



● **Board of Directors**  
***Water Planning and Stewardship Committee***

7/11/2017 Board Meeting

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**8-7**

**Subject**

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Adopt CEQA determination and authorize the General Manager to enter into cyclic agreements providing a credit of up to \$225 per acre-foot for in-lieu deliveries in Fiscal Year 2017/2018.

**Executive Summary**

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Authorization is requested to allow the General Manager to enter into cyclic agreements providing a credit of up to \$225 per acre-foot (AF) for in-lieu deliveries in fiscal year (FY) 2017/2018, consistent with the terms in [Attachment 1](#). As provided in Attachment 1, the authorization would be limited at this time to cyclic agreements with member agencies that are impacted by unconfirmed quagga mussels detected in Metropolitan's State Water Project (SWP) supplies.

As reported to the Water Planning and Stewardship Committee in June 2017, as a result of the extraordinary supply conditions, Metropolitan is projected to have more supplies available in 2017, and potentially in 2018, than it may be able to manage. These additional extraordinary supplies, at risk of being lost to Metropolitan, are primarily due to the significant increase in the SWP allocation to 85 percent and could total as much as 400,000 AF. Metropolitan is working to cost-effectively store as much water as possible, in addition to meeting the requested deliveries of the member agencies. Metropolitan is pursuing a combination of water management options including increasing its storage in Lake Mead and increasing SWP groundwater storage, and now considering providing in-lieu deliveries to impacted member agencies. All of these actions will help reduce the risk of losing supplies. Metropolitan is seeking authorization to provide up to 200,000 AF to member agencies through cyclic agreements for in-lieu deliveries.

Metropolitan has been unable to fully meet member agency untreated replenishment demands as a result of suspected quagga mussels detected in Metropolitan's distribution system that relies on the SWP supplies. Other agencies with other reservoirs may face the same obstacle to storing untreated SWP supplies. One way of increasing deliveries is that Metropolitan may deliver treated water in-lieu to those agencies through cyclic agreements. However, a major impediment to this option is the increased cost of accepting Metropolitan treated water to realize delivery through in-lieu means. Accordingly, staff proposes Metropolitan provide a credit in cyclic agreements for in-lieu delivery of additional treated water to member agencies impacted by potential quagga mussels. The credit shall not exceed \$225 per AF. For example, for agencies with groundwater basins, Metropolitan could set the credit based on the treatment surcharge that agencies must pay to take treated water at Metropolitan's request, minus the avoided pumping costs to the agency if it had produced groundwater instead.

**Details**

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In 2017, Metropolitan is experiencing an extraordinary situation where the ability to manage water has already been nearly maximized and the ability to deliver untreated water has been impaired by the detection of unconfirmed quagga mussels in Metropolitan's SWP supplies. On April 14, 2017, the Department of Water Resources announced a SWP allocation of 85 percent. This is the highest allocation since deliveries on the SWP were impacted by Justice Wanger's decision in 2007. As a result, Metropolitan is planning to store more water this year than Metropolitan has stored in any single year of its history, in addition to meeting the requested deliveries of the member agencies. The current strategy is to maximize deliveries to Diamond Valley Lake,

maximize contractual storage to Metropolitan's SWP groundwater storage programs, store water in member agency conjunctive use programs, place water in SWP carryover, and store Colorado River supplies with Desert Water Agency and Coachella Valley Water District and in Lake Mead. However, even with these unprecedented efforts, there are additional SWP supplies at risk of being lost to the region.

The extraordinary supplies come at a time when demands projected by the member agencies are lower as a result of improved local conditions. Detection of unconfirmed quagga mussels in SWP supplies have also reduced untreated deliveries to local groundwater basins, thereby decreasing demands from Metropolitan for groundwater replenishment. Other agencies with other reservoirs may face the same obstacle to storing untreated SWP supplies. Thus, Metropolitan must seek cost-effective alternative water management opportunities to ensure the extraordinary supplies, which Metropolitan estimates at up to 400,000 AF, are not lost to the region. With the 400,000 AF of extraordinary supplies, Metropolitan is pursuing a combination of water management options that can either store more water or increase deliveries to member agencies. To increase storage, Metropolitan is pursuing increasing its storage in Lake Mead. To increase deliveries to member agencies, authorization is requested to deliver up to 200,000 AF of in-lieu supplies to member agencies that are unable to take untreated water as a result of suspected quagga mussels. Doing so would increase deliveries and further enhance water reliability for the entire service area and ensure future water sales.

Staff proposes the Board authorize the General Manager to provide a credit in cyclic agreements with those member agencies that are limited by the unconfirmed quagga mussels. To receive the credit, member agencies would accept treated water from Metropolitan in addition to their baseline water purchases this year, in exchange for a credit in the same year. The credit payable to a member agency will be based on the estimated costs incurred by the agency as a result of taking additional treated water at Metropolitan's request in lieu of using their own local supply, minus the costs that the agency would have incurred without the in-lieu delivery. Member agencies shall submit their avoided cost estimates to Metropolitan, which Metropolitan will review based on documented records. Metropolitan has sole discretion in determining the eligible costs that would be reimbursed. The Board authorization for in-lieu credits under the proposed agreements would be limited to a maximum of \$225 per AF.

Participating member agencies would be required to perform by accepting more water than already projected for delivery and purchasing the water within five years at the full service untreated rate, except the Capacity Charge. Like all other deliveries from cyclic agreements, the purchase by the agency would not incur a Capacity Charge because the in-lieu delivery is at Metropolitan's discretion. All other components of Metropolitan's full service water rate, including the Readiness-to-Serve Charge, would be charged to the member agency at the time the water is sold. The member agency would be billed the treatment surcharge at the time of in-lieu water delivery, and would also receive the credit in the same year. To ensure credits are given only for deliveries of additional water, at the end of the present fiscal year, Metropolitan would certify that the in-lieu delivery to an agency is in addition to normal deliveries. Any credits given for water deliveries that are unable to be certified will be voided by Metropolitan.

A key term is that the member agency must enter into a defined purchase schedule for the delivered water. The schedule provides certainty to Metropolitan that the water will be sold to generate sales within five years. The schedule also provides the member agency certainty as to how the additional water purchases will impact their future budgets.

The cost to Metropolitan of providing the credit is competitive with other SWP water management programs, which average \$270 per AF. Further, the power costs to move water this year is less than the power costs Metropolitan would incur if the water were stored outside its service area in its SWP storage programs, and then moved into Metropolitan's service area during dry years. Power costs are lower this year because of the increased production of hydropower on the SWP system.

The proposed concept provides benefits for all member agencies by increasing the amount of water delivered to the region. By increasing deliveries to the region, Metropolitan frees up future water supplies to meet potentially increased demands by all of its member agencies. This water will be managed locally, which enhances supplies available during an emergency and increases Metropolitan's future water sales pursuant to the agency's agreement

to buy that water. Moreover, the additional water management action would cost Metropolitan less than the average cost of storing water outside of Metropolitan's service area and less than the power costs of moving that water into Metropolitan's service area during dry years, when power costs are generally higher. Reducing the potential loss of the available extraordinary supplies and establishing a purchase schedule sets the proposed concept apart from other programs in the past.

The credits will be funded in the same manner as costs of other water supply programs. To increase deliveries to member agencies, authorization is requested to deliver up to 200,000 AF of in-lieu supplies, resulting in a total cost of \$45 million if all in-lieu supplies are delivered through these agreements at the highest funding level. As reported to the Finance and Insurance Committee in April 2017, projections are that supply program costs in FY 2016/2017 will be approximately \$34.2 million under budget. For FY 2017/2018, Metropolitan's biennial budget includes \$81.7 million for supply programs.

## **Policy**

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Metropolitan Water District Administrative Code Section 4209: Contracts

By Minute Item 50793, dated April 10, 2017, the Board approved the General Manager to enter into Cyclic Storage Agreements with Metropolitan's member agencies.

## **California Environmental Quality Act (CEQA)**

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### **CEQA determination for Option #1:**

The proposed action is categorically exempt under the provisions of CEQA and the State CEQA Guidelines. In particular, the proposed action consists of entering into agreements for the storage of surplus water at existing public or private facilities with negligible or no expansion of use and no possibility of significantly impacting the physical environment. Accordingly, the proposed action qualifies as a Class 1 Categorical Exemption (Section 15301 of the State CEQA Guidelines).

The CEQA determination is: Determine that pursuant to CEQA, the proposed action qualifies under a Categorical Exemption (Class 1, Section 15301 of the State CEQA Guidelines).

### **CEQA determination for Option #2:**

None required

## **Board Options**

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### **Option #1**

Adopt the CEQA determination that the proposed action is exempt from CEQA, and

Authorize the General Manager to enter into cyclic agreements providing a credit of up to \$225 per acre-foot for in-lieu deliveries in FY 2017/2018, consistent with the terms in [Attachment 1](#).

**Fiscal Impact:** Assuming delivery of 200,000 AF through cyclic agreements at the maximum credit of \$225 per AF, the financial cost in FY 2017/2018 could be as high as \$45 million. The costs of the cyclic agreements would be paid for in the same manner as the costs of other water supply programs.

**Business Analysis:** Metropolitan would improve regional reliability through the delivery of water to the region that would have otherwise been lost. The additional cost to manage such water at an amount not to exceed \$225 per AF is less than Metropolitan's cost of \$270 per AF to store water in its SWP storage programs, and the delivery of the presently available extraordinary supplies incurs lower power costs than the power costs to move water from SWP storage programs in dry years. Metropolitan will also generate additional revenue from the sale of the delivered water.

### **Option #2**

Do not authorize the General Manager to provide a credit in cyclic agreements with member agencies that have been impacted by unconfirmed quagga mussels in Metropolitan's SWP supplies.

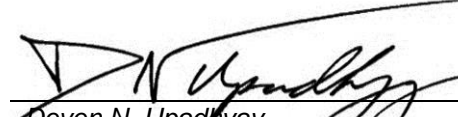
**Fiscal Impact:** None

**Business Analysis:** Not implementing the credit in cyclic agreements could decrease the water supplies available to the region in a future year.

**Staff Recommendation**

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Option #1

  
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Deven N. Upadhyay  
Manager, Water Resource Management

6/28/2017  
Date

  
\_\_\_\_\_  
Jeffrey Kightlinger  
General Manager

6/29/2017  
Date

**Attachment 1 – Term Sheet, FY 2017/218 In-Lieu Credits**

Ref# wrm12658183

**Term Sheet**  
**FY 2017/2018 In-Lieu Credits**

**In-Lieu Credit**

- Metropolitan may provide a credit up to \$225/ acre-foot (AF), for the in-lieu delivery of Metropolitan supplies in fiscal year (FY) 2017/2018.
- The credit payable to a member agency will be based on the estimated costs incurred by the agency as a result of taking delivery of additional water at Metropolitan's request minus the costs that the agency would have incurred without the in-lieu deliveries. Member agencies shall submit their avoided cost estimates to Metropolitan, which Metropolitan will review based on documented records. Metropolitan has sole discretion in determining the eligible costs that would be reimbursed.
- Transactions are accounted for at the meter level.
- Upon in-lieu delivery of any treated water, Metropolitan will bill the treatment surcharge to the member agency at the time Metropolitan delivers the water to the agency. The credit will be applied to a member agency's meter invoiced amounts, subject to reconciliation of the credit amount and certification of the in-lieu delivery amount. These reconciliations and certifications can result in changes to the credit in later months.

**In-Lieu Delivery Requirements**

- Metropolitan's member agency cyclic agreements that are impacted by unconfirmed quagga mussels detected in Metropolitan's State Water Project supplies are eligible and may be amended for receipt of the in-lieu credit, as described in this Term Sheet.
- The in-lieu delivery of water to a member agency shall not reduce the full service water sales of Metropolitan in FY 2017/2018. Certification of in-lieu deliveries may be limited if the member agency does not achieve projected full service deliveries as determined by Metropolitan. Operating plans will be required to help certify in-lieu deliveries into cyclic agreements as separate from normal deliveries. Any credits given for water deliveries that are unable to be validated and reconciled by official documentation (i.e., Watermaster report or other official documentation) after certification will be voided by Metropolitan.
- The total amount of water eligible for the credit is up to 200,000 AF.
- Metropolitan and member agencies shall agree on a payment schedule for the agencies' purchase of the delivered water under the cyclic agreement.
- The terms for the agency's purchase of the delivered water, including applicable rates and charges, shall be the same as all other purchases from the member agency's cyclic agreement.

**Term**

- The water eligible for a credit may only be delivered in FY 2017/2018 and the member agency must purchase the delivered water no later than five years from the in-lieu delivery. Payment schedules will be agreed to when delivery is accepted by the member agency.



- Board of Directors  
*Water Planning and Stewardship Committee*

3/12/2019 Board Meeting

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9-3

## **Subject**

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Information on potential credit to enhance in-lieu deliveries to cyclic storage under limited conditions

## **Executive Summary**

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This report describes a proposed revision to Metropolitan's cyclic agreements to increase the ability to capture imported supplies in future surplus conditions. Under the proposed modification, Metropolitan would be able to store water within its service area by delivering surplus supply to member agencies during extraordinary conditions, in-lieu of those agencies using their own local supplies. In exchange for agreeing to the in-lieu delivery and performance, Metropolitan would pay member agencies up to \$225 per acre-foot in the form of a credit. The maximum cost of \$225 per acre-foot would be comparable to Metropolitan's costs for other water management programs. For the agencies, the credit would offset some of the increased costs they would incur when taking treated imported deliveries in-lieu of using local supplies during surplus conditions. Metropolitan would credit the participants for their documented increased costs to receive the treated water up to \$225 per acre-foot (indexed by inflation each year). The proposed program would provide the General Manager the authority to execute cyclic agreements and to initiate in-lieu deliveries when water supplies may exceed Metropolitan's ability to capture. Upon authorization of in-lieu deliveries, staff would report the activity and the conditions that warranted this action to the Board at its next regular meeting.

## **Details**

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### ***Background***

Metropolitan has developed a diverse portfolio of water storage facilities and agreements to help capture imported supplies in surplus conditions. This portfolio includes surface storage facilities, groundwater storage, and pre-delivery accounts that are both inside and outside of the region. Since the 1970's this portfolio has included cyclic agreements.

### ***Cyclic Accounts***

A cyclic agreement establishes an account between Metropolitan and a member agency with either groundwater or surface storage. Through the account, Metropolitan can deliver water to the member agency at Metropolitan's convenience. Once delivered, the member agency then purchases water out of the account on an agreed upon schedule, not to exceed five years. Unlike some other programs in Metropolitan's storage portfolio, cyclic accounts do not charge Metropolitan any costs for this activity, and there are no loss factors applied to deliveries into cyclic accounts.

At times, Metropolitan may prefer to deliver higher amounts of water than a member agency may have budgeted for in a given time period. Cyclic accounts allow Metropolitan to make larger deliveries when imported water is available while allowing the member agency to purchase the water over a period of time, allowing stable and predictable budgeting.

### ***Two Methods of Delivery into Cyclic Accounts***

Metropolitan can deliver water into cyclic accounts through either direct or in-lieu methods. Direct deliveries are made when Metropolitan provides untreated supplies directly to a surface reservoir or groundwater spreading connection. Direct deliveries are common, although operational conditions can constrain when direct deliveries can be made. Sometimes the capacity of local spreading basins, water quality issues, and/or the potential presence of invasive species can impact the ability to make direct deliveries.

In-lieu deliveries can be made if the member agency reduces groundwater pumping or reduces the use of local surface storage in order to increase deliveries from Metropolitan's treated water system. In this operation, Metropolitan provides treated drinking water to meet consumptive demands in-lieu of the member agency using its groundwater or surface water to meet demands. This increases Metropolitan's imported deliveries when they are available and preserves the local supplies to be used at a later date. By virtue of using Metropolitan's many treated water connections, Metropolitan has a higher degree of operational flexibility in making in-lieu deliveries.

### ***In-lieu Deliveries Are an Economical Form of Water Management for Metropolitan, but Come at a Higher Cost for the Local Agency***

In-lieu deliveries can significantly increase the amount of water maintained in local cyclic accounts. However, member agencies typically plan to replenish groundwater and surface water storage using untreated deliveries over time. When taking in-lieu deliveries, the member agency must also pay Metropolitan's treatment surcharge. This higher cost serves as a disincentive to the member agency to use more imported water, particularly when it can simply wait to purchase untreated water at a later date. When a member agency takes treated in-lieu deliveries, the member agency avoids costs associated with pumping and delivering the local supplies. These avoided costs, however, are outweighed by the higher cost of Metropolitan's treatment surcharge.

### ***2017 In-Lieu Credit Program***

In 2017, Metropolitan experienced extraordinary conditions with a high amount of available imported supplies and low member agency demands. Metropolitan's ability to manage water in available storage accounts was maximized. In July of 2017, to increase deliveries of treated supplies, Metropolitan's Board authorized a credit of up to \$225 per acre-foot for in-lieu deliveries of treated water to member agency cyclic accounts. The \$225 per acre-foot cost to Metropolitan was competitive compared to other storage alternatives and reduced the cost impact to a member agency for taking in-lieu deliveries. The credit payable to a member agency was determined using the costs incurred by the agency as a result of taking additional treated water at Metropolitan's request in-lieu of using their own local supply, minus the costs that the agency would have incurred without the in-lieu delivery, not to exceed \$225 per acre-foot. Member agencies submitted their estimates of avoided cost to Metropolitan, which Metropolitan reviewed based on documented records. Agencies entered into purchase agreements to purchase the water within five years. Metropolitan entered into agreements for treated in-lieu deliveries with Municipal Water District of Orange County, City of Anaheim, City of Fullerton and City of Santa Ana. Other agencies voiced interest in taking in-lieu deliveries, but the approval of the program came too late in the year for their operations to accommodate the water.

The 2017 in-lieu credit program was approved only for the duration of the 2017/18 fiscal year. During the brief program, about 65,200 acre-feet were captured in cyclic accounts through in-lieu deliveries. This water would have otherwise been lost if the program were not in place.

### ***Potential Modification to Cyclic Program***

Staff is proposing a modification to the current Cyclic Program similar to the in-lieu credit program authorized by Metropolitan's Board in July 2017. Whereas the previous cyclic program was limited in both scope and duration, the modification would not be limited in that manner. The General Manager would have the authority to enter into cyclic agreements with member agencies and to initiate a credit for in-lieu deliveries based on water supply conditions in real time. This delegation of authority would provide flexibility in the operation of the Cyclic Program to allow for timely deliveries of surplus supplies.

The window to capture surplus supplies is often limited. For example, Article 21 supplies on the State Water Project can become available with little notice and only be available for a few weeks. If agreements and authority to initiate deliveries were in place beforehand, the amount of captured supplies would be maximized. These deliveries would increase water delivered and stored in the region, thus improving reliability for all member agencies and providing a regional benefit in the same manner as other water management programs. Further, these programs collect Metropolitan's full-service rate on a pre-determined schedule.

### ***Member Agency Requirements***

Under the proposed revised Cyclic Program when surplus water is available, member agencies would take treated water from Metropolitan in addition to their baseline water purchases for the year, in exchange for a credit of up to \$225 per acre-foot. The credit would be calculated as the difference in costs of the in-lieu delivery compared to their normal groundwater operation. Metropolitan would retain the sole discretion in determining eligible costs. The resulting credit would remove the financial barrier for a member agency to increase in-lieu deliveries from Metropolitan.

Participating member agencies would be purchasing more water than was already projected for delivery. Metropolitan would bill the member agency through a cyclic account at the full-service rate within five years, based on an agreed upon schedule. The schedule would provide certainty to Metropolitan that the water would be sold to generate a future sale. The schedule also provides the member agency certainty as to how the additional water purchases would impact future budgets.

Like all other purchases from cyclic accounts, the purchase by the agency would not incur a Capacity Charge, because the in-lieu delivery would be at Metropolitan's discretion. All other components of Metropolitan's full-service water rate would be charged to the member agency at the time the water is sold, and the delivery would count towards the agency's Readiness-to-Serve Charge. The member agency would be billed the treatment surcharge at the time of delivery, and would also receive the credit in the same year. To ensure credits were given only for deliveries of additional water, Metropolitan would certify that the in-lieu delivery to an agency was in addition to normal deliveries in the fiscal year.

### ***Program Process and Reporting***

Staff would evaluate the supply, demand, and storage availability through the Water Surplus and Drought Management process. If additional supply needs to be managed after other water management actions are potentially exhausted, staff would recommend the General Manager initiate in-lieu deliveries. Staff would report Cyclic Program activity to the Board at the next regular board meeting. The report to the Board would include information about the circumstances that led to the action, estimated surplus supplies and identify the participating member agencies and planned delivery amounts. Through a monthly certification and annual reconciliation process, staff would ensure that deliveries under the Cyclic Program were in addition to their normal deliveries.

### ***Summary***

Under extraordinary supply conditions, there may be an availability of supplies beyond what Metropolitan is able to manage. By providing a credit to member agencies to accept in-lieu deliveries under limited conditions, member agencies would increase the amount of water delivered to the region benefiting all member agencies and the region in the same manner as other water management programs. Increased deliveries into cyclic accounts bring more water into the service area. This enhances Metropolitan's ability to respond to emergency events more than storage outside the service area.

By delegating authority to the General Manager to enter into cyclic agreements to provide in-lieu credits, and to begin in-lieu deliveries, the Cyclic Program would provide operational flexibility to manage and store extraordinary supplies. The draft terms for the Potential In-Lieu Cyclic Program are included in **Attachment 1**.



**Policy**

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Metropolitan Water District Administrative Code Section 4209: Contracts

By Minute Item 50793, dated April 10, 2017, the Board approved the General Manager to enter into Cyclic Agreements with Metropolitan’s member agencies.

By Minute Item 50888, dated July 11, 2017, the Board approved the General Manager to enter into Cyclic Agreements providing a credit of up to \$225 per acre-foot for in-lieu deliveries in fiscal year 2017/2018.

**Fiscal Impact**

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The fiscal impact would be a short term increased cost associated with the maximum credit of \$225 per acre-foot (indexed each year). The credit is competitive with the unit cost of Metropolitan’s State Water Project groundwater storage programs. Increased local supplies would reduce demand in dry years when alternative water supply sources are likely to be more expensive and provide more reliability in emergency events, providing a regional benefit to all member agencies.

  
Brad Coffey  
Manager, Water Resource Management

3/1/2019  
Date

  
Jeffrey Kightlinger  
General Manager

3/1/2019  
Date

**Attachment 1 – Term Sheet, Member Agency In-Lieu Agreements**

Ref# wrm12660548

Term Sheet  
Member Agency  
In-Lieu Cyclic Agreements

**In-Lieu Credit**

- Metropolitan would provide a credit of up to \$225 per acre-foot, escalated yearly using the Consumer Price Index, for the in-lieu deliveries of Metropolitan supplies.
- The credit payable to a member agency would be based on the estimated additional costs that would be incurred by the member agency as a result of taking delivery of additional treated water supplies at Metropolitan's request. The credit would be equal to the treatment surcharge minus the costs that the agency would have incurred without receiving in-lieu deliveries. Avoided cost estimates would be provided by the member agencies for review.
- Metropolitan would have sole discretion in determining the eligible costs that would be reimbursed.
- Metropolitan would bill the treatment surcharge to the member agency at the time of delivery.
- Transactions would be accounted for at the meter level.
- The credit applied to the member agency meter invoiced amount, and subject to reconciliation of the credit amount and the in-lieu delivery amount.
- Adjustments to in-lieu credits could result from reconciliations.

**In-Lieu Delivery Requirements**

- The in-lieu delivery of water to a member agency shall not reduce the full-service water sales of Metropolitan. Certification of in-lieu deliveries could be limited if the member agency does not achieve projected full-service deliveries as determined by Metropolitan for that year.
- Metropolitan would agree on a payment schedule for the agencies' purchase of the delivered water.
- Operating plans would be required from the member agency prior to receiving in-lieu deliveries. Operating plans would help certify in-lieu deliveries into cyclic agreements as separate from normal deliveries. Any credits given for water deliveries that are unable to be validated and reconciled by official documentation (i.e., Watermaster report or other official documentation) after certification would be voided by Metropolitan.
- The terms for the agency's purchase of the delivered water, including applicable rates and charges, would be the same as all other purchases from the member agency's cyclic agreement.

**Term**

- The member agency would be required to purchase the delivered water no later than five full calendar years from the in-lieu delivery. Metropolitan and member agencies would agree on a payment schedule for the agencies' purchase of the delivered water under the cyclic agreement.



- Board of Directors  
*Water Planning and Stewardship Committee*

4/9/2019 Board Meeting

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8-4

## Subject

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Authorize the General Manager to provide a credit to offset increased costs associated with surplus deliveries to cyclic accounts; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

## Executive Summary

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At times, available imported water quantities exceed Metropolitan's ability to capture supplies for the region. The use of cyclic agreements helps manage this condition by pre-delivering imported water while surplus conditions exist and allowing member agencies to pay for this water over a period of up to five years. However, some member agencies could take additional steps to capture more surplus imported supplies, resulting in increased costs above their normal operating conditions. This action item would authorize the General Manager to provide credits of up to \$225/acre-foot to offset the increased costs member agencies incur to capture additional imported supplies above their base deliveries. The cost-offset credit would only be made available in conditions that the General Manager determines may result in loss of available supplies to the region. The General Manager would be required to bring an item to the next board meeting following a decision to make cost-offset credits available to help manage surplus conditions.

## Details

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### *Background*

Last month, staff presented information item 9-3 for discussion (**Attachment 1**). Information item 9-3 described the General Manager's existing authority to enter into cyclic agreements to assist in capturing surplus imported water. Cyclic agreements allow Metropolitan to pre-deliver water to member agencies, allowing them to pay for these deliveries over a period of up to five years. These agreements help Metropolitan capture surplus imported water supplies when Metropolitan may not be able to capture all available supplies in other storage facilities or programs. Item 9-3 also described that cyclic agreements do not include a mechanism to offset the higher cost of some actions that agencies might take to capture increased volumes of imported water. As a result, opportunities to capture surplus imported water may be limited without a credit for member agencies to offset these higher costs.

This action item builds off of the March Information Item 9-3 and includes adjustments based on feedback from the Water Planning & Stewardship Committee and member agency managers. Staff recommends the Board authorize the General Manager to offer a credit to offset the cost of extraordinary actions member agencies take to capture surplus imported water in cyclic accounts. The terms defining how these cost-offset credits would work are included in this letter and its attachments.

### **Proposed Authorization for the General Manager**

This action seeks authority for the General Manager to issue cost-offset credits related to member agency actions to capture water in cyclic accounts. Cost-offset credits would only be given to a member agency in the following conditions:

- The General Manager has determined that supply conditions warrant making cost-offset credits available due to a risk of not capturing all available imported supplies; and

- The member agency takes an action to increase capture of surplus imported water supplies at Metropolitan's request; and
- The capture of surplus imported water supplies in a cyclic account is certified by Metropolitan staff as above the baseline operations that otherwise would have occurred; and
- The member agency incurs costs to capture these surplus supplies that are above the normal cost that would be paid for imported water supplies from Metropolitan.

The conditions above ensure that Metropolitan only pays cost-offset credits for deliveries that have increased the capture of surplus imported supplies. It also clarifies that credits are only made available to offset the increased costs to a member agency above the normal rates they would pay for Metropolitan's imported water. The credits do not reduce the costs to participating member agencies below their normal cost of purchasing water from Metropolitan. General terms for the cost-offset credits are included in **Attachment 2**.

Like all other billings from cyclic accounts, the purchase by the agency would not incur a Capacity Charge because the delivery would be at Metropolitan's discretion. Metropolitan would charge the member agency all other components of Metropolitan's full-service water rate, including the Readiness-to-Serve Charge at the time the water is sold.

### **Cost-Offset Credits**

If made available in a given year, cost-offset credits would be limited to up to \$225/acre-foot captured in cyclic accounts. The upper limit of \$225/acre-foot would be indexed to inflation to allow for adjustment over time. All certification and reconciliation procedures associated with cyclic agreements would remain in effect. These procedures allow staff to ensure that only imported water captured above the normal deliveries of a given agency would qualify for any cost-offset credits. These procedures also allow staff to review the costs a given agency incurs (including potential avoided costs) in order to calculate whether the operations to capture additional imported water actually lead to a cost, above what they would normally pay for imported deliveries. This forms the basis for whether an agency can receive a cost-offset credit or not.

All water delivered into cyclic accounts is billed at Metropolitan's applicable treated or untreated full-service rates over an agreed upon period of time. The potential cost of issuing credits would be included in the Supply Program line item of future biennial budget proposals in a fashion consistent with other storage programs. If cost-offset credits are issued in a given year, they would be accounted for in a fashion similar to other supply programs. These costs would be captured in the Chief Financial Officer's quarterly financial report under supply program costs.

