



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

8-16

April 7, 1998

To: Board of Directors (Engineering and Operations Committee--Action)
(Organization and Personnel Committee--Action)
(Committee on Legislation--Action)

From: *for* General Manager Edwade S. Meert III
General Counsel T. [Signature]

Subject: Assembly Bill 2626 (Baldwin) Requiring the Board to Authorize All Contracts for Capital Projects and Consulting Services of \$50,000 or Greater

RECOMMENDATION(S)

Oppose Assembly Bill 2626 (Baldwin-El Cajon) which amends the Public Contract Code to require that all contracts of a metropolitan water district for construction, procurement or consulting services in any amount that equals or exceeds fifty thousand dollars (\$50,000.00) be awarded at a meeting of the board held in accordance with the Ralph M. Brown Act.

EXECUTIVE SUMMARY

Assembly Member Steve Baldwin from El Cajon has introduced AB 2626 (Attachment No. 1). This bill amends the Public Contract Code to require that all contracts of a metropolitan water district for construction, procurement or consulting services in any amount that equals or exceeds fifty thousand dollars (\$50,000.00) be awarded at a meeting of the board held in accordance with the Ralph M. Brown Act.

The Administrative Code of The Metropolitan Water District of Southern California (Metropolitan) currently authorizes the General Manager to enter into contracts up to \$250,000 without board approval and up to \$500,000 for relocation or protection of Metropolitan facilities. The General Counsel is authorized to enter into contracts for special counsel or expert consultants up to \$100,000 without board approval. Both the General Manager and the General Counsel report to the Board quarterly regarding all contracts they have executed under this authority.

DETAILED REPORT

The Metropolitan Water District of Southern California Administrative Code establishes the contracting authority of the General Manager and Counsel within the parameters of state law.

Section 6431 authorizes the General Counsel to obtain special counsel or expert consultants without board approval. All contracts are reported quarterly to the Organization and Personnel Committee and the Legal and Claims Committee. Your Board amended this section of the Administrative Code in March 1994 to increase the General Counsel's authority from \$25,000 (established in 1980) to \$100,000 (Attachment No. 2).

Section 8115(c) authorizes contracts under \$250,000 to be executed by the General Manager unless otherwise directed by the Board. Your Board amended this section of the Administrative Code in June 1991 to increase the General Manager's authority from \$75,000 to \$250,000 (Attachment No. 3).

Section 8117 authorizes the General Manager to exercise the provisions of Section 8115(c) "without restriction" regardless of the subject matter, including contracts for professional services which do not exceed \$250,000 during any one year. Your Board amended this section of the Administrative Code in June 1991 pursuant to a Board Letter submitted by the then General Manager, Carl Boronkay to increase the General Manager's authority from \$75,000 to \$250,000.

Section 8118 authorizes the General Manager to execute specified contracts in excess of \$250,000. The General Manager may execute contracts up to \$500,000 for the relocation or protection of District facilities without prior Board approval and may execute contracts of up to one year duration to acquire or dispose of power or transmission capability. The General Manager is required to report contracts in excess of \$100,000 to the board on a quarterly basis. Your Board amended this section of the Administrative Code in June 1991 to increase the General Manager's authority relative to relocation contracts from \$200,000 to \$500,000.

The primary purpose of the amendments to the Administrative Code referenced above, as stated in the Board Letter (Attachment No. 3), was to "reduce the volume of administrative and routine items requiring individual consideration while still maintaining a high-quality level of director oversight." It is estimated that adoption of AB 2626 would result in approximately one hundred (100) additional board items annually.

At a time when the volume of substantive and policy issues before the Board has increased, adoption of AB 2626 would increase the volume of matters requiring individual review by the Board to levels in excess of that existing in 1991 and 1994 when the Board chose to establish the current levels of authority. The Board currently has the authority to adjust the level of General Counsel and General Manager authority up or down as your Board determines is appropriate. Adoption of AB 2626 would also preclude your Board from making its own determination as to the appropriate level of staff oversight and the nature of items requiring individual Board approval.

It is recommended that your Board oppose AB 2626 on the basis that the Board is the appropriate entity to determine the level of staff oversight and the nature of items requiring individual Board approval.

AB 2626 Metropolitan water districts: public contracts.

BILL NUMBER: AB 2626 AMENDED 04/02/98

AMENDED IN ASSEMBLY APRIL 2, 1998

INTRODUCED BY Assembly Member Baldwin

FEBRUARY 23, 1998

~~An act to amend Section 8611 of the Water Code, relating to water. An act to amend Section 21564 of the Public Contract Code, relating to metropolitan water districts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2626, as amended, Baldwin. ~~Flood control, channel clearance, or bank stabilization projects; mitigation plans~~ *Metropolitan water districts: public contracts .*

~~Existing law, prior to construction at the site of a flood control, channel clearance, or bank stabilization project, requires the Reclamation Board, in consultation with the Department of Fish and Game, to prepare and adopt a mitigation plan, as prescribed.~~

~~This bill would make technical, nonsubstantive changes in those provisions.~~

(1) Existing law authorizes the board of a metropolitan water district to prescribe methods for the construction of works and for the letting of contracts for the construction of works, structures, or equipment, or for the performance or furnishing of labor, materials, or supplies.

