



● December 31, 2022 Quarterly Report

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

Attachments

- ATTACHMENT A: Workers' Compensation Matters Resolved During the Period
October 1, 2022 – December 31, 2022.
- ATTACHMENT B: Claims Against Metropolitan Resolved by Risk Management During the Period
October 1, 2022 – December 31, 2022.
- ATTACHMENT C: Costs Collected During the Period
October 1, 2022 – December 31, 2022 - NONE.
- ATTACHMENT D: Property Damage Written Off as Uncollectible During the Period
October 1, 2022 – December 31, 2022 - NONE.
- ATTACHMENT E: Accounts Receivables Written Off as Uncollectible During the Period
October 1, 2022 – December 31, 2022 - NONE.

Detailed Report

Contracts

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

Best Best & Krieger LLP

Metropolitan retained the services of Special Counsel to provide counseling and assistance on various legal issues related to Pure Water Southern California.

Ronald Bremen

Metropolitan retained the services of Consultant to conduct an administrative investigation, to investigate and provide factual findings, analysis, and conclusions as directed, regarding an incident related to Metropolitan's infrastructure.

Greines, Martin, Stein & Richland LLP – Agreement No. 207958

Metropolitan retained the services of Special Counsel to provide appellate advice for the *San Diego County Water Authority v. Metropolitan Water District of Southern California* rate litigation.

Greines, Martin, Stein & Richland LLP – Agreement No. 207965

Metropolitan retained the services of Special Counsel to provide legal advice and consultation including expert assistance with appellate issues.

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Hanson Bridgett LLP

Metropolitan retained the services of Special Counsel to assist in-house counsel and staff with all respects of implementing new alternative project delivery (ADP) mechanism legislation (AB1845), including the development of new solicitation documents and procedures, and the drafting and/or negotiation of new ADP contract documents.

Hanson Bridgett LLP

Metropolitan retained the services of Special Counsel to provide legal representation, advice and consultation in the litigation entitled, *Rick Faith v. Metropolitan Water District of Southern California*, Los Angeles Superior Court Case No. 22STCV33585.

Michael A. Heider

Metropolitan retained the services of Consultant to conduct an administrative investigation, to investigate and provide factual findings, analysis, and conclusions as directed, regarding an incident related to Metropolitan's infrastructure.

HKA Global, Inc.

Metropolitan retained the services of Consultant to provide expert witness testimony and advice on contractor claims related to Mills Electrical Upgrades – Stage 1 A Project and the subject lawsuit, *Stronghold Electric, Inc. v. Metropolitan Water District of Southern California et al.*, San Bernardino Superior Court Case No. CIVSB2128359.

Kutak Rock LLP

Metropolitan retained the services of Special Counsel to provide legal services regarding the current validity and scope of existing oil, mineral and gas leases on Metropolitan owned Sacramento-San Joaquin Bay Delta lands and general transactional support in connection with potential use of those lands.

Marcum Search LLC

Metropolitan retained the services of Consultant to assist in fulfilling vacant full-time permanent positions in the Legal Department.

Meyers Nave, A Professional Corporation

Metropolitan retained the services of Special Counsel to provide counseling and assistance on various legal issues related to Pure Water Southern California.

Musick, Peeler & Garrett LLP

Metropolitan retained the services of Special Counsel to provide legal advice and assistance for discovery and related litigation issues with respect to *Semitropic Water Storage District, et al. v. Dow Chemical Co., et al.*, San Bernardino County Superior Court Case No. JCCP 4435/BCV-21-102528 and any related proceedings.

Olivarez Madruga Law Organization

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

Oppenheimer Investigations Group LLP

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

Public Interest Investigations, Inc. – Agreement No. 203438

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

Public Interest Investigations, Inc. – Agreement No. 203467

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

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Debra L. Reilly, A Professional Law Corporation

Metropolitan retained the services of Consultant to investigate and provide factual findings, analysis, and conclusions as directed, on allegations of employee misconduct complaints against an employee.

