

FORBEARANCE AND FOLLOWING PROGRAM AGREEMENT

THIS FORBEARANCE AND FOLLOWING PROGRAM AGREEMENT ("Program Agreement") is made, entered into, and effective as of August 18, 2004 ("Effective Date"), by and between Palo Verde Irrigation District ("PVID"), formed pursuant to the Palo Verde Irrigation District Act (West's Water Code Appendix, Chapter 33); and The Metropolitan Water District of Southern California ("Metropolitan"), organized and existing under the Metropolitan Water District Act (West's Water Code Appendix, Chapter 109). Each of said agencies is at times referred to individually as "Party" and both of which are at times collectively referred to as "Parties."

RECITALS

A. PVID, Metropolitan, and certain other California water agencies have water delivery contracts with the United States for the delivery and use of Colorado River water available for use within California ("Federal Water Delivery Contracts"). These contracts allocate Colorado River water among the contracting water agencies according to seven priorities, the first three of which aggregate 3.85 million acre-feet per year ("AFY") of consumptive use.

B. Notwithstanding the foregoing Federal Water Delivery Contract priorities, under The Law of the River, Colorado River water available for use in California is limited to 4.4 million AFY plus 50 percent of any surplus decreed by the Secretary of the Interior and any Colorado River water apportioned to, but unused in, Arizona and Nevada that the Secretary releases for use in California.

C. Metropolitan's Federal Water Delivery Contract provides for the delivery of the following quantities of Colorado River water: (1) A fourth priority for beneficial consumptive use on the Coastal Plain of Southern California of 550,000 AFY and (2) a fifth priority for beneficial consumptive use on the Coastal Plain of Southern California of 662,000 AFY. Metropolitan's Colorado River Aqueduct was sized to accommodate these entitlements.

D. Until recent years, Colorado River water available for use in California was sufficient to satisfy Metropolitan's fourth and fifth priority entitlements. Since then, however, there has been insufficient Colorado River water available for use in California to satisfy all of Metropolitan's fifth priority, a situation that Metropolitan desires to alleviate by a transfer to Metropolitan of higher priority Colorado River water.

E. PVID's priorities pursuant to the 1931 Seven Party Agreement and its Federal Water Delivery Contract are as follows: (1) A first priority for beneficial use exclusively upon lands in PVID (as it then existed) and upon lands between PVID (as it then existed) and the Colorado River, aggregating a gross area of 104,500 acres (such water being referred to herein as "Priority 1 Water" and such lands being referred to herein as "Priority 1 Lands"), (2) a third priority, shared with the Imperial Irrigation District ("IID") and the Coachella Valley Water District ("CVWD"), for use exclusively on 16,000 acres in that area known as the Lower Palo

Verde Mesa for beneficial consumptive use (such water being referred to herein as "Priority 3 Water" and such lands being referred to herein as "Priority 3 Lands"), and (3) certain water with a sixth priority shared with IID and CVWD. PVID also holds a present perfected right to Colorado River water with a priority date of 1877 pursuant to the Supreme Court's January 9, 1979 supplemental decree in *Arizona v. California*. PVID's Federal Water Delivery Contract entitlement includes the water to which PVID is entitled under its present perfected right.

F. Both Priority 1 Lands and Priority 3 Lands are currently being irrigated and farmed with Colorado River water delivered by the United States under PVID's Federal Water Delivery Contract. A reduction of irrigation of some of these lands through fallowing and a corresponding forbearance in the consumptive use of Colorado River water by PVID would, absent claims by other California water agencies under their Federal Water Delivery Contracts, increase the amount of Colorado River water available to Metropolitan under its Federal Water Delivery Contract. A transaction embodying these elements would constitute a forbearance (through fallowing) transaction between PVID and Metropolitan under applicable law.

G. While Metropolitan desires to enter into a long-term forbearance and fallowing transaction with PVID, Metropolitan has concluded that it should do so only with respect to (1) Priority 1 Water because of issues associated with the third priority which PVID shares with other California water agencies and (2) Priority 1 Land that is eligible to and receives delivery of Priority 1 Water with a recent history of crop irrigation. This is acceptable to PVID.

H. Accordingly, the Parties have determined to establish and implement through this Program Agreement a verifiable PVID/Metropolitan forbearance and fallowing program (such program being referred to herein as the "Program"), the elements of which are described generally in this Recital.

(1) Owners of Priority 1 Land that elect to participate in the Program (such owners being described herein as "Participating Landowners") will commit to fallow owned or leased Program Qualified Land in a Base Amount each Contract Year and in an additional amount in accord with periodic fallowing calls issued by Metropolitan. PVID will forbear from diverting Colorado River water that otherwise would have been used to irrigate Fallowed Lands, with the objective that an equivalent amount of Colorado River water (less any conveyance losses) will then be available for diversion by Metropolitan pursuant to Metropolitan's Federal Water Delivery Contract.

(2) The maximum amount of Priority 1 Land that may be fallowed under the Program in each of any ten (10) full Contract Years is limited to approximately twenty-nine percent (29%) of the total Priority 1 Land (approximately 26,500 water toll acres) and approximately 24,000 water toll acres in each of the other Contract Years. The Program places essentially comparable limits on the amount of Program Qualified Land any Participating Landowner may fallow, such being pegged to the amount of Program Qualified Land owned by a Participating Landowner at the time of joining the Program.

(3) The Program will be open on an equal basis to all owners of Priority 1 Land receiving Priority 1 water. Participation in the Program will be through Landowner

Agreements (“Landowner Agreements”) between each Participating Landowner and PVID and Metropolitan. The Program will become effective if certain conditions precedent are met or waived by the Parties by December 31, 2004, including the deposit into escrow of executed Landowner Agreements committing to fallow at least 13,250 water toll acres of Priority 1 Land in each of any ten (10) full Contract Years (each such commitment by a Participating Landowner being referred to herein as that landowner’s “Maximum Fallowing Commitment”).

I. In September 2002 pursuant to the requirements of the California Environmental Quality Act, PVID issued the “Final Environmental Impact Report for the Proposed Palo Verde Irrigation District Land Management, Crop Rotation and Water Supply Program” (“Final Program EIR”). The proposed program described in that Final Environmental Impact Report is the same as the Program that is the subject of this Program Agreement. The Final EIR concluded that “implementing the Program would result in less-than-significant effects on the environment and would not require mitigation,” relying for such conclusion in part on certain land management measures that would be part of the proposed program. Those measures and commitments are specified in this Program Agreement as part of the Program.

J. By resolution dated August 17, 2004, PVID’s board of trustees determined the following with respect to the Program that is the subject of this Program Agreement: (1) the opportunity to participate in the Program will be offered to all owners of Priority 1 Land that is eligible to and receives delivery of Priority 1 Water, (2) interest exists among owners of Priority 1 Lands in participating in the Program, (3) the Program will further the public policies of the state regarding the use of water, (4) the source of the water for the Program will be conservation by owners of Priority 1 Lands through fallowing; (5) accordingly, implementation of the Program will create water excess or surplus to the needs of PVID and will not affect PVID’s ability to supply water to Priority 1 Lands that are not fallowed under the Program, (6) the Program will be otherwise consistent with PVID’s obligations to landowners, (7) the Program will assist California in adhering to its basic 4.4 million acre-foot apportionment of Colorado River water, help provide a reliable and flexible water supply for urban southern California, and help stabilize the farm economy in the Palo Verde Valley, (8) the Program will be in the best interests of PVID and PVID landowners, and (9) the Program will conform to all requirements of applicable law.

K. The Parties propose to enter into this Program Agreement pursuant to the Palo Verde Irrigation District Act; the Metropolitan Water District Act; applicable provisions of the California Water Code, and federal Reclamation Law, including the Boulder Canyon Project Act.

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. Definitions

As used in this Program Agreement, the following terms shall have the following meanings:

- 1.1 "AFY" means acre-feet per year.
- 1.2 "Base Amount" means the amount of Program Qualified Land a Participating Landowner is required to fallow every Contract Year pursuant to subsection 3.7.1 (Base Amount Fallowing).
- 1.3 "Conditions Precedent Notice" means the Parties' notice, executed pursuant to section 6 (Conditions Precedent), that all conditions precedent to certain of their obligations and rights have been satisfied or waived.
- 1.4 "Contract Year" means the twelve-month period from August 1 through the following July 31 of the following year, the first full Contract Year commencing the August 1 immediately following satisfaction or waiver of the conditions precedent pursuant to section 6 (Conditions Precedent). In the event that the Operative Date does not fall on August 1, the period following the Operative Date and preceding August 1 shall be referred to herein as a partial Contract Year and shall not be counted as a full Contract Year.
- 1.5 "CVWD" means the Coachella Valley Water District.
- 1.6 "Effective Date" is the date set forth in the introductory paragraph of this Program Agreement on which this Program Agreement becomes effective.
- 1.7 "Fallowed Land" means Program Qualified Land owned by or leased to a Participating Landowner that is fallowed pursuant to a Landowner Agreement.
- 1.8 "Fallowing Calls" mean the calls by Metropolitan to Participating Landowners for fallowing of Program Qualified Land in addition to the Base Amount.
- 1.9 "Fallowing Easement" means the easement a Participating Landowner is required to deliver to PVID and Metropolitan pursuant to subsection 3.4.3.2 (Notice of Required Documents) for the purpose of ensuring that Program Qualified Land is fallowed as specified in this Program Agreement.
- 1.10 "Federal Water Delivery Contracts" means the contracts for the delivery of Colorado River water between the United States and CVWD, IID, Metropolitan, and PVID, respectively.

