



● **Board of Directors**  
***Legal and Claims Committee***

4/13/2021 Board Meeting

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7-10

**Subject**

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Approve amendments to the Metropolitan Water District Administrative Code to conform to current law, practices, and regulations; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

**Executive Summary**

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The proposed amendments to the Administrative Code will update the Code so that the Code conforms to current law, practices, and regulations. The proposed changes include amendments to clarify term limits for board officers and nonofficer members of the Executive Committee, an update of a statutory reference to the Urban Water Management Planning Act, and amendments to the sections concerning the disposition of real property to conform to the requirements of the new Surplus Land Act, to clarify procedures and eliminate redundant provisions, and conform land sale methodologies to current methods.

**Details**

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This letter proposes amendments to Metropolitan's Administrative Code to conform the Code to current law, practices, and regulations. The proposed amendments are set forth in **Attachment 1**, with overstrikes reflecting deletions and underlining reflecting additions. **Attachment 2** sets forth the sections as they will appear in the Administrative Code if the changes are approved.

The Administrative Code is proposed to be amended as follows:

1. Sections 2201, 2401(b), and 2413 are amended to clarify that the term limits for board officers and nonofficer members of the Executive Committee do not include service for a partial term occurring before a full term.
2. Section 3107(b)(4)(ii) is amended to update the reference to the Urban Water Management Planning Act to reflect recent changes to that Act.
3. Sections 8240 through 8249 on the disposition of real property are amended as follows:
  - a. Sections 8242 through 8248 are renumbered to reflect a more logical sequence.
  - b. Existing procedures for Board of Director determinations concerning the existence of surplus property are updated to conform to the latest requirements in the Surplus Land Act promulgated by Assembly Bill 1486 of the 2019-2020 legislative session.
  - c. Procedures related to commissions paid to licensed real estate brokers are consolidated in amended Section 8240(b) to eliminate redundancy.
  - d. Outdated land sale methodologies, such as marketing methods focusing on ad placements on real estate broker windows and physical bulletin boards, are amended to conform to current multivenue marketing practices and to allow the use of online platforms in addition to physical world advertisements and notices.

## Policy

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Metropolitan Water District Administrative Code Section 2451(g): Duties and Functions [Legal and Claims Committee]; Metropolitan Water District Code Section 11104: Delegation of Responsibilities

## California Environmental Quality Act (CEQA)

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### CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378) because the proposed action will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines) and organizational or administrative activities (Section 15378(b)(5) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines)

### CEQA determination for Option #2:

None required

## Board Options

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### Option #1

Approve amendments to the Administrative Code set forth in Attachment 2 to reflect all changes recommended by this letter

**Fiscal Impact:** None

**Business Analysis:** To conform the Administrative Code to current law, practices, and regulations

### Option #2

Do not approve amendments to the Administrative Code set forth in Attachment 2 to reflect the changes recommended in this letter.

**Fiscal Impact:** None

**Business Analysis:** The Administrative Code will not be amended to conform to current law, practices, and regulations

## Staff Recommendation

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Option #1

  
\_\_\_\_\_  
Marcia L. Scully  
General Counsel

3/17/2021  
Date

**Attachment 1 – The Administrative Code of The Metropolitan Water District of Southern California (with changes marked)**

**Attachment 2 – The Administrative Code of The Metropolitan Water District of Southern California (clean version)**

## Division II

### PROCEDURES PERTAINING TO BOARD, COMMITTEES AND DIRECTORS

#### Chapter 2

#### BOARD OFFICERS

##### § 2201. Terms of Office; Limitations.

(a) The term of office of officers of the Board shall commence on January 1 of the year immediately following their election, except for the Vice Chairs who are appointed to their positions.

(b) A director may serve as a Board officer for not more than two consecutive full two-year terms and a partial term immediately prior to the first full term.

(c) A director shall not be eligible to serve in a combination of offices of the Board more than four consecutive full two-year terms except that any member may serve in the office of Chair for two consecutive full two-year terms and a partial term immediately prior to the first full term without regard to previously held office and may thereafter serve as a member of the Executive Committee in the capacity as a past Chair.

#### Chapter 4

#### STANDING COMMITTEES

##### Article 1

#### GENERAL

##### § 2401. Officers and Members of Standing Committees.

(a) Members, Chair, and Vice Chair of standing committees with the exception of the Executive Committee shall be appointed subject to the approval of the Executive Committee and the Board on the basis that each director, with the exception of the Chair of the Board, serve on at least one standing committees, in addition to the Executive Committee. Such appointment shall be made by the Chair of the Board unless a new Chair-elect has been selected by the Board to take office on the next January 1, in which event appointment of Chair and Vice-Chair of standing committees shall be made by the Chair-elect.

