

- **Board of Directors**

September 13, 2005 Board Meeting

7-2

Subject

Adopt final resolutions for annexation and impose water standby charge for the 84th Fringe Area Annexation to Eastern Municipal Water District and Metropolitan

Description

Eastern Municipal Water District is requesting adoption of final resolutions specifying the final terms and conditions of the 84th Fringe Area Annexation into Metropolitan's service area and the imposition of a water standby charge within such area. The proposed annexation area consists of 9.07 gross acres. For this annexation, the net and gross acres are equal. See [Attachment 1](#) for the legal description and map. The property is located within the boundaries of the city of Murrieta (City), northeast of Adams Avenue and southeast of Guava Street within the southern area of Riverside County. The proposed development by RCP Block and Brick is for general industrial use as approved by the City in its 1994 General Plan. The current plan is to construct a storage warehouse. Prior to completion of the annexation, Eastern will pay a fee of \$36,382.20, if the annexation is completed prior to December 31, 2005, or if the annexation is completed later, the fee would be the then current annexation charge rate pursuant to Section 3300 of Metropolitan's Administrative Code. The annexation charge is calculated by the per-acre method based on net acreage and a \$5,000 processing fee. The projected annual water demand on Metropolitan is approximately 25.2 acre-feet per year.

Metropolitan's Board adopted a resolution of intention to impose a water standby charge within this proposed annexation at its meeting on May 10, 2005. Pursuant to Resolution 8943, the Board held a public hearing on July 12, 2005. Interested parties were given the opportunity to present their views regarding the proposed charge and the Engineer's Report. Also, pursuant to Resolution 8943 and in accordance with the requirements of Article XIII D, Section 4, of the California Constitution, the Executive Secretary provided written notice by mail of such hearing to the owners of record of the parcels identified in the Engineer's Report. Enclosed in the mailed notice was an assessment ballot whereby the owners could indicate either support or opposition to the proposed water standby charge. No majority protest (as defined in Article XIII D, Section 4 of the California Constitution) was found to exist upon conclusion of the hearing. It is requested that Metropolitan's Board consider and act upon the recommendation to adopt a second resolution (see [Attachment 3](#)), the Resolution Fixing and Adopting Water Standby Charge, which imposes a Metropolitan water standby charge in the amount of \$6.94 per acre, or per parcel less than one acre, within the territory of the 84th Fringe Area Annexation.

Approval of Metropolitan's water standby charge in the amount noted above, which is equal to the amount of Metropolitan's water standby charge imposed elsewhere within Eastern's territory, is a condition to complete this annexation. Pursuant to the terms of the attached resolution ([Attachment 2](#)), Metropolitan may levy standby charge at the rate stated in this resolution beginning in the subsequent fiscal year after approval of the annexation.

Policy

Territory may be annexed to Metropolitan upon terms and conditions fixed by the Board and in accordance with Chapter 1, Article 1, Section 350 through Section 356 of Metropolitan's Act and Division III, Section 3100(b) of its Administrative Code.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

Pursuant to the provisions of CEQA and the State CEQA Guidelines, the Rancho California Water District, acting as the Lead Agency and a subagency to Eastern Municipal Water District, adopted Annexation No. 90, the RCP Block and Brick, Inc. Project Negative Declaration (ND) on June 10, 2004, for the annexation process.

Metropolitan, as Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information in the ND and adopt the Lead Agency's findings prior to approval of the formal terms and conditions for the annexation. The environmental documentation is available in the Executive Secretary's Office for review.

The CEQA determination is: Review and consider information provided in the adopted 2004 ND and adopt the Lead Agency's findings related to the proposed actions.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and

- a. Adopt a resolution granting Eastern's request for annexation of the 84th Fringe Area Annexation into Metropolitan's service area, conditioned upon approval by the Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for this annexation ([Attachment 2](#)); and
- b. Adopt a resolution to impose water standby charge at a rate of \$6.94 per acre or per parcel of less than one acre within the proposed annexation area ([Attachment 3](#)).