1.11 “Final Program EIR” means the “Final Environmental Impact Report for the Proposed Palo Verde Irrigation District Land Management, Crop Rotation and Water Supply Program” dated September 2002.

1.12 “IID” means the Imperial Irrigation District.

1.13 “Landowner Agreement” means the agreement with PVID and Metropolitan through which a Participating Landowner participates in the Program and commits to fallow Program Qualified Land.

1.14 “Landowner Participation Offer” means the offer by a landowner, described more particularly in subsection 3.2.2 (Offers by Landowners), to make a specified Maximum Fallowing Commitment and to participate in the Program.

1.15 “Late Arising Claim” means a claim described in subsection 9.17 (Pending and Late Arising Claims).

1.16 “Maximum Fallowing Commitment” means the largest amount of Program Qualified Land Metropolitan may require a Participating Landowner to fallow during any Contract Year (Base Amount fallowing plus Fallowing Call), such being limited to ten (10) consecutive or non-consecutive full Contract Years.

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

1.18 “Operative Date” is the date on which the initial partial Contract Year, or first full Contract Year if there is no partial Contract Year, begins and is the earlier of (1) the date that the Parties execute Conditions Precedent Notices if the conditions precedent have been satisfied or waived prior to December 31, 2004, or (2) January 1, 2005 if neither Party has given notice on or before December 31, 2004 that the conditions precedent will not be satisfied or waived and that the Program shall terminate in accordance with clause (3) of subsection 2.1(Term).

1.19 “Participating Landowner” means a landowner that is participating in the Program through a Landowner Agreement.

1.20 “Participation Waiver” has the meaning set forth in subsection 3.5.5.

1.21 “Party” means Metropolitan or PVID; and when used in the plural, it means Metropolitan and PVID.

1.22 “Priority 1 Lands” means those lands described in section 1 of Article (6) of the Federal Water Delivery Contract between the United States and PVID dated February 7, 1933.

1.23 “Priority 1 Water” means the water delivered to PVID pursuant to section 1 of Article (6) of the Federal Water Delivery Contract between the United States and PVID dated February 7, 1933.

1.24 “Priority 3 Lands” means those lands described in section 3(b) of Article (6) of the Federal Water Delivery Contract between the United States and PVID dated February 7, 1933.

1.25 “Priority 3 Water” means the water delivered to PVID pursuant to section 3(b) of Article (6) of the Federal Water Delivery Contract between the United States and PVID dated February 7, 1933.

1.26 “Program” means the PVID/Metropolitan Forbearance and Fallowing Program that is the subject of this Program Agreement.

1.27 “Program Agreement” means this agreement entered into by and between Metropolitan and PVID.

1.28 “Program Encumbered Land” means land owned by a Participating Landowner that meets the requirements for fallowing set forth in subsection 3.7.5.2 (Land Designated for Fallowing) and is subject to a Fallowing Easement.

1.29 “Program Qualified Land” means land that (1) is eligible to and receives delivery of Priority 1 Water, and (2) has produced irrigated crops in two of the five Contract Years (or the August 1 to July 31 periods prior to the Effective Date) immediately prior to the year in which the landowner (i) makes a Landowner Participation Offer pursuant to subsection 3.2.2 (Offers by Landowners), (ii) proposes the land for substitution as Program Encumbered Land pursuant to subsection 3.7.8 (Substitution of Program Encumbered Land), or (iii) designates the land for fallowing pursuant to subsection 3.7.5 (Designation of Fallowed Land).

1.30 “PVID” means the Palo Verde Irrigation District.

1.31 “Reimbursable Costs” means those costs of PVID that Metropolitan is required to reimburse, as more particularly described in subsection 5.2.1 (General Obligation).

1.32 “Reimbursable Cost Budget” means the budget developed by the Parties for each Contract Year for the Reimbursable Costs to be incurred by PVID as more specifically described in subsection 5.2.2 (Annual Budget).

1.33 “Saved Water” means water that is conserved by fallowing pursuant to the Program and this Program Agreement.

1.34 “Solicitation Notice” means the notice, described more particularly in subsection 3.2.1 (Solicitation of Landowner Participation Offers), by which PVID is to solicit participation in the Program by Participating Landowners.

1.35 “Termination Date” means the date this Program Agreement terminates as more particularly specified in section 2 (Term of Agreement).

1.36 “USBR” means the United States Bureau of Reclamation.

2. Term of Agreement

2.1 Term

This Program Agreement shall be effective as of the Effective Date and, subject to the provisions of subsection 2.2 (Early Termination by Metropolitan), shall terminate on the earliest of (1) July 31 of the thirty-fifth (35th) full Contract Year following the Operative Date, (2) July 31 of the Contract Year in which an early termination is effective in the event that Metropolitan should exercise its right of termination under subsection 2.2 (Early Termination by Metropolitan), or (3) December 31, 2004 if either Party gives notice on or before that date that the conditions precedent described in section 6 (Conditions Precedent) will not be timely satisfied or waived (such date of termination being referred to herein as the "Termination Date").

2.2 Early Termination by Metropolitan

Metropolitan may terminate this Program Agreement as of July 31 of the tenth (10th) or any subsequent full Contract Year following the Operative Date by giving notice of such termination and the effective date thereof to PVID and all Participating Landowners at least five (5) calendar years prior to the effective date of the termination.

2.3 Continuing Obligations

The obligations and rights of the Parties under the following provisions shall survive termination of this Program Agreement: section 1 (Definitions); subsection 5.1 (Payments by Metropolitan to Landowners) as to obligations incurred prior to termination; subsection 5.2 (Payments by Metropolitan to PVID) as to obligations incurred prior to termination; section 8 (Remedies and Dispute Resolution); and section 9 (Miscellaneous Agreements).

3. PVID/Metropolitan Forbearance and Following Program

3.1 Program Established

3.1.1 This Program Agreement establishes the PVID/Metropolitan Forbearance and Following Program ("Program").

3.2 Landowner Participation in Program

3.2.1 Solicitation of Landowner Participation Offers

As soon as practicable after the Effective Date, PVID shall, by notice to all PVID landowners, including Metropolitan, solicit offers to participate in the Program through the following of Program Qualified Land pursuant to Landowner Agreements (such notice being referred to herein as the "Solicitation Notice" and such offers being referred to herein as "Landowner Participation Offers").

3.2.2 Offers by Landowners

Landowner Participation Offers by landowners, including Metropolitan, (1) shall be made within seventy-five (75) days after the date of the Solicitation Notice, (2) shall be on forms supplied by PVID and approved by Metropolitan, (3) shall be submitted to both PVID and Metropolitan, and (4) shall be tiered and contain information as specified in this subsection 3.2.2 (Offers by Landowners). Landowner Participation Offers may be made by individual landowners or, as provided in subsection 3.5 (Participating Landowner Groups), by groups of landowners.

3.2.2.1 The first tier of a Landowner Participation Offer shall specify a Maximum Following Commitment the landowner proposes to make, the acreage of which shall not exceed an amount equal to twenty-nine percent (29%) of the total Program Qualified Land then owned by the landowner.

3.2.2.2 If the first tier of a Landowner Participation Offer specifies the maximum acreage permitted by subsection 3.2.2.1, the Landowner Participation Offer may contain a second tier specifying an additional Maximum Following Commitment the landowner proposes to make, the acreage of which, when added to the acreage specified in the first tier, may not exceed an amount equal to thirty-five percent (35%) of the total Program Qualified Land then owned by the landowner.

3.2.2.3 All Landowner Participation Offers other than by Metropolitan shall also include, separately for each tier, a legal description and PVID Water Toll Number of the Program Qualified Land the landowner proposes as Program Encumbered Land, the proposed land for each tier being equal in acreage to the proposed Maximum Following Commitment for that tier and in parcels that are reasonably compact and at least five (5) water toll acres in size.

3.2.2.4 All Landowner Participation Offers shall include a legal description, PVID Water Toll Number, and acreage of the total amount of Program Qualified Land then owned by the landowner.

