



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

10/12/2021 Board Meeting

7-8

Subject

Adopt framework for amending Local Resources Program Agreements; Review and consider the City of Beverly Hills' approved Final Mitigated Negative Declaration and take related CEQA actions; and authorize the General Manager to reinstate and amend the existing Local Resources Program agreement for the Beverly Hills Desalter Project

Executive Summary

The Local Resources Program (LRP) provides financial incentives to encourage the development of local water supplies for Southern California. The LRP evolved over time to include refinements to the incentive amount, process for determining the incentive, and agreement terms. Each LRP agreement includes performance provisions that require projects to maintain a level of production through the contract term. The Beverly Hills Desalter LRP encountered unforeseen production problems and the agreement terminated after five consecutive years of non payment from Metropolitan. The City of Beverly Hills is appealing this termination. Metropolitan staff recommends that the Board grant the appeal and authorize the General Manager to reinstate and amend the agreement.

Details

Background

In 1982, Metropolitan created the Local Resources Program (LRP) to provide financial incentives to help local agencies develop water recycling and groundwater recovery projects. Since inception, Metropolitan provided about \$708 million in incentives for the development of more than 3.0 million acre-feet (AF) of recycled water and 1.1 million AF of recovered groundwater. There are 100 projects currently in operation. LRP projects increase water supply reliability, reduce imported water demands, decrease the burden on the Metropolitan's infrastructure, reduce system costs, and free up conveyance capacity. In addition, the LRP helps Metropolitan meet its legislative mandates under SB 60 to expand water conservation, recycling, and groundwater storage and replenishment measures. Overall, the LRP provides benefits to all member agencies regardless of project location.

Metropolitan coordinated with member agencies to refine the program in 2014 to modify performance provisions, increase the maximum incentive amount to \$340/AF, provide three alternative payment options, include on-site retrofit costs as an eligible cost, offer reimbursable services, and added seawater desalination as an eligible resource. Subsequent to the 2014 program modifications, Metropolitan accepted 18 new projects that are now in various stages of design, construction, and operation. In 2018, the Board authorized an Interim Program target of 170,000 AF.

Current LRP Performance Provisions for Project Production

Performance provisions are an important component of the LRP agreements since they encourage both project development and continued performance. Performance provisions allow Metropolitan to free up contractual commitments for projects that are unlikely to achieve their original timeline or production targets. This allows the Board to reallocate released project capacity for future LRP projects.

Some older LRP agreements include a performance provision that automatically terminates an agreement if the project does not receive incentives from Metropolitan for a period of five consecutive years. LRP incentives are stopped if: (1) the project unit cost is less than Metropolitan's effective rate for sliding scale incentives; or (2) the project is no longer producing water. Newer LRP agreements include performance provisions that provide staff more flexibility to work with agencies experiencing project disruptions.

The City of Beverly Hills (Beverly Hills) encountered significant unforeseen production impacts to its LRP project that were outside of their control and resulted in the project being shutdown in 2015. The agreement was automatically terminated in 2020 after five consecutive years of non payment from Metropolitan.

Framework for Future Requests to Pause and Extend the Term of LRP Contracts

In June 2021, the Board approved a framework that provides agencies an ability to request additional time to begin LRP project operation when they experience start-up delays. Staff recognizes that LRP projects may also face production issues that are beyond the agency's control.

Similar to the June 2021 action, board-approval is sought to provide additional flexibility to agencies to return projects to operation after a disruption. The proposed framework would, with the Board's approval, allow a one-time pause in the required production and an equal-time extension of the agreement term. The extension would be for no longer than three years, and only for projects that had previously started operation. The proposed framework recognizes that LRP production may fail from Acts of God, unforeseen changes in water quality, facility failure, or source water changes.

Metropolitan would apply this consideration to an agency that faces unforeseen production issues that significantly affect production of a project. The proposed framework to amend LRP agreements would assist agencies to correct the deficiencies and bring the project back online.

In June 2021, the Board adopted the evaluation criteria for LRP extension requests that modify the start-of-operation milestone for LRP projects. Staff will use the same criteria to evaluate extension requests for projects facing unforeseen production issues out of the agency's control: (1) formally request an extension and describe the reasons for the pause and describe the actions being taken to correct the issue; (2) affirm that all parties to the agreement are still pursuing the project; (3) provide a revised schedule; and (4) affirm that the project will start operation within the requested extension (not to exceed three fiscal years). All other performance provisions of the agreement would remain in place and the LRP incentives would not exceed the maximum authorization provided by the Board previously.

Attachment 1 is Beverly Hills' request to reinstate and amend their agreement to extend the contract term due to a project shutdown that resulted from unforeseen water quality issues. The request is consistent with the proposed framework and the evaluation criteria approved by the Board. Staff recommends that the Board approve the framework and approve Beverly Hills' request to reinstate and amend the agreement to extend the contract term by three years.

Policy

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

By Minute Item 43171, dated September 15, 1998, the Board approved authorizing the General Manager to execute a Groundwater Recovery Program Agreement with the City of Beverly Hills to implement the Beverly Hills Desalter Project.

By Minute Item 49923, dated October 14, 2014, the Board approved refinements to the Local Resources Program to encourage additional local resource production.

By Minute Item 51356, dated October 9, 2018, the Board approved an interim Local Resources Program target yield of 170,000 AFY of new water production.

By Minute Item 52415, dated June 8, 2021, the Board approved changes to the start-of-operation timing for four Local Resources Program Projects and formally adopt the policy described in the board letter for evaluation of future LRP extension requests.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

Action No. 1 - Adopt framework for amending Local Resources Program Agreements

The proposed action to adopt a framework for amending Local Resources Program Agreements is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making and other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Section 15378(b)(2) and Section 15378(b)(4) of the State CEQA Guidelines).

