



- Board of Directors  
*Real Property and Asset Management Committee*

11/5/2012 Board Meeting

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7-2

## Subject

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Authorize one long-term license agreement on Metropolitan property in the county of Riverside, pending project approvals

## Executive Summary

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Staff is seeking board approval to enter into a long-term license with Mark Technologies Corporation and Alta Mesa Phase III Partners on Metropolitan property in the county of Riverside, for ingress and egress ([Attachment 1](#)). This license will provide initial fair market annual revenue of \$750, with annual rent increases, plus a one-time processing fee of \$2,000, as determined through an appraisal. The agreement complies with Metropolitan's standard leasing terms and conditions, including retaining Metropolitan's paramount rights to use the property for its water operations ([Attachment 2](#)). Staff evaluations have determined that this agreement will not interfere with Metropolitan's water operations. Design and construction of any planned improvements for license agreements are subject to Metropolitan's review and written approval. Board authorization of this agreement is required because the real property interest granted is more than five years.

## Details

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**Mark Technologies Corporation and Alta Mesa Phase III Partners** ([Attachment 3](#)) are jointly requesting a 30-year license agreement to use a 20-foot-wide service road located east of Whitewater Canyon Road in Riverside County. The 0.13 acre (5,777 square feet) site will provide ingress and egress for Mark Technologies Corporation and Alta Mesa Phase III Partners to access their wind-energy project located nearby. Mark Technologies Corporation currently has a road license over this area which commenced in 1989 and is scheduled to terminate in 2018. This extension is being requested for financing purposes of their wind farm, and is proposed to commence on January 1, 2013. The existing road license will be terminated at the commencement of the new license. The annual fair market rent is \$750, with automatic 3 percent annual rent increases. A \$2,000 one-time processing fee will also be paid to Metropolitan. This is an increase from the initial one-time fee charged of \$1,000. Termination is allowed at any time by either party with ninety (90) days written notice. Mark Technologies Corporation and Alta Mesa Phase III Partners are responsible for abatement of weeds, trash, and debris at the site.

## Policy

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Fair Market Value Policy adopted by Board on August 16, 2011: This Agreement is at fair market value and is consistent with the Board's policy that Metropolitan property will be leased at fair market value

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

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

Metropolitan Water District Administrative Code Section 8232: Terms and Conditions of Management Documents

Metropolitan Water District Administrative Code Division VIII, Article 4; Disposal of Real Property, Section 8240, Preliminary Requirements

Metropolitan Water District Administrative Code Section 8241: Authority for General Manager to Sell or Lease Surplus Real Property; Restriction on District Directors and Employees

### **California Environmental Quality Act (CEQA)**

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CEQA determination for Option #1:

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, licensing, maintenance, and operating of existing equipment and facilities with negligible or no expansion of use beyond that existing at the time of the lead agency's determination. In addition, it will not have a significant effect on the environment. Accordingly, 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 under a Categorical Exemption (Class 1, Section 15301 of the State CEQA Guidelines).

CEQA determination for Option #2:

None required

### **Board Options**

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#### **Option #1**

Adopt the CEQA determination and authorize the General Manager to enter into a lease agreement with Mark Technologies Corporation and Alta Mesa Phase III Partners.

**Fiscal Impact:** Metropolitan will initially receive \$750 in annual rent payments, with automatic 3 percent annual rent increases, and a \$2,000 one-time processing fee.

**Business Analysis:** Allow Metropolitan to generate revenue and defray costs associated with weed abatement

#### **Option #2**

Take no action.

**Fiscal Impact:** Forgo opportunity to generate revenue.


**Business Analysis:** Land would remain vacant and would not produce revenue for Metropolitan.

**Staff Recommendation**

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Option #1

  
\_\_\_\_\_  
Ralph T. Hicks 10/17/2012  
Real Property Development Date  
and Management Group

  
\_\_\_\_\_  
Jeffrey Kightlinger 10/17/2012  
General Manager Date

**Attachment 1 – Summary of Proposed Long-Term Agreements**

**Attachment 2 – Metropolitan’s Standard Leasing Terms and Conditions**

**Attachment 3 – Fact Sheet Summary for Mark Technologies**

**Attachment 4 – Location and Site Maps for Mark Technologies**

Ref# rpdm12620559

**Requests for Long Term Agreements**

<b>LESSEE NAME</b>	<b>ACREAGE</b>	<b>TERM</b>	<b>RENT/FEE</b>	<b>USE/COMMENTS</b>
Mark Technologies Corporation and Alta Mesa Phase III Partners (RL 3270)	0.13 acre	30 years	750/year <sup>(1)</sup>	Road access across a portion of the Colorado River Aqueduct right of way near Whitewater in Riverside County