3.2.3 Provisional Approval of Landowner Participation Offers

3.2.3.1 As soon as practicable after the period specified in subsection 3.2.2 (Offers by Landowners) for making Landowner Participation Offers, the Parties shall, as provided in this subsection 3.2.3 (Provisional Approval of Landowner Participation Offers) provisionally approve Landowner Participation Offers that were timely made and in compliance with this Program Agreement, such approval being for the purpose of determining those offers as to which an escrow is to be established pursuant to subsection 3.4.1 (Escrow). A Landowner Participation Offer shall be subject to further approval by the Parties only (1) provisionally by Metropolitan, pursuant to subsection 3.2.4 (Metropolitan Approval of Proposed Program Encumbered Land), with respect to land proposed in the offer as Program Encumbered Land, and (2) for verification by the Parties, pursuant to subsection 3.2.5 (Verification of Program Qualified Land), of the landowner's ownership of the land identified in the offer as Program Qualified Land and its eligibility to receive Priority 1 Water.

3.2.3.2 First Tier Landowner Participation Offers

The Parties shall provisionally approve the first tier of all Landowner Participation Offers.

3.2.3.3 Second Tier Landowner Participation Offers

If the first tier of Landowner Participation Offers aggregate less than 26,500 water toll acres of Maximum Following Commitments, the Parties shall first provisionally approve the second tier of all Landowner Participation Offers to the extent of the smallest percentage of total Program Qualified Land specified in the second tier of any offer. The Parties shall next provisionally approve the second tier of all Landowner Participation Offers to the extent of the next smallest percentage of total owned Program Qualified Land specified in any offer. The Parties shall follow this process until the second tier of all Landowner Participation Offers have been provisionally approved or the provisionally approved first and second tiers of Maximum Following Commitments in Landowner Participation Offers aggregate approximately 26,500 water toll acres, whichever first occurs.

3.2.3.3.1 Notwithstanding the foregoing, Metropolitan may elect to reserve a portion of the Maximum Following Commitments in its second tier equal to an amount of up to two percentage points of its Program Qualified Land. If Metropolitan makes this election, it shall be authorized to use the reserved portion of its Maximum Following Commitments in an amount equal to any shortfall in the aggregate amount of provisionally approved Maximum Following Commitments resulting from the reasons stated in subsection 3.6.1, provided that the final approved percentage of Metropolitan's Maximum Following Commitments shall not exceed the highest approved percentage of other Landowner Participation Offers. Metropolitan shall utilize any reserved second tier Maximum Following Commitments in accordance with subsection 3.6 (Subsequent Solicitation of Participation Offers).

3.2.3.4 Subject to the satisfaction of conditions in subsection 3.2.3.1, the Maximum Following Commitment to be incorporated into a Landowner Agreement, expressed in terms of acreage and percentage of Program Qualified Land, shall be the sum of the first and second tiers of the Landowner Participation Offer as provisionally approved.

3.2.4 Metropolitan Approval of Proposed Program Encumbered Land

The provisions of this subsection shall apply to Landowner Participation Offers from all landowners other than Metropolitan.

3.2.4.1 Within thirty (30) days after the period specified in subsection 3.2.2 (Offers by Landowners) for making Landowner Participation Offers, Metropolitan shall, by notice to PVID and the landowner, either provisionally approve or disapprove the land proposed in such offer as Program Encumbered Land. Metropolitan may disapprove proposed land only to the extent it (1) does not meet the requirements specified in subsection 3.7.5.2 (Land Designated for Following) for land that is to be fallowed under Landowner Agreements, or (2) is not feasible, in Metropolitan's reasonable judgment, for fallowing by Metropolitan in the event of a default by the Participating Landowner. Metropolitan may not unreasonably withhold

provisional approval of land offered as Program Encumbered Land. Any notice of disapproval given by Metropolitan shall describe the land disapproved and state with particularity the reasons for the disapproval.

3.2.4.2 Any land proposed by a landowner as Program Encumbered Land under subsection 3.2.2.3 that Metropolitan does not provisionally approve or disapprove within the period specified in subsection 3.2.4.1, shall nonetheless be deemed to have been provisionally approved by Metropolitan.

3.2.4.3 Any landowner as to whom Metropolitan has disapproved proposed Program Encumbered Land pursuant to subsection 3.2.4.1 shall have the right, on notice given to PVID and Metropolitan within seven (7) days after the date of giving notice of such disapproval, to require a meeting with the PVID and Metropolitan Agreement Administrators for purposes of either disputing the basis for Metropolitan's disapproval or offering substitute land for the disapproved Program Encumbered Land. PVID and Metropolitan Agreement Administrators shall meet with any such disputing landowner within seven (7) days after the date of the landowner's notice.

3.2.4.4 If a meeting held pursuant to subsection 3.2.4.3 does not resolve the dispute between the landowner and Metropolitan regarding land proposed as Program Encumbered Land, the landowner shall have the further right, on notice given to PVID and Metropolitan within seven (7) days after such meeting, to require a meeting with the chief executive officer of Metropolitan and general manager of PVID for purposes of resolving the dispute. The Metropolitan chief executive officer and PVID general manager, or persons they individually designate as representing their respective agencies, shall meet with any disputing landowner within seven (7) days of the landowner's notice. If Metropolitan and the landowner are unable to resolve the dispute, Metropolitan's decision on the land proposed as Program Encumbered Land shall be final and shall not be subject to the provisions of section 8 (Remedies and Dispute Resolution). In such event, however, the landowner shall have the following rights, which must be exercised within ten (10) days following the notice of Metropolitan's final decision: (1) to propose one further offer of substitute Program Encumbered Land, as to which the provisions of subsection 3.2.4 (Metropolitan Approval of Proposed Program Encumbered Land) shall apply, or (2) to withdraw the Landowner Participation Offer.

3.2.4.5 If subsequent to a disapproval of proposed Program Encumbered Land by Metropolitan under subsection 3.2.4.1, Metropolitan subsequently provisionally approves such lands or provisionally approves alternate lands proposed by the landowner as Program Encumbered Land, Metropolitan shall promptly give notice to that effect to PVID and the landowner.

3.2.4.6 Proposed Program Encumbered Land provisionally approved by Metropolitan under this subsection 3.2.4 (Metropolitan Approval of Proposed Program Encumbered Land) remains subject to verification of its eligibility for and receipt of Priority 1 Water and of its ownership by the landowner making the Landowner Participation Offer and similar verification of other Program Qualified Land described in the Landowner Participation Offer, and upon such verification shall be the Program Encumbered Lands described in the Landowner Agreement and Following Easement provided to the landowner for execution and

delivery into escrow pursuant to subsection 3.4.2 (Notice of Provisional Acceptance to Landowners; Documents for Delivery by Landowners into Escrow).

3.2.5 Verification of Program Qualified Land

3.2.5.1 Metropolitan shall, as expeditiously as possible, obtain title reports on all Priority 1 Land with respect to (1) ownership of the land, and (2) liens, encumbrances on, and security interests in, such land.

3.2.5.2 As soon as practicable after (1) receipt of each Landowner Participation Offer and (2) receipt of a title report respecting the Program Qualified Land identified in such offer, the Parties will verify ownership of such land by the offering landowner(s) and its eligibility for and receipt of Priority 1 Water.

3.2.5.3 If a title report obtained by Metropolitan reflects that the Program Qualified Land identified in a Landowner Participation Offer either is not owned by the landowner(s) making the offer or is ineligible to receive Priority 1 Water, the Parties shall promptly confer with the affected landowner to (1) modify the offer to conform to the title report, (2) identify any errors in the Landowner Participation Offer, (3) identify any errors in the title report, or (4) otherwise remedy the situation.

3.3 Metropolitan as Participating Landowner

Metropolitan's participation in the Program as a Participating Landowner shall be governed by and in accord with the provisions of this Program Agreement and the provisions of the form of Landowner Agreement attached hereto as Exhibit A other than those provisions relating to Program Encumbered Land and payments to Participating Landowners. No separate Landowner Agreement shall be required of Metropolitan.

3.4 Process for Incorporating Landowner Participation Offers into Landowner Agreements

3.4.1 Escrow

As soon as practicable after a Landowner Participation Offer has been provisionally approved pursuant to subsection 3.2 (Landowner Participation in Program), but not later than required by each Landowner Agreement, Metropolitan shall establish an escrow respecting such agreement with a qualified escrow agent selected by Metropolitan, subject to reasonable approval by PVID.

3.4.2 Notice of Provisional Acceptance to Landowners; Documents for Delivery by Landowners into Escrow

As soon as practicable after a Landowner Participation Offer has been provisionally approved as provided in subsection 3.2.3 (Provisional Approval of Landowner Participation Offers), the proposed Program Encumbered Land has been provisionally approved as provided in subsection 3.2.4 (Metropolitan Approval of Proposed Program Encumbered Land), and the status of the lands offered for fallowing has been verified as provided in

subsection 3.2.5 (Verification of Program Qualified Land), the Parties shall give the landowner notice that the landowner's offer has been accepted, accompanied by the documents specified in this subsection 3.4.2 (Notice of Provisional Acceptance to Landowners; Documents for Delivery by Landowners into Escrow).

