

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

October 12, 2004 Board Meeting

9-8

Subject

Authorize the Chief Executive Officer to sell the Ormond Beach property which has been determined to be surplus to Metropolitan's needs: 289 acres at Edison Drive and McWane Boulevard in Oxnard, Ventura County, California

Description

Pursuant to The Metropolitan Water District of Southern California's Administrative Code § 8240, the Board affirmed the Chief Executive Officer's determination that the ownership in Metropolitan Parcel No. ORMOND1-01-100, located near the Pacific Ocean at Ormond Beach and comprising 309 acres, except for a 20-acre parcel, is surplus to Metropolitan's needs and could be sold pursuant to Metropolitan's Administrative Code § 8241 through § 8258. The subject property was acquired in August 1998 for purposes of constructing and operating a potential seawater desalination plant on approximately 20 acres. This unimproved land with wetlands areas is 50 percent co-owned as tenants-in-common with the Oxnard Community Development Commission, the city of Oxnard's redevelopment agency. Pursuant to compliance with the requirements of the Surplus Lands Act enumerated in the California State Government Code § 54220 through § 54227, the California Coastal Conservancy, an agency of the state, has submitted on behalf of The Nature Conservancy a formal expression of interest to purchase the property for open space and wetlands restoration purposes. In addition, per Metropolitan's Administrative Code § 8254 (a) the Oxnard CDC has indicated that it wants to purchase Metropolitan's 50 percent interest in a 13-acre parcel for tertiary water treatment purposes. Negotiations are currently being conducted for a 2004 year-end closing with a sales price of \$47,000 per acre, which is 9 percent lower than the estimated fair market value of \$51,780 per acre as determined by an independent appraisal report and is indicative of the benefits and worth received by Metropolitan regarding an "as is" transaction with reservations and provisions to ensure potential desalination plant and mitigation issues. (Reference [Attachment 1](#) Map of Ormond Parcel, [Attachment 2](#) Detailed Report, [Attachment 3](#) Key Terms and Principles of Transaction and [Attachment 4](#) Division VIII, Chapter 2, Article 4 of Metropolitan's Administrative Code, Disposal of Real Property)

Policy

Metropolitan Water District Administrative Code § 8240: Preliminary Requirements

Metropolitan Water District Administrative Code § 8241: Authority for Chief Executive Officer to Sell or Lease Surplus Real Property

Metropolitan Water District Administrative Code § 8254: Exceptions to Public Sale Requirements and state/federal law

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is categorically exempt under the provisions of CEQA and the State CEQA Guidelines. The proposed action involves the transfer of ownership of interests in land in order to preserve open space or habitat. Specifically, the proposed actions would allow the sale or other transfer of the Ormond Beach property to allow

restoration of natural conditions, including plant and animal habitats. Accordingly, the proposed action qualifies under Class 25 Categorical Exemption (Section 15325 of the State CEQA Guidelines).

The CEQA determination is: Determine that pursuant to CEQA, the proposed action qualifies under a Categorical Exemption (Class 25, Section 15325 of the State CEQA Guidelines).

CEQA determination for Option #2:

The proposed action is categorically exempt under the provisions of CEQA and the State CEQA Guidelines. In particular, the proposed action consists of the leasing of property with no expansion of use beyond that existing at the time of the lead agency’s determination. In addition, the leasing of the property will not have a significant effect on the physical environment. As such, this proposed action qualifies as a Class 1 Categorical Exemption (Section 15301 of the State CEQA Guidelines).

The CEQA determination is: Determine that pursuant to CEQA, the proposed action qualifies as Class 1 Categorical Exemption (Section 15301 of the State CEQA Guidelines).

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and

- a. Authorize the CEO to sell the subject surplus property of 289 acres;
- b. In compliance with Government Code § 54222, Surplus Lands Act, accept the offer on 276 acres from The California Coastal Conservancy, a prescribed agency, on behalf of The Nature Conservancy;
- c. In compliance with Metropolitan’s Administrative Code § 8254, accept the offer on 13 acres from the Oxnard Community Development Commission; and
- d. Include provisions with condition subsequent wherein utility corridors, access easements, and mitigation areas are reserved.

