

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

July 12, 2005 Board Meeting

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**8-6**

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**Subject**

Authorize entering into an agreement for the Long Beach Conjunctive Use Program Expansion in Lakewood with the City of Long Beach utilizing \$3.1 million of Proposition 13 funds

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**Description**

The Governor's Annual Budget Act, of May 2000, appropriated local assistance grant funds from Proposition 13 to the California Department of Water Resources (DWR). From these funds, DWR allocated \$45 million to Metropolitan to help finance Southern California water reliability projects targeting groundwater conjunctive use projects within Metropolitan's service area. Conjunctive use projects improve the water supply reliability for the entire region by creating additional dry-year supply, as targeted in the Integrated Water Resources Plan.

Metropolitan issued an initial Request for Proposals to its member agencies in November 2000 seeking participation in groundwater storage programs, and subsequently short-listed nine projects. Five agreements have been approved by the Board and executed with member agencies and other partners. These agreements are with Long Beach, Central Basin MWD, Inland Empire Utilities Agency, the Municipal Water District of Orange County, Foothill MWD, and Three Valleys MWD. The other projects that had been short-listed at that time have not been able to proceed due to increasing costs and feasibility factors. Metropolitan issued a second Request for Proposals in December 2003 for participation in groundwater storage programs to reallocate the unused Proposition 13 funds. In May 2004, staff reported to the Board that three projects submitted by Compton, Long Beach, and Three Valleys MWD had been short-listed to receive funds.

The Long Beach Conjunctive Use Program expansion in the city of Lakewood is located within the Central Basin. The proposed program expansion utilizes a portion of the adjudicated water rights of the city of Lakewood in the Central Basin pursuant to a separate agreement between the Long Beach Water Department and the city of Lakewood. The program is recommended to receive \$3.1 million from the remaining Proposition 13 funds allocated to Metropolitan. This conjunctive use program will enable Metropolitan to store up to 3,600 acre-feet of water in the Central Basin when surplus water is available during wet years and produce 1,200 acre-feet per year for three years to meet the city of Long Beach's water demands during dry, drought, or emergency periods. The program includes construction of an aquifer storage and recovery (ASR) well and approximately 8,000 feet of 12-inch diameter pipeline to connect the well in Lakewood into the city of Long Beach's water supply distribution system. Under the agreement, Long Beach would be responsible for the design, construction, and operation of the facilities. During the 25-year term of agreement, Metropolitan would pay for costs for operations and maintenance of the well and energy costs for extraction of stored water. Long Beach would in turn pay the full service treated water rate and be responsible for the distribution and treatment of extracted water. The Agreement Summary ([Attachment 1](#)) briefly describes the key articles of the agreement, consistent with Metropolitan's Principles for Groundwater Storage approved by the Board in January 2000 ([Attachment 2](#)). Metropolitan has also prepared the contractual agreement for the Long Beach Conjunctive Use Program for execution by the CEO/General Manager. The contractual agreement is available for review at the Executive Secretary's office.

## Policy

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By Minute Item 43668, dated Aug. 17, 1999, the Board adopted a Statement of Needs for the CALFED Bay-Delta Program.

By Minute Item 43860, dated Jan. 11, 2000, the Board approved strategies for implementing Groundwater Storage Programs within Metropolitan's service area.

By Minute Item 44210, dated Oct. 17, 2000, the Board adopted Resolution 8706 to accept the grant for funds from Proposition 13.

By Minute Item 44427, dated April 10, 2001, the Board gave authority to finalize agreement terms for Groundwater Conjunctive Use Projects using Proposition 13 funds.

Board Report dated May 11, 2004, reporting on the selection of groundwater storage programs using remaining Proposition 13 funds.

## California Environmental Quality Act (CEQA)

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CEQA determinations for Option #1:

Pursuant to the provisions of CEQA and the State CEQA Guidelines, the City of Lakewood, acting as the Lead Agency, adopted a Negative Declaration (ND) on May 24, 2005, for the proposed agreement. Metropolitan, as Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information in the ND and adopt the Lead Agency's findings prior to approval of the formal terms and conditions for the proposed agreement. The environmental documentation is available in the Executive Secretary's Office for review.

