METRO TAC REVISED AGENDA
(Technical Advisory Committee to Metro JPA)

TO: Metro TAC Representatives and Metro Commissioners

DATE: Wednesday, July 18, 2018

TIME: 11:00 a.m. to 1:30 p.m.

LOCATION: 9192 Topaz Way, (PUD MOC II Auditorium) – Lunch will be provided

****PLEASE DISTRIBUTE THIS NOTICE TO METRO COMMISSIONERS AND METRO TAC REPRESENTATIVES****

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1. Review and Approve MetroTAC Action Minutes for the Meeting of June 20, 2017 (**Attachment**)

2. Metro Commission/JPA Board Meeting Recap (Standing Item)

3. **ACTION:** Consideration and Possible Action to Recommend Approval to the Metro Wastewater JPA Finance Committee and Metro Comm/Metro JPA of the FY 2016 Exhibit E Audit (Lee Ann Jones-Santos) (**Attachment**)

4. **REPORT:** Update from Pure Water Facilities Working Group (Roberto Yano)

5. **REPORT:** Update from Pure Water Cost Allocation Working Group (Scott Tulloch/Dexter Wilson)

6. **REPORT:** Update from Regional Wastewater Disposal Agreement Flow Commitment Working Group (Yazmin Arellano)

6.5 **ACTION:** DRAFT – Amended and Restated Regional Wastewater Disposal Agreement Between the City of San Diego and the Participating Agencies in the Metropolitan Sewerage System (Humora/Tulloch/Yano/Norvell) (**Attachment**)

7. **REPORT:** Update from Sample Rejection Protocol Working Group (Edgar Patino)

8. **ACTION:** Consideration and Possible Action to Recommend Approval to the Metro Comm/Metro JPA of the Pure Water Program – Amendment No. 1 to the Agreement with CH2M Hill Engineers, Inc. for Design Engineering Services for the North City Water Reclamation Plant Expansion and Influent Conveyance Project. (Amer Barthoumi) (**Attachment**)

9. Metro Wastewater Update (Standing Item) (Edgar Patino)

10. Pure Water Program Update (Standing Item) (John Helminski)

11. Metro Capital Improvement Program and Funding Sources (Standing Item) (Tung Phung)

12. Financial Update (Standing Item) (Karyn Jassoy)

    Metro Wastewater JPA Financial Audit for the Two Year Period Ending June 30, 2015 (**Attachments**)

13. IRWMP Update (Standing Item) (Robert Yano)

14. MetroTAC Work Plan (Standing Item) (Greg Humora) (**Attachment**)

15. Review of Items to be Brought Forward to the Regular Metro Commission/Metro JPA Meeting (**August 2, 2018**)

16. Other Business of Metro TAC

17. Adjournment (To the next Regular Meeting August 15, 2018)

Metro TAC 2018 Meeting Schedule

January 17	May 16	September 19
February 21	June 20	October 17
March 21	July 18	November 21
April 18	August 15	December 19

Attachment 1

Action

Minutes of

June 20, 2018

Metro TAC
(Technical Advisory Committee to Metro Commission/JPA)

ACTION MINUTES

DATE OF MEETING: June 20, 2018

TIME: 11:00 AM

LOCATION: PUD MOC II Auditorium

MEETING ATTENDANCE:

Greg Humora, La Mesa
Frank Rivera, Chula Vista
Erin Bullers, Coronado
Joe Bride, Del Mar
Yazmin Arellano, El Cajon
Dennis Davies, El Cajon
Eric Minicilli, Imperial Beach
Dexter Wilson, Lemon Grove
Roberto Yano, National City
Steve Beppler, Otay MWD
Bob Kennedy, Otay MWD
Kevin Koeppen, Otay MWD
Al Lau, Padre Dam
Mark Niemiec, Padre Dam
Rudy Guzman, Poway
Alex Heide, Poway
Dan Brogadir, County of San Diego

John Helminski, City of San Diego
Edgar Patino, City of San Diego
Lee Ann Jones Santos, City of San Diego

Scott Tulloch, NV5
Carmen Kasner, NV5
Karyn Keese, Keze Group
Lori Anne Peoples, Metro Comm/Metro JPA/MetroTAC
Nicholas Norvell, BBK Law

Jerry Jones, Metro Comm/Metro JPA Chair

1. Review and Approve MetroTAC Action Minutes for the Meeting May 16, 2018

ACTION: Motion by Greg Humora, seconded by Bob Kennedy to approve the MetroTAC Action Minutes. The motion carried unanimously.

2. Metro Commission/JPA Board Meeting Recap (Standing Item)

Chair Humora stated that the JPA approved the San Diego Budget along with all

consultant contracts and reviewed the Regional Wastewater Disposal Agreement and asked them to respond with comments as soon as possible.

3. <u>REPORT</u>: Update from Pure Water Facilities Working Group

Roberto reported that Phase 1 was at 100% and they had nothing else to review at this point.

4. <u>REPORT</u>: Update from Pure Water Cost Allocation Working Group

Roberto reported that this was the same status as Item 3.

5. <u>REPORT</u>: Update from Regional Wastewater Disposal Agreement Flow Commitment Working Group

Yazmin stated she had nothing new to report on behalf of the group.

6. <u>REPORT</u>: Update from Sample Rejection Protocol Working Group

Edgar stated that he was working on a training program and that Erin had placed the protocol on the JPA website.

7. <u>REVIEW</u>: Proposed Pure Water Cost Allocation Deal Points for Inclusion in Proposed Amended and Restated Regional Wastewater Disposal Agreement

Chair Humora reported that the team was working hard with City of San Diego staff. A number of PA's had responded with their comments and they were continuing to collect them. They should be forwarded to Nick or Roberto prior to Monday's deadline. They will be working on special concerns and the DRAFT will include all requested changes with comments from the particular parties. The DRAFT will go to the JPA at their July meeting for a generalized statement of support to move forward. Additional comments will be handled by the City Attorney.

Chair Humora also reported that the 5 year estimates can be provided by San Diego subject to a true up – but this will not be included in the agreement.

Scott added that Nick was taking all comments, to be submitted by Monday, and placing them into the DRAFT. Then he, Nick and Roberto will review them by Wednesday the 27th. The DRAFT will then go to John Helminski on the 29th and then to TAC. Tom Zeleny and everyone will meet again on July 5th to work out any issues and the DRAFT will then go the following week to a Special JPA meeting on July 11th with the Final DRAFT for distribution to each agency for approval. On August 2, the JPA will vote on the amendment as the JPA or individual PAs to take a position to forward to the City of San Diego.

Chair Humora stated that he was taking the amendment to his City Council on July 24th and will have his staff report done by July 18th so will be happy to provide it to all along with his talking points. He noted that since the JPA will be asked on August 2nd to approve the amendment ideally it should have gone to the PAs Councils or Boards prior to August 2nd.

8. Metro Wastewater Update

Lee Ann Jones Santos stated the FY 16 Audit was being signed and FY 17 beginning. The FY 2018 was ready to close and checks and bills will be going out to the PAs after July.

9. Pure Water Program Update

John Helminski provided a Power Point presentation of the Pure Water Update. He stated they are down to one issue to review with the environmental groups. Lee Ann Jones Santos stated that they are watching the fundable list noting they are not currently on the list but are still working on it and already potentially secured Prop 68 State funds for FY 2019 pending signature.

10. Metro Capital Improvement Program and Funding Sources (Standing item)

Tung Phung, City of San Diego provided a handout titled FY 2018 Capital Improvements Projects (CIP) Report – 3rd Quarter along with a brief verbal overview of project highlights, forecast versus actual expenditures report and projects expenditure updates. A copy of this report is attached to these Minutes as Exhibit C.

11. Financial Update (Standing Item)

Karyn Keese stated that she did more clean up and updated the Rate survey to the new rates as of July 1st. She has taken this over from Otay. She noted that the majority of the PAs are doing rate adjustments as of July 1st and that the County adopted a pass through and asked if anyone else was doing a pass through.

Karyn also noted that when the Budget was at the Finance Committee, it was brought up as to whether the JPA budget could be adjusted as it is always based on the San Diego January estimated flows and strengths. She has reviewed 2015 and found some significant charges on billed vs actual so thinks this should be done with each year's agency billing. She requested opinions of the TAC and consensus was to recommend the go back and make adjustments.

12. IRWMP Report (Standing Item)

Roberto Yano stated he had no report.

13. MetroTAC Work Plan (Standing Item)

Chair Humora stated the Work Plan was included in the Agenda. Karyn stated she had made updates and will finalize the rate part and have Erin post it on the website.

14. Review of Items to be Brought Forward to the Regular Metro Commission/Metro JPA Meeting (June 5, 2018)

Chair Humora stated that they would be recommending the cancellation of the July 5 Regular Meeting of the JPA and recommending a special meeting be held on July 11th. He asked John Helminski to provide his presentation.

15. Other Business of Metro TAC

There was none.

16. Adjournment to the next Regular Meeting, June 20, 2018

At 12:20 p.m. the meeting was adjourned.

Attachment 3

FY 2016

Exhibit E

Audit

METRO WASTEWATER JPA
www.metrojpa.org
276 Fourth Avenue Chula Vista, CA 91910 619-476-2557
Jerry Jones, Chairman

Fiscal Year 2016 Exhibit E Summary

FYE 2016's "Schedule of Allocation for Billing to Metropolitan Wastewater Utility and Independent Auditors Report" (Exhibit E Audit) was completed on June 15, 2018. A copy of the Auditor's Report and the Reconciliation of FYE 2016 based on the audited numbers are attached to this report. The following is a joint staff report prepared by PUD audit staff and the Metro Commission/JPA's auditor. The Metro Commission/JPA would like to thank PUD audit team staff for all their hard work, diligence, and dedication to this process.

EXPENDITURES & INCOME CREDITS

The final operating and capital expenses can be found on Page 3 of the Auditor's Report. The year-end total $181.2 million is approx. ($10.7) million (6%) lower than FYE 2015. The major variances in the areas of expenditures & Income Credits for the year are:

EXPENDITURES

- Transmission costs decreased at Pump Station 1 and 2 due to a large onetime credit owed to Metro by SDGE and also a temporary period of non-billing due to a billing reconciliation project. It is anticipated that future fiscal years SDGE billings will return to historical levels plus an increase due to increases in energy rates. Decrease in FY16 was ($7.5 Million). This accounts for the majority of the $10.7 million in decrease in the FYE 2016 year-end reconciliation. It should be noted that this WILL NOT occur again in FY 2017 and subsequent years as this was a onetime event.

- Quality Control increased due to a new contract with UCSD for the design and purchase of real-time oceanographic mooring systems as part of the City's enhanced ocean monitoring efforts. Increase in FY16 was $1 Million.

- Engineering increased due to Pure Water MWH Consultant Contract to provide program management services for Pure Water. Increase in FY16 was $1.2 Million.

- General and Administrative increase in FY16 due to an increase in Pure Water general related administrate expenses and non capitalizable expenses. Increase in FY16 was $1.3 Million.

- Debt service allocation represents principal and interest payments relating to the Senior Sewer Revenue Bonds Series 2009A, 2009B, 2010A, 2015, and 2016A, and State Revolving Fund (SRF) loans from the State of California. Beginning in FY16 there was a small change in the internal City process that determines the total annual Metro Fund debt which caused the Metro fund to be underbilled, this correction is not retroactive.

