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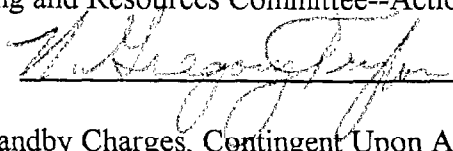
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

OCT 13 1998

  
EXECUTIVE SECRETARY

September 21, 1998

**To:** Board of Directors (Budget and Finance Committee--Action)  
(Water Planning and Resources Committee--Action)

**From:** General Counsel 

**Subject:** Resolution Fixing and Adopting Standby Charges, Contingent Upon Annexation,  
Within Proposed Guajome Annexation to Metropolitan, San Diego County Water  
Authority and Vista Irrigation District

### RECOMMENDATION

It is recommended that the Board approve the resolution in the form of Exhibit A to this letter fixing and adopting standby charges, contingent upon annexation, at the rate of \$11.51 per acre or per parcel of less than one acre within the proposed annexation identified above.

### EXECUTIVE SUMMARY

At its April 14, 1998 meeting, the Board consented to the proposed annexation of the proposed Guajome Annexation to the San Diego County Water Authority (SDCWA), Vista Irrigation District and Metropolitan. Thereafter, SDCWA requested that Metropolitan impose standby charges, contingent upon completion of annexation, within the territory of the proposed annexation.

Resolution No. 8583 giving notice of intent to impose standby charges at the rate of \$11.51 per acre, or per parcel of less than one acre (the same rate as existing standby charges levied by Metropolitan within the territory of SDCWA), was adopted on June 9, 1998. The sole property owner, the County of San Diego, has consented to imposition of the standby charges.

### DETAIL REPORT

At its April 14, 1998, meeting, the Board consented to the proposed annexation of the proposed Guajome Annexation to SDCWA, Vista Irrigation District and Metropolitan, by adoption of Resolution No. 8580. Thereafter, by letter dated May 19, 1998, SDCWA requested that Metropolitan impose standby charges, contingent upon completion of annexation, within the territory of the proposed annexation.

Resolution No. 8583 giving notice of intent to impose standby charges at the rate of \$11.51 per acre, or per parcel of less than one acre (the same rate as existing standby charges levied by Metropolitan within the territory of SDCWA), was adopted on June 9, 1998. The proposed annexation contains 10.28 acres.

Resolution No. 8583 set a public hearing on the standby charges for September 15, 1998, and instructed the Executive Secretary to mail assessment ballots giving notice of the proposed imposition of standby charges and providing opportunity for the property owner to consent to or protest the charges. The sole property owner, the County of San Diego, returned the ballots to the Executive Secretary indicating consent to imposition of the standby charges. No interested members of the public appeared at the public hearing.

The above recommendation proposes that the Board adopt the attached Resolution fixing and adopting water standby charges for fiscal year 1998-99 at the rate of \$11.51 per acre, or per parcel of less than one acre, contingent upon completion of annexation.

SBB:gmy  
#11991

Attachment A to Board Letter 7-10  
Legal Department  
September 21, 1998

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

RESOLUTION 8608

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**RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE METROPOLITAN WATER DISTRICT OF  
SOUTHERN CALIFORNIA  
FIXING AND ADOPTING WATER STANDBY CHARGE  
CONTINGENT UPON ANNEXATION**

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WHEREAS, by Resolution 8583, adopted at its meeting held June 9, 1998, the Board of Directors (Board) of The Metropolitan Water District of Southern California (Metropolitan) gave notice of the intention of Metropolitan's Board to consider and take action at its regular meeting to be held September 15, 1998, on the General Manager's recommendation to impose a water standby charge for fiscal year 1998-99 on the properties described in the Engineer's Report dated June 1998, which was prepared by a registered professional engineer certified by the State of California and was attached as Attachment 1 to Resolution 8583;

WHEREAS, the owners of the parcels identified in the Engineer's Report dated June 1998 have applied for annexation into the San Diego County Water Authority (SDCWA), Vista Irrigation District and Metropolitan;

WHEREAS, upon annexation, Metropolitan water will be available to such properties and such parcels will receive the benefit of the projects provided in part with proceeds of Metropolitan water standby charges, as described in the Engineer's Report;

WHEREAS, SDCWA has requested that Metropolitan impose water standby charges on such properties at the rate specified in the Engineer's Report and provided herein, following annexation of such properties into Metropolitan;

WHEREAS, Resolution 8583 provided that the Board would meet in regular session at its meeting on September 15, 1997, to hold a public protest hearing at which

interested parties may present their views regarding the proposed standby charges and the Engineer's Report;