Renne Public Law Group, LLP – Agreement No. 207948

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

Renne Public Law Group, LLP – Agreement No. 207962

Metropolitan retained the services of Special Counsel to provide legal advice and representation before the Public Employment Relations Board regarding the unfair practice charge filed in the matter entitled, *Association of Confidential Employees v. Metropolitan Water District of Southern California*, Public Employment Relations Board Unfair Practice Charge No. LA-CE-1611-M.

Solomon Law, APC

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

Claims and Other Matters

1. Between October 1, 2022 – December 31, 2022, Metropolitan initiated, compromised, settled, or otherwise disposed of the following claims and entered into the following separation agreements:
 - a. Litigated, Compromised and Settled Claims By and Against Third Parties

Metropolitan was served in the following court action within this past quarter:

- i. *Rick Faith v. Metropolitan, All Persons Interested, etc.* (Los Angeles Superior Court)

On October 14, 2022, an individual property owner from Orange County, Rick Faith, filed a reverse validation action alleging Metropolitan's ad valorem property taxes for fiscal year 2022/23 are invalid pursuant to the constitutional provisions added by Propositions 13, 26, and 218. Plaintiff alleges Metropolitan does not have authority to collect the taxes to pay the State Water Project expenses.

A validation or reverse validation action requires a validation summons be issued and published, as approved by the court. On November 17, 2022, Plaintiff sought approval of its proposed validation summons for publication via an *ex parte* application in Department 15. Metropolitan filed an opposition and made a special appearance to oppose the application, because it had not yet been served with the Complaint. The judge was unavailable in Department 15 and Department 17 considered and denied Plaintiff's application without hearing any oral argument. Plaintiff then served a copy of the Complaint on Metropolitan after the hearing, on November 21, 2022.

Metropolitan resolved the following claim within this past quarter:

- i. Metropolitan claim against federal government

At the October 2022 board meeting, Metropolitan authorized a \$300,000 settlement of Metropolitan claims against the federal government for the recovery of costs resulting from damages to Metropolitan infrastructure due to the crash of a military helicopter striking Metropolitan's high-voltage transmission ground lines about 10 miles northwest of Gene and Intake Pumping Plants. On December 21, 2022, Metropolitan received payment in full of the settlement amount.

Metropolitan resolved the following grievances, discipline AND transfer agreement within this past quarter:

i. *AFSCME Local 1902 v. Metropolitan (Contract Interpretation Grievance)*

Local 1902 grieved Metropolitan's application of call back provisions under the MOU with respect to seven WSO employees and demanded Metropolitan pay the employees an aggregate amount of approximately \$14,000 to remedy the grievance. Metropolitan contended it had appropriately applied the back pay provisions. The parties engaged in extensive negotiations and agreed to a settlement where Metropolitan paid an aggregate amount of \$3,900 to the seven employees. Based upon that settlement, Local 1902 withdrew the appeal. This settlement did not implicate EEO or disciplinary issues, and the settlement did not include any confidentiality provisions.

ii. *AFSCME Local 1902 v. Metropolitan (Contract Interpretation Grievance)*

Local 1902 grieved the application of the callback provisions of the MOU with respect to one WSO employee. Local 1902 contended the employee was entitled to two days of callback pay. The parties negotiated a settlement where Metropolitan paid one day of back pay. Based upon the settlement, Local 1902 withdrew the appeal. This settlement did not implicate EEO or disciplinary issues, and the settlement did not include any confidentiality provisions.

iii. *AFSCME Local 1902 v. Metropolitan (Contract Interpretation Grievance)*

Local 1902 grieved the per diem pay provisions of the MOU with respect to one WSO employee. Local 1902 contended the employee was entitled to four days of per diem due to costs the employee incurred for work-related travel and lodging. Due to the unique circumstances arising out of the COVID-19 state of emergency at the time the grievance arose, Metropolitan agreed to pay the employee \$800 in per diem. Based upon the settlement, Local 1902 withdrew the appeal. This settlement did not implicate EEO or disciplinary issues, and the settlement did not include any confidentiality provisions.