Fiscal Impact: Approximately \$6.3 million in revenue and pay-off of Oxnard CDC note of \$5.3 million upon close of escrow

Option #2

Adopt the CEQA determination and

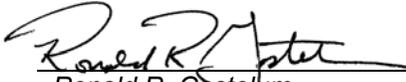
- a. Continue with the existing year-to-year agricultural revenue ground lease; and
- b. Utilize an exclusive listing under Metropolitan’s Administrative Code § 8245 to solicit offers from other qualified purchasers.

Fiscal Impact: None

Staff Recommendation

Option #1

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|--|-----------|
|  | 9/24/2004 |
| Roy L. Wolfe Manager, Corporate Resources | Date |

| | |
|--|-----------|
|  | 9/27/2004 |
| Ronald R. Gastelum Chief Executive Officer | Date |

Attachment 1 – Map of Ormond Parcel

Attachment 2 – Detailed Report

Attachment 3 – Key Terms and Principles of Transaction

Attachment 4 – Division VIII, Chapter 2, Article 4 of Metropolitan’s Administrative Code, Disposal of Real Property

Map of Ormond Parcel



Detailed Report

Purpose/Background

In anticipation of a potential seawater desalination facility, the 309-acre subject property at Ormond Beach was purchased for \$10.2 million on August 4, 1998, per board authorization of April 1998, from proceeds of the Bolsa Chica property sale of 1996.

In July 1998, the Board authorized (1) entering into a MOU with the city of Oxnard and its Community Development Commission, for 50 percent co-ownership of the property as tenants-in-common, and (2) providing financing by Metropolitan to the CDC with a promissory note and deed of trust in order to facilitate the transaction.

The authorized terms included:

- Loan balance of \$5.2 million
- Six percent interest with amortized quarterly installments of \$104,175
- 30-year note due and payable on August 31, 2028
- Additional principal pay-down from net revenues and tax increments of CDC

The property is a portion of the designated Ormond Beach Specific Plan and is zoned Coastal Dependent Industrial, Heavy Industrial, and Coastal Resource Protection. The wetlands delineation area has been preliminarily identified and the Army Corps of Engineers, California Coastal Commission, and California Department of Fish and Game definitions include 89.8 acres, 90.7 acres, and 108.4 acres, respectively. Ocean-View Produce Company (division of Dole Company) has a revenue ground lease on approximately 90 acres for agriculture purposes (broccoli and celery) that would be revised to accommodate the new ownership interests. Calleguas Municipal Water District plans to construct a 54-inch-diameter pipeline that will either cross or be adjacent to the property. The pipeline will carry brine to the ocean from inland reclamation and water quality improvement projects, and will provide regional benefits. Specific rights-of-way involving the subject property to accommodate the brine-line project will be established. For the 20-acre site retained by Metropolitan, any further development efforts would require additional investigations and studies concerning potential desalination facilities to refine the requirements for site configuration, entitlements, and construction techniques.

Metropolitan’s capital is represented by \$5.212 million of cash and a note receivable from the CDC for \$5.3 million, i.e., a total of \$10.512 million per the following:

| | |
|---|--------------------|
| Metropolitan Purchase Price at 50% | \$5,100,000 |
| Due-Diligence and Acquisition Expenses at 50% | <u>112,000</u> |
| Cash Investment in Land | \$5,212,000 (a) |
| Original Balance of Oxnard CDC Note | \$5,100,000 |
| Note Amendment for Expenses | 112,000 |
| Accrued Interest for One Year per MOU | <u>341,933</u> |
| Balance of Note Receivable on 9/1/2001 | \$5,553,933 |
| | |
| Balance of Note Receivable on 9/1/2004 | \$5,281,800 |
| Say | \$5,300,000 (b) |
| Total Capital Outstanding from Metropolitan | \$10,512,000 (a+b) |

The Chief Executive Officer has determined that Metropolitan Parcel No. ORMOND1-01-100, except a 20-acre parcel, is surplus to the needs of Metropolitan and can be disposed of without adversely affecting Metropolitan’s foreseeable operational requirements. The residual 289 acres do not include any existing facilities, have not been identified for possible planned or future facilities, is not needed to perform core functions, and is not needed for mitigation credits/reserves. On August 17, 2004 the Board affirmed the CEO’s determination and declared the aforementioned property as surplus. An independent appraiser has estimated the fair market value of the 289-acre property at \$14.95 million.

