September 16, 2020

Attention: Legislation and Public Outreach Committee

Adopt a Resolution of Support for Proposition 16 – the “Allows Diversity as a Factor in Public Employment, Education and Contracting Decisions” Legislative Constitutional Amendment. (Action)

Staff recommendation
Adopt resolution 2020-______ endorsing Proposition 16, the “Allows Diversity as a Factor in Public Employment, Education and Contracting Decisions” legislative constitutional amendment.

Alternatives
Do not adopt the recommended position or resolution, or adopt a modified position or resolution.

Fiscal Impact
There is no direct fiscal impact associated with the consideration of adopting a resolution in support of this ballot measure.

Discussion

Proposition 16 – The “Allows Diversity as a Factor in Public Employment, Education and Contracting Decisions” Legislative Constitutional Amendment
Proposition 16 on the November 2020 general election ballot would enact the “Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions” legislative constitutional amendment, and, if approved by the voters, would repeal Proposition 209 – Section 31 of Article 1 of the California Constitution – which would eliminate the ban on the consideration of race, sex, color, ethnicity, or national origin in public education, public employment, and public contracting. As a result, state and local entities could establish a wider range of policies and programs related to public employment, education, and contracting decisions as long as they are consistent with federal and state laws related to equal protection.

Assembly Constitutional Amendment 5 (ACA 5), which was authored by Assemblymember Shirley Weber, was passed on a bipartisan vote by the Legislature during 2020 and signed by the Governor, placing a ballot measure – Proposition 16 – on the November 2020 general election ballot. Assemblymember Weber introduced ACA 5, stating that, “While it was sold as a civil rights law when it passed in 1996, Proposition 209 has...set up barriers to women and minorities to share in the economic life of California. It’s time to give voters a chance to right this wrong.”

Proposition 209 – “The California Civil Rights Initiative” – was passed by voters on a 54.5% affirmative vote in 1996 with the strong support of then-Governor Pete Wilson. Proposition 209
amended the California Constitution to effectively prohibit the implementation and use of affirmative action or other practices that provided preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin by state and public agencies.

Proposition 16 would repeal Section 31 of Article 1 of the California Constitution, which was added by Proposition 209. If passed, Proposition 16 would allow – but would **NOT** require or compel – government decision-making bodies to develop and implement policies and programs that would consider race, sex, color, ethnicity, or national origin to address diversity in the operation of public employment, education, or contracting, to the extent allowable by state and federal law.

Proposition 16 would apply broadly to all state and public agencies, including the Water Authority and its member agencies. Repeal of the Constitutional prohibition on affirmative action created by Proposition 209 would allow the state and other public agencies, including the Water Authority and its member agencies, to consider race, sex, or ethnicity in the areas of public employment, public contracting, and public education to the extent allowed by state and federal law.

If voters approve Proposition 16 at the November 2020 general election, key questions will relate to the permissibility of post-Proposition 16 policies and programs under today’s law. As cited in the Senate Floor Analysis for ACA 5 (attached), “…the Supreme Court ruled in Bakke that UC Davis’ use of racial quotas for medical admissions was unconstitutional. Justice Powell, looking to Harvard’s admission policy for guidance, affirmed that it was constitutional for a school to use race or gender as a ‘plus,’ but not as a decisive criterion for admission…In short, the repeal of Proposition 209 would permit the use of race and/or gender as a ‘plus’ factor in college admissions, public employment, and public contracting. It would not permit the use of quotas or policies that [are] broadly tailored and do not consider the totality of the individual college applicant, job applicant, or contract bidder.” [Emph. added]

**Support**
Arguments in support of Proposition 16 generally state that, contrary to the arguments in support of Proposition 209, the effects of implementing Proposition 209’s prohibitions have not ensured fairness, diversity, and equity in education, public contracting, and public employment. Supporters argue that, as a result of the significant changes to the social and economic fabric of the state, voters should be permitted an opportunity to reconsider the merit or necessity of the statewide policy banning affirmative action programs.

A sample list of support and endorsements for Proposition 16 includes:

- Governor Gavin Newsom
- U.S. Senator Dianne Feinstein
- Congressman Mike Levin
- Congressman Juan Vargas
- Assemblymember Shirley Weber
- U.S. Senator Kamala Harris
- Dozens of current and former elected officials
- Congressman Scott Peters
- Senate President Pro Tempore Toni Atkins
- Assemblymember Todd Gloria
Opposition
Arguments in opposition to Proposition 16 generally assert that the repeal of Proposition 209 would reintroduce racial preference in California in violation of law and court decisions. Opponents also assert that Proposition 209 does not categorically prohibit affirmative action, and that Proposition 16 constructs a false narrative of racial inequities. Opponents argue that Proposition 16 would create division among race or ethnic demographics and would minimize the importance of the contributions of minority groups as a result of preferential treatment.

A sample list of opponents to Proposition 16 includes:

- State Senator Ling Ling Change (R-Diamond Bar)
- State Senator Melissa Melendez (R-Lake Elsinore)
- Former Congressmember Darrel Issa
- Students for Fair Admissions
- Chinese American Civic Action Alliance
- Orange County Register Editorial Board
- Wall Street Journal Editorial Board
- American Civil Rights Institute
- American Freedom Alliance
- Ward Connerly
- LA Daily News Editorial Board
- Southern CA News Group (11 newspapers)

Impact on Water Authority
While Proposition 16 would not compel the development and implementation of any policies or programs, it would provide an opportunity for dialogue regarding the creation, development, and implementation of programs at the Water Authority, and would also create the opportunity for a conversation regarding whether the Water Authority could become a regional resource for member agencies who choose to develop and implement post-Proposition 16 programs and policies. Those programs and policies could include the consideration of providing priority to contracts with minority- and women-owned businesses, similar to the program currently implemented for small businesses through the Water Authority’s Small Contractor Outreach and Opportunities Program (SCOOP), and developing policies to incentivize the hiring and promotion of minority and women employment candidates.
Staff recommends the Board adopt Resolution 2020-_____ endorsing Proposition 16.

Prepared by: Glenn Farrel, Director of Government Relations
Ivy Ridderbusch, Legislative Analyst
Approved by: Dan Denham, Deputy General Manager

Attachment: Resolution No. 2020-_____
Legislative Analyst’s Office analysis of Proposition 16
RESOLUTION NO. 2020-____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN DIEGO COUNTY WATER AUTHORITY ENDORSING PROPOSITION 16, THE “ALLOWS DIVERSITY AS A FACTOR IN PUBLIC EMPLOYMENT, EDUCATION AND CONTRACTING DECISIONS” LEGISLATIVE CONSTITUTIONAL AMENDMENT

WHEREAS, Proposition 209 was approved by voters in 1996 and prohibits the consideration of race, sex, color, ethnicity, or national origin in public education, public employment, and public contracting; and

WHEREAS, Proposition 16 was placed on the November 2020 general election ballot through the Legislature’s passage of ACA 5 by Assemblymember Shirley Weber; and

WHEREAS, Proposition 16 would repeal the provisions of Proposition 209 in the California Constitution and would therefore allow state and local entities to establish a wider range of policies and programs related to public employment, education, and contracting decisions as long as they are consistent with federal and state laws related to equal protection; and

WHEREAS, Proposition 16 would not require or compel any government decision-making bodies to develop and implement policies and programs that would consider race, sex, color, ethnicity, or national origin to address diversity in the operation of public employment, education, or contracting, to the extent allowable by state and federal law; and

WHEREAS, Proposition 16 would create the opportunity for dialogue regarding the creation, development, and implementation of programs at the Water Authority, and would also create the opportunity for a conversation regarding whether the Water Authority could become a regional resource for member agencies who choose to develop and implement post-Proposition 16 programs and policies;

NOW, THEREFORE, BE IT RESOLVED, that the San Diego County Water Authority Board of Directors endorses and supports Proposition 16, the “Allows Diversity as a Factor in Public Employment, Education and Contracting Decisions” legislative constitutional amendment, which will be considered by voters at the November 3, 2020 statewide general election.

