



## AGENDA REPORT

**Meeting Date:** December 4, 2012  
**Item Number:** F-17  
**To:** Honorable Mayor & City Council  
**From:** Christian Di Renzo, Senior Management Analyst  
**Subject:** TWO-YEAR EXTENSION OF PURCHASE ORDER COMMITMENT FOR IMPORTED WATER SUPPLIES PROVIDED BY THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
**Attachments:** 1. Amended and Restated Purchase Order for System Water to be Provided by the Metropolitan Water District of Southern California

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### **RECOMMENDATION**

Staff recommends that City Council move to approve the extension of the purchase order commitment for imported water supplies entitled "Amended and Restated Purchase Order for System Water to be Provided by the Metropolitan Water District of Southern California."

### **EXECUTIVE SUMMARY**

On September 17, 2002, City Council adopted Resolution 02-R-11182 approving a purchase order for imported water supply to be provided by the Metropolitan Water District of Southern California (Metropolitan). The new rate structure that took effect on July 1, 2003, relied on a Purchase Order to establish a financial commitment from the member agencies to Metropolitan. In return for providing a financial commitment to Metropolitan, member agencies were allowed to purchase more of their retail demand at the lower Tier 1 Supply Rate than they would otherwise have been entitled to. The original Purchase Order is set to expire on December 31, 2012. Metropolitan and city staff agree to extend the purchase order, allowing the City to continue purchasing water at the Tier 1 Supply Rate. The Tier 1 rate is \$847 per acre-foot (effective January 1, 2013) whereas the Tier 2 rate is \$997 per acre-foot or 18% greater. The City has fulfilled its purchase order commitment through the ten year term.

#### *Description*

The Purchase Order is voluntarily submitted by the member agency to Metropolitan. Through the Purchase Order the member agency commits to purchase a fixed amount of supply from Metropolitan. The Purchase Order Commitment is determined as a portion of the member agency's historical demands on the Metropolitan system.

*Term*

The Purchase Order is for a ten-year term beginning January 1, 2003. Ten years was chosen as a balance between the long-term investments Metropolitan makes to secure water supply and a shorter period that would require less of a commitment from the member agencies. In addition, a ten-year period was envisioned to allow sufficient time for high and low demand years to average, reducing the likelihood of paying for unused water.

*Initial Base Demand*

The maximum annual firm demands since fiscal year 1989/90 was used to establish each member agency's "initial base demand." Firm demands through June 30, 2002 were considered for this purpose. Firm demands are defined as all deliveries through the Metropolitan system to a member agency excluding long-term seasonal storage service, interim agricultural service, deliveries made under the interruptible service program and deliveries made to cooperative and cyclic storage accounts at the time water was put into the accounts.

*Purchase Order Commitment*

The Purchase Order Commitment is limited to a portion of a member agency's initial base demand. The Purchase Order Commitment is defined as ten times 60 percent of the member agency's initial base demand. The ten times reflects the ten-year term of the Purchase Order and the 60 percent was chosen as a fair balance among the member agencies. First there is a substantial fluctuation in demands as a result of weather. During cool, wet weather, member agencies use less Metropolitan supply. As a result, the Purchase Order Commitment was set at a level that would accommodate these annual fluctuations in weather driven demands, while helping to ensure that member agencies would have a reasonable opportunity to utilize all of the water during the ten-year Purchase Order term. Second, the 60 percent level was selected in consultation with member agency representatives and represents a sufficient incentive to utilize Metropolitan's supplies and provide a base financial commitment to the regional system. Since the Purchase Order Commitment is voluntary, no member agency is required to commit to the minimum level. But, in exchange for the commitment, the member agency will be able to purchase more Metropolitan water supply (up to 90 percent of its Base Demand) at the lower Tier 1 Supply Rate. The Purchase Order Commitment quantities for all member agencies are shown in the following table. These amounts represent the total amount of water a member agency would commit to purchase under the Purchase Order, if it elected to do so.

