitan's costs
	Nov. 26	SDCWA withdrew its motion to tax (reduce) Metropolitan's costs and requested that the court cancel the Dec. 11 motion hearing
All Cases	April 15, 2021	Case Management Conference on 2010-2018 cases. Court set trial in 2014, 2016, and 2018 cases on May 16-27, 2022.
	April 27	SDCWA served notice of deposition of non-party witness.
	May 13-14	Metropolitan filed motions to quash and for protective order regarding deposition of non-party witness.
	June 4	Ruling on motions to quash and for protective order.

Outside Counsel Agreements					
Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum	
Albright, Yee & Schmit, APC	Employment Matter	216064	06/24	\$100,000 \$175,000	
	Employment Matter	220423	10/24	\$100,000	
	Employment Matter	<u>222524</u>	11/24	<u>\$50,000</u>	
Andrade Gonzalez LLP	MWD v. DWR, CDFW and CDNR Incidental Take Permit (ITP) CESA/CEQA/Contract Litigation	185894	07/20	\$250,000	
Aleshire & Wynder	Oil, Mineral and Gas Leasing	174613	08/18	\$50,000	
Anzel Galvan LLP	Bond Issues	220411	07/24	N/A	
Atkinson Andelson	Employee Relations	59302	04/04	\$1,316,937	
Loya Ruud & Romo	Delta Conveyance Project Bond Validation-CEQA Litigation	185899	09/21	\$250,000	
	MWD Drone and Airspace Issues	193452	08/20	\$50,000	
	AFSCME Local 1902 in Grievance No. 1906G020 (CSU Meal Period)	201883	07/12/21	\$30,000	
	AFSCME Local 1902 v. MWD, PERB Case No. LA-CE-1438-M	201889	09/15/21	\$20,000	
	MWD MOU Negotiations**	201893	10/05/21	\$100,000	
BDG Law Group, APLC	Gutierrez v. MWD	216054	03/24	\$250,000	
Best, Best & Krieger	Bay-Delta Conservation Plan/Delta Conveyance Project (with SWCs)	170697	08/17	\$500,000	
	Environmental Compliance Issues	185888	05/20	\$100,000	
	Grant Compliance Issues	211921	05/23	\$150,000	
	Pure Water Southern California	207966	11/22	\$100,000	
	Progressive Design Build	216053	04/24	\$250,000	

Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP	FCC and Communications Matters	110227	11/10	\$100,000
Brown White & Osborn LLP	Employment Matter	<u>222523</u>	10/24	<u>\$50,000</u>
<u>LLF</u>	Employment Matter	<u>222525</u>	11/24	<u>\$50,000</u>
Buchalter, a Professional Corp.	Union Pacific Industry Track Agreement	193464	12/07/20	\$50,000
Burke, Williams & Sorensen, LLP	Real Property – General	180192	01/19	\$100,000
Solelisell, LLF	Labor and Employment Matters	180207	04/19	\$75,000
	General Real Estate Matters	180209	08/19	\$200,000
	Rancho Cucamonga Condemnation Actions (Grade Separation Project)	207970	05/22	\$100,000
Law Office of Alexis S.M. Chiu*	Bond Counsel	200468	07/21	N/A
S.IVI. CITIU	Bond Counsel	220409	07/24	N/A
Castañeda + Heidelman LLP	Employment Matter	216055	04/24	\$100,000
Cislo & Thomas LLP	Intellectual Property	170703	08/17	\$100,000
Curls Bartling P.C.*	Bond Counsel	200470	07/21	N/A
Davis Wright Tremaine, LLP	Advice and Representation re Potential Litigation	220424	10/24	\$250,000
Drooz Legal, LLP	Employment Matter	220402	08/24	\$100,000
Duane Morris LLP	SWRCB Curtailment Process	138005	09/14	\$615,422
Duncan, Weinberg, Genzer & Pembroke	Power Issues	6255	09/95	\$3,175,000
Ellison, Schneider, Harris & Donlan	Colorado River Issues	69374	09/05	\$175,000
Harris & Donian	Issues re SWRCB	84457	06/07	\$200,000

Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Erin Joyce Law, PC	Employment Matter	216039	11/23	\$100,000
	Ethics Advice	216058	05/24	\$100,000
Glaser Weil Fink Howard Jordan & Shapiro	Employment Matter	220395	7/24	\$150,000
Greines, Martin, Stein & Richland LLP	SDCWA v. MWD	207958	10/22	\$100,000
& Niciliand LLF	Colorado River Matters	207965	11/22	\$100,000
Hackler Flynn & Associates	Government Code Claim Advice	216059	5/24	\$150,000
Haden Law Office	Real Property Matters re Agricultural Land	180194	01/19	\$50,000
Hanna, Brophy, MacLean, McAleer & Jensen, LLP	Workers' Compensation	211926	06/23	\$200,000 \$250,000
Hanson Bridgett LLP	SDCWA v. MWD	124103	03/12	\$1,100,000
	Finance Advice	158024	12/16	\$100,000
	Deferred Compensation/HR	170706	10/17	\$500,000
	Tax Issues	180200	04/19	\$50,000
	Alternative Project Delivery (ADP)	207961	10/22	\$250,000
	Ad Valorem Property Taxes	216042	11/23	\$100,000
Harris & Associates	Employment Matter	220397	7/24	\$100,000
Hausman & Sosa, LLP	Jones v. MWD	216056	05/24	\$100,000
	Villavicencio v. MWD	220426	10/24	\$100,000
	Jensen Operator Standby Removal	222522	10/24	\$100,000
Hawkins Delafield &	Bond Counsel	193469	07/21	N/A
Wood LLP*	Bond Counsel	220405	07/24	N/A
Hemming Morse, LLP	Baker Electric v. MWD	211933	08/23	\$175,000
Hogan Lovells US LLP	Employment Matter	220400	07/24	\$100,000

Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Horvitz & Levy	SDCWA v. MWD	124100	02/12	\$1,250,000
	General Appellate Advice	146616	12/15	\$200,000
	Colorado River	203464	04/22	\$100,000
	Delta Conveyance Bond Validation Appeal	216047	03/24	\$25,000
	PFAS Multi-District Litigation – Appeal	216050	03/24	\$200,000
Innovative Legal Services, P.C.	Employment Matter	211915	01/19/23	\$175,000
Internet Law Center	Cybersecurity and Privacy Advice and Representation	200478	04/13/21	\$100,000
	Systems Integrated, LLC v. MWD	201875	05/17/21	\$100,000
Amira Jackmon, Attorney at Law*	Bond Counsel	200464	07/21	N/A
Jackson Lewis P.C.	Employment: Department of Labor Office of Contract Compliance	137992	02/14	\$45,000
Jones Hall, A Professional Law Corp*	Bond Counsel	200465	07/21	N/A
Kronenberger Rosenfeld, LLP	Systems Integrated, LLC v. MWD	211920	04/23	\$250,000
Kutak Rock LLP	Delta Islands Land Management	207959	10/22	\$60,000
Liebert Cassidy Whitmore	Labor and Employment	158032	02/17	\$240,821
vviiunore	FLSA Audit	180199	02/19	\$50,000
	EEO Advice	216041	12/23	\$200,000
Lieff Cabraser Heimann & Bernstein, LLP	PFAS Multi-District Litigation	216048	03/24	\$200,000
Manatt, Phelps & Phillips	SDCWA v. MWD rate litigation	146627	06/16	\$4,400,000

Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
	Raftelis-Subcontractor of Manatt, Agr. #146627: Per 5/2/22 Engagement Letter between Manatt and Raftelis, MWD paid Raftelis Financial Consultants, Inc.	Invoice No. 23949		\$56,376.64 for expert services & reimbursable expenses in SDCWA v. MWD
Marten Law LLP	PFAS Multi-District Litigation	216034	09/23	\$550,000
	PFAS-Related Issues (PWSC)	220414	08/24	\$100,000
	Perris Valley Pipeline Project	220415	07/24	\$100,000
	PFAS-Related Issues (General)	220413	10/24	<u>\$50,000</u>
Meyers Nave Riback Silver & Wilson	Pure Water Southern California	207967	11/22	\$100,000
Miller Barondess, LLP	SDCWA v. MWD	138006	12/14	\$600,000
Morgan, Lewis & Bockius	SDCWA v. MWD	110226	07/10	\$8,750,000
DOCKIUS	Project Labor Agreements	200476	04/21	\$100,000
Musick, Peeler & Garrett LLP	Colorado River Aqueduct Electric Cables Repair/Contractor Claims	193461	11/20	\$3,250,000
	Arvin-Edison v. Dow Chemical	203452	01/22	\$150,000
	Semitropic TCP Litigation	207954	09/22	\$75,000
	Employment Matter	216063	06/24	\$100,000
	Employment Matter	220417	08/24	\$100,000
Nixon Peabody LLP*	Bond Counsel [re-opened]	193473	07/21	N/A
	Special Finance Project	207960	10/22	\$50,000
	Bond Counsel	220404	07/24	N/A
Norton Rose Fulbright US LLP*	Bond Counsel	200466	07/21	N/A
US LLF	Bond Counsel	220407	7/24	N/A

Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Olson Remcho LLP	Government Law	131968	07/14	\$400,000
	Executive Committee/Ad Hoc Committees Advice	207947	08/22	\$60,000
	Advice/Assistance re Proposition 26/Election Issues	211922	05/23	\$100,000
Robert P. Ottilie	Employment Matter	220403	09/24	\$100,000
Pearlman, Brown & Wax, L.L.P.	Workers' Compensation	216037	10/23	\$100,000
Procopio, Cory, Hargreaves & Savitch,	CityWatch Los Angeles Public Records Act Request	216046	02/24	\$75,000
LLP	Public Records Act Requests	220399	7/24	\$75,000
Renne Public Law Group, LLP	ACE v. MWD (PERB Case No. LA-CE-1574-M)	203466	05/22	\$100,000
	ACE v. MWD (PERB Case No. LA-CE-1611-M)	207962	10/22	\$50,000
	Employee Relations and Personnel Matters	216045	01/24	\$50,000
	ACE v. MWD (PERB Case No. LA-CE-1729-M)	220421	09/24	\$35,000
	AFSCME v. MWD (PERB Case No. LA-CE-1733-M)	220422	09/24	\$35,000
	AFSCME v. MWD (PERB Case No. LA-CE-1738-M)	220425	10/24	\$35,000
Ryan & Associates	Leasing Issues	43714	06/01	\$200,000
	Oswalt v. MWD	211925	05/23	\$100,000
	Unlawful Encroachment on Metropolitan Rights-of-Way	216065	06/24	\$100,000
Sanders Roberts LLP	Employment Matter	220401	7/24	\$100,000

Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Seyfarth Shaw LLP	Claim (Contract #201897)	201897	11/04/21	\$350,000
	Claim (Contract #203436)	203436	11/15/21	\$350,000
	Claim (Contract #203454)	203454	01/22	\$210,000
	Reese v. MWD	207952	11/22	\$750,000
	General Labor/Employment Advice	211917	3/23	\$100,000
	Civil Rights Department Complaint	211931	07/23	\$100,000
	Crawford v. MWD	216035	09/23	\$100,000
	Tiegs v. MWD	216043	12/23	\$250,000
	Zarate v. MWD	216044	01/24	\$250,000
Sheppard Mullin Richter & Hampton LLP	Lorentzen v. MWD	216036	09/23	\$200,000
Stradling Yocca Carlson & Rauth*	Bond Counsel	200471	07/21	N/A
Canson & Raum	Bond Counsel	220408	7/24	N/A
The Myers Law Group, APC	Employment Matter	220420	<u>11/24</u>	\$100,000
Theodora Oringher PC	Construction Contracts - General Conditions Update	185896	07/20	\$100,000
Thompson Coburn LLP	NERC Energy Reliability Standards	193451	08/20	\$300,000
Van Ness Feldman, LLP	General Litigation	170704	07/18	\$50,000
	Colorado River MSHCP	180191	01/19	\$50,000
	Bay-Delta and State Water Project Environmental Compliance	193457	10/15/20	\$50,000
	Colorado River Issues	211924	05/23	\$100,000 \$250,000

