



## ● September 30, 2023 Quarterly Report

This is the quarterly report to the Legal and Claims Committee on the exercise of powers delegated to the General Manager and the General Counsel by Administrative Code Sections 6433 and 6434. In addition, the General Counsel reports to the Legal and Claims Committee on the exercise of power delegated to her by Administrative Code Section 6431.

### Attachments

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- ATTACHMENT A: Workers' Compensation Matters Resolved During the Period  
July 1, 2023 – September 30, 2023 - NONE.
- ATTACHMENT B: Claims Against Metropolitan Resolved by Risk Management During the Period  
July 1, 2023 – September 30, 2023 - NONE.
- ATTACHMENT C: Costs Collected During the Period  
July 1, 2023 – September 30, 2023 – NONE.
- ATTACHMENT D: Property Damage Written Off as Uncollectible During the Period  
July 1, 2023 – September 30, 2023 - NONE.
- ATTACHMENT E: Accounts Receivables Written Off as Uncollectible During the Period  
July 1, 2023 – September 30, 2023.

### Detailed Report

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#### Contracts

Within this past quarter, the General Counsel entered into or amended the following contracts pursuant to her authority under Administrative Code Section 6431:

#### Aecus Law

Metropolitan retained the services of Consultant to investigate and provide analysis and recommendations as directed, on allegations of employee misconduct complaints within the Recurrent Team.

#### Cislo & Thomas LLP

This agreement was amended this quarter to increase the maximum amount payable, modify the conflict of interest and gift restrictions and notices sections.

#### Hazen and Sawyer

Metropolitan retained the services of Consultant to provide technical services to evaluate corrosion control targets for low alkalinity water at Mills Water Treatment Plant and to develop a sampling and response plan to identify potential consequences and mitigation strategies as well as technical support for potential related legal issues.

#### Hemming Morse, LLP

Metropolitan retained the services of Consultant to provide expert witness testimony and advice on contractor claims related to the Colorado River Aqueduct 6.9 kV Power Cable Replacement Project.

**Internet Law Center, LTD**

This agreement was amended this quarter to modify the notices section.

**Kronenberger Rosenfeld, LLP**

This agreement was amended this quarter to increase the maximum amount payable.

**Marten Law LLP**

Metropolitan retained the services of Special Counsel to provide legal advice and assistance with regard to *In re: Aqueous Film-Forming Foams Products Liability Litigation*, Master Docket No. 2:128-mn-2873-RMG, and related proceedings.

**Martenson, Hasbrouck, & Simon LLP**

Metropolitan retained the services of Special Counsel to assist in a confidential matter.

**Nixon Peabody LLP**

This agreement was amended this quarter to modify the fee schedule.

**Ryan & Associates, Attorneys at Law**

Metropolitan retained the services of Special Counsel to provide legal representation, advice, and consultation in the defense of the litigation entitled *Mark Oswalt v. The Metropolitan Water District of Southern California, and Does 1 through 20, inclusive*, San Diego County Superior Court Case No. 37-2023-00009934-CU-PO-CTL.

**Seyfarth Shaw LLP – Agreement No. 211931**

Metropolitan retained the services of Special Counsel to provide legal advice and counsel related to a Civil Rights Department complaint and potential further legal action.

**Seyfarth Shaw LLP - Agreement No. 216035**

Metropolitan retained the services of Special Counsel to provide legal representation, advice, and consultation in the defense of the litigation entitled, *Dane Crawford v. Metropolitan Water District of Southern California*, Riverside County Superior Court Case No. CVPS2304015.

**Claims and Other Matters**

1. Between July 1, 2023 – September 30, 2023, Metropolitan initiated, compromised, settled, or otherwise disposed of the following claims and entered into the following separation agreements:

a. Litigated, Compromised and Settled Claims By and Against Third Parties

**Metropolitan entered into the following settlement agreements within this past quarter:**

i. Cal-OSHA Citation Re: Robert Diemer Filtration Plant

As a result of inspections on September 26, 2022, and November 2, 2022, and associated document requests, Cal-OSHA issued on January 12, 2023, a Citation for two alleged “General” violations. The total proposed penalty amount for the “General” violations was \$1,050.00. Metropolitan filed an appeal of the two “General” violations on the grounds that: (1) the safety order was not violated, (2) the classification of “general” was incorrect, and (3) the proposed penalty was unreasonable. Metropolitan asserted the following affirmative defenses for both items: (1) Cal-OSHA failed to consider relevant information, and (2) Cal-OSHA did not make diligent inquiry into the employer records. On June 28, 2023, Metropolitan met with Cal-OSHA’s district manager at an informal conference to discuss the potential settlement of the two citation items and penalties. As

a result of the informal conference, Metropolitan and Cal-OSHA reached a settlement wherein Cal-OSHA withdrew the first General violation and adjusted the total penalty amount for the Citation to \$525.00. On September 6, 2023, the Administrative Law Judge approved the settlement and issued a settlement order which included a non-admissions clause and cost waiver.