This bill would require the board to award any contract, or approve an amendment to a contract, for the construction of works, structures, or equipment, the performance or furnishing of labor, materials or supplies, or for professional services, in an amount that equals or exceeds \$50,000, at a meeting of the board in accordance with the Ralph M. Brown Act, thereby imposing a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes . State-mandated local program: ~~no~~-yes .

~~SECTION 1. Section 8611 of the Water Code is~~

SECTION 1. Section 21564 of the Public Contract Code is amended to read:

21564. (a) The board may prescribe methods for the construction of works and for the letting of

contracts for the construction of works, structures, or equipment, or for the performance or furnishing of labor, materials, or supplies required for the carrying out of any of the purposes of ~~this act~~ *the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969)* .

(b) Notwithstanding any other provision of law, any contract, or amendment to a contract, for the construction of works, structures, or equipment, or for the performance or furnishing of labor, materials or supplies, or for professional services, including, but not limited to, accountants, architects, attorneys, engineers, lobbyists, or consultants, in an amount that equals or exceeds fifty thousand dollars (\$50,000), shall only be awarded at a meeting of the board held in accordance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution. amended to read:—

~~8611. (a) (1) Except as provided in subdivision (b), prior to construction at the site of a flood control, channel clearance, or bank stabilization project, the board, in consultation with the Department of Fish and Game, shall prepare and adopt a mitigation plan, which shall be implemented as part of the project.~~

~~(2) A mitigation plan shall include, but not be limited to, all of the following:—~~

~~(A) A description of the actions that the board proposes to take to ensure that the project will meet all mitigation standards required by law with the objective of ensuring that the project causes no net loss of riparian, fishery, or wildlife habitat.—~~

~~(B) A designation of the agency or agencies responsible for implementing and maintaining each mitigation element of the plan.—~~

~~(C) A schedule for implementation of the mitigation ensuring that the mitigation measures will be accomplished prior to, or concurrent with, construction of the project, unless the board determines that to do so would be impracticable.—~~

~~(D) A financing plan for the mitigation identifying the source or sources of funds for the mitigation, the share of mitigation costs attributable to each source, and a schedule of when the funds are to be provided.—~~

~~(3) The plan may take into consideration the environmental benefits of restoring, maintaining, or increasing the sustainable diversity of native species and habitat that may result from the project, if these benefits have been approved by the Department of Fish and Game. The Department of Fish and Game may submit a review of the plan and its recommendations to the board for inclusion in the plan.—~~

~~(b) No mitigation plan is required if the board is responding to an emergency where no mitigation is required.—~~

~~(c) For any project authorized pursuant to Section 12668, the agreement set forth in subdivision (a) shall provide for the mitigation of the project with the objective of providing a net long term enhancement of the riparian habitat and fishery in the~~

~~project area. The degree of net enhancement required for each phase or part of the project shall not be so great as to cause the project to be infeasible.~~

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APR 12 1994



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Baron E. Duff
EXECUTIVE SECRETARY 7-6

March 14, 1994

(Legal & Claims Committee--Action)
Board of Directors (Organization & Personnel Committee--Action)
General Counsel
Increase in Contracting Authority of the General Counsel

Report

At the March 1994 meeting of the Legal and Claims Committee, the Chair of that committee requested a report and recommendation regarding the contracting limitations of the General Counsel without prior Board approval. By Administrative Code section 6431, the General Counsel may contract with special counsel and others necessary to carry out the functions of the office so long as the total amount payable in any one year, including all expenses, does not exceed \$25,000. These contracts are all reported to your Board on a quarterly basis. (See Admin. Code, § 6433.) This maximum amount payable is to be contrasted with the General Manager's authority without Board approval which is presently set at \$250,000. The General Counsel's authority was last set in 1980 and the General Manager's authority was last set in 1991.

Typically, contracts let under such authority would include special counsel who are needed when the staff does not have the expertise to handle the matter or when a conflict may develop and technical experts necessary to ensure adequate information to protect the District's interests. Examples of such experts include medical doctors and accident reconstruction experts generally retained in automobile accident cases. Contracts let under this authority would be done in accordance with the District's Business Outreach Program.

An increase in the General Counsel's authority to a maximum amount payable of \$100,000, including expenses, would further streamline the Board's agenda and would allow the Board additional time to consider major policy matters. The contracts would continue to be reported to your Board on a quarterly basis as provided for in Administrative Code section 6433.

