



- **Board of Directors**

- Finance, Audit, Insurance, and Real Property Committee***

1/9/2024 Board Meeting

7-9

Subject

Authorize the General Manager to execute 47 license agreements to update the conditions and extend the term of existing secondary use agreements comprising Metropolitan fee-owned parcels in Los Angeles, Orange, Riverside and San Bernardino counties; the General Manager has determined that the proposed actions are exempt or otherwise not subject to CEQA (Assessor Parcel Nos. 0201-821-49; 0239-182-46; 0262-051-21; 0262-071-40; 0264-011-31; 0266-041-59; 0643-221-06; 0643-221-06; 0643-221-07; 0646-081-07; 0649-031-06; 189-200-007; 2526-024-270; 291-480-008; 303-090-036; 390-151-19; 430-210-014; 430-190-028; 4493-014-906; 452-052-03; 516-030-013; 516-100-006; 5260-013-910; 6204-012-901; 6204-033-901; 6204-028-901; 6680-200-02; 6680-500-16; 811-100-007; 8666-059-904; 8381-006-906; 8381-006-909; 8381-019-900; 8381-020-902; 8381-020-903; 8381-023-901; 8381-030-902; 8381-030-903; 8381-036-906; 8381-036-905; 8669-013-901; 8684-008-270; 921-700-013; 922-110-022; Parcel on Fargo Canyon Road, Riverside)

Executive Summary

Metropolitan has entered into hundreds of active secondary use agreements (permits, licenses, leases) that have been in effect since as far back as 1970. Staff has identified 47 such “legacy” agreements, as shown on the map (**Attachment 1**), that have remained active on a year-to-year, holdover basis with outdated terms and conditions. The proposed 47 replacement license agreements and permits would have base terms and options for a total of up to 30 years and include payment amounts or in-kind contributions established through our fair market value appraisal process. The requested board action is intended to provide for more efficient processing of the subject's existing 47 license agreements and permits instead of seeking separate board authorization for each license agreement, given their similar status. See (**Attachment 2**) for the List of 47 Agreements. This consolidated approach will improve the management of secondary use agreements, ensuring compliance with contemporary standards and continued compatibility of those secondary uses with Metropolitan’s core mission.

Proposed Action/Recommendation and Option

Staff Recommendation: Option #1

Option #1

Authorize the General Manager to execute 47 license agreements to update the conditions and extend the term of existing secondary use agreements comprising Metropolitan fee-owned parcels in Los Angeles, Orange, Riverside and San Bernardino counties.

Fiscal Impact: Metropolitan may recognize a net annual increase in revenue up to 8% from \$280,692 to \$303,147 for the 47 license agreements.

Business Analysis: Allowing compatible uses within Metropolitan’s fee-owned property generates revenue and advances public interest and local private commerce.

Option #2

Authorize the General Manager to execute 47 license agreements comprising Metropolitan’s fee-owned parcels at fair market value and resubmit to the Board any license agreements recommended at a modified fee less than fair market value for authorization to execute the agreements.

Fiscal Impact: Metropolitan may recognize a net annual increase in revenue up to 5% from \$280,692 to \$294,727 for the 47 license agreements.

Business Analysis: Allowing compatible uses within Metropolitan's fee-owned property generates revenue and advances public interest and local private commerce.

Option #3

Do not authorize the General Manager to execute 47 license agreements and continue to allow the existing agreements to roll over until new ones can be taken back to the Board.

Fiscal Impact: Revenue from the 47 license agreements remain unchanged.

Business Analysis: Existing agreements with outdated terms will continue to present unfavorable risk exposure.

Alternatives Considered

Not applicable

Applicable Policy

Metropolitan Water District Administrative Code Section 8230: Grants of Real Property Interests

Metropolitan Water District Administrative Code Section 8231: Appraisal of Real Property Interests

Metropolitan Water District Administrative Code Section 8121: General Authority of General Manager to Enter Contracts

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

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

Not applicable

California Environmental Quality Act (CEQA)

CEQA determination for Option #1 and Option #2:

The proposed action is exempt from CEQA because it involves the licensing of existing public structures, facilities, involving negligible or no expansion of existing or former use, and no possibility of significantly impacting the physical environment. (State CEQA Guidelines Section 15301).

