

- **Board of Directors**
Asset and Real Property Committee

November 8, 2005 Board Meeting

7-2

Subject

Adopt final resolutions for annexation and impose water standby charge for Annexation No. 85, Parcel A, to Calleguas Municipal Water District and Metropolitan

Description

Calleguas Municipal Water District is requesting approval of the final terms and conditions of Annexation No. 85, Parcel A, into Metropolitan's service area and the imposition of a water standby charge on the annexed property. Proposed Annexation No. 85, Parcel A, consists of 14.76 gross acres to be developed into 100 detached condominiums and a five-acre public park, including 0.64 acre as public roads. The net annexation area is 14.12 acres. The property is on the east and west sides of Cypress Road, south of Pleasant Valley Road within the city of Oxnard. The proposed annexation is for the remaining phase of a larger residential development. The other portions of this development are already within Metropolitan's service area. See [Attachment 1](#) for the map and legal description. Prior to completion of the annexation, Calleguas will pay a \$53,855.20 fee if the annexation is completed prior to December 31, 2005. If the annexation is completed later, the fee will be the then current annexation charge rate pursuant to Section 3300 of Metropolitan's Administrative Code. The annexation charge is calculated by the per-acre method based on net acreage and a \$5,000 processing fee. The projected annual water demand on Metropolitan is approximately 64.6 acre-feet per year.

At its August 16, 2005 meeting, Metropolitan's Board adopted a resolution of intention to impose a water standby charge within Annexation No. 85. Pursuant to Resolution 8954, the Board will hold a public hearing on November 8, 2005. Interested parties will be given the opportunity to present their views on the proposed charge and the Engineer's Report. In addition, pursuant to Resolution 8954 and in accordance with the requirements of Article XIII D, Section 4, of the California Constitution, the Executive Secretary mailed a written hearing notice to the recorded owners of the Parcels identified in the Engineer's Report. Enclosed in the mailed notice was an assessment ballot whereby the owners could indicate either support or opposition to the proposed water standby charge. If no majority protest (as defined in Article XIII D, Section 4 of the California Constitution) is found to exist upon conclusion of the hearing, Metropolitan's Board may consider and act upon the recommendation to adopt a second resolution, the Resolution Fixing and Adopting Water Standby Charge ([Attachment 3](#)), which imposes a Metropolitan water standby charge of \$9.58 per acre, or per parcel less than one acre, within the territory of Annexation No. 85, Parcel A.

Approval of Metropolitan's water standby charge, which is equal to the amount of Metropolitan's water standby charge imposed elsewhere within Calleguas' territory, is a condition to complete this annexation. Pursuant to the resolution fixing terms and conditions ([Attachment 2](#)), Metropolitan may levy standby charge at the rate stated in this resolution beginning in the subsequent fiscal year after approval of the annexation.

Policy

Territory may be annexed to Metropolitan upon terms and conditions fixed by the Board and in accordance with Chapter 1, Article 1, Section 350 through Section 356 of Metropolitan's Act and Division III, Section 3100(b) of its Administrative Code.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

Pursuant to the provisions of CEQA and the State CEQA Guidelines, the city of Oxnard acting as the Lead Agency adopted the Westwind Project Mitigated Negative Declaration (MND) and a Mitigation Monitoring and Reporting Program (MMRP) on November 9, 2004, for the annexation process. Metropolitan, as Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information in the MND and MMRP and adopt the Lead Agency’s findings prior to approval of the formal terms and conditions for the annexation. The environmental documentation is available in the Executive Secretary’s Office for review.

The CEQA determination is: Review and consider information provided in the adopted 2004 MND and MMRP and adopt the Lead Agency’s findings related to the proposed actions.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and

- a. Adopt a resolution granting Calleguas’ request for annexation of Annexation No. 85, Parcel A, into Metropolitan’s service area, conditioned upon approval by the Local Agency Formation Commission, and establishing Metropolitan’s terms and conditions for this annexation (**Attachment 2**); and
- b. Adopt a resolution to impose water standby charge at a rate of \$9.58 per acre or per parcel of less than one acre within the proposed annexation area (**Attachment 3**).

