

- **Board of Directors**
Asset, Real Estate and Infrastructure Policy Committee

September 9, 2003 Board Meeting

8-1

Subject

Authorize \$1.85 million for the Colorado River Aqueduct – Real Property Recordation Program (Approp. 15413)

Description

When real property was purchased from the federal government in the 1930s for the Colorado River Aqueduct (CRA) facilities, Metropolitan did not receive a “deed” for the property that could be recorded in California. Metropolitan is potentially at risk, under California law, of losing its property rights if the federal government makes an error by selling overlapping property rights to another entity and that entity records the deed in California.

The Asset, Real Estate and Infrastructure Policy Committee was apprised of the current situation and requested that staff provide options to address this issue. In subsequent meetings, staff presented three options:

- The first option is to continue addressing the occasional (i.e., 4-6 per year) title, operational, environmental, and encroachment problems on a case-by-case basis. This option minimizes upfront costs, but has the greatest potential for Metropolitan to incur future costs and legal actions to resolve problems as they occur.
- The second option is to prepare title documents derived from the original federal documents and record them in California. This option resolves the California chain-of-title problem and has moderate upfront costs (i.e., \$1.85 million) since it would not require extensive field survey work. Field surveys would be performed on a case-by-case basis to address encroachment problems, help stop illegal dumping/trespassing on Metropolitan property, and ensure maintenance activities do not stray off our property.
- The third option is to prepare the title documents and perform extensive field surveys of all CRA properties as part of this program. This option resolves the California chain-of-title problem, accurately locates our property and facilities through extensive field surveys, identifies existing encroachment problems, and establishes visible survey markers to better define our property boundaries. This option has substantial upfront costs (i.e., \$24.665 million) due to the extensive field survey work necessary to retrace 70-year-old property descriptions encompassing 575 square miles of rough desert terrain.

Given the importance of the CRA facilities to Metropolitan’s water supply, it is prudent to prepare the required title documents and record them in California to solidify our property rights. Consequently, this program would create "official maps" from the original federal title documents and record them in a format acceptable to the San Bernardino and Riverside County Assessor Offices. The recordation will better define the chain-of-title and provide additional notice in California of Metropolitan’s property rights, which would help avert title mistakes and avoid unnecessary legal actions. Metropolitan would also have title insurance policies issued on the properties by a major title company. This work is included in both the second and third options discussed above.

If the third option is approved, extensive field surveys would be performed on all the CRA properties as part of this program. Metropolitan would enter into professional services agreements to perform up-to-date field surveys of the CRA properties, set visible boundary markers, identify property encroachments, and record precise boundary mapping with the local county agencies. Metropolitan would contract with multiple firms to perform the necessary field survey work encompassing 575 square miles of rough desert terrain in order to expedite completion of the work and enhance small business opportunities.

Metropolitan would perform project management, contract administration, environmental monitoring, internal document research, and some minor field surveys in selected areas. The consulting services would include such tasks as title research, federal field note research, county map research, site reconnaissance, electronic field measurements, survey adjustments and analysis, computer-aided-mapping, map recordation processing, accurately locating facilities, identifying encroachments, and installing permanent property markers.

A Request for Proposals (RFP 622) for real property recordation services was issued in June 2003. Thirteen firms submitted proposals, and ten of these firms have been selected to support this program. If the third option is approved, this board action would authorize the Chief Executive Officer to enter into five-year agreements with Rick Engineering Company, Psomas, The Keith Companies, Coast Surveying Inc., RBF Consulting, Towill Inc., Hunsaker and Associates Irvine Inc., David Evans and Associates Inc., Johnson-Frank and Associates Inc., and Huitt-Zollars Inc., in amounts not to exceed \$3 million each to provide surveying and mapping services. No work is guaranteed to the consultants under these agreements and Metropolitan will only authorize tasks as needed.

This program was evaluated and recommended by the Capital Investment Plan (CIP) Evaluation Team, and is included in the fiscal year 2003/04 capital budget under the CRA – Real Property Recordation Program. See [Attachment 1](#) for the detailed report and [Attachment 2](#) for the financial statement.

Policy

Metropolitan Water District Administrative Code § 5108: Capital Project Appropriation

Metropolitan Water District Administrative Code § 8117: Professional and Technical Consultants

Metropolitan Water District Administrative Code § 8115(a): requires board action for contract amounts that may exceed \$250,000 over the contract term

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

None required

CEQA determination for Option #2:

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

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15378(b)(4) of the State CEQA Guidelines.