^{*}Expenditures paid by Bond Proceeds/Finance **Expenditures paid by another group

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MINUTES

SPECIAL LEGAL AND CLAIMS COMMITTEE

November 18, 2024

Chair Luna called the meeting to order at 11:33 a.m.

Members present: Directors Cordero, Douglas (teleconference posted location), Kurtz, Luna, McCoy (entered after roll call), Miller, and Ramos (teleconference posted location).

Chair of the Board Ortega was present for purposes of quorum.

Members absent: Directors Camacho, Dick, Fellow, Garza, and Seckel.

Other Directors present: Directors Alvarez, Armstrong, Bryant, Dennstedt, Erdman, Faessel, Fong-Sakai, Goldberg, Lewitt, Morris, Ortega, Pressman (teleconference posted location available), and Smith.

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

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

None

2. MANAGEMENT ANNOUNCEMENTS AND HIGHLIGHTS

A. Subject: General Counsel's report of monthly activities

General Counsel Scully had nothing to add to her written report.

CONSENT CALENDAR ITEMS – ACTION

3. CONSENT CALENDAR OTHER ITEMS – ACTION

A. Subject: Approval of the Minutes of the Legal and Claims Committee for

October 7, 2024.

Director Miller made a motion, seconded by Director Kurtz, to approve item 3A.

The vote was:

Ayes: Directors Cordero, Douglas, Kurtz, Luna, Miller, and Ramos

Noes: None Abstentions: None

Absent: Camacho, Dick, Fellow, Garza, McCoy, and Seckel

The motion for Item 3A passed by a vote of 6 ayes, 0 noes, 0 abstentions, and 6 absent.

4. CONSENT CALENDAR ITEMS – ACTION

None

END OF CONSENT CALENDAR ITEMS

Chair Luna re-ordered the agenda to hear Item 7a first.

7. COMMITTEE ITEMS

a Subject: Report on environmental litigation challenging the Department of

-3-

Water Resources' Delta Conveyance Project approval, certification of the Final Environmental Impact Report and other actions taken under the California Environmental Quality Act, ten consolidated cases pending in Sacramento County Superior Court under the lead case, Tulare Lake Basin Water Storage District v. California Department of Water Resources, Case No. 24WM000006 and appeals in same, Cal. Court of Appeal for the Third Appellate

District Case No. C101878

Presented by: Robert Horton, Principal Deputy General Counsel

Director McCoy entered the meeting.

Chair Luna called the meeting into closed session.

b Subject: Report on Sierra Club et al. v. California Department of Water

Resources, Cal. Court of Appeal for the Third Appellate District Case No. C100552 (consolidated with California Department of Water Resources v. All Persons Interested in the Matter, etc., Sacramento County Superior Court Case No. 34-2020-00283112) [Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]

Presented by: Robert Horton, Principal Deputy General Counsel

5. OTHER BOARD ITEMS - ACTION

8-7 Subject: Report on litigation in Ryan Tiegs v. Metropolitan Water District of

