



- **Board of Directors**

Finance, Affordability, Asset Management, and Efficiency Committee

5/13/2025 Board Meeting

8-2

Subject

Adopt CEQA determination that the proposed action was previously addressed in the adopted 2017 Mitigated Negative Declaration, Addenda Nos. 1, 2 and 3 and related CEQA actions; and adopt resolution that (1) authorizes the execution and delivery of an amended and restated agreement between Antelope Valley-East Kern Water Agency and Metropolitan for the High Desert Water Bank Program, (2) approves the project financing, and (3) authorizes the General Manager and the Assistant General Manager/Chief Financial Officer and Treasurer to negotiate, execute, and deliver various related agreements and documents

Executive Summary

This board letter outlines staff's recommended plan of finance for the High Desert Water Bank ("HDWB" or "Water Bank") Program with Antelope Valley-East Kern Water Agency ("AVEK"). As part of a multi-step process with the AVEK staff and board, Metropolitan staff is seeking board approval of changes in the Amended and Restated HDWB Agreement to facilitate the long-term bond financing of the HDWB capital costs.

In the adopted Biennial Budgets for Fiscal Years 2022/23-2023/24 and 2024/25-2025/26, the Board approved debt financing the HDWB to reduce cash expenditures. The debt will be issued by a Joint Powers Authority, the Antelope Valley-East Kern Water Agency Financing Authority, comprised of AVEK and the California Municipal Finance Authority (the "AVEK Finance Authority JPA" or "the JPA"). The JPA will issue the long-term debt to fund the construction costs of the HDWB capital assets that are wholly owned by AVEK. Metropolitan will make installment payments sufficient to pay the debt service costs of the JPA bond issue. The JPA structure allows the principal component of the borrowing to be paid as a subordinate lien debt obligation on Metropolitan's revenue bond lien, while the interest expense component will be funded as an Operation and Maintenance expense ("O&M expense"). This structure will help Metropolitan preserve its debt capacity and benefit Metropolitan's debt service coverage ratio calculations.

The duration of the proposed debt service payments and the term of the Agreement must align in order to accommodate the maturity of the bonds to be issued. The Amended and Restated HDWB Agreement will enable the capital costs of the HDWB project to be financed over a 30-year term, consistent with the assumed HDWB project's useful life. The current HDWB Agreement term is being extended by an additional twenty years to December 31, 2057.

The proposed resolution (**Attachment 1**) authorizes the execution and delivery of an amended and restated agreement between AVEK and Metropolitan for the HDWB Program, extending the term of the Agreement, approving the project financing, and authorizing the General Manager and the Assistant General Manager/Chief Financial Officer and Treasurer to negotiate, execute and deliver various related agreements and documents.

Fiscal Impact

The HDWB Program has two main financial components: (1) capital costs, and (2) O&M costs. The \$177.9 million of financed capital costs will be amortized over a term of up to 30 years, while the O&M costs will span through 2057, which aligns with the new term of the HDWB Agreement. Staff anticipates that the long-term

bond financing for board-approved capital costs to date will have an annual debt service payment of approximately \$10.4 million, depending upon debt structure and market conditions at the time of sale.

However, as detailed in the February 10, 2025, board letter to the One Water and Stewardship (“OWS”) Committee, alternative strategies identified by staff for the treatment of arsenic and nitrate, and potential requirements to mitigate impacts to neighboring wells, will have additional capital and O&M costs. It is expected that such treatment options or mitigation requirements, if approved by the Board, could increase the cost of the HDWB project and may require subsequent series of bonds to be issued by the JPA. Staff expects to have these additional cost estimates for arsenic and nitrate treatment and any mitigation measures for neighboring wells in the fourth quarter of 2025 and will bring related approvals to the Board accordingly.

Proposed Action(s)/Recommendation(s) and Options

Staff Recommendation: Option #1

Option #1

Adopt CEQA determination that the proposed action was previously addressed in the adopted 2017 Mitigated Negative Declaration, Addenda Nos. 1, 2 and 3 and related CEQA actions; and adopt a resolution that:

(1) authorizes the execution and delivery of an amended and restated agreement between Antelope Valley-East Kern Water Agency and Metropolitan for the High Desert Water Bank Program, (2) approves the project financing, and (3) authorizes the General Manager and the Assistant General Manager/Chief Financial Officer and Treasurer to negotiate, execute, and deliver various related agreements and documents.

Fiscal Impact: The Adopted Budget for Fiscal Years 2024/25 and 2025/26 assumes average annual debt service costs for the HDWB Program of \$10.9 million. The current estimated annual JPA debt service costs for the HDWB Program are approximately \$10.4 million. However, these estimates do not include the cost of additional arsenic and nitrate treatment, or any costs associated with potential impacts to neighboring wells. The treatment cost estimates are expected in the fourth quarter of 2025 and are subject to board approval.

Business Analysis: Approval of Option #1 will enable Metropolitan to proceed with this important program as directed by the Board while treatment costs and final capital costs are determined. Financing the HDWB Program as recommended in Option #1 would not impact Metropolitan’s business except for the fiscal impacts previously noted above.

Option #2

Do not adopt the resolution that authorizes the execution and delivery of an amended and restated agreement between Antelope Valley-East Kern Water Agency and Metropolitan for the High Desert Water Bank Program, approves the project financing, and authorizes the General Manager and the Assistant General Manager/Chief Financial Officer and Treasurer to negotiate, execute and deliver various related agreements and documents.

Fiscal Impact: Future capital costs of the HDWB Program would have to be funded from other debt financing structures or from Metropolitan’s operating revenues. The former alternative would most likely result in the issuance of debt under Metropolitan’s revenue bond program. While staff believes the difference in cost of funds between debt issuance through the AVEK JPA and Metropolitan is negligible, the fiscal impact would be realized through the reduction in Metropolitan’s revenue bond debt capacity by \$178 million and incrementally improve Metropolitan’s debt service coverage ratio. The latter alternative of using revenues in lieu of debt to fund the HDWB capital costs would have a negative effect on Metropolitan’s operating budget and may require commensurate rate increases in the next biennium budget cycle.

Business Analysis: If Option #2 is approved, staff will develop an alternative plan of finance; however, the financing mechanism used to support this funding decision would not impact Metropolitan’s business except for the fiscal impacts previously noted above.

Alternatives Considered

Not applicable

Applicable Policy

Metropolitan Water District Administrative Code Section 4203: Water Transfer Policy

Related Board Action(s)/Future Action(s)

By Minute Item 50302, dated November 10, 2015, the Board authorized entering into an agreement for Storage and Exchange Programs with AVEK.

By Minute Item 51564, dated April 9, 2019, the Board authorized entering into an agreement for the High Desert Water Bank Program with AVEK.

By Minute Item 55360, dated September 12, 2023, the Board authorized up to \$80 million for additional costs associated with changes to the High Desert Water Bank Program with AVEK.

By Minute Item 53882, dated December 10, 2024, the Board authorized the General Manager to enter into agreements with the U.S. Bureau of Reclamation to implement phase two of the LC Conservation Program, which includes approximately \$82 million in funding for costs associated with the Water Bank.

In Board Information Item 9-3, dated February 11, 2025, Staff provided updates regarding certain water quality issues and possible treatment approaches, groundwater modeling, potential impacts to neighboring wells, and other contingencies related to the High Desert Water Bank Program with AVEK, as well as planned amendments to the High Desert Water Bank Program agreement and plan of finance referenced in this letter. Staff plans to return to the Finance, Affordability, Asset Management, and Efficiency Committee in the next several months when final treatment and other project cost estimates are available for the Board's consideration and approval.

Summary of Outreach Completed

Not applicable

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

On April 4, 2019, the Board acted as a Responsible Agency and certified that it reviewed and considered the information in the Antelope Valley-East Kern Water Agency's December 2017 Mitigated Negative Declaration and adopted the Lead Agency's mitigation measures prior to approval of the formal terms and conditions for the proposed agreement. On September 12, 2023, the Board reviewed and considered Addenda Nos. 1, 2, and 3 to the Mitigated Negative Declaration prior to changes to the design, construction, and operation of Water Bank facilities and approval of additional costs associated with those changes. The present board action relates solely to the financing of project costs and does not involve or authorize changes to the actual project itself. Therefore, the environmental documentation previously prepared and adopted in connection with the project fully complies with CEQA, and no further environmental analysis or documentation is required. Any future management actions or agreements will be evaluated to determine whether the effects of such actions are consistent with the 2017 MND and Addenda or whether any additional analysis and documentation is needed.