PASSED, APPROVED, and ADOPTED this 24th day of September, 2020

AYES:

NOES:

ABSTAIN:
ABSENT:

______________________________
Jim Madaffer, Chair

ATTEST:

_______________________________
Christy Guerin, Secretary

I, Melinda Nelson, Clerk of the Board of the San Diego County Water Authority, certify that the vote shown above is correct and this Resolution No. 2020-______ was duly adopted at the meeting of the Board of Directors on the date stated above.

______________________________
Melinda Nelson, Clerk of the Board
Proposition 16

ALLOWS DIVERSITY AS A FACTOR IN PUBLIC EMPLOYMENT, EDUCATION, AND CONTRACTING DECISIONS. LEGISLATIVE CONSTITUTIONAL AMENDMENT.

ANALYSIS OF MEASURE

Background

State and Federal Constitutions Require Equal Protection. The state and federal constitutions provide all people equal protection, which generally means that people in similar situations are treated similarly under the law.

In 1996, California Voters Banned Consideration of Race, Sex, Color, Ethnicity, or National Origin in Public Programs. In 1996, California voters approved Proposition 209, adding a new section to the State Constitution—Section 31 of Article 1. The new section generally banned the consideration of race, sex, color, ethnicity, or national origin in public employment, public education, and public contracting in California.

There Are Some Exceptions to Proposition 209. State and local entities can consider sex when it is necessary as part of normal operations. For example, the state can consider the sex of an employee when staffing specific jobs at state prisons where it is necessary for staff and inmates be the same sex. Additionally, state and local entities may consider specified characteristics when it is required to receive federal funding. For example, the state is required to set goals for the portion of contracts awarded to certain groups for federally funded transportation projects, like businesses owned by women and people of color.

Proposition 209 Affected Certain Public Policies and Programs. Before Proposition 209, state and local entities had policies and programs intended to increase opportunities and representation for people who faced inequalities as a result of their race, sex, color, ethnicity, or national origin. These types of programs often are called “affirmative action” programs. For example, some of the state’s public universities considered race and ethnicity as factors when making admissions decisions and offered programs to support the academic achievement of those students. State and local entities had employment and recruitment policies intended to increase the hiring of people of color and women. The state also established programs to increase the participation of women-owned and minority-owned businesses in public contracts. The state set goals for the portion of state contracts that were awarded to those types of businesses. After voters approved Proposition 209, these policies and programs were discontinued or modified unless they qualified for one of the exceptions.

Federal Law Allows Policies and Programs That Consider Certain Characteristics, Within Limits. Before Proposition 209, state and local policies and programs that considered race, sex, color,
ethnicity, or national origin still had to comply with federal law. Federal law establishes a right to equal protection and as a result limits the use of these considerations. For example, under federal law, universities may consider these characteristics as one of several factors when making admission decisions in an effort to make their campuses more diverse. To ensure compliance with federal law, these policies and programs must meet certain conditions that limit the consideration of these characteristics. These conditions are intended to prevent discrimination that violates equal protection. State law also has a number of antidiscrimination provisions that are similar to those in federal law.

Policies and Programs Created or Modified After Proposition 209. After voters approved Proposition 209, some public entities in California created or modified policies and programs to instead consider characteristics not banned by Proposition 209. For example, many of the state’s universities provide outreach and support programs for students who are first in their family to attend college. Many university campuses also consider where students attended high school and where they live when making admissions decisions. The universities view these policies and programs as ways to increase diversity without violating Proposition 209.

Proposal

Eliminates Ban on the Consideration of Certain Characteristics in Public Education, Public Employment, and Public Contracting. If approved, the measure would repeal Proposition 209—Section 31 of Article I of the California Constitution. This would eliminate the ban on the consideration of race, sex, color, ethnicity, or national origin in public education, public employment, and public contracting. As a result, state and local entities could establish a wider range of policies and programs so long as they are consistent with federal and state law related to equal protection.

Fiscal Effects

No Direct Fiscal Effects on Public Entities. The measure would have no direct fiscal effect on state and local entities because the measure would not require any change to current policies or programs. Instead, any fiscal effects would depend on future choices by state and local entities to implement policies or programs that consider race, sex, color, ethnicity, or national origin in public education, public employment, and public contracting.

Potential Fiscal Effects of Implementing Programs Highly Uncertain. State and local entities could make any number of decisions about policies and programs that consider race, sex, color, ethnicity, or national origin. Because the specific choices state and local entities would make if voters approved this measure are unknown, the potential fiscal effects are highly uncertain.

YES/NO STATEMENT

A YES vote on this measure means: State and local entities could consider race, sex, color, ethnicity, and national origin in public education, public employment, and public contracting to the extent allowed under federal and state law.

A NO vote on this measure means: The current ban on the consideration of race, sex, color, ethnicity, and national origin in public education, public employment, and public contracting would remain in effect.
SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT

- No direct fiscal effect on state and local entities because the measure does not require any change to current policies or programs.

- Possible fiscal effects would depend on future choices by state and local entities to implement policies or programs that consider race, sex, color, ethnicity, or national origin in public education, public employment, and public contracting. These fiscal effects are highly uncertain.

BALLOT LABEL

Fiscal Impact: No direct fiscal effect on state and local entities. The effects of the measure depend on the future choices of state and local government entities and are highly uncertain.
September 23, 2020

Attention: Imported Water Committee

Metropolitan Water District Delegates’ Report. (Information)¹

Purpose
This report summarizes activities of interest at the Metropolitan Water District (MWD) committee and Board meetings on September 14 and 15, 2020. The MWD Board also met on September 22 and will meet next on October 12 and 13.

Discussion
The Water Authority Delegates (Delegates) supported six of the seven action items approved by the MWD Board at its September 2020 meeting. MWD Board items of interest to the Water Authority were to:

- **Not** reduce the 2021 and 2022 rates and charges that were adopted in April 2020, but added to staff’s recommendation that there be a moratorium on non-emergency, unbudgeted spending and development of potential revenue generating programs;
- Authorize the issuance of up to $255 million in debt to fund MWD’s fiscal years 2021 and 2022 Capital Investment Plan (CIP), including $75 million in unbudgeted debt; and
- Express support for Proposition 16, the “Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions” Legislative Constitutional Amendment.

