



- Board of Directors
Finance and Insurance Committee

12/8/2020 Board Meeting

7-2

Subject

Adopt the COVID-19 Member Agency Payment Deferment Program and amend the Administrative Code to add Section 4519 delegating authority to the General Manager to administer the Program; the General Manager has determined the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

In September 2020, the Board approved staff's proposal to develop a payment deferral program that also exempts penalties or interest for those agencies that record and report significant delinquencies and likewise grant deferrals or suspension of payments to their customers. In November 2020, staff presented the COVID-19 Member Agency Payment Deferment Program (Program) to the Finance and Insurance Committee of the Board. This letter proposes the Program for adoption by the Board, including the approval of Administrative Code Section 4519, setting forth the guidelines for the Program.

Details

Background

In April 2020, the Board approved a biennial budget for fiscal year (FY) 2020/21 and FY 2021/22 and supporting overall rate increases of 3 percent in calendar year (CY) 2021 and 4 percent in CY 2022. The Board's action also directed staff to: (1) present a review of the budget and rates to consider impacts resulting from the COVID-19 crisis; and (2) revisit and consider six specific issues for the biennial budget cycle of FYs 2020/21 and 2021/22 by August 31, 2020. In September 2020, staff presented a review of the budgets and rates and cost-containment measures. Additionally, staff presented the results of a survey conducted to determine the operations and financial impacts of COVID-19 on member agencies.

Results of the survey reflect the recorded and projected financial impacts on the responding member agencies during the months of March through June 2020, and in some instances, might not be sufficient to provide a complete picture of the ultimate extent of the impact of the crisis. The survey showed that most wholesale member agencies have not encountered an increase in the rate of payment delinquencies, but several of the retail agencies they serve report some increase in delinquency rates. In addition, some of those retail agencies have delayed the adoption or implementation of rate increases. Most of the 12 member agencies that did not respond have stated that they have not experienced significant impacts attributable to COVID-19.

Most agencies also report a slight impact caused by additional COVID-19 related expenditures, but these expenditures were generally minor and were often offset by other cost cuts. Expenses for purchases of Personal Protective Equipment, enhanced cleaning, and costs to achieve social distancing were generally offset by reductions in travel and other expenses.

None of the member agencies reported a marked decline in water sales that could be attributed to COVID-19. Regionally, water sales have been low since the drought of 2014-2017 and generally remain low. Overall, regional retail water sales in 2020 have actually increased slightly over 2019 sales despite the obvious impacts of COVID-19 on commercial, retail, and entertainment-related businesses. It is reasonable to assume COVID-19 has had some impact on overall demand and water sales, but overall, the impacts on water usage do not appear to be significant.

To assist member agencies having difficulty making payments to Metropolitan as a result of COVID-19-related increased delinquency rates, staff presented the proposed terms of the Program to the Finance and Insurance Committee of the Board in November 2020. In addition, the proposed Program was also presented to the Member Agency Managers Meeting in November.

Proposed COVID-19 Payment Deferment Program for Member Agencies

Staff proposes Metropolitan provide up to six-month deferral of a portion of the member agencies' Metropolitan bills equal to the percentage of their own customers' delinquency rate. Additionally, under the Program, late payments, penalties, and interest will be waived to the deferred amount over a period of 12 months. The Program will be available to all member agencies that meet the board-approved eligibility criteria and will apply to invoices for all water transactions subject to Administrative Code Sections 4501 occurring only from January 1, 2021, to June 30, 2021.

Implementation of this Program will require the addition of the following section to the Metropolitan Administrative Code:

§ 4519 COVID-19 Member Agency Payment Deferment Program

- (a) The Treasurer of the District shall defer payment obligations of any amount due to Metropolitan on invoices subject to Section 4501 for water transactions occurring from January 1, 2021 to June 30, 2021, as approved by the General Manager pursuant to the criteria specified in this Section. Payment obligations and additional charges under Sections 4507 and 4508 shall not apply to any payment obligation deferred pursuant to this Section.
- (b) The General Manager shall approve an application for deferment of amounts due to Metropolitan by member agencies, in accordance with Subsection (c), so long as the member agency has met the following criteria:
 - i. The member agency has experienced an increased rate of delinquency in the payments from its customers to that agency, as a result of the COVID-19 pandemic;
 - ii. The member agency has suspended or deferred payment obligations of its customers to that agency, whether the obligations suspended or deferred consist of the total amount due or a partial amount due;
 - iii. The member agency does not have sufficient financial reserves that can be used to buffer the financial impacts of the increased delinquencies, suspension, or deferments in (i) and (ii);
 - iv. The member agency has not received sufficient federal or state financial assistance to absorb the financial impacts described in (i) and (ii); and
 - v. The member agency has submitted a letter to the General Manager certifying it meets the criteria in (i) through (iv) and permitting Metropolitan to audit the submission.
- (c) The following terms shall apply to amounts deferred pursuant to an application approved by the General Manager under this Section:
 - i. The Treasurer of the District shall defer a percentage of the member agency's payment obligation equal to the member agency's delinquency rate for up to six Metropolitan invoices, but not to exceed **ten percent (10%)** of each monthly invoice;
 - ii. The member agency shall pay all amounts deferred under this Section no later than December 29, 2021; and
 - iii. Any deferred amount not paid by December 29, 2021, is subject to Section 4508 as of December 30, 2021.

- (c) This Section does not apply to transactions governed by agreements containing payment terms and obligations separate from Sections 4501, 4507, and 4508.
- (d) This Section shall be repealed effective January 1, 2022, unless extended by the Board of Directors.

Potential Financial Impacts on Metropolitan

If approved, the COVID-19 Member Agency Payment Deferment Program will shift some Metropolitan revenue collections from FY 2020/21 to FY 2021/22. If 25 percent of invoices for the six-month period are deferred in accordance with the Program, the financial impact would be as follows:

- The shift in revenues is not expected to exceed \$20 million. Metropolitan will have to use unrestricted reserves in lieu of the deferred revenues.
- In addition, foregone interest income on the deferred amount is projected to be approximately \$200,000.

Policy

Metropolitan Water District Administrative Code Section 4501: Obligation to Pay for Water Delivered

Metropolitan Water District Administrative Code Section 4507: Billing and Payment for Water Deliveries.

Metropolitan Water District Administrative Code Section 4508: Additional Payment and Reporting in the Event of Delinquency in Payment for Water.

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities.

By Minute Item 52116, dated September 15, 2020, the Board approved the cost-containment measures proposed by staff, directed staff to monitor financial conditions in preparation for the mid-cycle budget review in June 2021 when more information is available, and to, among other things, develop a payment deferral program that exempts penalties or interest for those agencies that record and report significant delinquencies and likewise grant deferrals to their customers.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378) because the proposed action will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, 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).

CEQA determination for Option #2:

None required

Board Options

Option #1

- a. Adopt the proposed COVID-19 Member Agency Payment Deferment Program.
- b. Adopt the proposed amendment to the Administrative Code to add Section 4519 delegating authority to the General Manager to administer the Program

Fiscal Impact: The COVID-19 Member Agency Payment Deferment Program would shift some revenue collections from FY 2020/21 to FY 2021/22. Assuming a 25 percent level of participation, the financial impact would be as follows:

- The shift in revenues is not expected to exceed \$20 million. Metropolitan will have to use unrestricted reserves in lieu of the deferred revenues.
- In addition, foregone interest income on the deferred amount is projected to be approximately \$200,000.

Business Analysis: The potential cost of the Program is reasonable, given the potential hardship member agencies may face in light of the COVID-19 pandemic. Costs to Metropolitan consists of temporarily foregoing receipt of revenue, which does not create a loss for Metropolitan. The Program is a more reasonable approach than would be the enforcement of penalties and interest in a time when many agencies could be experiencing financial difficulties. Additionally, the Program provides ease of application as it proposes uniform application.

Option #2

Do not adopt the proposed COVID-19 Member Agency Payment Deferment Program and the proposed addition of Section 4519 to the Administrative Code delegating authority to the General Manager to administer the Program.

Fiscal Impact: None

Business Analysis: In the event member agencies default on any portion of their obligations, Metropolitan will likely forego receipt of revenue and also expend time and money to enforce penalties and interest on a case-by-case basis.

Staff Recommendation

Option #1


 _____ 11/24/2020
 Katano Kasaine Date
 Assistant General Manager/
 Chief Financial Officer


 _____ 11/24/2020
 Jeffrey Lightlinger Date
 General Manager