CEQA determination for Option #2:

None required

Details and Background

Background

In April 2019, the Board authorized the General Manager to enter into an agreement with AVEK (the HDWB Agreement). At that time, the Board approved capital payments for the HDWB Program of up to \$131 million.

In September 2023, the Board authorized additional funding for the HDWB Program of up to \$80 million for various unforeseen issues that have impacted the HDWB Program and increased estimated costs since it was approved in 2019. These include (1) higher-than-anticipated rates of inflation due to supply chain constraints and other factors; (2) revisions to the design, construction, and operation of the Water Bank's recharge and recovery facilities, which are necessary to achieve the original performance targets; and (3) the need for additional electrical infrastructure to support the operation of the Water Bank's facilities. Combined with the original approval for \$131 million, the additional \$80 million resulted in a total of \$211 million in authorized expenditures

for the HDWB Program. This estimated project cost does not include additional costs described in a February 10, 2025, board information letter cited above, in which staff informed the Board of additional water quality treatment capital costs for arsenic and nitrate, potential mitigation costs associated with impacts to neighboring wells, and groundwater modeling impacts that indicate a limited ability to continuously recharge the Water Bank as originally planned. This estimated project cost also does not reflect that, in December 2024, Metropolitan entered into a System Conservation Implementation Agreement with the United States Bureau of Reclamation (“USBR”), under which USBR agreed to provide \$82 million in funding for the Water Bank in exchange for Metropolitan leaving 168,000 AF of conserved Colorado River water in Lake Mead. The funding will defray Metropolitan’s overall costs on the project by paying for the construction of new infrastructure such as wells, recovery facilities, water treatment facilities, and on-site electrical.

As of April 1, 2025, Metropolitan has paid approximately \$106.0 million for AVEK capital costs, paid approximately \$1.0 million for AVEK O&M expenses, and issued \$99.4 million of short-term certificates under Metropolitan’s Revolver Note Facility.

HDWB Program Plan of Finance

In the adopted Biennium Budgets for Fiscal Years 2022/23-2023/24 and 2024/25-2025/26, the Board approved debt financing for the HDWB to reduce upfront cash expenditures and reduce near-term rate impacts. Staff and the bond financing team considered options to debt finance the HDWB Program using Metropolitan’s revenue bond program or an alternative project financing approach utilizing a third-party JPA. Staff recommends the JPA approach, considering benefits to the preservation of Metropolitan’s debt capacity and debt service coverage. The long-term financing through the AVEK JPA approved in the proposed resolution will pay off all of Metropolitan’s outstanding short-term note obligations incurred for the HDWB Program.

Metropolitan’s \$99.4 million of currently outstanding Revolver Notes were issued in multiple series since June 2023 to finance the HDWB Program per board approval. The use of Metropolitan’s short-term Revolver Note Facility was part of an interim financing plan for HDWB until issues enabling the long-term bond financing of the program were resolved. Metropolitan paid \$1.64 million in interest cost in fiscal year 2023/24 and \$2.23 million to date for fiscal year 2024/25 for the HDWB Program-related notes.

Given the inversion of the yield curve since July 2023, short-term rates have been higher than long-term rates. Despite this circumstance, staff was able to keep the financing costs under budget by only borrowing funds through the Revolver as needed. In fact, staff lowered the all-in carry cost of the issued Revolver Notes by \$7.5 million and \$5.9 million compared to budget assumptions in fiscal year 2022/23 and fiscal year 2023/24, respectively.

Proposed HDWB Agreement Amendments

To debt finance the capital costs of the HDWB Program, the HDWB Agreement will be amended and restated to include required provisions to enable financing through the AVEK JPA. These amendments include the addition of a schedule of installment payments that will match the debt service payments of the bonds and secure Metropolitan’s obligation to pay installment payments as a first-tier parity obligation under its Master Subordinate Resolution.

Proposed Resolution

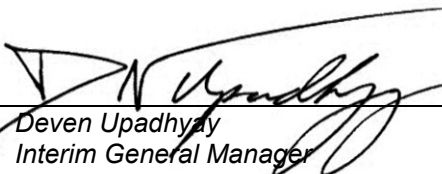
The proposed resolution would authorize the financing of the design, acquisition, construction, and installation of the High Desert Water Bank through the issuance of bonds by the JPA, and execution of an Amended and Restated HDWB Agreement to facilitate the long-term bond financing and the related financing documents, including but not limited to a Continuing Disclosure Undertaking and an Assignment Agreement.



Katano Kasaine
Assistant General Manager/
Chief Financial Officer

5/5/2025

Date



Deven Upadhyay
Interim General Manager

5/5/2025

Date

Attachment 1 – AVEK Financing Resolution**Attachment 2 – Amended And Restated Agreement Between Antelope Valley-East Kern Water Agency And Metropolitan For The High Desert Water Bank Program**

Ref# cfo12701792

**THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA**

RESOLUTION _____

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
AUTHORIZING THE DISTRICT'S AMENDED AND RESTATED AGREEMENT
BETWEEN ANTELOPE VALLEY-EAST KERN WATER AGENCY AND
METROPOLITAN FOR THE HIGH DESERT WATER BANK PROGRAM AND
AUTHORIZING THE GENERAL MANAGER OR ASSISTANT GENERAL
MANAGER/CHIEF FINANCIAL OFFICER AND TREASURER TO NEGOTIATE,
EXECUTE AND DELIVER VARIOUS AGREEMENTS AND DOCUMENTS RELATED
THERE TO**

The Board of Directors of The Metropolitan Water District of Southern California (the "Board") hereby finds that:

1. In April 2019, the Board authorized the General Manager to enter into the Agreement Between Antelope Valley-East Kern Water Agency and the District for the High Desert Water Bank Program (the "Original Water Bank Agreement"), by and between the Antelope Valley-East Kern Water Agency ("AVEK") and The Metropolitan Water District of Southern California (the "District"), to provide up to \$131 million, which was increased to \$211 million in September 2023, for the construction of monitoring and production wells, turnouts, pipelines, recharge basins and water storage and booster pump facilities (collectively, the "High Desert Water Bank"); and
2. Pursuant to the Original Water Bank Agreement, the District will pay the capital costs related to, and AVEK will construct and own, the High Desert Water Bank and the District will have the right to store and recover up to 70,000 acre-feet of water per year with a total storage capacity of 280,000 acre-feet; and
3. The Original Water Bank Agreement set forth the arrangements for the construction and operation of the High Desert Water Bank; and
4. The District finds it advisable for the Antelope Valley-East Kern Water Agency Financing Authority (the "Authority"), to issue its Water Bank Revenue Bonds, Series 2025A (High Desert Water Bank Program) (the "2025A Bonds"), in one or more subseries, in order to finance the design, acquisition, construction and installation of improvements creating the High Desert Water Bank, as further described in one or more Preliminary Official Statements (the "Preliminary Official Statement") and one or more final Official Statements (the "Official Statement") relating to the 2025A Bonds; and

5. The District and AVEK desire to amend and restate the Original Water Bank Agreement to provide for the financing of the construction of the High Desert Water Bank through the issuance of the 2025A Bonds, among other matters; and

6. The Board desires to authorize the General Manager or the Assistant General Manager/Chief Financial Officer and Treasurer of the District to negotiate, execute, and deliver the Amended and Restated Agreement Between AVEK and the District for the High Desert Water Bank Program (the “Amended and Restated Water Bank Agreement”), a form of which has been presented to this meeting, pursuant to which the District will make installment payments to AVEK in exchange for its right to use the High Desert Water Bank (the “Installment Payments”), which Installment Payments will be applied to the payment of debt service on the 2025A Bonds, among other matters; and

7. In connection with the issuance of the 2025A Bonds, AVEK will assign, without recourse, all of its rights to receive the Installment Payments scheduled to be paid by the District and certain other rights to the Authority under and pursuant to the Amended and Restated Water Bank Agreement pursuant to an Assignment Agreement (the “Assignment Agreement”), by and among the Authority, AVEK and the District, a form of which has been presented to this meeting; and

8. The Board desires to authorize the General Manager or the Assistant General Manager/Chief Financial Officer and Treasurer of the District to execute and deliver one or more continuing disclosure undertakings with respect to the 2025A Bonds (the “Continuing Disclosure Undertaking,” and together with the Amended and Restated Water Bank Agreement, and the Assignment Agreement, the “Financing Documents,” and the Financing Documents together with the transactions contemplated by the Amended and Restated Water Bank Agreement, and in furtherance of financing the design, acquisition, construction, installation of improvements and water treatment, creating the High Desert Water Bank, the “Project Financing”), forms of which have been presented to this meeting, for the benefit of the owners of the 2025A Bonds and in order to assist the underwriters of the 2025A Bonds in complying with Rule 15c2-12 promulgated under the Securities Exchange Act of 1934; and

NOW, THEREFORE, THE BOARD DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. **Approval of the Project Financing.** Each of the above recitals is true and correct and is adopted by the Board. Subject to Section 3 below, the Board hereby authorizes and approves the Project Financing.