CEQA determination for Option #3:

None required

Details and Background

Background

Metropolitan's Land Management Unit is responsible for managing a portfolio of 240 active secondary use agreements. This real estate portfolio is currently generating approximately \$8 million in annual revenue, which includes the agriculture leases in Palo Verde and Bay Delta. Parties to the leases and land use licenses and permits range from member agencies, cities, and state and federal agencies to private businesses and organizations. The types of secondary uses authorized on Metropolitan's property include agriculture, recreation, parking, telecom, public roads, storage, access, infrastructure, and utilities.

The existing 47 license and permit agreements that are the subject of this authorization may include one or more of the following characteristics: below-market rates, the lack of current district standard terms and language, the lack of annual rent escalation terms, and holdover permittee or licensee status. Approximately a third of the subject leases or licenses entail long-term telecommunication tenancies at Black Metal Mountain. Your Board has authorized the upgrade of electrical infrastructure at Black Metal Mountain, and the related tenancies need to be updated in connection with this electrical upgrade project to ensure a fair share of these upgrade costs are passed on to the tenants. The continuation of these secondary use agreements will also be reviewed internally to ensure the current uses are compatible with Metropolitan's current and future use. Since all 47 licenses and permits have

been in effect for at least five years, board authorization is required to replace the old agreements with new license and permit agreements as recommended herein.

Proposed Key Provisions

- New Fair Market License Fee or Modified License Fee
- Annual Fee Increases of 4-5 percent
- New Liability and Insurance Terms
- Base Term and Optional Additional Term for a total of up to 30 years
- Reappraisal of License Fee every 5 Years
- Paramount Rights Provision
 - Staff is prepared to negotiate terms within the framework of the key provisions set forth herein, including conformance to the Administrative Code's fair market value guidelines. However, board authorization is also being requested to negotiate terms that may not be defined as a standard fair market rate as allowed by the Administrative Code. Pursuant to Administrative Code 8231(b), the General Manager or his designee is also authorized to enter into licenses or leases for less than appraised value based on offsetting mutual benefit factors and/or costs incurred by the licensee or permittee for things such as weed abatement, trespassing or illegal dumping costs. It is anticipated that a nominal percentage of the subject 47 licenses and permits will fall within this mutual benefit and cost offset category, as local conditions or licensed secondary uses lend themselves to in-kind contributions or shared site responsibilities.



