



- Board of Directors
Finance and Insurance Committee

3/13/2012 Board Meeting

7-3

Subject

Adopt final resolutions for annexation and to impose water standby charge for Annexation No. 96 to Calleguas Municipal Water District and to Metropolitan

Description

This action authorizes a resolution consenting to an annexation request by Calleguas Municipal Water District (Calleguas), along with a resolution for imposition of water standby charges. The total area of 4.8 acres is included in this request for final approval of Annexation No. 96 concurrently to Calleguas and Metropolitan (**Attachment 1** – annexation map and legal description). The total water demand from Metropolitan is approximately 6.9 acre-feet (AF), with a projected maximum peak daily demand estimated at 1,027 cubic feet per day. The charge for this annexation is \$25,308.40, which includes the \$5,000 processing fee collected at the time of the initial request and the remaining annexation charge is received prior to completion. The charge is calculated based on the 2012 per acre fee of \$4,159. If the annexation is completed later, the fee would be based on the then current annexation rate pursuant to Section 3300 of Metropolitan's Administrative Code. After annexation the city of Oxnard will provide service.

On December 13, 2011, Metropolitan's Board conditionally approved the current area of Annexation No. 96 and resolution of intent to collect standby charge. Subsequent to conditional approval a small parcel was determined to be entirely surrounded by area annexed to Calleguas and Metropolitan. Calleguas has committed to expediting the annexation of this remaining window.

This annexation request consists of three adjacent parcels that will be redeveloped as a new 72-unit apartment complex as low-income housing. The parcels are located on the west side of Cypress Road between Pleasant Valley Road and Hueneme Road in the county of Ventura, and is annexing to the city of Oxnard. Currently water service is through Cypress Road Mutual Water Company, which operates its own well and receives water from United Water Conservation District. Cypress Road Mutual Water Company has 2.5 acres of service area adjacent to the annexing area on the east and serves noncontiguous parcels north of the annexing area. The window area is closing over time as parcels are annexed to Calleguas and Metropolitan as the city of Oxnard expands into the area.

At its January 18, 2012, meeting, the Calleguas board of directors adopted Resolution 1733 requesting final terms and conditions for the proposed annexation and imposition of water standby charges.

Metropolitan's Board also adopted a resolution of intention to impose a water standby charge within the proposed annexation area in support of Annexation No. 96 (Resolution 9132) on December 13, 2011. Pursuant to Resolution 9132, the Board held a public hearing on February 14, 2012. Interested parties were given the opportunity to present their views regarding the proposed charge and the Engineer's Report. In addition, pursuant to Resolution 9132 and in accordance with the requirements of Article XIII D, Section 4, of the California Constitution, the Board Executive Secretary provided written notice by mail of the hearing to the owners of record of the parcels identified in the Engineer's Report. Enclosed in the mailed notices were assessment ballots on which the owners could either indicate support or oppose the proposed water standby charge.

This action adopts a resolution consenting to Calleguas' request for annexation (**Attachment 2**); and Resolution Fixing and Adopting Water Standby Charge (**Attachment 3**), which imposes a Metropolitan water standby charge in the amount of \$9.58 per acre, or per parcel of less than one acre, within the territory of Calleguas Annexation No. 96, contingent upon completion of annexation. Approval of Metropolitan's water standby charge imposed elsewhere within Calleguas' territory is a condition to complete this annexation. Pursuant to the terms of the attached resolution (**Attachment 3**), Metropolitan may levy said standby charge at the rate stated in the resolution.

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 356 of Metropolitan's Act and Division III, Section 3100 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 Lead Agency, certified a Final Environmental Impact Report (Final EIR) for the City of Oxnard 2030 General Plan and approved the plan on October 11, 2011. The Final EIR provided analysis on the land use, development, and annexation of the area in which Annexation 96 is proposed to occur. Subsequently, the Lead Agency approved the Paseo Nuevo development in June 2011 and relied on exemptions for agricultural, low income, and infill activities listed in Sections 15192, 15194, and 15332 of the State CEQA Guidelines. Metropolitan, as Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information in the Final EIR and adopt the Lead Agency's findings prior to approval of the formal terms and conditions for Annexation No. 96. The Final EIR and related CEQA documentation (Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring Program) for Annexation No. 96 are available at the Board Secretary's office for inspection. In addition, Metropolitan has determined that the proposed annexation qualifies as exempt per Sections 15192, 15194, and 15332 of the State CEQA Guidelines.

