



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

12/10/2024 Board Meeting

---

8-3

## Subject

---

Authorize the General Manager to enter into agreements with the U.S. Bureau of Reclamation to implement phase two of the Lower Colorado River Basin System Conservation and Efficiency Program; and adopt CEQA determination that the environmental effects of the Antelope Valley-East Kern High Desert Water Bank and the Turf Replacement Programs were previously addressed in various CEQA documents and related actions

## Executive Summary

---

Staff recommends that the Board authorize the General Manager to enter into two agreements with the U.S. Bureau of Reclamation (Reclamation) under its Lower Colorado Conservation and Efficiency Program (LC Conservation Program). Under these agreements, Reclamation would pay for conserved water generated from Metropolitan's Turf Replacement Program and the Antelope Valley-East Kern (AVEK) High Desert Water Bank (HDWB). These agreements are different from previous system conservation agreements under the first half of the LC Conservation Program (Bucket 1). Bucket 1 focused on short-term water savings from short-term actions. The two projects referenced in this board letter are part of the second half of the LC Conservation Program (Bucket 2) which focuses on projects that offer long-term efficiencies and result in multi-year water savings. Staff is seeking authorization to enter into the following agreements:

1. AVEK HDWB System Conservation Implementation Agreement
2. Turf Replacement System Conservation Implementation Agreement

Under the new agreements with Reclamation, Metropolitan would receive up to approximately \$178 million in federal funding through 2031. Of this, staff estimates that approximately \$58.3 million would offset projected expenses over the current 2-year budget cycle. The remaining funds would either be received in future budget cycles or would meet currently unbudgeted project costs (i.e., increased turf rebate and arsenic treatment costs for AVEK HDWB). In exchange, Metropolitan would implement the projects and create a total of 265,296 acre-feet of conserved water to benefit Lake Mead as system water.

Additionally, these Bucket 2 projects will yield long-term reductions in demand for Colorado River water. These demand reductions will continue after all agreement terms have been met. This allows Metropolitan to capture federal investment to decrease long-term demands for Colorado River water. Long-term reductions in demand will improve our ability to manage our water supply under post-2026 operations which could include potential supply reductions. Metropolitan and other Colorado River water users would also benefit from increased Lake Mead elevation associated with the system water creation.

Additional agreements will be necessary to implement these system conservation implementation agreements. Before Reclamation will pay Metropolitan, the California Section 5 contractors will need to forbear through the remaining period of the 2007 Interim Guidelines. New intra-state and inter-state forbearance agreements will also be needed to continue implementing these system conservation agreements post-2026. Staff will bring those agreements to the Board for consideration as needed.

**Timing and Urgency**

Reclamation would like to execute as many Bucket 2 System Conservation Implementation Agreements as possible prior to the end of the calendar year. This will ensure that funding under the 2022 Inflation Reduction Act (IRA) is obligated without delay. Nevertheless, funding provided by Reclamation in these agreements could be withdrawn after they are executed by future congressional action or delayed by the next Administration.

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

---

**Staff Recommendation: Option #1****Option #1**

Adopt CEQA determination that the environmental effects of the Antelope Valley-East Kern High Desert Water Bank and the Turf Replacement Programs were previously addressed in various CEQA documents and related actions, and authorize the General Manager to enter into agreements with the U.S. Bureau of Reclamation to implement phase two of the LC Conservation Program.

**Fiscal Impact:** Federal funding increase of up to approximately \$178 million; approximately \$58.3 million would offset currently budgeted expenses over the current 2-year budget cycle. The rest of the funds would be received in a future budget cycle or would meet currently unbudgeted project costs (i.e., increased turf rebate and arsenic treatment costs for AVEK HDWB).

**Business Analysis:** These agreements would provide federal funding for both the design and construction of Metropolitan's AVEK facilities as well as Metropolitan's Turf Replacement Program for commercial, industrial, and institutional facilities. Implementation of these projects would reduce long-term demands for Colorado River water. Reduced demands would improve our ability to manage our water supply under post-2026 operations, which could include potential future supply reductions.

**Option #2**

Direct the General Manager not to enter into the agreements under the proposed terms.