Fiscal Impact: Receipt of annexation fee of \$36,382.20 for the 84th Fringe Area Annexation and water sales revenue from newly annexed territory

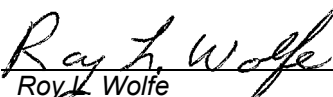
Option #2

Decline the request for the 84th Fringe Area Annexation

Fiscal Impact: Unrealized annexation fees and water sales revenue from non-annexed territory

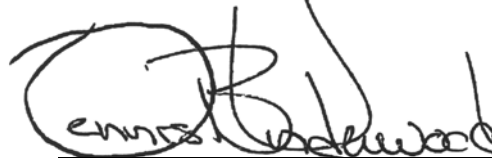
Staff Recommendation

Option #1



Roy L. Wolfe
Manager, Corporate Resources

8/9/2005
Date



Dennis B. Underwood
CEO/General Manager

8/15/2005
Date

[Attachment 1 – 84th Fringe Area Annexation Legal Description and Map](#)

[Attachment 2 – 84th Fringe Area Annexation Resolution Setting Terms and Conditions for Annexation and Environmental Findings](#)

[Attachment 3 – 84th Fringe Area Annexation Resolution Imposing Water Standby Charge](#)

EXHIBIT A

**ANNEXATION TO RCWD
LAFCO 2004_____**

Being Parcel 3 as shown on Parcel Map 4634, recorded in Book 5, Page 100 of Parcel Maps, Riverside County, California, being more particularly described as follows:

Beginning at the most northerly corner of said Parcel 3;

Thence South 47°44'31" West along the northwesterly line of said Parcel 3 a distance of 1239.56 feet;

Thence South 42°13'33" East a distance of 128.81 feet to the beginning of a non tangent curve, concave southwesterly, having a radius of 270.00 feet, the initial radial line bears North 47°46'27" East;

Thence southeasterly along said curve line through a central angle of 28°44'30", an arc distance of 135.44 feet to the end of said curve, the radial line bears South 19°01'57" West;

Thence South 70°58'03" East, a distance of 72.79 feet;

Thence North 47°44'31" East along the southeasterly line of said Parcel 3 a distance of 1171.43 feet;

Thence North 42°15'00" West, a distance of 322.50 feet to the **Point of Beginning**.

The above-described parcel of land contains 9.07 acres, more or less.

All as shown on the plat attached herewith as Exhibit A, and by reference to made a part hereof.



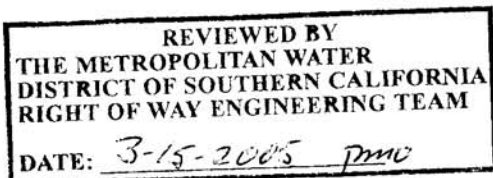
Darrin P. Ginn, LS 7075

EXP. 12/31/06

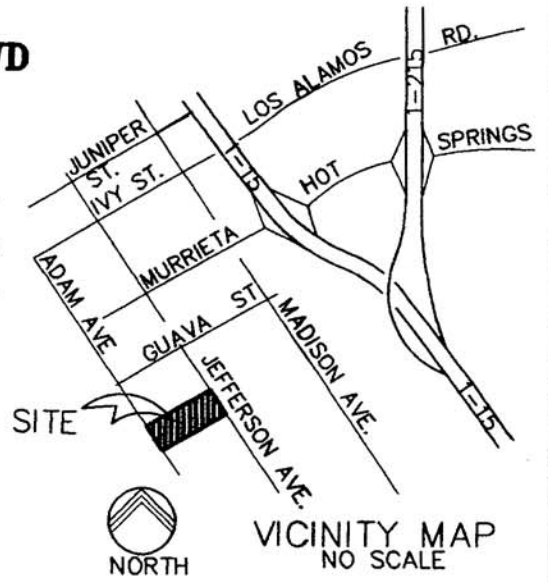
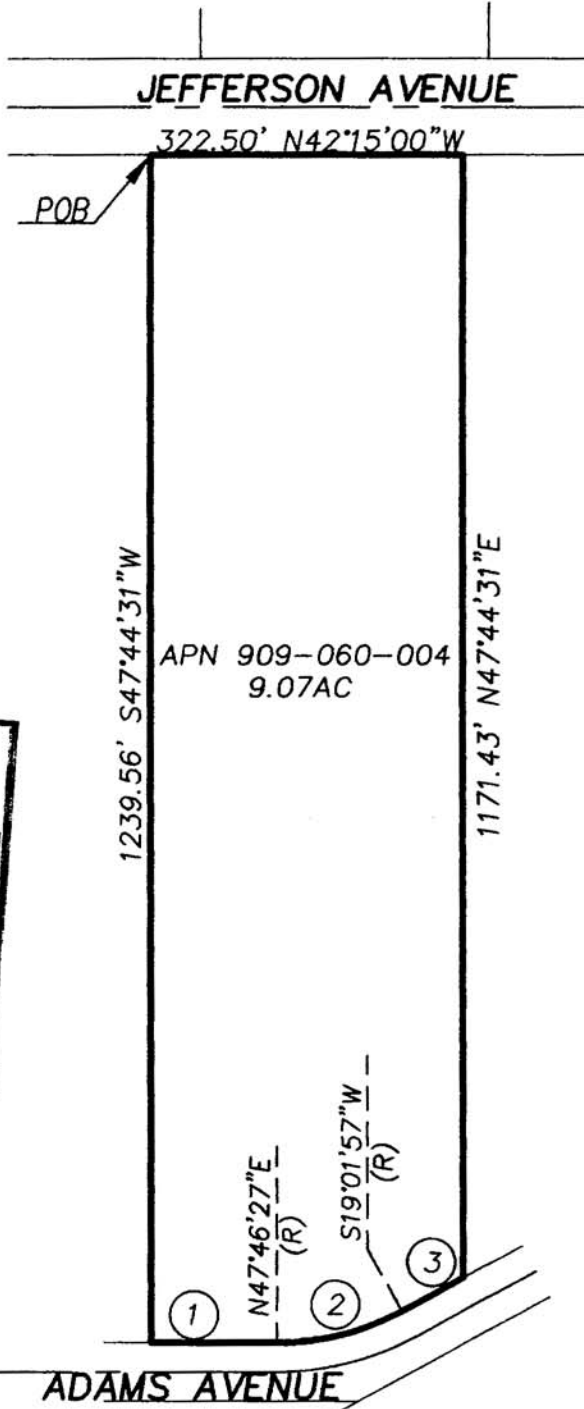
Prepared for and on behalf of HLC