WHEREAS, pursuant to the terms of Resolution 8583 the Executive Secretary provided written notice in accordance with the requirements of Article XIII D, Section 4, of the California Constitution of the proposed standby charge by mail to the record owner of each property identified in the Engineer's Report of such public hearing, and each notice included an assessment ballot whereby the owner could indicate his or her name, reasonable identification of his or her parcel, and his or her support for or opposition to the proposed water standby charge;

WHEREAS, the Board conducted a public hearing at its regular meeting on September 15, 1998, at which interested parties were given the opportunity to present their views regarding the proposed water standby charge and the Engineer's Report and to protest the charges, if they so desired, and the Board duly considered all such protests and other views presented to it at the public hearing; and

WHEREAS, prior to the conclusion of the public hearing the Executive Secretary tabulated the assessment ballots submitted at or before the hearing, and found that no ballots were submitted in opposition to the charges, and that no majority protest (as defined in Article XIII D, Section 4 of the California Constitution) exists;

NOW THEREFORE, the Board of Directors of The Metropolitan Water District of Southern California does hereby resolve, determine and order as follows:

**Section 1.** That the Board of Directors of Metropolitan, pursuant to the Engineer's Report dated June 1998 and attached to Resolution 8583, finds that the lands described in said Engineer's Report upon annexation to Metropolitan will be benefited as described in such report and on that basis, hereby fixes and adopts a water standby charge for fiscal year 1998-99 on such lands to which Metropolitan water is made available for any purpose, whether water is actually used or not.

**Section 2.** That the standby charge per acre of land, or per parcel of land less than an acre, as shown in the Engineer's Report, shall be \$11.51, which is equal to the amount of Metropolitan's existing standby charge on other properties located within the territory of SDCWA.

**Section 3.** That no charge on any parcel exceeds the reasonable cost of the proportional special benefit conferred on that parcel, as shown in the Engineer's Report. The Engineer's Report separates the special benefits from the general benefits and identifies each of the parcels on which a special benefit is conferred.

**Section 4.** That the water standby charge shall be collected on the tax rolls, together with the ad valorem property taxes which are levied by Metropolitan for the payment of pre-1978 voter-approved indebtedness. Any amounts so collected shall be applied as a

credit against SDCWA's obligation to pay its readiness-to-serve charge for fiscal year 1998-99. After such member agency's readiness-to-serve charge allocation is fully satisfied, any additional collections shall be credited to other outstanding obligations of such member agency to Metropolitan or future readiness-to-serve obligations of such agency.

**Section 5.** That the water standby charge is fixed and adopted contingent upon completion of annexation of the lands described in the Engineer's Report, or any portion thereof, into Metropolitan on or before June 30, 1999. In the event that only a portion of such lands are annexed into Metropolitan on or before June 30, 1999, only such portion as is actually annexed shall be subject to Metropolitan standby charges. Following completion of annexation, such charges shall be imposed on the annexed portion of the lands described in the Engineer's Report without any further action of this Board. In the event that no portion of the lands identified in the Engineer's Report is annexed prior to June 30, 1999, the authorization contained in this Resolution shall expire and this Resolution shall have no further force or effect.

**Section 6.** That in the event that the water standby charge, or any portion thereof, is determined to be an unauthorized or invalid fee, charge or assessment by a final judgment in any proceeding at law or in equity, which judgment is not subject to appeal, or if the collection of the water standby charge shall be permanently enjoined and appeals of such injunction have been declined or exhausted, or if Metropolitan shall determine to rescind or revoke the water standby charge, then no further standby charge shall be collected within the territory described in the Engineer's Report and SDCWA shall pay its readiness-to-serve charge obligation to Metropolitan in full, as if imposition of such water standby charges had never been sought.

**Section 7.** That this Board finds that the water standby charges provided in this Resolution are exempt from the provisions of the California Environmental Quality Act (CEQA) under State CEQA Guidelines 15378(b)(5) since they constitute the creation of government funding mechanisms which do not involve commitment to any specific project which may result in a potentially significant physical impact on the environment or which will be used to fund projects which have CEQA documentation in place prior to construction of any facility or facilities.

**Section 8.** That the General Manager is hereby authorized and directed to take all necessary action to secure the collection of the water standby charge by the appropriate county officials, including payment of the reasonable cost of collection.

**Section 9.** That the General Manager and General Counsel are hereby authorized to do all things necessary and desirable to accomplish the purposes of this Resolution, including, without limitation, the commencement or defense of litigation.

**Section 10.** That if any provision of this Resolution or the application to any member agency, property or person whatsoever is held invalid, that invalidity shall not affect the other provisions or applications of this Resolution which can be given effect without the invalid portion or application, and to that end the provisions of this Resolution are severable.

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of a Resolution adopted by the Board of Directors of The Metropolitan Water District of Southern California, at its meeting held on October 13, 1998.

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Executive Secretary  
The Metropolitan Water District  
of Southern California