Liz Crosson
Chief Sustainability, Resilience and
Innovation Officer

12/18/2023

Date



Adel Hagekhalil
General Manager

12/20/2023

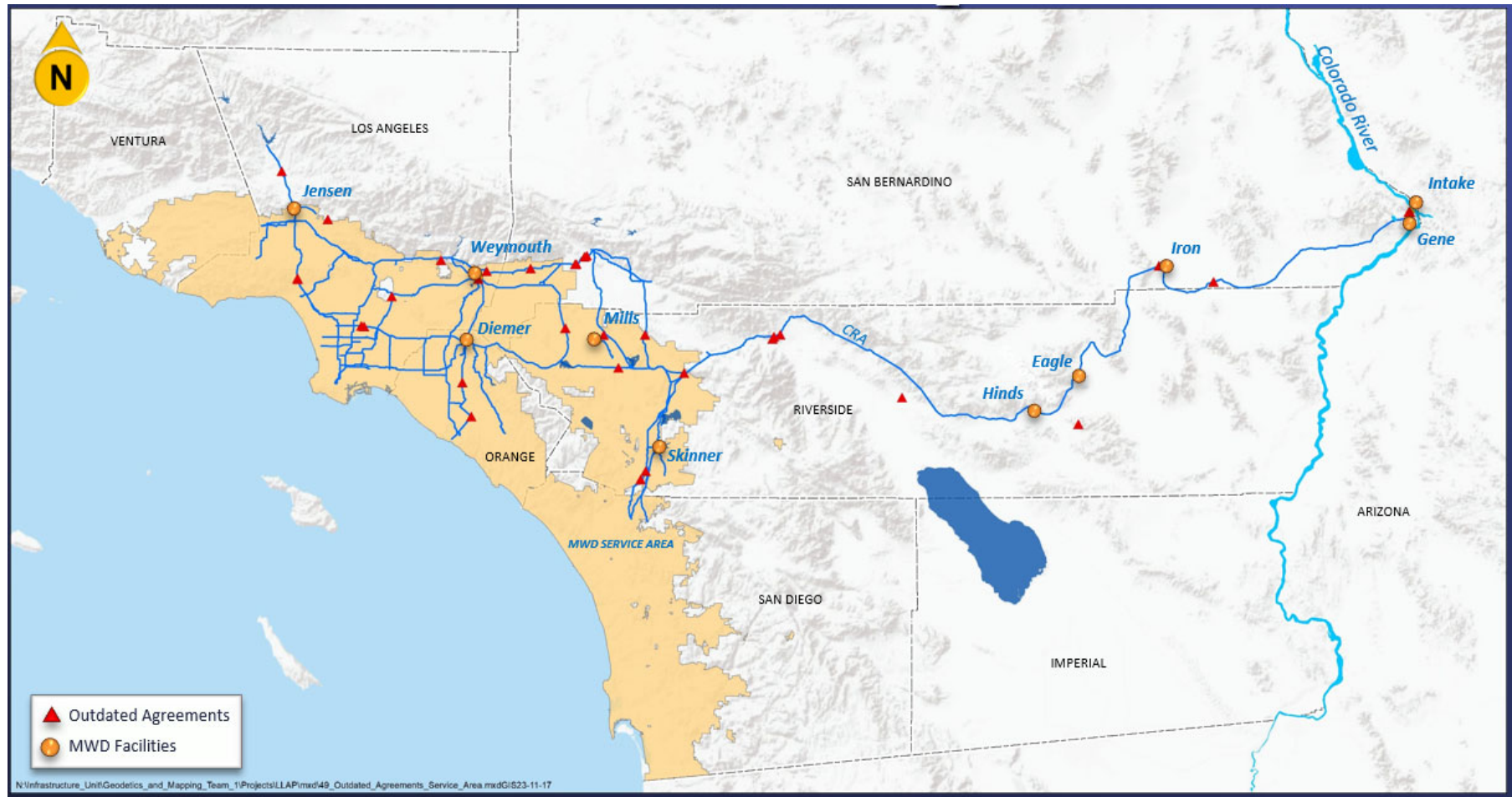
Date

Attachment 1 – General Location Map

Attachment 2 – List of 47 Agreements

Ref# sri12696274

General Location Map



Contract # (RL #)	Lessee	Size of Premises (Acres)	Use/Purpose	Location of Property or Facility Name	Lease Commencement Date	Lease Term (Yrs.)	Current Annual Amount	Annual Adjustmt	APNs	County
103	Frontier Communications, Inc.	N/A	Telecom	Gene Camp/Parker Dam	7/1/1970	1 Yr	\$170.33	None	0649-031-06	San Bernardino
333	Rain for Rent		Storage	Box Springs Feeder	1/1/1977	Yr to Yr	\$6,045.89	CPI	291-480-008	Riverside
334	State of California, Department of General Services-CHP	N/A	Telecom	Black Metal Mountain	7/1/1974	1 Yr.	\$1,700.00	None	0649-031-06	San Bernardino
335	Frontier Communications, Inc. (Verizon GTE)	N/A	Telecom	Black Metal Mountain	7/1/1974	1 Yr.	\$1,500.00	None	0649-031-06	San Bernardino
336	State of Arizona, Department of Public Safety	N/A	Telecom	Black Metal Mountain	7/1/1974	1 Yr.	\$1,500.00	None	0649-031-06	San Bernardino
362	U.S. Department of the Interior, Bureau of Land Management	N/A	Telecom	Black Metal Mountain	9/1/1976	1 Yr.	\$1,700.00	None	0649-031-06	San Bernardino
390	Southern California Edison Company, Property Acquisition, Real Properties	N/A	Telecom	Black Metal Mountain	2/1/1977	1 Yr.	\$1,700.00	None	0649-031-06	San Bernardino
401	County of Los Angeles	1.37	Recreation	Foothill Feeder/Rialto Pipeline	6/1/1977	30 Years	\$2,061.42	CPI	8666-059-904; 8381-006-906; 8381-006-909; 8381-019-900; 8381-020-902; 8381-020-903; 8381-023-901; 8381-030-902; 8381-030-903; 8381-036-906; 8381-036-905	Los Angeles
445	Shepherd of the Hill Lutheran Church	0.92	Parking	Foothill Feeder/Rialto Pipeline	6/1/1989	Yr to Yr	\$1,458.18	CPI	0201-821-49	San Bernardino
451	U.S. Department of Transportation, FAA	N/A	Telecom	Black Metal Mountain	10/1/1979	Yr to Yr	\$1,700.00	None	0649-031-06	San Bernardino
493	Woodbridge Village Association	0.05	Parking	East Orange County Feeder No. 2/Pressure Control Structure	6/1/1982	Yr to Yr	\$100.00	None	452-052-03	Orange
513	Western Area Power	N/A	Telecom	Black Metal Mountain	7/1/1974		\$1,500.00	None	0649-031-06	San Bernardino
591	U.S. Department of Justice, Federal Bureau of Investigation	N/A	Telecom	Black Metal Mountain	5/1/1985	22 Yrs 11 Mo	\$141.66	None	0649-031-06	San Bernardino