CEQA determination for Option #3:

The proposed action is categorically exempt under the provisions of CEQA and the State CEQA Guidelines. The overall activities involve funding, surveying, and recording of desert properties in support of the proposed action. These activities consist of basic data collection and resource evaluation activities that do not result in a serious or major disturbance to an environmental resource. This may be strictly for information gathering purposes, or as part of a study leading to an action, which a public agency has not yet approved, adopted, or funded. In addition, the activities may involve minor modifications in the condition of land, water, and/or vegetation, which do not involve removal of healthy, mature, scenic trees. As such, the proposed action qualifies for both Class 6 and Class 4 Categorical Exemptions (Sections 15306 and 15304 of the State CEQA Guidelines).

The CEQA determination is: Determine that pursuant to CEQA, the proposed action qualifies under two Categorical Exemptions (Class 6, Section 15306; and Class 4, Section 15304 of the State CEQA Guidelines).

Board Options/Fiscal Impacts

Option #1

Do not authorize this program and consulting agreements. This option does not eliminate the risk under California law of losing CRA properties or incurring legal costs to defend our property rights. The lack of well-defined property boundaries is also likely to cause operational, environmental, or encroachment problems that will need to be addressed on a case-by-case basis.

Fiscal Impact: Unknown

Option #2

Adopt the CEQA determination and appropriate \$1.85 million to record "official maps" based on original federal title documents to resolve California title issues and obtain title insurance.

Fiscal Impact: \$1.85 million of budgeted CIP funds under Approp. No. 15413, plus unknown future costs associated with resolving operational, environmental, or encroachment problems on a case-by-case basis.

Option #3

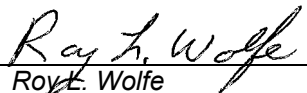
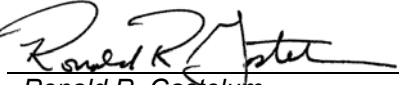
Adopt the CEQA determination and

- a. Appropriate \$24.665 million to record "official maps" based on original federal documents, obtain title insurance, and perform extensive field surveys to better define property boundaries, locate facilities, set visible boundary markers, and identify encroachment problems.
- b. Authorize the Chief Executive Officer to enter into five-year agreements with Rick Engineering Company, Psomas, The Keith Companies, Coast Surveying Inc., RBF Consulting, Towill Inc., Hunsaker and Associates Irvine Inc., David Evans and Associates Inc., Johnson-Frank and Associates Inc., and Huitt-Zollars Inc., for surveying and mapping services, in amounts not to exceed \$3 million each.

Fiscal Impact: \$24.665 million of budgeted CIP funds under Approp. No. 15413.

Staff Recommendation

Option #2

	8/18/2003
Roy L. Wolfe Manager, Corporate Resources	Date
	8/22/2003
Ronald R. Gastelum Chief Executive Officer	Date

[Attachment 1 – Detailed Report](#)

[Attachment 2 – Financial Statement](#)

Detailed Report

Purpose/Background

Metropolitan operates and maintains pipelines, tunnels, canals, pumping plants, wasteways, transmission lines, reservoirs and groundwater recharge basins that are associated with the Colorado River Aqueduct (CRA) water conveyance system. This system covers about 85,000 acres of property scattered throughout the Mojave Desert; bounded by Lake Havasu to the east; Boulder City, Nevada to the north; Banning to the west; and Interstate 10 Freeway to the south. Most of this property has not been surveyed in over 70 years, leading to poorly defined property boundaries that cause occasional (i.e., 4-6 per year) title, operational, environmental, and encroachment problems.

When the CRA property was purchased from the federal government through an Act of Congress in 1932, Metropolitan did not receive a “deed” for the property that could be recorded at the county level. The Legal Department recently reviewed the status of Metropolitan’s title and concluded that Metropolitan is potentially at risk, under California law, of losing its property rights if the federal government makes an error by selling overlapping property rights to another entity and that entity records the deed with the local county recorder’s office.

The Asset, Real Estate and Infrastructure Policy Committee was apprised of the current situation and requested that staff provide options to address this issue. In subsequent meetings, staff presented three options:

- The first option is to continue addressing the occasional title, operational, environmental, and encroachment problems on a case-by-case basis. This option minimizes upfront costs, but has the greatest potential for Metropolitan to incur future costs and legal actions to resolve problems as they occur.
- The second option is to prepare title documents derived from the original federal documents and record them in California. This option resolves the California chain-of-title problem and has moderate upfront costs (i.e., \$1.85 million) since it would not require extensive field survey work. Field surveys would be performed on a case-by-case basis to address encroachment problems, help stop illegal dumping/trespassing on Metropolitan property, and ensure maintenance activities do not stray off our property.
- The third option is to prepare the title documents and perform extensive field surveys of all CRA properties as part of this program. This option resolves the California chain-of-title problem, accurately locates our property and facilities through extensive field surveys, identifies existing encroachment problems, and establishes visible survey markers to better define our property boundaries. This option has substantial upfront costs (i.e., \$24.665 million) due to the extensive field survey work necessary to retrace 70-year-old property descriptions encompassing 575 square miles of rough desert terrain.