The proposed pipeline construction within the city of Long Beach is statutorily exempt under the provisions of CEQA and the State CEQA Guidelines (Section 15282(l)). The proposed project involves the construction of an underground pipeline less than one mile in length. Accordingly, the proposed action qualifies for a statutory exemption under Section 21080.21 of the Public Resources Code.

The CEQA determinations are: Review and consider information provided in the adopted 2005 ND and adopt the Lead Agency's findings related to the proposed agreement and that, pursuant to CEQA, the proposed pipeline qualifies for a statutory exemption under Section 21080.21 of the Public Resources Code.

CEQA determination for Option #2:

None required

## Board Options/Fiscal Impacts

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### Option #1

Adopt the CEQA determination and authorize the CEO to enter into an agreement consistent with the Agreement Summary ([Attachment 1](#)) and in a form acceptable to the General Counsel for the Long Beach Conjunctive Use Program Expansion in Lakewood.

**Fiscal Impact:** There is no fiscal impact to Metropolitan. Approval would contribute toward the implementation of the Integrated Water Resources Plan and ensure timely disbursement of state funding from Proposition 13.

### Option #2

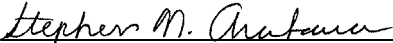
Do not authorize the CEO to enter into an agreement.

**Fiscal Impact:** There is no fiscal impact to Metropolitan. However, failure to award these Proposition 13 funds will result in a loss of benefits for Metropolitan and the Southern California region.

**Staff Recommendation**


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Option #1

  
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Stephen N. Arakawa  
Manager, Water Resource Management

6/9/2005

Date

  
\_\_\_\_\_  
Dennis B. Underwood  
CEO/General Manager

6/21/2005

Date

**Attachment 1 – Proposition 13 Groundwater Storage Program Executive Summary**

**Attachment 2 – Metropolitan’s Principles for Groundwater Storage**

BLA #3415

**Proposition 13  
Groundwater Storage Program  
Long Beach Conjunctive Use Program Expansion in Lakewood  
Agreement Summary**

ARTICLE	DESCRIPTION
<b>I. Recitals</b>	Establishes Metropolitan's board-adopted Groundwater Storage Principles as basis for agreement and includes items as necessary from the participants of the agreement.
<b>II. Effective Date and Term</b>	A. 25-year term with renewal by amendment to agreement.
<b>III. Conditions Precedent to Project Funding Obligation</b>	<p>A. CEQA</p> <p>B. DWR commitment - DWR agreement conditions fulfilled.</p> <p>C. Permits and Approvals - All authorizations shall have been obtained.</p> <p>D. No litigation.</p> <p>E. No Force Majeure Event.</p>
<b>IV. Program Planning and Construction</b>	<p>A. Planning</p> <ol style="list-style-type: none"> <li>1. General description.</li> <li>2. Operational Capacity Thresholds.</li> <li>3. Submission of Plans, Schedule and Budget – On or before December 31, 2006, Program Member Agency shall submit Plans, which shall set forth in specific detail the construction and design of the Facilities, and all materials to be purchased and service providers to be retained. On or before March 31, 2007, agency shall submit schedule and budget.</li> <li>4. Metropolitan shall review and approve schedule and budget only. Metropolitan shall submit schedule and budget to DWR for approval.</li> </ol> <p>B. Construction - Program Agency is responsible for the construction. Metropolitan and DWR retain inspection right. Metropolitan has no ownership interest in the Program facilities. Specifies that construction must be complete no later than March 2008.</p>

