



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

4/10/2018 Board Meeting

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8-5

### **Subject**

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Consider adopting CEQA determination and (1) authorizing the General Manager to (a) secure one-year water transfers with various Sacramento Valley water districts for up to 100,000 acre-feet of additional supplies, (b) secure storage and conveyance agreements with Department of Water Resources and various Sacramento Valley water districts to facilitate these transfers, and (c) pay up to \$45 million for such transfers; and (2) granting final decision-making authority to the General Manager subject to the terms set forth in this letter

### **Executive Summary**

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In March 2018, the Board authorized the General Manager to enter into an agreement with the State Water Contractors (SWC) to pay up to \$500,000 in administrative costs to pursue up to 100,000 acre-feet (AF) of Sacramento Valley water for 2018. However, after completing the water transfer negotiations and reviewing updated water supply conditions and available water management options, staff is recommending not pursuing water transfers through the SWC at this time. Nonetheless, this board letter sets out the terms and conditions to purchase these water transfer supplies for the Board's consideration.

### **Details**

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In March 2018, the Board authorized the General Manager to enter into an agreement with the SWC to pay up to \$500,000 in administrative costs to pursue up to 100,000 AF of Sacramento Valley water for 2018. Consistent with that board approval, Metropolitan has forwarded \$500,000 to the SWC, which is facilitating these water transfers. These funds will be used to cover the administrative, environmental and other regulatory costs associated with developing the transfers.

Metropolitan staff, in partnership with other SWC parties, acting through the SWC's agreement, have now reached agreement on key proposed terms for one-year water transfers with specific sellers, which are summarized in **Attachment 1**. However, after completing the water transfer negotiations and reviewing updated water supply conditions and available water management options, staff recommends not pursuing water transfers through the SWC at this time. The base price for these transfers is set at \$450/AF (about \$563/AF after estimated Delta conveyance losses of 20 percent). Consistent with the Water Surplus and Drought Management Plan, Metropolitan can draft from both in-region and out-of-region surface and groundwater storage programs in a more economical manner to balance supplies with demands. Metropolitan has access to nearly 1.9 million AF of dry-year storage supplies in 2018, which is more than needed to meet member agency delivery requests. Based on factors including the prices that have been negotiated and the improving supply/demand conditions in 2018, staff does not recommend purchasing these transfer supplies.

Nonetheless, this board letter sets out the terms and conditions to purchase these water transfer supplies for the Board's consideration. If the Board would like to purchase these water transfer supplies, it would need to authorize the General Manager to secure one-year water transfers with various Sacramento Valley water districts for up to 100,000 AF of additional supplies. Finalizing these transfers would include storage and conveyance agreements with Department of Water Resources and various Sacramento Valley water districts. These storage and conveyance agreements would be consistent with Articles 55 and 56 of Metropolitan's State Water Contract. Assuming Metropolitan purchases 100,000 AF, Metropolitan's maximum payment would be \$45 million.

The amount of water Metropolitan would receive under these transfers would depend on seller and SWC parties' participation levels. With board authorization, Metropolitan would presently have the right to purchase 100,000 AF (about 80,000 AF after Delta conveyance losses). It is expected that there would be sufficient capacity at Banks pumping plant to convey the transfer water to Metropolitan under State Water Project allocations of less than 45 percent, depending on the level of Delta pumping restrictions imposed by biological opinions.

Metropolitan and the other SWC parties must finalize the water transfer agreements with the sellers prior to April 20, 2018. If the Board would like to pursue water transfers through the SWC in 2018, authorization is also required for the General Manager to determine whether or not to move forward with these water transfers following completion of any environmental reviews that may be necessary under the California Environmental Quality Act (CEQA). No commitment to any given transfer would be made by the General Manager unless and until all applicable CEQA requirements have been met, and any such commitment would be subject to and consistent with the terms and conditions set forth above.

## Policy

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Metropolitan Water District Administrative Code Section 4203: Water Transfer Policy

### California Environmental Quality Act (CEQA)

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#### CEQA determination for Option #1:

None required

#### CEQA determination for Option #2:

The proposed action is not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378) because it involves the tentative approval of and funding for water transfers, but does not involve a commitment to any specific transfers at this time that may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines). Prior to final authorization of any water transfers by the General Manager, CEQA documentation will be prepared by the Lead Agency and reviewed and processed in accordance with CEQA and the State CEQA Guidelines.