The majority of the increase over last fiscal year is due to the start of repayment period on previous received SRF loans proceeds. SRF Loans when made have a grace repayment start window and this increase is due to several loans entering repayment status and increases in payments of bond principal & interest. The increase FYE 2016 is $9 million.

INCOME CREDITS

- There was a major offset to the CIP and overall annual expenses by Metro income credits increase $16.8 million over FYE 2015 which was due to more SRF reimbursements being received in FY16 for seven SRF reimbursements compared to the two reimbursements received in FY15.

- South Bay Recycled Water revenue Income Credits was $3.2 Million in Fiscal Year 2016. The amount transferred from the City's Water Fund consisted of $1.2 million from FY15 and $2.0 million for FY16 which are reflected in the schedules as part of income credits.

ADDITIONAL HIGHLIGHTS

- The City's auditor controller's office prepared a journal entry at year end for a $1.2 million transfer from the Metro fund to the water fund for repayment of accumulated recycled water used for wash-down, etc. at the Metropolitan Biosolids Center (MBC) from FY2010 – FY2016 and produced at North City. This was discovered during the fieldwork process by the JPA auditor and was questioned. After review of the Memorandum of Understanding between the Metropolitan Wastewater Department and Water Department for FY2001 concerning the use of Reclaimed Water and discussion with PUD management and staff, it was determined to reverse the charge and any ongoing accounts payable eliminated.

- Total Pure Water Program – Metropolitan Wastewater Fund costs $ 6,899,462 Pure Water O&M costs consist of task orders for various engineering consultants and other support services that cannot be directly capitalized into a capital improvement project. The final cost allocation of O&M task orders, as well as capital improvement projects is currently in progress and is expected to be finalized soon once the capital projects are bid this fall. If changes to the draft cost allocation are necessary the City has proposed a clean-up adjustment to be completed during the FYE 2018 audit. As of June 30, 2016 there were 35 task/purchase orders that fell into this category.

TABLE B

The year-end reconciliation shows the total PA share of the FYE 2016 operations and CIP costs less income credits of $59,021,272. The PAs had collectively been billed $65,029,096 which results in a refund of $6,007,824 due to the PAs. Table B shows the individual PA's annual contributions, actual expenses, and reflect either a credit amount (refund) or debit owed.

FYE 2017 DRAFT AUDIT PROJECTIONS

The FYE 2017 audit is in progress and preliminary numbers indicate that FYE 2017 will not have a similar large credit balance to FYE 2016 and discussed earlier in this memo. Two major factors are contributing to this:

- The SDG&E credit enjoyed in FYE 2016 will not be repeated and all costs associated with SDG&E have been billed to Metro facilities in FYE 2017.

- FYE 2017 was billed to the PA's based on the established Administrative Protocol of $65 million per year for their collective costs. This Protocol did not anticipate Pure Water Program planning and design costs which continued in FYE 2017.

Preliminary discussions with City audit staff indicate that the FYE 2017 year-end costs will be closer to $70 million as opposed to $65 million. It is suggested that the PAs plan according. It is anticipated that the FYE 2017 audit will be completed by May 2019 and additional billings will be sent to PAs by the close of FYE 2019 if required.

CITY OF SAN DIEGO PUBLIC UTILITIES DEPARTMENT

Schedule of Allocation for Billing to Metropolitan Wastewater Utility and Independent Auditor's Reports

For the Fiscal Year Ended June 30, 2016

Certified Public Accountants

CITY OF SAN DIEGO PUBLIC UTILITIES DEPARTMENT
Schedule of Allocation for Billing to Metropolitan Wastewater Utility
and Independent Auditor's Reports
For the Fiscal Year Ended June 30, 2016

Table of Contents

Page

Independent Auditor's Report on the Schedule of Allocation for Billing to Metropolitan Wastewater Utility 1

Schedule of Allocation for Billing to Metropolitan Wastewater Utility 3

Notes to the Schedule of Allocation for Billing to Metropolitan Wastewater Utility 4

Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of the Schedule of Allocation for Billing to Metropolitan Wastewater Utility Performed in Accordance with *Government Auditing Standards* 7

Certified
Public
Accountants

Independent Auditor's Report on the Schedule of Allocation for Billing to Metropolitan Wastewater Utility

To the Honorable Mayor and City
Council of the City of San Diego
San Diego, California

Report on the Schedule

We have audited the accompanying Schedule of Allocation for Billing to Metropolitan Wastewater Utility (the Schedule) of the City of San Diego Public Utilities Department (PUD), an enterprise fund of the City of San Diego, California (the City) for the fiscal year ended June 30, 2016, and the related notes to the Schedule.

Management's Responsibility for the Schedule

Management is responsible for the preparation and fair presentation of the Schedule in accordance with the modified cash basis of accounting described in Note 3, this includes determining that the modified cash basis of accounting is an acceptable basis for the preparation of the Schedule in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the Schedule that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the Schedule based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Schedule is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Schedule. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the Schedule, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the Schedule in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the Schedule.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the Schedule referred to above presents fairly, in all material respects, the modified cash basis allocation for billing to the Metropolitan Wastewater Utility of the PUD pursuant to the Regional Wastewater Disposal Agreement (Agreement) between the City and the Participating Agencies in the Metropolitan Wastewater System dated May 18, 1998 and amended on May 15, 2000 and June 3, 2010, for the fiscal year ended June 30, 2016, in accordance with the modified cash basis of accounting as described in Note 3.

Basis of Accounting

We draw attention to Note 3 of the Schedule, which describes that the schedule is prepared for the purpose of complying with the Regional Wastewater Disposal Agreement between the City and the Participating Agencies and is presented on a modified cash basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated June 15, 2018 on our consideration of the PUD's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the PUD's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the PUD's internal control over financial reporting and compliance.

Macias Gini & O'Connell LLP

San Diego, California
June 15, 2018

CITY OF SAN DIEGO PUBLIC UTILITIES DEPARTMENT

Schedule of Allocation for Billing to Metropolitan Wastewater Utility

For the Fiscal Year Ended June 30, 2016

	Municipal System	Metropolitan System	Total
OPERATING EXPENSES:			
Transmission			
Main Cleaning	$ 13,158,631	$ -	$ 13,158,631
Sewer Pump Stations	5,275,120	-	5,275,120
Other Pump Stations	5,287,809	445,736	5,733,545
Pump Station 1	-	1,399,178	1,399,178
Pump Station 2	-	3,297,154	3,297,154
Other Muni Agencies	3,347,001	-	3,347,001
Pipeline Maintenance and Repair	11,136,478	188,421	11,324,899
Wastewater Collection (WWC) Engineering and Planning	2,489,863	-	2,489,863
Total Transmission	40,694,902	5,330,489	46,025,391
Treatment and Disposal			
Point Loma Wastewater Treatment Plant (PTLWWTP)	-	22,473,867	22,473,867
North City Water Reclamation Plant (NCWRP)	-	9,185,938	9,185,938
South Bay Water Reclamation Plant (SBWRP)	-	8,293,168	8,293,168
Metropolitan Biosolids Center (MBC)	-	15,671,958	15,671,958
Cogeneration Facilities	-	1,255,043	1,255,043
Gas Utilization Facility (GUF)	-	1,844,210	1,844,210
Wastewater Treatment and Disposal (WWTD) Plant Engineering	-	785,166	785,166
Total Treatment and Disposal	-	59,509,350	59,509,350
Quality Control			
Sewage Testing and Control	1,383,708	336,661	1,720,369
Marine Biology and Ocean Operations	-	6,497,400	6,497,400
Wastewater Chemistry Services	597,951	5,290,037	5,887,988
Industrial Permitting and Compliance	3,922,409	-	3,922,409
Total Quality Control	5,904,068	12,124,098	18,028,166
Engineering			
Program Management and Review	3,357,100	7,311,587	10,668,687
Environmental Support	1,042,960	226,448	1,269,408
Total Engineering	4,400,060	7,538,035	11,938,095
Operational Support			
Central Support: Clean Water Operations Management Network (Comnet)	135,744	2,795,659	2,931,403
Operational Support	1,340,883	6,487,047	7,827,930
Total Operational Support	1,476,627	9,282,706	10,759,333
General and Administrative			
Business Support Administration	21,491,032	19,892,457	41,383,489
Operating Division Administration	7,282,556	5,561,566	12,844,122
Total General and Administrative	28,773,588	25,454,023	54,227,611
TOTAL OPERATING EXPENSES	**81,249,245**	**119,238,701**	**200,487,946**
CAPITAL IMPROVEMENT EXPENSE	76,693,620	24,077,048	100,770,668
DEBT SERVICE ALLOCATION	41,540,590	64,666,834	106,207,424
METROPOLITAN SYSTEM INCOME CREDITS			
Operating Revenue	-	(10,133,529)	(10,133,529)
Capital Improvement Project (CIP) - Revenue Bond Issue	-	-	-
Operating - Grant Revenue	-	-	-
Capital Improvement Project (CIP) - Grant/SRF Revenue	-	(16,680,514)	(16,680,514)
TOTAL METROPOLITAN SYSTEM INCOME CREDITS	-	(26,814,043)	(26,814,043)
TOTAL ALLOCATION FOR BILLING PURPOSES	$ 199,483,455	$ 181,168,540	$ 380,651,995

See Accompaning Notes to the Schedule of Allocation for Billing to Metropolitan Wastewater Utility.

CITY OF SAN DIEGO PUBLIC UTILITIES DEPARTMENT
Notes to the Schedule of Allocation for Billing to Metropolitan Wastewater Utility
For the Fiscal Year Ended June 30, 2016

Note 1 – General

The City of San Diego Public Utilities Department (the PUD) operates and maintains the Metropolitan Wastewater System (the Metropolitan System) and the Municipal Wastewater Collection System (the Municipal System). The Participating Agencies and the City of San Diego (the City) have entered into the Regional Wastewater Disposal Agreement dated May 18, 1998 and amended on May 15, 2000 and June 3, 2010, for their respective share of usage and upkeep of the Metropolitan Wastewater Utility. The accompanying Schedule of Allocation for Billing to Metropolitan Wastewater Utility (the Schedule), represents the allocation of expenses for billing related to the Metropolitan Wastewater Utility of the Participating Agencies.

The Metropolitan System and Municipal System are accounted for as enterprise funds and reported in the Sewer Utility Fund in the City's Comprehensive Annual Financial Report.

Note 2 – Participating Agencies

The Participating Agencies consist of the following municipalities and districts:

City of Chula Vista	City of National City
City of Coronado	City of Poway
City of Del Mar	Lemon Grove Sanitation District
City of El Cajon	Otay Water District
City of Imperial Beach	Padre Dam Municipal Water District
City of La Mesa	San Diego County Sanitation District

Note 3 – Summary of Significant Accounting Policies

Basis of Presentation

The Schedule has been prepared for the purpose of complying with the Regional Wastewater Disposal Agreement between the City and the Participating Agencies as discussed in Note 1 above, and is presented on a modified cash basis of accounting. As a result, the Schedule is not intended to be a presentation of the changes in the financial position of the City or the PUD in conformity with generally accepted accounting principles. The more significant differences are:

1. Purchases of capital assets are presented as capital improvement expense.
2. Depreciation expense on capital assets is not reported in the Schedule.
3. Payments of principal and interest related to long-term debt are reported as debt service allocation.
4. Exclusion in the Schedule for unbudgeted expenses related to compensated absences, liability claims, capitalized interest, pollution remediation, other postemployment benefits, net pension obligation, and landfill closure and postclosure care costs.