2. **Authorization of General Manager and Assistant General Manager/Chief Financial Officer.** Subject to Section 3 below, the General Manager and the Assistant General Manager/Chief Financial Officer and Treasurer of the District, and each of them or any of their respective designees (individually, an “Authorized Officer,” and collectively, the “Authorized Officers”) are each hereby authorized, and any one of the Authorized Officers is hereby directed for and in the name of and on behalf of the District, to do any and all things necessary or convenient in the best interests of the District to negotiate, execute and deliver the Financing Documents, which shall be substantially in the forms presented to this meeting, with such additions and changes

therein as such Authorized Officers shall determine are necessary or desirable or otherwise approve as being in the best interests of the District, such determination and approval to be conclusively evidenced by such Authorized Officer's execution and delivery of the respective Financing Documents.

3. **General Authorizations.** The Authorized Officers are each hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name and on behalf of the District, to take all actions and execute any and all documents necessary or advisable in furtherance of the Project Financing, or the negotiation and execution of the Financing Documents, and to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate, carry out, give effect to and comply with the terms and intent of this Resolution and the consummation of the transactions contemplated hereby, including without limitation: (i) one or more certificates deeming the Preliminary Official Statements relating to the 2025A Bonds final within the meaning of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended (the "15c2-12 Certificates"); (ii) one or more Official Statements describing the 2025A Bonds; (iii) one or more Bond Purchase Contracts, each by and between the District and Wells Fargo Securities LLC, or another underwriter as selected by AVEK or an Authorized Officer, as representative of the underwriters named therein, with respect to the 2025A Bonds (the "Bond Purchase Contracts"); and (iv) any future amendments, substitutions, extensions or replacements of the Financing Documents or the other documents described herein. All actions heretofore taken or caused to be taken by any Authorized Officer or other officer of the District with respect to the Project Financing, or in connection with the transactions contemplated by this Resolution, are hereby approved, confirmed, and ratified.

4. **Limitation of Authorization.** The District shall not take any District action under Section 1, 2 or 3 of this Resolution if, after giving effect to such District action, (i) the original aggregate principal amount of the 2025A Bonds exceeds \$180 million; (ii) the interest rate on the 2025A Bonds exceeds the maximum legal rate; (iii) the final maturity of the 2025A Bonds exceeds 40 years from their date of issuance; or (iv) the District's obligations under the Amended and Restated Water Bank Agreement do not satisfy the conditions precedent to the issuance of First Tier Parity Obligations as set forth in Section 6.08 of Resolution 9199 adopted by the District on March 8, 2016, as amended or supplemented, (the "Master Subordinate Resolution"); provided, however, that the Authorized Officers shall calculate the total amount of estimated costs of the Project Financing and the District's responsibility to pay for costs of the High Desert Water Bank based on such reasonable assumptions and methods as provided in the Amended and Restated Water Bank Agreement and as the Authorized Officers shall determine in his or her reasonable discretion and judgment.

5. **Severability.** If any provision of this Resolution is held invalid, that invalidity shall not affect other provisions 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 affirmative votes of members representing more than 50 percent of the total number of votes of all members of the Board of Directors of The Metropolitan Water District of Southern California at its meeting held on May 13, 2025.

Secretary of the Board of Directors
of The Metropolitan Water District
of Southern California

**Amended and Restated Agreement
between
Antelope Valley-East Kern Water Agency
and
The Metropolitan Water District of Southern California
for the
High Desert Water Bank Program**

Antelope Valley-East Kern Water Agency (“AVEK”) and The Metropolitan Water District of Southern California (“Metropolitan”) have heretofore entered into an Agreement for the High Desert Water Bank Program, dated as of December 9, 2019 (the “Original Water Banking Agreement”) and have now determined the necessity to enter into this Amended and Restated Agreement for the High Desert Water Bank Program to amend to and restate the Original Water Banking Agreement, dated as of _____. 2025 (hereafter, as so amended, the “Agreement”). AVEK and Metropolitan are individually referred to as a “Party” and collectively as “Parties.”

RECITALS

A. AVEK is a water agency formed in 1959 by an act of the State Legislature. AVEK’s power, duties, authorities, and other matters are set forth in its enabling act, which is codified at California Water Code, Uncodified Acts, Act 9095. AVEK’s jurisdictional boundaries cover approximately 2,400 square miles including portions of Los Angeles, Ventura, and Kern counties. AVEK has contracted with the California Department of Water Resources to provide water from the California State Water Project.

B. Metropolitan is a metropolitan water district organized under the Metropolitan Water District Act, codified at Section 109-1, *et seq.* of West’s Appendix to the California Water Code, and engaged in developing, storing, and distributing water in the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura. Metropolitan also has contracted with the California Department of Water Resources to provide water from the California State Water Project.

C. This Agreement provides for Metropolitan to pay the costs related to, and for AVEK to construct and own, the High Desert Water Bank. This Agreement also provides for operation of the High Desert Water Bank, under which Metropolitan will have the right to store and recover up to 70,000 acre-feet per year with a total storage capacity of 280,000 acre-feet.

D. AVEK and Metropolitan entered into the Original Water Banking Agreement, pursuant to which AVEK and Metropolitan set forth the arrangements for the construction and operation of the High Desert Water Bank.

E. AVEK and Metropolitan desire to amend and restate the Original Water Banking Agreement (the “Amendment”) to provide for the financing of the construction of the High Desert Water Bank through the issuance of the Bonds (as defined below), among other matters.

F. In consideration of the mutual covenants of the Parties and for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

AGREEMENT

1. Definitions

The following capitalized terms in this Agreement shall have the meanings ascribed to them below; provided, however, that certain capitalized terms used in Exhibit A to this Agreement shall have the meanings set forth in said Exhibit A.

1.1 *Authority.* the Antelope Valley-East Kern Water Agency Financing Authority, a joint exercise of powers authority duly organized and existing under the State of California.

1.2 *AVEK Basin.* The Antelope Valley groundwater basin underlying lands within the boundaries of AVEK, which is the same basin referred to as AVEK Basin Area, as described in the Antelope Valley Groundwater Adjudication (Antelope Valley Groundwater Cases, Judicial Council Coordination Proceeding No. 4408, Santa Clara Case No. 1-05-CV-049053).

1.3 *Bonds.* The Antelope Valley-East Kern Water Agency Financing Authority Water Bank Revenue Bonds, Series 2025A (High Desert Water Bank Program) issued by the Authority pursuant to an Indenture of Trust, by and between the Authority and Computershare Trust Company, National Association, as trustee, dated as of the date hereof.

1.4 *CPI.* Consumer Price Index for All Urban Consumers for Los Angeles-Long Beach-Anaheim All Items (CPI-U) calculated as the November CPI-U increase rounded to the nearest dollar. For example, if the November 2019 CPI-U was 269.005 and the November 2018 CPI-U was 259.064, then the percent change for January 1, 2020 would be +3.84% $((269.005 - 259.064) / 259.064)$.

1.5 *Capital Costs.* Actual expenses incurred on the purchase of land, engineering services, legal services related to land acquisition, buildings, construction, and equipment of the Facilities.

1.6 *DWR.* The Department of Water Resources of the State of California.

1.7 *Delivery Points.* California Aqueduct turnouts to/from the Facilities or other mutually agreed locations.

1.8 *Facilities.* All structures of the High Desert Water Bank, including (without limitation) recharge basins, turnouts, recovery wells, transmission pipelines, electrical, water storage and booster pump facilities, instrumentation and controls, agreed upon treatment facilities, and other structures or facilities necessary for operation of a groundwater storage and recovery program pursuant to this Agreement.

1.9 *Installment Payments.* The installment payments set forth and described in Exhibit A on the terms and conditions set forth therein.

1.10 OM&R and Management Costs. Any recurring or ongoing activity and costs associated with the day-to-day operation and management of the Facilities; any activity and costs relating to scheduled or unscheduled maintenance of the Facilities; and any activity and costs relating to replacement of Facilities.