| Purchase Order Commitment Quantities |  |  |  |  |
|--------------------------------------|--|--|--|--|
|                                      | Initial Base Demand -<br>Max Firm Deliveries FY<br>1990-2002 (acre-feet) | 60 Percent of Initial Base<br>Demand (acre-feet) | 90 Percent of Initial Base<br>Demand (acre-feet) | Purchase Order<br>Commitment (acre-feet) |
| Anaheim                              | 24,711   | 14,827   | 22,240   | 148,266                                  |
| Beverly Hills                        | 14,867   | 8,920  | 13,380   | 89,202                                   |
| Burbank                              | 18,152   | 10,891   | 16,337   | 108,912                                  |
| Calleguas                            | 111,134  | 66,680   | 100,021  | 666,804                                  |
| Central Basin                        | 80,400   | 48,240   | 72,360   | 482,400                                  |
| Compton                              | 5,620  | 3,372  | 5,058  | 33,720                                   |
| Eastern                              | 78,357   | 47,014   | 70,521   | 470,142                                  |
| Foothill                             | 11,381   | 6,829  | 10,243   | 68,286                                   |
| Fullerton                            | 12,554   | 7,532  | 11,299   | 75,324                                   |
| Glendale                             | 29,135   | 17,481   | 26,222   | 174,810                                  |
| Inland Empire                        | 58,203   | 34,922   | 52,383   | 349,218                                  |
| Las Virgenes                         | 22,837   | 13,702   | 20,553   | 137,022                                  |
| Long Beach                           | 43,857   | 26,314   | 39,471   | 263,142                                  |
| Los Angeles                          | 334,109  | 200,465  | 300,698  | 2,004,654                                |
| MWDOC                                | 247,596  | 148,558  | 222,836  | 1,485,576                                |
| Pasadena                             | 23,533   | 14,120   | 21,180   | 141,198                                  |
| San Diego                            | 496,706  | 298,024  | 447,035  | 2,980,236                                |
| San Fernando                         | 1,050  | 630  | 945  | 6,300                                    |
| San Marino                           | 1,998  | 1,199  | 1,798  | 11,988                                   |
| Santa Ana                            | 13,476   | 8,086  | 12,128   | 80,856                                   |
| Santa Monica                         | 12,090   | 7,254  | 10,881   | 72,540                                   |
| Three Valleys                        | 75,050   | 45,030   | 67,545   | 450,300                                  |
| Torrance                             | 23,297   | 13,978   | 20,967   | 139,782                                  |
| Upper San Gabriel                    | 13,969   | 8,381  | 12,572   | 83,814                                   |
| West Basin                           | 174,304  | 104,582  | 156,874  | 1,045,824                                |
| Western                              | 65,192   | 39,115   | 58,673   | 391,154                                  |
| <b>Total</b>                         | <b>1,993,578</b>   | <b>1,196,146</b>                                 | <b>1,794,220</b>                                 | <b>11,961,470</b>                        |

**FISCAL IMPACT**

Approval of this Purchase Order Commitment extension will guarantee that the City continues to purchase its water supply needs at the Tier 1 Supply Rate of \$847 and \$890 per acre-foot effective January 1, 2013, and January 1, 2014, respectively. These rates were factored in the water rate study approved by City Council on May 15, 2012, for FY 12/13 and 13/14. Should this item not be approved the City would only be guaranteed the Tier 1 Supply Rate for the Initial Base Demand which corresponds to 8,920 acre feet per year. Any purchase in excess of this amount would be subject to the Tier 2 Supply Rate. Whether we would exceed this amount is driven by retail demand and local production so it is hard to ascertain. The Tier 2 Supply Rate effective January 1, 2013, is \$997 per acre foot while the Tier 2 Supply Rate effective January 1, 2014, is \$1,032 per acre foot. The water purchase budget for FY 2012/13 is \$9.5 million.


  
 David Gustavson
   
 Approved By

# **Attachment 1**

**AMENDED AND RESTATED  
PURCHASE ORDER FOR SYSTEM WATER TO BE PROVIDED BY  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

|   |   |
|---|---|
| <b>PURCHASER:</b><br>CITY OF BEVERLY HILLS                  | <b>TERM</b><br>12 years                   |
| <b>INITIAL BASE FIRM DEMAND:</b><br>14,867.0 acre-feet      | <b>EFFECTIVE DATE:</b><br>January 1, 2003 |
| <b>INITIAL TIER 1 ANNUAL MAXIMUM:</b><br>13,380.3 acre-feet |   |
| <b>PURCHASE ORDER COMMITMENT:</b><br>107,042.0 acre-feet    |   |

Definitions of capitalized terms used in this Purchase Order are provided in Attachment 1. Terms used in this Purchase Order and not defined in Attachment 1 are defined in Metropolitan's Administrative Code.