(b) Chair and Vice Chair of standing committees with the exception of the Executive Committee are to be appointed in even-numbered years at the December meeting of the Board for a two-year term commencing on January 1 of odd-numbered years. No director shall be

appointed to the same committee office for more than two consecutive full terms and a partial term immediately prior to the first term.

(c) The Chair of the Board or the Vice Chair to whom the Chair has assigned the Chair's membership pursuant to Section 2204 is a member ex-officio, with right to vote, of all standing and special committees of the Board. However, the Chair or the Vice Chair to whom the Chair's membership has been assigned shall not be considered a member of any committee of which the officer is a member ex-officio for the purpose of determining whether a quorum of the committee is present unless the Chair or Vice Chair is actually present at the meeting of the committee.

## Article 2

### EXECUTIVE COMMITTEE

#### § 2413. Limitation on Service.

Each director may be elected as a nonofficer member of the Executive Committee for not more than two consecutive full two-year terms and a partial term immediately prior to the first full term.

## Division III

### ANNEXATIONS

#### § 3107. Water Use Efficiency Guidelines.

...

(b) **Reporting to District.** The annexing member agency shall be responsible for assuring compliance with these provisions and shall report to the District annually for five years following annexation of the new territory regarding such compliance or until the new territory is included in the annexing member agency's Urban Water Management Plan (UWMP). Annual reports shall include all of the following information regarding the annexing member agency:

...

(4) Confirmation that the annexing member agency has:

- i. Submitted a current UWMP;
- ii. The UWMP includes a narrative description addressing the nature and extent of each water demand management measure implemented over the past five years, as required by California Water Code Section 10631(~~fe~~); and

- iii. The UWMP adequately addresses California Water Code requirements;  
and

### Division VIII

#### CONTRACTS/DISTRICT PROPERTY

#### Chapter 2

#### DISTRICT PROPERTY

#### Article 4

#### DISPOSAL/DISPOSITION OF REAL PROPERTY

Sec.

8240. ~~Preliminary Requirements~~Disposal of Real Property  
 8241. ~~Authority for General Manager to Sell or Lease Surplus Real Property;~~  
~~Restriction on District Directors and Employees~~Public Sale Requirements  
 8242. ~~Quitclaims~~Auction of Surplus Real Property by District Staff  
 8243. ~~Disposal of Unnecessary Improvements~~Auction by Professional Auctioneers  
 8244. ~~Auction by District Staff~~Open Listing of Surplus Real Property  
 8245. ~~Open Listing~~Exclusive Listing of Surplus Real Property  
 8246. ~~Exclusive Listing~~Required Deposit for Sale of Surplus Real Property  
 8247. ~~Auction by Professional Auctioneers~~Quitclaims  
 8248. ~~Required Deposit~~Disposal of Unnecessary Improvements  
 8249. Terms ~~for Disposal of Surplus Real Property~~  
 8250. Zoning  
 8251. Policy of Title Insurance  
 8252. Completion of Sale  
 8253. Forfeiture of Deposits  
 8254. Exceptions to Public Sale Requirements  
 8255. Reservation of Oil, Gas and Mineral Rights  
 8256. Retention of Oil and Mineral Rights  
 8257. Quarterly Reports  
 8258. Statement regarding Encumbering of Property

#### § 8240. ~~Preliminary Requirements~~Disposal of Real Property.

The General Manager shall establish a procedure for the continuous review of real property owned by the District for the purpose of determining which of such property ~~is~~may be surplus to the District's needs. ~~When the General Manager determines that property is surplus,~~  
~~†~~The General Manager shall report such property to the Board and the Board may declare the property to be surplus land or exempt surplus land, and not necessary for the District's use and subject to disposal consistent with the District's policies and procedures. ~~notify the Real Property~~

~~and Asset Management Committee of that determination, unless the estimated value of the property is less than \$75,000.~~

~~(a) If the Real Property and Asset Management Committee does not overrule such determination and the estimated value of the property is \$75,000 or more, the General Manager shall:~~

~~\_\_\_\_\_ (1) Notify the Real Property and Asset Management Committee of the estimated value of the property and recommend the appropriate marketing procedure authorized by this Article 4;~~

~~\_\_\_\_\_ (2) Cause the property to be appraised by one or more independent appraisers.~~

~~\_\_\_\_\_ (b) If the estimated value of the property is less than \$75,000, the General Manager shall cause the property to be appraised by a member of the staff of the General Manager or an independent appraiser, and disposed of as authorized by Article 4;~~

(ea) The General Manager shall comply with the California Environmental Quality Act and the legal requirements pertaining to the disposition of property in cities or counties which have a general plan. If upon such compliance, any official body objects to the proposed sale, the Board of Directors shall first expressly uphold or reject the objections. There being no objections, or the objections having been rejected, and the appraisal or appraisals having been completed, the General Manager may then sell or lease the surplus property under the provisions of this Article 4.