In April 2020, the Board approved the fiscal years 2021 and 2022 biennial budget and corresponding “overall” calendar years 2021 and 2022 rate increases of 3 percent and 4 percent, respectively. The Board also directed staff to evaluate additional ways to cut costs and present their findings to the Board by September. This month, MWD staff presented its review and recommended not providing additional rate relief and instead, recommended:

- a) continuing to track COVID-19 impacts on the member agencies with a focus on retail payment delinquencies;
- b) developing a payment deferral program that exempts penalties or interest for agencies that report significant delinquencies, if there is interest from member agencies; and
- c) monitoring water sales, and expenditures and prepare additional cost-containment measures, as needed, for the mid-cycle budget review scheduled for June 2021.

The Board approved staff’s recommendation with two additional provisions:

- d) To include new revenue generation options, including a groundwater replenishment program, in the mid-cycle budget review; and
- e) A moratorium on non-emergency, unbudgeted proposals for the remaining part of the fiscal year that have not been anticipated in the budget.

Twenty-two letters and comments were submitted to the MWD Board prior to the meeting, including 16 from the San Diego region. Except for one letter submitted by some MWD member

¹ This document provides a summary of certain discussions as summarized and understood by the Water Authority and is not intended to be any form of official transcript.
The Engineeering and Operations (E&O) Committee received a presentation on MWD’s proposed Regional Recycled Water Program (RRWP), which included updates on the demonstration plant, independent advisory panel workshop, and outreach. MWD staff plans to hold a Board workshop about planning, agreements, and financial considerations in October. In November 2020, prior to the completion of the 2020 update to the Integrated Water Resources Plan (IRP), staff plans to seek Board approval to proceed to the next stage of the program—preparation of environmental work (estimated to cost $15 million annually in fiscal years 2021 and 2022) for the full-scale project—. That action will be followed by an independent scientific advisory panel workshop in December; staff did not explain the sequencing of the Board action and independent advisory panel workshop. Director Hogan asked if the Board will receive all agreements and letters of intent with potential project partners before the program moves forward. Staff replied that letters of intent will be included in the upcoming whitepaper, but did not address agreements.² Hogan urged the Board to complete the IRP, which should provide updated demand projections and better determine how the RRWP will fit into MWD’s supply portfolio, before moving forward with the program’s environmental work, especially considering the current difficult financial times. He sought to understand MWD’s plan for providing RRWP water to out-of-state partners, the Central Arizona Project/Azizona Department of Water Resources and Southern Nevada Water Authority under different hydrological conditions, and the role of California’s Colorado River water users in these agreements. After describing that MWD would forego its Colorado River water for its out-of-state partners in exchange for their investment while MWD member agencies offset that demand with their take of RRWP effluent, General Manager Kightlinger said staff would answer other questions later, but they are “premature” because MWD only has “an intent to have a conversation” with the out-of-state partners. Goldberg advocated that the Board discuss the RRWP, which is a major water supply project that could generate up to 168,000 acre-feet of water annually (and is estimated to cost $3.4 billion to build), as part of its IRP update discussions. She said these discussions should include those related to MWD’s future regional role and supply decisions, including whether MWD could reduce its Bay-Delta investments should it implement the RRWP.

The E&O Committee also received an update on MWD’s response to the statewide power emergency. MWD reduced pumping on the Colorado River Aqueduct, initiated Diamond Valley Lake hydro-generation, coordinated with Department of Water Resources to increase hydro-generation, and switched from ozone to chlorine disinfection, resulting in over 230 megawatts of energy saved during the emergency.

² More information on the potential RRWP, including signed letters of intent, is found here: [http://mwdh2o.com/DocSvcsPubs/rrwp/index.html#home](http://mwdh2o.com/DocSvcsPubs/rrwp/index.html#home)
The Communications and Legislation Committee discussed supporting Proposition 16, which would repeal Proposition 209 (enacted in 1996) from the California Constitution and permit state and local entities to use race, sex, color, ethnicity, and national origin when making decisions in public education, employment, and contracting, to the extent allowed by federal law. The MWD Board unanimously expressed support for Proposition 16.

The Organization, Personnel, and Technology Committee discussed the semiannual report on MWD’s Equal Employment Opportunity Policy and Affirmative Action Plan and an update on other Equal Employment Opportunity Issues related to workplace retaliation and harassment. Attachment 2 summarizes these presentations and the subsequent discussions.

At the Board meeting, three members of the public called to oppose the Bay-Delta tunnel project. Following comments from the public, Chairwoman Gray (West Basin) announced her intent to run for a second term as Board Chair in October and opined on MWD’s accomplishments during her current tenure. Attachment 3 is a copy of MWD’s September 2020 committee and Board meeting agendas and Board summary.

Prepared by: Megan Couch, Management Analyst
Reviewed by: Communications and Legislation Committee by Jerry Butkiewicz and Tim Smith
Conservation and Local Resources Committee by Michael Hogan
Engineering and Operations Committee by Tim Smith
Finance and Insurance Committee by Gail Goldberg & Tim Smith
Legal and Claims Committee by Gail Goldberg & Tim Smith
Organization, Personnel, and Technology Committee by Michael Hogan and Tim Smith
Water Planning and Stewardship Committee by Gail Goldberg & Michael Hogan

Attachment:
Attachment 1 – Discussion Summary of Financial Management Matters
Attachment 2 – Discussion Summary of MWD’s Equal Employment Opportunity Issues
Attachment 3 – MWD’s committee and Board meeting agendas dated September 14 and 15, 2020 and Board summary dated September 15, 2020
Discussion Summary of MWD Financial Management Matters

During its September 2020 Finance and Insurance (F&I) Committee and Board meetings, the Metropolitan Water District (MWD) Board discussed issuing up to $255 million in debt, of which $75 million is unbudgeted, and staff’s review of MWD’s adopted 2021 and 2022 rates and charges to offer potential rate relief.

MWD’s adopted fiscal years 2021 and 2022 biennial budget (and the adopted calendar years 2021 and 2022 rates and charges) are based on MWD implementing 85 percent, or $425 million, of its $500 million Capital Investment Plan (CIP) appropriation, of which $180 million is budgeted be debt-funded. During the F&I Committee meeting, Assistant General Manager and Chief Financial Officer Kasaine said though the budget assumed the CIP would be implemented at 85 percent, staff has “found a great way to navigate a lot of their projects [despite COVID-19 precautions and other delays], so they will probably be spending around…80 to 100 percent” of appropriations. Consequently, staff sought approval for an additional $75 million of unbudgeted debt for a total of $255 million in order to have flexibility to implement the CIP beyond its budget.

Following staff’s presentation, Director Smith expressed his opposition to borrowing more than budgeted given the hardships faced by MWD ratepayers and that it is less than three months into the biennial CIP budget. He noted the $75 million in unbudgeted debt would result in increasing MWD’s debt service costs by more than $4 million annually over the length of the bonds, which is “inconsistent with the [Board’s] cost containment objectives” and effort to offer rate relief to Southern Californians. Stating CIP spending should stay within the adopted budget and rates, Smith made a motion to authorize debt issuance of up to $180 million to match the budget. Director Goldberg seconded the motion, adding that staff could still come back to the Board to seek additional debt issuance if needed. However, she said it is “important for staff to…start living within the budget” rather than coming back to the Board for approvals on an “ad hoc basis, especially under circumstances” that are not “unforeseeable or emergency.”

