

**TO:** Chairman John Murray, MWD OP&T Committee

**Cc:** Chairwoman Gloria Gray, Ethics Chairwoman Marsha Ramos; and members of the Board of Directors

**FROM:** MWD Directors Sylvia Ballin, Charles Trevino, Adán Ortega

**SUBJECT:** **Addressing Allegations of Systemic Workplace Harassment and Fear of Retaliation at MWD Through an Independent Review & Evaluation**

Over the past several months, the Board of Directors of the Metropolitan Water District of Southern California (MWD), has heard disturbing reports and statements alleging individual and systemic workplace harassment and fear of reprisals affecting our workforce. As former MWD employees who are now members of the Board of Directors, we have been asked to provide our opinions regarding steps that will assure the workforce that the Board of Directors takes their comments about systemic issues with the workplace environment seriously.

Metropolitan's Board Governance Principles require that the Board of Directors establish written policies to protect Metropolitan as an organization, including development of terms and conditions of employment and maintaining a safe and inclusive workplace environment. Administrative Code §1301. Duties of the OP&T Committee include oversight of relations between the District and its employees, and especially, equal employment opportunity, affirmative action and work rules pertaining to the health and safety of employees. Administrative Code §2481(c) and (d). Duties of the Audit and Ethics Committee include responsibility for the ethical conduct of the business of Metropolitan and oversight of investigations.

We believe that the board must act fast to assure all employees including management, that the Board will proceed in an objective manner to determine whether the facts behind the allegations of distrust and fear of reprisals for reporting workplace harassment, and conduct the of Diversity, Equity and Inclusion Council, may warrant action by the Board with regards to MWD policies and management. Thus, we propose the following areas of inquiry to be considered by the Organization, Personnel and Technology Committee in November, for recommended action by the Board of Directors on November 10, 2020:

**Recommendation:** Authorize the Ethics Officer to retain independent outside legal counsel to support the work of the OP&T Committee and conduct a confidential independent review of related programs and investigations including but not limited to the following areas of inquiry, with monthly reports on progress beginning in December's OP&T Committee meeting:

**Ethics Office Employee Survey:** The Ethics Officer recently reported the results of an MWD employee survey demonstrating that less than half of the respondents affirmatively responded to the following question: "I can disclose a suspected violation of any law, rule or regulation without fear of reprisal." We recommend that the independent legal counsel and Ethics Officer analyze the survey results to determine if details in the survey point to patterns in terms of the levels of the workforce that harbor high levels of fear over workplace reprisal for reporting wrongdoing.

**DEI Council:** Given the boycott of the Diversity, Equity and Inclusion Council announced by a caucus of MWD female employees, we recommend that the inquiry include confidential meetings with the individual members of the council to assess their understanding of their roles, their confidence in the Council's structure and mission; directives given by management to the participants collectively and individually (officially and unofficially); role of the general counsel's office; fairness in facilitation; and degree of focus in addressing issues relevant to the broader workforce, especially

as it pertains to issues found in the ethics survey addressing the fear of reprisals; as well as other questions as deemed appropriate by the independent outside counsel in consultation with the Ethics Officer.

**Harassment Claims:** We recommend that the inquiry include a confidential examination of how sexual and other workplace harassment claims are handled by senior management, human resources staff, district legal counsel, and managers at all levels and provide a report on the level to which best management, legal and human resources practices are met; as well as compliance with industry standards and the law. This should also include a focus on measures taken to protect LGBTQ complainants. We would specifically request examination of the process utilized in the case reported by the General Manager in his communication to the Board of Directors on October 20<sup>th</sup>, as well as those reported by the claimants themselves during meetings of the OP&T Committee and the Board throughout 2020, and any others that can help establish patterns of good or bad practices.

**Other Related Activities:** The review and inquiries may include any other related administrative, legal, and organizationally related activities being carried out by any and all departments of the district and their respective groups, sections, and teams, as carried out by any individual(s) in the line of management, related to diversity, equity and inclusion; anti-harassment trainings; and general employee relations.

**Oversight by The Board:** We would like to request an examination of board agendas, minutes, recordings of meetings as necessary of the Board of Directors, the OP&T, Legal & Claims, and the Audit & Ethics Committee to determine the level at which the Board is exercising proper oversight and implementation of policies addressing issues of Diversity, Equity, and Inclusion, including but not limited to the adequacy of policies and procedures dealing with complaints of harassment; fostering fairness and discouraging favoritism in employment and promotion practices; provisions for management accountability; as well as for fostering a safe environment for women, ethnic, racial minorities, and LGBTQ employees.

**Role of the Ethics Officer:** We recommend that the Ethics Officer be provided with a budget to oversee this matter and facilitate the work of the Committee, and be designated to be the support staff to facilitate the work of the Committee, as assisted by independent outside legal counsel. In order to ensure the complete impartiality and objectivity of the Committee and its work, no other member of management or General Counsel's office shall participate or be privy to the confidential work of the independent outside counsel, preparation of reports to the Committee regarding best management, legal and HR practices, degree of effectiveness and/or recommended policies; as well as reviews of the performance of senior management and district counsel, and recommended actions to address any deficiencies that are found.

Finally, we recommend that any limitations found in the administrative code restricting the role of the Ethics Officer with regards to these matters or to the contrary be hereby waived by the Board of Directors.

Sylvia Ballin  
San Fernando  
Former Employee

Charles Trevino  
Upper San Gabriel Municipal  
Water District  
Former Employee

Adán Ortega  
City of Fullerton  
Former Employee