

RESOLUTION 9207

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
CONSENTING TO EASTERN MUNICIPAL WATER DISTRICT'S
106th FRINGE AREA ANNEXATION AND FIXING THE TERMS AND
CONDITIONS OF THE ANNEXATION TO
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

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. 2016-033 in accordance with the provisions of the Metropolitan Water District Act (MWD Act), has applied to the Board of Directors of The Metropolitan Water District of Southern California (Metropolitan) for consent to annex thereto certain territory situated in the county of Riverside referred to as the 106th Fringe Area, 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;

WHEREAS, the beneficial owner of the territory identified as a portion of the reservation lands of the Pechanga Band of Luiseño Mission Indians (Pechanga) and described in the Extension of Service Area Agreement (ESAA) (Property) has applied for inclusion into Eastern and Metropolitan;

WHEREAS, completion of said annexation shall be contingent upon approval by the LAFCO;

WHEREAS, in recognition of the inherent sovereignty of Pechanga as a tribal government, no ad valorem property taxes or property-related assessments shall be imposed on the Property, and instead, Pechanga will pay present value charges equivalent to taxes or assessments that otherwise would be levied;

WHEREAS, completion of said annexation shall be further contingent upon LAFCO conditioning its approval of the 106th Fringe Area upon a requirement that a charge for the present value of Metropolitan's existing and established taxes, benefit assessments, or property-related fees or charges in place in the service area, as identified below, are paid on the territory being annexed to the agency;

WHEREAS, Metropolitan has levied and collected ad valorem taxes on parcels within the territory of Eastern. Such charges for calendar year 2016 are described in Resolution 9195, adopted by Metropolitan's Board on August 18, 2015;

WHEREAS, since fiscal year 1992-93, Metropolitan has levied and collected water standby charges pursuant to Section 134.5 of the MWD Act on parcels within the territory of Eastern. Such charges for fiscal year 2015-16 are described in Resolution 9191, adopted by Metropolitan's Board on May 12, 2015;

WHEREAS, upon annexation, the territory will be within Metropolitan's service area, Metropolitan's water will be available to such territory and such area will receive the benefit of the projects provided in part with proceeds of Metropolitan ad valorem taxes and water standby charges;

WHEREAS, as a requirement of this annexation and pursuant to the ESAA, the Pechanga will pay Metropolitan \$2,896,442, which includes Metropolitan's per-acre annexation fee, a \$5,000 processing fee, and \$562,591 that represents the present value of the ad valorem taxes that otherwise would be levied;

WHEREAS, as a requirement of this annexation and pursuant to the ESAA, the Pechanga will pay Eastern \$62,782.02, which represents the present value of the standby charges that otherwise would be levied, which will be used to offset the Readiness to Service Charges Eastern will owe Metropolitan for service to the Property.

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (CEQA), Eastern determined that this proposed annexation was categorically exempt on February 24, 2016, and Metropolitan finds that this land contains existing private structures and that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities. This extension of service also involves land of the minimum size for facilities exempted by Section 15303 in the State CEQA Guidelines. In addition, the overall activities associated with the extension of service process consists of the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of the existing private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of this determination. Accordingly, the proposed action qualifies under two Categorical Exemptions (Sections 15301 and 15319 of the State CEQA Guidelines).; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of Metropolitan, acting as Responsible Agency, has reviewed and considered Eastern's request for extension of service in the 106th Fringe Area, and determined that the proposed action qualifies under two Categorical Exemptions (Class 1, Section 15301 and Class 19, Section 15319 of the State CEQA Guidelines) prior to approval of the final terms and conditions for extending the service for the 106th Fringe Area; and subject to the following terms and conditions and the terms of the ESAA, does hereby grant the application of the governing body of Eastern for consent to annex the 106th Fringe Area to Metropolitan and does hereby fix the terms and conditions;

Section 1. The annexation of said area to Eastern shall be made concurrently with the service area 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 action shall be filed on or before December 31, 2018.

Section 2. Prior to filing a request for a Certificate of Completion of the proceedings with LAFCO, Eastern shall submit a certified copy of LAFCO's resolution approving the service area annexation to the Member Agency, and Pechanga shall pay to Metropolitan \$2,896,442 for its annexation fee, if the annexation is completed by December 31, 2016. If the annexation is completed during the 2017 or 2018 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. 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 and 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 and charges promulgated from time to time by Metropolitan.

d. Except upon the terms and conditions specifically approved by the Board of Directors of Metropolitan and in the ESAA, 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.

Section 4. LAFCO has conditioned approval of the annexation upon a requirement that Pechanga pay a charge equal to the present value of future payments for all previously established and collected taxes, benefit assessments, or property-related fees or charges on territory being annexed to the agency.

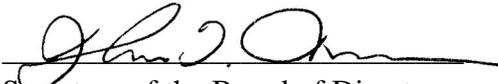
Section 5. That the Board of Directors of Metropolitan, acting as a Responsible Agency, has reviewed and considered Eastern's request for extension of service in the 106th Fringe Area, and determined that the proposed action qualifies under two Categorical Exemptions (Class 1, Section 15301 and Class 19, Section 15319 of the State CEQA Guidelines) prior to approval of the final terms and conditions for extending the service area for the 106th Fringe Area; and subject to the following terms and conditions, does hereby grant the application of the governing body of Eastern for consent to extend service to the 106th Fringe Area to Metropolitan and does hereby fix the terms and conditions.

Section 6. That the General Manager 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 of defense of litigation.

Section 7. 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.

BE IT FURTHER RESOLVED that the Board 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 on April 12, 2016.



Secretary of the Board of Directors
of The Metropolitan Water District
of Southern California