~~\_\_\_\_\_ (b) The General Manager is authorized to pay a real estate commission to the licensed real estate broker that assists with the sale or lease of the surplus real property in an amount not to exceed the prevailing rate in the area in which the sold or leased surplus real property is located, unless a different amount is authorized for specific types of disposal in this Article.~~

~~§ 8241. Authority for General Manager to Sell or Lease Surplus Real Property; Restriction on District Directors and Employees. Public Sale Requirements.~~

~~Prior to the disposal of surplus real property, the General Manager shall send a written notice of availability of such property to entities listed in the state surplus land laws. If after entering into good faith negotiations with those entities, and price or terms cannot be agreed upon in accordance with Government Code Section 54223, the General Manager may dispose of the property by any or all methods provided in this Article, and including, but not limited to the following methods or combination thereof: negotiated sale, exchange, lease or request for proposal. If after offering the property for sale or lease to certain public agencies, as required by law, at the fair market value as determined by the General Manager after review of any or all appraisals of the property, no such offer is accepted, the General Manager may lease it, or sell it either by public auction or by using the services of real estate brokers or a professional auctioneer; provided, however, that District directors and employees, their spouses and~~

~~dependent children may not purchase such property or lease it or represent in any manner a prospective lessee or purchaser of such property.~~

**§ 8242. (Previous § 8244) — Quitclaims Auction of Surplus Real Property by District Staff**

\_\_\_\_\_ (a) If the General Manager elects to sell the property by public auction, the General Manager shall do so at such time and place as the General Manager may fix, with or without sealed bids having been first submitted.

(b) ~~Whenever~~ Regardless of whether the General Manager determines that the sale shall be at public auction with or without sealed bids ~~having been first submitted~~, no bid at the auction shall be considered unless the bidder shall, prior to the holding of the auction, deposit with the person designated by the General Manager to conduct such sale an amount of not less than the percentage indicated in Section 82486 of the amount specified in the Notice of Sale as the minimum bid, in cash, cashier's check or check certified by a responsible bank, as a guarantee that the person making the bid will purchase the property under the terms specified in the Notice of Sale. The property shall be sold to the highest responsible bidder and the deposits of all other bidders returned forthwith.

(c) ~~Whenever the General Manager determines that the sale shall be by sealed bids, all bids shall be filed in the office of the Right of Way and Land Program Manager, at or before the time specified in the Notice of Sale, shall be on forms approved by the General Counsel, and shall be accompanied by a cash deposit, cashier's check or check certified by a responsible bank in an amount of not less than the percentage indicated in Section 8248 of the amount specified in the Notice of Sale as the minimum bid, as a guarantee that the person making the bid will purchase the property upon the terms and conditions specified in the Notice of Sale. The Right of Way and Land Program Manager, shall, at the time and place specified in the Notice of Sale, open the bids. At a public auction with sealed bids, the person designated by the General Manager to conduct such sale shall open the bids submitted first. Thereafter, there shall be a public auction at a time and place specified in the Notice of Sale, and any responsible person shall be eligible to bid at the auction; provided, however, that any oral bid shall be ignored unless it exceeds by at least 5 percent the highest sealed bid made by a responsible person. No oral bid at such sale not preceded by a sealed bid from the same party shall be considered unless accompanied by a cash deposit, cashier's check or check certified by a responsible bank in an amount of not less than the percentage indicated in Section 82468 of the amount specified in the Notice of Sale as the minimum bid, as a guarantee that the person making the bid will purchase the property upon the terms and conditions specified in the Notice of Sale. If no oral bid is made at the public auction, or if such oral bid is not in accordance with the provisions hereof, the property shall be ordered sold to the highest responsible sealed bidder.~~

(d) ~~A real estate commission shall be paid in connection with a sale at public auction on the following basis:~~

~~\_\_\_\_\_ (1) The real estate commission shall not exceed the prevailing rate in the area where the property is located and it shall be stated in the bid for which a claim for the payment of a commission is made that it is subject to the same.~~

~~\_\_\_\_\_ (2) The commission shall be distributed in this manner:~~

~~\_\_\_\_\_ (i) When at a public auction, without sealed bids, the highest bid was procured by a licensed real estate broker, the commission shall be paid to the broker.~~

~~\_\_\_\_\_ (ii) When at a public auction following submission of sealed bids, the successful bid is the highest sealed bid, and it was procured by a licensed real estate broker, the commission shall be paid to that broker.~~

~~\_\_\_\_\_ (iii) When at a public auction following the submission of sealed bids, the successful bid was procured by a licensed real estate broker, but the highest sealed bid was not obtained by such a broker, the commission shall be paid to the broker.~~

~~\_\_\_\_\_ (iv) When at a public auction following the submission of sealed bids, the highest sealed bid was procured by a licensed real estate broker, but the successful bid was procured by a different licensed real estate broker, the commission shall be divided equally between the brokers.~~