3/14/05

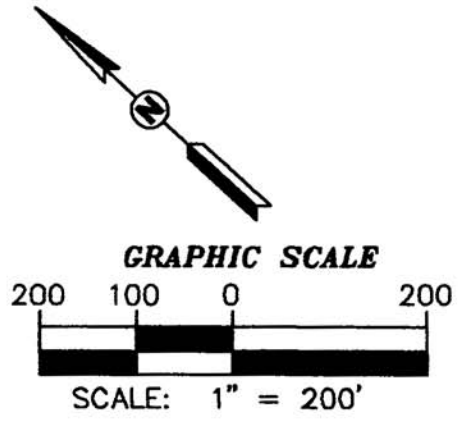
Date



**EXHIBIT A
ANNEXATION TO RCWD
LAFCO 2004-**



REVIEWED BY
THE METROPOLITAN WATER
DISTRICT OF SOUTHERN CALIFORNIA
RIGHT OF WAY ENGINEERING TEAM
DATE: 3-15-2005 *Dmg*



DATA TABLE			
(NO)	DELTA/BEARING	RADIUS	LENGTH
1	S42°13'33\"E	—	128.81'
2	28°44'30\"	270.00'	135.44'
3	S70°58'03\"E	—	72.79'

Darrin P. Ginn *3/14/05*
 DARRIN P. GINN, LS 7075 DATE
 EXP. 12/31/06
 PREPARED FOR AND ON BEHALF OF HLC

RESOLUTION

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
CONSENTING TO EASTERN MUNICIPAL WATER DISTRICT'S
84th FRINGE AREA ANNEXATION
AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

A. WHEREAS, the Board of Directors of the Eastern Municipal Water District (Eastern), a municipal water district, situated in the county of Riverside, state of California, pursuant to Resolution No. 4219, in accordance with the provisions of the Metropolitan Water District Act, has applied to the Board of Directors of The Metropolitan Water District of Southern California (Metropolitan) for consent to annex thereto certain uninhabited territory situated in the county of Riverside referred to as the 84th Fringe Area Annexation, more particularly described in an application to the Riverside County Local Agency Formation Commission (LAFCO), concurrently with the annexation thereof to Eastern, such annexation to Metropolitan to be upon such terms and conditions as may be fixed by the Board of Directors of Metropolitan; and

B. WHEREAS, completion of said annexation shall be conditioned upon approval by the LAFCO; and

C. WHEREAS, pursuant to the provisions of the California Environmental Quality Act (CEQA), Rancho California Water District, a subagency to Eastern Municipal Water District, and acting as the Lead Agency, adopted a Negative Declaration (ND) on June 10, 2004, for the proposed annexation process (also known as Annexation No. 90, the RCP Block and Brick Inc. Project) associated with the 84th Fringe Area Annexation. Also pursuant to CEQA, Metropolitan, as Responsible Agency, is required to certify that it has reviewed and considered the information in the ND and adopt the Lead Agency's findings prior to approval of the formal terms and conditions for the 84th Fringe Area Annexation; and

D. WHEREAS, it appears to this Board of Directors that such application should be granted, subject to the terms and conditions hereinafter set forth; and

E. NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of Metropolitan, acting as Responsible Agency, has reviewed and considered the information in the ND and adopts the Lead Agency's findings prior to approval of the formal terms and conditions for the 84th Fringe Area Annexation; and subject to the following terms and conditions, does hereby grant the application of the governing body of Eastern Municipal Water District for consent to annex the 84th Fringe Area Annexation to Metropolitan and does hereby fix the terms and conditions of such annexation:

F. BE IT FURTHER RESOLVED that the Board of Directors of Metropolitan, subject to the following terms and conditions, does hereby grant the application of the governing body of Eastern Municipal Water District for consent to annex of Eastern's 84th Fringe Area Annexation to Metropolitan and does hereby fix the terms and conditions of such annexation:

Section 1. The annexation of said area to Eastern shall be made concurrently with the annexation thereof to Metropolitan, and all necessary certificates, statements, maps, and other documents required to be filed by or on behalf of Eastern to effectuate the annexation shall be filed on or before December 31, 2006.

Section 2. Prior to filing a request for a Certificate of Completion of the annexation proceedings with LAFCO, Eastern shall submit a certified copy of LAFCO's resolution approving the annexation to the member agency, and shall pay to Metropolitan in cash \$36,382.20, if the annexation is completed by December 31, 2005. The annexation fee for processing this annexation was received prior to conditional approval. If the annexation is completed during the 2006 calendar year, the annexation charge will be calculated based on the then current rate, in accordance with Metropolitan's Administrative Code Section 3300.

Section 3. All necessary steps (including without limitation, pursuant to Article XIII D of the California Constitution) for imposition of Metropolitan water standby charge in the amount of \$6.94 per acre or per parcel of less than one acre for fiscal year 2005/06 shall be completed.

Section 4. a. Metropolitan shall be under no obligation to provide, construct, operate, or maintain feeder pipelines, structures, connections, and other facilities required for the delivery of water to said area from works owned or operated by Metropolitan.

b. Eastern shall not be entitled to demand that Metropolitan deliver water to Eastern for use, directly or indirectly, within said area, except for domestic or municipal use therein.

c. The delivery of all water by Metropolitan, regardless of the nature and time of use of such water shall be subject to the water service regulations, including rates promulgated from time to time by Metropolitan.

d. Except upon the terms and conditions specifically approved by the Board of Directors of Metropolitan, water sold and delivered by Metropolitan shall not be used in any manner which intentionally or avoidably results in the direct or indirect benefit of areas outside Metropolitan, including use of such water outside Metropolitan or use thereof within Metropolitan in substitution for other water outside Metropolitan.

G. BE IT FURTHER RESOLVED that the Executive Secretary is directed to transmit forthwith to the governing body of Eastern a certified copy of this resolution.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Directors of The Metropolitan Water District of Southern California at its meeting held September 13, 2005.

Executive Secretary
The Metropolitan Water District
of Southern California

RESOLUTION**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA
FIXING AND ADOPTING WATER STANDBY CHARGE
CONTINGENT UPON EASTERN
MUNICIPAL WATER DISTRICT'S ANNEXATION
84th FRINGE AREA ANNEXATION**

WHEREAS, pursuant to Resolution 8943, The Metropolitan Water District of Southern California's ("Metropolitan") Resolution of Intention to Impose Water Standby Charge, adopted by the Board of Directors (the "Board") of Metropolitan at its meeting held October 14, 2003, the Board gave notice to the public and to each member public agency of Metropolitan of the intention of the Board to consider and take action on the Chief Executive Officer's recommendation to impose a water charge for fiscal year 2005/06 on the property described in the Engineer's Report, dated March 2005 (the "Engineer's Report"), which was prepared by a registered professional engineer certified by the state of California and was attached to Resolution 8943;

WHEREAS, the owner of the parcel identified in the Engineer's Report has applied for annexation into the Eastern Municipal Water District ("Eastern") and Metropolitan;

WHEREAS, upon annexation, Metropolitan water will be available to such property and such parcels will receive the benefit of the projects provided in part with proceeds of Metropolitan water standby charges, as described in the Engineer's Report;

WHEREAS, Eastern has requested that Metropolitan impose water standby charges on such property at the rate specified in the Engineer's Report and provided herein, following annexation of such property into Metropolitan;

WHEREAS, Resolution 8943 provide that the Board would meet in regular session to hold a public protest hearing at which interested parties could present their views regarding the proposed water standby charges and the Engineer's Report;