### **Initiating Cost-Offset Credits and Reporting**

Metropolitan regularly reports to the Board on developing supply and demand conditions through Water Surplus and Demand Management Plan reports. These reports are done on a monthly basis through the winter and spring. Staff keeps the Board apprised of developing conditions, including the potential use of storage assets and the likelihood of storing or withdrawing supplies. The potential need to initiate the use of cost-offset credits to capture imported supplies in cyclic accounts would be part of this regular reporting process.

At times, the available imported supplies may exceed Metropolitan's ability to capture within regional storage assets. These periods may be short-term in nature (a few weeks) or long-term (spanning across calendar years). In these circumstances, when the region is at risk of not capturing all available imported supplies, the General Manager may initiate the use of cost-offset credits to increase the amount of imported water captured in cyclic accounts. Authorizing the General Manager to take this action allows for responsive operations based on changing supply conditions. This is particularly important in cases such as the Department of Water Resources' decisions to make Article 21 supplies available on the State Water Project. These decisions can be made in a very short timeframe, often with less than a week of notice.

If the General Manager initiates the use of cost-offset credits, an item would be brought to the next regularly scheduled board meeting. This item would include supporting information that led to the General Manager's decision and would provide an option for the Board to stop the use of cost-offset credits, if desired.

### **Examples of Actions to Increase Capture of Surplus Imported Supplies**

Generally, cost-offset credits would be available for any actions a member agency takes to increase the capture of surplus imported water in cyclic accounts above their baseline deliveries. The following are examples of actions that might apply:

- Increased deliveries to local surface storage
- Increased deliveries to groundwater spreading connections
- Increased deliveries to groundwater basins via injection
- Increased deliveries to meet consumptive demands in-lieu of using groundwater or surface storage (in-lieu storage)

Staff would look at the additional costs an agency incurs in taking the above actions beyond their normal cost for taking imported supplies. The increased costs would be eligible for the credit, up to \$225/acre-foot. Examples of how the cost-offset credit calculation would work are included in **Attachment 3**. Metropolitan retains the sole discretion in determining eligible costs.

In the case of surface storage, staff received feedback regarding the evaporative losses a local agency incurs when using reservoir storage. In recognition of this, staff proposes that a cost-offset credit be available recognizing a five percent loss for each year the water stays in the cyclic account. Evaporative losses would be capped at a maximum of ten percent if an agency takes more than two years to pay for the water. The agency would be billed for all water delivered into the cyclic account on the agreed upon schedule (without accounting for evaporative losses) and the cost-offset credit would apply when the agency is billed.

### **Summary**

Under certain supply conditions, Metropolitan may not be able to manage all supplies and opportunities to store water could be lost to the region for future dry years. By providing a cost-offset credit for surplus deliveries into cyclic accounts under limited conditions, member agencies can increase the amount of water delivered to the region while benefiting all member agencies in the same manner as other local storage programs.

With this delegation of authority to the General Manager to provide cost-offset credits, Metropolitan would have additional operational flexibility to capture surplus imported supplies. This proposal also includes prompt reporting and board oversight, if the General Manager exercises this authority.

### **Policy**

Metropolitan Water District Administrative Code Section 4209: Contracts

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

By Minute Item 50793, dated April 10, 2017, the Board authorized the General Manager to enter into cyclic agreements with Metropolitan's member agencies.

By Minute Item 50888, dated July 11, 2017, the Board authorized the General Manager to enter into cyclic agreements providing a credit of up to \$225 per acre-foot for in-lieu deliveries.

### **California Environmental Quality Act (CEQA)**

#### **CEQA determination for Option #1:**

The proposed action is categorically exempt under the provisions of CEQA and the State CEQA Guidelines. In particular, the proposed action consists of entering into agreements for the capture of surplus water at existing public or private facilities with negligible or no expansion of use and no possibility of significantly impacting the physical environment. Accordingly, the proposed action qualifies as a Class 1 Categorical Exemption (Section 15301 of the State CEQA Guidelines).

#### **CEQA determination for Option #2**

None required

**Board Options**

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**Option #1**

Authorize the General Manager to enter into agreements to provide a cost-offset credit of up to \$225 per acre-foot for surplus deliveries under limited conditions, consistent with the terms in **Attachment 2**.

**Fiscal Impact:** None. Up to \$225 per acre-foot cost-offset credit to the member agency. The credit will be offset by the treatment surcharge collected at the time of the delivery or the future sale at the full-service rate.

**Business Analysis:** Metropolitan would improve regional reliability through the delivery of water to the region that would have otherwise been lost. The additional cost to manage such water at an amount not to exceed \$225 per acre-foot is less than Metropolitan’s average cost of \$300 per acre-foot to store water in its SWP storage programs. Further, the delivery of the supplies to the region incurs lower power costs in wet years than in dry years because of higher hydroelectric generation on the State Water Project. Metropolitan will also generate additional revenue from an increase in treated water deliveries and the future sale of the delivered water.

**Option #2**

Do not authorize the General Manager to enter into agreements to provide a surplus credit for surplus deliveries with member agencies that have received supplies.

**Fiscal Impact:** Potential loss of a full-service water sale and an increase in costs to acquire additional water for the region.

**Business Analysis:** Not implementing the credit in cyclic agreements could decrease the water supplies available to the region.

**Staff Recommendation**

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Option # 1

  
Brad Coffey  
Manager, Water Resource Management

3/28/2019  
Date

  
Jeffrey Nightlinger  
General Manager

3/29/2019  
Date

**Attachment 1 – March Information Item 9-3**

**Attachment 2 – Term Sheet Member Agency Cost-Offset Credits**

**Attachment 3 – Example Credit Calculations**



- Board of Directors  
*Water Planning and Stewardship Committee*

3/12/2019 Board Meeting

9-3

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**Subject**

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Information on potential credit to enhance in-lieu deliveries to cyclic storage under limited conditions

**Executive Summary**

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This report describes a proposed revision to Metropolitan's cyclic agreements to increase the ability to capture imported supplies in future surplus conditions. Under the proposed modification, Metropolitan would be able to store water within its service area by delivering surplus supply to member agencies during extraordinary conditions, in-lieu of those agencies using their own local supplies. In exchange for agreeing to the in-lieu delivery and performance, Metropolitan would pay member agencies up to \$225 per acre-foot in the form of a credit. The maximum cost of \$225 per acre-foot would be comparable to Metropolitan's costs for other water management programs. For the agencies, the credit would offset some of the increased costs they would incur when taking treated imported deliveries in-lieu of using local supplies during surplus conditions. Metropolitan would credit the participants for their documented increased costs to receive the treated water up to \$225 per acre-foot (indexed by inflation each year). The proposed program would provide the General Manager the authority to execute cyclic agreements and to initiate in-lieu deliveries when water supplies may exceed Metropolitan's ability to capture. Upon authorization of in-lieu deliveries, staff would report the activity and the conditions that warranted this action to the Board at its next regular meeting.

**Details**

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***Background***

Metropolitan has developed a diverse portfolio of water storage facilities and agreements to help capture imported supplies in surplus conditions. This portfolio includes surface storage facilities, groundwater storage, and pre-delivery accounts that are both inside and outside of the region. Since the 1970's this portfolio has included cyclic agreements.

***Cyclic Accounts***

A cyclic agreement establishes an account between Metropolitan and a member agency with either groundwater or surface storage. Through the account, Metropolitan can deliver water to the member agency at Metropolitan's convenience. Once delivered, the member agency then purchases water out of the account on an agreed upon schedule, not to exceed five years. Unlike some other programs in Metropolitan's storage portfolio, cyclic accounts do not charge Metropolitan any costs for this activity, and there are no loss factors applied to deliveries into cyclic accounts.

At times, Metropolitan may prefer to deliver higher amounts of water than a member agency may have budgeted for in a given time period. Cyclic accounts allow Metropolitan to make larger deliveries when imported water is available while allowing the member agency to purchase the water over a period of time, allowing stable and predictable budgeting.

### ***Two Methods of Delivery into Cyclic Accounts***

Metropolitan can deliver water into cyclic accounts through either direct or in-lieu methods. Direct deliveries are made when Metropolitan provides untreated supplies directly to a surface reservoir or groundwater spreading connection. Direct deliveries are common, although operational conditions can constrain when direct deliveries can be made. Sometimes the capacity of local spreading basins, water quality issues, and/or the potential presence of invasive species can impact the ability to make direct deliveries.

In-lieu deliveries can be made if the member agency reduces groundwater pumping or reduces the use of local surface storage in order to increase deliveries from Metropolitan's treated water system. In this operation, Metropolitan provides treated drinking water to meet consumptive demands in-lieu of the member agency using its groundwater or surface water to meet demands. This increases Metropolitan's imported deliveries when they are available and preserves the local supplies to be used at a later date. By virtue of using Metropolitan's many treated water connections, Metropolitan has a higher degree of operational flexibility in making in-lieu deliveries.

### ***In-lieu Deliveries Are an Economical Form of Water Management for Metropolitan, but Come at a Higher Cost for the Local Agency***

In-lieu deliveries can significantly increase the amount of water maintained in local cyclic accounts. However, member agencies typically plan to replenish groundwater and surface water storage using untreated deliveries over time. When taking in-lieu deliveries, the member agency must also pay Metropolitan's treatment surcharge. This higher cost serves as a disincentive to the member agency to use more imported water, particularly when it can simply wait to purchase untreated water at a later date. When a member agency takes treated in-lieu deliveries, the member agency avoids costs associated with pumping and delivering the local supplies. These avoided costs, however, are outweighed by the higher cost of Metropolitan's treatment surcharge.

### ***2017 In-Lieu Credit Program***

In 2017, Metropolitan experienced extraordinary conditions with a high amount of available imported supplies and low member agency demands. Metropolitan's ability to manage water in available storage accounts was maximized. In July of 2017, to increase deliveries of treated supplies, Metropolitan's Board authorized a credit of up to \$225 per acre-foot for in-lieu deliveries of treated water to member agency cyclic accounts. The \$225 per acre-foot cost to Metropolitan was competitive compared to other storage alternatives and reduced the cost impact to a member agency for taking in-lieu deliveries. The credit payable to a member agency was determined using the costs incurred by the agency as a result of taking additional treated water at Metropolitan's request in-lieu of using their own local supply, minus the costs that the agency would have incurred without the in-lieu delivery, not to exceed \$225 per acre-foot. Member agencies submitted their estimates of avoided cost to Metropolitan, which Metropolitan reviewed based on documented records. Agencies entered into purchase agreements to purchase the water within five years. Metropolitan entered into agreements for treated in-lieu deliveries with Municipal Water District of Orange County, City of Anaheim, City of Fullerton and City of Santa Ana. Other agencies voiced interest in taking in-lieu deliveries, but the approval of the program came too late in the year for their operations to accommodate the water.

The 2017 in-lieu credit program was approved only for the duration of the 2017/18 fiscal year. During the brief program, about 65,200 acre-feet were captured in cyclic accounts through in-lieu deliveries. This water would have otherwise been lost if the program were not in place.

### ***Potential Modification to Cyclic Program***

Staff is proposing a modification to the current Cyclic Program similar to the in-lieu credit program authorized by Metropolitan's Board in July 2017. Whereas the previous cyclic program was limited in both scope and duration, the modification would not be limited in that manner. The General Manager would have the authority to enter into cyclic agreements with member agencies and to initiate a credit for in-lieu deliveries based on water supply conditions in real time. This delegation of authority would provide flexibility in the operation of the Cyclic Program to allow for timely deliveries of surplus supplies.



The window to capture surplus supplies is often limited. For example, Article 21 supplies on the State Water Project can become available with little notice and only be available for a few weeks. If agreements and authority to initiate deliveries were in place beforehand, the amount of captured supplies would be maximized. These deliveries would increase water delivered and stored in the region, thus improving reliability for all member agencies and providing a regional benefit in the same manner as other water management programs. Further, these programs collect Metropolitan's full-service rate on a pre-determined schedule.

### ***Member Agency Requirements***

Under the proposed revised Cyclic Program when surplus water is available, member agencies would take treated water from Metropolitan in addition to their baseline water purchases for the year, in exchange for a credit of up to \$225 per acre-foot. The credit would be calculated as the difference in costs of the in-lieu delivery compared to their normal groundwater operation. Metropolitan would retain the sole discretion in determining eligible costs. The resulting credit would remove the financial barrier for a member agency to increase in-lieu deliveries from Metropolitan.

Participating member agencies would be purchasing more water than was already projected for delivery. Metropolitan would bill the member agency through a cyclic account at the full-service rate within five years, based on an agreed upon schedule. The schedule would provide certainty to Metropolitan that the water would be sold to generate a future sale. The schedule also provides the member agency certainty as to how the additional water purchases would impact future budgets.

Like all other purchases from cyclic accounts, the purchase by the agency would not incur a Capacity Charge, because the in-lieu delivery would be at Metropolitan's discretion. All other components of Metropolitan's full-service water rate would be charged to the member agency at the time the water is sold, and the delivery would count towards the agency's Readiness-to-Serve Charge. The member agency would be billed the treatment surcharge at the time of delivery, and would also receive the credit in the same year. To ensure credits were given only for deliveries of additional water, Metropolitan would certify that the in-lieu delivery to an agency was in addition to normal deliveries in the fiscal year.

### ***Program Process and Reporting***

Staff would evaluate the supply, demand, and storage availability through the Water Surplus and Drought Management process. If additional supply needs to be managed after other water management actions are potentially exhausted, staff would recommend the General Manager initiate in-lieu deliveries. Staff would report Cyclic Program activity to the Board at the next regular board meeting. The report to the Board would include information about the circumstances that led to the action, estimated surplus supplies and identify the participating member agencies and planned delivery amounts. Through a monthly certification and annual reconciliation process, staff would ensure that deliveries under the Cyclic Program were in addition to their normal deliveries.

### ***Summary***

Under extraordinary supply conditions, there may be an availability of supplies beyond what Metropolitan is able to manage. By providing a credit to member agencies to accept in-lieu deliveries under limited conditions, member agencies would increase the amount of water delivered to the region benefiting all member agencies and the region in the same manner as other water management programs. Increased deliveries into cyclic accounts bring more water into the service area. This enhances Metropolitan's ability to respond to emergency events more than storage outside the service area.

By delegating authority to the General Manager to enter into cyclic agreements to provide in-lieu credits, and to begin in-lieu deliveries, the Cyclic Program would provide operational flexibility to manage and store extraordinary supplies. The draft terms for the Potential In-Lieu Cyclic Program are included in **Attachment 1**.

## Policy

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Metropolitan Water District Administrative Code Section 4209: Contracts

By Minute Item 50793, dated April 10, 2017, the Board approved the General Manager to enter into Cyclic Agreements with Metropolitan's member agencies.

By Minute Item 50888, dated July 11, 2017, the Board approved the General Manager to enter into Cyclic Agreements providing a credit of up to \$225 per acre-foot for in-lieu deliveries in fiscal year 2017/2018.

## Fiscal Impact

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The fiscal impact would be a short term increased cost associated with the maximum credit of \$225 per acre-foot (indexed each year). The credit is competitive with the unit cost of Metropolitan's State Water Project groundwater storage programs. Increased local supplies would reduce demand in dry years when alternative water supply sources are likely to be more expensive and provide more reliability in emergency events, providing a regional benefit to all member agencies.

  
Brad Coffey  
Manager, Water Resource Management

3/1/2019  
Date

  
Jeffrey Kightlinger  
General Manager

3/1/2019  
Date

## Attachment 1 – Term Sheet, Member Agency In-Lieu Agreements

Ref# wrm12660548

Term Sheet  
Member Agency  
In-Lieu Cyclic Agreements

**In-Lieu Credit**

- Metropolitan would provide a credit of up to \$225 per acre-foot, escalated yearly using the Consumer Price Index, for the in-lieu deliveries of Metropolitan supplies.
- The credit payable to a member agency would be based on the estimated additional costs that would be incurred by the member agency as a result of taking delivery of additional treated water supplies at Metropolitan's request. The credit would be equal to the treatment surcharge minus the costs that the agency would have incurred without receiving in-lieu deliveries. Avoided cost estimates would be provided by the member agencies for review.
- Metropolitan would have sole discretion in determining the eligible costs that would be reimbursed.
- Metropolitan would bill the treatment surcharge to the member agency at the time of delivery.
- Transactions would be accounted for at the meter level.
- The credit applied to the member agency meter invoiced amount, and subject to reconciliation of the credit amount and the in-lieu delivery amount.
- Adjustments to in-lieu credits could result from reconciliations.

**In-Lieu Delivery Requirements**

- The in-lieu delivery of water to a member agency shall not reduce the full-service water sales of Metropolitan. Certification of in-lieu deliveries could be limited if the member agency does not achieve projected full-service deliveries as determined by Metropolitan for that year.
- Metropolitan would agree on a payment schedule for the agencies' purchase of the delivered water.
- Operating plans would be required from the member agency prior to receiving in-lieu deliveries. Operating plans would help certify in-lieu deliveries into cyclic agreements as separate from normal deliveries. Any credits given for water deliveries that are unable to be validated and reconciled by official documentation (i.e., Watermaster report or other official documentation) after certification would be voided by Metropolitan.
- The terms for the agency's purchase of the delivered water, including applicable rates and charges, would be the same as all other purchases from the member agency's cyclic agreement.

**Term**

- The member agency would be required to purchase the delivered water no later than five full calendar years from the in-lieu delivery. Metropolitan and member agencies would agree on a payment schedule for the agencies' purchase of the delivered water under the cyclic agreement.

**Term Sheet**  
**Member Agency Cost-Offset Credits**

**Cost-Offset Credit**

- Metropolitan would provide a maximum credit of up to \$225 per acre-foot, escalated yearly using the Consumer Price Index (CPI), for the capture of Metropolitan surplus supplies.
- The credit payable to a member agency would be based on performance and the estimated additional costs incurred by the member agency as a result of taking delivery of additional water supplies at Metropolitan's request. For in-lieu treated deliveries, the credit would be equal to the treatment surcharge minus the costs that the agency would have incurred without receiving surplus deliveries. Avoided cost estimates would be provided by the member agencies for review.
- Metropolitan would have sole discretion in determining the eligible costs that would be reimbursed.
- For surface water deliveries, evaporative losses would be calculated as five percent each year for up to two years.
- For in-lieu deliveries, Metropolitan would bill the treatment surcharge to the member agency at the time of delivery.
- Transactions would be accounted for at the meter level.
- The credit would be applied to the member agency meter invoiced amount and would be subject to reconciliation of the credit amount and the surplus delivery amount.
- Adjustments to cost-offset credits that could result from reconciliations would be applied at the end of the calendar year or fiscal year (depending on the reconciliation period).

**Surplus Delivery Requirements**

- Cyclic deliveries could be made directly or in-lieu to surface water reservoirs or groundwater basins. The member agency must perform by managing the surplus delivery during the required performance period. A cyclic agreement is required to account for the deliveries.
- The surplus delivery of water to a member agency shall not reduce the full-service water sales of Metropolitan. Certification of surplus deliveries could be limited if the member agency does not achieve projected full-service deliveries as determined by Metropolitan for that year.
- Metropolitan would agree on a payment schedule for the agency purchase of the delivered water.
- Operating plans would be required from the member agency prior to receiving surplus deliveries. Operating plans would help certify surplus deliveries into cyclic accounts as separate from normal deliveries. Any cost-offset credits given for water deliveries that are unable to be validated and reconciled by official documentation (i.e., Watermaster report or other official documentation) after certification would be voided by Metropolitan.
- The terms for the agency's purchase of the delivered water, including applicable rates and charges, would be the same as all other purchases from the member agency's cyclic agreement.

**Term**

- The member agency would be required to purchase the delivered water no later than five full calendar years from the surplus delivery. Metropolitan and member agencies would agree on a payment schedule for the agencies' purchase of the delivered water under the cyclic agreement.

### **Example Cost-Offset Credit Calculations**

#### Example 1 - Metropolitan delivers 10,000 acre-feet of treated water in-lieu of the member agency using 10,000 acre-feet of groundwater to meet demands

Scenario: Member agency normally takes untreated deliveries from Metropolitan to replenish its groundwater basin. To increase capture of surplus imported supplies, Metropolitan requests the agency to take increased delivery of treated water and reduce groundwater pumping. Without an offsetting credit, the member agency would incur the higher cost of Metropolitan's treatment surcharge compared to its own pumping and disinfection costs.

As an example, the agency's cost to pump and disinfect its local supply is assumed to be \$100 per acre-foot. By accepting additional treated water from Metropolitan in-lieu of pumping the groundwater, the agency incurs the treatment surcharge of \$319 per acre-foot in addition to the normal untreated water rates it would pay to Metropolitan. Under the proposed program, Metropolitan bills the treatment surcharge when water is delivered and credits the agency up to \$225 per acre-foot to offset its additional costs to accept treated supplies. In this example, the credit would be \$219 per acre-foot (\$319 for the treatment surcharge less \$100 in avoided pumping and disinfection costs). The credit ensures the member agency does not incur an additional cost for accepting additional treated supplies. The deferred groundwater pumping remains in the basin for future use. The member agency's cyclic account balance increases in this example by 10,000 acre-feet. Metropolitan later bills the member agency at the untreated rates based on an agreed upon schedule, not to exceed five years.

#### Example 2 - Metropolitan delivers 10,000 acre-feet of untreated water to member agency for storage in a local surface reservoir

Scenario: In this example, the member agency normally purchases untreated water supplies from Metropolitan and treats the water at its treatment plant. The member agency also has available capacity in a local surface water reservoir. To increase capture of imported supplies, Metropolitan requests increased delivery of untreated imported supplies into their surface water reservoir. The agency incurs evaporative losses associated with holding these additional supplies in its reservoir. Rather than require a complex evaporative calculation, evaporative loss is estimated at five percent per year for up to two years (i.e. total evaporation is capped at 10 percent). The evaporative loss is credited to the agency on the untreated water rate when billed out of the cyclic account. Without the cost-offset credit, the member agency would incur an added cost of lost water by evaporation for keeping the additional untreated supplies in their reservoir.

In this example, it is assumed the member agency incurs a cost of \$50 per acre-foot to pump imported supplies into the reservoir. The member agency's cyclic account balance in this example increases by 10,000 acre-feet. The agency chooses to buy the water out of the cyclic

account the next year, thus incurring one year of evaporative losses at five percent. The credit for the evaporative loss would be five percent multiplied by the untreated water rate in force when the water is billed (in 2019 the credit would be five percent of \$731 per acre-foot, which is \$37 per acre-foot). Under the proposed program, Metropolitan bills the agency for the untreated water rates less a total credit of \$87 per acre-foot (\$50 per acre-foot in pumping costs and \$37 per acre-foot for evaporative losses).

Example 3 - Metropolitan delivers 10,000 acre-feet of treated water to member agency groundwater basin through injection

Scenario: In this example, member agency normally purchases treated water to meet its demands. This agency is also able to inject treated supplies into their groundwater basin. In order to increase capture of imported supplies, Metropolitan requests increased delivery of treated water supplies into their groundwater basin via injection. Without the cost-offset credit, the member agency would incur costs associated with injection, extraction, and disinfection of the captured water once it is extracted, in addition to the normal cost of Metropolitan's treated supplies.

For this example, it is assumed the member agency incurs a cost of \$50 per acre-foot to inject treated water into the groundwater basin, \$150 per acre-foot to pump water back out of the groundwater basin, and \$35 per acre-foot to disinfect the pumped groundwater. The total of these costs is \$235 per acre-foot in addition to Metropolitan's normal treated water rates. However, the cost-offset credit would be limited to a maximum of \$225 per acre-foot, which is the upper limit under this proposed program (subject to inflationary adjustments). The member agency cyclic account would increase by 10,000 acre-feet and Metropolitan would bill the agency based on an agreed upon schedule for the full treated water rates less the cost-offset credit of \$225 per acre-foot.

**CYCLIC STORAGE AGREEMENT AMONG  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
AND THE CITY OF BURBANK**

This Cyclic Storage Agreement (“Agreement”) is made as of \_\_\_\_\_, 2017, by and among the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California and the City of Burbank (“Burbank”) a municipal corporation and charter city of the State of California (collectively, the “Parties”).

**RECITALS**

A. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.

B. Burbank is a member public agency of Metropolitan and a retail water provider with a service area overlying the San Fernando Basin (“Basin”), a groundwater basin located in Los Angeles County. The City was incorporated as a general law city on July 8, 1911, and adopted its city charter on January 13, 1927.

C. Metropolitan imports water from the California State Water Project (“SWP”) and the Colorado River and delivers those supplies to its member agencies, including Burbank.

D. The Parties currently provide for the delivery of water by Metropolitan to Burbank in advance of demand for the water by Burbank under a one-year Cyclic Storage Agreement dated August 1, 2017 (the “Initial Agreement”).

E. Burbank stores such water for later extraction pursuant to that certain Judgment dated January 26, 1979 in City of Los Angeles v. City of San Fernando, et. al. (Case No. 650079) (the “Judgment”).

F. The Parties wish to replace the Initial Agreement with this Agreement to provide a longer storage term to better meet Metropolitan and Burbank’s long term planning needs.

### COVENANTS

In consideration of the above recitals, the covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, IT IS AGREED:

1. Storage of Metropolitan Water

Burbank hereby agrees to enter into a cyclic storage arrangement with Metropolitan through this Cyclic Storage Agreement. In order to manage its water resources, Metropolitan may store water with Burbank through the delivery of water in advance of Burbank’s purchase of that water. Metropolitan may request that Burbank accept delivery of water for storage through direct spreading or injection, or through in-lieu means (“Metropolitan’s Cyclic Storage”).

Burbank may accept delivery of Metropolitan water through written confirmation to Metropolitan that the water may be delivered to Burbank pursuant to Section 5.2.1.2 of the Judgment for future extraction and purchase by Burbank in accordance with the terms of this Agreement. Burbank shall be solely responsible for storing any water delivered by Metropolitan and accounting for that water in a Cyclic Storage Account, and its obligation to purchase the water from Metropolitan remains regardless of whether Burbank secures proper storage for that water.

2. Delivery into Cyclic Storage Account



The amount of water to be stored by Burbank for Metropolitan under this Agreement shall not exceed 35,000 acre-feet at any point in time. Prior to each delivery of water by Metropolitan into the Cyclic Storage Account, the Parties shall mutually agree to: (1) the amount, location, and timing of actual water delivered pursuant to this Cyclic Storage Agreement; and (2) a schedule by which Burbank shall purchase the stored water. Any amendment to the delivery schedule shall require mutual agreement. Until such time as Burbank purchases the stored water in accordance with Section 6, the water shall be accounted for in the Cyclic Storage Account, pursuant to Section 3.

3. Cyclic Storage Account

Burbank agrees to perform accounting of deliveries and purchases pursuant to this Agreement (the “Cyclic Storage Account”, or “Account”) and to report all spreading and extraction activities in compliance with the Judgment. Burbank will account for all spreading and transfer deliveries in and out of the Cyclic Storage Account and will maintain a record of the balance of water in the Cyclic Storage Account. The Parties to this Agreement will confirm accounting of transactions and balance at the end of each fiscal year.

4. Delivery from the Cyclic Storage Account

Metropolitan shall deliver water to Burbank from the Cyclic Storage Account in accordance with the schedule agreed to by the parties pursuant to Section 2. Metropolitan will bill Burbank for the water at the time of such deliveries in accordance with Section 6. In the event Burbank does not meet its purchase obligation in accordance with Sections 2 or 6, Metropolitan retains the prerogative to meet regular untreated water demands by Burbank either from water stored in its Cyclic Storage Account or from water in its distribution system.

Metropolitan need not provide advance notice to Burbank when it exercises its prerogative under this Section.

5. Loss of Water

There shall be no losses assigned to Metropolitan's Cyclic Storage Account. Water delivered into the Cyclic Storage Account through Metropolitan's Service Connection B-06 shall be fully credited to Metropolitan's Cyclic Storage.

6. Obligation for Purchase and Payment

Burbank agrees to purchase water from Metropolitan's Cyclic Storage Account in accordance with Sections 2 and 4 of this Agreement, but no later than the termination of this Agreement. Burbank shall be billed by and pay Metropolitan in accordance with the billing and payment provisions in Metropolitan's Administrative Code, as amended over time. The purchase of water from Metropolitan's Cyclic Storage Account shall be equivalent to the sale and delivery of water for purposes of applying the provisions of Metropolitan's Administrative Code. Payments to Metropolitan for such sale of water from its Cyclic Storage Account shall be calculated using Metropolitan's rate for full service untreated water in effect at the time of the sale of water to Burbank. The sale of water from Metropolitan's Cyclic Storage Account to Burbank shall be included in the calculation of the Burbank's Ten-Year Rolling Sales Average for purposes of Metropolitan's Readiness-to-Serve Charge at the time stored water is sold to Burbank. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water for storage at its discretion.

7. Rent or Offset Credit

It is hereby agreed that there shall be no charge, rent assessment, or expense incurred by Metropolitan by reason of the storage of water by Burbank for Metropolitan, nor is there any credit

or offset for the benefits thereof, nor shall there be any charge to Metropolitan for the use of physical facilities including service connections, flood control channels, spreading basins or hydrologic services utilized in connection with any storage allowed herein.