~~\_\_\_\_\_ (v) When at a public auction following the submission of sealed bids, the highest sealed bid was procured by a licensed real estate broker, but the successful bid was not subject to a commission, one half of the commission based upon the amount of the successful bid shall be paid to the broker.~~

~~\_\_\_\_\_ (3) In determining which is the highest bid, there shall not be subtracted therefrom the commission, if any, which the bid provides shall be paid to a licensed real estate broker.~~

~~(ed) The General Manager shall cause a Notice of Sale to be posted on an online or other marketplace. ~~the property in at least one conspicuous place.~~ It shall specify the minimum bid which will be accepted for the property, which shall not be less than 90 percent of the ~~lowest appraised value of the property established by a single appraisal if only one appraisal is obtained, or by the lower of the two appraisals if two appraisals are obtained, unless otherwise approved by the Board, appraisal~~ and shall also state the terms of the sale which shall be in conformity with this Article 4. ~~The General Manager shall cause one or more advertisements of the sale to be placed in a newspaper, or newspapers, so as to give reasonable notice of the sale.~~~~

**§ 8243 (Previous § 8247). Disposal of Unnecessary Improvements. Auction by Professional Auctioneers.**

The General Manager may sell the property by using the services of a professional auctioneer and may in connection therewith pay the reasonable expense of advertising the auction, and agree to pay a commission to the auctioneer not in excess of the prevailing rate in the area upon

the consummation of the sale. ~~Any such sale shall be subject to the approval of the Board of Directors.~~

**§ 8244. ~~(Previous § 8245) Auction by District Staff.~~Open Listing of Surplus Real Property**

If the General Manager elects to sell the property by using the services of licensed real estate brokers, the General Manager shall do so by offering it for sale by advertising in an online or other marketplace that the property is being offered for sale with courtesy to licensed real estate brokers and agents. ~~newspaper or newspapers that the property is being offered for sale with courtesy to brokers, and by notifying real estate boards in the area in which the property is located that the property is being offered for sale with courtesy to licensed brokers.~~ The initial offer for sale shall be for no less than the highest appraised valuation of the property. The General Manager is authorized to sell the property for the highest price obtainable; provided, however, that the property shall not be sold for less than such price shall be no lower than the lowest appraisal without the approval of the Real Property and Asset Management Committee and no lower than 90 percent of the appraised value of the property established by a single appraisal if only one appraisal is obtained, or by the lower of two appraisals if two appraisals are obtained, unless otherwise approved by the Board. ~~lowest appraisal without the approval of the Board.~~ The General Manager is authorized to pay to the broker who procures the accepted offer, a commission not to exceed the prevailing rate in the area in which the property is located.

**§ 8245. ~~(Previous § 8246) — Open Listing.~~Exclusive Listing of Surplus Real Property**

The General Manager may ~~with the approval of the Real Property and Asset Management Committee~~ give an exclusive listing to an individual licensed real estate broker; provided, however, that the property shall not be sold for less than the lowest appraisal without the approval of the Real Property and Asset Management Committee and for no less than 90 percent of the appraised value of the property established by a single appraisal if only one appraisal is obtained, or by the lower of two appraisals if two appraisals are obtained, unless otherwise approved by the Board. ~~lowest appraisal without the approval of the Board.~~ In such case, the General Manager is authorized to pay a commission, upon consummation of the sale, not to exceed the prevailing rate in the area in which the property is located.

**§ 8246. ~~(Previous § 8248) Exclusive Listing.~~Required Deposit for Sale of Surplus Real Property.**

No bid or offer made pursuant to Sections 824~~24~~, 8243, 824~~45~~, and 824~~56~~ above shall be considered unless the bidder or offeror ~~shall at the time the bid or offer is made,~~ deposits with the person designated by the General Manager at least one percentage (1%) of the sales price ~~the percentage indicated below of the specified amount~~ in cash, cashier's check or check certified by a responsible bank ~~as a guarantee that the bidder or offeror will purchase the property for the bid or offered price.~~

<del>Specified Amount</del>	<del>Deposit</del>
<del>To \$1,000</del>	<del>Full amount of bid or offer</del>
<del>\$1,001 to \$10,000</del>	<del>\$1,000 + 10% over \$1,000</del>
<del>\$10,001 to \$100,000</del>	<del>\$1,900 + 10% over \$10,000</del>
<del>\$100,001 and above</del>	<del>\$10,900 + 2.5% over \$100,000</del>

**§ 8247. ~~(Previous § 8242) Auction by Professional Auctioneers. Quitclaims.~~**

(a) The General Manager is authorized to quitclaim, in form approved by the General Counsel, any temporary easement or lease to which the District is a party and which has expired by its own terms.