WHEREAS, pursuant to the terms of Resolution 8943, the Executive Secretary provided written notice in accordance with the requirements of Article XIII D, Section 4 of the California Constitution of the proposed water standby charge by mail to the record owner of the property identified in the Engineer's Report of such public hearing, and the notice included an assessment ballot whereby the owner could indicate his or her name, reasonable identification of his or her parcel, and his or her support for or opposition to the proposed water standby charge;

WHEREAS, the Board conducted in conformance with Resolution 8943 a public hearing. The hearing was held July 12, 2005, at which interested parties were given the opportunity to present their views regarding the proposed water standby charge and the Engineer's Report and to protest the charges, if they so desired, and the Board duly considered any such protests and other views presented to it at the public hearing; and

WHEREAS, prior to the conclusion of the public hearing the Executive Secretary reviewed the assessment ballots submitted, and it was found that no majority protest (as defined in Article XIII D, Section 4 of the California Constitution) exists;

NOW THEREFORE, the Board of Directors of The Metropolitan Water District of Southern California does hereby resolve, determine and order as follows:

Section 1. That the Board of Metropolitan, pursuant to the Engineer's Report, finds that the land described in said Engineer's Report upon annexation to Metropolitan will be benefited as described in such report and on that basis, hereby fixes and adopts a water standby charge for fiscal year 2005/06 on such lands to which Metropolitan water is made available for any purpose, whether water is actually used or not.

Section 2. That the water standby charge per acre of land, or per parcel of land less than an acre, as shown in the Engineer's Report, shall be \$6.94 which is equal to the amount of Metropolitan's existing water standby charge on other properties located within the territory of Eastern.

Section 3. That no water standby charge on any parcel exceeds the reasonable cost of the proportional special benefit conferred on that parcel, as shown in the Engineer's Report. The Engineer's Report separates the special benefits from the general benefits and identifies each of the parcels on which a special benefit is conferred.

Section 4. That the water standby charge shall be collected on the tax rolls, together with the ad valorem property taxes, which are levied by Metropolitan for the payment of pre-1978 voter-approved indebtedness. Any amounts so collected shall be applied as a credit against Eastern's obligation to pay its readiness-to-serve charge for fiscal year 2005/06. After such member agency's readiness-to-serve charge allocation is fully satisfied, any additional collections shall be credited to other outstanding obligations of such member agency to Metropolitan or future readiness-to-serve obligations of such agency.

Section 5. That the water standby charge is fixed and adopted contingent upon completion of annexation of the land described in the Engineer's Report. If such annexation is not completed in time to permit imposition of standby charges for fiscal year 2005/06, Metropolitan may levy standby charges at the rate stated in this resolution beginning in a subsequent fiscal year.

Section 6. That in the event that the water standby charge, or any portion thereof, is determined to be an unauthorized or invalid fee, charge or assessment by a final judgment in any proceeding at law or in equity, which judgment is not subject to appeal, or if the collection of the water standby charge shall be permanently enjoined and appeals of such injunction have been declined or exhausted, or if Metropolitan shall determine to rescind or revoke the water standby charge, then no further water standby charge shall be collected within the territory described in the Engineer's Report and Eastern shall pay its readiness-to-serve charge obligation to Metropolitan in full, as if imposition of such water standby charges had never been sought.

Section 7. That pursuant to the provisions of the California Environmental Quality Act (CEQA), Rancho California Water District, and a subagency to Eastern Municipal Water District and acting as the Lead Agency, adopted a Negative Declaration (ND) on June 10, 2004, for the proposed annexation process (also known as Annexation No. 90, the RCP Block and Brick Inc. Project) associated with the 84th Fringe Area Annexation. Also pursuant to CEQA, Metropolitan, as Responsible Agency, has certified that it has reviewed and considered the information in the ND and adopts the Lead Agency's findings prior to approval of fixing and adopting water standby charges for the 84th Fringe Area Annexation.

Section 8. That the Chief Executive Officer is hereby authorized and directed to take all necessary action to secure the collection of the water standby charges by the appropriate county officials, including payment of the reasonable cost of collection.

Section 9. That the Chief Executive Officer and General Counsel are hereby authorized to do all things necessary and desirable to accomplish the purposes of this resolution, including, without limitation, the commencement or defense of litigation.

Section 10. That if any provision of this resolution or the application to any member agency, property or person whatsoever is held invalid, that invalidity shall not affect the other provisions or applications of this resolution which can be given effect without the invalid portion or application, and to that end the provisions of this resolution are severable.

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of a resolution adopted by the Board of Directors of The Metropolitan Water District of Southern California, at its meeting held on September 13, 2005.

Executive Secretary
The Metropolitan Water District
of Southern California