Southern California, Riverside County Superior Court Case No. CVPS2306176; Dane Crawford v. Metropolitan Water District of Southern California, Riverside County Superior Court Case No. CVPS2304015; and Alicia Lorentzen v. Metropolitan Water District of Southern California, Los Angeles County Superior Court Case No. 23STCV19214; authorize increase in the maximum

amount payable under a contract for legal services in Ryan Tiegs v. Metropolitan Water District of Southern California with Seyfarth Shaw LLP in the amount of \$275,000 for a total amount not to exceed \$525,000, increase in the maximum amount payable under a contract for legal services in Dane Crawford v. Metropolitan Water District of Southern California with Seyfarth Shaw LLP in the amount of \$275,000 for a total amount not to exceed \$525,000, and increase in the maximum amount payable under a contract for

legal services in Alicia Lorentzen v. Metropolitan Water District of Southern California with Sheppard, Mullin, Richter & Hampton LLP in the amount of \$175,000 for a total amount not to exceed \$425,000; and report on two legal claims alleging equal employment opportunity and other violations; the General Manager has determined that the proposed actions are exempt or otherwise not subject to CEQA. [Conference with legal counsel – (1) as to the three cases: existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1); and (2) as to the two legal claims: anticipated litigation; based on existing facts and circumstances of receipt of legal claim communications on behalf of two individuals threatening litigation, there is significant exposure to litigation against Metropolitan: two potential cases; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(2)].

Presented by: Marcia Scully, General Counsel

Chair Luna reported there were no reportable actions taken in closed session.

In open session, Director McCoy made a motion, seconded by Director Cordero to approve the contract increases.

The vote in open session was:

Ayes: Directors Cordero, Douglas, Kurtz, Luna, McCoy, Miller, and Ramos

Noes: None Abstentions: None

Absent: Camacho, Dick, Fellow, Garza, and Seckel

The motion for Item 8-7 passed by a vote of 7 ayes, 0 noes, 0 abstentions, and 5 absent.

6. BOARD INFORMATION ITEMS

None

8. FOLLOW-UP ITEMS

None

-5-

9. FUTURE AGENDA ITEMS

None

Next meeting will be held on December 9, 2024.

Meeting adjourned at 12:48 pm

Miguel Luna Chair



Board Action

Board of Directors Legal and Claims Committee

12/9/2024 Board Meeting

7-3

Subject

Authorize an increase of \$250,000, to a maximum amount not to exceed \$500,000 for workers' compensation legal services contract with the law firm Hanna, Brophy, MacLean, McAleer Jensen, LLP; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

This action authorizes an increase of \$250,000 to the existing contract with the law firm Hanna Brophy, MacLean, McAleer, Jensen, LLP ("Hanna Brophy") for workers' compensation legal services to a maximum amount not to exceed \$500,000. Metropolitan retained Hanna Brophy on June 1, 2023, under the General Counsel's authority of \$100,000, to provide advice, assistance and representation on workers' compensation matters, including workers' compensation claims, subrogation claims, and representation in litigation.

On November 14, 2023, the Board increased the Legal Department's delegated contracting authority to \$250,000. Thereafter, on January 1, 2024, Legal executed Amendment 1 to increase the contract maximum from \$100,000 to \$200,000. On September 1, 2024, Amendment 2 increased the contract maximum by \$50,000 to \$250,000. Costs for outside attorneys fees now total approximately \$224,000, and Metropolitan continues to need workers' compensation representation. Therefore, the Legal Department requests authorization to increase the contract maximum to \$500,000.

Under California law, workers' compensation is a "no fault" system and Metropolitan is required to provide certain benefits to injured employees. When disputes arise, claims can become subject to litigation. It is a highly specialized area of law with its own court system, including administrative law judges and an appeals board. Under this contract, the firm provides expertise on all workers' compensation matters, from advice on claims to representation in litigation.

While the rate of expenditure is subject to the nature of the matters and the number of litigated cases, it is anticipated that the increase will be adequate for one additional year. Metropolitan receives cost-efficient services for the amount of cases that are handled by Hanna Brophy. On average, Metropolitan may have seven to eight new litigated cases a year. The firm currently represents Metropolitan in 47 matters.

Staff requests authority to increase the amount under this contract in order to continue obtaining expert advice, assistance and representation for ongoing workers' compensation matters.

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

Staff Recommendation: Option #1

Option #1

Authorize an increase of \$250,000, to a maximum amount not to exceed \$500,000 for the workers' compensation legal services contract with the law firm Hanna, Brophy, MacLean, McAleer, Jensen, LLP.