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597	State of California, Department of Fish and Game	N/A	Telecom	Black Metal Mountain	8/1/1984	23 Yrs 4 Mo	\$1,700.00	None	0649-031-06	San Bernardino
649	Terra Gen Development Company	10.00	Weather Tower	Colorado River Aqueduct/Whitewater	6/10/1985	Yr. to Yr.	\$1,500.00	None	516-030-013	Riverside
672	EPNG Pipeline Company	4.68	Oil Pipeline	Colorado River Aqueduct	6/2/1986	30 Yrs	\$4,188.00	2 Yr./PPI	0646-081-07	San Bernardino
686	Southern California Edison Company	0.99	Infrastructure	Colorado River Aqueduct	7/1/1986	30 Yrs.	\$0.00	None	6680-200-02; 6680-500-16	San Bernardino
742	County of San Bernardino Office or Public Safety-Forestry & Fire Warden	N/A	Telecom	Black Metal Mountain	1/18/1988	20 Yrs	\$0.00	Fixed Rate	0649-031-06	San Bernardino
841	Mountain View Congregation of Jehovah's Witnesses	0.26	Parking	Foothill Feeder/Rialto Pipeline	1/1/1993	Yr. to Yr.	\$500.00	Fixed Rate	0239-182-46	San Bernardino
847	Palomar Properties, Inc.	0.77	Landscaping	San Diego Pipeline No. 5	5/1/1989	Yr. to Yr.	\$1,429.70	4%	921-700-013	Riverside
874	Azusa Rock, Inc.	2.5	Access	Fish Canyon Adit	10/1/1989	Yr. to Yr.	\$444.65	5%	8684-008-270	Los Angeles
924	Samaritan Health Services (DBA Airevac)	N/A	Telecom	Black Metal Mountain	11/1/1990	17.5 Yrs.	\$1,700.00	Fixed Rate	0649-031-06	San Bernardino
964	U.S. Department of Justice, Drug Enforcement Administration	N/A	Telecom	Black Metal Mountain	8/9/1991	16 Yrs 6 Mo	\$1,700.00	Fixed Rate	0649-031-06	San Bernardino
972	Jayofer Inc	0.12	Parking	Middle Cross Feeder	9/1/1991	29 Years	\$850.96	3%	6204-012-901	Los Angeles
977	C & C Mountaingate, Inc.	0.215	Access	Sepulveda Canyon Control Facility	7/1/1992	Yr. to Yr.	\$651.27	3%	4493-014-906	Los Angeles
982	Caltrans, Department of Transportation	0.413	Telecom	East Iron Mountain	8/1/1991	Yr. to Yr.	\$1,500.00	Fixed Rate	0643-221-06; 0643-221-07	San Bernardino
1008	Martens, Mr. Eric W.	3.67	Telecom	Chuckwalla Communications Site	8/1/1992	Yr. to Yr.	\$333.68	5%	811-100-007	Riverside
1294	Hafif, Mr. Herbert	3.59	Landscaping	Foothill Feeder/Rialto Pipeline	4/15/1995	Yr. to Yr.	\$500.00	Fixed Rate	8669-013-901	Los Angeles