The preparation of the Schedule requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Note 4 – Capital Improvement Expense

Construction costs incurred during the fiscal year (FY) to maintain and improve the Metropolitan and Metropolitan Wastewater Utility and equipment purchases used in the maintenance of the Metropolitan and Municipal Wastewater Utility are included in capital improvement expense.

Metropolitan system capital improvement income credits include, if any, contributions-in-aid-of-construction received from Federal and State granting agencies and reimbursements from bond proceeds.

Note 5 – Debt Service Allocation

Debt service allocation represents a portion of the principal and interest payments relating to the Senior Sewer Revenue Bonds Series 2009A, the Senior Sewer Revenue Refunding Bonds Series 2009B, 2010A, 2015, and 2016A, and the outstanding State Revolving Fund (SRF) loans from the State of California.

Note 6 – Metropolitan System Income Credits

Metropolitan System income credits are revenues earned by the Metropolitan System for costs incurred during the current or previous fiscal years. The PUD has agreed to share the income credits from the South Bay Water Reclamation Facility in accordance with the 1998 Regional Wastewater Disposal Agreement. An agreement was reached in FY2015 regarding revenue generated from the South Bay Water Reclamation Facility and revenue sharing payments were issued for FY2006 through FY2014 to the Participating Agencies. During FY2016, revenue sharing payments for FY2015 of approximately $1.2 million and FY2016 of approximately $2.0 million were transferred from the City's Water Fund and are included in the Schedule as part of the income credits. During the fiscal year ended June 30, 2016, Metropolitan Biosolids Center (MBC) was charged for accumulated recycled water use from FY2010 – FY2016. In FY2017 after review of the Memorandum of Understanding between the Metropolitan Wastewater Department and Water Department for FY2001 concerning Reclaimed Water and discussion with PUD management and staff, it was determined that this charge be reversed and any ongoing accounts payable eliminated. As such, this charge for recycled water use from FY2010 – FY2016 is not reported in the FY2016 Schedule due to its subsequent reversal.

Note 7 – Total Allocation for Billing Purposes

Costs to be billed to Participating Agencies include all individual construction projects costs and operation and maintenance expenses attributable to the Metropolitan System. Costs are apportioned back to the Participating Agencies based on their percentage of each of the totals of flow, suspended solids and chemical oxygen demand (COD). Each Participating Agency and the City are sampled quarterly, with plants sampled daily. Beginning in FY2014, the percentages were determined from a new sample data set taken during the fiscal year and annual monitored flow.

For construction projects, percentages were allocated to flow, suspended solids and COD based on each of the project's design and function. The percentages are weighted by total project costs and combined to determine the final three derived percentages. Total annual costs are then allocated based on the three derived percentages and the measured flow, suspended solids and COD of each Participating Agency.

Operation and maintenance (O&M) costs as a percentage of flow, suspended solids and COD are evaluated based on four cost categories: pump stations, plant operations, technical services and cogeneration. These percentages are weighted by the annual O&M costs for each category, and combined to determine a derived percentage for administrative costs. All O&M costs are then allocated based on the measured flow, suspended solids and COD of each Participating Agency.

Note 8 – Administrative Protocol

In May 2010, the City of San Diego and all Participating Agencies signatory to the Regional Wastewater Disposal Agreement established an Administrative Protocol (Protocol) which was effective beginning in fiscal year 2010. The Protocol established a requirement that the Participating Agencies maintain a 1.2 debt service coverage ratio on parity debt, fund a 45-day operating reserve, and earn interest on the operating and unrestricted reserve accounts. All interest earned during fiscal year 2016 was credited to the operating reserve, which ended the fiscal year with the required 45-day reserve.

Note 9 – Pure Water Program

In 2014 the City of San Diego began planning for the Pure Water Program. The Pure Water Program is the City's phased, multi-year program that will provide one-third, or 83 million gallons per day (MGD), of San Diego's water supply locally by 2035. The Pure Water Program uses proven technology to clean recycled water to produce safe, high-quality drinking water while providing the benefit of continuing advanced primary treatment at the Point Loma Wastewater Treatment Plant. This program is being jointly funded by both water and wastewater ratepayers, and the Participating Agencies represent approximately 35% of the wastewater portion of this program. During FY2016 the following Pure Water Program costs were incurred that were charged to the Metropolitan Wastewater Fund:

	FY2016 Pure Water Program Costs	
Operating and maintenance costs:		
Environmental	$	2,111,632
Program management		789,142
Other		1,770
Total operating and maintenance costs		2,902,544
Capital improvement costs:		
North City Water Reclamation Plant expansion		2,349,630
Morena Blvd. pump station and pipeline		1,647,288
Total capital improvement costs		3,996,918
Total Pure Water Progam – Metropolitan Wastewater Fund costs	$	6,899,462

Pure Water O&M costs consist of task orders for various engineering consultants and other support services that cannot be directly capitalized into a capital improvement project. The final cost allocation of O&M task orders, as well as capital improvement projects is currently in progress and is expected to be finalized in FY2018. At that time, if changes to the draft cost allocation of project costs between water and wastewater is needed, an adjustment will be made during the FY2018 audit of the Schedule.

Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of the Schedule of Allocation for Billing to Metropolitan Wastewater Utility Performed in Accordance with *Government Auditing Standards*

To the Honorable Mayor and City
Council of the City of San Diego
San Diego, California

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Schedule of Allocation for Billing to Metropolitan Wastewater Utility (the Schedule) of the City of San Diego Public Utilities Department (PUD), an enterprise fund of the City of San Diego, California (the City), for the fiscal year ended June 30, 2016, and the related notes to the Schedule, and have issued our report thereon dated June 15, 2018. Our report contained an explanatory paragraph indicating that the Schedule was prepared for the purpose of complying with, and in conformity with, the accounting practices prescribed by the Regional Wastewater Disposal Agreement between the City of San Diego and the Participating Agencies in the Metropolitan Wastewater System dated May 18, 1998 and amended on May 15, 2000 and June 3, 2010.

Internal Control over Financial Reporting

In planning and performing our audit of the Schedule, we considered the PUD's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the Schedule, but not for the purpose of expressing an opinion on the effectiveness of the PUD's internal control. Accordingly, we do not express an opinion on the effectiveness of the PUD's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the PUD's Schedule is free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of Schedule amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Macias Gini & O'Connell LLP

San Diego, California
June 15, 2018

TABLE A

CITY OF SAN DIEGO - METROPOLITAN WASTEWATER DEPARTMENT
FISCAL YEAR 2016 ESTIMATED UNIT COSTS
FUNCTIONAL-DESIGN COST ALLOCATION METHOD

TREATMENT PARAMETER	FY 2016 BUDGET		UNITS		COST PER UNIT	
	AMOUNT	%				
WASTEWATER FLOW	$83,472,843	46.1%	57,508	(a)	$1,451.50	/per Million Gallons
SUSPENDED SOLIDS	$51,799,793	28.6%	180,914	(b)	$286.32	/per Thousand Pounds
CHEMICAL OXYGEN DEMAND	$45,895,901	25.3%	318,457	(c)	$144.12	/per Thousand Pounds
TOTAL	$181,168,537	100%				

(a) Units of Flow - Million Gallons Per Year
(b) Units of SS - Thousands of Pounds per Year
(c) Units of COD - Thousands of Pounds per Year

TABLE B

CITY OF SAN DIEGO - METROPOLITAN WASTEWATER DEPARTMENT
PROJECTED DISTRIBUTION OF SYSTEM WASTEWATER COSTS - FISCAL YEAR 2016
FUNCTIONAL-DESIGN BASED ALLOCATION METHOD

AGENCY	ALLOCATION OF COSTS BY FLOW, SUSPENDED SOLIDS AND CHEMICAL OXYGEN DEMAND				TOTAL PAID FOR FY 2016	DIFFERENCE
	FLOW (a)	SS (a)	COD (a)	TOTAL FLOW, SS & COD		
CHULA VISTA	$8,609,356	$5,361,944	$4,866,801	$18,838,101	$17,975,408	$862,693
CORONADO	$688,000	$473,864	$333,521	$1,495,385	$2,829,916	($1,334,531)
DEL MAR	$287,428	$220,925	$103,021	$611,374	$281,928	$329,446
EAST OTAY MESA	$23,502	$14,604	$12,305	$50,411	$42,604	$7,807
EL CAJON	$3,892,749	$2,732,079	$2,128,389	$8,753,216	$9,315,460	($562,244)
IMPERIAL BEACH	$1,200,401	$558,315	$507,178	$2,265,894	$2,242,532	$23,362
LA MESA	$2,304,930	$1,306,998	$1,022,202	$4,634,130	$4,480,624	$153,506
LAKESIDE/ALPINE	$1,487,801	$1,040,771	$887,305	$3,415,877	$3,623,460	($207,583)
LEMON GROVE	$896,523	$450,664	$437,894	$1,785,081	$2,301,960	($516,879)
NATIONAL CITY	$2,164,141	$1,167,117	$1,185,953	$4,517,211	$5,187,792	($670,581)
OTAY	$78,884	$247,191	$93,837	$419,912	$812,536	($392,624)
PADRE DAM	$1,208,174	$1,428,352	$961,628	$3,598,153	$4,218,144	($619,991)
POWAY	$1,380,175	$855,618	$638,151	$2,873,944	$3,525,716	($651,772)
SPRING VALLEY	$2,222,320	$1,324,423	$1,117,647	$4,664,391	$7,087,320	($2,422,929)
WINTERGARDENS	$485,464	$347,901	$264,827	$1,098,192	$1,103,696	($5,504)
SUBTOTAL PARTICIPATING AGENCIES	$26,929,849	$17,530,764	$14,560,658	$59,021,272	$65,029,096	($6,007,824)
SAN DIEGO	$56,542,994	$34,269,029	$31,335,243	$122,147,265		
TOTAL	$83,472,843	$51,799,793	$45,895,901	$181,168,537		

TABLE C

CITY OF SAN DIEGO - METROPOLITAN WASTEWATER DEPARTMENT
SYSTEM WASTEWATER CHARACTERISTICS - FISCAL YEAR 2016
SYSTEM STRENGTH LOADINGS INCLUDED