TOTAL ANNUAL REVENUE

\$750/year

<sup>(1)</sup> Terms include a \$2,000 one time processing fee and a three percent (3%) annual rent escalation with rights to reevaluate rent every five years

## Metropolitan's Standard Leasing Terms and Conditions

- Metropolitan retains paramount rights to use the property.
- Lease provides only secondary uses and is not required by Lessee for primary or regulatory conditions or permits.
- Metropolitan has unconditional right to enter and inspect the property.
- No hazardous substances allowed.
- Rent based on market appraisal.
- Cancellation clause for one year or less (except for leases with public entities or for telecommunications purposes).
- Lessee responsible for maintenance.
- Lessee pays all applicable fees, costs, and taxes, e.g., business and possessory taxes.
- Lease to contain insurance, indemnification, defend, and hold harmless provisions protecting Metropolitan against liability.
- Any improvements provided by the tenant/lessee require prior written Metropolitan approval.
- Compliance is required with all local, state, and federal laws.
- An administrative processing fee paid by the requestor/applicant is generally required.

Prospective Long-Term License Holder - Fact Sheet Summary - Mark Technologies Corporation and Alta Mesa Phase III Partners

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**FACT SHEET -INFORMATION SUMMARY PROSPECTIVE LONG TERM-LICENSE HOLDER  
Mark Technologies Corporation and Alta Mesa Phase III Partners**

**VISIT WEBSITE:** [www.tenderland.com](http://www.tenderland.com)

Company contacts regarding this prospective lease: Daniel Jones (Mark Technologies Corporation)

**PROPOSED PROJECT:** Mark Technologies Corporation and Alta Mesa Phase III Partners are jointly requesting a 30-year license agreement to use 5,777 square feet (0.13 acre) of Metropolitan's service road to provide ingress and egress access to their nearby wind-energy project. The one-time processing fee is \$2,000 and FMV is \$750 with 3% rent increases annually. Mark Technologies Corporation and Alta Mesa Phase III Partners are responsible for weeds, trash, and debris abatement at the site.

**PROPERTY LOCATION DATA:** Metropolitan's service road located west of Whitewater in Riverside County, approximately 0.85 miles north of the 10 Freeway and 3 miles west of the 62 Highway

**BUSINESS SUMMARY:** Since the 1980s, the company has developed four wind farms in the San Geronio Pass near Whitewater, California. The most recent development, Alta Mesa Phase IV, involves the following team of consultants, advisors, and contractors:

- Garrad Hassan and Partners Limited, Bristol, England
- Vestas Wind Systems A/S, Denmark
- Modern Alloys, Stanton, CA
- Dudek & Associates, Indio, CA
- JBG Environmental Consulting, San Diego, CA

From 1998 to 2001, California electricity customers were permitted to choose "direct access service" from an electric service provider (ESP) such as TenderLand Power Company. A direct access customer received distribution and transmission service from the local utility, but purchased electricity from its ESP. TenderLand Power Company sold renewable power to its direct access customers. TenderLand Power Company suspended its electricity retail service in early 2001 in the midst of the California energy crisis. Although the company is no longer able to sell renewable power at retail, TenderLand Power Company continues its work in renewable power development projects and wholesale power marketing.

This Fact Sheet was prepared from general information from the internet using the search term: "*TenderLand Power Company*" on 09/27/12.

**COMPANY LOCATION:**  
150 East Fourth Street, Suite 500  
Cincinnati, OH 45202  
Phone (513) 381-3126

**OWNERSHIP, GENERAL INFORMATION:**  
TenderLand Power Company, Incorporated, and its subsidiaries, Mark Technologies Corporation and Alta Mesa Phase III Partners, are privately held firms, therefore not publicly traded (no stock info).

**DEVELOPMENT ACTIVITY:**  
Mark Technologies Corporation developed Phase III of the Alta Mesa Project in the 1990s. Alta Mesa Phase III is currently operated by enXco, Incorporated under a long-term lease. Power from Phase III is sold to Southern California Edison Company under a long-term contract.

Other renewable energy developments include:

- Alta Mesa Project – Phases I and II, a 117 turbine wind farm named "Swanmill"
- Alta Mesa Project – Phase IV, a 61 turbine wind farm, with four turbines located on Metropolitan property
- Pumped Storage Project, a 70-megawatt energy storage facility

**HEADLINES SAMPLING:**  
**(Week of 09/24/12)**  
None found for TenderLand Power Company

**PRESS RELEASES:**  
Several press releases can be found for TenderLand Power Company at their website, [www.tenderland.com](http://www.tenderland.com), which most are related to their Alta Mesa Projects (Phase I, II, II, and IV)



### LOCATION AND SITE MAPS FOR MARK TECHNOLOGIES