1.11 Payments. The obligation of Metropolitan to make the payments to AVEK required by this Agreement pursuant to Sections 5, 6, 8, 9, 10 and 11 (including, without limitation, the Installment Payments on the terms and conditions set forth in Exhibit A).

1.12 State Project Water. All water which the Parties have rights to receive under their State Water Contracts including Transfers, Exchanges, and Non-Project Turn-In water the Parties may acquire from other sources that is conveyed through the State Water Project.

1.13 State Water Contract. The long-term water contracts entered into by Metropolitan with DWR and by AVEK with DWR, respectively.

1.14 State Water Project (SWP). Part of the State Water Resources Development System, authorized and constructed under Section 12930, *et seq.* of the Water Code, to deliver water to various public agencies throughout the State, including the Parties.

1.15 Year. A calendar year commencing January 1 and ending December 31.

2. Annual Put and Return Capacities of the Facilities

The Parties intend the Facilities, when complete, to provide annual physical put and return capacities of 70,000 acre-feet, but recognize that the actual annual physical put and return capacities of the Facilities may vary over time.

3. Construction of the Facilities

AVEK will design, construct, own, operate, and maintain the Facilities. The Parties will agree in writing to a final design, construction schedule, and estimated budget, which may include oversized power and transmission facilities. If Metropolitan does not agree in writing to the construction of Facilities that exceed \$211 million, and if AVEK proceeds with such construction without funds provided by Metropolitan, then Metropolitan will receive rights to utilize all of the constructed Facilities in an amount that is equal to Metropolitan's pro-rata investment. AVEK shall not allow any use of the Facilities by a third party if such use would affect the exclusion from gross income for federal income tax purposes of the interest with respect to the Bonds and any other Tax-Exempt Additional Bonds (as defined in the Indenture).

(a) Example: Assume that the total cost of the Facilities is \$300 million, of which Metropolitan paid \$211 million. In this example, Metropolitan would receive the right to use 70% of the Facilities $((\$211 \text{ million}/\$300 \text{ million}) \times 100\% = 70\%)$.

4. Metropolitan Rights to Facilities in exchange for Payments

In exchange for the Payments, Metropolitan will have the contractual right to use the Facilities as provided in, and subject to the provisions of, Sections 13, 14, 15, 16, and 17 of this Agreement.

5. Payment for Construction of the Facilities

5.1 *Net Proceeds of Bonds.* AVEK and Metropolitan hereby acknowledge that the proceeds of the Bonds deposited in the Project Fund of the Indenture will be applied to the Capital Costs of the Facilities.

5.2 *Installment Payments.* Metropolitan will make the Installment Payments in the manner and on the terms and condition set forth in Schedule I to Exhibit A hereto.

5.3 *Additional Capital Costs.* Metropolitan agrees to pay all Capital Costs of the construction of the Facilities to the extent that the net proceeds of the Bonds are not sufficient to pay all Capital Costs of the Facilities. To the extent that the net proceeds of the Bonds are not sufficient to pay all Capital Costs of the Facilities, AVEK hereby agrees to use its reasonable efforts to assist Metropolitan to provide for the issuance of additional bonds on terms and conditions comparable to those of the Bonds to provide for the financing of such additional Capital Costs of the Facilities, if so requested by Metropolitan.

5.4 *Refund Upon Termination.* If this Agreement is terminated pursuant to Section 22 (Approval by DWR) or 19 (Agreement with Antelope Valley Watermaster), AVEK will fully refund to Metropolitan all funds Metropolitan has theretofore provided to AVEK, plus any interest earned thereon within 60 days following the date of written notification to terminate.

5.5 *Construction Completion.* Upon completion of construction, AVEK will provide Metropolitan an accounting of all related Capital Costs (including, without limitation, Capital Costs paid from the net proceeds of the Bonds) subject to audit, review, reconciliation, and approval by Metropolitan upon reasonable notification to AVEK. Other than net proceeds of the Bonds, which are addressed in the Indenture, AVEK will return to Metropolitan any unused funds once the Facilities are constructed and timely provide Metropolitan with such additional accountings of disbursements and credits as Metropolitan requests.

6. Reimbursement for Construction of Oversized Power and Transmission Facilities

If AVEK constructs oversized power and transmission facilities as mutually agreed to by the Parties in writing pursuant to Section 3 (Construction of the Facilities), AVEK will reimburse Metropolitan for the construction costs of such oversized facilities plus interest accrued at a rate of 3.5% per year beginning on the date Metropolitan paid AVEK for the oversized facilities and due within 10 years from that date. The reimbursable principal shall be limited to the additional construction costs incurred as a result of oversizing the facilities.

7. Option to Expand the Facilities

Metropolitan may request AVEK develop water banking facilities beyond that which are contemplated by this Agreement. Such request will be subject to AVEK's approval, as well as applicable laws including CEQA. The Parties may agree in writing to develop such additional facilities, which would be subject to all of the same terms in this Agreement. To the extent that such additional facilities will use the oversized power and transmission facilities, the reimbursement payable to Metropolitan under Section 6 of this Agreement shall be reduced proportionately. For example, if such additional water banking facilities utilize 10% of the capacity of the oversized power and transmission facilities, the reimbursement payable under Section 6 hereof shall be reduced by 10%.

8. Annual Operations, Maintenance, and Replacement and Management Costs

8.1 *Payment by Metropolitan.* On or before every [] of each Year, Metropolitan will pay to AVEK an amount equal to the estimated actual OM&R and Management costs for the Facilities for the following 12 months. The estimated actual OM&R and Management costs of the Facilities will be subject to mutual agreement by AVEK and Metropolitan. AVEK will provide Metropolitan documentation that establishes the amount of OM&R and Management Costs incurred by AVEK for the Facilities during the preceding 12 months.

8.2 *Metropolitan's Cost Reduction Due to Use by AVEK or a Third Party.* If AVEK or a third party uses any portion of the unused capacity of the Facilities pursuant to Section 17 (Priorities of Rights to Use Facilities), Metropolitan's annual share of OM&R and Management Costs will be reduced proportionately to said third-party's use. For example, if OM&R and Management Costs for a year were \$1,000,000 and Metropolitan utilized 75 percent of the Facilities' banking capacity and AVEK or a third party utilized the remaining 25 percent, then Metropolitan's share of the OM&R and Management Costs for that year would be \$750,000 (0.75 x \$1,000,000).

If AVEK or a third party uses any portion of the unused capacity of the Facilities pursuant to Section 17 (Priorities of Rights to Use Facilities) after Metropolitan has paid for the installation of a treatment system, AVEK will reimburse Metropolitan for a proportionate share of the costs to design, construct, operate, and maintain the treatment system. The amount AVEK will reimburse Metropolitan for the Capital Costs will be based on those costs amortized over the remaining term of this Agreement and the amount AVEK will reimburse Metropolitan for the operation and maintenance of the treatment system will be based on those costs calculated for the year the treatment system is used. For example, if the annual amortized Capital Costs were calculated at \$1,000,000 and the annual costs to operate and maintain the treatment system were calculated at \$500,000, then the total treatment cost would be \$1,500,000 for that year. If the treatment system's capacity is 70,000 acre-feet per year, AVEK would reimburse Metropolitan \$21.43 (\$1,500,000/70,000 acre-feet) for each acre-foot of water recovered by AVEK or a third party.

9. Recovery Usage Fee

9.1 *Per Acre-Foot Recovery Usage Fee.* Metropolitan will pay AVEK \$100 for each acre-foot of water AVEK returns to Metropolitan. This fee will be escalated annually based on the

change in CPI beginning in 2020. As of the date of this Amendment, the fee is set at \$_____ for each acre-foot of water AVEK returns to Metropolitan. AVEK will invoice Metropolitan no more than once per month. Metropolitan will pay AVEK this fee within 45 days following receipt of each invoice from AVEK.

9.2 Minimum Recovery Usage Fee. Metropolitan will ensure that AVEK receives a minimum of \$2,000,000, escalated annually based on the change in CPI beginning in 2020, each Year, which shall be applied towards the Per Acre-Foot Recovery Usage Fee, beginning in the earlier Year of: (1) completion of construction of the Facilities; or (2) the first return of water to Metropolitan. As of the date of this Amendment, the Recovery Usage Fee is set at \$_____ per year. Any minimum payments made by Metropolitan in excess of amounts used to recover water during a Year will be credited toward future Per Acre-Foot Recovery Usage Fees. For example, if Metropolitan incurs Per Acre-Foot Recovery Usage Fees in the amounts of \$1,000,000, \$3,000,000, and \$2,000,000 in each of the first three Years, then Metropolitan would pay AVEK \$2,000,000, \$2,000,000, and \$2,000,000 in recovery usage fees in each respective Year assuming there is no CPI adjustment during the period. The amount Metropolitan owes for a Year will be due by April 30 of the following Year. During the final five Years of the Agreement, Metropolitan may use any available credits calculated under this Section toward OM&R and Management Costs, Recovery Energy Costs, and Recovery Treatment Costs.