Given the importance of the CRA to Metropolitan’s water supply, staff feels it is prudent to prepare the “official maps” and record them at the county level to solidify our property rights and the chain-of-title. Metropolitan would also have title insurance policies issued on the properties by a major title company, where appropriate. This program provides additional protection by giving further constructive notice to the public of Metropolitan’s property rights under California law.

If the third option is approved, extensive field surveys would be performed on all CRA properties. Field surveys covering about 575 square miles of rough desert terrain will be performed to retrace the 70-year-old property descriptions and to establish over 5,000 visible markers on Metropolitan property boundaries. The property markers would be documented with the appropriate county surveyor’s office through the Record of Survey mapping process as required by Section 8700 of the State Business and Professions Code. Metropolitan’s facilities (e.g., canal, conduits, siphons, electrical transmission lines, telephone lines, boundary fencing, access roads, etc.) will also be accurately located and mapped using up-to-date surveying and mapping techniques.

Staff has conducted a thorough examination of existing and upcoming Capital Investment Plan (CIP) projects, as well as Metropolitan’s in-house staffing capabilities. As a result of this study, a staffing strategy has been

developed to ensure that CIP projects are implemented as efficiently as possible and meet board-adopted schedules. The resultant staffing strategy relies on a mix of Metropolitan staff and consultants to perform work. Utilization of supplemental consultant support is integral to Metropolitan's staffing plan for accomplishing the budgeted CIP work while minimizing impacts to other essential projects and core O&M activities. Under this plan, Metropolitan staff will be strategically utilized on projects so as to best maintain key competencies and to address projects with special needs or issues. Consultants will be utilized to supplement staff's capabilities. Under each recommended consulting agreement, work assignments will be issued to firms on a task order basis.

Metropolitan would perform project management, contract administration, environmental monitoring, internal document research, and some minor field surveys in selected areas. The consulting services would include such tasks as title research, federal field note research, county map research, site reconnaissance, electronic field measurements, survey adjustments and analysis, computer-aided-mapping, map recordation processing, accurately locating facilities, identifying encroachments, and installing permanent property markers. Utilization of outside surveying and mapping support is integral to Metropolitan's staffing plan for accomplishing the budgeted CIP work, enhancing Metropolitan's ability to meet board-adopted schedules, and minimizing impacts to higher-priority projects

A Request for Proposals (RFP 622) for real property recordation services was issued in June 2003. Thirteen firms submitted proposals, and ten of these firms have been selected to support this program. If the third option is approved, this board action authorizes the Chief Executive Officer to enter into five-year agreements with Rick Engineering Company, Psomas, The Keith Companies, Coast Surveying Inc., RBF Consulting, Towill Inc., Hunsaker and Associates Irvine Inc., David Evans and Associates Inc., Johnson-Frank and Associates Inc., and Huitt-Zollars Inc., in amounts not to exceed \$3 million each to provide surveying and mapping services. No work is guaranteed to the consultants under these agreements and Metropolitan will only authorize tasks as needed.

Actions and Milestones

October 2003 – Initiate work to prepare and record Official Maps

October 2006 – Completion of Official Map recording process and issuance of all title insurance policies

Financial Statement for CRA Real Property Recordation Program

A breakdown of Board Action No.1 for Approp. No. 15413 for the CRA Real Property Recordation Program is as follows:

	Board Action No. 1 (Sept. 2003)
Labor	
Owner Costs (Program management, agreement administration, document review, etc.)	190,000
Studies (Internal document research & routing)	35,000
Materials and Supplies	5,000
Incidental Expenses (Federal, state and county fees)	160,000
Professional/Technical Services	1,350,000
Remaining Budget	110,000
Total	<u>\$ 1,850,000</u>

Funding Request

Program Name:	CRA Real Property Recordation Program		
Source of Funds:	Construction Funds (General Obligation, Revenue Bonds, Pay-Go Fund)		
Appropriation No.:	15413	Board Action No.:	1
Requested Amount:	\$ 1,850,000	Capital Program No.:	03411-T
Total Appropriated Amount:	\$ 1,850,000	Capital Program Page No.:	E-22
Total Program Estimate:	\$ 1,850,000	Program Goal:	Stewardship