ii. Red Mountain, SDAPCD Notice of Violation Settlement – 8/29/2023

Without admitting any liability, a payment for the civil penalty of \$150 was made to the San Diego County Air Pollution Control District (SDAPCD) to settle APCD2023-NOV-00415, which cited an incomplete annual oil testing for the Red Mountain Hydroelectric Plant emergency generator engine. SDAPCD confirmed closure of the incident.

iii. Notice of Violation

Metropolitan was issued a Notice of Violation (NOV) by the City of Los Angeles on August 24, 2022, for alleged underground fuel storage tank violations associated with Metropolitan's former Sunset Garage property.

General Counsel's Office worked closely with the Metropolitan Safety and Regulatory Services Section to get the NOV withdrawn and removed from Metropolitan's record. The issues were the responsibility of, and were addressed by, the new owner of that facility, which was sold by Metropolitan several years ago. Metropolitan staff worked quickly to ensure environmental compliance and also to uphold Metropolitan's environmental safety and stewardship record.

iv. Personnel Related Settlement

On August 1, 2023, a settlement agreement was entered into between ASFCME and Metropolitan resolving a matter regarding an Administrative Assistant who pursuant to the settlement agreement received a pay adjustment for a one step merit increase in the form of backpay to July 1, 2021, in the amount of \$5333.35. No equal employment opportunity issues were alleged and no other financial or confidential terms were included. The District has not taken any other corrective action in response to the alleged issues and the employee is still employed with the District.

v. Public Works Contract Bid Bond Settlement

In November 2021, Metropolitan's Board awarded a \$1,477,000 construction contract to Minako America Corporation dba Minco Construction (Minco) for the replacement of ozone power supply units at the Jensen plant. Following the construction contract award, staff received a notification from the State of California's Department of Industrial Relations that Minco Construction had been debarred effective September 27, 2021. Pursuant to the Labor Code and California Code of Regulations, Minco was disqualified from working on public works projects for a period of one year and was therefore unable to work on the project. Metropolitan submitted a claim for payment of \$147,700 with Minco's surety under the terms of Minco's bidder's bond. Minco disputed the claim and said it would challenge any payment by the surety.

Following informal settlement discussions, in September 2023, Minco made a payment to Metropolitan in the amount of \$100,000. In exchange for this payment, Metropolitan withdrew its claim for payment by Minco's surety in connection with the bidder's bond.

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- b. Workers' Compensation Matters  
No Workers' Compensation claims were settled by the General Manager and the General Counsel within this past quarter.
  - c. Other Claims By and Against Third Parties Resolved by Risk Management  
No Non-litigated third-party claims were resolved by Risk Management (under authority delegated by the General Manager) and approved by the General Counsel within this past quarter.
  - d. SB 90 Claims  
No SB 90 claims for reimbursement for state-mandated costs collected were reported within this past quarter.
  - e. Separation Agreements  
Metropolitan did not enter into any separation agreements within this past quarter.
2. No Costs were collected for claims within this past quarter.
  3. No Property Damage Claims were declared as uncollectible by the General Manager within this last quarter.
  4. Accounts Receivables written off as uncollectible by the General Manager within this past quarter are reported in Attachment E.

**ATTACHMENT E**  
 Accounts Receivable Written Off as Uncollectible During the Period  
July 1, 2023 – September 30, 2023

Invoice Date	Invoice Number	Customer Name	Amount Written-Off	Brief Description	Basis for Write-Off	Date Written-Off
10/27/2022	48524	Desert Sunlight 250, LLC	\$455.38	Invoice for delinquent payment in accordance with paragraph 2c of license agreement RL3046. A late charge equal to ten percent (10%) was assessed for invoice 48349, due for the period of September 20, 2022, through September 19, 2023.	For late fee – Licensee did not receive original invoice because invoice was sent to an old, inactive email address. Late fee was waived.	8/24/2023
		<b>Total:</b>	<b>\$455.38</b>			