In response to questions from Director Ortega (Fullerton) about how MWD would fund the resulting unbudgeted debt service costs, Kasaine said MWD would “have to find savings within the budget,” and that it would “probably be [from] reserves.” Smith’s motion did not pass, gaining support from four out of 11 F&I Committee members that were present: Directors Goldberg, Quinn (Los Angeles), Quiñonez (Los Angeles), and Smith. The Committee approved staff’s recommendation, with the Water Authority’s two committee members opposing.

In response to the Board’s April budget and rates action, staff presented a review of the impacts of the COVID-19 pandemic on MWD and its member agencies. Although MWD reported it is implementing almost $12 million in cost-containment measures, staff recommended to not incorporate these savings into its 2021 and 2022 budget and rates and thus, offer no rate relief to

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1 This document provides a summary of certain discussions as summarized and understood by the Water Authority and is not intended to be any form of official transcript.

2 For more information on MWD’s budget and rates review, see the memo Update on Metropolitan Water District’s 2021 and 2022 Budget and Rates Review starting on page 43 of the Water Authority’s September 2020 Board Packet, found here: https://www.sdcwa.org/meetings-and-documents
its ratepayers. Instead, staff proposed setting up a payment deferral program, should member agencies request one, and to continue to monitor sales and expenditures, and “as needed,” prepare additional cost-containment measures for the Board’s consideration at the mid-cycle budget review. MWD received 21 letters asking the Board to take additional cost savings measures to reduce its rates and one letter supporting staff’s recommendation to maintain the adopted rates. F&I Committee Chair Quiñonez asked that staff remove the words “as needed” from the action because cost-containment measures are “clearly needed” going forward. (Staff did not remove the language from the final Board action.)

Smith noted that staff identified $11.7 million of cost-containment measures but is not proposing to pass those savings onto ratepayers. In her presentation, Kasaine had said these cost savings will be used to offset potential lower-than-budgeted water sales and higher-than-budgeted CIP expenditures, to ultimately mitigate withdrawals from unrestricted reserves. (MWD’s year-to-date fiscal year 2021 water sales are trending higher than those in fiscal year 2020, but staff reported water sales are trending about 200,000 acre-feet below budget less than three months into its 24-month adopted budget. Fiscal year 2020 sales ended 384,000 acre-feet below budget, but MWD still ended the fiscal year with net revenues of more than $59 million.) Referencing the correspondence between the Water Authority Chair and MWD Chairwoman on this issue, Smith asked if MWD could reduce its costs (and rates) by deferring its $7 million per year succession plan (that includes advanced recruiting) given that MWD is limiting hiring to “essential-only” positions as part of its cost containment effort. Even though MWD’s budget contains a line item for this new initiative, Kasaine said MWD “can’t isolate one item out of the budget,” and that staff’s projected savings “might not be enough” to balance the budget if water sales continue to trend below budget. Referencing the Board’s action from last month to maintain the ad valorem tax rate for fiscal year 2021 at the level it has been at since fiscal year 2013, Smith questioned why MWD did not recommend incorporating the additional $8 million in tax revenue above budget. Kasaine replied that the tax revenue was an assumption and did not factor in potential delinquencies. (MWD collected more property tax revenue than budgeted every year since at least 2007, including during the Great Recession.) Smith reiterated his desire for MWD to translate cost savings into a reduction in MWD’s transportation rates in order to pass cost savings onto all Southern California ratepayers, who are struggling with their bills, including the 750,000 ratepayers he represents.

Ortega noted staff’s June survey to assess the impacts of the pandemic on its member agencies was conducted too early to capture the true financial impacts of COVID-19 on cities and retail agencies and occurred when there were state and federal assistance programs. Since these programs are no longer available, there may be an increase in delinquencies, so Ortega supported MWD establishing a delinquency program. He questioned whether MWD had “turned every possible rock over” to find opportunities for both savings and revenue generation. Ortega made a motion to approve staff’s recommendation with two additional provisions: to explore new revenue generation options, including a groundwater replenishment program, during the mid-cycle budget review; and to place a moratorium on bringing unbudgeted, non-emergency

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3 See correspondence submitted to MWD in opposition to this item, as well as MWD’s responses, found here: https://mwdprograms.sdcwa.org/wp-content/uploads/2020-09-15-8-1-Opposition.pdf

4 See correspondence submitted to MWD in support of this item, as well as MWD’s response, found here: https://mwdprograms.sdcwa.org/wp-content/uploads/2020-09-15-8-1-Support-Letter.pdf
expenditure proposals for the remainder of the fiscal year. Director Faessel (Anaheim) seconded the motion.

General Manager Kightlinger said he had “concern” over the moratorium on unbudgeted spending, which could “tie the Board’s hands” in making decisions. He offered the example of MWD funding its share of the annual Sites Reservoir planning costs of roughly $5 million, which staff did not include in the budget because they are “relatively small,” and the Board could use its “discretion whether or not to fund it.” (For the last two fiscal years, the Board authorized funding of about $4 million for the MWD’s share of the Sites Reservoir planning costs, making it hard to understand why these costs were not included in MWD’s budget.) Ortega called “for some fiscal discipline in light of what’s going on today,” saying he thought MWD would look “tone-deaf” if it continues to authorize unbudgeted expenditures while it intends to respond to the “distress” caused by the pandemic. Kasaine suggested the Board has discretion to make budget adjustments during its mid-cycle budget review in 2021. Ortega replied the Board has a duty to “demonstrate some discipline,” and must show it is “exercising as much diligence and restraint” as possible.

Goldberg echoed Ortega’s comments, saying that the “flexibility” staff builds into the budget “seems to result in additional spending most of the time” and encouraged “discipline.” She added that staff’s memo discusses the impacts of the pandemic on member agencies, but does not address impacts on ratepayers, many of whom are facing “dire financial problems,” including “difficulty paying rent and utility bills,” even while receiving additional unemployment benefits. She made a motion, seconded by Smith, for MWD to reduce its transportation rates by incorporating into the budget and rates the $26.7 million in savings Smith mentioned. The motion failed, despite gaining support from Faessel, Ortega, and the Water Authority’s two committee members.

Director Record (Eastern) said “fiscal restraint would have been great” during MWD’s approval of the Water Authority’s Local Resource Program (LRP) agreements in July (which are limited to receiving about $7.6 million, combined, annually in LRP subsides over 15 years once they are producing the maximum amount of agreement water in 2023 and 2024). He then made a substitute motion to approve staff’s recommendation—with no additional provisions—and to establish a delinquency program. The motion failed, with support from Directors Blois (Calleguas), Dick (Municipal Water District of Orange County (MWDOC)), Hawkins (Central Basin), Record, and Tamaribuchi (MWDOC). Ultimately, the Committee approved Ortega’s motion with only Record opposing.