Board Committee Assignments

This letter is referred for action to:

The Legal and Claims Committee for action because of its authority to study, advise, and make recommendations with regard to policy considerations concerning District contracts, pursuant to the District's Administrative Code section 2461, subdivision (d); and

The Organization and Personnel Committee for action because of its authority to study, advise, and make recommendations with regard to the terms and conditions of employment of all consultants, advisors, and special counsel, pursuant to the District's Administrative Code section 2471, subdivision (g).

Recommendation

**LEGAL AND CLAIMS AND ORGANIZATION AND PERSONNEL COMMITTEES
FOR ACTION.**

It is recommended that the General Counsel's authority to contract without prior Board approval be increased to \$100,000 and that Administrative Code section 6431 be amended as shown on attachment A to reflect such change.


N. Gregory Taylor

KLT:gld:gm
Attch.
cntrcts.inc

ATTACHMENT A**§ 6431. Authority to Obtain Expert Assistance.**

The General Counsel is authorized to employ special counsel and investigators to advise him or assist him in representing the District, and such technical experts as necessary for proper preparation and presentation of the District's interest in any court action, special proceedings, legislative hearings, or other proceedings whether in or out of court where the assistance of technical experts may be necessary in order to represent the District adequately, so long as the amount to be expended in fees, costs, and expenses in any one year in connection with any assignment will not exceed \$100,000.

ATTACHMENT B

§ 6431. Authority to Obtain Expert Assistance.

The General Counsel is authorized to employ special counsel and investigators to advise him or assist him in representing the District, and such technical experts as necessary for proper preparation and presentation of the District's interest in any court action, special proceedings, legislative hearings, or other proceedings whether in or out of court where the assistance of technical experts may be necessary in order to represent the District adequately, so long as the amount to be expended in fees, costs, and expenses in any one year in connection with any assignment will not exceed ~~\$25,000~~ \$100,000.

Attachment 3 to 8-16
Legal Department
April 7, 1998

By the Board of Directors of DATED 6-11-91
The Metropolitan Water District
of Southern California
at its meeting held 11 1991

39036

8-18



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

[Signature]
Executive Secretary

May 20, 1991

(Executive Committee--Action)
(Engineering and Operations--Action)
(Finance and Insurance--Action)

To: Board of Directors
From: General Manager
Subject: Revisions to the Administrative Code and Past Board Practice

Summary

Time demands on both the Board and staff have significantly increased over the past two years. To some extent this is an expected result of the general increase in the level of activity related to the capital construction program, but it is also heavily influenced by the drought and other serious water issues. To address this increase, a management level task force was formed last year to address the increasingly lengthy Board and Committee agendas. The objective of the task force was to reduce the volume of administrative and routine items requiring individual consideration while still maintaining a high-quality level of director oversight. The task force evaluated the variety of agenda items and Board correspondence, studied existing Administrative Code requirements, and reviewed past practices. This investigation identified specific policy and procedural areas in which recommendations to amend the Administrative Code and to modify past practices would have a direct and immediate effect on reducing the Board and staff work load. It is estimated that implementation of the following would reduce the number of letters requiring Board action by over 100 per year.

Recommendation

EXECUTIVE, ENGINEERING AND OPERATIONS, AND FINANCE AND INSURANCE COMMITTEES FOR ACTION.

It is recommended that the following modifications be made to the Administrative Code and to past Board practice (see Attachment A for exact language):

1. Code Section 8121 be added to delegate to the General Manager authority to award all competitively bid contracts to the lowest responsible bidder for equipment, materials, and supplies specifically identified in the budget; and Sections 8117 and 2720 be amended for reporting purposes.

2. Code Section 2121 be amended to increase the dollar limitation of items to be included on the consent calendar from \$1,000,000 to \$2,000,000.

3. Code Sections 2752, 8113, 8115, 8116, and 8117 be amended to authorize the General Manager to enter into negotiated contracts without prior Board approval for amounts up to \$250,000, an increase over the present \$75,000 limit.

4. Code Section 8115 (d) be amended to allow the General Manager to execute change orders for capital construction contracts without prior Board approval, subject to an aggregate limit of 5 percent of the contract amount.

5. Code Section 5115 be added to provide a revision in the procedure for funding capital projects whereby the General Manager would initially request the Board to appropriate an amount for planning and feasibility studies for a new capital project and obtain authorization to enter into all necessary contracts. Thereafter, following completion of all environmental documentation, the General Manager would request a total appropriation for all remaining work. If the costs of a capital project exceed the total appropriation, the General Manager would request additional funding and submit a report supporting said request. However, depending on the nature of the capital project, the Board, at its discretion, could continue to appropriate only such amounts as it deems necessary for the completion of each separate phase of a project.

6. Code Section 8118 be amended to increase the General Manager's authority to execute relocation or protection agreements, without the Board's prior

approval, from \$200,000 to \$250,000, and to change the reporting requirement for agreements from in excess of \$25,000 to \$100,000.