(b) The General Manager is authorized to quitclaim, in form approved by the General Counsel, any temporary easement or lease prior to its expiration

(1) Upon the recording of a Notice of Completion of the construction contract for which the easement or lease was acquired; or

(2) If no such notice has been recorded, then upon the release of the temporary easement area by the contractor in form approved by the General Counsel; provided, however, that if a Notice of Completion has not been recorded, consideration shall be required in such amount as the General Manager deems proper under the circumstances.

(c) The General Manager is authorized to quitclaim, in form approved by the General Counsel, any easement for access to a District facility over adjoining lands at such times as the General Manager may determine that adequate access thereto from a dedicated public street is available.

(d) Notwithstanding any other provisions of Article 4, the General Manager is authorized to quitclaim to the United States of America, in form approved by the General Counsel, any property acquired by the District under and pursuant to the Act of Congress approved June 18, 1932 (47 Stats. 324), when the General Manager determines that the property is no longer required for the District's needs.

**§ 8248. ~~(Previous § 8243) Required Deposit. Disposal of Unnecessary Improvements~~**

(a) The General Manager is authorized to dispose of, in the manner the General Manager deems to be in the best interest of the District, any improvements that must be removed to make land acquired for District operations suitable for District use.

(b) The General Manager shall report quarterly to the Real Property and Asset Management Committee 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.

**§ 8249. Terms for Disposal of Surplus Real Property.**

Any sale shall be for cash or on the following minimum terms:

20 percent down payment with balance amortized over 10 years at an interest rate equal to the prevailing rate charged by financial institutions in the area in which the property is located, and to be secured by a deed of trust on the property sold. No prepayment penalty shall be required.

**§ 8250. Zoning.**

Where the property was appraised on the basis of a different zoning on the property than the existing zoning, the sale may be made contingent upon the bidder or offeror's obtaining a rezoning of the property within a reasonable time to be determined by the General Manager.

**§ 8251. Policy of Title Insurance.**

The General Manager may furnish the successful bidder or offeror with a policy of title insurance, if possible, and open an escrow to complete the sale, paying the usual seller's charges in connection therewith; provided, however, that if it subsequently develops that the title company is unwilling to issue a policy insuring title to the bidder or offeror in the manner indicated by the General Manager prior to the sale, the General Manager shall not be required to furnish such a policy and the bidder or offeror may cancel the sale; whereupon money previously deposited shall be refunded promptly and there shall be no further obligation on the part of either the bidder or offeror or the General Manager in connection with the sale; provided, further, that if under such circumstances the bidder or offeror elects not to cancel the transaction, the General Manager shall furnish such title insurance as the title company will then issue, and shall be released from liability on any representation relating to title theretofore made and not covered by the title insurance policy.

**§ 8252. Completion of Sale.**

Execution and Delivery of Deed -- The General Manager shall apply the deposit made by the successful bidder, or offeror, on the purchase price or down payment if the sale is on terms, and, upon completion of the sale either directly or through an escrow, the General Manager is authorized to execute and deliver on behalf of the District a grant deed conveying the property to such bidder or offeror. In the case of a sale for cash (1) without an escrow, the successful bidder or offeror must pay the balance of the purchase price to the General Manager within thirty days after the auction or acceptance of the offer or (2) with an escrow, upon the closing thereof; provided, however, that the General Manager may give the successful bidder or offeror extensions of time in which to make the payment.

**§ 8253. Forfeiture of Deposits.**

Any deposit made by a successful bidder or offeror shall be retained by the District as liquidated damages if the bidder or offeror shall fail to complete the purchase in accordance with the terms and conditions of the Notice of Sale or offer. If there is such failure, a licensed real estate broker, ~~may otherwise entitled to a commission under the provisions of this Article 4 shall~~ be paid as a commission, an amount not to exceed one-half of the deposit so retained after deducting title and escrow expenses, if any; but in no event shall it exceed the commission which the broker would have received in the absence of such failure. If the successful bidder or offeror does not complete the sale as required by this Article 4 the property may be sold to the next highest bidder or offeror who wishes to buy.

**§ 8254. Exceptions to Public Sale Requirements.**

The requirements of Sections 8241 ~~and 8244~~ above do not apply to the disposal of exempt surplus land as defined in Government Code Section 54220 et seq. and in the case of:

(a) A sale of real property or interest therein to the United States, the State, the County or any city, school district, flood control, or other special district within the State; any such sale shall be for the fair market value as determined by the General Manager after review of any or all appraisals of the property.

~~—(b) A sale of real property having an estimated value of \$2,500 or less.~~

(~~e~~b) A sale to an adjoining property owner when the General Manager determines that the particular parcel is probably incapable of being developed independently.

(~~d~~c) With respect to sales under Sections 8254(b) and 8254(c), the General Manager shall make a determination of the reasonable amount for which the property shall be sold.

**§ 8255. Reservation of Oil, Gas and Mineral Rights.**

The right to extract all oil, gas hydrocarbons or other minerals without the right of surface entry for the development thereof, shall be reserved in the sale of any real property under the provisions of this Article 4 provided, however, that there shall be no such extraction within 500 feet of the surface.