Action No. 2 - Review and consider the City of Beverly Hills' approved Final Mitigated Negative Declarations and Addendum and take related CEQA actions, and authorize the General Manager to reinstate and amend the existing Local Resources Program agreement for the Beverly Hills Desalter Project

Pursuant to the provisions of CEQA and the State CEQA Guidelines, the City of Beverly Hills, acting as Lead Agency, prepared a Final Mitigated Negative Declaration (Final MND) for the original project, which was reviewed and approved by Metropolitan on August 25, 1998. On November 20, 2019, Beverly Hills prepared and approved a separate Final MND for the La Brea Subarea Well and Transmission Main Project, addressing the proposed new facilities, upgrades, and improvements. Finally, on March 4, 2021, Beverly Hills prepared an Addendum to this second Final MND which identified some minor project modifications. The Lead Agency also approved the Mitigation Monitoring and Reporting Program (MMRP) for the Project as revised.

Metropolitan, as a Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information in the Final MNDs and Addendum, and adopt the Lead Agency's findings and MMRP prior to approval of the formal terms and conditions for the proposed agreement. The environmental documentation is included as **Attachment 2**.

CEQA determination for Option #2:

None required

Board Option

Option #1

Review and consider the City of Beverly Hills' approved Final Mitigated Negative Declarations and Addendum and take related CEQA actions; authorize the General Manager to reinstate and amend the existing Groundwater Recovery Program Joint Participation Agreement for Recovery and Utilization of Degraded Groundwater for the Beverly Hills Desalter Project with the City of Beverly Hills for up to 2,600 AFY of advanced treated brackish groundwater under the terms included in this letter and approve the proposed framework and one-time pause and extension of agreement terms.

Fiscal Impact: Metropolitan's maximum financial obligation under the original agreement will not change due to the reinstatement and proposed amendment to the agreement. Metropolitan would provide up to \$1.95 million for up to 7,800 AF of project production over three years. Staff factors these incentive payments into Metropolitan's rate projections and includes them in future budgets.

Business Analysis: The project would help Metropolitan achieve its Integrated Resources Plan (IRP) goals and meet its legislative mandates, while reducing the district's system costs.

Option #2

Do not authorize the reinstatement or amendment to the original agreement for the Project.

Fiscal Impact: None

Business Analysis: Metropolitan would pursue other projects and it may take longer to meet IRP goals

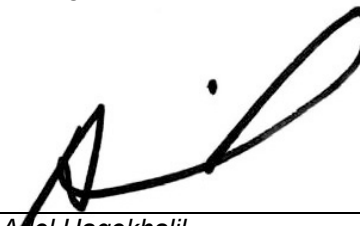
Staff Recommendation

Option #1



Brad Coffey
Manager, Water Resource Management

10/6/2021

Date

Adel Hagekhalil
General Manager

10/6/2021

Date

Attachment 1 – Local Resources Program (LRP) Request for Reinstatement of Terminated LRP Agreement and Extension to Term of Agreement

Attachment 2 – Initial Study and Negative Declaration* For the City of Beverly Hills Municipal Water and Public Works Facility Project

Ref# wrm12681057

**REQUEST FOR REINSTATEMENT OF TERMINATED LRP AGREEMENT
AND EXTENSION TO TERM OF AGREEMENT**

Project Information

LRP Project:	Beverly Hills Desalter Improvements and Upgrades Project
Member Agency:	City of Beverly Hills
Ultimate Yield:	2,600 AF
Started operation:	April 2003
Stopped operation:	September 2015
Agreement expiration:	June 2023
Agreement termination:	June 2020

Member Agency Request:

1. Reinstate program agreement
2. Extend the agreement term by three years, terminating June 30, 2026

Additional Information:

- Project improvements needed to get project back online are currently under construction.
- Member agency is actively pursuing project.
- Member agency provided revised schedule.
- Member agency affirmed that the project will start operations within three years.

Reasons for Requested Extension:

The Project helped incentivize the first new local supply for the city and when in operation it provided 5-10 percent of Beverly Hills total municipal and industrial demand. At maximum production, the Project can produce up to 25 percent of the city's total needs. Without the Project, Beverly Hills remains 100 percent dependent on Metropolitan for its supply of potable water.

The Project produced about 12,800 AF (25 percent of its contractual volume) and was shut down due to unforeseen changes in groundwater quality. Increased levels of fine sand, iron sulfide and manganese in the Hollywood Groundwater Basin underlying much of Beverly Hills resulted in extreme fouling of the reverse osmosis membranes and eventual shutdown of the plant. The Program agreement was scheduled to expire in 2023. However, the agreement was terminated in June 2020 due to a performance provision that automatically terminates the agreement for five

consecutive years of non-payment. In response to the Project being shut down, Beverly Hills has been continuously working on rehabilitating the plant and constructing improvements necessary to get the Project back online.

To date, Beverly Hills has: (1) conducted water quality testing and issued a final report in April 2017; (2) conducted a water plant pre-treatment pilot project and issued a report in June 2018; (3) commenced construction of plant rehabilitation, including a new raw water pre-treatment filtration system, plant upgrades and improvements; and (4) commenced construction of a new water transmission line and well to secure an additional source of groundwater from the La Brea Subarea Basin.



*THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA*
700 N. Alameda Street, Los Angeles, California 90012

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**Attachment 2 – Initial Study and Negative Declaration For the City of Beverly Hills
Municipal Water and Public Works Facility Project**

These attachments are not included.

You may review these documents on our website at:
<http://mwdh2o.com/WhoWeAre/Board/Board-Meeting>

OR

By contacting Metropolitan's Board Executive Secretary at: (213) 217-6291
or via email at DL-BoardSupportTeam@mwdh2o.com