At the subsequent day’s Board meeting, Chairwoman Gray (West Basin) expressed support for the F&I Committee’s recommendation. Smith highlighted that staff did not think MWD could reduce rates due to potential budget shortfalls and asked, “Why is our budget so out of alignment only three months into a two-year biennial budget, and where is the accountability?” He noted the low water sales trend was “foreseeable” and “challenge[d]” staff to develop rate-relief options for the mid-cycle budget review in June. Smith supported Ortega’s added provisions, which would move MWD “in the very necessary direction of having some discipline in observing” its adopted budgets while enabling it to seek additional revenue sources. Quinn
echoed Smith’s budgeting concerns, saying she hopes MWD can “incorporate” better water sales modeling going forward to avoid over-projecting sales.

In response to a question from Pressman (Beverly Hills), General Counsel Scully confirmed the Committee’s recommended action would not preclude the Board from making changes to the budget. Peterson cautioned the Board to develop specific criteria for the delinquency program so member agencies are unable to “game” the program for “free no-interest loans.” The Board unanimously approved the Committee’s recommendation with Ortega’s additional provisions (items d and e below):

a) Continue to track COVID-19 impacts to the member agencies with a focus on retail payment delinquencies. If there is interest from the member agencies, develop a payment deferral program that also exempts penalties or interest for those agencies that record and report significant delinquencies and likewise grant deferrals to their customers. Bring back any deferral program criteria to the Board for review and consideration.

b) Monitor water demands, sales and expenditures and prepare additional cost-containment measures, as needed, for mid-cycle budget review.

c) Maintain the current rates adopted by the Board to address the impacts of lower water sales and lower revenues while maintaining current credit ratings.

d) The mid-year budget review will include new revenue generation options, including through a groundwater replenishment program; and

e) Implement a moratorium on non-emergency unbudgeted proposals for the remaining part of the fiscal year that have not been anticipated in the budget.
Discussion Summary of MWD’s Equal Employment Opportunity Issues

At its September meeting, the Metropolitan Water District (MWD) Organization, Personnel, and Technology (OP&T) Committee discussed MWD’s Equal Employment Opportunity (EEO) policy and related issues. During the public comment period, two MWD employees addressed the committee—the President of the Black Employees Association highlighted the low number of Black employees at MWD and provided recommendations for increasing that representation, and the other speaker called for MWD to improve its process for handling complaints. Staff first presented an update on its EEO Program, which provided workforce demographic, hiring, promotion, and retirement data as of December 2019. Staff focused on minority and female representation in MWD’s workforce. Staff also explained MWD’s affirmative action and nondiscrimination programs and its efforts to attract, retain, and promote women, minorities, people with disabilities, and veteran employees.

Following the presentation, Director Quiñonez (Los Angeles) acknowledged MWD’s progress to diversify its workforce but said it has “huge issues that continue to exist regarding equitable programs and equitable opportunity.” He asked if MWD had gender, race, ethnicity, and other demographic data by job type—skilled crafts, officials and administrators, and professionals. Staff presented female, male, minority, and white employee data by job type. Quiñonez suggested further breaking down those numbers. He expressed interest in how MWD outreaches to American Indian organizations and groups, noting that MWD has few American Indian employees. Staff said they had a recruitment event targeting this demographic several years ago but acknowledged outreach to that community was a challenge and said they would continue to improve that effort.

Director Ortega (Fullerton) asked about the composition of MWD’s newly created Diversity, Equity and Inclusion Council (council) and if it included board members. He expressed concern that the MWD Ethics Office survey found that “less than half of Metropolitan employees strongly agree with the statement that they could disclose suspected violation of any law, rule, or regulation without the fear of reprisal.” Saying, although MWD has made progress with diversity, Ortega suggested it is time to address the “troublesome” cultural issues at MWD, referring to recent public comments at the MWD Board about sexual harassment. He suggested that the council include some board members to ensure improvements are made.

Alluding to the public comments, Director Cordero (Long Beach) implied MWD should strive to do more than just comply with EEO requirements. She noted the number of Black employees only comprise 7 percent of MWD’s workforce, which she said was “very low.” Cordero also acknowledged the MWD employees that made public comments over the past four months to the

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1 This document provides a summary of certain discussions as summarized and understood by the Water Authority and is not intended to be any form of official transcript.
3 See the presentation titled “Ethics Survey Results, Part 2,” found here: [http://www.mwdh2o.com/WhoWeAre/Board/Board-Meeting/Board%20Archives/2020/06%20-%20June/Presentations/06232020%20AE%20Presentation.pdf](http://www.mwdh2o.com/WhoWeAre/Board/Board-Meeting/Board%20Archives/2020/06%20-%20June/Presentations/06232020%20AE%20Presentation.pdf)
Board about their experiences with retaliation and harassment and urged the Board to address these issues. Later, Director Ballin (San Fernando) echoed Cordero, saying the Board must work on diversity and inclusion issues and highlighted the low percentage of female and minority employees. She concluded by saying MWD employees need to reflect “the true representation of the population [MWD] serve[s].”

Director Treviño (Upper San Gabriel) agreed with Ortega about having board members on the council and added that employees who are experienced in dealing with diversity and inclusion issues should serve as well. Treviño also said the Board needs to be “more assertive” when MWD’s employees bring issues of diversity and inclusion to its attention; he questioned why those issues persist at MWD. Chairwoman Gray (West Basin) said the council is not a Board committee, but a “platform for employees and unions to air their concerns to senior management, and the Chair, and the General Manager in a different forum than at the [OP&T] Committee.” Gray said that the council can prepare a report for the Board and welcomed input from the Board. She also agreed that MWD can “look further,” agreeing with Cordero and Quiñonez. General Manager Kightlinger said he created the council to have a dialogue between employees and management but invited Gray “to participate and observe.” He said he plans to bring council issues to the OP&T Committee for discussion. OP&T Committee Chair Murray (Los Angeles) suggested the council should not be a Board committee, but it should report back the OP&T Committee on a regular basis, especially if the Board needs to take action to address the council’s concerns.

Ortega said the Board needs to protect employees, and its concern is “not about input, this is about oversight.” He agreed with Murray that MWD should preserve the council so issues can be discussed internally, but recommended the creation of a subcommittee of the OP&T Committee or a new Board committee to have “formal exchange” and interact with the council since the Ethics Office’s survey found employees are not confident in MWD’s ability to protect employee rights. Ortega emphasized that the Board’s function is to “provide oversight” and take action “that may address some of these workplace cultural issues.” Murray said the OP&T Committee needs to discuss the purpose and mission of this subcommittee at another meeting but added that the council and Board should focus on “outcomes” and results to solve these persistent issues.

