

- **Board of Directors**
Water Planning and Resources Committee

April 11, 2000 Board Meeting

9-1

Subject

Principles of Agreement for Clarifying Amendments to the State Water Contract Developed by the State Water Project Contractors and Department of Water Resources (DWR)

Description

In late 1998, Metropolitan, other State Water Project (SWP) contractors, and DWR developed principles to refine the water supply contracts. The Board authorized the General Manager to execute an amendment implementing those principles with the exception of principles not exempt under the California Environmental Quality Act (CEQA). A summary of the 1998 principles is included in [Attachment 1](#). DWR subsequently informed the contractors that it was reassessing whether these principles were exempt. However, a change in DWR administration delayed the reassessment.

DWR subsequently requested several additional issues be addressed in renewed negotiations. In December 1999, these negotiations concluded with additional principles, which are summarized in [Attachment 2](#) and address the following areas:

- Pay-as-you-go financing of Conservation Operations and Maintenance Charges;
- Water purchases;
- Short-term financing;
- Expanded Water System Revenue Bond financing; and
- Transitional water program.

These changes will further Metropolitan's goal to provide cost-effective and high-quality water supplies to its customers by:

- Providing a vehicle for water exchanges;
- Establishing conveyance priorities for water exchanges and purchases;
- Allowing a choice to not pay for water purchase programs that do not provide benefits to Metropolitan; and
- Pursuing cooperatively with other SWP contractors additional opportunities to increase the operational and financial flexibility of the SWP.

Staff is currently engaged in developing language to implement the principles outlined in [Attachment 1](#) and [Attachment 2](#). Board authorization to implement the final package of amendments and administrative procedures will be sought in the future. Staff's further discussions with DWR will be conducted in coordination with the review process of the SWP initiated at the February 22, 2000, joint workshop of Water Planning and Resources and Legal and Claims Committees.

Policy

SWP contract amendments require Board authorization.

Board Options/Fiscal Impacts

Option #1

Affirm/approve principles in [Attachment 1](#) and approve the principles summarized in [Attachment 2](#), guiding the General Manager in negotiating SWP contract amendments consistent with these principles, and in a form acceptable to the General Counsel.

Fiscal Impact: Increased SWP contract value, although the precise value cannot be quantified at this time due to many unknown factors.

Option #2

Approve a sub-set of the principles in **Attachment 1** and **Attachment 2** and direct staff to continue negotiations regarding the remainder.

Fiscal Impact: Unable to determine at this time.

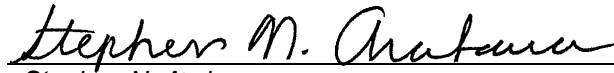
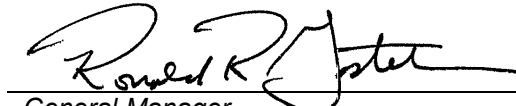
Option #3

Withdraw prior approval of principles in **Attachment 1** and do not approve remaining principles in **Attachment 2**.

Fiscal Impact: Water management and financial benefits associated with a future amendment would not be available to Metropolitan.

Staff Recommendation

Option #1.

	3/20/2000
Stephen N. Arakawa Acting Manager, Water Resource Management	Date
	3/29/2000
General Manager	Date

Attachment 1
Attachment 2

SUMMARY OF NOVEMBER 1998
STATE WATER PROJECT CONTRACT AMENDMENT
AND ADMINISTRATIVE REVISIONS

Storage and Exchange Programs

Unbalanced Storage and Exchange Programs: Unbalanced programs for storage outside a contractor's service area and for exchanges are identified as acceptable under the following conditions: (a) delivery-to-return ratio may be up to two for one; (b) unbalanced portion that remains must be used within partner's service area; and (c) programs shall not be disguised sales.

Programs Limits: The annual total in all storage programs combined that a contractor can store outside its service area is limited as under existing State Water Project (SWP) Contract provisions. The annual total of all exchanges initiated by a contractor in any year is limited to ten percent of that contractor's entitlement. The return of exchanges shall be completed within ten years of delivery.

Storer vs. Seller Rule: A contractor delivering water to a storage or exchange program in any year cannot be a seller to the Turnback Pool in that year.

Facility Use Fees: A contractor delivering water to a storage or exchange program is not subject to use-of-facilities fees if it or its partner participates in repayment of the reaches used.

Aqueduct Delivery Priorities and Charges

General Aqueduct Deliveries: In the event of capacity limitations for delivery, a contractor generally has priority to have any type of water delivered to it within the capacity paid for by it, up to the amount of the contractor's entitlement in a year and its maximum monthly delivery rate.

Delivery and Charges for Purchases of Entitlement: A contractor permanently purchasing entitlement that needs capacity for delivery downstream of the seller has the following options: (a) purchase excess capacity from another contractor; (b) pay for construction of additional capacity; (c) pay a proportionate share of past and future costs of existing aqueduct capacity, with a first priority for use of other contractors' unused capacity; and (d) pay a proportionate share of future costs, with a second priority for use of other contractors' unused capacity.