7. Code Sections 2109 and 2145 be amended to include a procedure for providing informational presentations on videotape in advance of meetings, subject, however, to public access to such information.

8. Code Section 11203 be added to authorize the General Manager to commit District funds for participation with other public agencies and organizations in matters necessary and proper to the carrying out of objects and purposes of the District, subject to a \$25,000 limitation.

Detailed Report

Background

Because of the increase in matters needing Board attention in recent years, primarily due to the District's expansion program and the drought, the work load for director review, as evidenced by Committee agendas, has more than doubled in the last one to two years.

In May 1990, Director Nolan solicited input for possible adjustment to Board Committee meeting schedules from the Engineering and Operations Committee, indicating it could serve as a "cornerstone" for any adjustments because it is the first Committee scheduled for regular meetings and usually has the longest agenda.

Subsequently in September 1990, directors attending a workshop more formally considered this matter with review of the findings of the Board Agenda Task Force, (then Assistant) Chief Engineer G. Snyder, Chief of Operations P. Singer, Director of Planning W. Horne, Director of Resources D. Adams, and Assistant Director of Finance B. Becker. The task force identified several areas which, if recommended amendatory action were implemented, would reduce the length of time for Board Committee meetings and/or enable the Committees to operate in a more efficient manner. The task force found that:

Board Delegation

A. Board correspondence could be reduced by over 60 Board letters per year if the following delegation of authority is implemented:

(1) Authorize the General Manager to purchase operating equipment items identified in the budget and approved by the Board during the budget review and approval process without additional Board action, provided the purchase amount is not more than 10 percent greater than the amount indicated in the approved budget, and

(2) Authorize the General Manager to enter into contracts for the purchase of all consumable items approved by the Board in the budget such as fuels, water treatment chemicals, materials for construction projects, and related bulk items without the need for further Board approval, regardless of the dollar value, provided competitive bids have been received and the lowest responsible bidder is awarded the contract.

For the period from May 1989 through June 1990, the Board Agenda Task Force determined that a minimum of 54 letters could have been eliminated if the General Manager's authority to contract had been raised from \$75,000 to \$250,000:

<u>Category</u>	<u>Number of Letters</u>
Vehicles	4
Consultants	26
Parts and Equipment	16
Miscellaneous	8

This count (which does not include water chemicals) has approximately doubled, per count from committee agendas.

B. Valuable Board time could be saved if the dollar value limit of Consent Calendar items is raised from \$1,000,000 to \$2,000,000 for any item and, further, that any item be included on the Consent Calendar if it has received prior Board approval for funding even if additional funding in excess of \$2,000,000 is required.

General Manager's Authority

C. The General Manager's authority to enter into contracts should be increased from the existing amount of \$75,000 to \$250,000. As a matter of record, Ordinance No. 29, which prescribed a system of business administration for the District, was adopted by Metropolitan's Board in January 1932. At that time, the Board authorized the General Manager to execute contracts up to \$10,000. This authority was increased by the Board to \$25,000 in 1969; \$50,000 in 1980; and \$75,000 in 1985. The General Construction Index for Southern California, as prepared by the Engineering News Record, has increased 27 times since 1932; had the General Manager's authority to enter into contracts, as originally determined by the Board in 1932, kept pace with the construction index, the approval limit would now be \$270,000.

Change Orders

D. Giving the General Manager authority to issue change orders on capital construction projects of up to a total of 5 percent over the contract price (provided sufficient funds are available within the current appropriation) without the need for further Board approval, would have no detrimental effect on Board oversight responsibilities, and could help expedite work in progress for (potentially) many of Metropolitan's larger projects.

Water Reuse Projects

E. Authorizing the General Manager to enter into agreements for water reuse projects that meet the Board-approved guidelines for the Local Projects Program, without the need for specific Board approval, would also help alleviate director work loads by reducing Board letters by approximately one per month.

Local Projects Program Guidelines

The project produces "new water" which replaces a firm demand on Metropolitan,

The project requires Metropolitan's financial assistance to be viable,

A facilities plan and market analysis must be complete, and

Public health and regulatory permits must be obtainable.

Videotape Presentations

F. By providing for a limited, three-month experiment, oral informational presentations to Board committees could be videotaped and mailed with regularly scheduled Board mailings. (This would not include the Chief Engineer's and Chief of Operations' reports to the E&O Committee, or the Treasurer's and Controller's reports to the F&I Committee.) If this experiment proves successful, language providing for videotape as a District-approved communications medium could be amended into the Code pursuant to Section 2145. Directors would be asked to return the tapes for reuse the next month. A sample tape containing a report on water reuse and a report on desalination is attached as an example (Attachment B).

Quarterly reports would inform directors of purchases not individually reviewed in conjunction with paragraphs A. (1) and (2), and for water reuse agreements as presented in paragraph E.