8. Indemnity Clause

Liability and indemnification shall be determined pursuant to section 4502 of the Metropolitan Administrative Code. Metropolitan provides no warranty or guarantee regarding the quality or content of its untreated water or the suitability of its use for replenishment of groundwater basins. Burbank acknowledges that it is accepting untreated water “as is.”

9. Term

The term of this Agreement shall commence on the date and year listed at the beginning of the Agreement and shall terminate 10 years thereafter. An extension of this term can be made upon mutual agreement of the Parties.

10. Initial Agreement Superseded

Upon execution, this Agreement shall supersede and replace the Initial Agreement.

11. Termination

In the event of a material breach hereunder, any party hereto may terminate this Agreement upon thirty (30) days' written notice to the other Parties hereto. Metropolitan may require amendment of this Agreement, or its termination, upon sixty (60) days' written notice if its Administrative Code is amended to change (i) the manner in which Metropolitan sets its water rates and charges for the sale and delivery of water (the rate structure), (ii) designations of classes of water service, or (iii) conditions of water service, in a manner which requires amendment of this Agreement. In the event this Agreement must be so amended, it shall be amended to provide water rates and charges applicable to water service for untreated water applicable to all of Metropolitan's

member public agencies, except for any charge specifically set to recover costs incurred to meet peak distribution demands. In the event such an amendment to this Amendment cannot be obtained from any Party, this Agreement may be terminated by Metropolitan upon sixty (60) days' written notice to the other Party hereto.

12. Purchase of Water After Termination

Upon notice of termination under Section 11, Burbank is obligated to purchase all water remaining in the Metropolitan Cyclic Storage Account within 90 days. During this period, all untreated water demands from Burbank to Metropolitan will be met with Metropolitan's Cyclic Storage. Until the Cyclic Storage Account is depleted, Burbank shall not obtain water from sources other than Metropolitan with the exception of local resource projects developed to offset imported water requirements.

13. Notices

Any notice required hereunder may be given by mail, postage prepaid, addressed as follows:

To: City of Burbank  
275 E. Olive Avenue  
Burbank, CA 91502  
Attention: BWP General Manager

To: Metropolitan Water District  
700 N. Alameda Street  
Los Angeles, CA 90012  
Attention: Chief Operating Officer

14. Interpretation

The Parties have developed this Agreement jointly and in consultation with their respective legal counsel. No ambiguity shall be resolved against any Party on the premise that it or its attorneys were responsible for drafting this Agreement or any of its terms.

15. Governing Law

This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

16. Counterparts

This Agreement may be executed in counterparts, and signatures transmitted via facsimile or electronic mail shall be deemed to be originals.

17. No Third Party Rights

This Agreement does not create any rights enforceable by any person or entity that is not a Party to this Agreement.

18. Authority

The Parties represent that the persons executing this Agreement on their behalf are authorized to do so.

19. Assignment

No Party shall assign its rights under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date and year listed at the beginning of the Agreement.

Approved as to form:  
Office of the City Attorney

City of Burbank

By: 

Joseph H. McDougall  
Sr. Assistant City Attorney

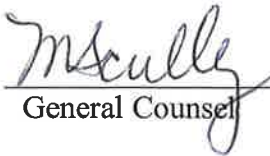
By: 

Jorge Somoano  
General Manager

Approved as to form:

The Metropolitan Water District  
of Southern California

Marcia L. Scully  
General Counsel

By:   
General Counsel

By:   
Jeffrey Kightlinger  
General Manager



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

**Date:** September 11, 2017  
**To:** Jeffrey Kightlinger, General Manager  
Gary Breaux, Assistant General Manager/CO O/CFO  
Deven Upadhyay, Manager, Water Resource Management Group  
Kevin A. Donhoff, Manager, Resource Implementation Section  
James D. Bodnar, Manager, Supply Acquisition Team  
**From:** Kira Z. Alonzo, Engineer, Supply Acquisition Team  
**Subject:** Cyclic Storage Agreement among Metropolitan and City of Burbank

1. **Parties:** The Metropolitan Water District of Southern California (Metropolitan) and City of Burbank (Burbank).
2. **Metropolitan Agreement Administrator:** James Bodnar
3. **Purpose:** Store up to 35,000 acre-feet of Metropolitan State Water Project supplies. Water deliveries to Burbank will be based on a mutually agreed schedule. Burbank will be billed for the water at the time of delivery. Burbank will account for all spreading and transfer deliveries out of cyclic storage and will maintain the record of the balance of water in the Cyclic storage account. Water deliveries into cyclic storage will be through Metropolitan's service connection B-06 and zero losses will be allocated to Metropolitan's account.
4. **Authority:** Board Letter No. 8-4, dated April 11, 2017, which authorized the General Manager to enter into Cyclic Storage Agreements with Metropolitan's member agencies.
5. **Program Background:** Cyclic agreements would enhance Metropolitan's operational flexibility during wet and dry periods. The storage accounts could include groundwater or surface water storage. There are no charges to Metropolitan to put or recover water from the cyclic storage accounts. Water delivered from the cyclic storage accounts would be sold at Metropolitan's full service water rate. There would be no capacity charge since water would be stored at Metropolitan's discretion. Metropolitan and Burbank are currently in a one-year Cyclic Storage agreement which was executed on August 1, 2017. This was done in an effort to start deliveries as soon as possible since this longer term agreement required additional approvals which would delay the start of deliveries.
6. **Needed Action:** Staff recommends:
  - Metropolitan execute the attached agreements.
  - Send a signed copy to Burbank

If you have any questions, please call me at extension 76489.

Kira Z. Alonzo

Attachments (2)



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

**Date:** October 16, 2017  
**To:** Hal Soper III, Controller  
**From:** Kira Z. Alonzo, Engineer, Supply Acquisition Team  
**Subject:** Cyclic Storage Agreement Among the Metropolitan Water District of Southern California and The City of Burbank

Enclosed for your files is a fully executed original of the longer term cyclic storage agreement among the Metropolitan Water District of Southern California and The City of Burbank

If you have any questions concerning the enclosed agreement, please contact me at (213) 217-6489 or via email at [kalonzo@mwdh2o.com](mailto:kalonzo@mwdh2o.com).

Kira Z. Alonzo, Engineer  
Supply Acquisition Team

KZA:rr

Attachment

cc: J.D. Bodnar  
K.Z. Alonzo  
WRM Files



Agreement  
Between Metropolitan Water District of Southern California  
And Calleguas Municipal Water District  
for Direct Treated Deliveries to Calleguas-Metropolitan Cyclic Account

This Agreement is made as of August 1, 2019, by and between the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, and CALLEGUAS MUNICIPAL WATER DISTRICT (“Calleguas”), a public agency of the State of California (collectively, the “Parties”).

Section 1. Purpose of Agreement

- a. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.
- b. Calleguas is a member public agency of Metropolitan and a wholesale water provider with a service area that includes lands overlying the East/South Las Posas Basin (“Basin”), a groundwater basin located in Ventura County. Calleguas was created under the Municipal Water District Law of 1911. Cal. Wat. Code, §§ 71000 et seq.
- c. Metropolitan and Calleguas have entered into an agreement dated August 1, 2017, (“Calleguas-Metropolitan Cyclic Storage Agreement”) incorporated herein by reference that provides for the delivery of water by Metropolitan to Calleguas in advance of demand for the water by Calleguas through a cyclic account (“Calleguas-Metropolitan Cyclic Account” or “Account”).
- d. Through this Agreement, the Parties intend to provide for a means of delivering water from Metropolitan into the Calleguas-Metropolitan Cyclic Account, which deliveries are intended to be subject to the specific terms in this Direct Treated Deliveries Agreement. The Parties intend for the Calleguas-Metropolitan Cyclic Agreement to apply with respect to all other terms.

Section 2. Designated Direct Treated Deliveries.

Metropolitan’s General Manager has determined that water supply conditions are such that Metropolitan may not be able to capture all available supplies efficiently in available storage. Given the recent SWP allocation increase to 75 percent, uncertainties due to increased Article 21 and Colorado River supplies, and continued lower demands, supplies available for storage in 2019 may exceed Metropolitan’s ability to store in calendar year (CY) 2019. Accordingly, Metropolitan agrees to pre-deliver treated water to Calleguas to assist Metropolitan in managing its water resources. Calleguas agrees to take treated water from Metropolitan pursuant to this Agreement for delivery into the Calleguas-Metropolitan Cyclic Account in the Basin through direct means (“Direct Treated Deliveries”).

The amount, location, and timing of the delivery schedule, along with an operating plan, will be mutually agreed upon prior to delivery by Metropolitan pursuant to a purchase agreement. The actual amount of direct deliveries credited by Metropolitan may be higher or lower based on operational conditions and the *Certification Procedures For Direct Treated*

Agreement  
Between Metropolitan Water District of Southern California  
And Calleguas Municipal Water District  
for Direct Treated Deliveries to Calleguas-Metropolitan Cyclic Account

*Deliveries for Cyclic Agreement Between The Metropolitan Water District of Southern California and Calleguas Municipal Water District* (“Direct Deliveries Certification Procedures”) referenced in Section 8. Direct Treated Deliveries will be made upon Metropolitan’s written request and Calleguas’ written acceptance of additional treated water deliveries. Calleguas represents and warrants that Direct Treated Deliveries are in addition to its projected full-service deliveries which would normally occur without this Agreement.

Calleguas represents and warrants that an amount equivalent to the Direct Treated Deliveries will be credited to Metropolitan as pre-delivered water in the Basin, pursuant to an intentional injection into the Basin by Calleguas, certified and reconciled according to Section 8, until such time as the water is purchased by Calleguas pursuant to the terms of the Calleguas-Metropolitan Cyclic Agreement and Section 9 of this Agreement.

Section 3. Term.

This Agreement is effective as of August 1, 2019, and shall continue until August 1, 2027, or until the termination of the Calleguas-Metropolitan Cyclic Storage Agreement and is applicable only to Direct Treated Deliveries, as certified and reconciled according to Section 8. Metropolitan, at its sole discretion, can interrupt the deliveries under this Agreement authorizing Direct Treated Deliveries by providing 15 days’ notice to Calleguas.

Pursuant to the Metropolitan Board’s action on April 10, 2019, Metropolitan’s General Manager may make a determination regarding water supply conditions and Metropolitan’s ability to capture all available supplies at any time during the term of this Agreement. When such determination is made and Calleguas agrees to accept water pursuant to this Agreement, the Parties will enter into a purchase agreement in accordance with Section 2.

Section 4. Treatment Surcharge Payment.

Calleguas is agreeing to take more treated water than it normally would take from Metropolitan in the present calendar year. Calleguas anticipates incurring additional costs to receive, store, and recover that additional water, which costs will be the basis of a cost-offset credit pursuant to Section 6 of this Agreement. Calleguas is not taking treated water in lieu of untreated water and therefore, the treatment surcharge is not the subject of the cost-offset credit determination under this Agreement and not payable at the time Metropolitan makes deliveries to the Cyclic Account under this Agreement. Metropolitan will bill Calleguas the applicable full-service treated water rate at the time of purchase from the Cyclic Account, including any applicable treatment charges, in the same manner as it bills other deliveries from the Cyclic Account.

Section 5. Cost-offset Credit Term.

In exchange for Calleguas’ acceptance of Direct Treated Deliveries, Metropolitan agrees to pay Calleguas a cost-offset credit of up to \$225 per acre-foot (AF), as determined by Metropolitan pursuant to Section 6. On January 1, 2020, and every following January 1, the

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maximum \$225/ AF amount will be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for Los Angeles-Long Beach-Anaheim All Items (CPI-U) calculated as the November Prior Year/November 2018 CPI-U increase rounded to the nearest dollar. For example, if the November 2019 CPI-U was 269.005 and the November 2018 CPI-U was 259.064, then the increase for January 1, 2020, would be 3.84 percent or up to \$234 /AF.

Section 6. Determination of Cost-offset Credit Term.

Metropolitan, at its sole discretion, will determine the Cost-offset Credit Term. Metropolitan will make such determination based on an estimate of costs incurred by Calleguas as a result of taking direct delivery of additional treated water at Metropolitan's request that Calleguas would not otherwise have taken. Eligible costs may include, but are not limited to, power and treatment costs incurred by Calleguas. Calleguas will submit its cost estimates to Metropolitan, which Metropolitan will review in addition to historical production cost estimates. In 2019, the cost-offset credit term is \$225 per acre-foot.

Calleguas may, at any time prior to reconciliation and certification described in Section 8, request a redetermination of the Cost-offset Credit Term, by submitting documentation that supports the changed costs for direct deliveries. Metropolitan shall, in its sole discretion, change the Cost-Offset Credit Term upon review of any such additional documentation and confirmation of changes in costs.

Section 7. Billing Procedures.

Metropolitan will pay the Cost-offset Credit Term upon certifying Direct Treated Deliveries pursuant to Section 8 of this agreement. Payment of the Cost-offset Credit Term will be made by applying a credit to Calleguas' meter invoiced amounts.

Section 8. Certification and Reconciliation of Direct Treated Deliveries.

Calleguas shall submit monthly certifications of Direct Treated Deliveries pursuant to this Agreement consistent with Metropolitan's Administrative Code, sections 4506 to 4507. Such certifications will be made pursuant to the *Direct Treated Deliveries Certification Procedures*, attached hereto and incorporated herein as Attachment 1. On a monthly basis Metropolitan will review these certifications for conformance with the operating plans submitted pursuant to the *Direct Treated Deliveries Certification Procedures*. Metropolitan will process certifications of these deliveries made pursuant to this Agreement in accordance with the agreed-upon operating plan in order to ensure direct deliveries were made in addition to normal full-service deliveries and as a result of actions to reduce groundwater pumping.

Metropolitan will void any credits given for water deliveries that Metropolitan is unable to determine are qualifying Direct Treated Deliveries under this Agreement, which will result in an equivalent charge to Calleguas' water invoice plus the applicable untreated full-service rates

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and charges. The total amount of all voided credits shall be billed in the next month following the end-of-year reconciliation.


Metropolitan staff will, in collaboration with Calleguas staff, perform an annual reconciliation of Direct Treated Deliveries within six months following such time that Calleguas' final Direct Treated Delivery numbers are finalized and provided to Metropolitan staff, in accordance with Attachment 1.


Section 9. Purchase of Water Out of Cyclic Account.

Calleguas agrees to purchase the Direct Treated Deliveries out of the Cyclic Account according to the signed purchase agreement. Billing and payment procedures shall be the same as other purchases from the Cyclic Account.

Approved as to form:

Calleguas Municipal Water District

By:   
Robert M. Cohen  
General Counsel


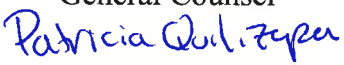
By:   
Anthony Goff  
General Manager

Date: 11/6/19

Date: 11/6/19

Approved as to form:

The Metropolitan Water District  
of Southern California

By:   
Marcia L. Scully  
General Counsel  


By:   
Jeffrey Kightlinger  
General Manager

Date: 11/21/19

Date: 11/8/19

**FIRST AMENDMENT TO  
CYCLIC STORAGE AGREEMENT AMONG  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
AND CALLEGUAS MUNICIPAL WATER DISTRICT**

This FIRST AMENDMENT (“Amendment”), is made as of August 1, 2019, to the Cyclic Storage Agreement (“Agreement”), by and among the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, and the CALLEGUAS MUNICIPAL WATER DISTRICT (“Calleguas”), a public agency of the State of California (collectively, the “Parties”)

**RECITALS**

A. The Parties to this Amendment entered into the Agreement on August 1, 2017 for the purpose of giving Metropolitan the right to store up to 5,000 acre-feet of Metropolitan water in the East/South Las Posas Basin.

B. Calleguas seeks to store water under the Agreement in an amount that would exceed the storage limit of the Agreement, and thus, requested an increase of the amount to allow for additional deliveries.

C. The Parties intend to amend the Agreement only to increase the maximum amount of water that may be stored pursuant to the Agreement.

**COVENANTS**

1. Amount of Stored Water

Section 2 of the Agreement is amended to increase the maximum amount of water to be stored in the Basin for Metropolitan to 10,000 acre-feet at any point in time.

2. Notices

Any notice required hereunder may be given by mail, postage prepaid, addressed as follows:

To: Calleguas Municipal Water District  
2100 Olsen Road  
Thousand Oaks, CA 91360  
Attention: General Manager

To: Metropolitan Water District  
700 N. Alameda Street  
Los Angeles, CA 90012  
Attention: Chief Operating Officer

3. Scope of Amendment

Except as amended herein, all provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be duly executed by its authorized officers.

Approved as to form:

**CALLEGUAS MUNICIPAL WATER  
DISTRICT**

By: \_\_\_\_\_

  
General Counsel

By: \_\_\_\_\_

  
Anthony Goff  
General Manager

Date: \_\_\_\_\_

11/6/19

Date: \_\_\_\_\_

11/6/19

Approved as to form:

**THE METROPOLITAN WATER DISTRICT  
SOUTHERN CALIFORNIA**

Marcia L. Scully  
General Counsel

By: PLS for  
General Counsel  
Patricia Quilizapa

By: Jeffrey Kightlinger  
Jeffrey Kightlinger  
General Manager

Date: 11/26/19

Date: 12/3/19

**Agreement**  
**Between Metropolitan Water District of Southern California**  
**And Eastern Municipal Water District**  
**for In-Lieu Treated Deliveries to Eastern-Metropolitan Cyclic Account**

This In-Lieu Treated Deliveries Agreement (“Agreement”) is made as of August 1, 2019, by and between the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, and EASTERN MUNICIPAL WATER DISTRICT (“Eastern”), a public agency of the State of California (collectively, the “Parties”).

Section 1. Purpose of Agreement

- a. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.
- b. Eastern is a member public agency of Metropolitan and a wholesale water provider with a service area that includes lands overlying the San Jacinto Basin (“Basin”), a large groundwater basin located in Riverside County. Eastern was created under the Municipal Water District Law of 1911. Cal. Wat. Code, §§ 71000 *et seq.*
- c. Metropolitan and Eastern have entered into an agreement dated August 1, 2019 (“Eastern-Metropolitan Cyclic Agreement”) incorporated herein by reference (and attached as Exhibit “A”) that provides for the delivery of water by Metropolitan to Eastern in advance of demand for the water by Eastern through a cyclic account (“Eastern-Metropolitan Cyclic Account”).
- d. Through this Agreement, the Parties intend to provide for a means of delivering water from Metropolitan into the Eastern-Metropolitan Cyclic Account, which deliveries are intended to be subject to the specific terms in this In-Lieu Treated Deliveries Agreement. The Parties intend for the Eastern-Metropolitan Cyclic Agreement to apply to deliveries made under this Agreement with respect to the terms in Sections 2, 5, 8, and 13 to 19 of the Cyclic Agreement.

Section 2. Designated In-Lieu Treated Deliveries.

Metropolitan’s General Manager has determined that water supply conditions are such that Metropolitan may not be able to capture all available supplies efficiently in available storage. Given the recent SWP allocation increase to 75 percent, uncertainties due to increased Article 21 and Colorado River supplies, and continued lower demands, supplies available for storage in 2019 may exceed Metropolitan’s ability to store in calendar year (CY) 2019. Accordingly, Metropolitan agrees to pre-deliver treated water to Eastern to assist Metropolitan in managing its water resources. Eastern agrees to accept that pre-delivered treated water pursuant to this Agreement for delivery into the Eastern-Metropolitan Cyclic Account in the Basin through in-lieu means (“In-Lieu Treated Deliveries” or “In-Lieu Treated Delivery”).

The amount, location, and timing of the In-Lieu Treated Delivery, along with an operating plan, will be mutually agreed upon prior to delivery by Metropolitan pursuant to a



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purchase agreement. The actual amount of In-Lieu Treated Deliveries credited by Metropolitan may be higher or lower based on operational conditions and the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between Metropolitan Water District of Southern California and Eastern Municipal Water District* referenced in Section 8. In-Lieu Treated Deliveries will be made upon Metropolitan's written request and Eastern's written acceptance of additional treated water deliveries. Eastern represents and warrants that In-Lieu Treated Deliveries are in addition to its projected full-service deliveries (treated or untreated) which would normally occur without this Agreement.

Eastern represents and warrants that an amount equivalent to the In-Lieu Treated Deliveries will be credited to Metropolitan as stored water and accounted for as EMWD's unpumped carry-over credits in the Basin pursuant to an intentional reduction in groundwater production by Eastern, certified and reconciled according to Section 8 until such time as that pre-delivered water is purchased by Eastern, pursuant to the terms of the Eastern-Metropolitan Cyclic Agreement and Section 9 of this Agreement.

Section 3. Term.

This Agreement is effective as of August 1, 2019, and shall continue until August 1, 2029, or until the termination of the Eastern-Metropolitan Cyclic Storage Agreement and is applicable only to In-Lieu Treated Deliveries, as certified and reconciled according to Section 8. Metropolitan, at its sole discretion, can interrupt the program authorizing In-Lieu Treated Deliveries by providing fifteen (15) days' written notice to Eastern.

Pursuant to Metropolitan's Board action on April 10, 2019, Metropolitan's General Manager may make a determination regarding water supply conditions and Metropolitan's ability to capture all available supplies at any time during the term of this Agreement. When such determination is made and Eastern agrees to accept water pursuant to this Agreement, the Parties will enter into a purchase agreement in accordance with Section 2.

Section 4. Treatment Surcharge Payment.

Eastern agrees to pay Metropolitan the Treatment Surcharge effective at the time of the In-Lieu Treated Delivery, which for CY 2019 is \$319 per acre-foot and in CY 2020 is \$323 per acre-foot.

Section 5. Cost-offset Credit Term.

In exchange for Eastern's acceptance of In-Lieu Treated Deliveries, Metropolitan agrees to pay Eastern a cost-offset credit of up to \$225 per acre-foot, as determined by Metropolitan pursuant to Section 6. On January 1<sup>st</sup> of 2020, and every following January 1<sup>st</sup>, the maximum \$225 per acre-foot amount will be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for Los Angeles-Long Beach-Anaheim All Items (CPI-U) calculated as the November Prior Year/November 2018 CPI-U increase rounded to the nearest dollar. For example, if the November 2019 CPI-U was 269.005 and the November 2018 CPI-U

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was 259.064, then the increase for January 1, 2020, would be 3.84 percent or up to \$234 per acre-foot.

Section 6. Determination of Cost-offset Credit Term.

Metropolitan, at its sole discretion, will determine the Cost-offset Credit Term. Metropolitan will make such determination based on an estimate of costs incurred by Eastern as a result of taking in-lieu delivery of additional treated water at Metropolitan's request that Eastern would not otherwise have taken, minus the costs that Eastern would have incurred if it produced an equivalent amount of water from the San Jacinto Basin. Eastern will submit its avoided cost estimates to Metropolitan, which Metropolitan will review in addition to historical production cost estimates. In 2019, the cost-offset credit term is \$225 per acre-foot.

Eastern may, at any time prior to the reconciliation and certification described in Section 8, request a redetermination of the Cost-offset Credit Term, by submitting documentation that its Basin production costs have changed. Metropolitan may, in its sole discretion, change the Cost-offset Credit Term upon review of any such additional documentation and confirmation of changes in costs.

Section 7. Billing Procedures.

Metropolitan will bill Eastern the Treatment Surcharge in effect at the time Eastern certifies the In-Lieu Treated Deliveries, in the same manner as Metropolitan bills Eastern for all other water sales. Metropolitan will pay Eastern the Cost-offset Credit Term for In-Lieu Treated Deliveries by applying a credit to Eastern's service connection invoiced amounts, which credit is subject to the certification and reconciliation process described in Section 8.

Section 8. Certification and Reconciliation of In-Lieu Treated Deliveries.

Eastern shall submit monthly certifications of In-Lieu Treated Deliveries pursuant to this Agreement consistent with Metropolitan's Administrative Code, sections 4506 to 4507. Such certifications will be made pursuant to the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between Metropolitan Water District of Southern California and Eastern Municipal Water District*, attached hereto and incorporated herein as Attachment 1. On a monthly basis Metropolitan will review these certifications for conformance with the operating plans submitted pursuant to the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between Metropolitan Water District of Southern California and Eastern Municipal Water District*. Metropolitan will process certifications of these deliveries made pursuant to this Agreement in accordance with the agreed-upon operating plan in order to ensure in-lieu deliveries were made in addition to normal Full-Service deliveries and as a result of actions to reduce groundwater pumping.

Metropolitan will void any credits given for water deliveries that Metropolitan is unable to determine that are qualifying In-Lieu Treated Deliveries under this Agreement, which will

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result in an equivalent charge to Eastern's water invoice plus the applicable untreated Full-Service rates and charges. The total amount of all voided credits shall be billed in the next month following the end-of-year reconciliation.

Metropolitan staff will, in collaboration with Eastern staff, perform an annual reconciliation of In-Lieu Treated Deliveries within six months following such time that Eastern's final groundwater production numbers are finalized and provided to Metropolitan staff, in accordance with Attachment 1.

Section 9. Purchase of Water Out of Cyclic Account.

Eastern agrees to purchase the In-Lieu Treated Deliveries out of the Cyclic Account according to the signed purchase agreement. Billing and payment procedures shall be the same as other purchases from the Cyclic Account.

Approved as to form:

Eastern Municipal Water District

By:   
General Counsel


By:   
Paul Jones  
General Manager

Date: 10/25/19

Date: 10.21.19

Approved as to form:

The Metropolitan Water District  
of Southern California

By:  Patricia Quiliza for.  
Marcia L. Scully  
General Counsel

By:   
Jeffrey Kightlinger  
General Manager

Date: 11/4/19

Date: 11/5/2019

**CYCLIC AGREEMENT BETWEEN  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
AND THE EASTERN MUNICIPAL WATER DISTRICT**

This Eastern-Metropolitan Cyclic Agreement (“Agreement”) is made as of August 1, 2019, by and between the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California and EASTERN MUNICIPAL WATER DISTRICT (“Eastern”), a public agency of the State of California (collectively, the “Parties”).

**RECITALS**

A. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.

B. Eastern is a member public agency of Metropolitan and a wholesale water provider with a service area overlying the San Jacinto Basin (“Basin”), a groundwater basin located in Riverside County. Eastern was created under the Municipal Water District Act of 1911. Wat. Code, §71000, *et seq.*

C. Metropolitan imports water from the California State Water Project (“SWP”) and the Colorado River and delivers those supplies to its member agencies, including Eastern.

D. Through this Agreement, the Parties intend to provide for the delivery of water by Metropolitan to Eastern in advance of demand for the water.

## COVENANTS

In consideration of the above recitals, the covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, IT IS AGREED:

1. Pre-Delivery of Metropolitan Water

Eastern hereby agrees to enter into a cyclic arrangement with Metropolitan through this Agreement. In order to manage its water resources, Metropolitan may deliver water in advance of Eastern's purchase and demand of that water. Metropolitan may request that Eastern accept delivery of up to 30,000 acre-feet of water to the Basin through direct spreading or injection, or though in-lieu means. Eastern may accept delivery of Metropolitan water through written confirmation to Metropolitan that the water may be delivered to Eastern for future purchase by Eastern, in accordance with the terms of this Agreement. Eastern shall be solely responsible for storing any water delivered by Metropolitan and account for that water in a Cyclic Account ("Eastern-Metropolitan Cyclic Account") and its obligation to purchase the water from Metropolitan remains regardless of whether Eastern secures proper storage for that water in the San Jacinto Basin.

2. Delivery into Eastern-Metropolitan Cyclic Account

The amount of water delivered to Eastern by Metropolitan under this Agreement shall not exceed 30,000 acre-feet at any point in time. Prior to any delivery of water by Metropolitan into the Eastern-Metropolitan Cyclic Account, the Parties shall mutually agree (1) to the amount, location, and timing of actual water delivered pursuant to this Agreement, and (2) to a schedule by which Eastern shall purchase the delivered water. Any amendment to the delivery schedule shall require mutual agreement. Until such time as Eastern purchases the delivered water in

accordance with Section 6, the water shall be accounted for in the Eastern-Metropolitan Cyclic Account, pursuant to Section 3.

3. Eastern-Metropolitan Cyclic Account

Eastern agrees to perform accounting of deliveries and purchases to the Eastern-Metropolitan Cyclic Account pursuant to this Agreement. Eastern will account for all deliveries in and out of the Eastern-Metropolitan Cyclic Account and will maintain a record of the balance of water in the Eastern-Metropolitan Cyclic Account. The Parties to this Agreement will confirm accounting of transactions and balance at the end of each fiscal year.