**§ 8256. Retention of Oil and Mineral Rights.**

It shall be the general policy that oil and mineral rights shall be retained on all any real property sold by the District.

**§ 8257. Quarterly Reports.**

The General Manager shall report to the Real Property and Asset Management Committee quarterly on ~~the~~any real property sold pursuant to this Article.

**§ 8258. Statement regarding Encumbering of Property.**

The General Manager shall incorporate in letter of recommendation involving the disposal or the encumbering of property or rights of the District a statement declaring that the property or rights will not be required by the District nor adversely affect its operations.

**Division II****PROCEDURES PERTAINING TO BOARD, COMMITTEES  
AND DIRECTORS****Chapter 2****BOARD OFFICERS****§ 2201. Terms of Office; Limitations.**

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(b) A director may serve as a Board officer for not more than two consecutive full two-year terms and a partial term immediately prior to the first full term.

(c) A director shall not be eligible to serve in a combination of offices of the Board more than four consecutive full two-year terms except that any member may serve in the office of Chair for two consecutive full two-year terms and a partial term immediately prior to the first full term without regard to previously held office and may thereafter serve as a member of the Executive Committee in the capacity as a past Chair.

**Chapter 4****STANDING COMMITTEES****Article 1****GENERAL****§ 2401. Officers and Members of Standing Committees.**

(a) Members, Chair, and Vice Chair of standing committees with the exception of the Executive Committee shall be appointed subject to the approval of the Executive Committee and the Board on the basis that each director, with the exception of the Chair of the Board, serve on at least one standing committees, in addition to the Executive Committee. Such appointment shall be made by the Chair of the Board unless a new Chair-elect has been selected by the Board to take office on the next January 1, in which event appointment of Chair and Vice-Chair of standing committees shall be made by the Chair-elect.

(b) Chair and Vice Chair of standing committees with the exception of the Executive Committee are to be appointed in even-numbered years at the December meeting of the Board for a two-year term commencing on January 1 of odd-numbered years. No director shall be

appointed to the same committee office for more than two consecutive full terms and a partial term immediately prior to the first term.

(c) The Chair of the Board or the Vice Chair to whom the Chair has assigned the Chair's membership pursuant to Section 2204 is a member ex-officio, with right to vote, of all standing and special committees of the Board. However, the Chair or the Vice Chair to whom the Chair's membership has been assigned shall not be considered a member of any committee of which the officer is a member ex-officio for the purpose of determining whether a quorum of the committee is present unless the Chair or Vice Chair is actually present at the meeting of the committee.

## Article 2

### EXECUTIVE COMMITTEE

#### § 2413. Limitation on Service.

Each director may be elected as a nonofficer member of the Executive Committee for not more than two consecutive full two-year terms and a partial term immediately prior to the first full term.

## Division III

### ANNEXATIONS

#### § 3107. Water Use Efficiency Guidelines.

...

(b) **Reporting to District.** The annexing member agency shall be responsible for assuring compliance with these provisions and shall report to the District annually for five years following annexation of the new territory regarding such compliance or until the new territory is included in the annexing member agency's Urban Water Management Plan (UWMP). Annual reports shall include all of the following information regarding the annexing member agency:

...

(4) Confirmation that the annexing member agency has:

- i. Submitted a current UWMP;
- ii. The UWMP includes a narrative description addressing the nature and extent of each water demand management measure implemented over the past five years, as required by California Water Code Section 10631(e); and

- iii. The UWMP adequately addresses California Water Code requirements;  
and

## **Division VIII**

### **CONTRACTS/DISTRICT PROPERTY**

#### **Chapter 2**

#### **DISTRICT PROPERTY**

#### **Article 4**

### **DISPOSITION OF REAL PROPERTY**

#### **Sec.**

- 8240. Disposal of Real Property
- 8241. Public Sale Requirements
- 8242. Auction of Surplus Real Property by District Staff
- 8243. Auction by Professional Auctioneers
- 8244. Open Listing of Surplus Real Property
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#### **§ 8240. Disposal of Real Property.**

The General Manager shall establish a procedure for the continuous review of real property owned by the District for the purpose of determining which of such property may be surplus to the District's needs. The General Manager shall report such property to the Board and the Board may declare the property to be surplus land or exempt surplus land, and not necessary for the District's use and subject to disposal consistent with the District's policies and procedures.

(a) The General Manager shall comply with the California Environmental Quality Act and the legal requirements pertaining to the disposition of property in cities or counties which have a general plan. If upon such compliance, any official body objects to the proposed sale, the Board of Directors shall first expressly uphold or reject the objections. There being no objections, or the objections having been rejected, and the appraisal or appraisals having been completed, the General Manager may then sell or lease the surplus property under the provisions of this Article 4.