Capital Projects

G. The capital project approval methodology could be revised to minimize the number of times a specific capital project goes before the Board. This plan is designed to eliminate a large number of appropriation letters that go to the Board each month (approximately 10). Current procedures require that capital projects go before the Board as many as five and six times for approval and increases in the appropriation. An alternative method, used by both the City and County of Los Angeles and the State Department of Water Resources, would have each capital project approved for a one-year period in the budget process. The annual joint Finance and Insurance/Engineering and Operations meeting would be the forum for detailed discussion and approval of the estimates for each project.

A new project would have funding approval for any necessary environmental work. Thereafter, when a decision is made to proceed with the project, the appropriation would be increased by the Board for all further design, right of way, and construction work. If the appropriation is not overspent, there would be no reason to return to the Board for further action; but only to provide periodic status reports on all projects. If the estimates were exceeded, a report explaining the variance could be prepared and additional funding could be requested from the Board. On multi-year projects, the estimates may change from year to year and staff could explain the differences to the joint committees at their annual meeting in March-April. If necessary, a new appropriation could be approved as part of the next year's budget. The Board can designate certain projects for special review and, consistent with current practice, would appropriate only the amounts necessary for each phase of the project.

Funds for Outside Participation

H. In addition to the proposed changes concerning Board and Committee procedures, a provision has been included clarifying the General Manager's authority to commit District funds for participation with other public agencies and organizations in matters necessary and proper to the carrying out of objects and purposes of the District, subject to a \$25,000 limitation.

Annexations

Annexations were not addressed by the task force because the Board established a subcommittee to deal with that issue.

Restructure Agendas

Revision of committee agendas would reprioritize action items, important management and staff presentations, consent calendar items, and remaining items. Review of current committee minutes indicates that important oral reports often must be given in very abbreviated form to meet meeting closure requirements, or that other important matters must be postponed for one to three months, again because of meeting closure requirements. Proposed reorganized agendas, which could be implemented by management personnel, are provided as Attachment C.

In addition to recommended modifications and changes, staff could make more use of the unofficial procedure of preparing pending or "green" letters for Director' review. Under this plan, staff prepares and management transmits "draft" letters one or more months in advance of necessary formal Board consideration. The purpose of this plan is for directors to become familiar with all aspects of a subject letter, express their concerns, and enable staff to resolve these concerns in advance of agenda scheduling as an action item.

These actions are exempt from the provisions of the California Environmental Quality Act in that there is no possibility that they may have a significant effect on the environment.

Board Committee Assignments

This letter was referred for action to:

The Executive Committee because of its jurisdiction relating to policies and procedures to be considered by the Board pursuant to Administrative Code Section 2417 (e);

The Engineering and Operations Committee because of its jurisdiction over construction, operation and maintenance of District facilities, pursuant to Administrative Code Section 2431; and to

The Finance and Insurance Committee because its jurisdiction includes authorization of appropriations and preparation of budgets, pursuant to Administrative Code Section 2441, (a) and (b).


Carl Boronkay

SMF/il

Attachments (3)

ATTACHMENT A

ADMINISTRATIVE CODE REVISIONS

§ 2109. Board Agenda.

(a) The deadline for submission to the Executive Secretary of items for the Board agenda shall be in conformity with rules promulgated by the General Manager from time to time.

(b) Any matter not on the Board agenda may be presented to the Board upon motion duly made and carried at the Board meeting:

(1) Upon a determination by a majority vote of the Board that an emergency situation exists, as defined in Government Code Section 54956.5; or

(2) Upon a determination by a two-thirds vote of the Board, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted; or

(3) If the item was posted for a prior meeting of the Board occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) The Board agenda shall make provision for public appearances before matters on which action is required.

(d) The Executive Secretary shall be responsible for any required posting of agendas which shall be in the public lobby of the District's Headquarters Building.

(e) Videotapes of informational presentations prepared by District staff which are distributed in advance of a Board meeting to Board members shall be identified on the Board agenda.

§ 2121. Consent Calendar.

(a) Consent Calendar items shall be set forth in a separate section of the Board's agenda.

(b) Matters for the Consent Calendar shall be recommended by the Department Heads and shall be submitted to the Executive Secretary not less than seven working days prior to the meeting of the Board and, except as provided below, pertinent materials

sufficient to enable a member to formulate an opinion on each Consent Calendar item shall be included with the agenda mailed to directors. Such materials need not be included with the agenda as to matters which are to be considered in committee in closed session, but such materials shall be available at the meeting of the Board for distribution to directors who request them.

(c) Matters may not be placed on the Consent Calendar if a roll call vote is required; if a vote other than simple majority is required; or if the amount involved is ~~\$17,000,000~~ \$2,000,000 or more.

§ 2145. Availability for Public Inspection of Certain Board and Committee Materials.