10. Recovery Energy Costs

Within 45 days following receipt of each invoice from AVEK for actual energy costs to return water to Metropolitan, Metropolitan will reimburse AVEK for such costs. AVEK will provide Metropolitan documentation that establishes AVEK's energy costs.

11. Recovery Treatment Costs

If Metropolitan determines that treatment is needed before returning water to Metropolitan and no other methods are reasonably available to return water to Metropolitan pursuant to Section 16 (Return of Water to Metropolitan), the Parties will discuss potential treatment options. If Metropolitan determines that treatment is necessary, and if AVEK is not responsible under Section 15 (Water Quality) for any impairment to the quality of the water to be returned to Metropolitan, Metropolitan will notify AVEK in writing of the treatment to be implemented. The design, construction, operation, and maintenance of any such treatment will be subject to Metropolitan's review and approval. As long as AVEK is not responsible under Section 15 (Water Quality) and a third party is not responsible under Section 17.2(c) (Priorities of Rights to Use Facilities) for any impairment to the quality of the water to be returned to Metropolitan, Metropolitan will reimburse AVEK for the actual treatment costs incurred by AVEK within 45 days following receipt of an invoice from AVEK. Treatment costs include the costs to design, construct, operate, and maintain any treatment that Metropolitan determines is necessary to treat water before it is returned to Metropolitan. AVEK will provide Metropolitan documentation that details the treatment costs incurred. All documentation will be subject to audit, review, reconciliation, and approval by Metropolitan upon reasonable notification to AVEK.

12. Billing

AVEK will submit invoices to Metropolitan's Accounts Payable Section, whose mailing address is P.O. Box 54153, Los Angeles, California 90054-0153. Copies of the invoices will be submitted in writing to the Agreement Administrator designated by Metropolitan at the above address. Invoices shall be itemized with a description of the items being billed.

13. Delivery of Water to AVEK

Metropolitan may deliver, at its sole expense, its State Project Water, or water from any other available sources approved by DWR to the Delivery Points. The amount of water Metropolitan may deliver to AVEK during a year may not exceed 70,000 acre-feet unless otherwise agreed to in writing by the Parties. Such deliveries will be scheduled and delivered at times and rates acceptable to the Parties. AVEK will take control and possession of water at the Delivery Points. Metropolitan will provide AVEK notice of intent to deliver water by May 1st of the year in which Metropolitan intends to deliver water under this Agreement. Metropolitan and AVEK staff will work cooperatively to develop a schedule by which water will be delivered, and which can be updated from time to time as conditions change.

14. Storage of Water

AVEK will create and maintain for Metropolitan a Storage Account. The amount of water Metropolitan may store with AVEK at any one time may not exceed 280,000 acre-feet unless otherwise agreed to in writing by the Parties. AVEK will accurately maintain the Storage Account and prepare and maintain adequate supporting records. All records will be subject to audit, review, reconciliation, and approval by Metropolitan upon reasonable notification to AVEK. Upon taking control and possession of water at the Delivery Points, AVEK will credit Metropolitan's Storage Account balance with an amount equal to the water delivered minus a one-time loss of 10%.

15. Water Quality

AVEK will take no action that will cause the quality of the water that is to be returned to Metropolitan to fail to meet water quality requirements (a) established by DWR or (b) generally known in the industry to be pending before DWR due to a noticed public presentation by or a publication of DWR, for acceptance of non-project water into the California Aqueduct. If AVEK causes the quality of the water that is to be returned to Metropolitan to fail to meet water quality requirements (a) established by DWR or (b) generally known in the industry to be pending before DWR due to a noticed public presentation by or a publication of DWR, for acceptance of non-project water into the California Aqueduct, AVEK will be responsible for taking all necessary steps, at its sole expense, to ensure that the return water meets those requirements before being returned to Metropolitan.

16. Return of Water to Metropolitan

Upon request by Metropolitan, AVEK will return water from the Storage Account to Metropolitan. The amount of water AVEK is required to return to Metropolitan during a year may not exceed 70,000 acre-feet unless otherwise agreed by the Parties. Water returned to Metropolitan

will be debited from the Storage Account. AVEK will use its best efforts to deliver the water to Metropolitan according to a mutually-agreed schedule. AVEK may return water to Metropolitan by exchanging Metropolitan's stored water for an equal amount of AVEK's State Project Water, by pumping water from the AVEK Basin back to the California Aqueduct for delivery to Metropolitan, or by other means mutually acceptable to the Parties. AVEK will not return groundwater to Metropolitan that does not meet DWR's then-current water quality requirements for Non-Project Turn-Ins. If water is returned to Metropolitan by exchange, AVEK will be solely responsible for the costs to deliver water to the Delivery Points. Metropolitan will be solely responsible for the costs of delivering water, whether by exchange or by direct pump-back, from the Delivery Points to Metropolitan's service area. Metropolitan will provide notice to AVEK of its request for AVEK to return water under this Agreement by May 1st of the Year in which the water will be returned. Metropolitan and AVEK staff will work cooperatively to develop a schedule by which water will be returned, and which can be updated from time to time as conditions change.

17. Priorities of Rights to Use Facilities

17.1 *First Priority.* Metropolitan will have an exclusive first priority right to use the full capacity or any portion of the Facilities with the exception of any oversized portion of the Facilities for which AVEK has reimbursed Metropolitan pursuant to Section 6.

17.2 *Second Priority.*

(a) To the extent Metropolitan does not use the entire capacity of the Facilities, AVEK may, subject to Section 17.3. (Metropolitan Service Area), use the Facilities itself or agree to allow a third party to use the Facilities. Before using the Facilities or allowing a third party to do so, AVEK will confirm in writing with Metropolitan the unused available capacity of the Facilities. AVEK shall not allow any use of the Facilities by a third party if such use would affect the exclusion from gross income for federal income tax purposes of the interest with respect to the Bonds and any other Tax-Exempt Additional Bonds (as defined in the Indenture).

(b) If AVEK allows a third party to use any available capacity of the Facilities, AVEK will share 50% of the benefits AVEK receives from that third party with Metropolitan. Such benefits include but are not limited to unbalanced exchange water in excess of 10% of the amount stored and payments from the third party to AVEK that remain after deducting the costs incurred by AVEK for meeting its commitments to the third party. Any money owed to Metropolitan will be deducted from any fees Metropolitan owes AVEK under this Agreement; provided, however, that no money owed to Metropolitan shall reduce any Installment Payments. Any water owed to Metropolitan will be credited to Metropolitan's Storage Account without additional losses.

(i) Example (a): Assume that AVEK allows a third party to store 10,000 acre-feet, that the third party pays AVEK a fee of \$200 per acre-foot and \$100 per acre-foot for energy costs and OM&R and Management Costs, and that there is a loss of 10% of the amount of water delivered deducted, so that the third party can recover 9,000 acre-feet. In this example, AVEK would share 50% of the \$200 per acre-foot fee collected

with Metropolitan and thus, Metropolitan would receive \$900,000 (9,000 acre-feet x \$200 per acre-foot x 50%).

(ii) Example (b): Assume that AVEK enters into a 2-for-1 unbalanced exchange with a third party, that the third party provides 10,000 acre-feet and pays AVEK \$100 per acre-foot for energy and OM&R and Management on the water recovery, and that there is a 10% loss factor applied, leaving 9,000 acre-feet, so that the third party can recover 4,500 acre-feet by unbalanced exchange. In this example, AVEK and Metropolitan would share equally, and each would receive 2,250 acre-feet.

(c) Any third party using the Facilities will take no action that will cause the quality of the water that is to be returned to Metropolitan to fail to meet water quality requirements (i) established by DWR or (ii) generally known in the industry to be pending before DWR due to a noticed public presentation by or a publication of DWR, for acceptance of non-project water into the California Aqueduct. If a third party using the Facilities causes the quality of water that is to be returned to Metropolitan to fail to meet water quality requirements (i) established by DWR or (ii) generally known in the industry to be pending before DWR due to a noticed public presentation by or a publication of DWR, for acceptance of non-project water into the California Aqueduct, the third party will be responsible for taking all necessary steps, at its sole expense, to ensure that the return water meets those requirements before being returned to Metropolitan. AVEK will ensure that any third party using the Facilities is aware of the requirements in this Section 17.2(c) and agrees in writing to be bound by them.