4. Delivery from the Eastern-Metropolitan Cyclic Account

Metropolitan shall deliver water to Eastern from the Eastern-Metropolitan Cyclic Account in accordance with the schedule agreed by the parties pursuant to Section 2. Metropolitan will bill Eastern for the water at the time of purchase in accordance with Section 6. In the event Eastern does not meet its purchase obligation in accordance with Sections 2 or 6, Metropolitan retains the prerogative to meet regular water demands by Eastern either from water in its Eastern-Metropolitan Cyclic Account in the Basin or from water in its distribution system. Metropolitan need not provide advance notice to Eastern when it exercises its prerogative under this Section.

5. Loss of Water

There shall be no losses assigned to the Eastern-Metropolitan Cyclic Account in the Basin. Water delivered through direct spreading or injection, or through in-lieu means into the Eastern-Metropolitan Cyclic Account shall be fully credited to the Eastern-Metropolitan Cyclic Account.

6. Obligation for Purchase and Payment

Eastern agrees to purchase water from the Eastern-Metropolitan Cyclic Account in accordance with Sections 2 and 4 of this Agreement, but no later than the termination of this Agreement. Eastern shall be billed by and pay Metropolitan in accordance with the billing and payment provisions in Metropolitan's Administrative Code, as amended over time.

The purchase of water from the Eastern-Metropolitan Cyclic Account shall be equivalent to the sale and delivery of water for purposes of applying the provisions of Metropolitan's Administrative Code. Payments to Metropolitan for such sale of water from its Eastern-Metropolitan Cyclic Account shall be calculated using Metropolitan's rate for full service untreated water in effect at the time of the sale of water to Eastern. The sale of water from Eastern-Metropolitan Cyclic Account to Eastern shall be included in the calculation of Eastern's Ten-Year Rolling Sales Average for purposes of Metropolitan's Readiness-to-Serve Charge at the time water is sold to Eastern. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water for storage at its discretion.

7. Rent or Offset Credit

It is hereby agreed that there shall be no charge, rent assessment, or expense incurred by Metropolitan by reason of the pre-delivery of water to Eastern by Metropolitan, nor is there any credit or offset for the benefits thereof, nor shall there be any charge to Metropolitan for the use of physical facilities including service connections, flood control channels, spreading basins or hydrologic services utilized in connection with any pre-delivery allowed herein.

8. Indemnity Clause

Liability and indemnification shall be determined pursuant to section 4502 of the Metropolitan Administrative Code. Metropolitan provides no warranty or guarantee regarding the

quality or content of its untreated water or the suitability of its use for replenishment of groundwater basins. Eastern acknowledges that they are accepting untreated water “as is.”

9. Term

The term of this Agreement shall commence on the date and year listed at the beginning of the Agreement and shall terminate 10 years thereafter.

10. Effective Date

The effective date of this agreement shall commence on August 1, 2019.

11. Termination

In the event of a material breach hereunder, any party hereto may terminate this Agreement upon thirty (30) days' written notice to the other Parties hereto. Metropolitan may require amendment of this Agreement, or its termination, upon sixty (60) days' written notice if its Administrative Code is amended to change (i) the manner in which Metropolitan sets its water rates and charges for the sale and delivery of water (the rate structure), (ii) designations of classes of water service, or (iii) conditions of water service, in a manner which requires amendment of this Agreement. In the event this Agreement must be so amended, it shall be amended to provide water rates and charges applicable to water service for untreated water applicable to all of Metropolitan's member public agencies, except for any charge specifically set to recover costs incurred to meet peak distribution demands.

Either Party may terminate this Agreement on sixty (60) days written notice to the other Party.

12. Purchase of Water After Termination



Upon termination, Eastern is obligated to purchase all water remaining in the Metropolitan Cyclic Account within 90 days. During this period, all water demands from Eastern to Metropolitan will be met with the Eastern-Metropolitan Cyclic Account. Until the Account is depleted, Eastern shall not obtain water from sources other than Metropolitan with the exception of local resource projects or other sources of water approved by Metropolitan developed to offset future imported water requirements.

13. Notices

Any notice required hereunder may be given by mail, postage prepaid, addressed as follows:

To: Eastern Municipal Water District  
2270 Trumble Road  
Perris, CA 92572-8300

Attention: General Manager

To: Metropolitan Water District  
700 N. Alameda Street  
Los Angeles, CA 90012

Attention: Chief Operating Officer

14. Interpretation

The Parties have developed this Agreement jointly and in consultation with their respective legal counsel. No ambiguity shall be resolved against any Party on the premise that it or its attorneys were responsible for drafting this Agreement or any of its terms.

15. Governing Law

This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

16. Counterparts

This Agreement may be executed in counterparts, and signatures transmitted via facsimile or electronic mail shall be deemed to be originals.

17. No Third Party Rights

This Agreement does not create any rights enforceable by any person or entity that is not a Party to this Agreement.

18. Authority

The Parties represent that the persons executing this Agreement on their behalf are authorized to do so.

19. Assignment

No Party shall assign its rights under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date and year listed at the beginning of the Agreement.

Approved as to form:

Eastern Municipal Water District

By:   
General Counsel

By:   
Paul Jones II  
General Manager


Date: 10/25/19


Date: 10.21.19

Approved as to form:

The Metropolitan Water District  
of Southern California

Marcia L. Scully  
General Counsel

By:  Patricia Quilizaga for  
General Counsel

By:   
Jeffrey Kightlinger  
General Manager

Date: 11/4/19

Date: 11/5/2019

**Agreement**  
**Among Metropolitan Water District of Southern California**  
**Eastern Municipal Water District, and Rancho California Water District**  
**for In-Lieu Treated Deliveries to Eastern-RCWD-Metropolitan Cyclic Account**

This Agreement is made as of August 1, 2019, by and between the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, EASTERN MUNICIPAL WATER DISTRICT (“Eastern”), a public agency of the State of California, and RANCHO CALIFORNIA WATER DISTRICT (“RCWD”), a public agency of the State of California (collectively, the “Parties”).

**Section 1. Purpose of Agreement**

- a. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.
- b. Eastern is a member public agency of Metropolitan and a wholesale water provider within the Rancho Division of RCWD and areas overlying portions of the Temecula Valley Groundwater Basin (“Basin”), a groundwater basin located in Riverside County. Eastern purchases water from Metropolitan, and sells such water to its member agencies, including RCWD. Eastern was created under the Municipal Water District Law of 1911. Cal. Wat. Code, §§ 71000 *et seq.*
- c. RCWD is a retail water provider with a service area overlying the Basin. The Basin is designated by California Department of Water Resources California’s Groundwater Bulletin 118 as basin 9-005. The Basin includes the Pauba and Temecula Aquifers. RCWD receives its imported water from Eastern, as well as Western Municipal Water District, also a public agency of Metropolitan.
- d. Metropolitan, Eastern, and RCWD entered into an agreement dated November 7, 2017, effective July 1, 2017, (“Eastern-RCWD-Metropolitan Cyclic Agreement”), incorporated herein by reference, that provides for the delivery of water by Metropolitan to Eastern for sale to RCWD in advance of demand for the water, through a cyclic account (“Eastern-RCWD-Metropolitan Cyclic Account” or “Account”).
- e. Through this Agreement, the Parties intend to provide for a means of delivering water from Metropolitan into the Eastern-RCWD-Metropolitan Cyclic Account, which deliveries are intended to be subject to the specific terms in this In-Lieu Treated Deliveries Agreement. The Parties intend for the Eastern-RCWD-Metropolitan Cyclic Agreement to apply with respect to all other terms.

**Section 2. Designated In-Lieu Treated Deliveries.**

Metropolitan’s General Manager has determined that water supply conditions are such that Metropolitan may not be able to capture all available supplies efficiently in available storage. Given the recent SWP allocation increase to 75 percent, uncertainties due to increased Article 21 and Colorado River supplies, and continued lower demands, supplies available for

**Agreement**  
**Among Metropolitan Water District of Southern California**  
**Eastern Municipal Water District, and Rancho California Water District**  
**for In-Lieu Treated Deliveries to Eastern-RCWD-Metropolitan Cyclic Account**

storage in 2019 may exceed Metropolitan's ability to store in calendar year (CY) 2019. Accordingly, Metropolitan agrees to pre-deliver treated water to Eastern for sale to RCWD to assist Metropolitan in managing its water resources. Eastern agrees to take treated water from Metropolitan pursuant to this Agreement for delivery into the Eastern-RCWD-Metropolitan Cyclic Account in the Basin through in-lieu means (In-Lieu Treated Deliveries).

The amount, location, and timing of the delivery schedule, along with an operating plan, will be mutually agreed upon prior to delivery by Metropolitan pursuant to a purchase agreement. The actual amount of In-Lieu Treated Deliveries credited by Metropolitan may be higher or lower based on operational conditions and the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between Metropolitan Water District of Southern California, Eastern Municipal Water District, and Rancho California Water District* referenced in Section 8. In-Lieu Treated Deliveries will be made upon Metropolitan's written request and Eastern's and RCWD's written acceptance of additional treated water deliveries. Eastern represents and warrants that In-Lieu Treated Deliveries are in addition to its projected full-service deliveries (treated or untreated), which would normally occur without this Agreement.

RCWD represents and warrants that an amount equivalent to the In-Lieu Treated Deliveries will be credited to Metropolitan as pre-delivered water in the Basin, pursuant to an intentional reduction in groundwater production by RCWD, certified and reconciled according to Section 8, until such time as the water is purchased by Eastern pursuant to the terms of the Eastern-RCWD-Metropolitan Cyclic Agreement and Section 9 of this Agreement.

**Section 3. Term.**

This Agreement is effective as of August 1, 2019 and shall continue until July 1, 2027, or until the termination of the Eastern-RCWD-Metropolitan Cyclic Storage Agreement and is applicable only to In-Lieu Treated Deliveries, as certified and reconciled according to Section 8. Metropolitan, at its sole discretion, can interrupt the program authorizing In-Lieu Treated Deliveries by providing 15 days' notice to Eastern and RCWD.

Pursuant to the Board's action on April 10, 2019, Metropolitan's General Manager may make a determination regarding water supply conditions and Metropolitan's ability to capture all available supplies at any time during the term of this Agreement. When such determination is made and Eastern and RCWD agree to accept water pursuant to this Agreement, the Parties will enter into a purchase agreement in accordance with Section 2.

**Section 4. Treatment Surcharge Payment.**

RCWD agrees to pay Eastern, and Eastern agrees to pay Metropolitan the Treatment Surcharge effective at the time of the In-Lieu Treated Delivery, which for CY 2019 is \$319 per acre-foot and in CY 2020 is \$323 per acre-foot.

**Agreement**  
**Among Metropolitan Water District of Southern California**  
**Eastern Municipal Water District, and Rancho California Water District**  
**for In-Lieu Treated Deliveries to Eastern-RCWD-Metropolitan Cyclic Account**

**Section 5. Cost-offset Credit Term.**

In exchange for Eastern and RCWD's acceptance of In-Lieu Treated Deliveries, Metropolitan agrees to pay Eastern a cost-offset credit of up to \$225 per acre-foot, as determined by Metropolitan pursuant to Section 6. On January 1<sup>st</sup> of 2020, and every following January 1<sup>st</sup>, the maximum \$225 per acre-foot amount will be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for Los Angeles-Long Beach-Anaheim All Items (CPI-U) calculated as the November Prior Year/November 2018 CPI-U increase rounded to the nearest dollar. For example, if the November 2019 CPI-U was 269.005 and the November 2018 CPI-U was 259.064, then the increase for January 1, 2020 would be 3.84% or up to \$234 per acre-foot. Eastern agrees to pay RCWD the amount of the cost-offset paid by Metropolitan to Eastern under this Agreement.

**Section 6. Determination of Cost-offset Credit Term.**

Metropolitan, at its sole discretion, will determine the Cost-offset Credit Term. Metropolitan will make such determination based on an estimate of costs incurred by RCWD as a result of taking In-Lieu Treated Delivery of additional treated water at Metropolitan's request that RCWD would not otherwise have taken, minus the costs that RCWD would have incurred if it produced an equivalent amount of water from the Basin. Eastern will submit its avoided cost estimates to Metropolitan, which Metropolitan will review in addition to historical production cost estimates. In 2019, the cost-offset credit term is \$225 per acre-foot.

RCWD may, at any time prior to reconciliation and certification described in Section 8, request a redetermination of the Cost-offset Credit Term, by submitting documentation that its groundwater production costs have changed. Metropolitan may, in its sole discretion, change the Cost-offset Credit Term upon review of any such additional documentation and confirmation of changes in costs.

**Section 7. Billing Procedures.**

Metropolitan will bill Eastern, and Eastern will bill RCWD, the Treatment Surcharge in effect at the time RCWD certifies the In-Lieu Treated Deliveries, in the same manner as Metropolitan bills Eastern, and Eastern bills RCWD, for all other water sales. Metropolitan will pay Eastern the Cost-offset Credit Term for In-Lieu Treated Deliveries by applying a credit to Eastern's meter invoiced amounts, which credit is subject to the certification and reconciliation process described in Section 8. Eastern will transfer the credit amount to RCWD's invoice.

**Section 8. Certification and Reconciliation of In-Lieu Treated Deliveries.**

RCWD shall submit monthly certifications of In-Lieu Treated Deliveries pursuant to this Agreement consistent with Metropolitan's Administrative Code, sections 4506 to 4507 to Eastern; and Eastern shall submit the certifications to Metropolitan. Such certifications will be

**Agreement**  
**Among Metropolitan Water District of Southern California**  
**Eastern Municipal Water District, and Rancho California Water District**  
**for In-Lieu Treated Deliveries to Eastern-RCWD-Metropolitan Cyclic Account**

made pursuant to the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between Metropolitan Water District of Southern California, Eastern Municipal Water District, and Rancho California Water District*, attached hereto and incorporated herein as Attachment 1. On a monthly basis Metropolitan will review these certifications for conformance with the operating plans submitted pursuant to the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between Metropolitan Water District of Southern California, Eastern Municipal Water District, and Rancho California Water District*. Metropolitan will process certifications of these deliveries made pursuant to this Agreement in accordance with the agreed-upon operating plan in order to ensure In-Lieu Treated Deliveries were made in addition to normal Full-Service deliveries and as a result of actions to reduce groundwater pumping.

Metropolitan will void any credits given for water deliveries that Metropolitan is unable to determine that are qualifying In-Lieu Treated Deliveries under this Agreement, which will result in an equivalent charge to Eastern's water invoice plus the applicable untreated Full-Service rates and charges. The total amount of all voided credits shall be billed in the next month following the end-of-year reconciliation.

Metropolitan staff will, in collaboration with RCWD staff, perform an annual reconciliation of In-Lieu Treated Deliveries within six months following such time that RCWD's final groundwater production numbers are finalized and provided to Metropolitan staff, in accordance with Attachment 1.


**Section 9. Purchase of Water Out of Cyclic Account.**

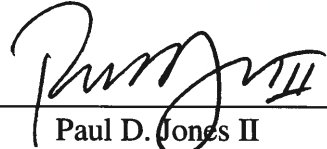
RDWD agrees to purchase In-Lieu Treated Deliveries from Eastern and Eastern agrees to purchase the In-Lieu Treated Deliveries out of the Cyclic Account according to the signed purchase agreement. Billing and payment procedures shall be the same as other purchases from the Cyclic Account.

**Agreement**  
**Among Metropolitan Water District of Southern California**  
**Eastern Municipal Water District, and Rancho California Water District**  
**for In-Lieu Treated Deliveries to Eastern-RCWD-Metropolitan Cyclic Account**

Approved as to form:

Eastern Municipal Water District

By:   
General Counsel

By:   
Paul D. Jones II  
General Manager


Date: 1/29/20

Date: 1/9/20

Approved as to form:

Rancho California Water District

By:   
General Counsel


By:   
Jeffrey Armstrong  
General Manager

Date: 2/27/2020

Date: 2/28/2020

Approved as to form:

The Metropolitan Water District  
of Southern California

By:   
Marcia L. Scully  
General Counsel

By:   
Jeffrey Kightlinger  
General Manager

Date: 11-5-2020

Date: 11/6/2020





**Attachment 1**  
**Certification Procedures**  
**For In-Lieu Treated Deliveries for Cyclic Agreement**  
**Between Metropolitan Water District of Southern California, Eastern**  
**Municipal Water District, and Rancho California Water District**

**1. Introduction**

The purpose of this Attachment 1 is to assist Eastern Municipal Water District and Rancho California Water District in certification of In-Lieu Treated Deliveries for participation in the Agreement between Metropolitan Water District of Southern California (Metropolitan), Eastern Municipal Water District (Eastern), and Rancho California Water District (RCWD) for the In-Lieu Treated Deliveries to Eastern-RCWD-Metropolitan Cyclic Account (Agreement). Pursuant to the Agreement, RCWD is eligible to receive a cost-offset credit in accordance with sections 5 and 6 of the Agreement (Cost-offset Credit). To qualify for the Cost-offset Credit, RCWD/EMWD must meet the requirements contained in these In-Lieu Treated Deliveries Certification Procedures and in Metropolitan's Administrative Code Section 4507.

**2. Administration**

**Annual Operating Plan**

For EMWD and RCWD to participate in this Agreement, EMWD shall submit an Operating Plan to Metropolitan's Water System Operations Group (WSO) for review prior to the beginning of the operating period. WSO staff will review the Operating Plan and work with agency staff to resolve issues and questions related to the Operating Plan. Operating plans for In-Lieu Treated Deliveries shall follow the form as outlined on the Excel worksheet provided by Metropolitan's WSO staff.

**Certification of In-Lieu Treated Deliveries**

In order to obtain the Cost-offset Credit, EMWD shall certify the amount of In-Lieu Cyclic Deliveries delivered by Metropolitan on the forms provided by Metropolitan. Metropolitan WSO staff will perform a cursory review of the certifications for mathematical accuracy upon their receipt. Such a review does not preclude Metropolitan from correcting errors discovered as a result of Metropolitan's annual reconciliation of the In-Lieu Treated Deliveries under this Agreement.

**Annual Reconciliation**

Metropolitan WSO staff will complete an Annual Reconciliation of EMWD's In-Lieu Treated Deliveries certifications within six months following receipt of final documentation from the agency staff. During this period Metropolitan staff will work with EMWD staff to reconcile any differences. If differences cannot be resolved, the Resolution of Differences section below shall apply.

EMWD shall submit final documentation within six months after the end of the Fiscal Year operating period. If final documentation is not submitted, Metropolitan will assume that the water had been used for Full Service purposes. EMWD shall be obligated to pay the amount of

the credit that had been applied to the In-Lieu Treated Deliveries and all other rates and charges associated with Full Service Treated Deliveries.

Listed below is the documentation that EMWD should maintain to support the Annual Reconciliation. Metropolitan reserves the right to review original documentation.

- Original monthly groundwater production records for the previous three years.
- Original monthly production records from other local sources
- Monthly Metropolitan deliveries.
- Monthly demands, excluding recycled water.
- Annual local water rights, preferably groundwater basin manager report.
- If a sub-agency, monthly water bill from member agency.

### **Resolution of Differences**

If an impasse exists on the interpretation of the Agreement between the Eastern, RCWD, and Metropolitan staff, Metropolitan's Water System Operations' Group Manager has the responsibility to consult with Eastern and RCWD and make a final ruling subject to the General Manager/Chief Executive Officer's oversight. If the ruling on the issue is unsatisfactory to the agency, it can be appealed to the Water Planning and Stewardship Committee of Metropolitan's Board of Directors. The Water Planning and Stewardship Committee shall consider such appeals and make recommendations to the Board. The Board shall act upon such recommendations and its decision shall be final.

### **3. Documentation for Planning, Tracking, Measuring and Certifying In-Lieu Treated Deliveries under the Cyclic Agreement**

This Section 3. "Documentation for Planning, Tracking, Measuring and Certifying In-Lieu Deliveries under the Cyclic Agreement augments the Rate Handbook and, where applicable, govern deliveries made under this Agreement. All forms are formatted as Excel worksheets.





Worksheet 1, *Operating Plan*, consists of three sections: Section A, Historic Groundwater Production; Section B, Planned Annual Operating Plan; and Section C, Actual-to-Date and Planned Operations. Worksheet 2, *Monthly Certification*, is used to certify monthly In-Lieu Treated Deliveries. Agencies should use the *Monthly Certification* worksheet to certify In-Lieu Treated Deliveries made through a connection having more than one designated use.

It is EMWD's responsibility to submit Sections A and B of the *Operating Plan* prior to the beginning of the upcoming operating period, and to update Section C of the *Operating Plan*, as needed, to reflect actual-to-date operations and any changes in planned operations. In order to receive the Cost-offset Credit on In-Lieu Treated Deliveries under the Cyclic Agreement, EMWD must also submit a *Monthly Certification* to Metropolitan for each month that such deliveries occurred. All certified water also would be subject to Certification and Billing Procedures outlined in the Rate Handbook and subject to Administrative Code, Section 4507.

Lines on the forms requiring data input are highlighted in green. All other lines are calculated. A line-by-line explanation of the forms follows with the symbol, "☒" designating a user input, and the "☐" symbol designating a calculated value:



## **Worksheet 1 – Operating Plan**

**Section A - Historic Groundwater Production:** Section A calculates an Adjusted Baseline that is the basis against which monthly In-Lieu Cyclic Deliveries will be measured. The Adjusted Baseline should reflect the monthly pumping pattern RCWD would follow if it were not planning to certify In-Lieu Cyclic Deliveries from Metropolitan. The Adjusted Baseline is based on historic groundwater production patterns; however, RCWD may adjust these patterns to reflect anticipated system or operational changes during the coming operating year.

-  **Lines A1, A2, & A3 - FY Groundwater Production:** EMWD inputs previous three years monthly groundwater production data beginning one-year prior to the end of the last full operating period. For example, for an agency preparing its **FY 2019-20** operating plan, skipping FY 2018-19 as volumes have not yet been finalized, the three years prior would include **FY's 2017-18, 2016-17, and 2015-16**. Monthly groundwater production data includes actual pumped groundwater and imported in-lieu deliveries.
-  **Line A4 - 3-Year Historical Baseline:** Spreadsheet calculates RCWD's average monthly groundwater production from the past three years.
-  **Line A5 - Adjustments to Baseline:** EMWD inputs anticipated increases and/or decreases in total monthly production due to factors such as new production wells coming online, wells taken out of service, and/or other justifiable alterations in production patterns.
-  **Line A6 - Adjusted Baseline:** Spreadsheet calculates RCWD's Adjusted Baseline for the coming operating year, i.e., 3-Year Historical Baseline with Adjustments to Baseline (positive or negative).

As indicated above, Lines A1, A2, A3, and A5 are user inputs to be provided by EMWD prior to the beginning of the operating year for review by Metropolitan. This review may require EMWD to provide Metropolitan with records documenting historic well production and rationale for Adjustments of Baseline.

**Section B – Planned Annual Operating Plan:** Section B is RCWD's projection of monthly imported water deliveries, groundwater production, and other local supplies that will be used to meet its retail demand. The Section functions as a planning tool for EMWD and Metropolitan. It also calculates projected In-Lieu Treated Deliveries eligible for certification as Cyclic Delivery based on projected groundwater production. Although only an initial estimate, once completed, Section B should remain static throughout the operating year and utilized as the baseline with which to evaluate the year's actual progress.

-  **Line B1 - Adjusted Baseline:** This line carries forward RCWD's Adjusted Baseline calculated in Line A6.
-  **Line B2 - Monthly Production Capability:** EMWD projects the well capability available for each month of the operating year. Available capability refers to the

operational status of facilities in place to extract groundwater for retail water use. For example, the total capacity of RCWD's well field might be 50 cfs, but four wells are out of service due to factors such as mechanical problems or diminished water quality. As a result, only 38 cfs of the well field's 50 cfs capacity is actually available for production, and 38 cfs would be considered RCWD's Monthly Production Capability.

- ☐ **Line B3 - Baseline:** Spreadsheet calculates monthly Actual Baseline, i.e., the lesser of the Adjusted Baseline or Monthly Production Capability. In-lieu water certified by EMWD may not exceed its production capability for that month.
- ☒ **Line B4 - Planned Groundwater Production:** EMWD inputs amount of groundwater it plans to produce each month to meet retail demand.
- ☒ **Line B5 – All Other Local Sources:** EMWD inputs quantities of water it expects to produce from all other local sources other than the groundwater basin to meet retail demand. These sources include recycled, recovered groundwater, local runoff, imported transfers, etc.
- ☒ **Line B6 - Planned Import:** EMWD inputs amount of water it expects to purchase from Metropolitan to meet retail demand.
- ☐ **Line B7 – Total Retail Demand:** Spreadsheet calculates RCWD's entire retail demand, i.e., Planned Groundwater Production, plus All Other Local Sources, plus Planned Import.
- ☐ **Line B8 – Estimated Monthly In-lieu Credit (Underproduction):** Spreadsheet calculates planned monthly groundwater underproduction, i.e., Baseline less Planned Groundwater Production. If positive, indicates water being stored. If negative, indicates water being taken out of storage (overproduction).

**Section C – Actual-to-Date and Planned Operations:** Initially completed with the identical information as *Section B – Planned Annual Operating Plan*, Section C calculates actual In-Lieu Treated Deliveries, updates projections shown in Section B with actual operational data, and is used to revise projected operations, as needed, based on actual operations to date. Monthly In-Lieu Treated Delivery credit is applied to the volume difference between RCWD's Baseline and actual Groundwater Production.

**EMWD is expected to update this form whenever In-Lieu Treated Cyclic Deliveries are certified.** Updates should include actual deliveries of groundwater, other local supplies and imported deliveries that have occurred during the operating period. Updates should also include any anticipated changes in projected groundwater production, local supply production, imported water deliveries, and retail demands as a result of actual operations to date. When certifying Monthly In-lieu Treated Deliveries Credit, please mark any box(es) above the month(s) where adjustments have been made to planned operations in Lines (C4), (C5), or (C6).






- ☞ **Line C1 - Adjusted Baseline:** This line carries forward RCWD's Adjusted Baseline calculated in Line A6.
  
- ☞ **Line C2 - Actual Monthly Production Capability:** EMWD specifies the actual well capability available for the month being certified and, as needed, updates projected well capability for the remainder of the operating period.
  
- ☞ **Line C3 - Baseline:** Spreadsheet calculates monthly Baseline, i.e., the lesser of the Adjusted Baseline or Monthly Production Capability.
  
- ☞ **Line C4 - Groundwater Production:** EMWD inputs amount of groundwater actually produced during the operating period and, as needed, updates projected groundwater production for the remainder of the operating period.
  
- ☞ **Line C5 - All Other Local Sources:** EMWD inputs local supplies actually produced during the operating period and, as needed, updates local supplies projected for the remainder of the operating period.
  
- ☞ **Line C6 - Import:** EMWD inputs imported water purchased from Metropolitan to meet retail demand during the operating period and, as needed, updates imported water projected for the remainder of the operating period.
  
- ☞ **Line C7 - Total Retail Demand:** Spreadsheet calculates RCWD's retail demand, i.e., Groundwater Production plus Other Local Sources plus Import.
  
- ☞ **Line C8 - Monthly Underproduction:** Spreadsheet calculates monthly groundwater underproduction, i.e., Baseline less Groundwater Production. If positive, indicates water being stored. If negative, indicates water being taken out of storage (overproduction).
  
- ☞ **Line C9 - Cumulative Underproduction:** Spreadsheet sums monthly underproduction through each month of the operating period beginning at the end of the operating period (June).
  
- ☞ **Line C10 - Monthly In-lieu Credit:** Spreadsheet calculates amount of monthly In-lieu Treated Deliveries to be certified limited by Monthly Production Capability and Imported water.

**Worksheet 2 - Monthly Certification for Delivery of In-Lieu Cyclic Water**

Worksheet 2 must be submitted by EMWD for each month that it wishes to certify In-Lieu Treated Deliveries. On each certification, EMWD must indicate their name, the identity of the retail agency delivering the water, if applicable, and the month in which the operation occurred. In addition, EMWD must sign and date each certification submitted to Metropolitan.

EMWD should use Worksheet 2 to certify In-Lieu Treated Deliveries. In addition, for billing and crediting purposes, EMWD should also certify the Service Connections through which the delivery was made and the amount of water to be certified as on each service connection.

Individual lines on this form should be completed as follows:

-  **Line C3 - Baseline:** EMWD inputs Baseline value shown in Line C3 of Worksheet 1.
-  **Line C4 - Groundwater Production:** EMWD inputs value shown in Line C4 of Worksheet 1.
-  **Line C8 – Actual Underproduction:** Spreadsheet calculates underproduction occurring in the month being certified.
-  **Line C2 – Monthly Production Capability:** EMWD inputs Production Capability shown in line C2 of Worksheet 1.
-  **Line C6 – Monthly Actual Imported Deliveries:** EMWD inputs Monthly Actual Imported Deliveries shown in Line C8 of Worksheet 1. The sum of volumes certified by service connection shall be equal to the input for Monthly Actual Imported Deliveries on Line C6.