Fiscal Impact: \$250,000 is added to this agreement for the provision of the authorized legal services budgeted from labor costs through the additive rate.

Business Analysis: Metropolitan will retain the expertise needed for advice, assistance and representation in workers' compensation matters.

Option #2

Do not authorize the contract increase.

Fiscal Impact: Unknown

Business Analysis: Metropolitan will not have access to the expertise needed to have adequate representation in workers' compensation matters.

Alternatives Considered

Not applicable.

Applicable Policy

Metropolitan Water District Administrative Code Section 6430: Authority to Obtain Expert Assistance

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

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

Not applicable.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines Section 15378(a).)

CEQA determination for Option #2:

None required.

12/3/2024 Date

General Counsel

cully

Ref# I12702434



Legal and Claims Committee

Authorize Increase for Workers' Compensation Legal Services Contract

Item 7-3 December 9, 2024

Time: 15 mins.

Item # 7-3

Continued
Representation
of Workers'
Compensation
Matters

Subject

Authorize an increase in the maximum amount payable for workers' compensation legal services contract with Hanna, Brophy, MacLean, McAleer, Jensen, LLP

Purpose

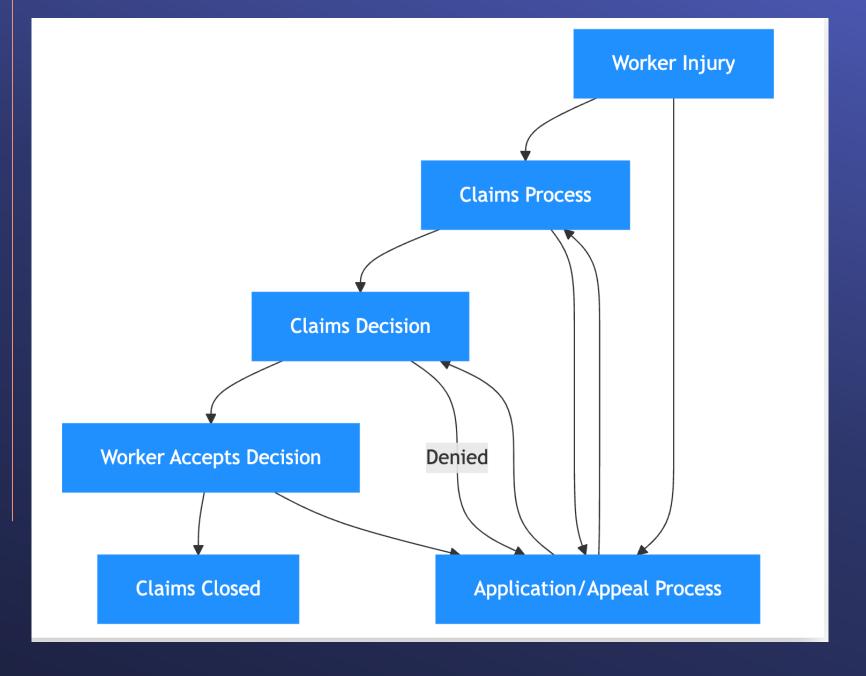
Continue obtaining expert advice, assistance and representation for ongoing workers' compensation matters

Background

Services Provided

- Hanna Brophy has been handling our WC matters since June 1, 2023
- Representation in litigated claims, through administrative trial
- Advice and consultation as needed

WC Process Overview



Data Points

Data Points

- Hanna Brophy was selected based on public agency experience and referrals
- We have 47 open matters with Hanna Brophy
- Average cost: about \$12,500 per month
- Total cost so far: about \$225,000

Item # 7-3

Continued Representation of Workers' Compensation Matters

Recommendation

Authorize an increase of \$250,000, to a maximum amount not to exceed \$500,000 for the workers' compensation legal services contract with the law firm Hanna, Brophy, MacLean, McAleer, Jensen, LLP

Fiscal Impact

\$250,000 is added to this agreement for the provision of the authorized legal services budgeted from labor costs through the additive rate.