3.4.2.1 A copy of this Program Agreement.

3.4.2.2 Escrow instructions consistent with this Program Agreement for execution by the landowner and delivery into escrow.

3.4.2.3 For execution by the landowner and delivery into escrow, a Landowner Agreement substantially in the form attached to this Program Agreement as Exhibit A that includes the landowner's provisionally accepted Maximum Following Commitment.

3.4.2.4 Metropolitan's notice of the initial Following Call.

3.4.3 Deliveries by PVID and Metropolitan into Escrow

3.4.3.1 Executed Counterparts of the Landowner Agreement

As soon as practicable after each Participating Landowner has duly executed and delivered to the Parties the Landowner Agreement and escrow instructions, the Parties shall execute counterparts of the Landowner Agreement and escrow instructions. Metropolitan shall establish an escrow within seven (7) days after the Landowner Agreement is duly executed and the Parties shall deposit the Landowner Agreement and escrow instructions into the escrow.

3.4.3.2 Notice of Required Documents

In accordance with the terms of the Landowner Agreement, Metropolitan shall give the Participating Landowner written notice, based on a current preliminary title report obtained by Metropolitan, of each owner of Program Encumbered Land who appears to be required to execute a following easement under subsection 4.2 (Following Easement) of the Landowner Agreement, each encumbrance for which an encumbrance subordination agreement appears to be required under subsection 4.5.2 (Encumbrance Subordination Agreement) of the Landowner Agreement, each lease reflected in the preliminary title report or disclosed by the Participating Landowner for which a tenant subordination agreement appears to be required under subsection 4.5.1 (Tenant Subordination Agreement) of the Landowner Agreement, and each landowner in a Participating Landowner Group who is not a party to the Landowner Agreement from whom a participation waiver appears to be required by subsection 3.5.5 of this Program Agreement.

3.4.3.3 Conditions Precedent Notice

Promptly upon the satisfaction or waiver of the conditions precedent set forth in section 6 (Conditions Precedent), PVID and Metropolitan shall execute and deliver the Conditions Precedent Notice into escrow. In the event that the Conditions Precedent Notice is not executed and deposited into escrow prior to December 31, 2004 and this Program Agreement

and the Landowner Agreements are not terminated by notice given pursuant to clause (3) of subsection 2.1 (Term), the requirement for a Conditions Precedent Notice shall be deemed to be waived.

3.4.3.4 Deposit of Funds by Metropolitan

In accordance with the terms of the Landowner Agreement, Metropolitan shall deposit into escrow the funds for the initial payment to the Participating Landowner and sufficient funds to cover the estimate of costs of escrow.

3.4.4 Closure or Termination of Escrow

The escrow for each Landowner Agreement shall close when the escrow agent has received in proper form the funds and documents specified in the Landowner Agreement, provided that Metropolitan or PVID may terminate any escrow if the Participating Landowner fails to deliver all required documents into escrow within the time allowed by the Participating Landowner's Landowner Agreement.

3.5 Participating Landowner Groups

3.5.1 Landowners, including Metropolitan, may join together for purposes of pooling their participation in the Program as to (1) a Landowner Participation Offer; (2) Program Qualified Land for purposes of calculating the limitations on first and second tier Maximum Following Commitments specified in Landowner Participation Offers; (3) Maximum Following Commitments; (4) Program Encumbered Land; (5) Fallowed Land; and (6) receipt of Initial Payments and Annual Payments by Metropolitan. As among the Participating Landowners in the group, the pooling shall be on such terms and conditions as the Participating Landowners may agree.

3.5.2 There shall be a single Landowner Participation Offer for each group which shall (1) identify and be signed by all landowners who are in the group; (2) specify which landowners are to be Participating Landowners and parties to the Landowner Agreement for the group; (3) identify all owners of the Program Qualified Land that is to be considered for purposes of calculating the limitations on the first and second tier Maximum Following Commitments specified in the Landowner Participation Offer in the same manner as specified in subsection 3.2.2.4 for the description of the land; and (4) designate a single landowner as agent for the group for all purposes in connection with the Landowner Participation Offer other than execution of the Landowner Agreement and other instruments required in connection with the Landowner Agreement.

3.5.3 The Maximum Following Commitment and annual following requirements for the group shall be determined with respect to the aggregate of Program Qualified Land owned by all landowners signing the Landowner Participation Offer, and Program Encumbered Land under the Landowner Agreement may be designated on Program Qualified Land of any one or more of the Participating Landowners. References to "landowner" and "Participating Landowner" in this Program Agreement and in the Landowner Agreements shall be deemed to refer to all landowners and Participating Landowners in the group collectively, and references to Program Qualified Land owned by a landowner or a Participating Landowner shall be deemed to

refer to the aggregate Program Qualified Land owned by all landowners and Participating Landowners in the group collectively.

3.5.4 There shall be a single Landowner Agreement for each group which shall designate a single Participating Landowner as agent for all purposes under the Landowner Agreement, including designating and substituting Program Encumbered Land, receiving Following Calls, making designations of Program Qualified Land to be fallowed, receiving all payments by Metropolitan, and giving and receiving notices and other communications to or from PVID and Metropolitan. The Participating Landowners in a group may change the Participating Landowner that is to act as agent for all Participating Landowners in the group by notice signed by all Participating Landowners in the group to PVID and Metropolitan. The change shall be effective on the tenth (10th) day after the date on which the notice is given.

3.5.5 All landowners in a group whose Program Qualified Land is to be designated as Program Encumbered Land pursuant to subsection 3.2.4 (Metropolitan Approval of Proposed Program Encumbered Land) or may be substituted for Program Encumbered Land pursuant to subsection 3.7.8 (Substitution of Program Encumbered Land) shall be parties to the Landowner Agreement. In addition, each landowner who is not a party to the Landowner Agreement but who owns Program Qualified Land that is described in the Landowner Participation Offer for the group shall provide, as a part of the escrow under subsection 3.4.2 (Notice of Provisional Approval to Landowners; Documents for Delivery by Landowners into Escrow), a Participation Waiver, in recordable form, by which the landowner authorizes the use of that landowner's Program Qualified Land described in the Landowner Participation Offer for purposes of calculating the limitations on first and second tier Maximum Following Commitments specified in the Landowner Participation Offer and irrevocably waives the right to have such land used for such purpose in connection with any other Landowner Participation Offer.

3.6 Subsequent Solicitation of Participation Offers

3.6.1 This subsection 3.6 (Subsequent Solicitation of Participation Offers) shall apply if and to the extent the Maximum Following Commitments contained in provisionally approved Landowner Participation Offers aggregate approximately 26,500 water toll acres and (1) subsequently Landowner Agreements are executed for less than 26,500 water toll acres or (2) escrows are terminated pursuant to subsection 3.4.4 (Closure or Termination of Escrow).

3.6.2 If the conditions specified in subsection 3.6.1 occur, Metropolitan may utilize the portion of its own Maximum Following Commitments reserved pursuant to subsection 3.2.3.3.1 to increase the aggregate Maximum Following Commitments to the amount provisionally approved, provided that the percentage of Metropolitan's Maximum Following Commitment shall not exceed the percentage of the highest approved Maximum Following Commitment for other Participating Landowners. If, after Metropolitan has applied its reserved Maximum Following Commitments, the aggregate Maximum Following Commitments continues to be less than 26,500 water toll acres, the Parties will, on Metropolitan's request, solicit additional offers from PVID landowners for participation in the Program on terms essentially similar to those specified for Landowner Participation Offers under subsection 3.2 (Landowner Participation in Program) and otherwise consistent with this Program Agreement.

3.7 Following of Program Qualified Land

3.7.1 Base Amount Following

Except as provided in subsection 3.7.4.2 (Temporary Reductions), Participating Landowners shall follow Program Qualified Land in an amount equal to twenty-five percent (25%) of the Participating Landowner's total Maximum Following Commitment during each partial or full Contract Year occurring after the conditions precedent in the applicable Landowner Agreement have been satisfied or waived, such amount being referred to herein as "Base Amount."

3.7.2 Calls by Metropolitan for Additional Following

Periodically during the term of this Program Agreement, Metropolitan shall, by notice, issue Following Calls to Participating Landowners for following of Program Qualified Land in addition to the applicable Base Amount. Metropolitan's Following Calls shall be such that:

- (1) For each Landowner Agreement in effect on termination of this Program Agreement, the annual average (based on Contract Years) of the lands required to be followed pursuant to subsection 3.7.1 (Base Amount Following) and Following Calls for all full Contract Years following the Operative Date will be an amount equal to at least forty-five and three-tenths percent (45.3%) of the landowner's Maximum Following Commitment, adjusted for any temporary reductions pursuant to subsection 3.7.4.2 (Temporary Reductions); and
- (2) Followed Land under each Landowner Agreement shall not exceed (i) an amount equal to the Maximum Following Commitment in such agreement in any Contract Year and (ii) an amount equal to ninety and six-tenths percent (90.6%) of Maximum Following Commitments in more than a total of ten (10) full Contract Years (consecutive or nonconsecutive).