17.3 *Metropolitan Service Area.* AVEK will not use the Facilities in any manner that directly or knowingly indirectly results in the delivery of water to Metropolitan's service area by AVEK or third parties contracting with AVEK without Metropolitan's prior written approval. Nothing in this Agreement adversely affects any existing rights Metropolitan holds to require its consent before water is delivered to any part of Metropolitan's service area.

18. Non-Metropolitan Funded Facilities

Nothing in this Agreement prevents AVEK from developing for its use and/or use by third parties new additional water banking facilities that are entirely separate from the Facilities funded by Metropolitan. Metropolitan will have no rights to use such facilities, unless otherwise agreed to by the Parties.

19. Agreement with Antelope Valley Watermaster

AVEK will enter into any necessary water storage agreement with the Antelope Valley Watermaster as required by the Judgment of the Superior Court of the State of California in Santa Clara Case No. 1-05-CV-049053. If AVEK is unable to obtain such agreement, either Party may terminate this Agreement by providing 60-days written notice to the other Party.

20. Agreement Term

This Agreement will terminate on December 31, 2057, provided that Metropolitan has the option to extend this Agreement for an additional 20 years, i.e., to December 31, 2077.

Notwithstanding the termination date, if Metropolitan has requested the return of all of the water in its Storage Account before the termination date of this Agreement, but all of the water has not been returned to Metropolitan due to conditions beyond Metropolitan's control, the term of the Agreement will be extended long enough for Metropolitan to receive all of its requested water. Any water remaining in Metropolitan's Storage Account at the end of the term of this Agreement and not requested by Metropolitan for return will become AVEK's water. Notwithstanding any other provision of this Agreement, the obligation of Metropolitan to pay Installment Payments will be governed by the provisions of Exhibit A, and no termination of this Agreement will have any effect on such obligation and such obligation shall survive any termination of this Agreement and continue in force and effect as provided in Exhibit A.

21. Late-Arising Claims

If a claim arising under or with respect to one or more provisions of this Agreement has not been resolved when this Agreement reaches its termination date, or if such a claim is brought after this Agreement has terminated, but within the period of time for bringing such a claim under California law ("Late Arising Claim"), the provisions of this Agreement shall continue in full force and effect for such additional period of time as is necessary to resolve such claims and to satisfy the rights and obligations of the Parties hereto with respect thereto.

22. Approval By DWR

The Parties will work collaboratively to obtain DWR's approval for the Parties' use of the California Aqueduct consistent with this Agreement. If the Parties are unable to obtain such approval, either Party may terminate this Agreement by providing 60-days written notice to the other Party.

23. Division of Risk of Responsibilities

AVEK and Metropolitan agree to cooperate in reducing, to the greatest extent practicable, the risk from claims arising against any of the Parties from the implementation of this Agreement. In the event of claims by third parties relating to this Agreement, the responsibilities of AVEK and Metropolitan shall be divided as provided in this Section 23 (Division of Risk of Responsibilities).

23.1 *AVEK Responsibilities.* AVEK shall defend, indemnify and hold harmless Metropolitan and its directors, officers, agents, employees and volunteers against any and all losses, claims, demands and causes of action (herein collectively referred to as "claims") and will assume responsibility for payment of any settlements, judgments, costs and attorneys' fees arising from claims concerning the following:

(a) Control, carriage, transportation, handling, use, disposal, or distribution of water once it is provided to AVEK at the Delivery Points and before it is returned to Metropolitan at the Delivery Points;

(b) Any contest or dispute by any water purveyor; landowner; water user or groundwater rights holder within the AVEK service area or within or overlying the AVEK Basin concerning any disposition of the water provided by Metropolitan to AVEK;

(c) Actions of AVEK's directors, officers, employees, agents, or volunteers;
and

(d) Any other activities under the exclusive control of AVEK.

If Metropolitan is named in any such action, it may submit its defense to AVEK, which shall bear the full cost of defense, except to the extent that Metropolitan utilizes its own counsel for such defense. Metropolitan shall not be entitled to any indemnification from AVEK except as set forth in this Section 23.1. (AVEK Responsibilities).

23.2 *Metropolitan Responsibilities.* Metropolitan shall defend, indemnify and hold harmless AVEK and its directors, officers, agents, employees and volunteers, against any and all claims and shall assume responsibility for payment of any settlements, judgments, costs or attorneys' fees arising from claims concerning the following:

(a) Control, carriage, transportation, handling, use, disposal or distribution of water before it is provided to AVEK at the Delivery Points and after it is returned to Metropolitan at the Delivery Points;

(b) Any claim or dispute by a landowner, resident, public agency or other entity within the service area of, or otherwise served by, Metropolitan challenging the storage of water in the AVEK Basin, or this Agreement directly or indirectly;

(c) Actions of Metropolitan's directors, officers, employees, agents, or volunteers; and

(d) Any other activities under the exclusive control of Metropolitan.

If AVEK is named in any such action, it may submit its defense to Metropolitan, which shall bear the full cost of defense, except to the extent AVEK utilizes its own counsel for such defense. AVEK shall not be entitled to any indemnification from Metropolitan except as set forth in this Section 23.2. (Metropolitan Responsibilities).

23.3 *Multiple Claims.* In the event that payments are made in settlement of a claim, in satisfaction of a judgment or for defense costs where the claim arises from issues applying to both AVEK and Metropolitan, payments shall be divided in proportion to the relative liability of each arising from the common claim.

24. Informal Mediation

In the event of a dispute between the Parties regarding this Agreement, the Parties may attempt to resolve the dispute by using the services of a mutually acceptable mediator. The Parties will equally share the mediator's fees and expenses.

25. Remedies in the Event of AVEK's Failure to Perform

If AVEK has not substantially performed according to the terms of this Agreement, notice has been provided to AVEK pursuant to Section 29 (Waiver/Cure of Defaults), and AVEK has

failed to cure the alleged breach within the time provided in Section 29 (Waiver/Cure of Defaults), Metropolitan may at its election, at any time thereafter while the default is continuing, suspend further performance and thereafter seek any relief provided by law, including termination of this Agreement. Notwithstanding the foregoing, the obligation of Metropolitan to pay Installment Payments will be governed by the provisions of Exhibit A, and no failure of AVEK to perform will have any effect on such obligation.

26. Remedies in the Event of Metropolitan's Failure to Perform

If Metropolitan has not substantially performed according to the terms of this Agreement, notice has been provided to Metropolitan pursuant to Section 29 (Waiver/Cure of Defaults), and Metropolitan has failed to cure the alleged breach within the time provided in Section 29 (Waiver/Cure of Defaults), AVEK may, at its election, at any time thereafter while the default is continuing, suspend further performance and thereafter seek any relief provided by law, including termination of this Agreement.

27. Successors and Assigns

This Agreement shall bind and inure to the benefit of the successors and assigns of the Parties; provided, however, neither Party shall assign any of their rights or obligations under this Agreement without the prior written consent of the other. Nothing in this Agreement is intended to confer any right or remedy under this Agreement on any person other than the Parties to this Agreement and their respective successors and permitted assigns, or to relieve or discharge any obligation or liability of any person to either Party to this Agreement, or to give any person any right of subrogation or action over or against either Party to this Agreement; *provided, however*, that: (a) Metropolitan, AVEK, and the Antelope Valley-East Kern Water Agency Financing Authority (the "Authority") shall enter into an Assignment Agreement, dated the date hereof, pursuant to which AVEK assigns all of its right, title and interest in the Installment Payments to the Authority for the benefit of the Bondholders and (b) Computershare Trust Company, National Association (the "Trustee") and the Authority shall enter into an Indenture of Trust, dated the date hereof, pursuant to which the Authority irrevocably assigns and transfer to the Trustee all of its rights, title and interest in the Installment Payments payable by the Metropolitan to AVEK.

28. No Modification of Existing Contracts

This Agreement shall not be interpreted to modify the terms or conditions of the water supply contracts between DWR and Metropolitan and between DWR and AVEK.