**COMMITMENT TO PURCHASE.**

In consideration of Purchaser's commitment to purchase System Water pursuant to this Purchase Order, Metropolitan agrees to sell such System Water to Purchaser at the Tier 1 Supply Rate each year in an amount up to the Tier 1 Annual Maximum. System Water sold to Purchaser (excluding deliveries of interruptible water, including but not limited to the Interim Agricultural Water Program, Long-Term Seasonal Storage Service and Replenishment Service) in an amount greater than the Tier 1 Annual Maximum shall be sold to the Purchaser at the Tier 2 Supply Rate. In connection with the receipt of System Water, the Purchaser also agrees to pay all other applicable rates and charges, as established by Metropolitan from time to time in accordance with Section 4304 of the Administrative Code. The rates and charges applicable to System Water as of the Effective Date are shown in Attachment 2.

Purchaser agrees to purchase System Water from Metropolitan during the Term in an amount (excluding deliveries of interruptible water, including but not limited to the Interim Agricultural Water Program, Long-Term Seasonal Storage Service and Replenishment Service) not less than the Purchase Order Commitment.

Purchaser recognizes and agrees that Metropolitan has relied and will, during the term of this Purchase Order, rely on this commitment by Purchaser in setting its rates and charges, planning and providing its capital facilities and developing its water supply, management and reliability programs. If Purchaser's applicable System Water purchases during the Term are less than the Purchase Order Commitment, Purchaser agrees to pay Metropolitan an amount equal to the difference between the Purchase Order Commitment and Purchaser's applicable System Water purchases during the Term times the average of the Tier 1 Supply Rate in effect during the Term. The Purchaser agrees to pay such amount to Metropolitan within the next regular billing cycle following the reconciliation of all certifications for special programs that the Purchaser may participate in (e.g. Interim Agricultural Water Program, Long-term Seasonal Storage Service). The Purchaser may elect to pay such amount in twelve equal monthly payments over the course of the next twelve months beginning with the first regular billing cycle

following the reconciliation of all outstanding certifications for special programs. If the Purchaser elects to pay such amount over the course of the next twelve months following the regular billing cycle any outstanding balance shall bear interest at Metropolitan's then current investment portfolio average yield. All other amounts payable under this Purchase Order shall be billed and paid in accordance with the Administrative Code.

The Purchaser further recognizes that this Purchase Order is entered into for the direct benefit of the holders and owners of Metropolitan's Bonds issued from time to time under the Act and the Bond Resolutions, and the income and revenues derived from this Purchase Order will be pledged for the purposes set forth in the Bond Resolutions, including the payment of principal of and interest on such Bonds.

**RENEWAL:**

Prior to but not later than December 31, 2010, the Purchaser may provide a non-binding written notice to Metropolitan of the Purchaser's determination to extend this Purchase Order. Upon the receipt of such notice, the Board of Directors of Metropolitan (the "Board") shall determine whether Metropolitan will continue to provide System Water to member agencies by Purchase Order. If the Board so determines, the Purchaser and Metropolitan shall amend this Purchase Order to include an extended term and/or to include such other terms and conditions as may be mutually agreed by the parties. If the Purchaser elects not to renew this Purchase Order it will terminate upon the expiration of the Term.

**WATER SERVICE:**

Conditions of water service by Metropolitan to the Purchaser, including but not limited to (i) delivery points, (ii) water delivery schedules, and (iii) water quality, will be determined in accordance with Chapter 5 (Section 4500 through 4514, inclusive, as applicable) of Metropolitan's Administrative Code.