Treviño said the council process must be transparent and employees must “feel … security in the [council’s] findings.” Treviño provided a summary of how the council process works, which Kightlinger confirmed: the council develops recommendations, which go to the executive management for review, and then the recommendations are presented to the Board. Kightlinger added that a facilitator assists with the council’s discussions and the council’s meeting minutes are posted for all employees to review. Treviño expressed concern that employees do not trust management to address their concerns, yet the council recommendations are passed through management before going to the Board. Treviño suggested the council submit its report directly to the OP&T Committee instead of going to management first. Kightlinger pushed back on this suggestion and responded, “[t]he Board always works best as it lays out policies, broad policies, and it’s management’s job to implement those policies, and that’s usually the normal process that we kind of work through, and I think that tends to work best in the long run.”
Director Ramos (Burbank) suggested that Ethics Officer Salinas assist in addressing diversity and inclusion issues. Director Goldberg pointed out that based on the comments, it is clear that the Board is seeking for MWD to have “a culture and a process that creates a strong ethic of transparency and zero tolerance for harassment.” She said MWD’s current process is not working, and board members suspect, based on employee survey responses and public comment, that “supervisors and managers may in some cases be more interested in suppressing the information to…protect the reputation of their own department or the organization than they are in protecting employees.” Goldberg said the Board should be engaged in creating a new process and suggested that MWD reconstitute the group that worked on these issues in the past. Director Butkiewicz added that MWD should consider retaining independent attorneys to advise the Board on these issues.

The committee moved onto its second presentation, *Update on Equal Employment Opportunity Issues*, which intended to respond to public comments made by MWD employees at previous OP&T Committee meetings about workplace retaliation and harassment. Assistant General Manager and Chief Administrative Officer Chapman presented EEO complaint data between 2005 and 2019. MWD staff found that the number of EEO complaints decreased over time, and between 2015 and 2019, MWD had an average of nine EEO complaints per year. Chapman said 75 percent of investigated complaints are unsubstantiated, but even if a complaint is unsubstantiated, it may “be an indication of other issues that need to be addressed” since an employee went so far as to file an EEO complaint. Staff will present a report with more detail to the OP&T Committee in November.

Following the presentation, Director Abdo (Santa Monica) asked if there was any lesbian, gay, bisexual, transgender, questioning (or queer), plus (LGBTQ+) representation on the council and asked about MWD programs to support LGBTQ+ employees. Chapman responded there was an active LGBTQ+ Employee Resource Group, but due to retirements, the group does not exist. However, one transgender employee sits on the council representing MWD’s American Federation of State, County, and Municipal Employees Women’s Caucus.

Director Hogan asked if MWD is undertaking an independent review of how the EEO complaints are managed to evaluate its compliance with its own policies and procedures. Chapman said Hogan’s characterization was “well placed” and added that Salinas was qualified to make recommendations to improve the EEO complaint process. Chapman added that MWD needs to “do more work” on the complaint process—both during the complaint initiation and when findings are sent to an employee.

Treviño suggested the Board needs to evaluate the connections between sexual harassment and retaliation; Chapman agreed and said staff would include that information in its November report. Treviño also requested more information about the outside investigators that handle EEO complaints: who they are, how staff selects them, how many are minority firms, and how often MWD uses the same investigators. Treviño advocated that the outside investigator process be transparent and for MWD to ensure that investigators are not biased. Murry requested that staff provide a list of outside investigators and outside legal firms that work on EEO issues.
Quiñonez asked staff to provide the percent of sexual harassment and retaliation complaints that were against management, including what percent of those complaints were substantiated, and if any management employees were disciplined or terminated as a result of substantiated findings. Chapman said that information would be provided in the November report as well. Ballin requested information on the female employees that worked in MWD trades: specifically, how many filed an EEO complaint, how many remained in trades, and how many transferred out of trades and why.

Goldberg thanked staff for the complaint data but cautioned that it may not reflect the real scope of the EEO issues given the findings from the Ethics Office survey, which indicated a lack of trust in MWD’s system. Thus, she concluded that complaints could be under-recorded, and the survey is likely a better reflection of how employees view the culture of MWD. She also said the Board must engage in reviewing and improving the EEO complaint process.
Adjourned Finance and Insurance Committee

Meeting with Board of Directors*

September 14, 2020

9:00 a.m.

Live streaming is available for all board and committee meetings on our mwdh2o.com website

(Check to Access Board Meetings Page)

Public Comment Via Teleconference Only: Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via teleconference only. To participate call (404) 400-0335 and use Code: 9601962.

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

* The Metropolitan Water District’s Finance and Insurance Committee meeting 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 the Finance and Insurance Committee may attend and 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 the Finance and Insurance Committee will not vote on matters before the Finance and Insurance Committee.

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

**CONSENT CALENDAR ITEMS — ACTION**

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

   A. Approval of the Minutes of the meeting of the Adjourned Finance and Insurance Committee held August 17, 2020

3. **CONSENT CALENDAR ITEMS – ACTION**

   7-1 Adopt Ordinance No. 151 determining that the interests of Metropolitan require the use of revenue bonds in the aggregate principal amount of $500 million to finance a portion of capital expenditures and waive the full reading of Ordinance; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [Two-thirds vote required at Board]
7-2 Adopt Twenty-Fourth Supplemental Resolution to the Master Bond Resolution authorizing the issuance of up to $255 million of Water Revenue Bonds, 2020 Series or 2021 Series; and approve expenditures to fund the costs of issuance of the Bonds; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

END OF CONSENT CALENDAR ITEMS

4. OTHER BOARD ITEMS — ACTION

8-1 Review the impacts of the COVID-19 crisis on Metropolitan's fiscal years 2020/21 and 2021/22 biennial budget and rates and charges for calendar years 2021 and 2022; approve recommended cost-containment measures to address the COVID-19 financial impacts; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

5. BOARD INFORMATION ITEMS

None

6. COMMITTEE ITEMS

None

7. MANAGEMENT REPORT

a. Chief Financial Officer’s report

8. FOLLOW-UP ITEMS

None
9. FUTURE AGENDA ITEMS

10. ADJOURNMENT

**NOTE:** This committee reviews items and makes a recommendation for final action to the full Board of Directors. Final action will be taken by the Board of Directors. Agendas for the meeting of the Board of Directors may be obtained from the Board Executive Secretary. This committee will not take any final action that is binding on the Board, even when a quorum of the Board is present.

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Date of Notice: August 31, 2020
Adjourned Engineering and Operations Committee

Meeting with Board of Directors*

September 14, 2020

10:30 a.m.

Live streaming is available for all board and committee meetings on our mwdh2o.com website (Click to Access Board Meetings Page)

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

CONSENT CALENDAR ITEMS — ACTION

2. CONSENT CALENDAR OTHER ITEMS – ACTION
   a. Approval of the Minutes of the meeting of the Adjourned Engineering and Operations Committee held August 17, 2020

* The Metropolitan Water District’s Engineering and Operations Committee meeting 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 the Engineering and Operations Committee may attend and 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 the Engineering and Operations Committee will not vote on matters before the Engineering and Operations Committee.
3. **CONSENT CALENDAR ITEMS – ACTION**

   7-3 Award a $13,419,000 contract to J.F. Shea Construction, Inc. to replace the overhead bridge cranes at each Colorado River Aqueduct pumping plant; and authorize an agreement with Chamieh Consulting & Industrial Group, Inc. in an amount not-to-exceed $500,000 for technical support; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

   **END OF CONSENT CALENDAR ITEMS**

4. **OTHER BOARD ITEMS – ACTION**

   None

5. **BOARD INFORMATION ITEMS**

   None

6. **COMMITTEE ITEMS**

   a. Regional Recycled Water Program Update

   b. Capital Investment Plan Quarterly Report for period ending June 30, 2020

   c. Statewide Power Emergency Response Update

7. **MANAGEMENT REPORTS**

   a. Water System Operations Manager’s report

   b. Engineering Services Manager’s report
8. **FOLLOW-UP ITEMS**

None

9. **FUTURE AGENDA ITEMS**

10. **ADJOURNMENT**

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Date of Notice: September 2, 2020
Joint Meeting of the
Adjourned Water Planning and Stewardship Committee
And
Conservation and Local Resources Committee
Meeting with Board of Directors*

September 14, 2020
12:30 p.m.