iv. *MAPA v. Metropolitan (Employee Discipline)*

MAPA appealed the 80-hour suspension of a Real Property Manager. The employee was disciplined due to performance issues related to employee housing. MAPA and Metropolitan negotiated extensively, and based upon equity issues, the employee's lack of prior discipline and acceptance of accountability for the alleged misconduct, the discipline was lowered to a 16-hour suspension. The settlement agreement was signed on October 21, 2022. This settlement did implicate disciplinary issues but not implicate EEO issues, and the settlement did not include any confidentiality provisions.

v. *AFSCME Local 1902 v. Metropolitan (Standby Pay - MOU Hearing Officer Appeal)*

On August 10, 2021, Local 1902 filed a grievance on behalf of two employees. The grievance alleged Metropolitan made a change in working conditions without bargaining with Local 1902 whereby employees would not be placed on standby. December 12, 2022, Metropolitan reached a settlement agreement with the two employees who are still employed with Metropolitan. Pursuant to the terms of the agreement each employee will receive standby pay for the period of Memorial Day 2021 through Labor Day 2021. This payment will equal \$4,528.39 for one employee and \$4,349.35 for the other employee. The agreement clarifies the conditions under which Real Property Technicians will be placed in standby status going forward. This settlement

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did not implicate EEO or disciplinary issues, and the settlement did not include any confidentiality provisions.

vi. Metropolitan and AFSCME Local 1902 Transfer Agreement

Metropolitan and AFSCME Local 1902 entered into a transfer agreement in late December 2022 on behalf of an employee who is still employed with Metropolitan. The transfer agreement created a teleworking assignment for the transferred employee and the agreement contains the key terms of the new assignment. The agreement did implicate EEO issues as the agreement addressed Metropolitan's responsibility to ensure the transferred employee is not placed into an uncomfortable or unsafe working condition due to findings of violations of Metropolitan EEO policies uncovered during prior EEO investigations. The settlement did not include any confidentiality provisions, and it did not implicate disciplinary issues.

b. Workers' Compensation Matters

Workers' Compensation claims settled by the General Manager and the General Counsel within this past quarter are reported in Attachment A. The ex-employee referenced in Attachment A retired on December 29, 2017. A settlement including a Compromise and Release for \$85,000 was executed on December 1, 2022. Ex-Employee's ability to file a petition to reopen claim to assert new and further disability expired on December 29, 2022.

c. Other Claims By and Against Third Parties Resolved by Risk Management

Non-litigated third-party claims resolved by Risk Management (under authority delegated by the General Manager) and approved by the General Counsel within this past quarter are reported in Attachment B.

d. SB 90 Claims

No SB 90 claims for reimbursement for state-mandated costs collected were reported within this past quarter.

e. Separation Agreements

Metropolitan did not enter into any separation agreements within this past quarter.

2. No costs were collected for claims within this past quarter.
3. No property damage claims were declared as uncollectible by the General Manager within this past quarter.
4. No Accounts receivables were written off as uncollectible by the General Manager within this past quarter.

ATTACHMENT A
Workers' Compensation Matters Resolved During the Period
October 1, 2022 - December 31, 2022

| Classification | Control No. | Date of Injury | Amount of Settlement | Nature of Injury | Basis for Settlement |
|-----------------------|--------------------|-----------------------|-----------------------------|-------------------------|-----------------------------|
| Sr Engineering Tech | 2015-0323-0439 | 3/23/2015 | \$85,000.00 | Multiple Body Parts | Compromise and Release |

ATTACHMENT B
 Claims Against Metropolitan Resolved by Risk Management During the Period
October 1, 2022 – December 31, 2022

| Claimant | Control No. TPA No. | Amount of Settlement | Incident Description | Basis for Resolution |
|--|--------------------------------|---------------------------------|--|---|
| Lopez, Pedro Romero | 2022-0301-0339 027-000160 | \$1,138.84 | On 03/01/2022, an MWD truck backed into the left rear corner of the third-party vehicle that was parked and unoccupied | The third-party property damage claim was settled based upon an evaluation of the accident, impact, damage, and repair cost |
| AAA as subrogee for Jennifer Berriozabal | 2022-0128-0289 027-000158 | \$14,951.44 | On 01/28/2022, an MWD truck rear-ended a third-party vehicle that was stopped in an intersection | The third-party property damage claim was settled based upon an evaluation of the accident, impact, damage, and repair cost |