Each Metropolitan Following Call shall require following for at least two full consecutive Contract Years. For a Following Call that involves following for the partial Contract Year in which the Conditions Precedent Notice is executed or deemed waived, the Following Call shall require following for only one (1) full Contract Year, in addition to the remainder of such partial Contract Year. A Following Call once made may not be rescinded or diminished.

3.7.3 Notice of Following Calls; Acreage Specification

Metropolitan shall give Participating Landowners notice of Following Calls as follows: (1) concurrently with delivery of the notice to the Participating Landowner that the Landowner's Participation Offer has been provisionally accepted in accordance with subsection 3.4.2 (Notice of Provisional Acceptance to Landowners; Documents for Delivery by Landowners into Escrow) for following that is to occur during the initial partial Contract Year, if any, and the first full Contract Year; and (2) at least one Contract Year in advance for following that is to occur in subsequent Contract Years. Following Calls issued by Metropolitan shall specify (1) the percentage of the Participating Landowner's Maximum Following Commitment that the

Fallowed Land must equal, with the percentage being the same for all Participating Landowners, and (2) the amount of Program Qualified Land to be fallowed.

3.7.4 Special Fallowing Circumstances

3.7.4.1 Commencement of Fallowing Prior to First Full Contract

Year

In response to the first Fallowing Call issued to a Participating Landowner by Metropolitan, the Participating Landowner shall not be required to begin to fallow any parcel of Program Qualified Land designated for Base Amount fallowing or for fallowing pursuant to the initial Fallowing Call by Metropolitan until the earlier of (1) the date on which any crop growing on such parcel as of the Effective Date of the Participating Landowner's Landowner Agreement has been harvested, or (2) one hundred twenty (120) days after the closing date of escrow for the Participating Landowner's Landowner Agreement.

3.7.4.2 Temporary Reductions

Participating Landowners may, for any Contract Year, request approval to reduce or eliminate land to be fallowed. Such approval may be given or denied by Metropolitan, in its sole discretion. Metropolitan shall promptly notify PVID of any such request, of Metropolitan's action on the request, and, if the request is granted to any extent, the identity by PVID Water Toll Number of the land withdrawn from fallowing.

3.7.5 Designation of Fallowed Land

3.7.5.1 Time and Manner of Designation

Participating Landowners shall give written notice to PVID and Metropolitan designating the parcels of Program Qualified Land to be fallowed pursuant to the Landowner Agreement as follows:

- (1) As to Program Qualified Land that will be fallowed to meet the Participating Landowner's obligation to fallow a Base Amount, and as to Program Qualified Land that will be fallowed to meet the Participating Landowner's obligation to fallow in response to Metropolitan's initial Fallowing Call, such notice shall be given at least thirty (30) days in advance of the date on which fallowing is to begin, and
- (2) As to Program Qualified Land to be fallowed to meet the Participating Landowner's obligation pursuant to a Fallowing Call, other than the first Fallowing Call, issued by Metropolitan, such notice shall be given at least sixty (60) days in advance of the date on which such fallowing is to begin.

All designations shall be made by the applicable PVID Water Toll Number, on forms provided by PVID and approved by Metropolitan, which forms shall authorize PVID and Metropolitan to enter the designated land for purposes of ascertaining whether it is being fallowed in accordance with the applicable Landowner Agreement. Any Participating Landowner's designation that includes land leased to the Participating Landowner

shall be accompanied by a copy of the applicable lease(s). Participating Landowners may change any such designations with respect to land that has been fallowed for twelve (12) consecutive months by giving PVID and Metropolitan notice, sixty (60) days in advance of such change, specifying (1) the effective date of the change, (2) the Program Qualified Land that no longer will be fallowed, and (3) the Program Qualified Land that thereafter will be fallowed.

3.7.5.2 Land Designated for Fallowing

All land designated for fallowing under Landowner Agreements shall be (1) Program Qualified Land that otherwise would be irrigated, and (2) in parcels that are reasonably compact and are at least five (5) water toll acres in size.

3.7.6 Requirements for Fallowing

Participating Landowners shall fallow, or cause to be fallowed, all land designated for Base Amount fallowing pursuant to clause (1) of subsection 3.7.5.1 (Time and Manner of Designation) and, in accord with the applicable Metropolitan Fallowing Call, all land designated for fallowing pursuant to clause (2) of subsection 3.7.5.1 (Time and Manner of Designation). Participating Landowners shall comply with their obligations respecting fallowing by not undertaking or permitting the following activities on Fallowed Land: (1) growing of agricultural crops or any other vegetation; (2) application of water (other than rain that naturally falls on the Fallowed Land); (3) extraction of or application of groundwater; and (4) use or collection of surface water provided, however, that water may be utilized for dust control as permitted under the applicable Landowner Agreement. Participating Landowners shall also comply with those land management measures identified in the Final Program EIR and incorporated as an exhibit to the form of Landowner Agreement attached hereto as Exhibit A.

3.7.7 Limitations on Fallowing

No land shall be fallowed for purposes of the Program for more than five (5) consecutive Contract Years, provided that this requirement shall not apply to any Program Encumbered Land which Metropolitan is causing to be fallowed through the exercise of its rights under the Fallowing Easement applicable to such land on default in the performance of the Participating Landowner's fallowing obligations under the applicable Landowner Agreement.

3.7.8 Substitution of Program Encumbered Land

Participating Landowners may, subject to Metropolitan's approval given in the same manner as specified in subsection 3.2.4 (Metropolitan Approval of Proposed Program Encumbered Land), substitute other Program Qualified Land for Program Encumbered Land by giving notice to PVID and Metropolitan of the Participating Landowner's intent to do so. Such notice shall specify, by PVID Water Toll Number and legal description, the land proposed to be removed as Program Encumbered Land and the Program Qualified Land proposed to be substituted for it. Upon approval by Metropolitan it shall give the substituting Participating Landowner notice to that effect. The substitution shall be effective as provided in subsection 4.3 (Substitution of Program Encumbered Land) of the Landowner Agreement.

3.7.9 Re-conveyance of Program Encumbered Land

PVID and Metropolitan shall execute, deliver and record a re-conveyance of Following Easements

- (1) As to all Program Encumbered Land, within thirty (30) days after the termination of this Program Agreement, and
- (2) As to land that is to be removed as Program Encumbered Land under subsection 3.7.8 (Substitution of Program Encumbered Land), promptly on receipt of, and concurrently with recording of, a Following Easement for the substituted Program Encumbered Land.

3.7.10 Payment of Taxes, Tolls

Participating Landowners shall pay to PVID or ensure that there are paid all taxes, water tolls, standby charges, and assessments imposed by PVID on Program Qualified Land fallowed, and Program Encumbered Land owned, by them.

3.8 Forbearance by PVID

PVID shall not divert, take delivery of, authorize the diversion or use of, or transfer to third parties any Saved Water.

3.9 USBR Determination of Saved Water

It is the expectation of the Parties that USBR will determine the amount of Saved Water developed under Landowner Agreements and available for diversion by Metropolitan under its Federal Water Delivery Contract each calendar year. PVID and Metropolitan shall cooperate in gathering and furnishing to USBR information pertinent to this determination. The Parties shall use their best efforts to have USBR establish a methodology, acceptable to the Parties, that can be used both to estimate at the beginning of any Contract Year the amount of Saved Water that will be conserved under Landowner Agreements and to determine after the end of the Contract Year the amount of Saved Water that was conserved under Landowner Agreements. Metropolitan's and PVID's non-privileged data and records relative to the calculation of Program Saved Water shall be available to the other Party and the USBR for inspection and copying during their normal business hours in their respective headquarters, building or storage space.

3.10 Diversion of Saved Water by Metropolitan

The amount of water that will be available for diversion by Metropolitan by virtue of this Program Agreement will be the amount of Saved Water as determined by USBR less any conveyance losses determined by USBR, subject to any challenge by Metropolitan to the extent permitted by federal law and its Federal Water Delivery Contract. PVID makes no representations, warranties, or guaranties with respect to the amount of water available to Metropolitan by virtue of this Program Agreement.

4. Administration of Program

4.1 PVID Responsibilities

4.1.1 Data Base

PVID shall maintain a computerized data base management system to maintain current records of (1) Landowner Agreements, (2) Maximum Fallowing Commitments under Landowner Agreements, (3) parcels of Program Qualified Land designated by Participating Landowners for fallowing and changes in such designations, (4) Program Encumbered Land and substitutions for such land, (5) water orders by District landowners, and (6) delivery of water pursuant to such water orders.