(b) The General Manager is authorized to pay a real estate commission to the licensed real estate broker that assists with the sale or lease of the surplus real property in an amount not to exceed the prevailing rate in the area in which the sold or leased surplus real property is located, unless a different amount is authorized for specific types of disposal in this Article.

#### **§ 8241. Public Sale Requirements.**

Prior to the disposal of surplus real property, the General Manager shall send a written notice of availability of such property to entities listed in the state surplus land laws. If after entering into good faith negotiations with those entities, and price or terms cannot be agreed upon in accordance with Government Code Section 54223, the General Manager may dispose of the property by any or all methods provided in this Article, and including, but not limited to the following methods or combination thereof: negotiated sale, exchange, lease or request for proposal.

#### **§ 8242. Auction of Surplus Real Property by District Staff**

(a) If the General Manager elects to sell the property by public auction, the General Manager shall do so at such time and place as the General Manager may fix, with or without sealed bids having been first submitted.

(b) Regardless of whether the General Manager determines that the sale shall be at public auction with or without sealed bids, no bid at the auction shall be considered unless the bidder shall, prior to the holding of the auction, deposit with the person designated by the General Manager to conduct such sale an amount of not less than the percentage indicated in Section 8246 of the amount specified in the Notice of Sale as the minimum bid, in cash, cashier's check or check certified by a responsible bank, as a guarantee that the person making the bid will purchase the property under the terms specified in the Notice of Sale. The property shall be sold to the highest responsible bidder and the deposits of all other bidders returned forthwith.

(c) At a public auction with sealed bids, the person designated by the General Manager to conduct such sale shall open the bids submitted first. Thereafter, any responsible person shall be eligible to bid at the auction; provided, however, that any oral bid shall be ignored unless it exceeds by at least 5 percent the highest sealed bid made by a responsible person. No oral bid at such sale not preceded by a sealed bid from the same party shall be considered unless accompanied by a cash deposit, cashier's check or check certified by a responsible bank in an amount of not less than the percentage indicated in Section 8246 of the amount specified in the

Notice of Sale as the minimum bid, as a guarantee that the person making the bid will purchase the property upon the terms and conditions specified in the Notice of Sale.

(d) The General Manager shall cause a Notice of Sale to be posted on an online or other marketplace. It shall specify the minimum bid which will be accepted for the property, which shall not be less than 90 percent of the appraised value of the property established by a single appraisal if only one appraisal is obtained, or by the lower of the two appraisals if two appraisals are obtained, unless otherwise approved by the Board, and shall also state the terms of the sale which shall be in conformity with this Article 4.

**§ 8243. Auction by Professional Auctioneers.**

The General Manager may sell the property by using the services of a professional auctioneer and may in connection therewith pay the reasonable expense of advertising the auction, and agree to pay a commission to the auctioneer not in excess of the prevailing rate in the area upon the consummation of the sale.

**§ 8244. Open Listing of Surplus Real Property**

If the General Manager elects to sell the property by using the services of licensed real estate brokers, the General Manager shall do so by offering it for sale by advertising in an online or other marketplace that the property is being offered for sale with courtesy to licensed real estate brokers and agents. The initial offer for sale shall be for no less than the highest appraised valuation of the property. The General Manager is authorized to sell the property for the highest price obtainable; provided, however, that the property shall not be sold for less than 90 percent of the appraised value of the property established by a single appraisal if only one appraisal is obtained, or by the lower of two appraisals if two appraisals are obtained, unless otherwise approved by the Board.

**§ 8245. Exclusive Listing of Surplus Real Property**

The General Manager may give an exclusive listing to an individual licensed real estate broker; provided, however, that the property shall not be sold for less than 90 percent of the appraised value of the property established by a single appraisal if only one appraisal is obtained, or by the lower of two appraisals if two appraisals are obtained, unless otherwise approved by the Board.

**§ 8246. Required Deposit for Sale of Surplus Real Property.**

No bid or offer made pursuant to Sections 8242, 8243, 8244, and 8245 above shall be considered unless the bidder or offeror deposits with the person designated by the General Manager at least one percentage (1%) of the sales price in cash, cashier's check or check certified by a responsible bank.

**§ 8247. Quitclaims.**

(a) The General Manager is authorized to quitclaim, in form approved by the General Counsel, any temporary easement or lease to which the District is a party and which has expired by its own terms.

(b) The General Manager is authorized to quitclaim, in form approved by the General Counsel, any temporary easement or lease prior to its expiration

(1) Upon the recording of a Notice of Completion of the construction contract for which the easement or lease was acquired; or

(2) If no such notice has been recorded, then upon the release of the temporary easement area by the contractor in form approved by the General Counsel; provided, however, that if a Notice of Completion has not been recorded, consideration shall be required in such amount as the General Manager deems proper under the circumstances.

(c) The General Manager is authorized to quitclaim, in form approved by the General Counsel, any easement for access to a District facility over adjoining lands at such times as the General Manager may determine that adequate access thereto from a dedicated public street is available.