The CEQA determination is: Determine that the proposed action is not defined as a project under Public Resources Code Section 21065 and Section 15378(b)(4) of the State CEQA Guidelines.

## Board Options

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### Option #1

1. Do not authorize the General Manager to:
  - a. Secure one-year water transfers with various Sacramento Valley water districts for up to 100,000 acre feet of additional supplies;
  - b. Secure storage and conveyance agreements with Department of Water Resources and various Sacramento Valley water districts to facilitate these transfers, consistent with Articles 55 and 56 of Metropolitan's State Water Contract; and
  - c. Pay up to \$45 million for such transfers.
2. Do not grant the General Manager final decision-making authority to determine whether or not to move forward with these transfers following completion of any environmental reviews required under CEQA, subject to the terms and conditions set forth in this letter.

**Fiscal Impact:** None

**Business Analysis:** Not authorizing one-year water transfers with various Sacramento Valley water districts could result in a lost opportunity to secure additional water supplies in 2018, potentially resulting in lower water supply reliability beyond 2018.

**Option #2**

Adopt the CEQA determination that the proposed action is not defined as a project, and

1. Authorize the General Manager to:
  - a. Secure one-year water transfers with various Sacramento Valley water districts for up to 100,000 acre-feet of additional supplies;
  - b. Secure storage and conveyance agreements with Department of Water Resources and various Sacramento Valley water districts to facilitate these transfers, consistent with Articles 55 and 56 of Metropolitan's State Water Contract; and
  - c. Pay up to \$45 million for such transfers.
2. Grant the General Manager final decision-making authority to determine whether or not to move forward with these transfers following completion of any environmental reviews required under CEQA, subject to the terms and conditions set forth in this letter.

**Fiscal Impact:** Assuming Metropolitan purchases 100,000 acre-feet, Metropolitan's payment would be \$45 million (100,000 acre-feet x \$450/AF = \$45 million).

**Business Analysis:** Approval will improve water supply reliability in 2018 and beyond.

**Staff Recommendation**

Option #1

  
 Kevin A. Donhoff  
 Interim Manager, Water Resource  
 Management

3/28/2018  
Date

  
 Jeffrey Nichtlinger  
 General Manager

3/28/2018  
Date

**Attachment 1 – Proposed Terms and Conditions for 2018 Water Transfer Agreements**

Ref# wrm12659233

**PROPOSED TERMS AND CONDITIONS  
FOR 2018 WATER TRANSFER AGREEMENTS**

- Price: \$450 for each acre-foot the Department of Water Resources (DWR) determines is transferable at the Sellers' points of delivery.
- "Call" Dates: April 20, 2018, for crop idling water transfers. May 1, 2018, for groundwater substitution and reservoir reoperation transfers.
- Payments: Sellers will invoice Buyers on a monthly basis after the transfer water has been made available. Buyer retains 10 percent of invoice amounts pending DWR final approval of transfer amounts.
- Carriage Water Losses: Buyers will be responsible for all losses, including Delta carriage water losses, associated with transfer water between the Sellers' points of delivery and the Buyers' service areas.
- Sellers' Administrative Costs: Buyers will reimburse Sellers' reasonable and documented out-of-pocket expenses, including but not limited to legal, environmental and engineering consultants' fees and expenses incurred by Sellers, regardless of whether water is transferred, up to \$50,000. In addition, Buyers will pay Western Canal Water District and Richvale Irrigation District up to an additional \$40,000 each to reimburse documented out-of-pocket costs associated with their 5-year water transfer Environmental Impact Report. (These costs will be paid with the administrative deposit approved by Metropolitan's Board on March 13, 2018 – Board Letter 7-4)
- Litigation Costs: In the event of a third-party legal challenge, Buyers will reimburse 100 percent of Sellers' actual out-of-pocket expenses Sellers incur for defending the proposed 2018 water transfer, except for challenges to Sellers' conduct within their service area or above the points of delivery which will be the Sellers' responsibility.
- Refunds: In the event Sellers fail to provide the amount of purchased water, Sellers will promptly refund to Buyers any payments made for purchased water not provided by Sellers. Any refunds will include interest.
- Regulatory Approvals: Implementation of the transfer agreement is contingent upon Sellers obtaining all necessary regulatory approvals and Sellers and Buyers obtaining their respective Board approvals.