**Fiscal Impact:** None

**Business Analysis:** Metropolitan would forego an opportunity to leverage federal dollars to reduce Metropolitan's long-term demands on the Colorado River and improve our ability to manage our water supply under post-2026 operations which could include potential future supply reductions.

**Alternatives Considered**

---

Staff submitted six different proposals for Bucket 2 funding. These two projects were selected by Reclamation.

**Applicable Policy**

---

By Minute Item 53051 in December 2022, Metropolitan's Board adopted legislative priorities and principles to support the funding of conservation projects to enhance the resiliency of the Colorado River System to reduce the risk of Lake Mead and Lake Powell falling below critical elevations.

The General Manager's 24/25 Business Plan identified Goal 2.2 to identify and secure programmatic cost savings, organizational efficiencies, and external funding. One of the outcomes identified under this goal was to secure IRA funding that supports Colorado River water use objectives.

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

---

By Minute Item 53447 in November 2023, Metropolitan's Board approved forbearance for system conservation created by CVWD and IID in 2023 to be left in Lake Mead as system water under Reclamation's LC Conservation Program.

By Minute Item 53469 in December 2023, Metropolitan's Board approved a similar action for system conservation projects with the Palo Verde Irrigation District, Bard Water District, and the Quechan Tribe under Reclamation's LC Conservation Program.

By Minute Item 53752 in August 2024, Metropolitan's Board approved forbearance for system conservation created by CVWD and IID between 2024-2026 to be left in Lake Mead as system water under Reclamation's LC Conservation Program.

### **Summary of Outreach Completed**

---

All LC Conservation Program projects were discussed with and received input from the Colorado River Ad-hoc Committee. The Bucket 2 proposals were also discussed with the One Water Stewardship and Planning Committee in August of 2023 when the proposals were submitted to Reclamation.

### **California Environmental Quality Act (CEQA)**

---

#### **CEQA determination for Option #1:**

The following programs that are subject to this action were previously evaluated by the Board, and the Board made CEQA determinations for each.

- On April 9, 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 Mitigated Negative Declaration and authorized entering into an agreement for the High Desert Water Bank Program.
- On September 10, 2013, the Board determined that the Turf Removal Program was categorically exempt under Section 15301 of the State CEQA Guidelines and authorized implementing New Conservation Program Initiatives.

#### **CEQA determination for Option #2:**

None required

### **Details and Background**

---

#### **Background – The LC Conservation Program**

The 2022 IRA provides \$4 billion in funding specifically for conservation efforts in the Colorado River Basin. The Department of the Interior, through Reclamation, created the LC Conservation Program to use the IRA funding to increase system conservation and efficiency opportunities to address the drought in the Lower Colorado River Basin. Similar conservation programs are being developed in the Upper Colorado River Basin. The LC Conservation Program provides funding opportunities for voluntary participation to increase system conservation and efficiency opportunities.

These opportunities consisted of two main components. The first was for conservation projects that could be implemented in the short-term and provide short-term savings and is often called "Bucket 1". The second was for conservation projects that improve long-term efficiencies and result in multi-year system conservation and is often called "Bucket 2". These Bucket 2 projects are intended to reduce long-term demands for Colorado River water to improve the ability to manage the Colorado River system under post-2026 operations, which are likely to include future supply reductions within the Lower Basin.

Prior Board actions related to the LC Conservation Program have all fallen under Bucket 1. Metropolitan submitted six separate proposals for potential conservation projects under Bucket 2. Reclamation selected two proposals to move forward to the negotiation phase. These negotiations are reaching their conclusion, and staff seeks board authorization to enter into System Conservation Implementation Agreements for these two selected projects. Recently, Reclamation also selected Metropolitan's proposal to fund leak detection and repair in Disadvantaged Communities. Metropolitan will bring that item to the Board in the future. These Bucket 2 projects would help Metropolitan manage our water supplies in a drier future by leveraging federal funds for projects that will reduce our demands for Colorado River water post-2026.