(d) Notwithstanding any other provisions of Article 4, the General Manager is authorized to quitclaim to the United States of America, in form approved by the General Counsel, any property acquired by the District under and pursuant to the Act of Congress approved June 18, 1932 (47 Stats. 324), when the General Manager determines that the property is no longer required for the District's needs.

**§ 8248. Disposal of Unnecessary Improvements**

(a) The General Manager is authorized to dispose of, in the manner the General Manager deems to be in the best interest of the District, any improvements that must be removed to make land acquired for District operations suitable for District use.

(b) The General Manager shall report quarterly to the Real Property and Asset Management Committee 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.

**§ 8249. Terms for Disposal of Surplus Real Property.**

Any sale shall be for cash or on the following minimum terms:

20 percent down payment with balance amortized over 10 years at an interest rate equal to the prevailing rate charged by financial institutions in the area in which the property is located,

and to be secured by a deed of trust on the property sold. No prepayment penalty shall be required.

**§ 8250. Zoning.**

Where the property was appraised on the basis of a different zoning on the property than the existing zoning, the sale may be made contingent upon the bidder or offeror's obtaining a rezoning of the property within a reasonable time to be determined by the General Manager.

**§ 8251. Policy of Title Insurance.**

The General Manager may furnish the successful bidder or offeror with a policy of title insurance, if possible, and open an escrow to complete the sale, paying the usual seller's charges in connection therewith; provided, however, that if it subsequently develops that the title company is unwilling to issue a policy insuring title to the bidder or offeror in the manner indicated by the General Manager prior to the sale, the General Manager shall not be required to furnish such a policy and the bidder or offeror may cancel the sale; whereupon money previously deposited shall be refunded promptly and there shall be no further obligation on the part of either the bidder or offeror or the General Manager in connection with the sale; provided, further, that if under such circumstances the bidder or offeror elects not to cancel the transaction, the General Manager shall furnish such title insurance as the title company will then issue, and shall be released from liability on any representation relating to title theretofore made and not covered by the title insurance policy.

**§ 8252. Completion of Sale.**

Execution and Delivery of Deed -- The General Manager shall apply the deposit made by the successful bidder, or offeror, on the purchase price or down payment if the sale is on terms, and, upon completion of the sale either directly or through an escrow, the General Manager is authorized to execute and deliver on behalf of the District a grant deed conveying the property to such bidder or offeror. In the case of a sale for cash (1) without an escrow, the successful bidder or offeror must pay the balance of the purchase price to the General Manager within thirty days after the auction or acceptance of the offer or (2) with an escrow, upon the closing thereof; provided, however, that the General Manager may give the successful bidder or offeror extensions of time in which to make the payment.

**§ 8253. Forfeiture of Deposits.**

Any deposit made by a successful bidder or offeror shall be retained by the District as liquidated damages if the bidder or offeror shall fail to complete the purchase in accordance with the terms and conditions of the Notice of Sale or offer. If there is such failure, a licensed real estate broker, may be paid as a commission, an amount not to exceed one-half of the deposit so retained after deducting title and escrow expenses, if any; but in no event shall it exceed the commission which the broker would have received in the absence of such failure. If the successful bidder or offeror does not complete the sale as required by this Article 4 the property may be sold to the next highest bidder or offeror who wishes to buy.

**§ 8254. Exceptions to Public Sale Requirements.**

The requirements of Sections 8241 above do not apply to the disposal of exempt surplus land as defined in Government Code Section 54220 et seq. and in the case of:

(a) A sale of real property or interest therein to the United States, the State, the County or any city, school district, flood control, or other special district within the State; any such sale shall be for the fair market value as determined by the General Manager after review of any or all appraisals of the property.

(b) A sale to an adjoining property owner when the General Manager determines that the particular parcel is probably incapable of being developed independently.

(c) With respect to sales under Sections 8254(b) and 8254(c), the General Manager shall make a determination of the reasonable amount for which the property shall be sold.

**§ 8255. Reservation of Oil, Gas and Mineral Rights.**

The right to extract all oil, gas hydrocarbons or other minerals without the right of surface entry for the development thereof, shall be reserved in the sale of any real property under the provisions of this Article 4 provided, however, that there shall be no such extraction within 500 feet of the surface.

**§ 8256. Retention of Oil and Mineral Rights.**

It shall be the general policy that oil and mineral rights shall be retained on any real property sold by the District.

**§ 8257. Quarterly Reports.**

The General Manager shall report to the Real Property and Asset Management Committee quarterly on any real property sold pursuant to this Article.

**§ 8258. Statement regarding Encumbering of Property.**

The General Manager shall incorporate in letter of recommendation involving the disposal or the encumbering of property or rights of the District a statement declaring that the property or rights will not be required by the District nor adversely affect its operations.