The CEQA determination is: Review and consider information provided in the certified 2011 Final EIR and related CEQA documentation for the Project and adopt the Lead Agency's findings related to Annexation No. 96. Determine that additionally the proposed annexation qualifies under exemptions of the State CEQA Guidelines (Sections 15192, 15194, and 15332).

Board Options

Option #1

Adopt the CEQA determination and

- a. Adopt resolution granting Calleguas' request for approval of Annexation No. 96 concurrently to Calleguas and Metropolitan, determine that Metropolitan's interests will not be adversely affected by the existence of a small window, and establishing Metropolitan's terms and conditions for the annexation (**Attachment 2**); conditioned upon approval by Ventura Local Agency Formation Commission, and upon receipt of annexation fee of \$25,308.40; and
- b. Adopt 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 fees of \$25,308.40 for the annexation area with water sales revenue from newly annexed territory

Business Analysis: This annexation will provide the ability for water service and associated benefits to the property owners. The initial fixed and variable costs will be borne by the local water supplier and property owners, including processing, infrastructure, and the cost of raw and treated water. This annexation helps to meet Metropolitan's member agency request.

Option #2

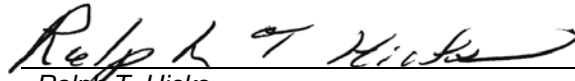
Decline the request for annexation of Calleguas Annexation No. 96

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


Business Analysis: The subject area will not receive the direct benefits of water supplied through Metropolitan and Calleguas.

Staff Recommendation

Option #1

 2/27/2012

Ralph T. Hicks Date
Manager, Real Property Development and
Management

 2/29/2012

Jeffrey Kightlinger Date
General Manager

Attachment 1 – Annexation No. 96 Legal Description and Map

Attachment 2 – Annexation No. 96 Resolution Fixing Terms and Conditions of Annexation

Attachment 3 – Annexation No. 96 Resolution Imposing Water Standby Charges

Ref# rpdm12616078

**CALLEGUAS MUNICIPAL WATER DISTRICT ANNEXATION
PASEO NUEVO
(CALLEGUAS ANNEXATION NO. 96)**

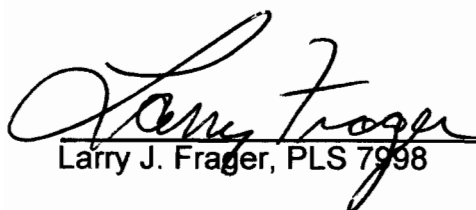
All of Lot 10 of the Garden City Acres Tract, being a portion of Subdivision No.83 of Rancho El Rio De Santa Clara O'la Colonia, in the City of Oxnard, County of Ventura, State of California, as shown on the map recorded in the Office of the County Recorder of said County in Book 11, Page 105 of Miscellaneous Records, described as follows:

Beginning at the northwest corner of said Lot 10, said corner also being the westerly terminus of the 8th course of Parcel 3 of Annexation No. 7 (Oxnard Second Fringe Area) to Calleguas Municipal Water District as described in the Certificate of Filing recorded November 13, 1969, in said Recorders Office, in Book 3579, Page 129 of Official Records; thence, along the boundary of said Calleguas Municipal Water District along said 8th course and along the boundary of said Lot 10 by the following five courses:

- 1st - North 89°53'00" East 635.39 feet, at 435.39 feet leaving said existing Calleguas Water District boundary, at 653.39 feet begins said existing Calleguas Water District boundary; thence, along said existing boundary by the following four courses:
- 2nd - South 00°02'00" East 231.74 feet; thence,
- 3rd - South 37°12'00" West 138.66 feet; thence,
- 4th - South 89°53'00" West 551.49 feet; thence,
- 5th - North 00°02'00" West 342.02 feet to the point of beginning.

Contains 4.883 Acres

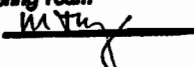
Prepared under my supervision:


 Larry J. Frager, PLS 7998 8/19/11
Date

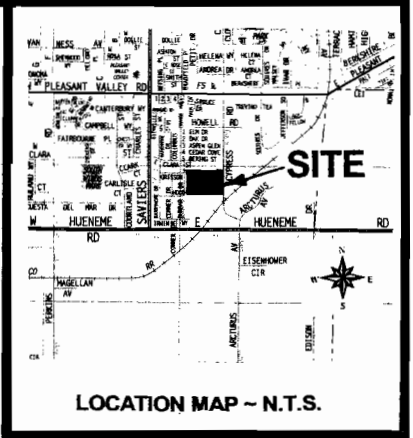
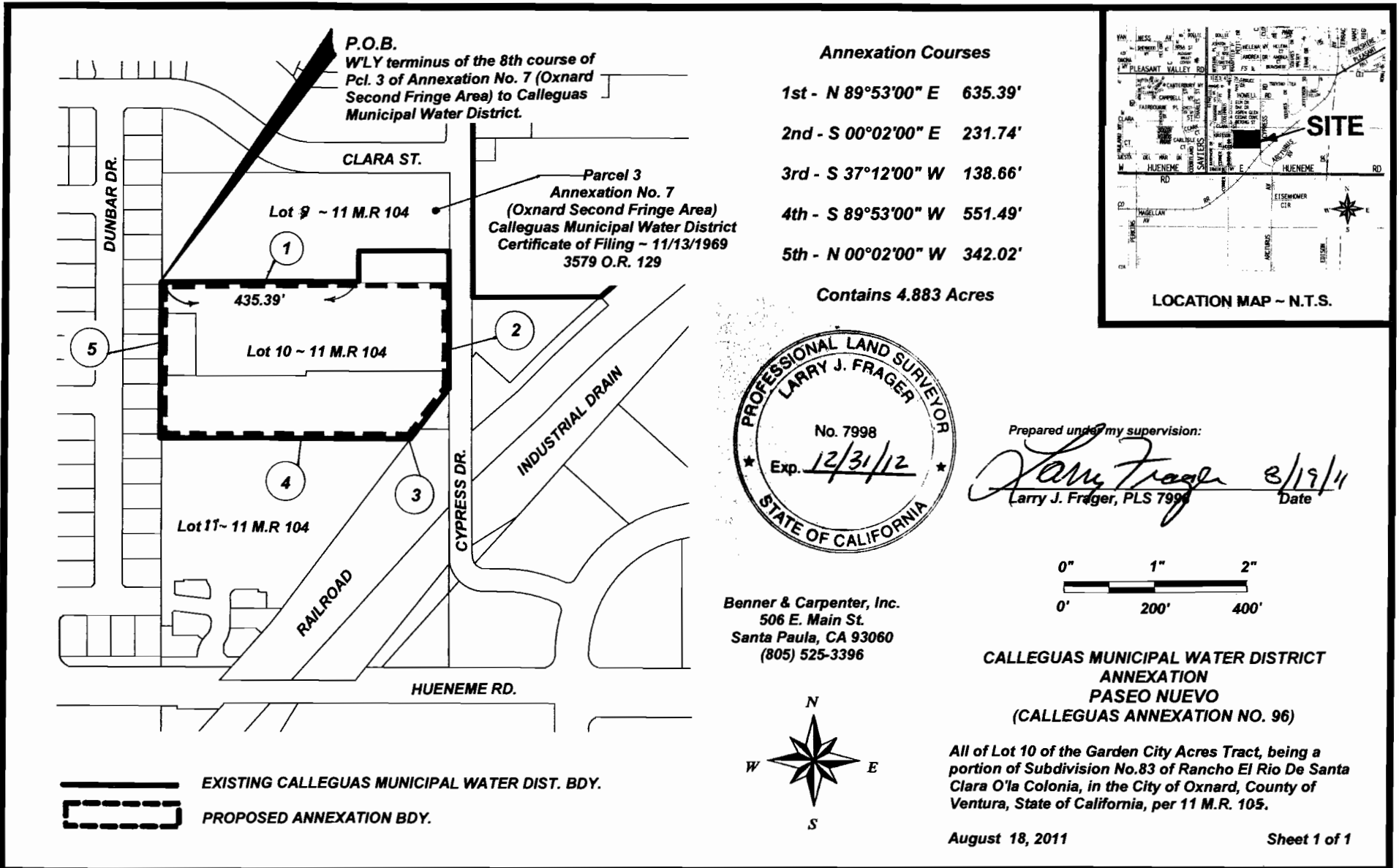


For assessment purposes only. This description of land is not a legal description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

2011:2011-05\11-05 LEGAL - ANNEX NO. 96 TO CMWD - 8/17/2011 11:50 PM

ANNEXATION - FINAL REVIEW
 The Metropolitan Water District of Southern California
 Right-of-Way Engineering Team
 Date: 10.19.11 Reviewer: 

ANNEXATION - FINAL REVIEW
 The Metropolitan Water District of Southern California
 Right-of-Way Engineering Team
 Date: 10-19-11 Reviewer: mtay



Prepared under my supervision:
Larry J. Frager 8/19/11
 Larry J. Frager, PLS 7998 Date



Benner & Carpenter, Inc.
 506 E. Main St.
 Santa Paula, CA 93060
 (805) 525-3396



CALLEGUAS MUNICIPAL WATER DISTRICT
ANNEXATION
PASEO NUEVO
 (CALLEGUAS ANNEXATION NO. 96)

All of Lot 10 of the Garden City Acres Tract, being a portion of Subdivision No.83 of Rancho El Rio De Santa Clara O'la Colonia, in the City of Oxnard, County of Ventura, State of California, per 11 M.R. 105.