The Executive Secretary shall make available, for inspection by the public prior to commencement of and during a Board or committee meeting, copies of the meeting agenda and of any written or videotaped materials that ~~is~~ are not exempt from public disclosure under Sections 10200-10205 and that has have been distributed in advance to the Board or committee members for discussion or consideration at the meeting. If non-exempt written or videotaped materials ~~is~~ are distributed to the members during their discussion at the meeting, copies thereof shall be made available for public inspection at the same time or as soon thereafter as practicable. Upon request, the District shall provide facilities for public viewing of videotaped materials distributed to Board members.

§ 2720. General Manager's Quarterly Reports.

The General Manager shall quarterly make the following reports:

(a) To the Engineering and Operations Committee:

(1) On service connections approved by ~~him~~ the General Manager pursuant to Sections 4700-4708 with the estimated cost and approximate location of each; and

(2) On the execution of any relocation agreements involving an amount in excess of ~~\$25,000~~ \$100,000 under the authority of Section 8118(a) ~~;~~ and

(3) On the execution of any contract authorized pursuant to Section 8121.

(b) To the Land Committee:

(1) Deeds or grants accepted during the preceding quarter;

(2) Easements, or similar rights, granted during the preceding quarter under the authority of Section 8220, and shall also include in such report any relocation or protection agreement made in connection therewith;

(3) All leases made during the preceding quarter under the authority of Sections 8222 and 8223;

(4) The details of any transactions during the preceding quarter in which an improvement was disposed of in such a manner as to make the improvement available for subsequent use by a party other than the District; and

(5) Property sold pursuant to the authority granted by Section 8240 et seq.

(c) To the Legal and Claims Committee, jointly with the General Counsel, the exercise of any power delegated to them by Sections 6431, 9200, and 9201.

(d) To the Organization and Personnel Committee on the employment of any consultant, the extension of any consulting agreement, and on the exercise of authority under Sections 8103(k) and 8117(a) during the preceding calendar quarter. The report covering the last calendar quarter of the year may be combined with and included in the annual report. Each such report shall indicate when a consultant is a former employee of the District.

§ 2752. Rejection of Bids.

The General Manager shall, whenever the lowest bid that is rejected is \$75,000 ~~\$125,000~~ or more, report ~~his~~ the action to the Engineering and Operations Committee.

§ 5115. Capital Project Approval.

The General Manager shall request the Board to appropriate amounts for initial planning and feasibility studies for all capital projects. Following completion of all environmental

documentation, the General Manager shall request a total appropriation for all remaining work. If the cost of a capital project exceeds the appropriation, the General Manager shall request additional funding and submit a report supporting said request. Notwithstanding the foregoing, the Board at its discretion may appropriate only such amounts as it deems necessary for the completion of each separate phase of a project.

§ 8112. Rejection of Bids.

The General Manager may reject all bids received, regardless of amount, but shall, whenever the lowest bid that is rejected is \$75,000 \$250,000 or more, report his such action to the Engineering and Operations Committee of the Board.

§ 8113. Award.

(a) By Board.--Award of contract required to be made upon competitive bidding shall be made by the Board in the following instances:

(1) When the lowest responsible bid for the construction of works or structures, for the purchase of equipment, materials or supplies, or for the performance of labor or services is \$75,000 \$250,000 or more.

(2) Where competitive bids are required and the low bid meeting the requirements of the notice inviting bids is not accepted.

(b) By General Manager.--In all cases other than those referred to in Section 8113(a) hereof, award of contract may be made by the General Manager unless otherwise directed by the Board.

§ 8115. Negotiated Contracts.

All contracts not required to be let by competitive bidding shall be entered into as follows:

(a) Contracts Over \$75,000 \$250,000.--Except as provided in Section 8115(b), if the amount payable or expected to be paid under the terms of the contract is \$75,000 \$250,000 or more, the contract shall be executed

only upon prior approval of the Board, provided that the Board may designate an officer of the District to negotiate and execute classes of contracts without prior approval of the Board.

(b) Urgent Necessity Contracts.- When the cost for the construction of works or structures, for the purchase of equipment, materials or supplies or for the performance of labor or services is ~~\$75,000~~ \$250,000 or more, and such construction, purchase, or performance is determined by the General Manager to be of urgent necessity, ~~he~~ the General Manager may execute a contract therefor, provided that such contract shall not be binding on the District in an amount exceeding ~~\$75,000~~ \$250,000 unless ~~he~~ the General Manager obtains ratification of such contract by a two-thirds vote of the Board.

(c) Contracts Under ~~\$75,000~~ \$250,000--If the amount payable or expected to be paid under the terms of a contract is less than ~~\$75,000~~ \$250,000 the contract may be executed by the General Manager unless otherwise directed by the Board.