29. Waiver/Cure of Defaults

The failure of any Party to enforce against the other any provision of this Agreement shall not constitute a waiver of that Party's right to enforce such a provision at a later time. No Party shall be deemed to be in default of any provision of this Agreement unless the other Party has given written notice specifically stating the alleged default and the Party in default fails to cure the default within sixty (60) days of receipt of such written notice.

30. Construction of Agreement

The language in all parts of this Agreement shall be in all cases construed simply according to its fair meaning and not strictly for or against either of the Parties hereto, and Section 1654 of the Civil Code has no application to interpretation of this Agreement. The recitals and all Exhibit A and Schedule I to this Agreement are part of this Agreement and are incorporated herein by this reference. When required by the context: whenever the singular number is used in this Agreement, the same shall include the plural, and the plural shall include the singular; and the masculine gender shall include the feminine and neuter genders and vice versa. Unless otherwise required by the context (or otherwise provided herein): the words “herein,” “hereof” and “hereunder” and similar words shall refer to the Agreement generally and not merely to the provision in which such term is used; the word “person” shall include individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority and other entity of whatever nature; each of the words “Metropolitan” and “AVEK” shall include the respective representatives, successors and permitted assigns, if any, of such person; the words “including,” “include” or “includes” shall be interpreted in a non-exclusive manner as though the words “but [is] not limited to” or “but without limiting the generality of the foregoing” immediately followed the same; the word “month” shall mean calendar month; and the term “business day” shall mean any day other than a Saturday, Sunday or legal holiday. If the day on which performance of any act or the occurrence of any event hereunder is due is not a business day, the time when such performance or occurrence shall be due shall be the first business day occurring after the day on which performance or occurrence would otherwise be due hereunder. All times provided in this Agreement for the performance of any act will be strictly construed, time being of the essence of this Agreement.

31. Entire Agreement

This Agreement constitutes the final, complete and exclusive statement of the terms of the agreement among the Parties pertaining to the matters provided herein during the term and supersedes all prior and contemporaneous understandings or agreements of the Parties related thereto. Neither Party has been induced to enter into this Agreement by, nor is either Party relying on, any representation or warranty outside those expressly set forth in this Agreement.

32. Severability

In the event that a court of competent jurisdiction determines that a provision included in this Agreement is legally invalid or unenforceable and such decision becomes final, the Parties to this Agreement shall use their best efforts to (i) within thirty (30) days of the date of such final decision, identify by mutual agreement the provisions of this Agreement which must be revised, and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time periods specified above may be extended by mutual agreement of the Parties. Pending the completion of the actions designated above, to the extent it is reasonably practical and can be done without violating any applicable provisions of law, the provisions of this Agreement, which were not found to be legally invalid or unenforceable in the final decision, shall continue in effect. If the Parties cannot agree on appropriate revisions, this Agreement shall be terminated, and the Parties will return any water owed to each other. Notwithstanding any provision in this Agreement to the contrary, no termination or extinguishment of this Agreement shall have any effect on the

force and effect of Metropolitan's obligations under Exhibit A except as specifically set forth in Exhibit A.

33. Force Majeure

All obligations of the Parties other than monetary or payment obligations shall be suspended for so long as and to the extent the performance thereof is prevented, directly or indirectly, by earthquakes, fires, tornadoes, facility failures, floods, strikes, other casualties, acts of God, orders of court or governmental agencies having competent jurisdiction, or other events or causes beyond the control of the Parties. In no event shall any liability accrue against a Party, to its officers, agents or employees, for any damage arising out of or connected with a suspension of performance pursuant to this Section 33 (Force Majeure). All time limits to perform and the term of this Agreement shall be extended by a period of time equivalent to the length of suspension.

34. Notices

All notices, requests and demands hereunder ("Notices") shall be in writing, including electronic communications, and shall be deemed to have been duly given when delivered (or, if mailed, postage prepaid, on the third business day after mailing, if that date is earlier than actual delivery). Notices shall be sent to a Party at the address of that Party set forth below or, if such Party has furnished notice of a change of that address as herein provided, to the address of that Party most recently so furnished. Notices for AVEK shall be sent to the General Manager of AVEK at 6500 West Avenue N, Palmdale, California 93551. Notices for Metropolitan shall be sent to the General Manager of Metropolitan at Post Office Box 54153, Los Angeles, California 90054-0153.

35. Further Assurances

Each Party hereto, upon the request of the other, agrees to perform such further acts and to execute and deliver such other documents as are reasonably necessary to carry out the provisions of this instrument.

36. Governing Law

The validity, construction, and enforceability of this Agreement shall be governed in all respects by the laws of the State of California.

37. Counterparts

This Agreement may be executed in two or more counterparts, each of which, when executed and delivered, shall be an original and all of which together shall constitute one instrument, with the same force and effect as though all signatures appeared on a single document.

Original signatures, electronic signatures, facsimile signatures or signatures scanned into a portable document format (.pdf file) (or signatures in another electronic format designated by Metropolitan) and sent by e-mail shall be deemed original signatures, unless stated otherwise in the agreement.

38. Amendments

Except as provided in Exhibit A as it pertains to amendments to Exhibit A, which shall be governed entirely by the provisions of Exhibit A, any of the provisions of this Agreement may be amended by AVEK and Metropolitan solely upon a written amendment of the terms hereof executed by authorized representatives of AVEK and Metropolitan.

39. Original Agreement Superseded.

This Agreement shall amend and restate and supersede in all respects the Original Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on _____, 2025.

**THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA**

By: _____

Date

APPROVED AS TO FORM:

By: _____

**ANTELOPE VALLEY-EAST KERN WATER
AGENCY**

By: _____

Date

APPROVED AS TO FORM:

By: _____

**EXHIBIT A
INSTALLMENT PAYMENTS**

**ARTICLE I
DEFINITIONS**

Section 1.1. Definitions. In addition to the definitions of capitalized terms in Section 1 of this Agreement, the following terms used in this Exhibit are defined as follows:

- (a) “Indenture” shall mean [_____].
- (b) “Installment Payment Date” shall mean [_____].
- (c) “Master Subordinate Resolution” shall mean Resolution 9199 adopted by Metropolitan on March 8, 2016, as heretofore amended or supplemented and as it may be further amended or supplemented in accordance with its terms.

Section 1.2. Defined Terms. Capitalized terms in this Exhibit that are used but not defined in this Exhibit or elsewhere in this Agreement have the meanings given such terms in the Master Subordinate Resolution and, if not defined therein, as defined in the Indenture.

**ARTICLE II
PAYMENT OF INSTALLMENT PAYMENTS**

Section 2.1. Installment Payments.

(a) Metropolitan shall pay all Installment Payments in accordance with the terms of this Article II, subject to prepayment as provided in Article IV hereof.

(1) The principal amount of the Installment Payments to be made by Metropolitan hereunder is set forth in Schedule I hereto.

(2) The interest to accrue on the unpaid balance of such principal amount is as specified in Schedule I hereto, and shall be paid by Metropolitan as and constitute interest paid with respect to the principal amount of the Installment Payments hereunder.

Section 2.2. Payment of Installment Payments.

(a) Metropolitan shall, subject to any rights of prepayment provided in Article IV of this Exhibit, pay AVEK the Installment Payments in the amounts and on the Installment Payment Dates as set forth in Schedule I hereto.

(b) Each Installment Payment shall be paid to AVEK in lawful money of the United States of America. In the event that Metropolitan fails to make any of the Installment Payments required to be made by it under this Section, such payment shall continue as an obligation of Metropolitan until the amount thereof shall have been fully paid; and Metropolitan agrees to pay the same with interest accruing thereon at the rate or rates of interest then applicable to the

remaining unpaid principal balance of the Installment Payments if paid in accordance with their terms.

(c) Subject to Article V of this Exhibit A, the obligation of Metropolitan to make the Installment Payments is absolute and unconditional, and until such time as all Installment Payments shall have been paid in full (or provision for the payment thereof shall have been made pursuant to said Article V), Metropolitan will not discontinue or suspend any Installment Payments that are required to be made by it under this Exhibit A when due, whether or not the Facilities or any part thereof is operating or operable, or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever. Notwithstanding any provision in this Agreement to the contrary, no credit to any payments by Metropolitan under this Agreement may operate to reduce the amount of any Installment Payments under this Exhibit A.