Additional Deliveries: Contractors participating in reach repayment have third priority for use of other contractors' unused capacity (i.e., after use by purchasing contractors choosing options c or d above) for delivery of any type of water, without any additional facility-use charges.

Turnback Pool

In the event that the Department of Water Resources (DWR) reduces water allocations, all Pool A sales and purchases are irrevocable. For Pool B, sellers may reduce the amount for sale for allocation reductions by April 15, but sales and purchases are irrevocable for later reductions.

Storer vs. Seller Rule

The SWP Contract restriction on a contractor both storing water outside its service area and selling water in the Turnback Pool does not apply to a contractor that has stored water under the Contract's pre-1995 carryover provision if that contractor relinquishes that carryover.

Tulare Lake Basin Water Storage District (Tulare) Trust Fund

Tulare's agricultural contractor rate management trust fund may be used in years when Tulare is flooded to pay that portion of its fixed SWP costs equal to the percentage of land that could not be planted due to flooding through June 30.

Urban Rate Management Allocation

The computation for allocation of urban contractor rate management credits shall not include new capital costs for any project not using the project interest rate other than the Coastal Extension and the East Branch Extension Phases 1 and 2.

Entitlement Reductions

Charges: DWR will be authorized to increase contractor charges to cover revenue shortfalls that result from contractors temporarily reducing entitlements up to a total of 120,000 acre-feet in any year. Increased charges are allocated to contractors in proportion to entitlements.

Limitations: If requests for entitlement reductions exceed 120,000 acre-feet, reductions shall be prorated based on requesting contractors' entitlements. Within the 120,000 acre-foot threshold, contractors can secure an initial reduction of at least 2,000 acre-feet, with a maximum of 50,000 acre-feet. Reductions must be for at least five years, during which time they cannot be changed.

Additional Reductions: The charges and limitations above apply to an initial 120,000 acre-feet of entitlement reductions. Additional entitlement reductions may be made under existing SWP Contract provisions. DWR's exiting authority to withhold approval of reductions is increased to include withholding approval if it would impair the financial integrity of the SWP.

Castaic Lake

Castaic Lake Water Agency is eligible to use additional flexible storage at Castaic Lake if, for delivery of the additional entitlement it has purchased, it pays a proportionate share of both past and future aqueduct reach costs and an increased proportion of Castaic Lake costs. The flexible storage available to Metropolitan is not reduced.

Integrated Package

Those provisions that require a SWP Contract amendment shall be included in one amendment. A Contractor choosing not to participate shall not be affected adversely or beneficially.

SUMMARY OF DECEMBER 1999 PRINCIPLES
FOR STATE WATER PROJECT CONTRACT AMENDMENT

1. **Pay-As-You-Go Conservation Operations and Maintenance Charges:** Charges to the State Water Project (SWP) Contractors for annual operation and maintenance (O&M) costs of SWP Conservation (i.e., water supply development) facilities will be converted from the existing amortized method of repayment to a pay-as-you-go method of repayment.
2. **Water Rights Settlement Purchases:** Costs of any Department of Water Resources (DWR) purchases of water rights settlement water will be charged to SWP Contractors under an amortized method of repayment.
3. **Project Water Purchases:** DWR retains its existing SWP Contract authority to purchase water to enhance SWP supplies and to charge Contractors for such purchases under the existing amortized method of repayment.
4. **Opt-Out Water Purchases:** DWR will purchase water on behalf of interested Contractors on an opt-out basis. The costs of such purchases will be charged to buying Contractors on a pay-as-you-go basis, with an option for two to five-year financing of these charges.
5. **Short-Term Financing:** DWR may obtain two to five-year financing for charges to Contractors for unanticipated and extraordinary O&M costs, for both SWP Conservation (water supply) and Transportation (water delivery) facilities. Contractors may opt-out of such financing, and any related financing and administrative costs, by paying their O&M costs on a current year basis.
6. **Water System Revenue Bond Financing Expansion:** The existing SWP Contract list of facilities that are eligible for financing through Water System Revenue Bonds will be expanded to include Phase 2 of DWR's Business 2000 Information System and other information system improvements. Actual financing of information system improvements shall be subject to DWR/Contractor consultation.
7. **Transitional Water:** Contractors purchasing the 130,000 acre-feet of agricultural entitlement made available under the Monterey Amendment will be allowed to participate in a program where all or a portion of the purchased entitlement can continue to be delivered to the selling Contractor under a fixed schedule for five years, with the selling Contractor paying the Delta Water Charge for this entitlement during this period. This arrangement may be extended, and the entitlement amounts revised under a fixed schedule, for a second five-year period.
8. **Integrated Package:** A contractor may participate in all or none of the provisions of these Principles, as well as the SWP Contract amendment negotiated in November 1998. A Contractor choosing not to participate shall receive none of the benefits of these Principles.
9. **No Precedent:** If the parties do not enter into the SWP Contract amendments, the parties agree not to utilize these Principles in any court proceedings relating to matters addressed in this agreement.