Fiscal Impact: Receipt of annexation fee of \$53,855.20 for Annexation No. 85, Parcel A, and water sales revenue from newly annexed territory

Option #2

Decline the request for the Annexation No. 85, Parcel A

Fiscal Impact: Unrealized annexation fee and water sales revenue from non-annexed territory

Staff Recommendation

Option #1



 Roy L. Wolfe
 Manager, Corporate Resources

10/14/2005

 Date



 Dennis B. Underwood
 CEO/General Manager

10/14/2005

 Date

Attachment 1 – Annexation No. 85, Parcel A, Legal Description and Map

Attachment 2 – Annexation No. 85, Parcel A, Resolution Fixing Terms and Conditions for Annexation and Environmental Findings

Attachment 3 – Annexation No. 85, Parcel A, Resolution Imposing Water Standby Charge

**CALLEGUAS MUNICIPAL WATER DISTRICT ANNEXATION
CYPRESS NO. 1 – PARCEL A
(ANNEXATION NO. 85)**

All of Lot 8 and portions of Lots 7, 9, 13, 14, Cypress Road, and Ventura County Ditch, in the City of Oxnard, County of Ventura, State of California, as shown on the map of the Garden City Acres Tract, recorded in the Office of the County Recorder of said County, in Book 11, Page 105 of Miscellaneous Records, described as follows:

Beginning at a point in the west line of said Lot 9, said point being the westerly terminus of the 10th course of Parcel No. 3 of Annexation No. 7 (Oxnard Second Fringe Area) to the Calleguas Municipal Water District, as described in the Certificate of Filing recorded on November 13, 1969 in the Office of said County Recorder in Book 3579, Page 129 of Official Records; thence, along the west line of said Lots 9, 8, and 7, said west line also being the existing Calleguas Municipal Water District boundary,

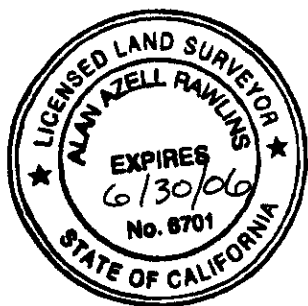
- 1st - North 00°02'00" West 614.17 feet to the north line of the south half of said Lot 7; thence, leaving said existing district boundary along said north line,
- 2nd - North 89°53'00" East 635.39 feet to the west line of said Cypress Road, 50.00 feet wide; thence, along said west line,
- 3rd - North 00°02'00" West 21.13 feet to the westerly prolongation of the north line of the parcel of land described in the Grant Deed recorded on December 13, 1983, in the Office of said County Recorder, as Document No. 83-140432 of Official Records; thence, along said prolongation, north line and the easterly prolongation thereof,
- 4th - North 89°53'00" East 685.08 feet to the east line of said Ventura County Ditch, 10.00 feet wide, said east line also being the existing boundary of said Calleguas Municipal Water District; thence, along said east line and said existing boundary,
- 5th - South 00°01'00" East 348.26 feet to the easterly prolongation of the south line of the north 139.30 feet of said Lot 13; thence, leaving said existing district boundary along said prolongation and south line,
- 6th - South 89°53'00" West 634.90 feet to the east line of said Cypress Road, 50.00 feet wide; thence, along said east line,
- 7th - South 00°01'00" East 287.04 feet to the easterly prolongation of the south line of the north 100.00 feet of said Lot 9, same also being the existing boundary of said Calleguas Municipal Water District; thence, along said east line and said existing boundary,