4.1.2 Notice of Violations

PVID shall promptly notify Metropolitan of any apparent violations of Landowner Agreements such as irrigation of Fallowed Land.

4.1.3 Canal Breaks

PVID shall promptly repair any break in its canals that may inundate Fallowed Land and shall return the surface water, through pumping or otherwise, to either its drain or supply canals; and provide required weed control, if any, for Fallowed Land flooded by a canal break.

4.1.4 Provision of Data

PVID shall provide Metropolitan with related Program data including, but not limited to, water applied to Fallowed Land and other lands within PVID; and the listing and number of acres of crops grown within PVID.

4.1.5 Default Notification

PVID shall notify Metropolitan of any default by a Participating Landowner in payment of PVID water toll, standby charges or assessment fees.

4.1.6 Water Delivery

PVID shall terminate deliveries of water to land that is subject to a designation for fallowing pursuant to subsection 3.7.5 (Designation of Fallowed Land) to the maximum extent permitted by the configuration of PVID's water delivery system and in the same manner as PVID customarily curtails water deliveries to landowners that are delinquent in the payment of water tolls and assessments to PVID.

4.1.7 No Charges on Saved Water

Other than taxes, water tolls, standby charges, and assessments levied by PVID on land within the District, including Fallowed Land and Program Encumbered Land, PVID shall

not levy any additional taxes, fees or other charges on Saved Water to be made available for diversion by Metropolitan.

4.2 Metropolitan Responsibilities

Metropolitan shall have exclusive responsibility for enforcing following obligations under Landowner Agreements, including the prohibition against fallowing any parcel for more than five (5) years.

4.3 Allocation of Responsibilities by Parties

The Agreement Administrators may jointly from time to time, in writing and in the sole discretion of the Parties they represent, allocate responsibilities for administration of the Program not otherwise allocated in this Program Agreement between the Parties in a manner consistent with this Program Agreement.

4.4 Agreement Administrators

Metropolitan shall, at its own cost, retain a Metropolitan Agreement Administrator to coordinate its activities under this Program Agreement and the Landowner Agreements with PVID and to monitor, enforce, audit, and prepare reports regarding implementation of the Program as provided in this Program Agreement and the Landowner Agreements. PVID shall, as a Reimbursable Cost, retain a PVID Agreement Administrator to coordinate its activities under this Program Agreement and the Landowner Agreements with Metropolitan and to monitor, enforce, audit, and prepare reports regarding implementation of the Program as provided in this Program Agreement and the Landowner Agreements. PVID and Metropolitan each agrees to fully cooperate and to meet regularly with the Agreement Administrator of the other Party for purposes of sharing information and coordination of Program administration.

5. Payments

5.1 Payments by Metropolitan to Landowners

5.1.1 Metropolitan Obligation

All payments to be made by Metropolitan to a Participating Landowner under its Landowner Agreement shall be made by Metropolitan, and PVID will not have any obligation respecting such payments.

5.1.2 Initial Payment

Metropolitan shall make an initial payment to each Participating Landowner at a base rate of three thousand one hundred seventy dollars (\$3,170.00) per water toll acre of its Maximum Fallowing Commitment. The initial payment shall be made in installments over a two to five year period as elected by each Participating Landowner in the Landowner Agreement, the amount of each installment being as specified in the form of Landowner Agreement attached hereto as Exhibit A.

5.1.3 Annual Payments

Each Contract Year Metropolitan shall make an annual payment to each Participating Landowner for each water toll acre of Program Qualified Land to be fallowed by it during the Contract Year. The annual payment (1) shall be at the rate of six hundred two dollars (\$602.00) per water toll acre for the first full Contract Year, (2) thereafter shall be subject to adjustment as provided in the form of Landowner Agreement attached hereto as Exhibit A, (3) shall be pro-rated for any period in which fallowing occurs prior to the first full Contract Year, and (4) shall be subject to deductions for any water applied to Fallowed Land as provided more specifically in the form of Landowner Agreement attached hereto as Exhibit A. Annual payments for fallowing that is to occur prior to the first full Contract Year following the Operative Date shall be made within fifteen (15) days of the close of escrow, and for all subsequent Contract Years shall be made by September 1 of the Contract Year to which the payment relates.

5.2 Payments by Metropolitan to PVID

5.2.1 General Obligation

Metropolitan shall reimburse PVID for all Reimbursable Costs. Reimbursable Costs are costs reasonably incurred by PVID in (1) developing the Program, this Program Agreement, and the Landowner Agreement, provided that the amount of reimbursement for the cost of legal services shall not exceed \$192,500.00, and (2) performing its obligations with respect to administration of the Program, this Program Agreement, and the Landowner Agreements. Reimbursable Costs shall include, without limitation, capital outlays for computers, computer programs, and other purposes, but shall not include costs incurred by PVID under subsection 4.1.3 (Canal Breaks) to repair any break in its canals.

5.2.2 Annual Budget

5.2.2.1 PVID and Metropolitan shall jointly develop, through their respective Agreement Administrators, a budget for the Reimbursable Costs the Parties anticipate PVID will incur during each partial and full Contract Year (the "Reimbursable Cost Budget"). The Parties shall develop the Reimbursable Cost Budget for the initial partial Contract Year within fifteen (15) days after the Effective Date and thereafter by June 1 prior to the beginning of each full Contract Year or at such other date as the PVID and Metropolitan Agreement Administrators may agree.

5.2.2.2 If the PVID and Metropolitan Agreement Administrators cannot agree on all elements of a Reimbursable Cost Budget, then the Parties shall proceed as follows.

(1) The Agreement Administrators shall identify in writing the administrative responsibilities as to which there is agreement and the Reimbursable Cost Budget for such responsibilities (such budget being referred to herein as "Partial Reimbursable Cost Budget").

(2) The Agreement Administrators shall identify in writing those administrative responsibilities as to which there is disagreement and which are not required by this

Program Agreement to be performed by PVID. Metropolitan shall assume responsibility for performing such administrative responsibilities.

(3) The Agreement Administrators shall identify in writing (i) those administrative responsibilities as to which there is disagreement and which are required by this Program Agreement to be performed by PVID (such responsibilities being referred to herein as "Disputed Responsibilities") and (ii) the extent of the budget disagreement with respect to each, noting separately PVID's estimate of the proper Reimbursable Cost Budget for each such Disputed Responsibility (such estimate being referred to herein as the "PVID Disputed Responsibility Cost Budget") and Metropolitan's estimate of the proper Reimbursable Cost Budget for each such Disputed Responsibility (such estimate being referred to herein as the "Metropolitan Disputed Responsibility Cost Budget"). Neither Party may institute dispute resolution proceedings under section 8 (Remedies and Dispute Resolution) of this Program Agreement with respect to the proper budget for Disputed Responsibilities, provided that this provision is without prejudice to the right of either Party to institute dispute resolution proceedings with regard to the Parties' respective rights and obligations under subsection 5.2.1 (General Obligation) after the conclusion of the Contract Year in question in connection with the "Annual True-Up" provided for in subsection 5.2.4 (Annual "True Up") with regard to the Parties' respective rights and obligations under subsection 5.2.1 (General Obligation).

5.2.2.3 PVID shall use all reasonable efforts to remain within any Reimbursable Cost Budget adopted pursuant to subsection 5.2.2.1, any Partial Reimbursable Cost Budget adopted pursuant to clause (1) of subsection 5.2.2.2, and any PVID Disputed Responsibility Reimbursable Cost Budget under clause (3) of subsection 5.2.2.2 and shall notify Metropolitan whenever PVID has reason to believe it may exceed any such budget.

5.2.3 Annual Advance Payments

Metropolitan shall make advance payments to PVID to be applied to PVID's Reimbursable Costs for the initial partial Contract Year and for each subsequent Contract Year in an amount that, unless the Parties agree otherwise in writing shall be either (1) the amount of the Reimbursable Cost Budget adopted pursuant to subsection 5.2.2.1, or (2) the sum of any Partial Reimbursable Cost Budget adopted pursuant to clause (1) of subsection 5.2.2.2, and any Metropolitan Disputed Responsibility Reimbursable Cost Budget under clause (3) of subsection 5.2.2.2. The advance payment for the initial partial Contract Year shall be made within thirty (30) days after the Effective Date and shall be made on or before August 31 of each subsequent Contract Year.

5.2.4 Annual "True-Up"

By August 15 of each Contract Year and the August 31 following the Termination Date, PVID shall provide Metropolitan with a statement of the Reimbursable Costs incurred by PVID during the prior Contract Year (such statement being referred to herein as PVID's "Reimbursable Cost Statement") and the advance payments made by Metropolitan for that Contract Year. If such costs exceed the advance payment made by Metropolitan, Metropolitan shall pay such excess within thirty (30) days after presentation. If the advance payment

exceeded such costs, the amount of such excess shall be credited to the advance payment due August 31 of the Contract Year, with any remaining excess returned to Metropolitan within thirty (30) days after the Reimbursable Cost Statement is due. Any payment by Metropolitan or credit or return by PVID shall be without prejudice to Metropolitan's right to dispute any element of PVID's Reimbursable Cost Statement pursuant to subsection 5.2.6 (Audit).