In accordance with its Administrative Code, Metropolitan shall use its reasonable best efforts to supply System Water in the quantities requested by the Purchaser, but is not obligated to dedicate any portion of System capacity for the conveyance, distribution, storage or treatment of System Water for the benefit of the Purchaser or any other member agency. Metropolitan shall use its reasonable best efforts to deliver the Firm Demand when needed by the Purchaser during the Term; provided however, there shall be no default under this Purchase Order if Metropolitan fails to deliver water to the Purchaser in accordance with any such schedule of deliveries during the Term.

By execution of this Purchase Order, the Purchaser recognizes and agrees that it acquires no interest in or to any portion of the System or any other Metropolitan facilities, or any right to receive water delivered through the System, excepting the right to purchase up to Purchaser's Tier 1 Annual Maximum at the Tier 1 Supply Rate provided that System Water is available. This Purchase Order governs pricing of the System Water delivered to the Purchaser pursuant to this Purchase Order and does not confer any entitlement to receive System Water.

System Water provided to the Purchaser under the terms of this Purchase Order shall be subject to reduction in accordance with the shortage allocation provisions of the Water Surplus and Drought Management Plan (the "WSDM Plan") or other such policies and principles governing the allocation of System Water as adopted by the Board.

In the event that Metropolitan's Board determines to reduce, interrupt or suspend deliveries of System Water, any outstanding balance of the Purchase Order Commitment at the end of the Term shall be reduced by the reduction in System Water made available to the Purchaser under this Purchase Order.

**MISCELLANEOUS:**

This Purchase Order will be interpreted, governed and enforced in accordance with the laws of the State of California.

This Purchase Order will apply to and bind the successors and assigns of the Purchaser and Metropolitan.

No assignment or transfer of the rights of the Purchaser under this Purchase Order will be valid and effective against Metropolitan or the Purchaser without the prior written consent of Metropolitan and the Purchaser.

If at any time during the Term, by reason of error in computation or other causes, there is an overpayment or underpayment to Metropolitan by the Purchaser of the charges provided for under this Purchase Order, which overpayment or underpayment is not accounted for and corrected in the annual re-determination or reconciliation of said charges, the amount of such overpayment or underpayment shall be credited or debited, as the case may be, to the Purchaser. Metropolitan will notify the Purchaser in writing regarding the amount of such credit or debit, as the case may be. In no case will credits or debits for charges provided for under this Purchase Order be administered beyond the limit for billing adjustments as specified in Metropolitan's Administrative Code.

IN WITNESS WHEREOF, this Amended and Restated Purchase Order is executed by the duly authorized officers of the Metropolitan Water District of Southern California and City of Beverly Hills, as of December \_\_, 2012.

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA      CITY OF BEVERLY HILLS

By: \_\_\_\_\_  
Jeffrey Kightlinger  
General Manager

By: \_\_\_\_\_  
William W. Brien, M.D.  
Mayor of the City of Beverly Hills

ATTEST:

APPROVED AS TO FORM AND CONTENT:

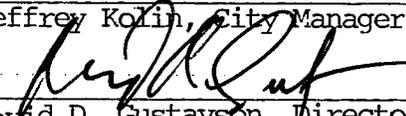
\_\_\_\_\_  
Byron Pope, City Clerk

\_\_\_\_\_  
General Counsel

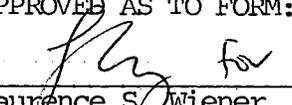
APPROVED AS TO CONTENT:

\_\_\_\_\_  
Jeffrey Kolin, City Manager

By: \_\_\_\_\_

  
\_\_\_\_\_  
David D. Gustavson, Director of  
Public Works & Transportation

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Laurence S. Wiener, City Attorney

**Attachment 1**  
**Amended and Restated Purchase Order for System Water**  
**DEFINITIONS**

“**Act**” means the Metropolitan Water District Act, California Statutes 1969, Chapter 209, as amended and supplemented from time to time.

“**Base Firm Demand**” means the greater of (i) the Initial Base Firm Demand Post IAWP or (ii) the ten-year rolling average of the Purchaser’s Firm Demand, measured on a fiscal year basis.

“**Bonds**” means water revenue bonds or notes issued under the Bond Resolutions.

“**Bond Resolutions**” means Resolution No. 8329 or Resolution No. 8322, both as amended and supplemented, or any other resolution authorizing the issuance of bonds, notes or other obligations secured by Metropolitan’s water sales revenues.