				UNADJUSTED ANNUAL USE			ADJUSTED ANNUAL USE				
	WASTEWATER CHARACTERISTICS										
AGENCY	AVERAGE FLOW - mgd (a)	SS mg/l (b)	COD mg/l (b)	2016 FLOWS million gallons	SS thousand pounds	COD thousand pounds	2016 FLOWS million gallons	Flow Difference (c)	FY 2016 Billing Flows	SS thousand pounds	COD thousand pounds
CHULA VISTA	15.438	277	743	5,650.389	13,046	35,024	6,113.671	(182.315)	5,931.356	18,727	33,769
CORONADO	1.234	306	637	451.540	1,153	2,400	488.562	(14.569)	473.992	1,655	2,314
DEL MAR	0.515	341	471	188.641	538	741	204.108	(6.087)	198.022	772	715
EAST OTAY MESA	0.042	276	688	15.425	36	89	16.690	(0.498)	16.192	51	85
EL CAJON	6.980	312	718	2,554.842	6,647	15,317	2,764.316	(82.434)	2,681.882	9,542	14,768
IMPERIAL BEACH	2.153	207	555	787.833	1,358	3,650	852.428	(25.420)	827.008	1,950	3,519
LA MESA	4.133	252	583	1,512.744	3,180	7,356	1,636.776	(48.810)	1,587.966	4,565	7,093
LAKESIDE/ALPINE	2.668	311	784	976.456	2,532	6,386	1,056.517	(31.506)	1,025.010	3,635	6,157
LEMON GROVE	1.608	223	642	588.395	1,097	3,151	636.638	(18.985)	617.653	1,574	3,038
NATIONAL CITY	3.881	240	720	1,420.343	2,840	8,535	1,536.799	(45.829)	1,490.970	4,076	8,229
OTAY	0.141	1,392	1,563	51.772	601	675	56.017	(1.670)	54.347	863	651
PADRE DAM	2.166	525	1,046	792.934	3,475	6,920	857.948	(25.585)	832.363	4,989	6,672
POWAY	2.475	275	608	905.820	2,082	4,592	980.089	(29.227)	950.862	2,988	4,428
SPRING VALLEY	3.985	265	661	1,458.527	3,222	8,043	1,578.113	(47.061)	1,531.052	4,626	7,755
WINTERGARDENS	0.871	318	717	318.614	846	1,906	344.738	(10.280)	334.457	1,215	1,838
SUBTOTAL PARTICIPATING AGENCIES	48.290	289	710	17,674.276	42,654	104,787	19,123.409	(570.278)	18,553.132	61,227	101,032
SAN DIEGO	101.392	269	728	37,109.619	83,379	225,506	40,152.279	(1,197.378)	38,954.901	119,687	217,425
REGIONAL SLUDGE RETURNS	12.273	260	180	4,491.793	9,743	6,760					
FLOW DIFFERENCE	(4.830)			(1,767.655)	45,138	(18,595)					
TOTAL	157.126	377	664	57,508.033	180,914	318,457	59,275.688	(1,767.655)	57,508.033	180,914	318,457

TABLE D

CITY OF SAN DIEGO - METROPOLITAN WASTEWATER DEPARTMENT
ALLOCATION OF FISCAL YEAR 2016 ESTIMATED BUDGET
FUNCTIONAL-DESIGN BASED ALLOCATION METHOD

DESCRIPTION	FY 2016 ACTUAL COSTS	ALLOCATION OF COSTS						
		FLOW %	FLOW COSTS	SS %	SS COSTS	COD %	COD COSTS	TOTAL COSTS
OPERATION AND MAINTENANCE :								
TRANSMISSION AND SYSTEM MAINTENANCE	$5,330,489	100.0%	$5,330,489	0.0%	$0	0.0%	$0	$5,330,489
OPERATIONS & MAINTENANCE	$55,624,931	37.7%	$20,975,183	33.4%	$18,573,436	28.9%	$16,076,312	$55,624,931
TECHNICAL SERVICES	$11,787,437	30.0%	$3,536,231	40.0%	$4,714,975	30.0%	$3,536,231	$11,787,437
COGENERATION	$1,895,099	0.0%	$0	60.0%	$1,137,060	40.0%	$758,040	$1,895,099
METRO ADMIN & GENERAL EXPENSES - 41508	$23,504,134	40.0%	$9,397,472	32.7%	$7,691,791	27.3%	$6,414,872	$23,504,134
METRO ADMIN & GENERAL EXPENSES - 41509	$13,223,600	40.0%	$5,287,087	32.7%	$4,327,458	27.3%	$3,609,054	$13,223,600
TOTAL OPERATIONS AND MAINTENANCE	$111,365,690	39.98%	$44,526,462	32.73%	$36,444,720	27.29%	$30,394,508	$111,365,690
CAPITAL IMPROVEMENT PROGRAM :								
PAY-AS-YOU-GO METRO 41508	$3,220,783	55.8%	$1,797,030	22.0%	$708,501	22.2%	$715,252	$3,220,783
PAY-AS-YOU-GO METRO 41509	$1,915,230	55.8%	$1,068,599	22.0%	$421,308	22.2%	$425,323	$1,915,230
DEBT SERVICE	$64,666,834	55.8%	$36,080,751	22.0%	$14,225,264	22.2%	$14,360,818	$64,666,834
TOTAL CAPITAL IMPROVEMENT PROGRAM	$69,802,847	55.8%	$38,946,381	22.0%	$15,355,073	22.2%	$15,501,393	$69,802,847
TOTAL O&M & CAPITAL IMPROVEMENT PROGRAM	$181,168,537	**46.1%**	$83,472,843	**28.6%**	$51,799,793	**25.3%**	$45,895,901	$181,168,537

Attachment 6.5

DRAFT Amd. & Restated Regional Wastewater Disposal Agmt.

7/16/18 Version

AMENDED AND RESTATED

REGIONAL WASTEWATER DISPOSAL AGREEMENT

BETWEEN

THE CITY OF SAN DIEGO

AND

THE PARTICIPATING AGENCIES

IN

THE METROPOLITAN SEWERAGE SYSTEM

AMENDED AND RESTATED

REGIONAL WASTEWATER DISPOSAL AGREEMENT

TABLE OF CONTENTS

Page

I. DEFINITIONS 2

II. OWNERSHIP AND OPERATION OF THE METRO SYSTEM 6

III. PAYMENT AND MONITORING PROVISIONS 11

IV. CAPACITY RIGHTS 14

V. SYSTEM OF CHARGES 15

VI. PLANNING 20

VII. FACILITIES SOLELY FOR NEW CONTRACT CAPACITY 20

VIII. THE METRO COMMISSION 23

IX. DISPUTE RESOLUTION 23

X. INSURANCE AND INDEMNITY 24

XI. INTERRUPTION OF SERVICE 25

XII. NOTICES REQUIRED UNDER AGREEMENT 25

XIII. EFFECTIVE DATE AND TERMINATION 26

XIV. GENERAL 26

Exhibits

A. Metro Facilities

B. Contract Capacities

C. Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies

D. Notice Listing

E. Reclaimed Water Distribution System

F. Pure Water Cost Allocation and Revenues

G. 2050 Flow Projections

AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT

THIS AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT is made and entered into this _____ day of _____, 2018, by and between the CITY OF SAN DIEGO, a municipal corporation ("the City"); and the CITY OF CHULA VISTA, a municipal corporation; the CITY OF CORONADO, a municipal corporation; the CITY OF DEL MAR, a municipal corporation; the CITY OF EL CAJON, a municipal corporation; the CITY OF IMPERIAL BEACH, a municipal corporation; the CITY OF LA MESA, a municipal corporation; the LEMON GROVE SANITATION DISTRICT, a political subdivision of the State of California; the CITY OF NATIONAL CITY, a municipal corporation; the CITY OF POWAY, a municipal corporation; the OTAY WATER DISTRICT, a political subdivision of the State of California; the PADRE DAM MUNICIPAL WATER DISTRICT, a political subdivision of the State of California; and the SAN DIEGO COUNTY SANITATION DISTRICT, a political subdivision of the State of California (the "Participating Agencies").

RECITALS

WHEREAS, the City and the Participating Agencies (or their predecessors in interest) entered into that certain Regional Wastewater Disposal Agreement dated May 18, 1998 (the "1998 Agreement"), which provided, among other things, for certain contract rights to capacity in the Metropolitan Sewerage System, a system of wastewater conveyance, treatment, and disposal facilities ("Metro System") and the establishment of a mechanism to fund the planning, design, construction, operation, and maintenance of the Metro System by the City and the Participating Agencies; and

WHEREAS, the purposes of the 1998 Agreement were: (1) to replace the prior-existing sewage disposal agreements between the City and the Participating Agencies; (2) to provide certain contract rights to capacity in the Metro System to the Participating Agencies; (3) to establish a mechanism to fund the planning, design, construction, operation and maintenance of the Metro System by the City and the Participating Agencies as necessary to provide hydraulic capacity, and to comply with applicable law and with generally accepted engineering practices; and (4) to establish a system of charges which allocates the costs of the planning, design and construction of such new wastewater conveyance, treatment and disposal facilities as are necessary solely to provide for new capacity on a fair and equitable basis; and

WHEREAS, on April 29, 2014 the San Diego City Council gave its approval and support for the Pure Water San Diego program by adoption of Resolution No. R-308906. The Resolution approved and supported the City's efforts to develop an implementation strategy to offload wastewater flow from the Point Loma Wastewater Treatment Plant through implementation of potable reuse, resulting in effluent discharged to the Pacific Ocean being equivalent to what would be achieved by upgrading the Point Loma Wastewater Treatment Plant to a secondary treatment plant (secondary equivalency); and

WHEREAS, the City is implementing a phased, multi-year program designed to regionally produce at least 83 million gallons per day of safe, reliable potable water using new, expanded, or modified facilities, some of which will include Metro System facilities, in order to achieve secondary equivalency at the Point Loma Wastewater Treatment Plant; and

WHEREAS, the Pure Water Program will not only benefit the City by producing repurified water, but also the Participating Agencies and their wastewater customers, especially if secondary equivalency is recognized through federal legislation amending the Clean Water Act. Specifically, implementation of the Pure Water Program will reduce wastewater discharges to the Point Loma Wastewater Treatment Plant, part of the Metro System where a large portion of the Participating Agencies' wastewater is currently treated and disposed by discharging it into the Pacific Ocean. By diverting wastewater from the Point Loma Wastewater Treatment Plant and reducing the effluent discharged into the Pacific Ocean, the City and the Participating Agencies will potentially avoid billions of dollars in unnecessary capital, financing, energy, and operating costs to upgrade the Point Loma plant to secondary treatment at full capacity. Avoiding such costs would result in significant savings for regional wastewater customers; and

WHEREAS, the Padre Dam Municipal Water District, San Diego County Sanitation District, and the City of El Cajon have proposed a program to produce up to 15 million gallons per day of safe, reliable potable water for East San Diego County using wastewater that would otherwise be disposed of in the Metro System ("East County AWP Program"). By offloading wastewater and wastewater contents from the Point Loma Wastewater Treatment Plant, the East County AWP Program would, if implemented, help the City's and region's efforts to achieve long-term compliance with the Clean Water Act by producing a regional annual average of at least 83 million gallons per day of water suitable for potable reuse by December 31, 2035, as described in the Cooperative Agreement in Support of Pure Water San Diego entered into by the City and certain environmental stakeholders on December 9, 2014.

WHEREAS, Section XIV, subsection B, of the 1998 Agreement provided that the Parties may amend the Agreement by a written agreement between the City and all Participating Agencies stating the parties' intent to amend the Agreement; and

WHEREAS, in order to comprehensively and equitably address the costs and revenues associated with the Pure Water Program and the related construction, expansion, and/or modification of Metro System facilities, the City and Participating Agencies wish to amend and restate the Regional Wastewater Disposal Agreement as provided herein.