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

**LETTER AGREEMENT REGARDING SCHEDULE FOR  
PAYMENT OF CYCLIC WATER STORED IN CALENDAR YEAR 2017**

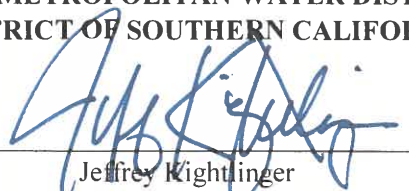
The Metropolitan Water District of Southern California ("Metropolitan"), Eastern Municipal Water District ("Eastern"), and Rancho California Water District ("RCWD") entered into a Cyclic Storage Agreement ("Cyclic Agreement") effective July 1, 2017. The Cyclic Agreement allows Metropolitan to deliver water to the Temecula Valley Groundwater Basin in advance of demand for the water by Eastern and its member agency RCWD.

Metropolitan plans to deliver 3,000 acre-feet (AF) to the Cyclic Agreement account in calendar year 2017 to Eastern for delivery to RCWD with a maximum delivery rate of 830 acre-feet per month (2017 deliveries). Eastern, RCWD and Metropolitan agree that the payment schedule for Eastern's, and subsequently RCWD's, purchase of the water will be as follows: 1,000 AF by July 31, 2018; 1,000 AF by July 31, 2019; and 1,000 AF by July 31, 2020. Any failure by RCWD to pay Eastern for water purchased under this Agreement shall not affect Eastern's obligation to pay Metropolitan for water deliveries under this Agreement.

Should Metropolitan deliver more than 3,000 AF in calendar year 2017, the amount purchased each fiscal year would be calculated by dividing the additional amount evenly over three fiscal years. For example, if 4,500 AF was delivered in 2017, 1,500 AF would be paid each fiscal year. If less than 3,000 AF is delivered, Eastern, and subsequently RCWD, would continue to pay at 1,000 AF each year until the balance of the 2017 deliveries is exhausted.


Should conditions change, Metropolitan, Eastern, and RCWD may mutually agree on an alternative payment schedule. Payments to Metropolitan for such water from the cyclic account shall be in accordance with the Cyclic Agreement terms.

**THE METROPOLITAN WATER DISTRICT  
DISTRICT OF SOUTHERN CALIFORNIA**

By   
Jeffrey Kightlinger  
General Manager


Date 11/7/17

**EASTERN  
MUNICIPAL WATER DISTRICT**

By   
Paul Jones  
General Manager

Date 10.26.17

**RANCHO CALIFORNIA WATER DISTRICT**

By   
Jeffrey Armstrong  
General Manager

Date 10/20/17



**CYCLIC STORAGE AGREEMENT AMONG  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,  
EASTERN MUNICIPAL WATER DISTRICT, AND  
RANCHO CALIFORNIA WATER DISTRICT**

AGREEMENT NO. AO-\_\_\_\_\_

This Cyclic Storage Agreement (“Agreement”) is made as of October \_\_\_\_, 2017, by and among THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a metropolitan water district organized under The Metropolitan Water District Act, Wat. Code appen., §§ 109-25, 109-130, EASTERN MUNICIPAL WATER DISTRICT (“Eastern”), a municipal water district organized and existing in accordance with the Municipal Water District Act of 1911, Division 20 of the Water Code of the State of California, as amended, and RANCHO CALIFORNIA WATER DISTRICT (“RCWD”), a California water district organized pursuant to California Water Code section 34000 et seq. (collectively, the “Parties”).

**RECITALS**

A. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act, Wat. Code appen., §§ 109-25, 109-130 (“MWD Act”).

B. Eastern is a member public agency of Metropolitan and a wholesale water provider within the Rancho Division of RCWD and areas overlying portions of the Temecula Valley Groundwater Basin (“Basin”), a groundwater basin located in Riverside County. Eastern purchases water from Metropolitan, and sells such water to its member agencies, including RCWD.

C. RCWD is a retail water provider with a service area overlying the Basin. The Basin is designated by California Department of Water Resources California's Groundwater Bulletin 118 as basin 9-005. The Basin includes the Pauba and Temecula Aquifers. RCWD receives its imported water from Eastern, as well as Western Municipal Water District (WMWD), also a member public agency of Metropolitan.

D. Metropolitan imports water from the California State Water Project ("SWP") and the Colorado River and delivers those supplies to its member agencies, including Eastern.

E. Metropolitan will deliver water into its Cyclic Storage Account through Metropolitan's Service Connection EM-21, which serves only RCWD.

F. Metropolitan sponsors various groundwater storage programs, including cyclic storage programs for storage of water in local groundwater basins.

G. The purpose of this Agreement is to provide for the delivery of water by Metropolitan to Eastern for sale to RCWD for placement into Metropolitan's cyclic storage in advance of demand, and to set forth the terms and conditions for the delivery, sale, and accounting for such.

### **COVENANTS**

In consideration of the above recitals, the covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Metropolitan, Eastern, and RCWD agree as follows:

1. Storage of Metropolitan Water

Eastern and RCWD hereby agree to enter into a cyclic storage arrangement with Metropolitan through this Cyclic Storage Agreement for storage of up to 10,000 acre-feet of water. In order to manage its water resources, Metropolitan may store water with Eastern, via RCWD's storage rights in the basin, through the delivery of water in advance of Eastern's

purchase of that water for sale to RCWD. Metropolitan may request that Eastern accept delivery of water for storage, via RCWD's storage rights in the basin, through direct delivery, spreading or injection, or through in-lieu means ("Metropolitan's Cyclic Storage").

Eastern, upon request from RCWD, may, in its discretion, accept delivery of Metropolitan water under this agreement through written confirmation to Metropolitan that the water may be delivered to Eastern, via RCWD's storage rights in the basin, for future purchase by Eastern, in accordance with the terms of this Agreement. Eastern shall not provide written confirmation to Metropolitan for any deliveries until such time as Eastern obtains written confirmation from RCWD that RCWD will purchase the water from Eastern, in accordance with this Agreement. RCWD will accept the water from Eastern for storage for Metropolitan, in accordance with the terms and conditions of this Agreement.

2. Delivery into Cyclic Storage Account

Under this Agreement, Eastern, via RCWD's storage rights in the basin, may store the following amounts of water for Metropolitan at any point in time up to 10,000 acre-feet in the Basin.

The Parties shall create and maintain an account (the "Cyclic Storage Account") for all water requested and delivered by Metropolitan to Eastern and stored by RCWD pursuant to this Agreement.

Prior to delivery of water by Metropolitan into the Cyclic Storage Account, the Parties shall mutually agree to: (1) the amount, location, and timing of actual water delivered pursuant to this Cyclic Storage Agreement; (2) a schedule by which RCWD shall purchase the stored water from Eastern; and (3) a schedule by which Eastern will remit RCWD's payment to Metropolitan for water purchased by RCWD under this Agreement. Any amendment to the delivery or

payment schedule shall require mutual agreement by all Parties. Until such time as RCWD purchases and Eastern submits payment to Metropolitan for the stored water, in accordance with this Agreement, the water shall be accounted for in the Cyclic Storage Account as Metropolitan water. Upon purchase of the water by RCWD, the water shall be accounted for as RCWD water.

3. Cyclic Storage Account Record Keeping

RCWD agrees to perform accounting of deliveries and purchases, pursuant to this Agreement. RCWD will account for all deliveries in and out of the Cyclic Storage Account and will maintain a record of the balance of water in the Cyclic Storage Account. The Parties to this Agreement will confirm accounting of transactions and balance at the end of each fiscal year.

4. Delivery from the Cyclic Storage Account

Metropolitan shall deliver water to Eastern from the Cyclic Storage Account, in accordance with the schedule agreed to by the parties pursuant to Section 2. Metropolitan will bill Eastern, and Eastern will bill RCWD for the water at the time of such deliveries out of the Cyclic Storage Account, in accordance with Section 7.

In the event Eastern and/or RCWD does not meet the purchase obligation, in accordance with Sections 1, 2, or 7, Metropolitan retains the prerogative to meet regular water demands by Eastern either from water stored in its Cyclic Storage Account or from water in its distribution system. Metropolitan will provide advance notice to Eastern when it exercises its prerogative under this Section.

5. Loss of Water

There shall be no losses assigned to Metropolitan's Cyclic Storage Account. Water delivered into the Cyclic Storage Account through Metropolitan's Service Connection EM-21

shall be fully credited to Metropolitan's Cyclic Storage Account. RCWD will absorb any loss in the Basin associated with Cyclic Storage.

6. Withdrawal and Use of Cyclic Storage

RCWD shall have the right to withdraw and use any water delivered and purchased in the Cyclic Storage Account at any time.

7. Obligation for Purchase and Payment

Eastern agrees to purchase water from Metropolitan's Cyclic Storage Account held by RCWD, when RCWD purchases the water in accordance with this Agreement, but no later than the termination of this Agreement. Eastern shall be billed by and pay Metropolitan, in accordance with the billing and payment provisions in Metropolitan's Administrative Code, as amended over time. The purchase of water from Metropolitan's Cyclic Storage Account shall be equivalent to the sale and delivery of water for purposes of applying the provisions of Metropolitan's Administrative Code. Payments to Metropolitan for such sale of water from its Cyclic Storage Account shall be calculated using Metropolitan's rate for full service untreated water in effect at the time of the sale of water to Eastern. The sale of water from Metropolitan's Cyclic Storage Account to Eastern shall be included in the calculation of the Eastern's Ten-Year Rolling Sales Average for purposes of Metropolitan's Readiness-to-Serve Charge at the time stored water is sold to Eastern. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water for storage at its discretion.

RCWD is responsible for paying Eastern for the water Eastern purchases from Metropolitan, in accordance with Eastern's standard terms and conditions for the sale of Metropolitan water. When Metropolitan invoices Eastern, Eastern will invoice RCWD, and RCWD is responsible for paying Eastern for the water Eastern purchases from Metropolitan, in

accordance with Eastern's standard terms and conditions for the sale of Metropolitan water as applicable to cyclic storage. Eastern will pass on all costs and benefits of the water to RCWD as applicable to cyclic storage. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water for storage at its discretion.

Any failure by RCWD to pay Eastern for water purchased under this Agreement shall not affect Eastern's obligation to pay Metropolitan for water deliveries under this Agreement. Any difficulty or inability of RCWD to extract water delivered pursuant to this Agreement, which is not the fault of Eastern or Metropolitan, does not affect RCWD's obligation to pay Eastern for water deliveries under this Agreement.

RCWD agrees to include the projected expense of the cyclic storage water, as defined in the schedule in its annual budget.

8. Rent or Offset Credit

It is hereby agreed that there shall be no charge, rent assessment, or expense incurred by Metropolitan by reason of the storage of water by Eastern for Metropolitan, nor is there any credit or offset for the benefits thereof, nor shall there be any charge to Metropolitan for the use of physical facilities, including service connections, flood control channels, spreading basins, or hydrologic services utilized in connection with any storage allowed herein.

9. Indemnity Obligations

a. Metropolitan and Eastern

Liability and indemnification obligations between Metropolitan and Eastern shall be determined pursuant to section 4502 of the Metropolitan Administrative Code (with Metropolitan identified below as "District" and Eastern as "member public agency"), as follows:

Neither the District nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of water supplied or delivered by the District to a member public agency after such water has been delivered to such member public agency; nor for claim of damage of any nature whatsoever, including, but not limited to, property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water beyond the point of such delivery; and the member public agency shall indemnify and hold harmless the District and its officers, agents, and employees from any such damages or claims of damages, and shall reimburse the District for costs of repair of the District's facilities and other damages resulting from the operations of the member public agency.

Neither the member public agency nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of water prior to such water being delivered to the member public agency; nor for claim of damage of any nature whatsoever, including, but not limited to, property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water prior to its delivery to such member public agency, excepting, however, claims by the District for costs of repair to the District's facilities and other damages resulting from the operations of the member public agency; and the District shall indemnify and hold harmless the member public agency and its officers, agents, and employees from any such damages or claims of damages, except claims by the District for costs of repair of the District's facilities and other damages resulting from the operations of the member public agency.

As to indemnity issues between Metropolitan and RCWD, RCWD agrees to the applicability of section 4502 of the Metropolitan Administrative Code in the same manner as that section applies to EMWD, and in that context "District" means Metropolitan and "member public agency" means RCWD.

b. Eastern and RCWD

(1) Eastern shall indemnify, defend, and hold harmless RCWD, and each of their respective officers, agents, and employees, from and against any and all claims, costs, damages, injuries, or liability arising out of, resulting from, or alleged to arise out of or result from any negligent act or omission of Eastern.

(2) RCWD shall indemnify, defend, and hold harmless Eastern, and each of their respective officers, agents, and employees, from and against any and all claims, costs,

damages, injuries, or liability arising out of, resulting from, or alleged to arise out of or result from any negligent act or omission of RCWD.

10. No Representation as to Water Quality

Metropolitan provides no warranty or guarantee regarding the quality or content of its untreated water or the suitability of its use for replenishment of groundwater basins. Eastern and RCWD acknowledge that it is accepting untreated water “as is.”

11. Term

The term of this Agreement shall commence on July 1, 2017 and shall terminate 10 years thereafter. An extension of this term can be made upon mutual agreement of the Parties.

12. Termination

In the event of a material breach hereunder, any party hereto may terminate this Agreement upon thirty (30) calendar days' written notice to the other Parties hereto. Metropolitan may require amendment of this Agreement, or its termination, upon sixty (60) calendar days' written notice if its Administrative Code is amended to change: (i) the manner in which Metropolitan sets its water rates and charges for the sale and delivery of water (the rate structure); (ii) designations of classes of water service; or (iii) conditions of water service, in a manner which requires amendment of this Agreement. In the event this Agreement must be so amended, it shall be amended to provide water rates and charges applicable to water service for untreated water applicable to all of Metropolitan's member public agencies, except for any charge specifically set to recover costs incurred to meet peak distribution demands. In the event such an amendment to this Agreement cannot be obtained from any Party, this Agreement may be terminated by Metropolitan upon sixty (60) calendar days' written notice to the other Parties hereto.



13. Purchase of Water After Termination

Upon notice of termination under Section 12, Eastern is obligated to purchase all water remaining in the Metropolitan Cyclic Storage Account within ninety (90) calendar days. During this period, all water demands from Eastern to Metropolitan will be met with Metropolitan's Cyclic Storage. Until the Cyclic Storage Account is depleted, Eastern shall not obtain water from sources other than Metropolitan, with the exception of local resource projects developed to offset imported water requirements.

As indicated above, RCWD is obligated to purchase such water from Eastern, in accordance with the terms and conditions of this Agreement.

Failure by RCWD to purchase any water from Eastern shall not affect Eastern's obligation to purchase water from Metropolitan under this Agreement.

14. No Interference

Nothing in this Agreement is intended to or shall interfere with RCWD's sole, reasonable discretion to satisfy its operational needs or impinge its right to manage the Basin, including, but not limited to, its rights under Appropriation Permit No. 7032. Nothing in this Agreement is intended to or shall interfere with any obligations RCWD has in any other agreement related to the operation and maintenance of the Basin.

15. Notices

Any notice required hereunder may be given by mail, postage prepaid, addressed as follows:

To: Eastern Municipal Water District  
2270 Trumble Road  
Perris, CA 92570  
Attention: General Manager

To: Rancho California Water District  
42135 Winchester Road  
Temecula, CA 92590  
Attention: General Manager

To: Metropolitan Water District of Southern California  
700 North Alameda Street  
Los Angeles, CA 90012  
Attention: Chief Operating Officer

16. Interpretation

The Parties have developed this Agreement jointly and in consultation with their respective legal counsel. No ambiguity shall be resolved against any Party on the premise that it or its attorneys were responsible for drafting this Agreement or any of its terms.

17. Governing Law

This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

18. Counterparts

This Agreement may be executed in counterparts, and signatures transmitted via facsimile or electronic mail shall be deemed to be originals.

19. No Third Party Rights

This Agreement does not create any rights enforceable by any person or entity that is not a Party to this Agreement.

20. Authority

The Parties represent that the persons executing this Agreement on their behalf are authorized to do so.

21. Modifications

No modification of this Agreement shall be valid unless agreed to in writing by the Parties.

22. Assignment

No Party shall assign its rights under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of October \_\_\_\_, 2017.

Approved as to form:

EASTERN MUNICIPAL WATER DISTRICT

By:   
General Counsel

By: \_\_\_\_\_  
Paul Jones  
General Manager

Approved as to form:

RANCHO CALIFORNIA WATER DISTRICT

By: \_\_\_\_\_  
General Counsel

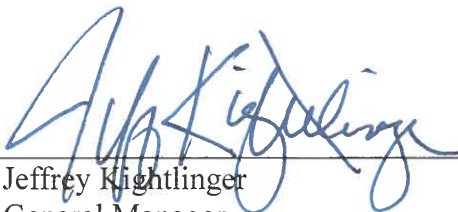
By: \_\_\_\_\_  
Jeffrey Armstrong  
General Manager

Approved as to form:

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

Marcia L. Scully  
General Counsel

By:   
General Counsel

By:   
Jeffrey Kightlinger  
General Manager

22. Assignment


No Party shall assign its rights under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of October \_\_\_\_, 2017.

Approved as to form:

EASTERN MUNICIPAL WATER DISTRICT

By: \_\_\_\_\_  
General Counsel

By:   
Paul Jones  
General Manager

Approved as to form:

RANCHO CALIFORNIA WATER DISTRICT

By:   
General Counsel

By:   
Jeffrey Armstrong  
General Manager

Approved as to form:

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

Marcia L. Scully  
General Counsel

By:   
General Counsel

By:   
Jeffrey Kightlinger  
General Manager

**Agreement**  
**Between Metropolitan Water District of Southern California**  
**and Municipal Water District of Orange County**  
**for In-Lieu Treated Deliveries to MWDOC-Metropolitan Cyclic Account**

This Agreement is made as of August 1, 2019, by and between the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, and the MUNICIPAL WATER DISTRICT OF ORANGE COUNTY (“MWDOC”), a public agency of the State of California, (collectively, the “Parties”).

Section 1. Purpose of Agreement

- a. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.
- b. MWDOC is a member public agency of Metropolitan and a wholesale water provider with a service area that includes lands overlying the Orange County Groundwater Basin, a large groundwater basin located in Northern and Central Orange County. MWDOC was created under the Municipal Water District Law of 1911. Cal. Wat. Code, §§ 71000 et seq.
- c. Metropolitan, MWDOC and the Orange County Water District have entered into an agreement dated August 10, 2017 (“MWDOC-Metropolitan Cyclic Agreement”) that provides for the delivery of water by Metropolitan to MWDOC in advance of demand for the water by MWDOC through a cyclic account (“MWDOC-Metropolitan Cyclic Account” or “Account”).
- d. Through this Agreement, the Parties intend to provide for a means of delivering water from Metropolitan into the MWDOC-Metropolitan Cyclic Account, which deliveries are intended to be subject to the specific terms in this In-Lieu Treated Deliveries Agreement. The Parties intend for the MWDOC-Metropolitan Cyclic Agreement to apply with respect to all other terms.
- e.

Section 2. Designated In-Lieu Treated Deliveries.

Metropolitan’s General Manager has determined that water supply conditions are such that Metropolitan may not be able to capture all available supplies efficiently in available storage. Given the recent SWP allocation increase to 75 percent, uncertainties due to increased Article 21 and Colorado River supplies, and continued lower demands, supplies available for storage in 2019 may exceed Metropolitan’s ability to store in calendar year (CY) 2019. Accordingly, Metropolitan agrees to pre-deliver treated water to MWDOC to assist Metropolitan in managing its water resources. MWDOC agrees to take treated water from Metropolitan pursuant to this Agreement for delivery into the MWDOC-Metropolitan Cyclic Account in the Orange County Groundwater Basin through in-lieu means (In-Lieu Treated Deliveries).

The amount, location, and timing of the delivery schedule, along with an operating plan, will be mutually agreed upon prior to delivery by Metropolitan pursuant to a purchase

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**Between Metropolitan Water District of Southern California**  
**and Municipal Water District of Orange County**  
**for In-Lieu Treated Deliveries to MWDOC-Metropolitan Cyclic Account**

agreement. The actual amount of In-Lieu Treated Deliveries credited by Metropolitan may be higher or lower based on operational conditions and the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between Metropolitan Water District of Southern California and Municipal Water District of Orange County* referenced in Section 8. In-Lieu Treated Deliveries will be made upon Metropolitan's written request and MWDOC's written acceptance of additional treated water deliveries. MWDOC represents and warrants that In-Lieu Treated Deliveries are in addition to its projected Full Service deliveries (treated or untreated), which would normally occur without this agreement.

MWDOC represents and warrants that an amount equivalent to the In-Lieu Treated Deliveries will be credited to Metropolitan as pre-delivered water in the Orange County Basin, pursuant to an intentional reduction in groundwater production by MWDOC, certified and reconciled according to Section 8, until such time as the water is purchased by MWDOC pursuant to the terms of the MWDOC-Metropolitan Cyclic Agreement and Section 9 of this Agreement.

Section 3. Term.

This Agreement shall be effective until July 1, 2027, or until the termination of the MWDOC-Metropolitan Cyclic Agreement, and is applicable only to In-Lieu Treated Deliveries, as certified and reconciled according to Section 8. Metropolitan may, in its sole discretion, can interrupt the program by providing 15 days' notice to MWDOC.

Pursuant to Metropolitan's Board action on April 10, 2019, Metropolitan's General Manager may make a determination regarding water supply conditions and Metropolitan's ability to capture all available supplies at any time during the term of this Agreement. When such determination is made and MWDOC agrees to accept water pursuant to this Agreement, the Parties will enter into a purchase agreement in accordance with Section 2.

Section 4. Treatment Surcharge Payment.

MWDOC agrees to pay Metropolitan the Treatment Surcharge effective at the time of the In-Lieu Treated Delivery, which for CY 2019 is \$319 per acre-foot and in CY 2020 is \$323 per acre-foot.

Section 5. Cost-offset Credit Term.

In exchange for MWDOC's acceptance of In-Lieu Treated Deliveries, Metropolitan agrees to pay MWDOC a cost-offset credit of up to \$225 per acre-foot, as determined by Metropolitan pursuant to Section 6. On January 1<sup>st</sup> of 2020, and every following January 1<sup>st</sup>, the maximum \$225 per acre-foot amount will be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for Los Angeles-Long Beach-Anaheim All Items (CPI-U) calculated as the November Prior Year/November 2018 CPI-U increase rounded to the nearest dollar. For example, if the November 2019 CPI-U was 269.005 and the November 2018 CPI-U

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was 259.064, then the increase for January 1, 2020, would be 3.84 percent or up to \$234 per acre-foot.

Section 6. Determination of Cost-offset Credit Term.

Metropolitan, at its sole discretion, will determine the Cost-offset Credit Term. Metropolitan will make such determination based on an estimate of costs incurred by MWDOC as a result of taking In-Lieu Treated Delivery of additional treated water at Metropolitan's request that MWDOC would not otherwise have taken, minus the costs MWDOC's producers would have incurred if they had produced an equivalent amount of water from the Orange County Groundwater Basin. MWDOC will submit its avoided cost estimates to Metropolitan, which Metropolitan will review in addition to historical production cost estimates. In 2019, the cost-offset credit term is \$225 per acre-foot.

MWDOC may, at any time prior to reconciliation and certification described in Section 8, request a redetermination of the Cost-Offset Credit Term, by submitting documentation that its groundwater production costs have changed. Metropolitan shall, in its sole discretion, change the Cost-Offset Credit Term upon review of any such additional documentation and confirmation of changes in costs.

Section 7. Billing Procedures.

Metropolitan will bill MWDOC the Treatment Surcharge in effect at the time MWDOC certifies the In-Lieu Treated Deliveries, in the same manner as Metropolitan bills MWDOC for all other water sales. Metropolitan will pay MWDOC the Cost-Offset Credit Term for In-Lieu Treated Deliveries by applying a credit to MWDOC's meter invoiced amounts, which credit is subject to the certification and reconciliation process described in Section 8.

Section 8. Certification and Reconciliation of In-Lieu Treated Deliveries.

MWDOC shall submit monthly certifications of In-Lieu Treated Deliveries pursuant to this Agreement consistent with Metropolitan's Administrative Code, sections 4506 to 4507. Such certifications will be made pursuant to the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between Metropolitan Water District of Southern California and Municipal Water District of Orange County*, attached hereto and incorporated herein as Attachment 1. On a monthly basis Metropolitan will review these certifications for conformance with the operating plans submitted pursuant to the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between Metropolitan Water District of Southern California and Municipal Water District of Orange County*. Metropolitan will process certifications of these deliveries made pursuant to this Agreement in accordance with the agreed-upon operating plan in order to ensure In-Lieu Treated Deliveries were made in addition to normal Full Service deliveries and as a result of actions to reduce groundwater pumping.

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Between Metropolitan Water District of Southern California  
and Municipal Water District of Orange County  
for In-Lieu Treated Deliveries to MWDOC-Metropolitan Cyclic Account

Metropolitan will void any credits given for water deliveries that Metropolitan is unable to determine that are qualifying In-Lieu Treated Deliveries under this Agreement, which will result in an equivalent charge to MWDOC's water invoice plus the applicable untreated Full Service rates and charges. The total amount of all voided credits shall be billed in the next month following the end-of-year reconciliation.

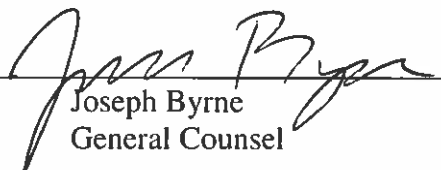
Metropolitan staff will, in collaboration with MWDOC staff, perform an annual reconciliation of In-Lieu Treated Deliveries within six months following such time that MWDOC's final groundwater production numbers are finalized and provided to Metropolitan staff, in accordance with Attachment 1.


Section 9. Purchase of Water Out of Cyclic Account.

MWDOC agrees to purchase the In-Lieu Treated Deliveries out of the Cyclic Account according to the signed purchase agreement. Billing and payment procedures shall be the same as other purchases from the Cyclic Account.

Approved as to form:

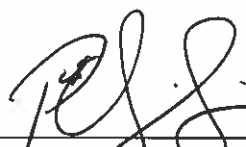
Municipal Water District of Orange County

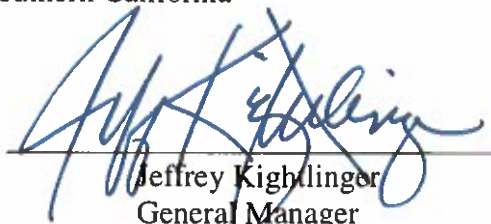
By:   
Joseph Byrne  
General Counsel

By:   
Robert Hunter  
General Manager

Approved as to form:

The Metropolitan Water District  
of Southern California

By:  Patricia Quilizapa  
for:  
Marcia L. Scully  
General Counsel

By:   
Jeffrey Kighlinger  
General Manager

11/4/19



**CYCLIC STORAGE AGREEMENT AMONG  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,  
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY,  
AND ORANGE COUNTY WATER DISTRICT**

This Cyclic Storage Agreement (“Agreement”) is made as of August 10, 2017, by and among the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, the MUNICIPAL WATER DISTRICT OF ORANGE COUNTY (“MWDOC”), a public agency of the State of California, and ORANGE COUNTY WATER DISTRICT (“OCWD”), which was created by a special act of the California Legislature (Ch. 924, Stats. 1933, as amended, the “OCWD Act”) for the purpose of protecting and managing the Orange County groundwater basin. Metropolitan, MWDOC and OCWD may collectively be referred to as the “Parties.”

**RECITALS**

A. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.

B. MWDOC is a member public agency of Metropolitan and a wholesale water provider with 28 member agencies, including OCWD, with a service area partially overlying the OCWD Basin (“Basin”), a groundwater basin located in Orange County.

C. Metropolitan imports water from the California State Water Project (“SWP”) and the Colorado River and delivers those supplies to its member agencies, including MWDOC.

D. MWDOC purchases water from Metropolitan and sells such water to its member agencies, including OCWD.

E. OCWD was created by a special act of the California Legislature (Ch. 924, Stats. 1933, as amended, the "OCWD Act") for the purpose of protecting and managing the Orange County groundwater basin. OCWD undertakes the responsibilities associated with spreading operations in the Basin.

F. Through this Agreement, the Parties intend to provide for the delivery of water by Metropolitan to MWDOC in advance of demand for the water by MWDOC for sale to OCWD. The Parties are entering into to this Agreement for the purpose of giving Metropolitan the right to use up to 100,000 acre-feet of space in the Basin pursuant to the terms of this Agreement.

### COVENANTS

In consideration of the above recitals, the covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, IT IS AGREED:

1. Storage of Metropolitan Water

MWDOC and OCWD hereby agree to enter into a cyclic storage arrangement with Metropolitan through this Cyclic Storage Agreement. In order to manage its water resources, Metropolitan may request that MWDOC accept delivery of water for storage in the Basin through direct spreading or injection, or though in-lieu means ("Metropolitan's Cyclic Storage"). MWDOC may in its discretion accept delivery of Metropolitan water through written confirmation to Metropolitan that the water may be delivered to the Basin for future purchase by MWDOC, in accordance with the terms of this Agreement.