“**Effective Date**” means the effective date of this Purchase Order as specified above.

“**Firm Demand**” means the Purchaser’s purchases of non-interruptible System Water supplies, including full service, seasonal shift, Conjunctive Use Program, Surface Storage Operating Agreement water, Recharge and Recovery Operating Agreement water, or any other water program deemed to be a firm delivery of water.

“**Initial Base Firm Demand**” means the Purchaser’s highest annual Firm Demand on Metropolitan in any fiscal year during the period from fiscal year 1989/90 through fiscal year 2001/02. In accordance with procedures set forth in Metropolitan’s Administrative Code, the Initial Base Firm Demand will be revised to reflect certified and verified deliveries under the Interim Agricultural Water Program and Long-term Seasonal Storage Service Program as such certifications affect the Initial Base Firm Demand.

“**Initial Base Firm Demand Post IAWP**” means the Purchaser’s highest annual delivery of water from the District, excluding water delivered under Long-Term Seasonal Storage Service and other deliveries of interruptible water but including Interim Agricultural Water Program deliveries, during any fiscal year from fiscal year 1989/90 through fiscal year 2001/02.

“**Metropolitan**” means The Metropolitan Water District of Southern California.

“**Purchase Order Commitment**” means 60% of the Initial Base Firm Demand times 12. Deliveries of System Water made under the Interim Agricultural Water Program and Long-Term Seasonal Storage Service will not count toward the Purchase Order Commitment.

“**Purchase Order**” means this Amended and Restated Purchase Order for System Water.

“**Purchaser**” means the member public agency specified above, a duly organized [city/water district/county water authority] of the State of California.

“**System**” means the properties, works and facilities of Metropolitan necessary for the supply, development, storage, conveyance, distribution, treatment or sale of water.

**“System Water”** means water supplies developed by Metropolitan and delivered to the Purchaser through the System or other means (e.g. conjunctive use storage).

**“Term”** means the term of this Purchase Order as specified above.

**“Tier 1 Annual Maximum”** means an amount equal to 90% of the Base Firm Demand.

**“Tier 1 Supply Rate”** means Metropolitan’s per-acre-foot Tier 1 Supply Rate, as determined from time to time by Metropolitan’s Board of Directors. The initial Tier 1 Rate is \$73/AF.

**“Tier 2 Supply Rate”** means Metropolitan’s per-acre-foot Tier 2 Supply Rate, as determined from time to time by Metropolitan’s Board of Directors. The initial Tier 2 Rate is \$154/AF.

**“Water Surplus and Drought Management Plan (WSDM)”** means Metropolitan’s policy and procedures for managing supplies and drought conditions as adopted by the Board from time to time.

**Attachment 2**  
**Amended and Restated Purchase Order for System Water**  
**RATES AND CHARGES**

|  | Effective<br>January<br>1, 2013 | Effective<br>January<br>1, 2014 |
|--|---------------------------------|---------------------------------|
| Tier 1 Supply Rate (\$/AF)                 | \$140                           | \$148                           |
| Tier 2 Supply Rate (\$/AF)                 | \$290                           | \$290                           |
| System Access Rate<br>(\$/AF)              | \$223                           | \$243                           |
| System Power Rate<br>(\$/AF)               | \$189                           | \$161                           |
| Water Stewardship Rate<br>(\$/AF)          | \$41                            | \$41                            |
| Full Service Untreated<br>Rate (\$/AF):    |                                 |                                 |
| Tier 1                                     | \$593                           | \$593                           |
| Tier 2                                     | \$743                           | \$735                           |
|  |                                 |                                 |
| Treatment Surcharge<br>(\$/AF)             | \$254                           | \$297                           |
| Full Service Treated Rate<br>(\$/AF):      |                                 |                                 |
| Tier 1                                     | \$847                           | \$890                           |
| Tier 2                                     | \$997                           | \$1,032                         |
|  |                                 |                                 |
| Readiness-to-Serve<br>Charge (\$ millions) | \$142                           | \$166                           |
| Capacity Charge (\$/cfs)                   | \$6,400                         | \$8,600                         |