**REVIEWED BY
THE METROPOLITAN WATER
DISTRICT OF SOUTHERN CALIFORNIA
RIGHT OF WAY ENGINEERING TEAM**

DATE: 9-22-2005

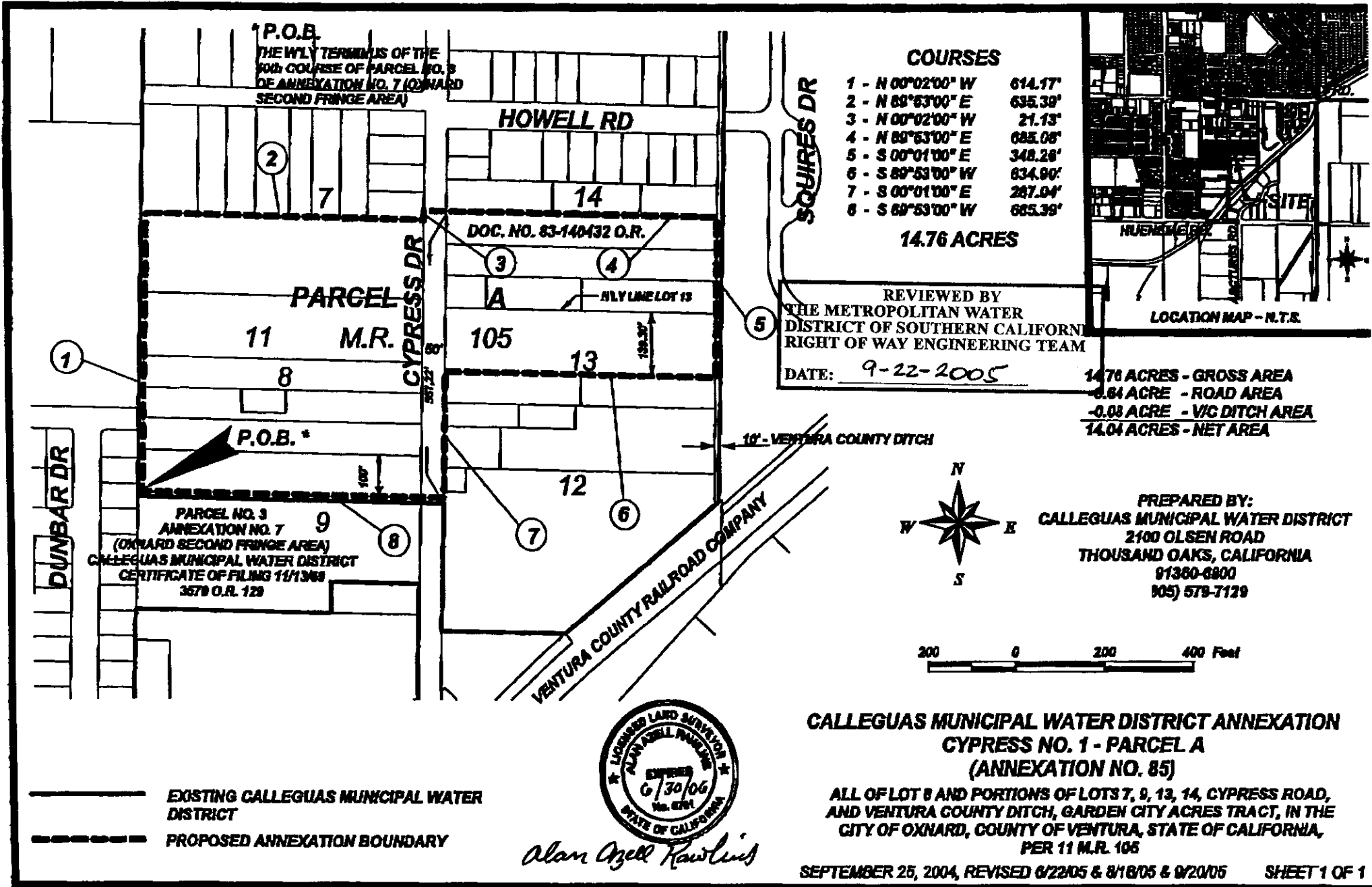
8th - South 89°53'00" West 685.39 feet to the point of inning.