Live streaming is available for all board and committee meetings on our mwdh2o.com website (Click to Access Board Meetings Page)

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

CONSENT CALENDAR ITEMS — ACTION

2. CONSENT CALENDAR OTHER ITEMS – ACTION

A. Approval of the Minutes of the Joint Meeting of the Adjourned Water Planning and Stewardship Committee and the Conservation and Local Resources Committee held August 17, 2020 (A copy has been submitted to each Director) Any additions, corrections, or omissions
3. **CONSENT CALENDAR ITEMS – ACTION**

   7-5 Adopt the CEQA determination that the proposed action was addressed in prior environmental documentation and authorize amendment to agreement with California Department of Water Resources to purchase surface water supplies from Yuba County Water Agency. (Jt WP&S and C&LR)

**END OF CONSENT CALENDAR ITEMS**

4. **OTHER BOARD ITEMS – ACTION**

   None

5. **BOARD INFORMATION ITEMS**

   None

6. **COMMITTEE ITEMS**

   a. Conservation Update
   b. Leak Detection Assistance Program and Flow Monitoring Device Pilot Program Proposal
   c. Update on Binational Cooperation in the Colorado River Basin through Minute 323

7. **MANAGEMENT REPORTS**

   a. Bay-Delta Matters
   b. Colorado River Matters
   c. Water Resource Management Manager’s report
8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

10. ADJOURNMENT

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Date of Notice: September 2, 2020
Adjourned Communications and Legislation Committee

Meeting with Board of Directors*

September 14, 2020

1:30 p.m.

Live streaming is available for all board and committee meetings on our mwdh2o.com website
(Click to Access Board Meetings Page)

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

CONSENT CALENDAR ITEMS — ACTION

2. CONSENT CALENDAR OTHER ITEMS — ACTION

A. Approval of the Minutes of the meeting of the Communications and Legislation Committee held June 8, 2020

3. CONSENT CALENDAR ITEMS — ACTION

7-4 Express support for Proposition 16, the “Allows Diversity as a Factor in Public Employment, Education and Contracting Decisions” Legislative Constitutional Amendment; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA
END OF CONSENT CALENDAR ITEMS

4. OTHER BOARD ITEMS — ACTION

   None

5. BOARD INFORMATION ITEMS

   None

6. COMMITTEE ITEMS

   a. Update on Communications and Outreach Programs
   b. Report on activities from Washington, D.C.
   c. Report on activities from Sacramento

7. MANAGEMENT REPORT

   a. External Affairs Management report

8. FOLLOW-UP ITEMS

   None

9. FUTURE AGENDA ITEMS

10. ADJOURNMENT
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Adjourned Legal and Claims Committee

Meeting with Board of Directors*

September 15, 2020

9:00 a.m.

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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 REPORT
   a. General Counsel’s report of monthly activities

| CONSENT CALENDAR ITEMS — ACTION |

3. CONSENT CALENDAR OTHER ITEMS – ACTION
   A. Approval of the Minutes of the Adjourned Legal and Claims Committee meeting held August 18, 2020

4. CONSENT CALENDAR ITEMS – ACTION
   None

Date of Notice: September 2, 2020
5. OTHER BOARD ITEMS — ACTION

None

6. BOARD INFORMATION ITEMS

None

7. COMMITTEE ITEMS

a. Report on San Diego County Water Authority v. 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 appeal of the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case Nos. A146901 and A148266 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; and 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

[Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]

8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

10. ADJOURNMENT

Date of Notice: September 2, 2020
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Adjourned Organization, Personnel and Technology Committee

Meeting with Board of Directors*

September 15, 2020

10:00 a.m.

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

CONSENT CALENDAR ITEMS — ACTION

2. CONSENT CALENDAR OTHER ITEMS – ACTION
   A. Approval of the Minutes of the meeting of the Adjourned Organization, Personnel and Technology Committee held August 18, 2020

3. CONSENT CALENDAR ITEMS – ACTION
   None

END OF CONSENT CALENDAR ITEMS
4. OTHER BOARD ITEMS – ACTION

None

5. BOARD INFORMATION ITEMS

None

6. COMMITTEE ITEMS


b. Update on Equal Employment Opportunity Issues

c. Quarterly Cybersecurity Oral Update

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

7. MANAGEMENT REPORT

a. Human Resources Manager’s report

b. Information Technology Manager’s report

8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

10. ADJOURNMENT

Date of Notice: September 2, 2020
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Adjourned Board Meeting
September 15, 2020
12:00 p.m.

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call (404) 400-0335 and use Code: 9601962.

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1. **Call to Order**

   (a) Invocation: Sal Vasquez, Metropolitan Retiree representing the Hispanic Employees Association

   (b) Pledge of Allegiance: Director Butkiewicz, San Diego County Water Authority

2. **Roll Call**

3. **Determination of a Quorum**

4. Opportunity for members of the public to address the Board on matters within the Board’s jurisdiction. (As required by Government Code Section 54954.3(a))

5. **OTHER MATTERS AND REPORTS**

   A. Report on Directors’ events attended at Metropolitan expense for month of August 2020

   B. Chairwoman's Monthly Activity Report

   C. General Manager's summary of activities for the month of August 2020

   D. General Counsel’s summary of activities for the month of August 2020

Date of Notice: September 2, 2020
E. General Auditor’s summary of activities for the month of August 2020

F. Ethics Officer’s summary of activities for the month of August 2020

CONSENT CALENDAR ITEMS — ACTION

6. CONSENT CALENDAR OTHER ITEMS — ACTION

A. Approval of the Minutes of the Adjourned Meeting for August 18, 2020
(Copies have been submitted to each Director)
Any additions, corrections, or omissions

B. Approve committee assignments

7. CONSENT CALENDAR ITEMS — ACTION

7-1 Adopt Ordinance No. 151 determining that the interests of Metropolitan require the use of revenue bonds in the aggregate principal amount of $500 million to finance a portion of capital expenditures and waive the full reading of Ordinance; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (F&I) [Two-thirds vote required at Board]

7-2 Adopt Twenty-Fourth Supplemental Resolution to the Master Bond Resolution authorizing the issuance of up to $255 million of Water Revenue Bonds, 2020 Series or 2021 Series; and approve expenditures to fund the costs of issuance of the Bonds; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (F&I)

7-3 Award a $13,419,000 contract to J.F. Shea Construction, Inc. to replace the overhead bridge cranes at each Colorado River Aqueduct pumping plant; and authorize an agreement with Chamieh Consulting & Industrial Group, Inc. in an amount not-to-exceed $500,000 for technical support; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (E&O)
7-4 Express support for Proposition 16, the “Allows Diversity as a Factor in Public Employment, Education and Contracting Decisions” Legislative Constitutional Amendment; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (C&L)