**Proposition 13  
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<b>ARTICLE</b>	<b>DESCRIPTION</b>
<p><b>V. Project Construction Funding Procedure (not including Maintenance/Energy Cost Funding)</b></p>	<p>A. Metropolitan Funding Obligation - Sets Metropolitan maximum funding obligation.</p> <p>B. Cost Overruns - Agency liable for overruns.</p> <p>C. Disbursement Protocol.</p> <ol style="list-style-type: none"> <li>1. Invoice Payment - Agency submits invoices to Metropolitan for costs incurred consistent with approved schedule and budget. Metropolitan reviews and pays approved invoices or parts thereof. Metropolitan submits the invoice to DWR for reimbursement.</li> <li>2. Certification of Expenditures.</li> <li>3. Disbursement of Program Funds.</li> </ol>
<p><b>VI. Operation of Project</b></p>	<p>A. Operating Committee.</p> <ol style="list-style-type: none"> <li>1. Composition of Committee - Two members from Metropolitan and two members chosen by Agency.</li> <li>2. Annual Planning Meeting; Operating Budget, Annual Operating Schedule.</li> <li>3. Specific Duties.                     <ol style="list-style-type: none"> <li>a. Account for storage and extraction.</li> <li>b. Annual reconciliation of water accounts, energy and operations expenses.</li> <li>c. Confirm compliance during prior year with the Baseline Assurances.</li> <li>d. Prepare Operating Committee Annual Report.</li> </ol> </li> </ol>

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ARTICLE	DESCRIPTION
	<p>B. Program Agency Obligations.</p> <ol style="list-style-type: none"> <li>1. Operate and maintain facilities in good condition.</li> <li>2. Provide for repairs.</li> <li>3. Maintain the Agency’s facilities as necessary.</li> <li>4. Certify water delivered into Metropolitan account.</li> </ol> <p>C. Metropolitan Obligations.</p> <ol style="list-style-type: none"> <li>1. Pay for operation and maintenance of Program facilities.</li> <li>2. Pay for power to pump water.</li> <li>3. Pay annual administrative fee (ratio of \$4 per acre-foot of annual yield).</li> </ol> <p>D. Payment of Maintenance Cost and Electrical Costs</p> <p>E. Annual Reconciliation</p> <ol style="list-style-type: none"> <li>1. Reconciliation of Metropolitan Water Account.</li> <li>2. Reconciliation of Maintenance Costs and Electrical Costs.</li> <li>3. Schedule for Reconciliation of Water and Costs.</li> </ol> <p>F. Non-payment of Basin Replenishment Assessment and Storage Depreciation.</p>
<p><b>VII. Groundwater Storage and Extraction</b></p>	<p>A. Metropolitan’s Storage Account Rights - Metropolitan can store up to 25 percent of its total capacity rights per year on fifteen days notice.</p> <p>B. Certification of deliveries to Metropolitan Water Account.</p> <p>C. Extraction of Stored Water - Metropolitan can request extraction of up to 33 percent of its total capacity rights per year on fifteen days notice to meet water demands of the Agency.</p> <p>D. Payment for Extraction of Stored Water - Agency will pay full service treated water rate.</p>

**Proposition 13**  
**Groundwater Storage Program**  
**Long Beach Conjunctive Use Program Expansion in Lakewood**  
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ARTICLE	DESCRIPTION
<b>VIII. Other Uses of Facilities</b>	<p>A. Allowed Use - Agencies may use facilities, so long as excess operable production capacity is maintained for performance under the agreement.</p> <p>B. Responsibility for Costs - Agencies responsible for O&amp;M when they use facilities.</p>
<b>IX. Baseline Assurances</b>	<p>A. Intent - Agency covenants not to operate the facilities in a manner that will negatively impact Metropolitan financially.</p> <p>B. Program Member Agency Baseline and Program Facilities.</p> <p>C. Economic Benefit Protection.</p>
<b>X. Representations, Warranties and Affirmative Covenants of Parties</b>	
<b>XI. Record Keeping, Reporting, Inspection and Audit Provisions</b>	
<b>XII. Indemnity</b>	<p>A. General Indemnity.</p> <p>B. Program Member Agency indemnity of Metropolitan.</p> <p>C. Metropolitan indemnity of Agency.</p>
<b>XIII. Insurance</b>	<p>A. General Required Coverage.</p> <p>B. Environmental Liability Insurance - Commercially available to cover on- and off-site clean up of pollution arising from the program and losses from tort claims. Metropolitan and Agency share cost.</p> <p>C. Specific Policy Requirements.</p> <p>D. Deductibles/Self Insured Retentions - Metropolitan copies of insurance certificates; acceptability of Insurers.</p>
<b>XIV. Dispute Resolution; Defaults and Remedies</b>	<p>A. Dispute Resolution - Disputes will be handled by (1) Operating Committee, (2) Mutually acceptable consultant, or (3) Arbitration.</p> <p>B. Termination - If there is a breach of contract by the Agency, Metropolitan may terminate with written notice. Agency to purchase stored water over a five-year period and to reimburse all Program Funds advanced by Metropolitan pursuant to the Agreement.</p>