MWDOC shall not provide written confirmation to Metropolitan for any deliveries until such time as MWDOC obtains written confirmation from OCWD that OCWD will purchase the water from MWDOC in accordance with MWDOC's standard terms and conditions for sale of Metropolitan water.

OCWD agrees that Metropolitan's Cyclic Storage shall occupy space in the Basin pursuant to the OCWD Act. OCWD agrees that Metropolitan's Cyclic Storage shall be credited to Metropolitan and shall occupy up to 100,000 acre-feet of space until such time as purchased from Metropolitan by MWDOC. Upon purchase of the water by MWDOC, that water shall be credited to MWDOC.

This Cyclic Storage Agreement is separate and apart from the Parties Conjunctive Use Program (CUP) Agreement. Metropolitan in its sole discretion, will determine whether water delivered to MWDOC for storage will be credited to the Conjunctive Use Account under the Parties CUP Agreement or will be credited to the Cyclic Storage Account under this Agreement. The Parties shall not deliver water within the same operating year to both accounts simultaneously, without mutual agreement.

2. Delivery into Cyclic Storage Account and Ownership of Stored Water

The amount of water to be stored in the Basin for Metropolitan under this Agreement shall not exceed 100,000 acre-feet at any point in time. Prior to any delivery of water by Metropolitan into the Cyclic Storage Account, Metropolitan and MWDOC shall mutually agree (1) to the amount, location, and timing of actual water delivered pursuant to this Cyclic Storage Agreement, and (2) to a schedule by which MWDOC shall purchase and Metropolitan will transfer the stored water to MWDOC. Any amendment to the delivery schedules shall require mutual agreement. Until such water is transferred, Metropolitan shall retain ownership of all

water stored in Metropolitan's Storage Account and the terms and conditions of this Agreement affecting disposition of stored water shall continue until water is transferred by Metropolitan to MWDOC and the transfer is recorded by OCWD. All such transfers shall also be accounted for in the Cyclic Storage Account, pursuant to Section 3.

3. OCWD Accounting

OCWD agrees to perform accounting of deliveries and purchases pursuant to this Agreement (the "Cyclic Storage Account" or "Account"). OCWD will account for all spreading and transfer deliveries in and out of the Cyclic Storage Account and will maintain a record of the balance of water in the Account. The Parties to this Agreement will confirm accounting of transactions and balance at the end of each fiscal year for inclusion in the OCWD Annual Engineers Report on the Groundwater Conditions.

4. Delivery from the Cyclic Storage Account

Metropolitan shall deliver water to MWDOC from the Cyclic Storage Account in accordance with the schedule agreed by the parties pursuant to Section 2. Metropolitan will bill MWDOC for the water at the time of such deliveries in accordance with Section 6. In the event MWDOC does not meet its purchase obligation in accordance with Sections 2 or 6, Metropolitan retains the prerogative to meet regular water demands by MWDOC for delivery to OCWD either from water stored in its Cyclic Storage Account in the Basin or from water in its distribution system. Metropolitan need not provide advance notice to MWDOC when it exercises its prerogative under this Section.

5. Loss of Water

There shall be no losses assigned to Metropolitan's Cyclic Storage Account in the Basin. Water delivered into this Cyclic Storage account through Metropolitan's Service Connections shall be fully credited to Metropolitan's Cyclic Storage.

6. Obligation for Purchase and Payment

MWDOC agrees to purchase water from Metropolitan's Cyclic Storage Account in accordance with Sections 2 and 4 of this Agreement, but no later than the termination of this Agreement. MWDOC shall be billed by and pay Metropolitan when ownership of water stored under this Cyclic Storage Agreement is transferred from Metropolitan to MWDOC, in accordance with the billing and payment provisions in Metropolitan's Administrative Code, as amended over time. Such transfer of ownership shall be equivalent to the sale and delivery of water for purposes of applying the provisions of Metropolitan's Administrative Code. Payments to Metropolitan for such transfer of water from its Cyclic Storage Account shall be calculated using Metropolitan's rate for full service untreated water in effect at the time of the sale of water to MWDOC. The sale of water from Metropolitan's Cyclic Storage Account to MWDOC shall be included in the calculation of the MWDOC's Ten-Year Rolling Sales Average for purposes of Metropolitan's Readiness-to-Serve Charge at the time stored water is sold to MWDOC. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water for storage at its discretion.

OCWD is responsible for paying MWDOC for the water MWDOC purchases from Metropolitan in accordance with MWDOC's standard terms and conditions for the sale of Metropolitan water. Any failure by OCWD to pay MWDOC for water purchased under this

Agreement shall not affect MWDOC's obligation to pay Metropolitan for water deliveries under this Agreement.

7. Rent or Offset Credit

It is hereby agreed that there shall be no charge, rent assessment, or expense incurred by Metropolitan by reason of the use of the Basin allowed hereunder, nor is there any credit or offset for the benefits thereof, nor shall there be any charge to Metropolitan for the use of physical facilities including service connections, flood control channels, spreading basins or hydrologic services utilized in connection with the use of the Basin allowed herein.

8. Indemnity Clause

Liability and indemnification shall be determined pursuant to section 4502 of the Metropolitan Administrative Code. OCWD agrees to the applicability of section 4502 of the Metropolitan Administrative Code in the same manner as that section applies to MWDOC.

Metropolitan provides no warranty or guarantee regarding the quality or content of its untreated water or the suitability of its use for replenishment of groundwater basins. MWDOC and OCWD acknowledge that they are accepting untreated water "as is."

9. Term

The term of this Agreement shall commence on the date and year listed at the beginning of the Agreement and shall terminate 10 years thereafter.

10. Effective Date

The effective date of this agreement shall commence on July 1, 2017.

11. Termination

In the event of a material breach hereunder, any party hereto may terminate this Agreement upon thirty (30) days' written notice to the other Parties hereto. Metropolitan may require

amendment of this Agreement, or its termination, upon sixty (60) days' written notice if its Administrative Code is amended to change (i) the manner in which Metropolitan sets its water rates and charges for the sale and delivery of water (the rate structure), (ii) designations of classes of water service, or (iii) conditions of water service, in a manner which requires amendment of this Agreement. In the event this Agreement must be so amended, it shall be amended to provide water rates and charges applicable to water service for untreated water applicable to all of Metropolitan's member public agencies, except for any charge specifically set to recover costs incurred to meet peak distribution demands. In the event such an amendment to this Amendment cannot be obtained from any Party, this Agreement may be terminated by Metropolitan upon sixty (60) days' written notice to the other Parties hereto.

12. Purchase of Water After Termination

Upon notice of termination, MWDOC is obligated to purchase from Metropolitan all water remaining in the Metropolitan Cyclic Storage Account within 90 days. During this period, all water demands from MWDOC to Metropolitan will be met with Metropolitan's Cyclic Storage. Until the Account is depleted, MWDOC shall not obtain water from sources other than Metropolitan with the exception of local resource projects developed to offset imported water requirements.

As indicated above, OCWD is obligated to purchase such water from MWDOC in accordance with MWDOC's standard terms and conditions. Failure by OCWD to purchase any water from MWDOC shall not affect MWDOC's obligation to purchase water from Metropolitan under this Agreement.

13. Notices

Any notice required hereunder may be given by mail, postage prepaid, addressed as follows:

To: Municipal Water District of Orange County  
P.O. Box 20895  
Fountain Valley CA 92728  
Attention: General Manager

To: Metropolitan Water District  
700 N. Alameda Street  
Los Angeles, CA 90012  
Attention: Chief Operating Officer

To: Orange County Water District  
P.O. Box 8300  
Fountain Valley CA 92728  
Attention: General Manager

14. Interpretation

The Parties have developed this Agreement jointly and in consultation with their respective legal counsel. No ambiguity shall be resolved against any Party on the premise that it or its attorneys were responsible for drafting this Agreement or any of its terms.

15. Governing Law

This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

16. Counterparts

This Agreement may be executed in counterparts, and signatures transmitted via facsimile or electronic mail shall be deemed to be originals.



17. No Third Party Rights

This Agreement does not create any rights enforceable by any person or entity that is not a Party to this Agreement.

18. Authority

The Parties represent that the persons executing this Agreement on their behalf are authorized to do so.

19. Assignment

No Party shall assign its rights under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.


IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date and year listed at the beginning of the Agreement.

Approved as to form:

Municipal Water District of Orange County

Joseph Byrne  
General Counsel

By:   
General Counsel

By:   
Robert J. Hunter  
General Manager

Approved as to form:

The Metropolitan Water District  
of Southern California

Marcia L. Scully  
General Counsel

By:   
General Counsel


By:   
Jeffrey Kightlinger  
General Manager

Approved as to form:

Joel Kuperberg  
General Counsel

By:   
General Counsel

Orange County Water District

By:   
Michael Markus  
General Manager

Addendum to Cyclic Storage Agreement  
Between Metropolitan Water District of Southern California  
and Municipal Water District of Orange County  
for Fiscal Year 2017-2018; In-Lieu Treated Deliveries

Section 1. Designated In-Lieu Treated Deliveries.

MWDOC represents and Metropolitan has confirmed that its ability to accept untreated Metropolitan water, originating or blended with State Water Project water, is impacted due to the detection of unconfirmed quagga mussels. Accordingly, MWDOC agrees to take up to 100,000 acre-feet of treated water from Metropolitan for delivery into the Cyclic Storage account through in-lieu means (In-Lieu Treated Deliveries). The actual amount of in-lieu deliveries may be higher or lower based on operational conditions and the *In-Lieu Treated Deliveries Certification Procedures* referenced in Section 7. In-Lieu Treated Deliveries will be made upon Metropolitan's written request and MWDOC's written acceptance, in MWDOC's sole discretion, of additional treated water deliveries.

MWDOC represents and warrants that In-Lieu Treated Deliveries are in addition to its projected full service deliveries (treated or untreated), which would normally occur without the Cyclic Storage Agreement ("Agreement") and this Addendum.

MWDOC represents and warrants that an amount equivalent to the In-Lieu Treated Deliveries will be credited to Metropolitan as stored water in the Orange County Water District Groundwater Basin, pursuant to an intentional reduction in groundwater production certified and reconciled according to Section 7, until such time as the water is purchased pursuant to the terms of the Agreement and Section 8 of this Addendum.

Section 2. Term.

This Addendum shall be effective until the last acre-foot of water delivered under this Addendum is purchased out of the Cyclic Storage account and is applicable only to In-Lieu Treated Deliveries made from July 12, 2017 through June 30, 2018 certified and reconciled according to Section 7.

Section 3. Treatment Surcharge Payment.

MWDOC agrees to pay Metropolitan the Treatment Surcharge effective at the time of the In-Lieu Treated Delivery, which for calendar year 2017 is \$313 per acre-foot and in calendar year 2018 is \$320 per acre-foot.

Section 4. Storage Price Term.

In exchange for MWDOC's acceptance and storage of In-Lieu Treated Deliveries for Cyclic Storage in fiscal year 2017-2018, instead of direct untreated water deliveries, Metropolitan agrees to pay MWDOC up to \$225/acre-foot, as determined by Metropolitan pursuant to Section 5.

Addendum to Cyclic Storage Agreement  
Between Metropolitan Water District of Southern California  
and Municipal Water District of Orange County  
for Fiscal Year 2017-2018; In-Lieu Treated Deliveries

Section 5. Determination of Storage Price Term.

Metropolitan has, in its sole discretion, determined the Storage Price Term is \$225 per acre-foot in 2017 (\$313/af - \$85/af equals \$228/af but limited to \$225/af ) and \$225/acre-foot in 2018 (\$320/af - \$85/af equals \$235/af but limited to \$225/af ). Metropolitan has made such determination based on an estimate of costs incurred by MWDOC as a result of taking in-lieu delivery of additional treated water at Metropolitan's request that MWDOC would not otherwise have taken, minus the costs that MWDOC would have incurred if it produced an equivalent amount of water from the Orange County Water District Groundwater Basin. MWDOC has submitted its avoided cost estimates to Metropolitan, which Metropolitan reviewed in addition to historical production cost estimates available to Metropolitan.

MWDOC may, at any time prior to reconciliation and certification described in Section 7, request a redetermination of the Storage Price Term, by submitting documentation that its groundwater production costs have changed. Metropolitan shall, in its sole discretion, change the Storage Price Term upon review of any such additional documentation and confirmation of changes in costs.

Section 6. Billing Procedures.

Metropolitan will bill MWDOC the Treatment Surcharge in effect at the time MWDOC certifies the In-Lieu Treated Deliveries, in the same manner as Metropolitan bills MWDOC for all other water sales. Metropolitan will pay MWDOC the Storage Price Term for In-Lieu Treated Deliveries in fiscal year 2017-2018 by applying a credit to MWDOC's meter invoiced amounts, which credit is subject to the certification and reconciliation process described in Section 7.

Section 7. Certification of In-Lieu Treated Deliveries.

MWDOC shall submit monthly certifications of In-Lieu Treated Deliveries pursuant to this Addendum consistent with Metropolitan's Administrative Code, sections 4506 to 4507. Such certifications will be made pursuant to the *In-Lieu Treated Deliveries Certification Procedures*, attached hereto and incorporated herein as Attachment 1. On a monthly basis Metropolitan will review these certifications for conformance with the operating plans submitted pursuant to the *In-Lieu Treated Deliveries Certification Procedures*. After the end of fiscal year 2017-2018, Metropolitan will reconcile the deliveries made pursuant to this Addendum during the fiscal year, in order to ensure in-lieu deliveries were made in addition to normal full-service deliveries and as a result of actions to reduce groundwater pumping.

Metropolitan will void any credits given for water deliveries that Metropolitan is unable to reconcile as qualifying In-Lieu Treated Deliveries under this Addendum, which will result in an equivalent charge to MWDOC's bill plus the applicable untreated full service rates and

Addendum to Cyclic Storage Agreement  
Between Metropolitan Water District of Southern California  
and Municipal Water District of Orange County  
for Fiscal Year 2017-2018; In-Lieu Treated Deliveries

charges. The total amount of all voided credits shall be billed in the next month following the end-of-year reconciliation.

Section 8. Purchase of Water Out of Cyclic Account.

MWDOC agrees to purchase the In-Lieu Treated Deliveries out of the Cyclic Storage account within five years of the effective date of this Addendum. Billing and payment procedures shall be the same as other purchases from the Cyclic Storage account.

Approved as to form:

Joseph Byrne  
General Counsel

Municipal Water District of Orange County

By:

  
General Counsel

By:



Robert J. Hunter  
General Manager

Approved as to form:

Marcia L. Scully  
General Counsel

The Metropolitan Water District  
of Southern California

By:

  
General Counsel

By:



Jeffrey Kightlinger  
General Manager

**Attachment 1**  
**In-Lieu Treated Deliveries Certification Procedures**  
**For Cyclic Storage Agreement**  
**Between Metropolitan Water District of Southern California**  
**and the Municipal Water District of Orange County**

**1. Introduction**

The purpose of this Attachment 1 is to assist the Municipal Water District of Orange County (MWDOC) in its certification of In-Lieu Treated Deliveries for its participation in the Agreement Between Metropolitan Water District of Southern California (Metropolitan), and Municipal Water District of Orange County (MWDOC) for Fiscal Year 2017/18 In-Lieu Treated Deliveries (Agreement). Pursuant to the Agreement, MWDOC is eligible to receive a credit in accordance with sections 4 and 5 of the Agreement (Storage Credit). To qualify for the Storage Credit MWDOC must meet the requirements contained in these In-Lieu Treated Deliveries Certification Procedures and in Metropolitan's Administrative Code Section 4507.

**2. Administration**

**Annual Operating Plan**

For MWDOC to participate in this Agreement, they shall submit an Operating Plan to Metropolitan's Water System Operations Group (WSO) for review prior to the beginning of the operating period. WSO staff will review the operating plan and work with agency staff to resolve issues and questions related to the operating plan. Operating plans for In-Lieu Treated Deliveries shall follow the form as outlined on the Excel worksheet provided by Metropolitan's WSO staff.

**Certification of In-Lieu Treated Deliveries**

In order to obtain the Storage Credit, MWDOC shall certify the amount of In-Lieu Deliveries purchased from Metropolitan on the forms provided by Metropolitan. Metropolitan WSO staff will perform a cursory review of the certifications for mathematical accuracy upon their receipt. Such a review does not preclude Metropolitan from correcting errors discovered as a result of Metropolitan's annual reconciliation of the In-Lieu Treated Deliveries under this Agreement.

**Annual Reconciliation**

Metropolitan WSO staff will complete an Annual Reconciliation of MWDOC's In-Lieu Treated Deliveries certifications within six months following receipt of final documentation from the agency staff. During this period Metropolitan staff will work with MWDOC staff to reconcile any differences. If differences cannot be resolved, the Resolution of Differences section below shall apply.

MWDOC shall submit final documentation within six months after the end of the Fiscal Year operating period. If final documentation is not submitted, Metropolitan will assume that the water had been used for Full Service purposes. MWDOC shall be obligated to pay the amount of

the credit that had been applied to the In-Lieu Treated deliveries and all other rates and charges associated with Full Service Treated deliveries.

Listed below is the documentation that MWDOC should maintain to support the Annual Reconciliation. Metropolitan reserves the right to review original documentation.

- Original monthly groundwater production records for the previous three years
- Original monthly production records from other local sources
- Monthly Metropolitan deliveries
- Monthly demands, excluding recycled water
- Annual local water rights, preferably groundwater basin manager report
- If a sub-agency, monthly water bill from member agency

### **Resolution of Differences**



If an impasse exists on the interpretation of the Agreement between the MWDOC and Metropolitan staff, Metropolitan’s Water System Operations’ Group Manager has the responsibility to consult with MWDOC and make a final ruling subject to the General Manager/Chief Executive Officer’s oversight. If the ruling on the issue is unsatisfactory to the agency, it can be appealed to the Water Planning and Stewardship Committee of Metropolitan’s Board of Directors. The Water Planning and Stewardship Committee shall consider such appeals and make recommendations to the Board. The Board shall act upon such recommendations and its decision shall be final.

### **3. Documentation for Planning, Tracking, Measuring and Certifying In-Lieu Treated Deliveries under the Cyclic Storage Agreement**

This Section 3. “Documentation for Planning, Tracking, Measuring and Certifying In-Lieu Deliveries under the Cyclic Storage Agreement augments the Rate Handbook and, where applicable, govern deliveries made under this Agreement. All forms are formatted as Excel worksheets.


Worksheet 1, *Operating Plan*, consists of three sections: Section A, Historic Groundwater Production; Section B, Planned Annual Operating Plan; and Section C, Actual-to-Date and Planned Operations. Worksheet 2, *Monthly Certification*, is used to certify monthly In-Lieu Treated Deliveries. Agencies should use the *Monthly Certification* worksheet to certify In-Lieu Treated Deliveries made through a connection having more than one designated use.


It is MWDOC’s responsibility to submit Sections A and B of the *Operating Plan* prior to the beginning of the upcoming operating period, and to update Section C of the *Operating Plan*, as needed, to reflect actual-to-date operations and any changes in planned operations. In order to receive the credit on In-Lieu Treated deliveries under the Cyclic Storage Agreement, MWDOC must also submit a *Monthly Certification* to Metropolitan for each month that such deliveries occurred. All certified water also would be subject to Certification and Billing Procedures outlined in the Rate Handbook and subject to Administrative Code, Section 4507.


Lines on the forms requiring data input are highlighted in green. All other lines are calculated. A line-by-line explanation of the forms follows with the symbol, “” designating a user input, and the “” symbol designating a calculated value:


### **Worksheet 1 – *Operating Plan***

**Section A - Historic Groundwater Production:** Section A calculates an Adjusted Baseline that is the basis against which monthly In-lieu Cyclic Storage deliveries will be measured. The Adjusted Baseline should reflect the monthly pumping pattern MWDOC would follow if it were not planning to certify in-lieu deliveries from Metropolitan. The Adjusted Baseline is based on historic groundwater production patterns; however, MWDOC may adjust these patterns to reflect anticipated system or operational changes during the coming operating year.

 **Lines A1, A2, & A3 - FY Groundwater Production:** MWDOC inputs previous three years monthly groundwater production data beginning one-year prior to the end of the last full operating period. For example, for an agency preparing its **FY 2017-18** operating plan, the three years prior would include **FY’s 2014-15, 2013-14, and 2012-13**. Monthly groundwater production data includes actual pumped groundwater and imported in-lieu deliveries.


 **Line A4 - 3-Year Historical Baseline:** Spreadsheet calculates MWDOC’s average monthly groundwater production from the past three years.

 **Line A5 - Adjustments to Baseline:** MWDOC inputs anticipated increases and/or decreases in total monthly production due to factors such as new production wells coming online, wells taken out of service, and/or other justifiable alterations in production patterns.








 **Line A6 - Adjusted Baseline:** Spreadsheet calculates MWDOC’s Adjusted Baseline for the coming operating year, i.e., 3-Year Historical Baseline with Adjustments to Baseline (positive or negative).

As indicated above, Lines A1, A2, A3, and A5 are user inputs to be provided by MWDOC prior to the beginning of the operating year for review by Metropolitan. This review may require MWDOC to provide Metropolitan with records documenting historic well production and rationale for Adjustments of Baseline.

**Section B – Planned Annual Operating Plan:** Section B is MWDOC’s projection of monthly imported water deliveries, groundwater production, and other local supplies that will be used to meet its retail demand. The Section functions as a planning tool for MWDOC and Metropolitan. It also calculates projected In-Lieu Treated Deliveries eligible for certification as Cyclic Storage based on projected groundwater production. Although only an initial estimate, once completed, Section B should remain static throughout the operating year and utilized as the baseline with which to evaluate the year’s actual progress.

 **Line B1 - Adjusted Baseline:** This line carries forward MWDOC’s Adjusted Baseline calculated in Line A6.



-  **Line B2 - Monthly Production Capability:** MWDOC projects the well capability available for each month of the operating year. Available capability refers to the operational status of facilities in place to extract groundwater for retail water use. For example, the total capacity of MWDOC's well field might be 50 cfs, but four wells are out service due to factors such as mechanical problems or diminished water quality. As a result, only 38 cfs of the well field's 50 cfs capacity is actually available for production, and 38 cfs would be considered MWDOC's Monthly Production Capability.
-  **Line B3 - Baseline:** Spreadsheet calculates monthly Actual Baseline, i.e., the lesser of the Adjusted Baseline or Monthly Production Capability. In-lieu water certified by MWDOC may not exceed its production capability for that month.
-  **Line B4 - Planned Groundwater Production:** MWDOC inputs amount of groundwater it plans to produce each month to meet retail demand.
-  **Line B5 – All Other Local Sources:** MWDOC inputs quantities of water it expects to produce from all other local sources other than the groundwater basin to meet retail demand. These sources include recycled, recovered groundwater, local runoff, imported transfers, etc.
-  **Line B6 - Planned Import:** MWDOC inputs amount of water it expects to purchase from Metropolitan to meet retail demand.
-  **Line B7 – Total Retail Demand:** Spreadsheet calculates MWDOC's entire retail demand, i.e., Planned Groundwater Production, plus All Other Local Sources, plus Planned Import.
-  **Line B8 – Estimated Monthly In-lieu Credit (Underproduction):** Spreadsheet calculates planned monthly groundwater underproduction, i.e., Baseline less Planned Groundwater Production. If positive, indicates water being stored. If negative, indicates water being taken out of storage (overproduction).

**Section C – Actual-to-Date and Planned Operations:** Initially completed with the identical information as *Section B – Planned Annual Operating Plan*, Section C calculates actual In-Lieu Treated Deliveries, updates projections shown in Section B with actual operational data, and is used to revise projected operations, as needed, based on actual operations to date. Monthly In-lieu Treated Delivery credit is applied to the volume difference between MWDOC's Baseline and actual Groundwater Production.

***MWDOC is expected to update this form whenever In-Lieu Treated Deliveries are certified.*** Updates should include actual deliveries of groundwater, other local supplies and imported deliveries that have occurred during the operating period. Updates should also include any anticipated changes in projected groundwater production, local supply production, imported water deliveries, and retail demands as a result of actual operations to date. When certifying Monthly In-lieu Treated Deliveries Credit, please mark any box(es) above the month(s) where

adjustments have been made to planned operations in Lines (C4), (C5), or (C6). In addition, mark any box(es) below the Monthly In-Lieu Credit where Actuals to Date have been determined.

- Line C1 - Adjusted Baseline:** This line carries forward MWDOC's Adjusted Baseline calculated in Line A6.
- Line C2 - Actual Monthly Production Capability:** MWDOC specifies the actual well capability available for the month being certified and, as needed, updates projected well capability for the remainder of the operating period.
- Line C3 - Baseline:** Spreadsheet calculates monthly Baseline, i.e., the lesser of the Adjusted Baseline or Monthly Production Capability.
- Line C4 - Groundwater Production:** MWDOC inputs amount of groundwater actually produced during the operating period and, as needed, updates projected groundwater production for the remainder of the operating period.
- Line C5 – All Other Local Sources:** MWDOC inputs local supplies actually produced during the operating period and, as needed, updates local supplies projected for the remainder of the operating period.
- Line C6 - Import:** MWDOC inputs imported water purchased from Metropolitan to meet retail demand during the operating period and, as needed, updates imported water projected for the remainder of the operating period.
- Line C7 – Total Retail Demand:** Spreadsheet calculates MWDOC's retail demand, i.e., Groundwater Production plus Other Local Sources plus Import.
- Line C8 - Monthly Underproduction:** Spreadsheet calculates monthly groundwater underproduction, i.e., Baseline less Groundwater Production. If positive, indicates water being stored. If negative, indicates water being taken out of storage (overproduction).
- Line C9 - Cumulative Underproduction:** Spreadsheet sums monthly underproduction through each month of the operating period beginning at the end of the operating period (June).
- Line C10 - Monthly In-lieu Credit:** Spreadsheet calculates amount of monthly In-lieu Treated Deliveries to be certified limited by Monthly Production Capability and Imported water.






### ***Worksheet 2 - Monthly Certification for Delivery of In-Lieu Cyclic Storage Water***

Worksheet 2 must be submitted by MWDOC for each month that it wishes to certify In-Lieu Treated Deliveries. On each certification, MWDOC must indicate their name, the identity of the

retail agency delivering the water, if applicable, and the month in which the operation occurred. In addition, MWDOC must sign and date each certification submitted to Metropolitan.

MWDOC should use Worksheet 2 to certify In-Lieu Treated Deliveries. In addition, for billing and crediting purposes, MWDOC should also certify the service connections through which the delivery was made and the amount of water to be certified as on each service connection.

Individual lines on this form should be completed as follows:

-  **Line C3 - Baseline:** MWDOC inputs Baseline value shown in line C3 of Worksheet 1.
-  **Line C4 - Groundwater Production:** MWDOC inputs value shown in C4 of Worksheet 1.
-  **Line C8 – Actual Underproduction:** Spreadsheet calculates underproduction occurring in the month being certified.
-  **Line C2 – Monthly Production Capability:** MWDOC inputs Production Capability shown in line C2 of Worksheet 1.
-  **Line C6 – Monthly Actual Imported Deliveries:** MWDOC inputs Monthly Actual Imported Deliveries shown in line C8 of Worksheet 1. The sum of volumes certified by service connection shall be equal to the input for Monthly Actual Imported Deliveries on Line C6.

**CYCLIC AGREEMENT BETWEEN  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
AND THE CITY OF PASADENA**

This Cyclic Agreement (“Agreement”) is made as of August 1, 2019, by and between the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California and CITY OF PASADENA, a charter city duly incorporated under the laws of the State of California, acting through its Department of Water and Power (“Pasadena”), (collectively, the “Parties”).

**RECITALS**

- A. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.
- B. City of Pasadena (Pasadena) is a member public agency of Metropolitan and a retail water provider with a service area overlying the Raymond Basin (“Basin”), a groundwater basin located in Los Angeles County.
- C. Metropolitan imports water from the California State Water Project (“SWP”) and the Colorado River and delivers those supplies to its member agencies, including Pasadena.
- D. Through this Agreement, the Parties intend to provide for the delivery of water by Metropolitan to Pasadena in advance of demand for the water.

**COVENANTS**

In consideration of the above recitals, the covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, IT IS AGREED:

- 1. Pre-Delivery of Metropolitan Water

Pasadena hereby agrees to enter into a cyclic arrangement with Metropolitan through this Agreement. In order to manage its water resources, Metropolitan may deliver water in advance of Pasadena's purchase and demand of that water. Metropolitan may request that Pasadena accept delivery of up to 10,000 acre-feet of water to the Basin through direct spreading or injection, or through in-lieu means. Pasadena may accept delivery of Metropolitan water through written confirmation to Metropolitan that the water may be delivered to Pasadena for future purchase by Pasadena, in accordance with the terms of this Agreement. Pasadena shall be solely responsible for storing any water delivered by Metropolitan and account for that water in a cyclic account ("Cyclic Account") and its obligation to purchase the water from Metropolitan remains regardless of whether Pasadena secures proper storage for that water in the Basin.