5.2.5 Record Keeping

PVID shall keep full, true and accurate records of all Reimbursable Costs incurred by PVID in accordance with generally accepted accounting practices.

5.2.6 Audit

Annually, Metropolitan may at its expense audit or cause to be audited PVID's Reimbursable Cost Statement and PVID's records relating to the statement. All costs reflected on any PVID Reimbursable Cost Statement shall be deemed to have been accepted by Metropolitan except to the extent Metropolitan institutes dispute resolution proceedings with respect to such statement pursuant to section 8 (Remedies and Dispute Resolution) of this Program Agreement within one year after the date on which PVID submitted the Reimbursable Cost Statement to Metropolitan under subsection 5.2.4 (Annual "True-Up").

6. Conditions Precedent

The effectiveness of the Landowner Agreements is subject to the satisfaction or waiver by both Parties of subsections 6.1 (Required Agreement) through 6.3 (Landowner Agreements), such being conditions precedent, on or before December 31, 2004. The conditions precedent shall be deemed to have been satisfied or waived unless either Party provides written notice to the other Party, on or before December 31, 2004, that any one of the conditions will not be timely met and will not be waived. In the event that the conditions precedent have been satisfied or waived prior to December 31, 2004, the Parties shall promptly execute Conditions Precedent Notices and deposit them into each open escrow in accordance with subsection 3.4.3.3 (Conditions Precedent Notice).

6.1 Required Agreement

The written agreement by CVWD, and IID, dated October 10, 2003, that these agencies will consent to Metropolitan's diversion and use of the Saved Water made available by virtue of this Program Agreement for the entire thirty-five (35) year term of this Program Agreement irrespective of conditions on the Colorado River, and that these agencies will not assert any claim or right under their Federal Water Delivery Contracts or otherwise to any of the Saved Water made available for diversion by Metropolitan by virtue of this Program Agreement, shall not have been revoked or amended on or before the date on which the remaining conditions precedent have been satisfied or waived.

6.2 No Litigation or Administrative Proceedings

No litigation or proceeding before a federal or state administrative agency shall be pending or, to the actual knowledge of either Party, be threatened which relates to this Program

Agreement or the subject matter hereof or which, if adversely determined, would materially and adversely affect the ability of the Parties, or either of them, to perform their respective obligations under this Program Agreement or which raises a question as to the validity of the Landowner Agreements. Without limiting the generality of the foregoing, no challenge to this Program Agreement or the Landowner Agreements under the California Environmental Quality Act, the National Environmental Policy Act, the California Endangered Species Act, or the Federal Endangered Species Act shall be pending.

6.3 Landowner Agreements

Landowner Participation Offers have been solicited from all owners of Priority 1 Land and Landowner Agreements and related documents with Maximum Following Commitments aggregating at least 13,250 water toll acres have been deposited into escrow pursuant to subsections 3.4.2 (Notice of Provisional Acceptance to Landowners; Documents for Delivery by Landowners into Escrow) and 3.4.3.1 (Executed Counterparts of the Landowner Agreement).

7. Representations and Warranties

7.1 Representations and Warranties of PVID

As a material inducement to Metropolitan to enter into this Program Agreement, PVID represents, warrants, and covenants as follows:

7.1.1 Power and Authority

PVID is a special district duly organized and validly existing under the laws of the State of California. The execution and delivery hereof to Metropolitan and the performance by PVID of its obligations hereunder will not violate the terms or provisions of any agreement, document or instrument to which PVID is a party or by which PVID is bound.

7.1.2 Authorization; Valid Obligation

Subject to satisfaction or waiver of all the Conditions Precedent specified in subsections 6.1 (Required Agreement) through 6.3 (Landowner Agreements), all proceedings required to be taken by or on behalf of PVID to authorize it to make, deliver and carry out the terms have been duly and properly taken.

7.1.3 No Litigation

To PVID's actual knowledge, there is no litigation or administrative proceeding described in subsection 6.2 (No Litigation or Administrative Proceedings) to which PVID is (or, with respect to threatened litigation, would be) a party.

7.2 Representations and Warranties of Metropolitan

As a material inducement to PVID to enter into this Program Agreement, Metropolitan represents, warrants and covenants as follows:

7.2.1 Power and Authority

Metropolitan is a metropolitan water district, duly organized and validly existing under the laws of the State of California. The execution and delivery hereof by Metropolitan and the performance by Metropolitan of its obligations hereunder will not violate the terms or provisions of any agreement, document or instrument to which Metropolitan is a party or by which Metropolitan is bound.

7.2.2 Authorization; Valid Obligation

Subject to satisfaction or waiver of all the Conditions Precedent specified in subsections 6.1 (Required Agreement) through 6.3 (Landowner Agreements), all proceedings required to be taken by or on behalf of Metropolitan to authorize it to make, deliver and carry out the terms of this Program Agreement have been duly and properly taken.

7.2.3 No Litigation

To Metropolitan's actual knowledge, there is no litigation or administrative proceeding described in subsection 6.2 (No Litigation or Administrative Proceedings) to which Metropolitan is (or, with respect to threatened litigation, would be) a party.

8. Remedies and Dispute Resolution

8.1 Remedies of Metropolitan

In the event PVID fails to perform any of the obligations of PVID under this Program Agreement, Metropolitan shall have the remedies through binding arbitration: (1) of recovery and/or offset of amounts advanced, or to be advanced, under subsection 5.2.3 (Annual Advance Payments); or (2) to compel PVID to specifically perform its obligations under this Program Agreement. Under no circumstances shall PVID be required to pay indirect or consequential damages to Metropolitan.

8.2 Remedies of PVID

In the event Metropolitan fails to perform any of its obligations, or fails to make any payment due to PVID, under this Program Agreement, PVID shall have the remedies through binding arbitration: (1) for a failure to pay monies due to PVID, suspending all performance hereunder until payment is made; (2) to compel Metropolitan to specifically perform its obligations under this Program Agreement; or (3) of a monetary award for amounts determined to be owing to PVID pursuant to this Program Agreement.

8.3 Limitation on Remedies

No Party shall be entitled to seek any remedy for a breach of, or default under, this Program Agreement by the other Party unless (1) such Party has first given written notice specifically stating the alleged breach or default, (2) the Party claimed to be in default fails to cure the default within ten (10) days of receipt of such written notice as to alleged breaches of the obligation to pay money and thirty (30) days of receipt of such written notice as to all other

alleged breaches, and (3) the Parties have attempted to resolve their dispute respecting such asserted breach or default as provided in subsections 8.4 (Negotiation) and 8.5 (Resolution by Executives).

8.4 Negotiation

If a Party gives notice of breach or default under subsection 8.3 (Limitation on Remedies) and the other Party disputes any aspect of such notice, representatives of the Parties below the level of chief executive officer authorized to settle the matter shall meet within thirty (30) days of such notice and attempt to negotiate a resolution of the issues in dispute.

8.5 Resolution by Executives

If Party representatives are unable to resolve a notice of breach or default within thirty (30) days of negotiation commencement, the chief executive officer of Metropolitan and general manager of PVID, or comparable officials, shall meet within thirty (30) days thereafter to endeavor to resolve the dispute. The obligations imposed by this subsection on the Parties' chief executive officer and general manager, respectively, may not be delegated.

8.6 Arbitration

If the claim is not resolved within sixty (60) days after negotiation commences, either Party may submit to binding arbitration as provided in this subsection 8.6 (Arbitration) and in the California Arbitration Act (Part 3 [commencing with §1280], Title 9, California Code of Civil Procedure), including section 1283.05.

8.6.1 Selection of Arbitrators

The Parties may agree on a sole arbitrator. In the absence of such agreement, the Parties agree on a three-member panel to be selected as follows:

- (a) One member shall be selected by PVID;
- (b) One member shall be selected by Metropolitan; and
- (c) The third member shall be selected by the other two members of the panel.

If the two members selected by Metropolitan and by PVID are unable to agree on the selection of a third member, either Party may petition a court to appoint the third member pursuant to Code of Civil Procedure section 1281.6. Two votes shall be required for any decision by the panel.

8.6.2 Arbitration Fees and Expenses

Each Party shall be responsible for any fees and expenses of the member of the panel appointed by that Party, and the fees and expenses of the third member of the panel (or of the sole arbitrator if there is only one) shall be shared fifty percent (50%) by PVID and fifty percent (50%) by Metropolitan. Each Party shall bear its other costs of arbitration.

8.6.3 Award of Arbitration Panel

The arbitration panel may order any relief specified in this section 8 (Remedies and Dispute Resolution), and not otherwise. The award of the panel (including orders and directives contained therein) shall be judicially enforceable.