### **AVEK Program Participation in the LC Conservation Program**

As part of Bucket 2 of the LC Conservation Program, Reclamation will pay Metropolitan up to \$82 million for the design and construction of Metropolitan's AVEK HDWB facilities. Identified activities include construction costs for onsite power, well drilling, well equipping and recovery facilities, design and construction of arsenic treatment for extracted groundwater, and other design changes that may be necessary after consultation and approval by Reclamation. Costs associated with these activities must be incurred between June 24, 2024 and September 30, 2031. In exchange, Metropolitan will create a total of 168,000 acre-feet of system conservation water within 10 years of the date of execution of the agreement. This system conservation water may be left in Lake Mead prior to the completion of project milestones. Water would be conserved through Metropolitan's existing Extraordinary Conservation Intentionally Created Surplus (EC ICS) exhibits to achieve this "predelivery" prior to 2027. A different process for creating system conservation water may be in place post-2026. Reclamation's payments will be made quarterly based on milestone completion for design components, and percent completion for construction components as documented in progress reports. Payments are also contingent on the forbearance of the California Section 5 contractors covering this agreement. Metropolitan will have until at least September 30, 2031, to complete the project, or Metropolitan will be required to reimburse Reclamation all of the provided funds. Staff has requested, and anticipates that Reclamation will agree to, a completion date of 2040. Reclamation also requires that Metropolitan comply with the domestic procurement preference of the Build America, Buy America requirements.

The material terms of the proposed agreement are summarized in **Attachment 1**.

### **Turf Replacement Program Participation in the LC Conservation Program**

As part of Bucket 2 of the LC Conservation Program, Reclamation will pay Metropolitan up to \$95.81 million for the replacement of up to 30 million square feet of turf through Metropolitan's existing Turf Replacement Program for commercial, industrial, and institutional properties. Turf replacement activities will need to be completed, consistent with program standards and rebates issued to property owners, between June 24, 2024, and September 30, 2031. To encourage an increase in program participation, under Metropolitan's proposal, Metropolitan would increase the turf rebate to \$4 per square foot (sq ft) of replaced turf. Of this \$4 per sq ft, Metropolitan would contribute \$1 per sq ft, and Reclamation would contribute \$3 per sq ft. In exchange, Metropolitan will create a total of 97,296 acre-feet of system conservation water within 10 years of the date of execution of the agreement. This system conservation water may be left in Lake Mead prior to the completion of project milestones. Water would be conserved through Metropolitan's existing EC ICS exhibits to achieve this "predelivery" prior to 2027. A different process for creating system conservation water may be in place post-2026. Reclamation's payments are to be made based on the amount of turf removed that has been verified and paid by Metropolitan and are contingent on the execution of a California forbearance agreement covering this activity. Thus, to the extent that Metropolitan advertises increased turf replacement incentives to increase program activity, Metropolitan would need to carry those increased costs until a California forbearance agreement is signed and Metropolitan can receive Reclamation funding.

The material terms of the proposed agreement are summarized in **Attachment 2**.

### **Future Agreements Will Be Necessary**

Additional agreements will be necessary to implement these system conservation implementation agreements. Before Reclamation will pay Metropolitan, the California Section 5 contractors will need to forbear through the remaining period of the 2007 Interim Guidelines. New intra-state and inter-state forbearance agreements will also be needed to continue implementing these system conservation agreements post-2026. For additional background on the purpose and mechanics of forbearance by Metropolitan, please see the June 2024 presentation on that subject, available at:

<https://mwdh2o.legistar.com/View.ashx?M=F&ID=13012478&GUID=5C7533D3-F668-4FC6-A12E-EACEF0DF52DD>

Staff will bring those agreements to the Board for consideration as needed.

### ***Summary***

Metropolitan is expanding opportunities to conserve system water in a continuing effort to reduce long-term demands on Colorado River water to improve our ability to manage our water supply under post-2026 operations. Staff recommends that the Board authorize the General Manager to enter into agreements with Reclamation which will allow Metropolitan to utilize federal dollars to decrease long-term demands of Colorado River water.