14.76 Acres – Gross Area
-0.64 Acre – Road Area
-0.08 Acre – V/C Ditch Area
14.04 Acres – Net Area



Alan Azell Rawlins

REVIEWED BY
THE METROPOLITAN WATER
DISTRICT OF SOUTHERN CALIFORNIA
RIGHT OF WAY ENGINEERING TEAM
DATE: 9-22-2005



RESOLUTION**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
CONSENTING TO CALLEGUAS MUNICIPAL WATER DISTRICT'S
ANNEXATION NO. 85, PARCEL A
AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

A. WHEREAS, the Board of Directors of the Calleguas Municipal Water District (Calleguas), a municipal water district, situated in the county of Ventura, state of California, pursuant to Resolution No. 1484, in accordance with the provisions of the Metropolitan Water District Act, has applied to the Board of Directors of The Metropolitan Water District of Southern California (Metropolitan) for consent to annex thereto certain uninhabited territory situated in the county of Ventura referred to as Annexation No. 85, Parcel A, more particularly described in an application to the Ventura County Local Agency Formation Commission (LAFCO), concurrently with the annexation thereof to Calleguas, such annexation to Metropolitan to be upon such terms and conditions as may be fixed by the Board of Directors of Metropolitan; and

B. WHEREAS, completion of said annexation shall be conditioned upon approval by the LAFCO; and

C. WHEREAS, pursuant to the provisions of the California Environmental Quality Act (CEQA) the city of Oxnard acting as the Lead Agency adopted a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) on November 9, 2004, for the proposed annexation process (also known as Westwind Project) associated with Annexation No. 85, Parcel A. Also pursuant to CEQA, Metropolitan, as Responsible Agency, is required to certify that it has reviewed and considered the information in the MND and MMRP and adopt the Lead Agency's findings prior to approval of the formal terms and conditions for Annexation No. 85, Parcel A; and

D. WHEREAS, it appears to this Board of Directors that such application should be granted, subject to the terms and conditions hereinafter set forth; and

E. NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of Metropolitan, acting as Responsible Agency, has reviewed and considered the information in the MND and adopts the Lead Agency's findings prior to approval of the formal terms and conditions for Annexation No. 85, Parcel A; and subject to the following terms and conditions, does hereby grant the application of the governing body of Calleguas Municipal Water District for consent to annex Annexation No. 85, Parcel A, to Metropolitan and does hereby fix the terms and conditions of such annexation:

F. BE IT FURTHER RESOLVED that the Board of Directors of Metropolitan, subject to the following terms and conditions, does hereby grant the application of the governing body of Calleguas Municipal Water District for consent to annex of Calleguas Annexation No. 85, Parcel A, to Metropolitan and does hereby fix the terms and conditions of such annexation:

Section 1. The annexation of said area to Calleguas shall be made concurrently with the annexation thereof to Metropolitan, and all necessary certificates, statements, maps, and other documents required

to be filed by or on behalf of Calleguas to effectuate the annexation shall be filed on or before December 31, 2006.

Section 2. Prior to filing a request for a Certificate of Completion of the annexation proceedings with LAFCO, Calleguas shall submit a certified copy of LAFCO's resolution approving the annexation to the member agency, and shall pay to Metropolitan in cash \$53,855.20, if the annexation is completed by December 31, 2005. The annexation fee for processing this annexation was received prior to conditional approval. If the annexation is completed during the 2006 calendar year, the annexation charge will be calculated based on the then current rate, in accordance with Metropolitan's Administrative Code Section 3300.

Section 3. All necessary steps (including without limitation, pursuant to Article XIII D of the California Constitution) for imposition of Metropolitan water standby charge in the amount of \$9.58 per acre or per parcel of less than one acre for fiscal year 2005/06 shall be completed.

Section 4. a. Metropolitan shall be under no obligation to provide, construct, operate, or maintain feeder pipelines, structures, connections, and other facilities required for the delivery of water to said area from works owned or operated by Metropolitan.

b. Calleguas shall not be entitled to demand that Metropolitan deliver water to Calleguas for use, directly or indirectly, within said area, except for domestic or municipal use therein.

c. The delivery of all water by Metropolitan, regardless of the nature and time of use of such water shall be subject to the water service regulations, including rates promulgated from time to time by Metropolitan.

d. Except upon the terms and conditions specifically approved by the Board of Directors of Metropolitan, water sold and delivered by Metropolitan shall not be used in any manner which intentionally or avoidably results in the direct or indirect benefit of areas outside Metropolitan, including use of such water outside Metropolitan or use thereof within Metropolitan in substitution for other water outside Metropolitan.