THEREFORE, in consideration of the mutual promises set forth herein, the City and the Participating Agencies agree as follows:

I. DEFINITIONS

A. **Annual Average Daily Flow** is the number, in millions of gallons of wastewater per day ("MGD"), calculated by dividing total Flow on a fiscal year basis by 365 days.

B. **Brine** is a waste byproduct of the demineralization process at an upstream Water Repurification System facility or a Reclaimed Water facility.

C. **Capital Expense Rate** is the cost per acre foot that will apply if the Metro System's Capital Improvement Costs for the Pure Water Program and/or upgrading of the Point Loma WTP to secondary treatment exceed $1.8 billion, as further described in Exhibit F.

D. **Capital Improvement Costs** are costs associated with the planning, design, financing, construction, or reconstruction of facilities.

E. **Chemical Oxygen Demand or "COD"** means the measure of the chemically decomposable material in wastewater, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination for Water and Wastewater," or any successor publication which establishes the industry standard.

F. **City Water Utility PW Costs** are those Pure Water Program costs allocated to the City's water utility and therefore excluded as Metro System costs under Exhibit F.

G. **Contract Capacity** is the contractual right possessed by each Participating Agency to discharge wastewater into the Metro System pursuant to this Agreement up to the limit set forth in Exhibit B attached hereto. Contract Capacity is stated in terms of Annual Average Daily Flow.

H. **Flow** is the amount of wastewater discharged by the City and each Participating Agency.

I. **Functional-Design Methodology** shall mean the process of allocating Operation and Maintenance Costs and Capital Improvement Costs to Flow and Strength parameters recognizing the benefits of both the design criteria and the primary function of a unit process.

J. **Metro Commission** is the advisory body created under Section VIII.

K. **Metro System Costs** are those costs set forth in Section 5.2.1.

L. **Metro System Revenues** are those revenues set forth in Section 5.2.2.

M. **Metropolitan Sewerage System or Metro System** shall mean and consist of those facilities and contract rights to facilities which are shown and/or described in Exhibit A attached hereto and incorporated by this reference, including any amendments thereto authorized by this Agreement.

N. **Municipal System** shall mean the City's wastewater collection system, which consists of pipelines and pump stations, that collects wastewater within the City of San Diego and conveys it to the Metropolitan Sewerage System for treatment and disposal.

O. **New Capacity** is the capacity to discharge wastewater outside the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.

P. **New Contract Capacity** is the capacity to discharge wastewater into the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.

Q. **North City Water Reclamation Plant** or **North City WRP** is the 30 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 4949 Eastgate Mall in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.

R. **Operation and Maintenance Costs** are the costs of those items and activities required by sound engineering and management practices to keep the conveyance, disposal, treatment, and reuse facilities functioning in accordance with all applicable laws, rules, and regulations.

S. **Point Loma Wastewater Treatment Plant** or **Point Loma WTP** is the 240 million gallons per day (as of the date of this Agreement) advanced primary treatment plant which includes four major processes: screening, grit removal, sedimentation, and digestion.

T. **Pure Water Program** is the City's phased, multi-year program designed to produce at least 83 million gallons per day of Repurified Water using new, expanded, or modified facilities, some of which will include Metro System facilities.

U. **Reclaimed Water (or Recycled Water)** shall have the definition set forth in Title 22, Division 4 of the California Code of Regulations and shall mean water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or a controlled use that otherwise could not occur.

V. **Reclaimed Water (or Recycled Water) Distribution System** shall mean and consist of those eight (8) reclaimed water projects listed in Attachment B of the Stipulated Final Order for Injunctive Relief approved by the U.S. District Court on June 6, 1997 in *U.S.A. v. City of San Diego*, Case No. 88-1101-B, and attached hereto as Exhibit E.

W. **Repurified Water** shall mean water which, as a result of advanced treatment of Reclaimed Water, is suitable for use as a source of domestic (or potable) water supply.

X. **Repurified Water Revenue** is the cost savings that will be realized when the City water utility's annual costs per-acre foot for Repurified Water are less than the purchase costs per-acre foot for comparable water from the San Diego County Water Authority, as further described in Exhibit F.

Y. **Return Flow** shall mean the effluent created by the dewatering of digested biosolids, which includes centrate.

Z. **Reuse** shall mean to use again, such as water which has been reclaimed or repurified, or sludge that has been converted to biosolids for beneficial use.

AA. **South Bay Land/Ocean Outfall** is the facility that is jointly owned by the International Boundary & Water Commission (U.S. Section IBWC) and the City

of San Diego. The Outfall is planned to convey and discharge treated effluent from the IBWC's International Wastewater Treatment Plant and treated effluent from the City's South Bay Water Reclamation Plant and the South Bay Secondary Treatment Plant. As of the date of this Agreement, the Outfall has a current Average Daily Flow Capacity of 174 million gallons per day. As of the date of this Agreement, the City owns 39.94% of the capacity of the Outfall and the balance of the capacity is owned by the IBWC.

BB. **South Bay Water Reclamation Plant** is the 15 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 2411 Dairy Mart Road in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.

CC. **Strength** means the measurement of Suspended Solids (SS) and Chemical Oxygen Demand (COD) within the wastewater Flow and any other measurement required by law after the date of this Agreement.

DD. **Suspended Solids** or **SS** means the insoluble solid matter in wastewater that is separable by laboratory filtration, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination of Water and Wastewater," or any successor publication which establishes the industry standard.

EE. **Tertiary Component** is that portion of the wastewater treatment process that currently filters the secondary treated wastewater effluent through fine sand and/or anthracite coal to remove fine Suspended Solids and disinfects it to meet the requirements of the California Administrative Code, Title 22, or its successor for filtered and disinfected wastewater.

FF. **Water Repurification System** shall mean any facilities, including treatment and conveyance facilities, the purpose of which is the production or conveyance of Repurified Water. Water Repurification System includes, but is not limited to: the Tertiary Component of the North City Water Reclamation Plant to the extent being used to produce Repurified Water, the North City Advanced Water Purification Facility to be located across the street from the North City Water Reclamation Plant ("North City AWP Facility"); the Repurified Water conveyance system, which will transport Repurified Water from the North City AWP Facility and/or other facilities to the Miramar Reservoir or other alternative location(s) as determined by the City; and any other Repurified Water treatment or conveyance facilities which are part of the Pure Water Program.

GG. **Wet Weather Flow** is Flow entering the Metro System during rainy weather.

Peak 24-Hour Wet Weather Flow is the highest measured Wet Weather Flow occurring in a 24 hour period during a fiscal year.

Wet Weather Flow Rights are the estimated amounts of Wet Weather Flow, stated in millions of gallons per day (MGD), that the City and each Participating

Agency are projected to have in the 2050 fiscal year. Wet Weather Flow Rights are the 10-year average of Wet Weather Flow for 2050, and are calculated by dividing total estimated annual Wet Weather Flow by 365 days. Wet Weather Flow Rights are stated in Column 7 of Exhibit G.

II. OWNERSHIP AND OPERATION OF THE METRO SYSTEM

2.1 Rights of the Parties.

The City is the owner of the Metro System, and of any additions to the Metro System or other facilities constructed pursuant to this Agreement. All decisions with respect to the planning, design, construction, operation and maintenance of the Metro System shall rest with the City, in consultation with the Metro Commission. The Participating Agencies shall have a contractual right to use the Metro System and to participate in its operation as set forth in this Agreement. Subject to the terms of this Agreement, and in conformance with all applicable laws, the City may transfer ownership of all or part of the Metro System at any time. In the event of a transfer, the City's successor shall be bound by the terms of this Agreement. Subject to the terms of this Agreement, any Participating Agency may transfer or assign its rights and obligations under this Agreement. Any transfer shall first be approved by the City. No transfer may occur if the City reasonably determines, after consultation with the Participating Agencies involved, that the proposed transfer will imbalance, or will otherwise adversely impact the City's ability to operate the Metro System.

2.2 Metro System Services.

2.2.1 The City shall provide wastewater conveyance, treatment and disposal services to the Participating Agencies through the Metro System, under the terms set forth in this Agreement.

2.2.2 The City shall operate the Metro System in an efficient and economical manner, maintaining it in good repair and working order, all in accordance with recognized sound engineering and management practices.

2.2.3 The City shall convey, treat, and dispose of or reuse all wastewater received under this Agreement in such a manner as to comply with all applicable laws, rules and regulations.

2.3 Flow Commitment.

2.3.1 Absent agreement of the parties, all Flow from the Participating Agencies and the City, up to the capacity limits set forth in Exhibit B or any amendments thereto, shall remain in the Metro System.

2.3.2 This Agreement shall not preclude any Participating Agency from diverting Flow from the Metro System as a result of the construction of reclamation facilities or New Capacity outside of the Metro System.

2.3.3 Any Participating Agency may negotiate an agreement with the City to withdraw all Flow from the Metro System, which at a minimum requires the Agency to pay its proportionate share of Capital Improvement Costs.

If a Participating Agency enters into an agreement with the City by December 31, 2019, to withdraw all Flow from the Metro System by January 1, 2035, such Participating Agency shall not pay Pure Water Program Capital Improvement Costs except for Phase I (as defined below in Section 2.8).

2.4 Funding Obligations.

Nothing in this Section or in this Agreement shall obligate the City to make any payment for the acquisition, construction, maintenance or operation of the Metro System from moneys derived from taxes or from any income and revenue of the City other than moneys in or sewer revenues which go into the Sewer Revenue Fund for the Metro System and from construction funds derived from the sale of such sewer revenue bonds for the Metro System as are duly authorized. Nothing in this Agreement shall be construed to obligate the City to pay from its annual income and revenues any sum which would create an indebtedness, obligation or liability within the meaning of the provisions of Section 18 of Article XVI of the Constitution of the State of California. Nothing in this Section, however, or in this Agreement shall prevent the City, in its discretion, from using tax revenues or any other available revenues or funds of the City for any purpose for which the City is empowered to expend moneys under this Agreement. Nothing herein shall relieve the City from its obligations to fund and carry out this Agreement. Nothing in this Section or in this Agreement shall obligate any Participating Agency to make any payment which would create an indebtedness, obligation or liability within the meaning of the provisions of Section 18 of Article XVI of the Constitution of the State of California, or which is not authorized by law.

2.5 Financial Statements.

2.5.1 The City shall keep appropriate records and accounts of all costs and expenses relating to conveyance, treatment, disposal, and reuse of wastewater, and production of Repurified Water, and the acquisition, planning, design, construction, administration, monitoring, operation and maintenance of the Metro System and Water Repurification System, and any grants, loans, or other revenues received therefor. The City shall keep such records and accounts for at least four (4) years, or for any longer period required by law or outside funding sources.