Subsequent to offering the property for sale to government agencies pursuant to § 54222 of the Government Code and § 8241 of Metropolitan’s Administrative Code, Metropolitan received a formal notice to acquire the property from The Coastal Conservancy and final negotiations have commenced. The Nature Conservancy is a 501(c)(3) organization, a nonprofit corporation with charitable conservation purposes, and has preserved over 14 million acres in the United States. The Coastal Conservancy has worked in collaboration with The Nature Conservancy on several projects in California and has provided grants in the acquisition of ten properties of 1,400 acres at the Santa Clara River Parkway in Ventura County. General parameters of the transaction include: (1) all cash at the close of escrow, (2) closing date of year-end 2004, (3) “as is” site conditions, (4) cooperation in the development of respective plans, (5) mitigation, if any, for potential desal plant available for purchase from Coastal Conservancy at actual costs of restored acreage, and (6) reservations for utility and sub-surface permanent easements.

Projections of cash proceeds and capital returns based on the California Coastal Conservancy transaction have been estimated hereinbelow:

| | |
|---|-------------------|
| Sale of 289 acres at \$47,000 per acre at 50% | \$6,791,500 |
| Pay-Off from Oxnard CDC Promissory Note | \$5,281,822 |
| Less: Purchase of Metropolitan 20-Acre Site | (\$465,680) |
| Less: Closing / Escrow Costs | <u>(\$15,000)</u> |
| Net Available Cash Proceeds | \$11,592,642 |
| Original Balance of Oxnard CDC Note | \$5,094,426 |
| Accrued Expenses and Interest to Note | \$459,930 |
| Interest Payments on Note | \$1,723,688 |
| Sale of 289 Acres at \$47,000 per acre at 50% | \$6,791,500 |
| Joint Operating Account | \$334,358 |
| Less: Purchase of Metropolitan 20-Acre Site | (\$465,680) |
| Less: Closing / Escrow Costs | <u>(\$15,000)</u> |
| Total Return Of / On Capital | \$13,923,222 |

The Coastal Conservancy shall be required to execute an agreement to purchase as well as escrow instructions in a form approved by Metropolitan’s General Counsel.

KEY TERMS and PRINCIPLES of TRANSACTION

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|--|--|
| Purchase Price: | \$47,000 per acre; an all cash, “as is” transaction |
| Property: | 276 acres for Coastal Conservancy’s open-space and wetlands <ul style="list-style-type: none">➤ 20 acres for Metropolitan’s potential desalination facilities➤ 13 acres to Oxnard CDC for water treatment plant |
| Escrow: | Opening and closing of escrow five and thirty days, respectively, after Metropolitan Board’s formal authorization to sell property or compliance with Surplus Lands Act, whichever is later, but prior to December 31, 2004 unless mutually extended by the parties |
| Deed Reservations: | Easements to accommodate utilities corridor and sub-surface seawater in/out-flow for Metropolitan’s potential desal plant |
| Warranties and Representations: | “Where Is, As Is” with no warranties from Metropolitan concerning present or future environmental site conditions; standard representations concerning legal actions, zoning, C.C.&R.’s, liens, and condemnation |
| Encumbrances: | Any existing agreements or contracts, but for OceanView Produce Company, would be terminable at will by Coastal Conservancy |
| Costs: | Metropolitan to pay for CLTA title insurance policy and recording fees and one-half of escrow expenses; no brokerage commissions or finder’s fees are applicable |
| Conditions Subsequent: | <ol style="list-style-type: none">(1) Two-year right for Metropolitan’s relocating the 20-acre desal site to another mutually acceptable area within the “150-acre rectangle” or the Conservancy’s 265-acre “SoCal Edison” property(2) Mitigation lands/credits for habitat or species, if necessary, available from Coastal Conservancy at its actual costs to satisfy requirements regarding development of the potential 20-acre desal facilities(3) Cooperation in the development of respective projects by the Conservancy and Metropolitan(4) Easements from Coastal Conservancy, if necessary, for Calleguas MWD brine-line |

**DIVISION VIII. CHAPTER 2, ARTICLE 4 OF
METROPOLITAN'S ADMINISTRATIVE CODE
DISPOSAL OF REAL PROPERTY**

§ 8240. Preliminary Requirements.