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1368	Coachella Valley Aggregates	1.22	Access	Colorado River Aqueduct	4/1/1995	24 Yrs.	\$0.00	N/A	N/A Fargo Canyon Rd	Riverside
1387	Cemex Construction Materials Pacific, LLC	0.12	Access	San Diego Pipeline 4 & 5	4/1/1995	Yr. to Yr.	\$3,704.37	3%	922-110-022	Riverside
1492	T-Mobile USA, Inc.	0.189	Telecom	Sepulveda Feeder	7/1/1996	25 Yrs.	\$21,324.36	3%	4493-014-906	Los Angeles
1522	Southern California Gas Company - Los Angeles	N/A	Telecom	Black Metal Mountain	1/1/1997	Yr. to Yr.	\$1,500.00	Fixed Rate	0649-031-06	San Bernardino
1635	RailAmerica, Inc.	0.012	Telecom	Iron Mountain Pumping Plant	7/1/1997	Yr. to Yr.	\$0.00	N/A	0643-221-06	San Bernardino
1653	State of California	0.0034	Telecom	Iron Mountain Pumping Plant	2/1/1998	Yr. to Yr.	\$0.00	N/A	0643-221-06	San Bernardino
1840	Whitewater Rock and Supply Company	14.426	Storage	Colorado River Aqueduct/Whitewater	11/1/2007	Month to Month	\$12,127.80	4%	516-100-006	Riverside
1851	Riverside Auto Auction	4.896	Parking	Upper Feeder	12/1/2001	Yr. to Yr.	\$46,773.36	4%	189-200-007	Riverside
1931	La Paz County	N/A	Telecom	Black Metal Mountain	5/1/2001	Yr. to Yr.	\$0.00	N/A	0649-031-06	San Bernardino
2033	Middle Ranch	2.3	Equestrian	Foothill Feeder/Sunland Tunnel 1	8/1/2004	Yr. to Yr.	\$13,474.80	5%	2526-024-270	Los Angeles
2193	Cemex Construction Materials Pacific, LLC	0.077	Access	Foothill Feeder/Rialto Pipeline	8/23/2004	Yr. to Yr.	\$331.83	5%	0262-071-40; 0264-011-31	San Bernardino
2387	CalMat dba Vulcan Materials Company, Western Division	1.155	Access	Foothill Feeder/Rialto Pipeline	5/1/2006	14 Yrs.	\$35,568.69	5%	0262-051-21	San Bernardino
2549	R & J Haringa Dairy	17	Agriculture	Colorado River Aqueduct/Casa Loma Siphon (1st Barrel)	1/1/2006	Yr. to Yr.	\$1,497.12	CPI	430-210-014; 430-190-028	Riverside
2763	LA Community College District	0.25	Parking	Middle Cross Feeder	7/1/2008	Yr. to Yr.	\$177.47	5%	6204-033-901; 6204-028-901	Los Angeles
2851	Industrial Parkway, LLC	1.8	Landscaping	Foothill Feeder/Rialto Pipeline	5/1/2008	Yr. to Yr.	\$579.30	4%	0266-041-59	San Bernardino
2859	So Cal Gas	0.06	Telecom	Garvey Reservoir	8/1/2008	Yr. to Yr.	\$17,393.38	CPI	5260-013-910	Los Angeles

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3274	River Rat Radio	0.084	Telecom	Black Metal Mountain	9/1/2012	Yr. to Yr.	\$36,946.80	4%	0649-031-06	San Bernardino
3296	Selman Chevrolet	0.38	Parking	East Orange County Feeder No. 2/Pressure Control Structure	12/13/2012	Yr. to Yr.	\$41,526.70	3%	390-151-19	Orange
4070	Duke Realty	0.296	Access	Colorado River Aqueduct	4/1/2017	5 Yrs.	\$9,490.00	4%	303-090-036	Riverside