7-5 Adopt the CEQA determination that the proposed action was addressed in prior environmental documentation and authorize amendment to agreement with California Department of Water Resources to purchase surface water supplies from Yuba County Water Agency. (Jt WP&S and C&LR)

END OF CONSENT CALENDAR ITEMS

8. OTHER BOARD ITEMS — ACTION

8-1 Review the impacts of the COVID-19 crisis on Metropolitan’s fiscal years 2020/21 and 2021/22 biennial budget and rates and charges for calendar years 2021 and 2022; approve recommended cost-containment measures to address the COVID-19 financial impacts; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (F&I)

9. BOARD INFORMATION ITEMS

9-1 Update on Conservation Program

10. OTHER BOARD ITEMS

10-1 Department Head Performance Evaluations

[Public Employees’ performance evaluations; General Manager, General Counsel, General Auditor, and Ethics Officer; to be heard in closed session pursuant to Gov. Code 54957.]
11. FOLLOW-UP ITEMS

12. FUTURE AGENDA ITEMS

13. ADJOURNMENT

NOTE: Each agenda item with a committee designation will be considered and a recommendation may be made by one or more committees prior to consideration and final action by the full Board of Directors. The committee designation appears in parentheses at the end of the description of the agenda item e.g., (E&O, F&I). Committee agendas may be obtained from the Board Executive Secretary.

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CONSENT CALENDAR ITEMS – ACTION

The Board:

Adopted Ordinance No. 151, determining that the interests of Metropolitan require the use of revenue bonds in the aggregate principal amount of $500 million to finance a portion of Metropolitan’s capital expenditures and waive the full reading of Ordinance No. 151. (Agenda Item 7-1)

Adopted the Twenty-Fourth Supplemental Resolution to the Master Bond Resolution authorizing the issuance of up to $255 million of Water Revenue Bonds, 2020 Series and 2021 Series, and providing the terms and conditions for the sale and issuance of said Water Revenue Bonds; and approved expenditures of approximately $780,000 for the payment of the costs of issuance of the Water Revenue Bonds to be paid from bond proceeds or Metropolitan funds. (Agenda Item 7-2)

Awarded $13,419,000 contract to J.F. Shea Construction, Inc. to replace the overhead bridge cranes at all five CRA pumping plants; and authorized an agreement with Chamieh Consulting & Industrial Group, Inc. for technical support, in an amount not-to-exceed $500,000. (Agenda Item 7-3)

Expressed support for Proposition 16, the “Allows Diversity as a Factor in Public Employment, Education and Contracting Decisions” Legislative Constitutional Amendment. (Agenda Item 7-4)

Adopted the CEQA determination that the proposed action was addressed in prior environmental documentation and authorized the General Manager to execute an amendment to the Agreement with DWR to purchase surface water supplies from Yuba County Water Agency consistent with the key terms outlined in Attachment 1 of the Board Letter and in a form approved by the General Counsel. (Agenda Item 7-5)

OTHER BOARD ITEMS – ACTION

FINANCE & INSURANCE COMMITTEE:

Approved the following recommended cost-containment measures to address the COVID-19 financial impacts as amended:

Continue to track COVID-19 impacts to the member agencies with a focus on retail payment delinquencies. If there is interest from the member agencies, develop a payment deferral program that also exempts penalties or interest for those agencies that record and report
significant delinquencies and likewise grant deferrals to their customers. Bring back any deferral program criteria to the Board for review and consideration; and monitor water demands, sales and expenditures and prepare additional cost-containment measures, as needed, for mid-cycle budget review; and maintain the current rates adopted by the Board to address the impacts of lower water sales and lower revenues while maintaining current credit ratings; and include in the mid-year budget review new revenue generation options including through a groundwater replenishment program; and a moratorium on non-emergency un-budgeted proposals for the remaining part of the fiscal year that have not been anticipated in the budget. (Agenda Item 8-1)

THIS INFORMATION SHOULD NOT BE CONSIDERED THE OFFICIAL MINUTES OF THE MEETING.

Board letters related to the items in this summary are generally posted in the Board Letter Archive approximately one week after the board meeting. In order to view them and their attachments, please copy and paste the following into your browser: http://mwdh2o.com/WhoWeAre/Board/Board-Meeting/Pages/search.aspx

All current month materials, before they are moved to the Board Letter Archive, are available on the public website here: http://mwdh2o.com/WhoWeAre/archived-board-meetings
FY21 Appropriations Update

With less than ten days until the end of the federal fiscal year, Congress is in the midst of finalizing the details of a Continuing Resolution (CR) to allow the federal government to remain open and funded. Late Tuesday night, the House passed a CR by a bipartisan vote of 359-57, which would run until December 11th. Additionally, the proposal includes a one-year extension for both the National Flood Insurance Program and the Transportation Reauthorization FAST Act, which would keep current laws in place until September 30, 2021. The Senate is also expected to pass the bill and send it to the President for his signature prior to the end of the current federal fiscal year on September 30th. The CR will ensure that federal agencies, like the Bureau of Reclamation will continue to operate and receive federal funding to allow all their current activities to continue.

EPA Lowers Interest Rate on San Diego WIFA Loan

In early September, the Environmental Protection Agency (EPA) announced an update to the Water Infrastructure Finance and Innovation Act (WIFIA) loan with the City of San Diego’s Pure Water project. This action lowers the WIFIA loan’s interest rate, saving San Diego ratepayers an additional $290 million over the life of the loan. The WIFIA program was created in the Water Infrastructure Finance and Innovation Act of 2014 and created a federal loan and guarantee program administered by EPA. WIFIA’s aim is to accelerate investment in the nation’s water infrastructure by providing long-term and low-cost supplemental credit assistance for regionally and nationally significant projects.

House Subcommittee to Hold Hearing on Salton Sea

The House Natural Resources Committee, Water, Oceans, and Wildlife Subcommittee is holding a hearing this week entitled “Federal and State Efforts to Restore the Salton Sea.” California Natural Resources Agency Secretary Wade Crowfoot and Chair of the California State Water Resources Control Board Joaquin Esquivel will both be testifying. The Water Authority submitted proposed questions to Rep. Mike Levin (D-CA), who is a member of the subcommittee, for his consideration to ask during the hearing.
EPA Proposes 2020 Financial Capability Assessment for Water Services in Disadvantaged Communities

The EPA announced its proposed 2020 Financial Capability Assessment (FCA) for the Clean Water Act, which will help communities plan for water infrastructure improvements. Through the 2020 FCA, EPA is seeking to support water utilities that serve economically disadvantaged communities and provide vital clean water services that support public health, the environment and local economies. The 2020 FCA proposal explores how a customers’ ability to pay for service impacts the planning for capital expenditures, operation and maintenance needed to support Clean Water Act compliance. This guidance is used to evaluate the financial capability of a community when developing a schedule (i.e., plan) for water infrastructure improvements. This is the first time in more than 20 years this document has been updated. Once the FCA is published in the Federal Register, there will be a 30-day public comment period.