The LC Conservation Program Bucket 2 agreements would provide up to \$95.81 million in federal funding for Metropolitan's Turf Replacement Program for commercial, industrial, and institutional facilities and up to \$82 million for the design and construction of Metropolitan's AVEK HDWB facilities. This funding would apply toward project or program expenses through September 30, 2031. In exchange, over a period of ten years, Metropolitan would create 97,296 acre-feet and 168,000 acre-feet of system conservation water, respectively. While some federal funding would go toward currently budgeted items, some funds would be received beyond the current two-year budget cycle. Additionally, some of the funds would reimburse Metropolitan for currently unbudgeted expenses related to increasing the incentive for turf replacement on commercial, industrial, and institutional properties, as well as the design of arsenic treatment at AVEK.

Based on these factors and the expected project implementation schedules, staff estimates that, over the current 2-year budget cycle, Metropolitan's expenses related to the Turf Replacement Program would be reduced by approximately \$9.2 million and that \$49.1 million of currently budgeted expenses related to the AVEK HDWB would be reimbursed through these agreements. Therefore, a total of \$58.3 million would count toward Metropolitan's new revenue and reduced expenditure goals associated with the current 2-year budget cycle. Additionally, Metropolitan would benefit from the long-term reduction in demands for Colorado River water that will improve our ability to manage our water supply under potentially reduced supply conditions under post-2026 operations.

### ***Project Milestones***

#### *AVEK HDWB Project Milestones*

AVEK HDWB components include: Well Drilling Package #4, well equipping and recovery facilities, onsite power, and arsenic treatment facilities.

Milestones and deliverables for Well Drilling Package #4, well equipping and recovery facilities, and onsite power include the following:

**Award Contract:** Notice of Award

**Start Construction:** Notice to Proceed

**Complete Construction:** As-Build Drawings and Closeout Report

Milestones and deliverables for arsenic treatment facilities include the following:

**Start of Design:** Preliminary Design Report

**Complete 60% Design:** 60% Design Plans and Specifications

**Complete Final Design:** Final Design Plans and Specifications


**Bid Opening:** Notice Inviting Bids

**Award Contract:** Notice of Award, Notice to Proceed

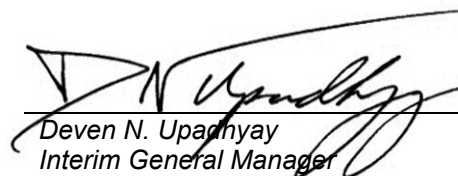
**Complete Construction:** As-Build Drawings and Closeout Report

Turf Replacement Project Milestones

On a quarterly basis, Metropolitan will submit to Reclamation a written justification for payment and report detailing the total amount of square feet of turf replaced consistent with program standards and rebates issued to property owners in the time since Metropolitan submitted its last written justification for payment and report.

  
\_\_\_\_\_  
Brandon J. Goshi  
Interim Manager  
Water Resource Management

11/27/2024  
Date

  
\_\_\_\_\_  
Deven N. Upadhyay  
Interim General Manager

11/27/2024  
Date

**Attachment 1 – AVEK HDWB System Conservation Implementation Agreement Term Sheet**

**Attachment 2 – Turf Replacement System Conservation Implementation Agreement Term Sheet**

Ref# wrm12697214

**Term Sheet for Antelope Valley East Kern High Desert Water Bank SCIA under Federally Funded Lower Colorado River Basin System Conservation and Efficiency Program**

1. Reclamation agrees to provide funding for construction of Metropolitan's AVEK High Desert Water Bank facilities.
2. Reclamation's total payment to Metropolitan shall not exceed \$82,000,000.
3. Costs must be incurred prior to September 30, 2031. All costs incurred beyond September 30, 2031 are Metropolitan's responsibility of.
4. Reclamation's payment is contingent on the execution of a California Forbearance agreement covering this project.
5. Eligible costs include design and construction related costs incurred by Metropolitan's AVEK High Desert Water Bank between June 24, 2024 and September 30, 2031.
  - a. Design and construction costs for arsenic treatment facilities
  - b. Construction costs for onsite power, well drilling package #4, and well equipping and recovery facilities
  - c. Other design changes after consultation and approval by Reclamation
6. Subject to any waivers the Secretary may authorize, Metropolitan must comply with the Buy American Domestic Procurement Preference pursuant to Public Law 117-58 for all project related activity.
7. Metropolitan will provide progress reports at the conclusion of each project milestone. Metropolitan will also provide a closeout report.
8. Payments will be made quarterly. For design costs, payments will be based upon successful completion of project milestones. For construction costs, payments will be based on percent completion as documented in progress reports.
9. Progress reports must be completed for all project milestones, even when total costs have exceeded \$82M.
10. Metropolitan will have until at least September 30, 2031 to complete the project or Metropolitan will be required to reimburse Reclamation all of the provided funds.
11. Metropolitan will create a total of 168,000 acre-feet of System Conservation Water over a period of 10 years after the date of execution of this agreement.
12. System Conservation Water may be created and left in Lake Mead prior to the completion of project milestones. Such water must be created using existing Extraordinary Conservation Intentionally Created Surplus (EC ICS) exhibits prior to 2027 and an EC Certification Report must be provided. A different process for creating System Conservation Water may be in place post-2026.