The Chief Executive Officer shall establish a procedure for the continuous review of real property owned by the District for the purpose of determining which of such property is surplus to the District's needs. When the Chief Executive Officer determines that property is surplus, the Chief Executive Officer shall notify the Engineering and Operations Committee of that determination, unless the estimated value of the property is less than \$75,000.

(a) If the Engineering and Operations Committee does not overrule such determination and the estimated value of the property is \$75,000 or more, the Chief Executive Officer shall:

(1) Notify the Engineering and Operations Committee of the estimated value of the property and recommend the appropriate marketing procedure authorized by this Article 4;

(2) Cause the property to be appraised by one or more independent appraisers.

(b) If the estimated value of the property is less than \$75,000, the Chief Executive Officer shall cause the property to be appraised by a member of the staff of the Chief Executive Officer or an independent appraiser, and disposed of as authorized by Article 4;

(c) The Chief Executive Officer shall comply with the California Environmental Quality Act and the legal requirements pertaining to the disposition of property in cities or counties which have a general plan. If upon such compliance, any official body objects to the proposed sale, the Board of Directors shall first expressly uphold or reject the objections. There being no objections, or the objections having been rejected, and the appraisal or appraisals having been completed, the Chief Executive Officer may then sell or lease the surplus property under the provisions of this Article 4.

Section 461.10.1 based on Res. 7647 - July 8, 1975. Section 461.10.1 repealed and Section 8240 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M.I. 36758 - August 18, 1987; amended by M.I. 37311 - September 20, 1988; paragraph (a)(1) amended by M.I. 42193 - December 10, 1996; paragraphs (a), (a)(1), (b) and (c) amended by M. I. 44582 - August 20, 2001.

**§ 8241. Authority for Chief Executive Officer to Sell or Lease Surplus Real Property;
Restriction on District Directors and Employees.**

If after offering the property for sale or lease to certain public agencies, as required by law, at the fair market value as determined by the Chief Executive Officer after review of any or all appraisals of the property, no such offer is accepted, the Chief Executive Officer may lease it, or sell it either by public auction or by using the services of real estate brokers or a professional auctioneer; provided, however, that District directors and employees, their spouses and dependent children may not purchase such property or lease it or represent in any manner a prospective lessee or purchaser of such property.

Section 461.10.1 based on Res. 7647 - July 8, 1975; amended by M.I. 32123 - January 10, 1978; amended by M.I. 33362 - August 19, 1980; amended by M.I. 33479 - November 18, 1980. Section 461.10.2 repealed and Section 8241 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M.I. 36758 - August 18, 1987.

§ 8254. Exceptions to Public Sale Requirements.

The requirements of Sections 8241 and 8244 above do not apply in the case of:

(a) A sale of real property or interest therein to the United States, the State, the County or any city, school district, flood control, or other special district within the State; any such sale shall be for the fair market value as determined by the Chief Executive Officer after review of any or all appraisals of the property.

(b) A sale of real property having an estimated value of \$2,500 or less.

(c) A sale to an adjoining property owner when the Chief Executive Officer determines that the particular parcel is probably incapable of being developed independently.

(d) With respect to sales under Sections 8254(b) and 8254(c), the Chief Executive Officer shall make a determination of the reasonable amount for which the property shall be sold.

Section 461.10.13 based on Res. 7647 – July 8, 1975; paragraphs (a) and (b) [formerly Sections 461.10.13.1 and 461.10.13.2] amended by M.I. 33479 – November 18, 1980]. Section 461.10.13 repealed and Section 8254 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.