9. Miscellaneous Agreements

9.1 Non-Waiver

None of the provisions of this Program Agreement shall be considered waived by any of the Parties unless such waiver is given in writing. The waiver of a breach of any term or condition of this Program Agreement shall not be deemed to constitute the waiver of any other breach of the same or any other term or condition.

9.2 Effect of Agreement

Nothing in this Program Agreement shall affect other rights and obligations of Metropolitan or PVID pursuant to applicable law or regulations, or separate agreements, except as expressly provided herein. The Parties do not intend to create rights in or to grant remedies to any third party or others as a beneficiary of this Program Agreement or of any duty, covenant, obligation or undertaking established hereunder.

9.3 Governing Law

This Program Agreement shall be interpreted in accordance with, governed by and construed under the laws of the State of California and any applicable federal laws without giving effect to any choice-of-law or conflicts-of-laws rule or principles that would result in the application of the laws of any other jurisdiction.

9.4 Assignment

Neither Party may assign, delegate, or otherwise transfer this Program Agreement, any interest therein, or the Party's rights or obligations under this Program Agreement without the prior written consent of the other Party, which consent may be withheld at such other Party's absolute discretion. Any such purported assignment or transfer shall be void and without effect.

9.5 Metropolitan Indemnity

Metropolitan shall defend, indemnify and hold PVID harmless from and against all claims asserted by a third party (or parties) for direct or indirect damages, losses, judgments, costs and expenses arising out of an act or omission of Metropolitan, its employees or agents in the performance of its obligations under this Program Agreement. Metropolitan shall also defend, indemnify and hold PVID harmless from and against all claims asserted by third parties arising out of or in connection with this Program Agreement or its validity. PVID shall have the right of reasonable approval of any counsel retained by Metropolitan pursuant to this subsection.

9.6 Insurance

PVID shall, at Metropolitan's request, acquire, at Metropolitan's expense, commercial general liability and comprehensive automobile liability insurance in form and from insurers acceptable to the other, naming Metropolitan, its board of directors, officers, and employees as additional insureds.

9.7 Notice Procedures and Designation of Mailing Address

All notices, requests, demands and other communications under this Program Agreement must be (1) in writing, (2) delivered in person or sent by certified mail, postage prepaid, overnight delivery, or facsimile transmission, and (3) dated as of the day the notice is delivered or sent. Notices relating to a breach of, or default under, this Program Agreement shall be addressed as follows:

If to PVID:

General Manager
Palo Verde Irrigation District
180 West 14th Avenue
Blythe, California 92225
Facsimile number: (760) 922-8294

If to Metropolitan:

Chief Executive Officer
The Metropolitan Water District of Southern California
Post Office Box 54153 (for certified mail)
700 North Alameda Street (for overnight delivery)
Los Angeles, California 90054-0153
Facsimile number: (213) 217-5704

All other notices shall be addressed as follows:

If to PVID:

General Manager
Palo Verde Irrigation District
180 West 14th Avenue
Blythe, California 92225
Facsimile number: (760) 922-8294

If to Metropolitan, to the designated Agreement Administrator as follows:

Fadi Kamand, Agreement Administrator
The Metropolitan Water District of Southern California
Post Office Box 54153 (for certified mail)
700 North Alameda Street (for overnight delivery)
Los Angeles, California 90054-0153
Facsimile number: (213) 830-4557

Any Party may change the person or address to which notice or communication is forwarded upon ten (10) days written notice to the other Party. All notices and other communications required or permitted under this Program Agreement which are addressed as provided in this subsection are effective (1) upon delivery, if delivered personally, (2) upon delivery, if delivered by overnight mail or certified mail and confirmed in writing by the delivery service or by return receipt, and (3) upon delivery, if delivered by facsimile and written confirmation is received by the addressee's facsimile machine, provided that any notice given by facsimile shall be deemed received on the next business day if it is received after 4:30 pm Pacific time or on a nonbusiness day.

9.8 Construction of Agreement

The language in all parts of this Program Agreement shall be in all cases construed simply according to its fair meaning and not strictly for or against any of the Parties hereto and section 1654 of the Civil Code has no application to interpretation of this Program Agreement. 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 Program Agreement for the performance of any act are to be strictly construed, time being of the essence of this Program Agreement.

9.9 Amendment

Neither this Program Agreement nor any provision hereof may be waived, modified, amended, or discharged, except by an instrument in writing signed by both Parties, and then only to the extent set forth in such writing.

9.10 Entire Agreement

This Program Agreement and the agreements provided herein constitute the entire understanding between the Parties with respect to the matters set forth herein and supersede all prior or contemporaneous understandings or agreements among the Parties with respect to the subject matter hereof, whether oral or written. This Program Agreement may not be modified or amended except in writing executed by the Parties.

9.11 Cumulative Rights; Waiver

The rights created under this Program Agreement, or by law or equity, shall be cumulative and may be exercised at any time and from time to time. No failure by any Party to exercise, and no delay in exercising, any rights shall be construed or deemed to be a waiver

thereof, nor shall any single or partial exercise by any Party preclude any other or future exercise thereof or the exercise of any other right. Any waiver of any provision or of any breach of any provision of this Program Agreement must be in writing, and any waiver by any Party of any breach of any provision of this Program Agreement shall not operate as or be construed to be a waiver of any other breach of that provision or of any breach of any other provision of this Program Agreement. The failure of any Party to insist upon strict adherence to any term of this Program Agreement on one or more occasions shall not be considered or construed or deemed a waiver of any provision or any breach of any provision of this Program Agreement or deprive that Party of the right thereafter to insist upon strict adherence to that term or provision or any other term or provision of this Program Agreement. No delay or omission on the part of any of the Parties in exercising any right under this Program Agreement shall operate as a waiver of any such right or any other right under this Program Agreement.

9.12 Severability

In the event that a court of competent jurisdiction determines that a provision included in this Program Agreement is legally invalid, illegal or unenforceable, and such decision becomes final, such provision shall be deemed to be severed and deleted from this Program Agreement and the balance of this Program Agreement shall be reasonably interpreted so as to effect the intent of the Parties hereto. The Parties further agree to replace such void or unenforceable provision of this Program Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of the void or unenforceable provision.

9.13 Counterparts

This Program Agreement and any amendment thereto may be executed in two or more counterparts, and by each Party on a separate counterpart, 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. Any signature page of this Program Agreement or of such an amendment, may be detached from any counterpart without impairing the legal effect of any signatures thereon, and may be attached to another counterpart identical in form thereto but having attached to it one or more additional signature pages. In proving this Program Agreement or any such amendment, it shall not be necessary to produce or account for more than one counterpart thereof signed by the Party against whom enforcement is sought.

9.14 Further Assurances

Each Party hereto, upon the request of another Party, 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 Program Agreement.

9.15 Opinions and Determinations

Where the terms of this Program Agreement provide for an action or decision to be based upon the approval, review, or determination of a Party, in other than its sole discretion, such

terms are not intended to be and shall be not be construed as permitting such opinion, judgment, approval, review or determination to be arbitrary, capricious, or unreasonable.

9.16 Ambiguities

Each Party has participated fully in the drafting of this Program Agreement. A rule of construction to the effect that ambiguities are to be resolved against the drafting Party is not to apply in interpreting this Program Agreement, including any amendments or modifications.

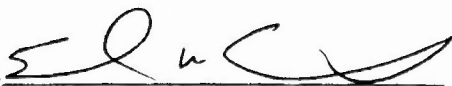
9.17 Pending and Late Arising Claims

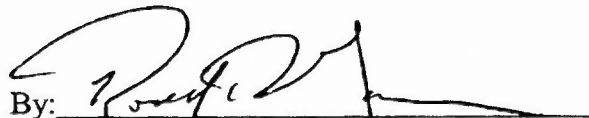
If a claim arising under or with respect to one or more terms of this Program Agreement has not been resolved when such term terminates, or if such a claim is brought after this Program Agreement has terminated but within the period of time for bringing such a claim under California law ("Late Arising Claim"), the applicable provisions of this Program Agreement shall continue in full force and effect for such additional period of time for the purpose only of resolving such claims and to satisfy the rights and obligations of the Parties hereto with respect thereto.

IN WITNESS WHEREOF, the Parties have caused this Program Agreement to be executed by their respective duly authorized representatives as of the date first set forth hereinabove.

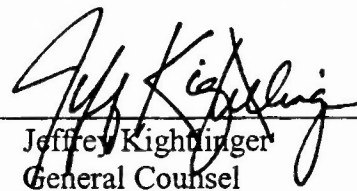
PALO VERDE IRRIGATION DISTRICT

**THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA**

By: 
Edward W. Smith
General Manager

By: 
Ronald R. Gastelum
Chief Executive Officer

APPROVED AS TO FORM:

By: 
Jeffrey Kightlinger
General Counsel