G. BE IT FURTHER RESOLVED that the Executive Secretary is directed to transmit forthwith to the governing body of Calleguas a certified copy of this resolution.

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 November 8, 2005.

Executive Secretary
The Metropolitan Water District
of Southern California

RESOLUTION**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA
FIXING AND ADOPTING WATER STANDBY CHARGE
CONTINGENT UPON CALLEGUAS
MUNICIPAL WATER DISTRICT'S
ANNEXATION NO. 85, PARCEL A**

WHEREAS, pursuant to Resolution 8954, The Metropolitan Water District of Southern California's ("Metropolitan") Resolution of Intention to Impose Water Standby Charge, adopted by the Board of Directors (the "Board") of Metropolitan at its meeting held August 16, 2005, the Board gave notice to the public and to each member public agency of Metropolitan of the intention of the Board to consider and take action on the Chief Executive Officer's recommendation to impose a water charge for fiscal year 2005/06 on the property described in the Engineer's Report, dated March 2005 (the "Engineer's Report"), which was prepared by a registered professional engineer certified by the state of California and was attached to Resolution 8954;

WHEREAS, the owner of the parcel identified in the Engineer's Report has applied for annexation into the Calleguas Municipal Water District ("Calleguas") and Metropolitan;

WHEREAS, upon annexation, Metropolitan water will be available to such property 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, Calleguas has requested that Metropolitan impose water standby charges on such property at the rate specified in the Engineer's Report and provided herein, following annexation of such property into Metropolitan;

WHEREAS, Resolution 8954 provide that the Board would meet in regular session to hold a public protest hearing at which interested parties could present their views regarding the proposed water standby charges and the Engineer's Report;

WHEREAS, pursuant to the terms of Resolution 8954, the Executive Secretary provided written notice in accordance with the requirements of Article XIII D, Section 4 of the California Constitution of the proposed water standby charge by mail to the record owner of the property identified in the Engineer's Report of such public hearing, and the 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 in conformance with Resolution 8954 a public hearing. The hearing was held November 8, 2005, 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 any 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 reviewed the assessment ballots submitted, and it was found 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 Metropolitan, pursuant to the Engineer's Report, finds that the land 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 2005/06 on such lands to which Metropolitan water is made available for any purpose, whether water is actually used or not.

Section 2. That the water standby charge per acre of land, or per parcel of land less than an acre, as shown in the Engineer's Report, shall be \$9.58 which is equal to the amount of Metropolitan's existing water standby charge on other properties located within the territory of Calleguas.

Section 3. That no water standby 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 Calleguas' obligation to pay its readiness-to-serve charge for fiscal year 2005/06. 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 land described in the Engineer's Report. If such annexation is not completed in time to permit imposition of standby charges for fiscal year 2005/06, Metropolitan may levy standby charges at the rate stated in this resolution beginning in a subsequent fiscal year.

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 water standby charge shall be collected within the territory described in the Engineer's Report and Calleguas 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 pursuant to the provisions of the California Environmental Quality Act (CEQA), the City of Oxnard acting as the Lead Agency, adopted a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) on November 9, 2004, for the proposed annexation process (also known as Westwind Project) associated with Annexation No. 85, Parcel A. Also pursuant to CEQA, Metropolitan, as Responsible Agency, is required to certify that it has reviewed and considered the information in the MND and MMRP and adopts the Lead Agency's findings prior to approval of fixing and adopting water standby charges for Annexation No 85, Parcel A.

Section 8. That the Chief Executive Officer is hereby authorized and directed to take all necessary action to secure the collection of the water standby charges by the appropriate county officials, including payment of the reasonable cost of collection.

Section 9. That the Chief Executive Officer 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 November 8, 2005.

Executive Secretary
The Metropolitan Water District
of Southern California