(d) Change Orders. - Except for capital construction contracts, if the amount payable under a change order is less than ~~\$75,000~~ \$250,000, the General Manager is authorized to execute the change order even if the change order will bring the total amount payable under the contract to ~~\$75,000~~ \$250,000 or more. Notwithstanding the foregoing, the General Manager shall not, without prior Board approval, issue change orders totalling more than ~~\$75,000~~ \$250,000 to a contract involving an original total amount payable under ~~\$75,000~~ \$250,000, or a change order that would cause the amount payable under a contract for professional and consulting services to exceed the limit established by Section 8117(a). Change orders for capital construction projects may be executed by the General Manager without prior Board approval for an aggregate amount not to exceed 5 percent of the initial amount of the contract.

§ 8116. Approval by General Counsel.

The General Counsel shall approve, in writing, drafts of all contracts involving an expenditure of ~~\$75,000~~ \$250,000 or more before the same are entered into by or on behalf of the District.

§ 8117. Professional and Technical Consultants.

(a) The General Manager may exercise without restriction the contractual powers conferred by Section 8115(c) regardless of subject matter, including the power to contract for professional and consulting services, provided that the amount payable under any one contract during any one year shall not exceed \$75,000 \$250,000.

~~(b) -- A report shall be submitted by the General Manager to the Organization and Personnel Committee quarterly on the employment by the General Manager of any consultant or the extension of any consulting agreement during the preceding calendar quarter and at the beginning of each year on all consulting agreements in effect during the preceding year. -- The report covering the last calendar quarter of the year may be combined with and included in the annual report. -- Each such report shall indicate when a consultant is a former employee of the District.~~

§ 8118. Contracts in Excess of \$75,000 \$250,000 Not Requiring Prior Board Approval.

(a) Relocation Agreements.

(1) The General Manager is authorized to execute any agreement involving an amount not exceeding \$200,000 \$250,000 under which the District is to pay the cost of relocation or protection, or both, of facilities owned by others whenever ~~he~~ the General Manager deems that such action is necessary to the construction of District facilities.

(2) The General Manager is authorized to issue all appropriate orders necessary to implement any such agreement, and, in ~~his~~ the General Manager's discretion, to advance funds therefor.

(3) The General Manager is authorized to execute and to perform any agreement involving an amount not exceeding \$200,000 \$250,000 for the relocation or protection, or both, of District-owned facilities to accommodate the improvement of facilities owned by others and to determine whether a deposit shall be made prior to the commencement of work, and if so, in what amount.

(4) The General Manager shall report quarterly to the

Engineering and Operations Committee ~~his~~ the General Manager's execution under the authority of this Section of any agreements involving an amount in excess of \$25,000 \$100,000.

(5) All such agreements shall be subject to the approval of the General Counsel.

(b) Contracts for Utility Services.--The General Manager is authorized to negotiate and execute contracts for utility services, other than electrical energy for the pumping of Colorado River water, to facilities owned or operated by the District without limitation as to amount.

(c) Power and Transmission Contracts.

(1) General Authorization.--The General Manager is authorized to negotiate and execute contracts of duration up to one year to furnish power or transmission capability to the District or dispose of power or transmission capability available to the District.

(2) Hourly Non-Firm Power Contracts.--Notwithstanding the provisions of Section 8118(c)(1), the General Manager is authorized to negotiate and execute contracts to buy or sell non-firm power on an hour-to-hour basis, provided that any such contract shall be terminable by the District on not more than thirty days' notice to the other party.

(3) Reporting.--The General Manager shall report at the next regular meeting of the Board the execution of any contract authorized by this Section 8118(c) and any transaction made under such contract.

§ 8121. Contracts for Equipment, Materials, and Supplies.

The General Manager may execute contracts for the purchase of equipment, materials or supplies, regardless of dollar value, which are specifically identified in the budget provided that the amount of any contract does not exceed 110 percent of the amount identified in the budget and that sufficient funds are available within the annual budget. Such contracts shall be awarded after competitive bidding unless exempted by this Code.

§ 11203. Participation in Projects or Programs Serving District Purposes.

In addition to the dues the General Manager is authorized to pay pursuant to Section 11202, the General Manager is authorized, without prior Board approval, to pay to any other public agency or private organization an amount not to exceed \$25,000 to participate in projects or programs desirable to carry out the objects and purposes of the District; provided, however, that such amount shall be available from funds previously authorized by the Board for such purpose.

Attachment C

AGENDA

ENGINEERING AND OPERATIONS COMMITTEE

(Date)

8:30 a.m. - Room 12S

1. ADDITIONS TO THE AGENDA (As required by Gov. Code, 54954.2 (b))
2. OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMITTEE ON MATTERS WITHIN THE COMMITTEE'S JURISDICTION (As required by Gov. Code, 54954.3(a))
3. APPROVAL OF MINUTES
4. CHAIRMAN'S REPORT
(Reports requested by the Chairman)
5. REVIEW OF ACTIVITIES
 - a. Update on System Operations
 - b. Update on Engineering Activities
6. CONSENT CALENDAR ITEMS - ACTION
7. OTHER BOARD ITEMS - ACTION
8. BOARD INFORMATION ITEMS
9. COMMITTEE ITEMS
10. PENDING ITEMS
11. ADJOURN MEETING

Note: At the discretion of the Committee, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated any may be subject to action by the Committee.