2.5.2 Said records and accounts shall be subject to reasonable inspection by any authorized representative of any Participating Agency at its expense. Further, said accounts and records shall be audited annually by an independent certified public accounting firm appointed by the City pursuant to generally accepted accounting principles. A copy of said report shall be available to any Participating Agency. As part of said audit, the actual amount of City Water Utility's PW Costs, Pure Water

Program costs attributable to the Metro System, Repurified Water Revenue, and the Capital Expense Rate shall be determined and audited by the City's external auditors and Participating Agency representatives, and a cumulative and annual summary of such amounts shall be included as a footnote or attachment to the audit of the Metro System. Cost summaries shall include separate lines for Capital Improvement Costs and Operation and Maintenance Costs.

2.5.3 The City shall make a good faith effort to complete the annual audit, and any related adjustments under this Agreement, by the end of the following fiscal year.

2.6 Limitations on Types and Condition of Wastewater.

2.6.1 Each Participating Agency will comply with all applicable laws, rules and regulations including its regulatory obligations associated with the discharge of wastewater into its respective system and from such system into the Metro System.

2.6.2 Each Participating Agency will minimize to the maximum extent practicable, the infiltration and inflow of surface, ground or stormwaters into its respective wastewater systems.

2.6.3 Each Participating Agency will insure that all industrial users of its wastewater system are regulated by an effective industrial pretreatment program that conforms to all to all applicable laws, rules and regulations and that is acceptable to the City. Provided, however, that the City shall not require the Participating Agencies to take any actions beyond that which is required under applicable laws, rules and regulations that can be taken but are not being taken by the City.

2.6.4 The City and the Participating Agencies agree that nothing in this Agreement, including the termination of the existing sewage disposal agreements, shall affect the validity of the Interjurisdictional Pretreatment Agreements, or the separate transportation agreements that are currently in effect between or among the City and the Participating Agencies.

2.6.5 Each Participating Agency will not discharge a substantial amount of sewage originating outside its respective boundaries into the Metro System without the approval of the City.

2.6.6 Each Participating Agency shall be responsible for the violation of any applicable laws, rules or regulations associated with its respective discharge of wastewater into the Metro System. Nothing in this Agreement shall affect the ability of any Participating Agency to hold third parties responsible for such violations.

2.6.7 In the event a regulatory agency imposes any penalty or takes other enforcement action relating to the conveyance, treatment, and disposal of wastewater in or from the Metro System, the City shall determine if the City or a Participating Agency or Agencies caused or contributed to the violation by exceeding its Contract Capacity or by the contents of its wastewater. The City shall allocate the penalty or other relief, including the costs of defense, to the party or parties responsible. Each responsible party, whether a Participating Agency or the City, shall be obligated to pay its share of such penalty or other relief, and any costs of defense. In the event that the City cannot make such an allocation, the cost of such penalty or other relief shall be shared by the Participating Agencies and the City proportionately based on Flow and Strength.

2.7 Right of First Refusal.

2.7.1 The City shall not sell or agree to sell the Metro System without first offering it to the Participating Agencies. For the purposes of this section, "Participating Agencies" shall mean a Participating Agency, a group of Participating Agencies, or a third party representing one or more Participating Agencies. The term "sell" shall include any transfer or conveyance of the Metro System or of any individual treatment or reclamation facility or outfall within the Metro System.

2.7.2 The City and the Participating Agencies recognize that transfer of ownership of the Metro System is currently restricted by Sections 6.04 and 6.20 of the Installment Purchase Agreement between the City and the Public Facilities Financing Authority of the City, which inter alia restricts the transfer of ownership to the Metropolitan Wastewater Sewage District or other governmental agency whose primary purpose is to provide wastewater treatment. The City shall not seek to impose on bond holders a waiver of Section 6.04 or 6.20. Absent such a restriction, before the City sells or agrees to sell the Metro System, or any portion of it, the City shall offer to sell the Metro System to the Participating Agencies ("the Offer") on the terms and at a price equal to that proposed for the sale of the Metro System to a third party. The Participating Agencies shall have thirty days from receipt of the Offer ("the Intent to Respond Period") in which to notify the City of their intent to respond to the Offer. The Participating Agencies shall have five months from the expiration of the Intent to Respond Period in which to accept or reject the Offer. The Offer shall contain the name of the proposed purchaser, the proposed sale price, the terms of payment, the required deposit, the time and place for the close of escrow, and any other material terms and conditions on which the sale is to be consummated.

2.7.3 If the Participating Agencies give timely notice of their intent to respond and timely notice of their acceptance of the Offer, then the City shall be obligated to sell and the Participating Agencies shall be obligated to

purchase the Metro System or any individual treatment or reclamation facility or outfall within the Metro System, as applicable, at the price and on the terms and conditions of the Offer. If the Participating Agencies do not give timely notice of their intent to respond or their acceptance of the Offer, or do not submit an offer on the same terms and conditions as the Offer, the City may, following the end of the Offer period, sell the Metro System, or any portion of it, at a price and on terms and conditions no less favorable to the City than those in the Offer. The City shall not sell the Metro System to any third party on terms or at a price less favorable to the City from the terms and price contained in the Offer absent compliance with the terms of this Section.

2.7.4 Nothing herein shall prevent the City from entering into a financing agreement which may impose limits on the City's power to sell the Metro System to the Participating Agencies pursuant to Section 2.7.1. if the City reasonably believes that such a financing agreement is in the City's best interest. Neither the entry into such a financing agreement by the City nor the performance thereof by the City shall constitute a breach or default by the City hereunder.

2.8 Pure Water San Diego Program.

Each new, expanded, or modified Metro System facility which is used in relation to the production of Repurified Water (in addition to the modification and expansion of the North City Water Reclamation Facility) shall be governed by this Agreement and Exhibit F, attached hereto and incorporated herein.

2.9 Future Negotiations and Cooperation.

2.9.1 This Agreement and Exhibit F specifically contemplate Phase I of the Pure Water Program, which consists of new, expanded, or modified Metro System facilities and Water Repurification System facilities designed to produce only up to 30 million gallons per day of Repurified Water ("Phase I"). During the planning process for later phases of the Pure Water Program, the parties shall meet and negotiate in good faith regarding one or more amendments to this Agreement or its Exhibits to address:

2.9.1.1 The allocation of specific Pure Water Program costs between City's water utility and the Metro System for such later phases;

2.9.1.2 Whether, and to what extent, certain Metro System costs should be charged based on volume capacity rights, Strength capacity rights, Peak 24-Hour Wet Weather Flow, and/or other factors;

2.9.1.3 The exclusion of costs related to the industrial discharges inspection and monitoring program within San Diego under Section 5.2.1.2.3 of the Agreement; and

2.9.1.4 The handling of waste generated at United States military bases under this Agreement.

If such negotiations do not result in an amendment to this Agreement or its Exhibits concerning these subjects, this Agreement shall remain in full force and effect as set forth herein. Further, if the City proceeds with a later phase of the Pure Water Program as authorized under Section 2.1 of this Agreement, and the Parties have not yet amended this Agreement or Exhibit F to specifically address such costs by the time they are incurred, all costs listed in Section I of Exhibit F shall nonetheless be excluded as Metro System costs under this Agreement.

2.9.2 The City and the Participating Agencies shall cooperate and coordinate in good faith with the Padre Dam Municipal Water District, San Diego County Sanitation District, and City of El Cajon on issues that relate to the East County AWP Program, including, but not limited to, the transfer of the Mission Gorge Pump Station; disposal of residuals; and a source control program.

III. PAYMENT AND MONITORING PROVISIONS

3.1 Payment for Metro System Facilities.

Through the system of charges set forth in Article V of this Agreement, each Participating Agency shall pay its share of the costs of planning, design and construction of all of the Metro System facilities which are identified in Exhibit A hereto, which is incorporated herein by reference.

3.2 Payment for Additional Metro System Facilities.

Through the system of charges set forth in Article V of this Agreement, each Participating Agency shall pay its share of the costs of acquisition, or planning, design and construction of such facilities in addition to those set forth on Exhibit A as are necessary for the Metro System to maintain compliance with applicable laws, rules and regulations, including the Ocean Pollution Reduction Act of 1994 and its successor(s), present and future waivers of applicable treatment standards at any Metro System treatment facility, and all facilities as are necessary to convey, treat, dispose, and reuse wastewater in the Metro System to provide the Contract Capacity set forth in Exhibit B, to maintain hydraulic capacity and as otherwise required by sound engineering principles. As a ministerial matter, the City shall amend Exhibit A from time to time to reflect such additional facilities and shall give notice of any amendments to the Participating Agencies. The City shall keep an updated version of Exhibit A on file with the City Public Utilities Department. Exhibit A may be amended to reflect other changes to the Metro System only as expressly provided in this Agreement.

3.3 Payment for Operation and Maintenance.

Through the system of charges set forth in Article V of this Agreement, each Participating Agency shall pay its share of the Operation and Maintenance Costs of all Metro

System facilities. The Participating Agencies shall not pay for the Operation and Maintenance Costs of Water Repurification System, which are City Water Utility PW Costs.

3.4 Charges Based on Flow and Strength; Exception.

3.4.1 Except as otherwise described in this Section 3.4, a Participating Agency's share of the charges in this Article III shall be assessed pursuant to Article V of this Agreement based on its proportionate Flow in the Metro System and the Strength of its wastewater.

3.4.2 Notwithstanding section 3.4.1, or any other provision of this Agreement, a Participating Agency's share of Pure Water Program Capital Improvement Costs and Pure Water Program revenues attributable to the Metro System under Exhibit F shall be assessed or credited based on the parties' proportionate share of Wet Weather Flow Rights. Wet Weather Flow Rights are based on projections of each party's 10-year average of Wet Weather Flow in the year 2050 as set forth in Column 7 of Exhibit G, which is attached hereto and incorporated herein. The City shall annually allocate the estimated and actual Pure Water Program Capital Improvement Costs and revenues which are attributable to the Metro System under Exhibit F in proportion to each party's share of Wet Weather Flow Rights (Column 8 of Exhibit G) when estimating quarterly payments and conducting year-end adjustments under Article V.

3.4.3 Each party recognizes that operation within respective Wet Weather Flow Rights is essential to the accurate allocation of costs and revenues under the Pure Water Program. In recognition of same, the parties agree as follows:

3.4.3.1 Beginning in the next fiscal year after the effective date of this Agreement, if any party's Annual Average Daily Flow exceeds its Wet Weather Flow Rights for any two (2) consecutive fiscal years, the City shall prepare an amendment to Exhibit G that adjusts projections of each party's 10-year average of Wet Weather Flow in 2050 based on information about such party's exceedance and other relevant information. Upon approval by a majority of the Metro Commission, the City shall, as a ministerial matter, amend the Wet Weather Flow Rights in Column 7 of Exhibit G (and the percentages in Column 8 of Exhibit G) to reflect the new projections of 10-year average of Wet Weather Flow. The City shall keep an updated version of Exhibit G on file with the City Public Utilities Department. If the City and the Metro Commission cannot agree on an amendment to Exhibit G, the matter shall be submitted to dispute resolution pursuant to Article IX.