August 18, 2011 Sheet 1 of 1

FOR ASSESSMENT PURPOSES ONLY. THIS MAP IS NOT A MAP AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS FOR AN OFFER FOR SALE OF THE LAND SHOWN.

RESOLUTION**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
CONSENTING TO CALLEGUAS MUNICIPAL WATER DISTRICT'S
ANNEXATION NO. 96
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. 9132, 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. 96, 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 LAFCO; and

C. WHEREAS, pursuant to the provisions of the California Environmental Quality Act (CEQA), the city of Oxnard, acting as Lead Agency, and a subagency to Calleguas Municipal Water District (Calleguas), certified the City of Oxnard 2030 General Plan (Project) Final Environmental Impact Report (Final EIR), adopted the Findings of Fact (findings), Statement of Overriding Considerations (SOC), and Mitigation Monitoring and Reporting Program (MMRP) and approved the Project on October 12, 2011, for the development of the proposed annexation parcel, and Metropolitan, as Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information contained in the Final EIR and MMRP, and adopt the Lead Agency's findings and SOC prior to approval of the formal terms and conditions for Calleguas Annexation No. 96; in addition, Metropolitan has determined that the proposed annexation qualifies as exempt per Sections 15192, 15194, and 15332 of the State CEQA Guidelines; 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 Final EIR, findings, SOC, and MMRP and adopted the Lead Agency's findings and SOC prior to approval of the final terms and conditions for Calleguas Annexation No. 96, and has determined that the proposed annexation additionally qualifies as exempt per Sections 15192, 15194, and 15332 of the State CEQA Guidelines; 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 Calleguas Annexation No. 96, 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 for consent to annex Calleguas Annexation No. 96 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 with the existence of a third of an acre left as a remaining window area, 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, 2013.

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 approximately \$25,308.40, if the annexation is completed by December 31, 2012. The annexation fee of \$5,000 for processing this annexation was received prior to approval. The annexation charge is calculated by the per-acre method based on the net acreage. If the annexation is completed during the 2013 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. 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 sale and 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.

e. Calleguas shall be entitled to purchase from Metropolitan such water as may be available for distribution by Metropolitan to Ventura County from time to time in accordance with the provisions of the Metropolitan Water District Act and the rules and regulations of Metropolitan governing such service of water, including but are not limited to Metropolitan's Administrative Code, as amended from time to time.

G. BE IT FURTHER RESOLVED that the Board 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 March 13, 2012.

Board 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. 96**

WHEREAS, pursuant to Resolution 9132, 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 December 13, 2011, 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 General Manager's recommendation to impose a water charge for fiscal year 2011/12 on the property described in the Engineer's Report, dated October 2011 (the "Engineer's Report"), which was prepared by a registered professional engineer certified by the state of California and was attached to Resolution 9132;

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 9132 provided 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 9132, the Board 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 9132 a public hearing. The hearing was held February 14, 2012, 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 Board 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 2011/12 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 2011/12. 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 2011/12, 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 Lead Agency, and a subagency to Calleguas Municipal Water District, certified a Final Environmental Impact Report (Final EIR) and approved the project on October 12, 2011, and relied on exemptions for agricultural, low income, and infill activities listed in Sections 15192, 15194, and 15332 of the State CEQA Guidelines for the development of the proposed annexation parcel (i.e., the Paseo Nuevo development), and that the Board of Directors of Metropolitan, as Responsible Agency under CEQA, has certified that it reviewed and considered the information contained in the Final EIR and in the Mitigation Monitoring and Reporting Program, and has adopted the Lead Agency's Findings of Fact and Statement of Overriding Considerations, and has determined that the proposed annexation additionally qualifies as exempt per Sections 15192, 15194, and 15332 of the State CEQA Guidelines prior to approval of fixing and adopting water standby charges for Calleguas Annexation No. 96.

Section 8. That the General Manager 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 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 March 13, 2012.

Board Executive Secretary
The Metropolitan Water District
of Southern California