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ARTICLE	DESCRIPTION
	<ul style="list-style-type: none"> <li>C. Liquidated Damages – Agency repays the program construction costs.</li> <li>D. Remedies are Cumulative.</li> </ul>
<b>XV. Force Majeure Events</b>	<ul style="list-style-type: none"> <li>A. Excuse to Performance.</li> <li>B. Responding to Force Majeure Events.</li> </ul>
<b>XVI. Miscellaneous</b>	<ul style="list-style-type: none"> <li>A. Miscellaneous Legal Provisions.</li> </ul>
<b>Exhibits</b>	<ul style="list-style-type: none"> <li>A. DWR Funding Letter.</li> <li>B. Request for Proposal.</li> <li>C. Agency Proposal.</li> <li>D. Metropolitan Award Letter.</li> <li>E. Project Agreement between City of Lakewood and Board of Water Commissioners of the City of Long Beach</li> <li>F. Procedure for Calculation of Metropolitan Water Account</li> <li>G. Procedure for Initial Calculation of Metropolitan Water Account (not applicable to this agreement).</li> </ul>



### **Metropolitan's Principles for Groundwater Storage**

- Regional Benefit – Groundwater storage programs must provide regional benefits to increase dry-year supply (in accordance with the Board's Water Surplus and Drought Management Plan) and reduce capital costs associated with Metropolitan's distribution system. Benefits must outweigh the risks involved with developing the program.
- Partnership – Groundwater storage programs must have strong local support in order to be successful. Partnership might also involve coordination of funds from other sources (e.g., state/federal funds).
- Address Local Needs – When developing groundwater storage programs, Metropolitan must consider the individual needs of the groundwater basin and local communities. Programs should consider issues such as water quality, reliability of supply financial benefits and groundwater level.
- No Unmitigated Negative Water Supply or Water Quality Impact – Groundwater storage programs should be designed so there are no negative water quality or supply reliability impacts to Metropolitan's member agencies.
- Financial Integrity – Programs should ensure the financial integrity of Metropolitan and its member agencies consistent with the Strategic Plan Policy Principles (Principles), which was approved by the Board on December 14, 1999. The Principles will be included in a new Strategic Plan to be adopted next year. Investments made by Metropolitan for storage will not be used by local agencies to reduce their demands for Metropolitan's imported supply in a manner that threatens financial integrity. Participating member agencies would commit to the purchase of fixed amounts of imported water from Metropolitan.
- Phased Approach – Groundwater storage programs should be implemented in phases. At first, smaller-scale programs should be designed to meet overlying demand in lieu of Metropolitan's surface deliveries. As the programs are operated, levels of trust can be established and technical issues resolved. If successful, these programs can be expanded to the point where groundwater can be exported to other parts of the service area.
- Shared Risk – There are risks associated with developing any water resource program, including groundwater storage. Metropolitan should be willing to share the appropriate risk of implementing groundwater storage programs with local entities to the extent benefits outweigh the risks.

**Metropolitan Water District Board Adoption: January 2000**