



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

December 8, 2009 Board Meeting

8-5

Subject

Authorize (1) agreement with the State Water Contractors, Inc to pursue up to 100,000 acre-feet of Central Valley water transfer agreements for 2010; and (2) provide initial administrative deposit under the agreement

Description

The Board is requested to authorize the General Manager to enter into an agreement with the State Water Contractors, Inc. (SWC) to pursue up to 100,000 acre-feet of Central Valley water transfers for 2010 (about 80,000 acre-feet after Delta conveyance and California Aqueduct conveyance losses). The Department of Water Resources' (DWR) most recent forecasts of State Water Project deliveries indicate there will be available transfer capacity at Banks pumping plant under dry conditions when such water transfers would be needed. The proposed water costs are anticipated to be consistent with costs incurred by Metropolitan in 2009, as adjusted for inflation and current agricultural market conditions.

Metropolitan entered into similar agreements with the SWC to pursue water transfers in 2005 and 2008. Under the prior agreements, the water purchased by the participating SWC members (Buyers) was allocated by agreement among the Buyers, and SWC staff handled collection and disbursement of money between the Buyers and sellers. The Buyers reimbursed SWC for its staff time administering the agreement through a \$5 per acre-foot administrative deposit required by the agreements. In both 2005 and 2008, the SWC staff incurred costs of less than \$5 per acre-foot and Metropolitan received a partial refund.

Staff proposes that Metropolitan enter into a similar agreement among the potential Buyers and the SWC for 2010 water transfers. SWC staff again would administer the agreement on behalf of the Buyers. Under the proposed agreement, Metropolitan and the other Buyers must provide the SWC a \$5 per acre-foot initial administrative deposit. The primary purpose of providing the deposit at this time is to help determine those SWC members who are interested in pursuing 2010 water transfer agreements. The administrative deposit would be used to cover SWC's and sellers' administrative costs, including potential litigation costs. Depending on whether litigation is filed regarding the transfers and the extent and complexity of potential litigation, payments in addition to the administrative deposit could be necessary. If administrative costs are less than \$5 per acre-foot, Metropolitan would receive a partial refund.

The proposed transfers, which are anticipated to be direct purchases rather than option purchases, would provide additional resource options to mitigate potential dry-year conditions in 2010, consistent with Metropolitan's Integrated Resources Plan. Staff will seek board approval to execute agreements with sellers and the associated storage and conveyance agreements with DWR (including any DWR administrative costs) in early 2010.

Policy

Metropolitan Water District Administrative Code Section 4203: Water Transfer Policy

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines). The payment of initial administrative fees does not commit Metropolitan to any definite course of action. It does not dictate how funds would be spent, or in any way narrow the field of options and alternatives available to Metropolitan to seek supplemental water sources. In essence, there is no binding commitment to spend in a particular manner before requiring environmental review. In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines). Prior to formal approval of the agreements by the Board, CEQA documentation would be prepared by the Lead Agency and processed in accordance with CEQA and the State CEQA Guidelines.

The CEQA determination is: Determine that the proposed action is not subject to the provisions of CEQA pursuant to Sections 15378(b)(4) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and

- a. Authorize the General Manager to enter into an agreement with the State Water Contractors, Inc. and individual SWC buyers, for Metropolitan to pursue up to 100,000 acre-feet of Central Valley water transfer agreements for 2010, in a form approved by the General Counsel; and
- b. Authorize making initial administrative deposits (\$5 per acre-foot) and disbursements from that deposit consistent with the agreement.

Fiscal Impact: The fiscal impact associated with this action is \$500,000 to pay actual costs incurred and would be subject to partial refund.

Business Analysis: Approval will improve dry-year reliability and contribute to the implementation of the Integrated Resources Plan.

Option #2

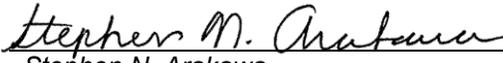
Do not authorize entering into an agreement with the State Water Contractors, Inc.

Fiscal Impact: None

Business Analysis: No action could result in a lost opportunity to secure dry-year water transfer supplies or require Metropolitan to secure transfers supplies independently of the State Water Contractors, Inc.

Staff Recommendation

Option #1



Stephen N. Arakawa
Manager, Water Resource Management

11/24/2009
Date



Jeffrey Kightlinger
General Manager

11/24/2009
Date

BLA #6954