3.4.3.2 Notwithstanding the amounts set forth in Column 7 of Exhibit G, the following parties will have the following Wet Weather Flow Rights until July 1, 2025:

3.4.3.2.1 Padre Dam: 2.797 MGD

3.4.3.2.2 San Diego County Sanitation District: 22.844 MGD

3.4.3.2.3 El Cajon: 8.542 MGD

3.4.3.3 If Exhibit G is amended to update one or more parties' Wet Weather Flow Rights, the change in Wet Weather Flow Rights shall be retroactive in effect, and the City shall use the updated amounts in estimating quarterly payments and conducting year-end adjustments for Pure Water Program costs and revenues. Therefore, any party that underpaid based on previous Wet Weather Flow Rights (which were based on prior projections of 2050 Flow) shall pay the retroactive amount due in its quarterly payments the following fiscal year; any party that overpaid based on previous Wet Weather Flow Rights shall receive a credit in its quarterly payments the following fiscal year. Notwithstanding the preceding sentence, if the retroactive amount due exceeds 20% of a party's average annual Metro System payments for the previous four (4) years, such party may elect to pay the retroactive amount due in its quarterly payments over the subsequent four (4) fiscal years; any party that overpaid based on previous Wet Weather Flow Rights shall receive a credit in its quarterly payments the following four (4) fiscal years.

3.5 Monitoring Flow and Strength.

3.5.1 The City shall monitor wastewater that is discharged into the Metro System for Flow and Strength. The City shall own and operate as part of the Metro System monitoring devices which will measure the amount of daily wastewater discharged into the Metro System. These devices shall be installed at locations appropriate to accurately monitor Flow and Strength. The City may also monitor wastewater Flow and Strength at other locations as it deems appropriate.

3.5.2 In measuring Strength, the frequency and nature of the monitoring shall not be more stringent for the Participating Agencies than it is for the City.

3.5.3 The City shall, at least once every five (5) years, update and provide its plans for the monitoring system and for the procedures it will use to determine Strength to the Participating Agencies. The Participating Agencies shall have the opportunity to review and comment prior to implementation.

3.5.4 The City shall report Flow and Strength data to the Participating Agencies at least quarterly.

IV. CAPACITY RIGHTS

4.1 Contract Capacity.

In consideration of the obligations in this Agreement, each Participating Agency shall have a contractual right to discharge wastewater to the Metro System up to the Contract Capacity set forth in Exhibit B. The Wet Weather Flow Rights stated in Exhibit G, which are used solely for the purpose of allocating Pure Water Program costs and revenues attributable to the Metro System under this Agreement, do not replace or limit Contract Capacity. Each party's Contract Capacity takes into account Wet Weather Flow.

4.2 Transfers of Contract Capacity.

The Participating Agencies and the City may buy, sell or exchange all or part of their Contract Capacity among themselves on such terms as they may agree upon. The City shall be notified prior to any transfer. Any transfer shall be first approved by the City. No Contract Capacity may be transferred if the City determines, after consultation with the Participating Agencies involved in the transaction, that said transfer will unbalance, or will otherwise adversely impact the City's ability to operate the Metro System. Provided, however, that the Participating Agency seeking the transfer may offer to cure such imbalance at its own expense. Following the City's consent, as a ministerial matter, the Contract Capacity set forth in Exhibit B shall be adjusted to reflect the approved transfer.

4.3 Allocation of Additional Capacity.

The parties recognize that the City's applicable permits for the Metro System may be modified to create capacity in the Metro System beyond that set forth in Exhibit B as a result of the construction of additional facilities or as a result of regulatory action. This additional capacity shall be allocated as follows:

4.3.1 Except as provided in section 4.3.2 below, in the event that the Metro System is rerated so that additional permitted capacity is created, said capacity shall be allocated proportionately based upon the Metro System charges that have been paid since July 1, 1995 to the date of rerating.

4.3.2 In the event that the additional permitted capacity is created as the result of the construction of non-Metro System facilities, or as the result of the construction of facilities pursuant to Article VII, such additional capacity shall be allocated proportionately based on the payments made to plan, design and construct such facilities.

4.4 Deductions in Contract Capacity.

The parties further recognize that the Contract Capacity in Exhibit B and Wet Weather Flow Rights in Exhibit G may be modified to comply with, or in response to, applicable permit conditions, or related regulatory action, or sound engineering principles. In the event that the capacity of the Metro System is rerated to a level below the total capacity set forth in Exhibit B, the Contract Capacity in Exhibit B and Wet Weather Flow Rights in Exhibit G shall be reallocated proportionately pending the acquisition or construction of new facilities. The City shall acquire or construct such facilities as necessary to provide the Contract Capacity rights set forth in Exhibit B, as planning and capacity needs require. The costs of such facilities shall be assessed pursuant to Section 3.2.

4.5 Amendments to Exhibits B and C.

As a ministerial matter, the City shall prepare amendments to Exhibits B and C to reflect any adjustment in Contract Capacity pursuant to this Article within ninety (90) days after the adjustment is made. The City shall give notice of the amendments to each Participating Agency, and shall provide copies of the amendments with the notice. The City shall keep an updated version of Exhibits B and C on file with the City Public Utilities Department.

4.6 The South Bay Land/Ocean Outfall.

Nothing in this Article shall limit the City's right to transfer capacity service rights in that portion of the South Bay Land/Ocean Outfall which is not part of the Metro System.

V. SYSTEM OF CHARGES

5.1 Charges Authorized.

The City agrees to implement and the Participating Agencies agree to abide by a new system of charges. This new system allows the City to equitably recover from all Participating Agencies their proportional share of the net Metro System Costs through the imposition of the following charges:

5.1.1 SSC (Sewer System Charge);

5.1.2 NCCC (New Contract Capacity Charge).

5.2 SSC (Sewer System Charge).

The City shall determine the SSC based on the projected Metro System Costs (as defined below) for the forthcoming fiscal year, less all Metro System Revenues (as defined below).

5.2.1 Metro System Costs

5.2.1.1 The following shall at a minimum be considered Metro System Costs for purposes of calculating the annual SSC:

5.2.1.1.1 Except as provided in section 5.2.1.2 (Excluded Costs), the annual costs associated with administration, operation, maintenance, replacement, annual debt service costs and other periodic financing costs and charges, capital improvement, insurance premiums, claims payments and claims administration costs of the Metro System, including projected overhead. Overhead shall be calculated using accepted accounting practices to reflect the overhead costs of the Metro System.

5.2.1.1.2 Fines or penalties imposed on the City as a result of the operation of the Metro System, unless the fine/penalty is allocated to the City or a Participating Agency as provided in Section 2.6.7.

5.2.1.2 Excluded Costs. The following items shall not be considered Metro System Costs for purposes of calculating the annual SSC:

5.2.1.2.1 Costs related to the City of San Diego's Municipal System as determined by reasonable calculations;

5.2.1.2.2 Costs related to the treatment of sewage from any agency which is not a party to this Agreement;

5.2.1.2.3 Costs related to the inspection and monitoring program for the industrial dischargers located in San Diego, including associated administrative and laboratory services;

5.2.1.2.4 Right-of-way charges for the use of public streets of the City or any Participating Agency. The City and the Participating Agencies agree not to impose a right-of-way charge for the use of its public rights-of-way for Metro System purposes;

5.2.1.2.5 Capital Improvement Costs of any non-Metro System facility;

5.2.1.2.6 Capital Improvement Costs for which an NCCC is paid; and

5.2.1.2.7 City Water Utility PW Costs.

5.2.2 Metro System Revenues.

5.2.2.1 The following revenues shall be at a minimum considered Metro System Revenues for purposes of determining the annual SSC:

5.2.2.1.1 Any grant or loan receipts or any other receipts that are attributable to the Metro System, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System; provided, however, that this shall not include any grant, loan, or other receipts attributable to the Metro System components of the Pure Water Program, which are specifically addressed in Section 5.2.2.1.8.

5.2.2.1.2 All compensation or receipts from the sale or other conveyance or transfer of any Metro System by-products, including, but not limited to gas, electrical energy, sludge products, and Reclaimed Water (excepting therefrom any receipts allocated pursuant to section 5.2.2.1.3).

5.2.2.1.3 The distribution of revenue from the sale of Reclaimed Water from the North City Water Reclamation Plant, including incentives for the sale of Reclaimed Water, shall first be used to pay for the cost of the Reclaimed Water Distribution System, then the cost of the Operation and Maintenance of the Tertiary Component of the North City Water Reclamation Plant that can be allocated to the production of Reclaimed Water, and then to the Metro System.

5.2.2.1.4 Any portion of an NCCC that constitutes reimbursement of costs pursuant to Section 7.1.4.

5.2.2.1.5 Any penalties paid under Section 7.3.

5.2.2.1.6 Proceeds from the Capital Expense Rate, as calculated under Exhibit F and allocated among the City and Participating Agencies in the proportions set forth in Column 8 of Exhibit G.

5.2.2.1.7 Those portions of Repurified Water Revenue attributable to the Metro System, as calculated under Exhibit F and allocated among the Participating Agencies in the proportions set forth in Column 8 of Exhibit G.

5.2.2.1.8 Any grant or loan receipts or any other receipts that are attributable to the Metro System components of the

Pure Water Program, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System components of the Pure Water Program. Any proceeds under this section shall be allocated among the City and the Participating Agencies in the proportions set forth in Column 8 of Exhibit G.

5.2.2.2 Excluded Revenue

5.2.2.2.1 Capital Improvement Costs for which an NCCC is paid;

5.2.2.2.2 Proceeds from the issuance of debt for Metro System projects.

5.2.2.2.3 Proceeds from the sale of Reclaimed Water used to pay for the Reclaimed Water Distribution System pursuant to section 5.2.2.1.3 above.

5.2.3 Calculation of SSC Rates.

5.2.3.1 Prior to the initial implementation of the new system of charges, the City shall prepare a sample fiscal year estimate setting forth the methodology and sampling data used as a base for Strength based billing (SBB) which includes Flow and Strength (Chemical Oxygen Demand (COD) and Suspended Solids (SS)). The analysis shall be submitted to each Participating Agency.

5.2.3.2 The City shall determine the unit SSC rates by allocating net costs (Metro System Costs less Metro System Revenues) between parameters of Flow, COD and SS. This allocation is based on the approved Functional-Design Methodology analyses for individual Capital Improvement Projects (CIPs) and estimated Operation and Maintenance (O&M) Costs allocated to the three parameters. The City may revise the calculations to include any other measurement required by law after the effective date of this Agreement.

5.2.3.3 The net cost allocated to each of the three parameters (Flow, COD and SS) shall be divided by the total Metro System quantity for that parameter to determine the unit rates for Flow, COD and SS. These unit rates shall apply uniformly to all Participating Agencies.

5.2.4 Estimate and Billing Schedule and Year End Adjustment

5.2.4.1 The City shall estimate the SSC rates on an annual basis prior to January 15. The City shall quantify the SSC rates by estimating the quantity of Flow, COD and SS for each party, based on that party's

actual flow and the cumulative data of sampling for COD and SS over the preceding years. If cumulative data is no longer indicative of discharge from a Participating Agency due to the implementation of methods to reduce Strength, previous higher readings may be eliminated.

5.2.4.2 Costs of treating Return Flow for solids handling will be allocated to the Participating Agencies in proportion to their Flow and Strength. Return Flow will not be counted against the Participating Agencies' Contract Capacity as shown in Exhibit B.