AGENDA

FINANCE AND INSURANCE COMMITTEE

(Date)

8:30 a.m. - Room 12S

1. ADDITIONS TO THE AGENDA (As required by Gov. Code, 54954.2(b))
2. OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMITTEE ON MATTERS WITHIN THE COMMITTEE'S JURISDICTION (As required by Gov. Code, 54954.3(a))
3. APPROVAL OF MINUTES
4. CHAIRMAN'S REPORT
 - a. Oral report on State Water Project
 - b. (Other reports requested by the Chairman)
5. REVIEW OF FINANCIAL STATEMENTS
 - a. Monthly report of Controller
 - b. Monthly report of Treasurer
6. CONSENT CALENDAR ITEMS - ACTION
7. OTHER BOARD ITEMS - ACTION
8. BOARD INFORMATION ITEMS
9. COMMITTEE ITEMS
10. PENDING ITEMS
11. ADJOURN MEETING

NOTE: At the discretion of the Committee, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated any may be subject to action by the Committee.

By the Board of Directors of **DATED 5-20-91**
The Metropolitan Water District
of Southern California
at its meeting held JUN 11 1991

39036



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Harold E. Boronkay
Executive Secretary

8-18
Supplement

June 11, 1991

(Executive Committee--Action)
(Engineering and Operations--Action)
(Finance and Insurance--Action)

To: Board of Directors

From: General Manager

Subject: Supplemental Changes to Board Letter: Revisions to the
Administrative Code and Past Board Practice

Board Agenda Item 8-18 was an action item to the Executive, Engineering and Operations, and Finance and Insurance Committees at the June 1991 meeting of the Board.

This supplemental letter reflects changes in Attachment A to the original letter to revise Sections 2109 (e) and 8118 of the Administrative Code in accordance with direction provided at the Executive, Engineering and Operations, and Finance and Insurance Committee meetings of Monday, June 10, 1991 and Tuesday, June 11, 1991, as attached.

Carl Boronkay
Carl Boronkay

SMF/re

Attachments (2)

ATTACHMENT A

ADMINISTRATIVE CODE REVISIONS

§ 2109. Board Agenda.

(a) The deadline for submission to the Executive Secretary of items for the Board agenda shall be in conformity with rules promulgated by the General Manager from time to time.

(b) Any matter not on the Board agenda may be presented to the Board upon motion duly made and carried at the Board meeting:

(1) Upon a determination by a majority vote of the Board that an emergency situation exists, as defined in Government Code Section 54956.5; or

(2) Upon a determination by a two-thirds vote of the Board, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted; or

(3) If the item was posted for a prior meeting of the Board occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) The Board agenda shall make provision for public appearances before matters on which action is required.

(d) The Executive Secretary shall be responsible for any required posting of agendas which shall be in the public lobby of the District's Headquarters Building.

(e) Videotapes of informational presentations prepared by District staff which are distributed in advance of a Board meeting to Board members shall be identified on the Board agenda, and copies of the videotapes shall be available to the public.

§ 2121. Consent Calendar.

(a) Consent Calendar items shall be set forth in a separate section of the Board's agenda.

(b) Matters for the Consent Calendar shall be recommended by the Department Heads and shall be submitted to the Executive Secretary not less than seven working days prior to the meeting of the Board and, except as provided

§ 8117. Professional and Technical Consultants.

(a) The General Manager may exercise without restriction the contractual powers conferred by Section 8115(c) regardless of subject matter, including the power to contract for professional and consulting services, provided that the amount payable under any one contract during any one year shall not exceed \$75,000 \$250,000.

~~(b) -- A report shall be submitted by the General Manager to the Organization and Personnel Committee quarterly on the employment by the General Manager of any consultant or the extension of any consulting agreement during the preceding calendar quarter and at the beginning of each year on all consulting agreements in effect during the preceding year. -- The report covering the last calendar quarter of the year may be combined with and included in the annual report. -- Each such report shall indicate when a consultant is a former employee of the District.~~

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(2) The General Manager is authorized to issue all appropriate orders necessary to implement any such agreement, and, in ~~his~~ the General Manager's discretion, to advance funds therefor.

(3) The General Manager is authorized to execute and to perform any agreement involving an amount not exceeding \$200,000 \$500,000 for the relocation or protection, or both, of District-owned facilities to accommodate the improvement of facilities owned by others and to determine whether a deposit shall be made prior to the commencement of work, and if so, in what amount.

(4) The General Manager shall report quarterly to the