(d) Metropolitan shall punctually pay the Installment Payments in strict conformity with the terms hereof, and shall faithfully observe and perform all of the agreements, conditions, covenants and terms contained in this Exhibit A and the Master Subordinate Resolution required to be observed and performed by it with respect to the Installment Payments. Except as provided in Article V of this Exhibit A, Metropolitan hereby agrees and acknowledges that its obligation to pay Installment Payments and comply with this Exhibit A will survive any termination of the Agreement notwithstanding any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Facilities, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either or any failure of AVEK to observe or perform any agreement, condition, covenant or term contained herein required to be observed and performed by it, whether express or implied, or any duty, liability or obligation arising out of or connected herewith or the insolvency, or deemed insolvency, or bankruptcy or liquidation of AVEK or any force majeure, including acts of God, tempest, storm, earthquake, war, rebellion, riot, civil disorder, acts of public enemies, blockade or embargo, strikes, industrial disputes, lock outs, lack of transportation facilities, fire, explosion, or acts or regulations of governmental authorities.

ARTICLE III FIRST TIER PARITY OBLIGATIONS

Section 3.1. Pledge of Net Operating Revenues. The Installment Payments are special limited obligations of Metropolitan and shall constitute First Tier Parity Obligations under the Master Subordinate Resolution. As First Tier Parity Obligations, pursuant to the terms of the Master Subordinate Resolution, Metropolitan hereby secures the payment of Installment Payments and grants a pledge of and lien on the Net Operating Revenues for the payment thereof and the Installment Payments shall be a charge upon and shall be payable, as to the principal and interest components thereof, solely from and secured by a lien upon the Net Operating Revenues, on parity with Subordinate Water Revenue Bonds but subordinate only to the lien on and pledge of the Net Operating Revenues securing the Senior Debt.

ARTICLE IV PREPAYMENT

Section 4.1. Prepayment.

(a) Metropolitan may prepay the Installment Payments becoming due on or after the Installment Payment Date preceding ___, 20___, as a whole or in part, as otherwise selected by Metropolitan as set forth in Section 4.2 below, on ___, 20___ or any date thereafter, from any available funds. The Installment Payments are payable at a prepayment price equal to the principal amount of the Installment Payments to be prepaid plus accrued interest thereon to the date of prepayment, without premium.

(b) Notwithstanding any such prepayment, Metropolitan shall not be relieved of its obligations under this Exhibit A, until the Installment Payments shall have been fully paid (or provision for payment thereof shall have been provided as set forth in Article V of this Exhibit A).

Section 4.2. Method of Prepayment. Before making any prepayment pursuant to Section 4.1, Metropolitan shall notify AVEK, the Authority, and the Trustee of such prepayment, the date of such prepayment, and which Installment Payments will be prepaid no less than 10 days before notice of the related redemption of the Bonds is required to be made under the Indenture with respect to such prepayment. In the event that less than all of the Installment Payments becoming due and payable hereunder are prepaid in accordance with Section 4.1, Metropolitan and AVEK shall amend the Installment Payment schedule set forth in Schedule I hereto, pursuant to Section 6.4(b)(5) hereof, to reflect such prepayments.

ARTICLE V DISCHARGE OF OBLIGATIONS

Section 5.1. Discharge of Obligations. When:

(a) all or any portion of the Installment Payments shall have become due and payable in accordance herewith or a written notice of Metropolitan to prepay all or any portion of the Installment Payments shall have been filed with the Trustee; and

(b) there shall have been deposited with the Trustee at or prior to the Installment Payment Dates or date (or dates) specified for prepayment and irrevocably appropriated and set aside to the payment of all or any portion of the Installment Payments, sufficient moneys and non-callable Permitted Investments, issued by the United States of America and described in clause (i) of the definition thereof in the Indenture, the principal of and interest on which when due will provide money sufficient to pay all principal, prepayment premium, if any, and interest of such Installment Payments to their respective Installment Payment Dates or prepayment date or dates as the case may be; and

(c) provision shall have been made for paying all fees and expenses of the Trustee; and

(d) the principal amount of the Bonds equal to the principal component of the Installment Payments to be discharged hereunder has been deemed no longer Outstanding under

the Indenture because of the application of funds or Permitted Investments received under clauses (a) and (b) above;

then and in that event, the right, title and interest of AVEK, the Authority, and the Trustee and the obligations of Metropolitan under this Exhibit A shall, with respect to all or such portion of the Installment Payments as have been so provided for, thereupon cease, terminate, become void and be completely discharged and satisfied (except as to such Permitted Investments being applied to the payment of such Installment Payments). In such event, upon request of Metropolitan, AVEK shall execute and deliver to Metropolitan all such instruments as may be necessary or desirable to evidence such total or partial discharge and satisfaction, as the case may be, and, in the event of a total discharge and satisfaction.

ARTICLE VI MISCELLANEOUS

Section 6.1. Liability of District Limited to Net Operating Revenues. The obligation of Metropolitan to make the Installment Payments is a special limited obligation of Metropolitan that is payable solely from the Net Operating Revenues, and does not constitute a debt of Metropolitan or of the State or of any political subdivision thereof in contravention of any constitutional or statutory debt limitation or restriction. Notwithstanding anything contained herein, Metropolitan shall not be required to advance any moneys derived from any source of income other than the Net Operating Revenues for the payment of amounts due hereunder or for the performance of any agreements or covenants required to be performed by it contained herein. Metropolitan may, however, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by Metropolitan for such purpose.

Section 6.2. Benefits of Agreement Limited to Parties. Nothing contained herein, expressed or implied, is intended to give to any person other than Metropolitan or AVEK any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of Metropolitan or AVEK shall be for the sole and exclusive benefit of the other Party; *provided, however*, that: (a) Metropolitan, AVEK, the Authority shall enter into an Assignment Agreement, dated the date hereof, pursuant to which AVEK assigns all of its right, title and interest in the Installment Payments and all rights hereunder as may be necessary to enforce compliance with such provisions regarding the punctual payment of Installment Payments (including enforcement of payment obligations and rate covenants, if any), to the Authority for the benefit of the Owners and (b) the Trustee and the Authority shall enter into the Indenture, dated the date hereof, pursuant to which the Authority irrevocably assigns and transfer to the Trustee all of its rights, title and interest in the Installment Payments payable by Metropolitan to AVEK.

Section 6.3. Waiver of Personal Liability. No director, officer or employee of Metropolitan shall be individually or personally liable for the payment of the Installment Payments, but nothing contained herein shall relieve any director, officer or employee of Metropolitan from the performance of any official duty provided by any applicable provisions of law or hereby.

Section 6.4. Amendments Permitted.

(a) This Exhibit A of this Agreement and the rights and obligations of AVEK and Metropolitan hereunder may be modified or amended at any time by an amendment hereto which shall become binding when the written consents of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in the Indenture, shall have been filed with the Trustee. No such modification or amendment shall reduce the amount of any Installment Payment or change the date on which any Installment Payment is due, without the consent of the Owner of each Bond so affected.

(b) This Exhibit A of this Agreement and the rights and obligations of AVEK and Metropolitan may also be modified or amended at any time by an amendment hereto which shall become binding upon adoption, without the consent of the Owners of any Bonds or any other person, including, without limitation, for any one or more of the following purposes:

(1) to add to the covenants and agreements of Metropolitan contained in this Exhibit A thereafter to be observed or to surrender any right or power herein reserved to or conferred upon Metropolitan, and which shall not materially adversely affect the interests of the Owners of the Bonds;

(2) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in this Exhibit A, or in regard to matters or questions arising under this Exhibit A, as Metropolitan may deem necessary or desirable;

(3) to make such other amendments or modifications as may be in the best interests of the Owners of the Bonds, as evidenced by an opinion of Bond Counsel.

(4) to amend the Installment Payment schedule as set forth in Schedule I hereto in connection with issuance of Additional Bonds.

(5) to amend the Installment Payment schedule as set forth in Schedule I hereto in connection with the partial prepayment of the Bonds.

(6) to make any amendments or supplements necessary or appropriate to preserve or protect the exclusion of interest with respect to the Bonds from gross income for federal income tax purposes under the Code or the exemption of such interest from State personal income taxes; or

(7) to make any amendment or supplement that does not materially and adversely affect the rights of the Owners of the Bonds.

Notwithstanding the foregoing, no such modification or amendment shall reduce the amount of any Installment Payment or change the date on which any Installment Payment is due, without the consent of the Owner of each Bond so affected.

Notwithstanding this Section 6.4 of this Exhibit A, the provisions of this Section 6.4 shall solely govern amendments to Exhibit A and shall not affect the rights of Metropolitan and AVEK to amend any other provision of this Agreement which shall be governed by Section 38 of this Agreement.

SCHEDULE I

PRINCIPAL AND INTEREST COMPONENTS OF INSTALLMENT PAYMENTS