2. Delivery into Cyclic Account

The amount of water delivered to Pasadena by Metropolitan under this Agreement shall not exceed 10,000 acre-feet at any point in time. Prior to any delivery of water by Metropolitan into the Cyclic Account, the Parties shall mutually agree (1) to the amount, location, and timing of actual water delivered pursuant to this Agreement, and (2) to a schedule by which Pasadena shall purchase the delivered water. Any amendment to the delivery schedule shall require mutual agreement. Until such time as Pasadena purchases the delivered water in accordance with Section 6, the water shall be accounted for in the Cyclic Account, pursuant to Section 3.

3. Cyclic Account

Pasadena agrees to perform accounting of deliveries and purchases to the Cyclic Account pursuant to this Agreement. Pasadena will account for all deliveries in and out of the Cyclic Account and will maintain a record of the balance of water in the Cyclic Account. The Parties to

this Agreement will confirm accounting of transactions and balance at the end of each fiscal year.

4. Delivery from the Cyclic Account

Metropolitan shall deliver water to Pasadena from the Cyclic Account in accordance with the schedule agreed by the parties pursuant to Section 2. Metropolitan will bill Pasadena for the water at the time of purchase in accordance with Section 6. In the event Pasadena does not meet its purchase obligation in accordance with Sections 2 or 6, Metropolitan retains the prerogative to meet regular water demands by Pasadena either from water in its Cyclic Account in the Basin or from water in its distribution system. Metropolitan need not provide advance notice to Pasadena when it exercises its prerogative under this Section.

5. Loss of Water

There shall be no losses assigned to Metropolitan's Cyclic Account in the Basin. Water delivered through direct spreading or injection, or through in-lieu means into the Cyclic Account shall be fully credited to Metropolitan's Cyclic Account.

6. Obligation for Purchase and Payment

Pasadena agrees to purchase water from Metropolitan's Cyclic Account in accordance with Sections 2 and 4 of this Agreement, but no later than the termination of this Agreement. Pasadena shall be billed by and pay Metropolitan in accordance with the billing and payment provisions in Metropolitan's Administrative Code, as amended over time. The purchase of water from Metropolitan's Cyclic Account shall be equivalent to the sale and delivery of water for purposes of applying the provisions of Metropolitan's Administrative Code. Payments to Metropolitan for such sale of water from its Cyclic Account shall be calculated using Metropolitan's rate for full service untreated water in effect at the time of the sale of water to

Pasadena. The sale of water from the Cyclic Account to Pasadena shall be included in the calculation of Pasadena's Ten-Year Rolling Sales Average for purposes of Metropolitan's Readiness-to-Serve Charge at the time water is sold to Pasadena. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water to Pasadena at its discretion.

7. Rent or Offset Credit

Unless otherwise agreed in a separate agreement, there shall be no charge, rent assessment, or expense incurred by Metropolitan by reason of the pre-delivery of water to Pasadena by Metropolitan, nor is there any credit or offset for the benefits thereof, nor shall there be any charge to Metropolitan for the use of physical facilities including service connections, flood control channels, spreading basins or hydrologic services utilized in connection with any pre-delivery allowed herein.

8. Indemnity Clause

Liability and indemnification shall be determined pursuant to section 4502 of the Metropolitan Administrative Code. Metropolitan provides no warranty or guarantee regarding the quality or content of its treated water or the suitability of its use for replenishment of groundwater basins. Pasadena acknowledges that they are accepting untreated water "as is."

9. Term

The term of this Agreement shall commence on the date and year listed at the beginning of the Agreement and shall terminate 10 years thereafter.

10. Effective Date

The effective date of this agreement shall commence on August 1, 2019.

11. Termination

In the event of a material breach hereunder, any party hereto may terminate this Agreement upon thirty (30) days' written notice to the other Parties hereto. Metropolitan may require amendment of this Agreement, or its termination, upon sixty (60) days' written notice if its Administrative Code is amended to change (i) the manner in which Metropolitan sets its water rates and charges for the sale and delivery of water (the rate structure), (ii) designations of classes of water service, or (iii) conditions of water service, in a manner which requires amendment of this Agreement. In the event this Agreement must be so amended, it shall be amended to provide water rates and charges applicable to water service for untreated water applicable to all of Metropolitan's member public agencies, except for any charge specifically set to recover costs incurred to meet peak distribution demands. In the event such an amendment to this Agreement cannot be obtained from any Party, this Agreement may be terminated by Metropolitan upon sixty (60) days' written notice to the other Parties hereto.

12. Purchase of Water After Termination

Upon termination, Pasadena is obligated to purchase all water remaining in the Cyclic Account within 90 days. During this period, all water demands from Pasadena to Metropolitan will be met with the Cyclic Account. Until the Cyclic Account is depleted, Pasadena shall not obtain water from sources other than Metropolitan with the exception of local resource projects developed to offset imported water requirements.



13. Notices

Any notice required hereunder may be given by mail, postage prepaid, addressed as follows

To: City of Pasadena,  
150 S Los Robles Avenue, Suite 200  
Pasadena, CA 91101

Attention: City Manager

To: Metropolitan Water District  
700 N. Alameda Street  
Los Angeles, CA 90012

Attention: Chief Operating Officer

14. Interpretation

The Parties have developed this Agreement jointly and in consultation with their respective legal counsel. No ambiguity shall be resolved against any Party on the premise that it or its attorneys were responsible for drafting this Agreement or any of its terms.

15. Governing Law

This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

16. Counterparts

This Agreement may be executed in counterparts, and signatures transmitted via facsimile or electronic mail shall be deemed to be originals.

17. No Third Party Rights

This Agreement does not create any rights enforceable by any person or entity that is not a Party to this Agreement.

18. Authority

The Parties represent that the persons executing this Agreement on their behalf are authorized to do so.

19. Assignment

No Party shall assign its rights under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date and year listed at the beginning of the Agreement.

Attest:

By: [Signature]  
Mark Jomaky, CMC  
City Clerk

Date: 12/30/19

Approved as form:

City of Pasadena

By: [Signature]  
Lisa Hosey  
Assistant City Attorney

Date: 12/23/19

By: [Signature] [Signature]  
Steve Mermell      JULIE A. GUTIERREZ  
City Manager      Assistant City Manager

Date: 12/26/19

Approved as to form:

The Metropolitan Water District  
of Southern California

By: [Signature]  
Marcia L. Scully  
General Counsel

Date: 12/27/19

By: [Signature]  
Jeffrey Highlinger  
General Manager

Date: 1/7/20

**Agreement**  
**Between Metropolitan Water District of Southern California**  
**And the City of Pasadena for In-Lieu Treated Deliveries to**  
**Pasadena-Metropolitan Cyclic Account**

This Agreement is made as of August 1, 2019, by and between the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, and CITY OF PASADENA, a charter city duly incorporated under the laws of the State of California, acting through its Department of Water and Power (“Pasadena”), (collectively, the “Parties”).

Section 1. Purpose of Agreement

- a. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.
- b. City of Pasadena (Pasadena) is a member public agency of Metropolitan and a retail water provider with a service area overlying the Raymond Basin (“Basin”), a groundwater basin located in Los Angeles County.
- c. Metropolitan and Pasadena have entered into an agreement dated August 1, 2019 (“Pasadena-Metropolitan Cyclic Agreement”), incorporated herein by reference, that provides for the delivery of water by Metropolitan to Pasadena in advance of demand for the water by Pasadena through a cyclic account (“Pasadena-Metropolitan Cyclic Account” or “Account”).
- d. Through this Agreement, the Parties intend to provide for a means of delivering water from Metropolitan into the Pasadena-Metropolitan Cyclic Account, which deliveries are intended to be subject to the specific terms in this In-Lieu Treated Deliveries Agreement. The Parties intend for the Pasadena-Metropolitan Cyclic Agreement to apply with respect to all other terms.

Section 2. Designated In-Lieu Treated Deliveries.

Metropolitan’s General Manager has determined that water supply conditions are such that Metropolitan may not be able to capture all available supplies efficiently in available storage. Given the recent SWP allocation increase to 75 percent, uncertainties due to increased Article 21 and Colorado River supplies, and continued lower demands, supplies available for storage in 2019 may exceed Metropolitan’s ability to store in calendar year (CY) 2019. Accordingly, Metropolitan agrees to pre-deliver treated water to Pasadena to assist Metropolitan in managing its water resources. Pasadena agrees to take treated water from Metropolitan pursuant to this Agreement for delivery into the Pasadena-Metropolitan Cyclic Account in the Basin through in-lieu means (In-Lieu Treated Deliveries).

The amount, location, and timing of the delivery schedule, along with an operating plan, will be mutually agreed upon prior to delivery by Metropolitan pursuant to a purchase agreement. The actual amount of In-Lieu Treated Deliveries credited by Metropolitan may be higher or lower based on operational conditions and the *In-Lieu Treated Deliveries Certification*

**Agreement**  
**Between Metropolitan Water District of Southern California**  
**And the City of Pasadena for In-Lieu Treated Deliveries to**  
**Pasadena-Metropolitan Cyclic Account**

*Procedures* referenced in Section 8. In-Lieu Treated Deliveries will be made upon Metropolitan's written request and Pasadena's written acceptance of additional treated water deliveries. Pasadena represents and warrants that In-Lieu Treated Deliveries are in addition to its projected full-service deliveries (treated or untreated), which would normally occur without this Agreement.

Pasadena represents and warrants that an amount equivalent to the In-Lieu Treated Deliveries will be credited to Metropolitan as pre-delivered water in the Basin, pursuant to an intentional reduction in groundwater production by Pasadena, certified and reconciled according to Section 8, until such time as the water is purchased by Pasadena pursuant to the terms of Section 9 of this Agreement.

Section 3. Term.

This Agreement is effective as of August 1, 2019, and shall continue until August 1, 2029, or until the termination of the Pasadena-Metropolitan Cyclic Agreement and is applicable only to In-Lieu Treated Deliveries, as certified and reconciled according to Section 8. Metropolitan, at its sole discretion, can interrupt the program authorizing In-Lieu Treated Deliveries by providing 15 days' notice to Pasadena.

Pursuant to Metropolitan's Board action on April 10, 2019, Metropolitan's General Manager may make a determination regarding water supply conditions and Metropolitan's ability to capture all available supplies at any time during the term of this Agreement. When such determination is made and Pasadena agrees to accept water pursuant to this Agreement, the Parties will enter into a purchase agreement in accordance with Section 2.

Section 4. Treatment Surcharge Payment.

Pasadena agrees to pay Metropolitan the Treatment Surcharge effective at the time of the In-Lieu Treated Delivery, which for CY 2019 is \$319 per acre-foot and in CY 2020 is \$323 per acre-foot.

Section 5. Cost-offset Credit Term.

In exchange for Pasadena's acceptance of In-Lieu Treated Deliveries, Metropolitan agrees to pay Pasadena a cost-offset credit of up to \$225 per acre-foot, as determined by Metropolitan pursuant to Section 6. On January 1, 2020, and every following January 1<sup>st</sup>, the maximum \$225 per acre-foot amount will be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for Los Angeles-Long Beach-Anaheim All Items (CPI-W) calculated as the November Prior Year/November 2018 CPI-W increase rounded to the nearest dollar. For example, if the November 2019 CPI-W was 269.005 and the November 2018 CPI-W was 259.064, then the increase for January 1, 2020 would be 3.84% or up to \$234 per acre-foot.

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**Between Metropolitan Water District of Southern California**  
**And the City of Pasadena for In-Lieu Treated Deliveries to**  
**Pasadena-Metropolitan Cyclic Account**

**Section 6. Determination of Cost-offset Credit Term.**

Metropolitan, at its sole discretion, will determine the Cost-offset Credit Term. Metropolitan will make such determination based on an estimate of costs incurred by Pasadena as a result of taking In-Lieu Treated Deliveries at Metropolitan's request that Pasadena would not otherwise have taken, minus the costs that Pasadena would have incurred if it produced an equivalent amount of water from the Basin. Pasadena will submit its avoided cost estimates to Metropolitan, which Metropolitan will review in addition to historical production cost estimates. In 2019, the Cost-offset Credit Term is \$141 per acre-foot.

Pasadena may, at any time prior to reconciliation and certification described in Section 8, request a redetermination of the Cost-offset Credit Term, by submitting documentation that its groundwater production costs have changed. Metropolitan may, in its sole discretion, change the Cost-offset Credit Term upon review of any such additional documentation and confirmation of changes in costs.

**Section 7. Billing Procedures.**

Metropolitan will bill Pasadena the Treatment Surcharge in effect at the time Pasadena certifies the In-Lieu Treated Deliveries, in the same manner as Metropolitan bills Pasadena for all other water sales. Metropolitan will pay Pasadena the Cost-offset Credit Term for In-Lieu Treated Deliveries by applying a credit to Pasadena's meter invoiced amounts, which credit is subject to the certification and reconciliation process described in Section 8.

**Section 8. Certification and Reconciliation of In-Lieu Treated Deliveries.**

Pasadena shall submit monthly certifications of In-Lieu Treated Deliveries pursuant to this Agreement consistent with Metropolitan's Administrative Code, sections 4506 to 4507. Such certifications will be made pursuant to the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between The Metropolitan Water District of Southern California and the City of Pasadena*, attached hereto and incorporated herein as Attachment 1. On a monthly basis Metropolitan will review these certifications for conformance with the operating plans submitted pursuant to the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between The Metropolitan Water District of Southern California and the City of Pasadena*. Metropolitan will process certifications of these deliveries made pursuant to this Agreement in accordance with the agreed-upon operating plan in order to ensure In-Lieu Treated Deliveries were made in addition to normal full-service deliveries and as a result of actions to reduce groundwater pumping.

Metropolitan will void any credits given for water deliveries that Metropolitan is unable to determine that are qualifying In-Lieu Treated Deliveries under this Agreement, which will result in an equivalent charge to Pasadena's water invoice plus the applicable untreated full-

**Agreement**  
**Between Metropolitan Water District of Southern California**  
**And the City of Pasadena for In-Lieu Treated Deliveries to**  
**Pasadena-Metropolitan Cyclic Account**

service rates and charges. The total amount of all voided credits shall be billed in the next month following the end of the fiscal year operating period reconciliation.

Metropolitan staff will, in collaboration with Pasadena staff, perform an annual reconciliation of In-Lieu Treated Deliveries within six months following such time that Pasadena's final groundwater production numbers are finalized and provided to Metropolitan staff, in accordance with Attachment 1.


Section 9. Purchase of Water Out of Cyclic Account.

Pasadena agrees to purchase the In-Lieu Treated Deliveries out of the Pasadena-Metropolitan Cyclic Account according to the signed purchase agreement. Billing and payment procedures shall be the same as other purchases from the Account.

Attest:

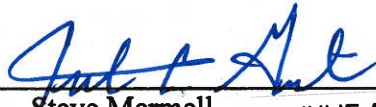
By:  12/30/19  
Mark Jorns, CMC  
City Clerk


Approved as <sup>to</sup> form:

By:  12/23/19  
Lisa Hosey  
Assistant City Attorney

Date: 12/23/19

City of Pasadena

By:  1/7/20  
Steve Mermell  
City Manager

 1/7/20  
JULIE A. GUTIERREZ  
Assistant City Manager

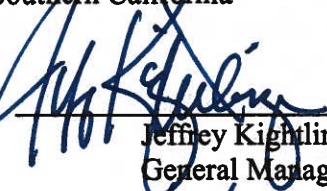
Date: 1/7/20

Approved as to form:

By:   
Marcia L. Scully  
General Counsel

Date: 12/23/19

The Metropolitan Water District  
of Southern California

By:   
Jeffrey Kightlinger  
General Manager

Date: 1/7/20



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

*Office of the General Manager*

October 23, 2020

Ms. Sandra L. Kerl  
General Manager  
San Diego County Water Authority  
24677 Overland Avenue  
San Diego, CA 92123

Dear Ms. Kerl:

Cyclic Program Agreement Between  
The Metropolitan Water District of Southern California and San Diego County Water Authority

Enclosed for your signature is the Cyclic Program Agreement Between The Metropolitan Water District of Southern California (Metropolitan) and San Diego County Water Authority (SDCWA).

If terms are acceptable, please DocuSign the enclosed original. Upon completion, a fully executed original agreement will be automatically generated for your records.

Please contact Kira Alonzo of my staff at (213) 217-6489 or via email at [kalonzo@mwdh2o.com](mailto:kalonzo@mwdh2o.com) if you have any questions.

Very truly yours,

A handwritten signature in black ink that reads "Brad Coffey". The signature is written in a cursive, slightly slanted style.

Brad Coffey  
Group Manager

KZA:sff

Enclosures (2)

**CYCLIC AGREEMENT BETWEEN  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
AND THE SAN DIEGO COUNTY WATER AUTHORITY**

This Cyclic Agreement (“Agreement”) is made as of November 1, 2020, by and among the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California and the SAN DIEGO COUNTY WATER AUTHORITY (“SDCWA”), a public agency of the State of California (collectively, the “Parties”).

**RECITALS**

A. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.

B. SDCWA is a member public agency of Metropolitan and a wholesale water provider with a service area and surface water reservoirs (“Reservoirs”) within San Diego County. SDCWA was created under the County Water Authority Act. Wat. Code appen., § 45.

C. Metropolitan imports water from the California State Water Project (“SWP”) and the Colorado River and delivers those supplies to its member agencies, including SDCWA.

D. Through this Agreement, the Parties intend to provide for the potential delivery of water by Metropolitan to SDCWA in advance of demand for the water.

**COVENANTS**

In consideration of the above recitals, the covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, IT IS AGREED:



1. Pre-Delivery of Metropolitan Water

SDCWA hereby agrees to enter into a pre-delivery arrangement with Metropolitan through this Agreement. In order to manage its water resources, Metropolitan may seek to deliver water in advance of SDCWA's purchase and demand of that water. Metropolitan may request that SDCWA accept delivery of up to 50,000 acre-feet of water for storage in the Reservoirs through direct spreading or injection, or through in-lieu means. SDCWA may accept delivery of Metropolitan water through written confirmation to Metropolitan that the water may be delivered to SDCWA for future purchase by SDCWA, in accordance with the terms of this Agreement. Should SDCWA agree to accept delivery, SDCWA shall be solely responsible for storing any water delivered by Metropolitan and account for that water in a cyclic account ("Cyclic Account") and its obligation to purchase the water from Metropolitan remains regardless of whether SDCWA secures proper storage for that water in the Reservoirs.

2. Delivery into Cyclic Account

The amount of water delivered to SDCWA by Metropolitan under this Agreement shall not exceed 50,000 acre-feet at any point in time. Prior to any delivery of water by Metropolitan into the Cyclic Account, the Parties shall mutually agree (1) to the amount, location, and timing of actual water delivered pursuant to this Agreement, and (2) to a schedule by which SDCWA shall purchase the delivered water. Any amendment to the delivery schedule shall require mutual agreement. Until such time as SDCWA purchases the delivered water in accordance with Section 6, the water shall be accounted for in the Cyclic Account, pursuant to Section 3.

3. Cyclic Account

SDCWA agrees to perform accounting of deliveries and purchases to the Cyclic Account pursuant to this Agreement. SDCWA will account for all deliveries in and out of the Cyclic

Account and will maintain a record of the balance of water in the Cyclic Account. The Parties to this Agreement will confirm accounting of transactions and balance at the end of each fiscal year.

4. Delivery from the Cyclic Account

Metropolitan shall deliver water to SDCWA from the Cyclic Account in accordance with the schedule agreed by the parties pursuant to Section 2. Metropolitan will bill SDCWA for the water at the time of such deliveries in accordance with Section 6. In the event SDCWA does not meet its purchase obligation in accordance with Sections 2 or 6, Metropolitan retains the prerogative to meet regular water demands by SDCWA either from water in its Cyclic Account in the Reservoirs or from water in its distribution system. Metropolitan need not provide advance notice to SDCWA when it exercises its prerogative under this Section.

5. Loss of Water

There shall be no losses assigned to Metropolitan's Cyclic Account in the Reservoirs. Water delivered through direct spreading or injection, or through in-lieu means into the Cyclic Account shall be fully credited to Metropolitan's Cyclic Account.

6. Obligation for Purchase and Payment

SDCWA agrees to purchase water from Metropolitan's Cyclic Account in accordance with Sections 2 and 4 of this Agreement, but no later than the termination of this Agreement. SDCWA shall be billed by and pay Metropolitan in accordance with the billing and payment provisions in Metropolitan's Administrative Code, as amended over time. The purchase of water from Metropolitan's Cyclic Account shall be equivalent to the sale and delivery of water for purposes of applying the provisions of Metropolitan's Administrative Code. Payments to Metropolitan for such sale of water from its Cyclic Account shall be calculated using

Metropolitan's rate for Full Service treated or untreated water in effect at the time of the sale of water to SDCWA. The sale of water from Metropolitan's Cyclic Account to SDCWA shall be included in the calculation of SDCWA's Ten-Year Rolling Sales Average for purposes of Metropolitan's Readiness-to-Serve Charge at the time water is sold to SDCWA. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water at its discretion.

7. Rent or Offset Credit

Unless otherwise agreed to in a subsequent Cost-Offset Credit Agreement, it is hereby agreed that there shall be no charge, rent assessment, or expense incurred by Metropolitan by reason of pre-delivery of water to SDCWA by Metropolitan, nor is there any credit or offset for the benefits thereof, nor shall there be any charge to Metropolitan for the use of physical facilities including service connections, reservoirs, flood control channels, spreading basins or hydrologic services utilized in connection with any pre-delivery allowed herein.

8. Indemnity Clause

Liability and indemnification for water initially delivered to SDCWA for the Cyclic Account under this Agreement shall be determined pursuant to section 4502 of the Metropolitan Administrative Code. Once water has been delivered to SDCWA for the Cyclic Account, ownership of the water transfers to SDCWA and only the obligation to pay for the water remains as agreed by the Parties pursuant to Sections 4 and 6.

9. Term

The term of this Agreement shall commence on the date and year listed at the beginning of the Agreement and shall terminate 10 years thereafter.

10. Effective Date

The effective date of this agreement shall commence on November 1, 2020.

11. Termination

In the event of a material breach hereunder, any party hereto may terminate this Agreement upon thirty (30) days' written notice to the other Parties hereto. Metropolitan may require amendment of this Agreement, or its termination, upon sixty (60) days' written notice if its Administrative Code is amended to change (i) the manner in which Metropolitan sets its water rates and charges for the sale and delivery of water (the rate structure), (ii) designations of classes of water service, or (iii) conditions of water service, in a manner which requires amendment of this Agreement. In the event this Agreement must be so amended, it shall be amended to provide water rates and charges applicable to water service for untreated water applicable to all of Metropolitan's member public agencies, except for any charge specifically set to recover costs incurred to meet peak distribution demands. In the event such an amendment to this Agreement cannot be obtained from any Party, this Agreement may be terminated by Metropolitan upon sixty (60) days' written notice to the other Parties hereto.

12. Purchase of Water After Termination

Upon termination, SDCWA is obligated to purchase all water remaining in the Metropolitan Cyclic Account within 90 days. During this period, all water demands from SDCWA to Metropolitan will be met with Metropolitan's Cyclic Account. Until the Account is depleted, SDCWA shall not obtain water from sources other than Metropolitan with the exception of local resource projects developed to offset imported water requirements.

13. Notices

Any notice required hereunder may be given by mail, postage prepaid, addressed as follows:

To: San Diego County Water Authority  
4677 Overland Avenue  
San Diego, CA 92123

Attention: General Manager

To: Metropolitan Water District  
700 N. Alameda Street  
Los Angeles, CA 90012

Attention: Chief Operating Officer

14. Interpretation

The Parties have developed this Agreement jointly and in consultation with their respective legal counsel. No ambiguity shall be resolved against any Party on the premise that it or its attorneys were responsible for drafting this Agreement or any of its terms.

15. Governing Law

This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

16. Counterparts

This Agreement may be executed in counterparts, and signatures transmitted via facsimile or electronic mail shall be deemed to be originals.

17. No Third Party Rights

This Agreement does not create any rights enforceable by any person or entity that is not a Party to this Agreement.

18. Authority

The Parties represent that the persons executing this Agreement on their behalf are authorized to do so.


19. Assignment

No Party shall assign its rights under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date and year listed at the beginning of the Agreement.

Approved as to form:

San Diego County Water Authority

By:   
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General Counsel

By:   
A9433391E1E2441...  
Sandra L. Kerl  
General Manager

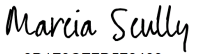
Date: 11/5/2020

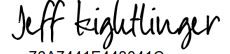
Date: 10/26/2020

Approved as to form:

The Metropolitan Water District  
of Southern California

Marcia L. Scully  
General Counsel

By:   
9D1F0CE7D878409...  
General Counsel

By:   
70A7441E443041C...  
Jeffrey Kightlinger  
General Manager

Date: 11/5/2020

Date: 11/19/2020

**CYCLIC STORAGE AGREEMENT AMONG  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,  
THREE VALLEYS MUNICIPAL WATER DISTRICT  
AND MAIN SAN GABRIEL BASIN WATERMASTER**

This Cyclic Storage Agreement (“Agreement”) is made as of June 1, 2020, by and among the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, THREE VALLEYS MUNICIPAL WATER DISTRICT (“Three Valleys”), a public agency of the State of California, and the MAIN SAN GABRIEL WATERMASTER (“Watermaster”), a court empowered entity appointed by the Superior Court of the State of California in and for the County of Los Angeles, in connection with Civil Action No. 924128, entitled, “Upper San Gabriel Valley Municipal Water District v. City of Alhambra, et al” (the “Basin Adjudication”).

**RECITALS**

A. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act (“MWD Act”). Wat. Code appen., §§ 109-25, 109-130.

B. Metropolitan secures water for its member agencies, including Three Valleys, primarily by importing water from the California State Water Project (“SWP”) and the Colorado River.

C. Three Valleys is a member public agency of Metropolitan and a wholesale water provider with a service area overlying the Main San Gabriel Basin (“Basin”), a groundwater basin located in Los Angeles County. Three Valleys is a municipal water district organized and operating under the Municipal Water District Law of 1911 (Water Code Section 71000 et seq.).

D. Water rights have been adjudicated in the Basin according to Judgment in the Basin Adjudication. The Judgment established Watermaster as the regulatory agency responsible for managing the Basin and authorized Watermaster to purchase supplemental water when an individual producer's production in the Basin exceeds his/her share of the operating safe yield, and for other purposes, hereafter referred to as "supplemental water requirements". The Judgment was most recently amended in 2012 in response to increasing uncertainties affecting the availability of local and supplemental water supplies. The 2012 Judgment amendment includes provisions to allow the Watermaster increased flexibility to acquire and store water during wet years for use during dry years. Three Valleys is responsible pursuant to the Judgment to provide supplemental imported water to Watermaster for recharge of the Basin on behalf of Three Valley's member agencies ("Responsible Agency").

E. Pursuant to section 34(n) of the Judgment, Watermaster is authorized to enter into cyclic storage agreements for utilization of groundwater storage capacity in the Basin for cyclic storage of supplemental water for subsequent recovery or Watermaster credit by the storing entity with all such agreements to be in accord with Uniform Rules and Conditions adopted by Watermaster.

F. Through this Agreement, the Parties intend to provide for the delivery of water by Metropolitan to Three Valleys in advance of demand for the water by Three Valleys to meet its supplemental water delivery requirements to Watermaster.

G. To provide for the spreading of water for cyclic storage, Watermaster and the Los Angeles County Flood Control District have heretofore entered into an agreement whereby the Flood Control District will undertake the responsibilities associated with actual spreading operations in the Basin.



H. The Parties are entering into to this Agreement for the purpose of giving Metropolitan the right to use up to 50,000 acre-feet of space in the Basin pursuant to the terms of this Agreement.

### COVENANTS

In consideration of the above recitals, the covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, IT IS AGREED:

1. Definitions

The definitions contained in the Judgment as of the date of this Agreement, are hereby incorporated by this reference and made a part hereof.

2. Priority of Agreement Within the Basin

Since Three Valleys is a Responsible Agency, as defined in the Judgment, and since Metropolitan is a supplier of supplemental water to Three Valleys and will be providing such water when available to enable Three Valleys to satisfy supplemental water requirements placed on Three Valleys by Watermaster, the rights granted under this Agreement shall have equivalent priority with rights granted Responsible Agencies under other Cyclic Storage Agreements entered into by Watermaster pursuant to its Uniform Rules and Conditions of Cyclic Storage Agreements.