13. Creation of System Conservation Water will be included in Reclamation's existing water order approval process. System Conservation Water can only be created in a year in which delivery of water is less than available supplies. Verified volumes will be reported in Reclamation's annual Water Accounting Report.
14. If Metropolitan does not create the full volume of System Conservation Water, Metropolitan must reimburse Reclamation. For example, if Metropolitan leaves 93% of the System Conservation Water in Lake Mead, then Metropolitan will reimburse Reclamation 7% of the total payments made.
15. If Metropolitan creates the full volume of System Conservation Water, but the project is not completed, all such System Conservation Water will stay in Lake Mead as system water.

DRAFT



**Term Sheet for Turf Replacement SCIA under Federally Funded Lower Colorado River Basin System  
Conservation and Efficiency Program**

1. Reclamation agrees to provide funding to Metropolitan's existing Turf Replacement Program for commercial, industrial, and institutional properties between June 24, 2024, and September 30, 2031.
2. Metropolitan's proposal is to increase the rebate on its Turf Replacement Program for commercial, industrial, and institutional properties to \$4/square foot for all turf replacement projects completed and paid between June 24, 2024, and September 30, 2031.
3. Metropolitan's proposal is to cost-share eligible expenses. Total program costs are \$4/ square foot. Reclamation costs are \$3/ square foot. Metropolitan costs are \$1/ square foot.
4. Eligible costs are those incurred by Metropolitan's Turf Replacement Program for commercial, industrial, and institutional properties between June 24, 2024, and September 30, 2031, for up to 30 million square feet of turf replacement on commercial, industrial, and institutional properties.
5. All costs incurred beyond September 30, 2031, are Metropolitan's responsibility.
6. Reclamation's total payment to Metropolitan shall not exceed \$95,810,737. Metropolitan's administration costs for the program are eligible for payment.
7. Reclamation's payment is contingent on the execution of a California Forbearance agreement covering this project.
8. Metropolitan will provide quarterly progress reports for the duration of this agreement. Payments will be made based on the incurred eligible expenses identified in these semi-annual reports. Metropolitan will also provide a closeout report.
9. Metropolitan will create a total of 97,296 acre-feet of System Conservation Water over a period of 10 years after the date of execution of this agreement.
10. System Conservation Water may be created and left in Lake Mead prior to completion of turf removal activities. Such water must be created using existing Extraordinary Conservation Intentionally Created Surplus (EC ICS) exhibits prior to 2027, and an Extraordinary Conservation Certification Report must be provided. A different process for creating System Conservation Water may be in place post-2026.
11. If Metropolitan does not create the full volume of System Conservation Water, Metropolitan must reimburse Reclamation. For example, if Metropolitan leaves 93% of the System Conservation Water in Lake Mead, then Metropolitan will reimburse Reclamation 7% of the total payments made.
12. Creation of System Conservation Water will be included in Reclamation's existing water order approval process. System Conservation Water can only be created in a year in which delivery of

water is less than available supplies. Verified volumes will be reported in Reclamation's annual Water Accounting Report.

13. If Metropolitan does create the full volume of System Conservation Water, but less than 30 million square feet of turf is replaced under the program, all such System Conservation Water will stay in Lake Mead as system water and no changes to payment will be made.

DRAFT