3. Storage of Metropolitan Water

Three Valleys hereby agrees to enter into a cyclic storage arrangement with Metropolitan through this Cyclic Storage Agreement. In order to manage its water resources, Metropolitan may store water with Three Valleys through the delivery of water in advance of Three Valleys' purchase of that water. Metropolitan may request that Three Valleys accept delivery of water for

storage through direct spreading or injection, or through in-lieu means (“Metropolitan’s Cyclic Storage”). Three Valleys may accept delivery of Metropolitan water through written confirmation to Metropolitan that the water may be delivered to the Basin for future purchase by Three Valleys, in accordance with the terms of this Agreement.

In light of the San Gabriel Exchange and Purchase Agreement executed between San Gabriel Municipal Water District (“San Gabriel”) and Metropolitan in September 2013, this cyclic storage account may hold water delivered directly through Metropolitan’s spreading connection or through sale or exchange between Metropolitan and San Gabriel. Watermaster agrees to transfer and to perform accounting for transfers from San Gabriel’s cyclic storage account to Metropolitan’s cyclic storage account when Metropolitan and San Gabriel jointly make sure request.

Watermaster agrees that Metropolitan’s Cyclic Storage shall occupy space in the Basin pursuant to the Judgment. Watermaster agrees that Metropolitan’s Cyclic Storage shall be credited to Metropolitan and shall occupy up to 50,000 acre-feet of space until such time as purchased from Metropolitan by Three Valleys to meet its supplemental water requirements to Watermaster. Upon purchase of the water by Three Valleys, that water shall be credited to the supplemental water requirements of Three Valleys in accordance with the Judgment.

All water stored in Metropolitan’s account pursuant to this Agreement shall be: (i) spread by the Los Angeles County Flood Control District in accordance with its agreement with Watermaster; (ii) transferred by Watermaster from the San Gabriel cyclic storage account upon request by San Gabriel and Metropolitan; (iii) or pursuant to other arrangements approved by Watermaster. The time, place, and amount of such spreading within the Basin shall be approved in advance by Watermaster. Notwithstanding any other provisions of this Agreement,

Watermaster reserves the right to order the cessation or reduction in delivery rate of water being spread for cyclic storage if, in its sole judgment, Watermaster determines:

- a) That water previously authorized to be stored under this Agreement would cause the elevation of the groundwater in the Basin to adversely affect the Basin's highest utilitarian operation; or
- b) That such cessation or reduction in delivery rate is necessary to prorate the cyclic storage rights of all Responsible Agencies in the Basin; or
- c) That the spreading of supplemental water would be jeopardized by the continued spreading of water for cyclic storage when considering the necessity to protect the elevation of the Baldwin Park Key Well or to protect basin water quality.

During periods of delivery, Metropolitan shall issue a monthly report to Three Valleys and to Watermaster indicating the amount of water which Metropolitan has delivered and caused to be spread hereunder for storage in Metropolitan's account. Such report shall be subject to Watermaster's verification.

#### 4. Delivery, Amount, and Ownership of Stored Water

The amount of water to be stored in the Basin for Metropolitan under this Agreement shall not exceed 50,000 acre-feet at any point in time. Prior to each delivery of water by Metropolitan into the Cyclic Storage Account, the Parties shall mutually agree to: (1) the amount, location, and timing of actual water delivered pursuant to this Cyclic Storage Agreement; and (2) a schedule by which Three Valleys shall purchase the stored water. Any amendment to the delivery schedule shall require mutual agreement.

Until such time as Three Valleys purchases the stored water in accordance with Section 8, the water shall be accounted for in the Cyclic Storage Account, pursuant to Section 5.

5. Cyclic Storage Account

Watermaster agrees to perform accounting of spreading and transfer deliveries and purchases pursuant to this Agreement (the “Cyclic Storage Account”, or “Account”) and to report all spreading and extraction activities in compliance with the Judgment. Three Valleys will account for all spreading and transfer deliveries in and out of the Cyclic Storage Account and will maintain a record of the balance of water in the Cyclic Storage Account. The Parties to this Agreement will confirm accounting of transactions and balance at the end of each fiscal year for inclusion in the Watermaster Annual Report.

6. Delivery from the Cyclic Storage Account

Metropolitan shall deliver water to Three Valleys from the Cyclic Storage Account in accordance with the purchase schedule agreed to by the parties pursuant to Section 4. Metropolitan will bill Three Valleys for the water at the time of such deliveries in accordance with Section 8. In the event Three Valleys does not meet its purchase obligation in accordance with Sections 4 or 8, Metropolitan retains the prerogative to meet regular untreated water demands by Three Valleys either from water stored in its Cyclic Storage Account or from water in its distribution system. Metropolitan need not provide advance notice to Three Valleys when it exercises its prerogative under this Section.

7. Loss of Water

There shall be no losses assigned to Metropolitan’s Cyclic Storage account as a result of the delivery process into the account. Water delivered into this Cyclic Storage Account shall be fully credited to Metropolitan’s Cyclic Storage. Losses may be assigned to Metropolitan’s Cyclic Storage Account only for water stored in the account after delivery. Watermaster may determine and assign losses in water stored in Metropolitan’s account in the Basin, assuming that

cyclic-stored water floats on top of the groundwater supplies. Such losses shall be determined by accounting for all losses of natural water which would have replenished the Basin had water not been in cyclic storage, and Watermaster shall apportion such losses among all storing entities pursuant to and in accordance with Watermaster's Uniform Rules and Conditions governing cyclic storage by Responsible Agencies.

8. Obligation for Purchase and Payment

Three Valleys agrees to purchase water from Metropolitan's Cyclic Storage Account in accordance with Sections 4 and 6 of this Agreement, but no later than the termination of this Agreement. Three Valleys shall be billed by and pay Metropolitan in accordance with the billing and payment provisions in Metropolitan's Administrative Code, as amended over time. The purchase of water from Metropolitan's Cyclic Storage Account shall be equivalent to the sale and delivery of water for purposes of applying the provisions of Metropolitan's Administrative Code. Payments to Metropolitan for such sale of water from its Cyclic Storage Account shall be calculated using Metropolitan's rate for full service untreated water in effect at the time of the sale of water to Three Valleys. The sale of water from Metropolitan's Cyclic Storage Account to Three Valleys shall be included in the calculation of the Three Valleys' Ten-Year Rolling Sales Average for purposes of Metropolitan's Readiness-to-Serve Charge at the time stored water is sold to Three Valleys. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water for storage at its discretion.

9. Rent or Offset Credit

Unless otherwise separately agreed in writing for any specific delivery, it is hereby agreed that there shall be no charge, rent assessment, or expense incurred by Metropolitan by reason of the use of the Basin allowed hereunder, nor is there any credit or offset for the benefits thereof, nor

shall there be any charge to Metropolitan for the use of physical facilities including service connections, flood control channels, spreading basins or hydrologic services utilized in connection with the use of the Basin allowed herein.

10. Indemnity Clause

Neither Metropolitan nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of water supplied or delivered by Metropolitan to Three Valleys after such water has been delivered to Three Valleys; nor for claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water beyond the point of such delivery; and Three Valleys shall indemnify and hold harmless Metropolitan and its officers, agents, and employees from any such damages or claims of damages, and shall reimburse Metropolitan for costs of repair of Metropolitan's facilities and other damages resulting from the operations of Three Valleys or the Watermaster. Neither Three Valleys nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of water prior to such water being delivered to Three Valleys; nor for claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water prior to its delivery to Three Valleys, excepting, however, claims by Metropolitan for costs of repair to Metropolitan's facilities and other damages resulting from the operations of Three Valleys or the Watermaster; and Metropolitan shall indemnify and hold harmless Three Valleys and its officers, agents, and employees from any such damages or claims of damages, except claims by Metropolitan for costs of repair of Metropolitan's facilities and other damages resulting from the operations of Three Valleys or the Watermaster.

11. Term

The term of this Agreement shall commence on the date and year listed at the beginning of the Agreement and shall terminate ten (10) years thereafter. An extension of this term can be made upon mutual agreement of the Parties. Watermaster shall report its intention to consider an extension of this Agreement in its minutes of a meeting held prior to its meeting when any such extension shall be acted upon.

12. Termination

In the event of a material breach hereunder, any party hereto may terminate this Agreement upon thirty (30) days' written notice to the other Parties hereto. Metropolitan may require amendment of this Agreement, or its termination, upon sixty (60) days' written notice if its Administrative Code is amended to change (i) the manner in which Metropolitan sets its water rates and charges for the sale and delivery of water (the rate structure), (ii) designations of classes of water service, or (iii) conditions of water service, in a manner which requires amendment of this Agreement. In the event this Agreement must be so amended, it shall be amended to provide water rates and charges applicable to water service for untreated water applicable to all of Metropolitan's member public agencies, except for any charge specifically set to recover costs incurred to meet peak distribution demands. In the event such an amendment to this Agreement cannot be obtained from any Party, this Agreement may be terminated by Metropolitan upon sixty (60) days' written notice to the other Parties hereto.

In the event of termination with less than one-year notice, the Agreement shall continue for one year only for purposes of implementing deliveries from the San Gabriel Exchange and Purchase Agreement, Watermaster shall provide one-year notice of intent not to extend or to terminate this Agreement.

13. Purchase of Water After Termination

Upon notice of termination, Three Valleys is obligated to purchase all water remaining in the Metropolitan Cyclic Storage Account within 90 days. During this period, all untreated water demands from Three Valleys to Metropolitan will be met with Metropolitan's Cyclic Storage. Until the Cyclic Storage Account is depleted, Three Valleys shall not obtain water from sources other than Metropolitan with the exception of local resource projects developed to offset imported water requirements.

14. Notices

Any notice required hereunder may be given by mail, postage prepaid, addressed as follows:

To: Three Valleys Municipal Water District  
1021 E. Miramar Avenue  
Claremont, CA 91711-2052  
Attention: Matthew Litchfield, General Manager

To: Metropolitan Water District  
700 N. Alameda Street  
Los Angeles, CA 90012  
Attention: Deven Upadhyay, Chief Operating Officer

To: Main San Gabriel Basin Watermaster  
725 N. Azusa Avenue  
Azusa, CA 91702  
Attention: Anthony Zampielo, Executive Officer

15. Interpretation

The Parties have developed this Agreement jointly and in consultation with their respective legal counsel. No ambiguity shall be resolved against any Party on the premise that it or its attorneys were responsible for drafting this Agreement or any of its terms.

16. Governing Law



This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

17. Counterparts

This Agreement may be executed in counterparts, and signatures transmitted via facsimile or electronic mail shall be deemed to be originals.

18. No Third Party Rights

This Agreement does not create any rights enforceable by any person or entity that is not a Party to this Agreement.

19. Authority

The Parties represent that the persons executing this Agreement on their behalf are authorized to do so.

20. Assignment

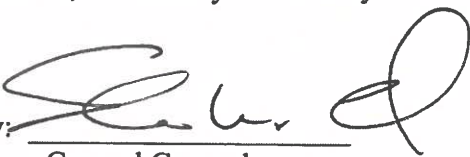
No Party shall assign its rights under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date and year listed at the beginning of the Agreement.

Approved as to form:

Three Valleys Municipal Water District

Steven M. Kennedy  
Brunick, McElhaney & Kennedy


By:   
General Counsel

By:   
Matthew Litchfield  
General Manager

June 17, 2020

Approved as to form:

Marcia L. Scully  
General Counsel

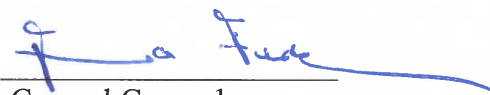
By:   
General Counsel

The Metropolitan Water District  
of Southern California

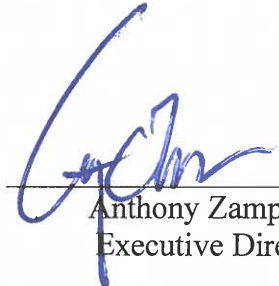
By:   
Jeffrey Kightlinger  
General Manager

Approved as to form:

Frederic A. Fudacz  
Nossaman LLP

By:   
General Counsel

Main San Gabriel Basin Watermaster

By:   
Anthony Zampielo  
Executive Director

**ELEVENTH AMENDMENT TO  
CYCLIC STORAGE AGREEMENT AMONG  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,  
UPPER SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT  
AND MAIN SAN GABRIEL BASIN WATERMASTER  
AGREEMENT NO. AO1637**

This ELEVENTH AMENDMENT (“Amendment”), is made as of August 1, 2019, to the Cyclic Storage Agreement (“Agreement”), by and among the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, the UPPER SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT (“Upper District”), a public corporation of the State of California, and the MAIN SAN GABRIEL BASIN WATERMASTER, a court empowered entity appointed by the Superior Court of the State of California in and for the County of Los Angeles, in connection with the Judgment in Los Angeles County Superior Court Civil Action No. 924128, titled “Upper San Gabriel Valley Municipal Water District v. City of Alhambra, et al.”

**RECITALS**

A. The Parties to this Amendment entered into the Agreement on July 1, 1985, for the purpose of giving Metropolitan the right to store up to 142,000 acre-feet of State Water Project water in the Basin. The Agreement was subsequently amended to change the storage limit to 100,000 acre-feet and the term has also subsequently been extended through amendments. The Agreement was last amended through the Tenth Amendment,

dated July 1, 2017. The Tenth Amendment to the Agreement is set to expire November 7, 2023.

B. Upper District and Metropolitan wish to make deliveries under the Agreement in an amount that would exceed the delivery limit of 100,000 acre-feet currently in place.

### COVENANTS

In consideration of the above recitals, the covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Cyclic Storage Agreement, last amended by the Tenth Amendment, as follows:

1. Amount of Stored Water

The amount of water to be stored in the Basin for Metropolitan hereunder shall not exceed 200,000 acre-feet at any point in time.

2. Term

The term of this Amendment shall commence on the date the last party signs and shall terminate November 7, 2023 unless previously terminated or extended as hereinafter provided.

3. Notices

Any notice required hereunder may be given by mail, postage prepaid, addressed as follows:

To: Main San Gabriel Basin Watermaster  
725 N. Azusa Ave.  
Azusa, CA 91702  
Attention: Executive Officer

To: Upper San Gabriel Valley Municipal Water District  
602 E. Huntington Drive, Suite B  
Monrovia, CA 91016  
Attention: General Manager

To: Metropolitan Water District  
700 N. Alameda Street  
Los Angeles, CA 90012  
Attention: Chief Operating Officer


4. Scope of Amendment


Except as amended herein, all provisions of the Agreement remain in full force and effect, as last amended by the Tenth Amendment of the Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be duly executed by its authorized officers.

Approved as to form:

**UPPER SAN GABRIEL VALLEY MUNICIPAL  
WATER DISTRICT**

By:   
General Counsel

By:   
Tom A. Love  
General Manager

Date: 10-16-19

Date: 10-16-19

Approved as to form:

**THE METROPOLITAN WATER DISTRICT  
SOUTHERN CALIFORNIA**

Marcia L. Scully  
General Counsel

By: M. Scully  
General Counsel

By: J. Kightlinger  
Jeffrey Kightlinger  
General Manager

Date: 10-29-19

Date: 10/31/19

Approved as to form:

**MAIN SAN GABRIEL BASIN  
WATERMASTER**

By: F. J. Jua  
General Counsel

By: A. Zampello  
Anthony Zampello  
Executive Director

Date: 10.2.19

Date: 10.2.19

**CYCLIC AGREEMENT AMONG  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,  
WESTERN MUNICIPAL WATER DISTRICT, AND  
RANCHO CALIFORNIA WATER DISTRICT**

This Cyclic Agreement (“Agreement”) is made as of August 1, 2019, by and among THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, WESTERN MUNICIPAL WATER DISTRICT (“Western”), a public agency of the State of California, and RANCHO CALIFORNIA WATER DISTRICT (“RCWD”), a public agency of the State of California (collectively, the “Parties”).

**RECITALS**

A. Metropolitan is a wholesale provider to its 26 member agencies, created under The Metropolitan Water District Act, Wat. Code appen., §§ 109-25, 109-130 (“MWD Act”).

B. Western is a member public agency of Metropolitan and a wholesale water provider within the Santa Rosa Division of RCWD and areas overlying portions of the Temecula Valley Groundwater Basin (“Basin”), a groundwater basin located in Riverside County. Western purchases water from Metropolitan, and sells such water to its member agencies, including RCWD. Western was created under the Municipal Water District Act of 1911. Wat. Code, §71000, *et seq.*

C. RCWD is a retail water provider water provider with a service area overlying the Basin. The Basin is designated by California Department of Water Resources California’s Groundwater Bulletin 118 as basin 9-005. The Basin includes the Pauba and Temecula Aquifers.



RCWD receives its imported water from Western, as well as Eastern Municipal Water District, also a member public agency of Metropolitan.

D. Metropolitan imports water from the California State Water Project and the Colorado River and delivers those supplies to its member agencies, including Western.

E. Through this Agreement, the Parties intend to provide for the delivery of water by Metropolitan to Western for sale to RCWD in advance of demand for the water.

### **COVENANTS**

In consideration of the above recitals, the covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, IT IS AGREED:

1. **Pre-delivery of Metropolitan Water**

Western and RCWD hereby agree to enter into a pre-delivery arrangement with Metropolitan through this Cyclic Agreement. In order to manage its water resources, Metropolitan may pre-deliver water to Western, via RCWD's storage rights in the basin, in advance of Western's purchase and demand of that water for sale to RCWD. Metropolitan may request that Western accept delivery of up to 20,000 acre-feet of water, via RCWD's storage rights in the basin, through direct spreading or injection, or through in-lieu means. Western may accept delivery of Metropolitan water through written confirmation to Metropolitan that the water may be delivered to Western for future purchase by Western in accordance with the terms of this Agreement. Western shall be solely responsible for storing any water delivered by Metropolitan and account for that water in a cyclic account ("Cyclic Account"), and its obligation to purchase the water from Metropolitan remains regardless of whether Western secures proper storage for that water in the Basin.

2. Delivery into Cyclic Account

The amount of water delivered to Western by Metropolitan under this Agreement shall not exceed 20,000 acre-feet at any point in time. Metropolitan will deliver water into its Cyclic Account through Metropolitan's Service Connection WR-26 and WR-28, which serves only RCWD. Prior to any delivery of water by Metropolitan into the Cyclic Account, the Parties shall mutually agree (1) to the amount, location, and timing of actual water delivered pursuant to this Cyclic Agreement, and (2) to a schedule by which Western shall purchase the delivered water. Any amendment to the delivery schedule shall require mutual agreement. Until such time as Western purchases the delivered water in accordance with Section 7, the water shall be accounted for in the Cyclic Account, pursuant to Section 3.

3. Cyclic Account

RCWD agrees to perform accounting of deliveries and purchases to the Cyclic Account pursuant to this Agreement. RCWD will account for all deliveries in and out of the Cyclic Account and will maintain a record of the balance of water in the Cyclic Account. The Parties to this Agreement will confirm accounting of transactions and balance at the end of each fiscal year.

4. Delivery from the Cyclic Account

Metropolitan shall deliver water to Western from the Cyclic Account in accordance with the schedule agreed to by the parties pursuant to Section 2. Metropolitan will bill Western, and Western will bill RCWD, for the water at the time of purchase in accordance with Section 7. In the event Western does not meet the purchase obligation in accordance with Sections 2 and 6, Metropolitan retains the prerogative to meet regular water demands by Western either from water stored in its Cyclic Account in the Basin or from water in its distribution system.

Metropolitan will provide advance notice to Western when it exercises its prerogative under this Section.

5. Loss of Water

There shall be no losses assigned to the Cyclic Account in the Basin. Water delivered through direct spreading or injection, or through in-lieu means into the Cyclic Account shall be fully credited to the Cyclic Account.

6. Withdrawal and Use of Cyclic Storage

RCWD shall have the right to withdraw and use any water delivered and purchased in the Cyclic Storage Account at any time.

7. Obligation for Purchase and Payment

Western agrees to purchase water from the Cyclic Account, in accordance with Sections 2 and 4 of this Agreement, but no later than the termination date of this Agreement. Western shall be billed by and pay Metropolitan in accordance with the billing and payment provisions in Metropolitan's Administrative Code, as amended over time. The purchase of water from the Cyclic Account shall be equivalent to the sale and delivery of water for purposes of applying the provisions of Metropolitan's Administrative Code. Payments to Metropolitan for such sale of water from its Cyclic Account shall be calculated using Metropolitan's rate for Full Service untreated water in effect at the time of the sale of water to Western. The sale of water from the Cyclic Account to Western shall be included in the calculation of the Western's Ten-Year Rolling Sales Average for purposes of Metropolitan's Readiness-to-Serve Charge at the time stored water is sold to Western. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water at its discretion.

RCWD is responsible for paying Western for the water Western purchases from Metropolitan in accordance with Western's standard terms and conditions for the sale of Metropolitan water. When Metropolitan invoices Western, Western will invoice RCWD, and RCWD is responsible for paying Western for the water Western purchases from Metropolitan, in accordance with Western's standard terms and conditions for the sale of Metropolitan water as applicable to the Cyclic Account. Western will pass on all costs and benefits of the water to RCWD as applicable to the Cyclic Account. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water at its discretion.

Any failure by RCWD to pay Western for water purchased under this Agreement shall not affect Western's obligation to pay Metropolitan for water deliveries under this Agreement. Any difficulty or inability of RCWD to extract water delivered pursuant to this Agreement is not the fault of Western or Metropolitan, and does not affect RCWD's obligation to pay Western for water deliveries under this Agreement.

RCWD agrees to include the projected expense of the cyclic water as defined in the schedule in its annual budget.

8. Rent or Offset Credit

It is hereby agreed that there shall be no charge, rent assessment, or expense incurred by Metropolitan by reason of the pre-delivery of water to Western by Metropolitan, nor is there any credit or offset for the benefits thereof, nor shall there be any charge to Metropolitan for the use of physical facilities including service connections, flood control channels, spreading basins or hydrologic services utilized in connection with any pre-delivery allowed herein.

9. Indemnity Obligations

a. Metropolitan and Western

Liability and indemnification obligations between Metropolitan and Western shall be determined pursuant to section 4502 of the Metropolitan Administrative Code (with Metropolitan identified below as “District” and Western as “member public agency”), as follows:

Neither the District nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of water supplied or delivered by the District to a member public agency after such water has been delivered to such member public agency; nor for claim of damage of any nature whatsoever, including, but not limited to, property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water beyond the point of such delivery; and the member public agency shall indemnify and hold harmless the District and its officers, agents, and employees from any such damages or claims of damages, and shall reimburse the District for costs of repair of the District's facilities and other damages resulting from the operations of the member public agency. Neither the member public agency nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of water prior to such water being delivered to the member public agency; nor for claim of damage of any nature whatsoever, including, but not limited to, property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water prior to its delivery to such member public agency, excepting, however, claims by the District for costs of repair to the District's facilities and other damages resulting from the operations of the member public agency; and the District shall indemnify and hold harmless the member public agency and its officers, agents, and employees from any such damages or claims of damages, except claims by the District for costs of repair of the District's facilities and other damages resulting from the operations of the member public agency.

Metropolitan provides no warranty or guarantee regarding the quality or content of its untreated water or the suitability of its use for replenishment of groundwater basins. Western and RCWD acknowledge that they are accepting untreated water “as is.”

As to indemnity issues between Metropolitan and RCWD, RCWD agrees to the applicability of section 4502 of the Metropolitan Administrative Code in the same manner as that section applies to Western, and in that context “District” means Metropolitan and “member public agency” means RCWD.

b. Western and RCWD

(1) Western shall indemnify, defend, and hold harmless RCWD, and each of their respective officers, agents, and employees, from and against any and all claims, costs, damages, injuries, or liability arising out of, resulting from, or alleged to arise out of or result from any negligent act or omission of Western.

(2) RCWD shall indemnify, defend, and hold harmless Western, and each of their respective officers, agents, and employees, from and against any and all claims, costs, damages, injuries, or liability arising out of, resulting from, or alleged to arise out of or result from any negligent act or omission of RCWD.

10. Term

The term of this Agreement shall commence on the date and year listed at the beginning of the Agreement and shall terminate 10 years thereafter.

11. Effective Date

The effective date of this agreement shall commence on August 1, 2019.

12. Termination

In the event of a material breach hereunder, any party hereto may terminate this Agreement upon thirty (30) calendar days' written notice to the other Parties hereto. Metropolitan may require amendment of this Agreement, or its termination, upon sixty (60) calendar days' written notice if its

Administrative Code is amended to change (i) the manner in which Metropolitan sets its water rates and charges for the sale and delivery of water (the rate structure), (ii) designations of classes of water service, or (iii) conditions of water service, in a manner which requires amendment of this Agreement. In the event this Agreement must be so amended, it shall be amended to provide water rates and charges applicable to water service for untreated water applicable to all of Metropolitan's member public agencies, except for any charge specifically set to recover costs incurred to meet peak distribution demands. In the event such an amendment to this Agreement cannot be obtained from any Party, this Agreement may be terminated by Metropolitan upon sixty calendar (60) days' written notice to the other Parties hereto.

13. Purchase of Water After Termination

Upon notice of termination, Western is obligated to purchase all water remaining in the Cyclic Account within 90 calendar days. During this period, all water demands from Western to Metropolitan will be met with the Cyclic Account. Until the Cyclic Account is depleted, Western shall not obtain water from sources other than Metropolitan with the exception of local resource projects developed to offset imported water requirements.

As indicated above, RCWD is obligated to purchase such water from Western in accordance with the terms and conditions of this Agreement.

Failure by RCWD to purchase any water from Western shall not affect Western's obligation to purchase water from Metropolitan under this Agreement.

14. No Interference

Nothing in this Agreement is intended to or shall interfere with RCWD's sole, reasonable discretion to satisfy its operational needs or impinge its right to manage the Basin, including, but not limited to, its rights under Appropriation Permit No. 7032. Nothing in this Agreement is intended to

or shall interfere with any obligations RCWD has in any other agreement related to the operation and maintenance of the Basin.

15. Notices

Any notice required hereunder may be given by mail, postage prepaid, addressed as follows:

To: Western Municipal Water District  
14205 Meridian Parkway  
Riverside, CA 92518

Attention: General Manager

To: Rancho California Water District  
42135 Winchester Road  
Temecula, CA 92590

Attention: General Manager

To: Metropolitan Water District  
700 N. Alameda Street  
Los Angeles, CA 90012

Attention: Chief Operating Officer

16. Interpretation

The Parties have developed this Agreement jointly and in consultation with their respective legal counsel. No ambiguity shall be resolved against any Party on the premise that it or its attorneys were responsible for drafting this Agreement or any of its terms.

17. Governing Law

This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

18. Counterparts



This Agreement may be executed in counterparts, and signatures transmitted via facsimile or electronic mail shall be deemed to be originals.

19. No Third Party Rights

This Agreement does not create any rights enforceable by any person or entity that is not a Party to this Agreement.

20. Authority

The Parties represent that the persons executing this Agreement on their behalf are authorized to do so.

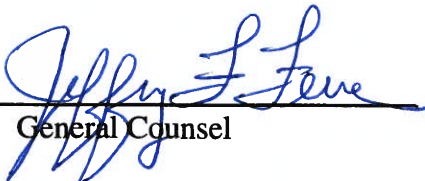
21. Assignment

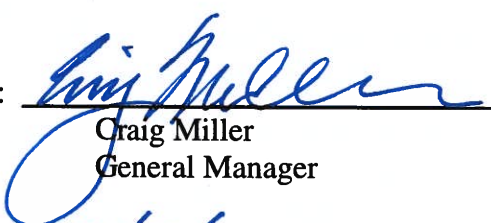
No Party shall assign its rights under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date and year listed at the beginning of the Agreement.

Approved as to form:

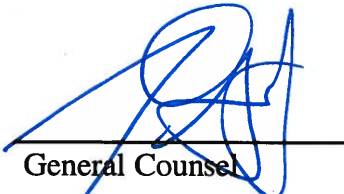
WESTERN MUNICIPAL WATER DISTRICT

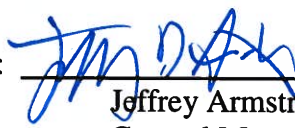
By:   
General Counsel  
Date: 3/4/2020

By:   
Craig Miller  
General Manager  
Date: 3/2/2020

Approved as to form:

RANCHO CALIFORNIA WATER DISTRICT


By:   
General Counsel  
Date: 4/20

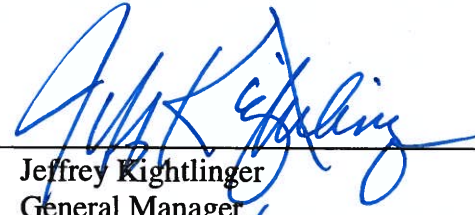
By:   
Jeffrey Armstrong  
General Manager  
Date: 4-16-2020

Approved as to form:

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

Marcia L. Scully  
General Counsel

By:   
General Counsel  
Date: 10-23-2020

By:   
Jeffrey Kightlinger  
General Manager  
Date: 10/23/2020