5.2.4.3 The City shall bill the Participating Agencies quarterly, invoicing on August 1 , November 1, February 1 and May 1. Each bill shall be paid within thirty (30) days of mailing. Quarterly payments will consist of the total estimated cost for each Participating Agency, based on their estimated Flow, COD and SS, divided by four.

5.2.4.4 At the end of each fiscal year, the City shall determine the actual Metro System Costs and the actual Flow as well as the cumulative Strength data for the City and each of the Participating Agencies. The City shall make any necessary adjustments to the unit rates for Flow, COD and SS based on actual costs for the year. The City shall then recalculate the SSC for the year using actual costs for the year, actual Flow, and cumulative Strength factors (COD, SS and Return Flow) for the City and for each Participating Agency. The City shall credit any future charges or bill for any additional amounts due, the quarter after the prior year costs have been audited.

5.3 NCCC (New Contract Capacity Charge).

If New Contract Capacity is required or requested by a Participating Agency, pursuant to Article VII, the Metro System shall provide the needed or requested capacity, provided that the Participating Agency agrees to pay an NCCC in the amount required to provide the New Contract Capacity. New Contract Capacity shall be provided pursuant to Article VII.

5.4 Debt Financing.

The City retains the sole right to determine the timing and amount of debt financing required to provide Metro System Facilities.

5.5 Allocation of Operating Reserves and Debt Service Coverage.

The parties shall continue to comply with the 2010 Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies, attached hereto and incorporated herein as Exhibit C.

VI. PLANNING

6.1 Projected Flow and Capacity Report.

Commencing on July 1, 1999, each Participating Agency shall provide the City and the Metro Commission with a ten-year projection of its Flow and capacity requirements from the Metro System. The Agencies shall disclose any plans to acquire New Capacity outside the Metro System. This "Projected Flow and Capacity Report" shall be updated annually.

6.2 Other Planning Information.

Each Participating Agency shall provide the City with such additional information as requested by the City as necessary for Metro System planning purposes.

6.3 Ten-Year Capital Improvement Plan.

The City shall prepare a Ten-Year Capital Improvement Plan for the Metro System that describes the facilities necessary to convey, treat, and dispose of, or reuse all Flow in the Metro System in compliance with all applicable rules, laws and regulations. The plan shall be updated annually.

6.4 Notice to Metro Commission.

In the event that the City is not able to include a facility in the Ten-Year Capital Improvement Plan, the City shall notify the Metro Commission as soon as possible before the detailed design or construction of such facility provided that the facility will significantly impact the Metro System.

VII. FACILITIES SOLELY FOR NEW CONTRACT CAPACITY

The Participating Agencies and City are obligated to pay for the acquisition or planning, design, and construction of new facilities in the Metro System that are needed solely to provide New Contract Capacity only under the terms provided below.

7.1 Determination of Need for New Contract Capacity.

7.1.1 As part of its planning efforts, and considering the planning information provided to the City by the Participating Agencies, the City shall determine when additional facilities beyond those acquired or constructed pursuant to Article III above will be necessary solely to accommodate a need for New Contract Capacity in the Metro System, whether by the City or by the Participating Agencies. The City shall determine: (1) the amount of New Contract Capacity needed; (2) the Participating Agency or Agencies, or the City, as the case may be, in need of the New Contract Capacity; (3) the type and location of any capital improvements necessary to provide the New Contract Capacity; (4) the projected costs of any necessary capital improvements; and, (5) the allocation of the cost of any such facilities to the Participating Agency and/or the City for which any

New Contract Capacity is being developed. The City shall notify the Participating Agencies of its determination within sixty days of making such determination.

7.1.2 The City or Participating Agency or Agencies in need of New Contract Capacity as determined by the City pursuant to section 7.1.1 above, may choose, in their sole discretion, to obtain New Capacity outside of the Metro System in lieu of New Contract Capacity. Under such circumstances, the Participating Agency or Agencies shall commit to the City in writing their intent to obtain such New Capacity. Upon such commitment, the City shall not be required to provide New Contract Capacity to such Agency or Agencies as otherwise required under this Agreement.

7.1.3 The Participating Agencies shall have six months from the date of notice of the determination within which to comment on or challenge all or part of the City's determination regarding New Contract Capacity, or to agree thereto or to commit, in writing, to obtain New Capacity outside of the Metro System. Any Participating Agency objecting to the City's determination shall have the burden to commence and diligently pursue the formal dispute resolution procedures of this Agreement within said six month period. The City's determination shall become final at the close of the six month comment and objection period. The City's determination shall remain valid notwithstanding commencement of dispute resolution unless and until otherwise agreed to pursuant to the dispute resolution process in Article IX, or pursuant to a final court order.

7.1.4 The City and the Participating Agency or Agencies which need New Contract Capacity shall thereafter enter into an agreement specifying the terms and conditions pursuant to which the New Contract Capacity will be provided, including the amount of capacity and the New Contract Capacity. Each party obtaining New Contract Capacity shall reimburse the Metro System for the costs of acquisition, planning, design, and construction of facilities necessary to provide the New Contract Capacity that have been paid by other parties under Section 7.2.3.

7.1.5 The parties recognize that the City may acquire and plan, design and construct facilities that are authorized pursuant to both Article III and Article VII of this Agreement. Under such circumstances, the City shall allocate the costs and capacity of such facilities pursuant to Article III and Section 7.1.1 as applicable.

7.2 <u>Charges for Facilities Providing New Contract Capacity</u>

7.2.1 The expense of acquisition, planning, design, and construction of New Contract Capacity shall be borne by the City or the Participating Agency or Agencies in need of such New Contract Capacity.

7.2.2 Notwithstanding any provision in this Agreement, the City and the Participating Agencies shall pay for the Operation and Maintenance Costs of all facilities pursuant to the payment provisions of Article III, including those facilities acquired and constructed to provide New Contract Capacity in the Metro System.

7.2.3 Charges for the acquisition, planning, design and construction of facilities solely to provide New Contract Capacity shall be paid for by the Participating Agencies and the City pursuant to the payment provisions in Article III of this Agreement until an agreement is reached under Section 7.1.4. or pending the resolution of any dispute relating to the City's determination with respect to New Contract Capacity.

7.2.4 As a ministerial matter, the City shall prepare amendments to Exhibits A and B to reflect the acquisition or construction of facilities to provide New Contract Capacity pursuant to this Article. The City shall give notice of the Amendments to the Participating Agencies, and shall provide copies of the Amendments with the notice.

7.3 Liquidated Damages.

7.3.1 The parties recognize that appropriate capacity and long term planning for same are essential to the proper provision of sewerage service. In recognition of same, the parties agree that discharge beyond Contract Capacity will result in damages that are difficult to determine. Therefore, the damages are being liquidated in an amount estimated to the actual damage that will be incurred by the City, and is not a penalty. In the event that a Participating Agency exceeds its Contract Capacity after the City has given notice that New Capacity is required, said Participating Agency shall be assessed and pay a liquidated damages until such time as the Participating Agency obtains the required New Capacity. The liquidated damages shall be fifteen percent (15%) of the quarterly charges authorized pursuant to this Agreement times the amount of Flow which exceeds the Participating Agency's Contract Capacity for the each quarter in which any exceedance occurs.

7.3.2 In the event that a Participating Agency fails to pay the charges imposed under this Article after the City has given notice that payment is required, said Participating Agency shall be assessed and shall pay liquidated damages of ten percent (10%) of the total outstanding charges each quarter until said charges are paid in full.

VIII. THE METRO COMMISSION

8.1 Membership.

The Metro Commission shall consist of one representative from each Participating Agency. Each Participating Agency shall have the right to appoint a representative of its choice to the Metro Commission. If a Participating Agency is a dependent district whose governing body is that of another independent public agency that Participating Agency shall be represented on the Metro Commission by a representative appointed by the governing body which shall have no more than one representative no matter how many Participating Agencies it governs. Each member has one vote in any matter considered by the Metro Commission. The Metro Commission shall establish its own meeting schedule and rules of conduct. The City may participate in the Metro Commission on an ex officio, non-voting basis.

8.2 Advisory Responsibilities of Metro Commission.

8.2.1 The Metro Commission shall act as an advisory body, advising the City on matters affecting the Metro System. The City shall present the position of the majority of the Metro Commission to the City's governing body in written staff reports. The Metro Commission may prepare and submit materials in advance and may appear at any hearings on Metro System matters and present its majority position to the governing body of the City.

8.2.2 The Metro Commission may advise the City of its position on any issue relevant to the Metro System.

IX. DISPUTE RESOLUTION

This Section governs all disputes arising out of this Agreement.

9.1 Mandatory Non-Binding Mediation.

If a dispute arises among the parties relating to or arising from a party's obligations under this Agreement that cannot be resolved through informal discussions and meetings, the parties involved in the dispute shall first endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the rules of JAMS, AAA, or any other neutral organization agreed upon by the parties before having recourse in a court of law. Mediation shall be commenced by sending a Notice of Demand for Mediation to the other party or parties to the dispute. A copy of the notice shall be sent to the City, all other Participating Agencies, and the Metro Commission.

9.2 Selection of Mediator.

A single mediator that is acceptable to the parties involved in the dispute shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Agreement, if possible, and chosen from lists furnished by JAMS, AAA, or any other agreed upon mediator.

9.3 Mediation Expenses.

The expenses of witnesses for either side shall be paid by the party producing such witnesses. All mediation costs, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be Metro System costs.

9.4 Conduct of Mediation.

Mediation hearings will be conducted in an informal manner. Discovery shall not be allowed. The discussions, statements, writings and admissions and any offers to compromise during the proceedings will be confidential to the proceedings (pursuant to California Evidence Code Sections 1115 – 1128 and 1152) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. The parties involved in the dispute shall have representatives attend the mediation who are authorized to settle the dispute, though a recommendation of settlement may be subject to the approval of each agency's boards or legislative bodies. Either party may have attorneys, witnesses or experts present.

9.5 Mediation Results.

Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

9.6 Performance Required During Dispute.

Nothing in this Article shall relieve the City and the Participating Agencies from performing their obligations under this Agreement. The City and the Participating Agencies shall be required to comply with this Agreement, including the performance of all disputed activity and disputed payments, pending the resolution of any dispute under this Agreement.

9.7 Offers to Compromise

Any offers to compromise before or after mediation proceedings will not be used to prove a party's liability for loss or damage unless otherwise agreed by the parties in writing (pursuant to Evidence Code Section 1152.)

X. INSURANCE AND INDEMNITY

10.1 City Shall Maintain All Required Insurance.

10.1.1 The City shall maintain all insurance required by law, including workers' compensation insurance, associated with the operation of the Metro System.

10.1.2 Throughout the term of this Agreement the City shall procure and maintain in effect liability insurance covering, to the extent reasonably available, any and all liability of the City, the Metro System and the Participating Agencies, including their respective officers, directors, agents, and employees, if any, with respect to or arising out of the ownership, maintenance, operation, use and/or occupancy of the Metro System and all operations incidental thereto, including but not limited to structural alterations, new construction and demolition, including coverage for those hazards generally known in the insurance industry as exploding, collapse and underground property damage.

10.1.3 Said insurance shall name the City, and its respective officers, employees, and agents, and shall have a limit of not less than $24,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage suffered by any person. Said insurance may provide for a deduction from coverage, which deductible shall not be more than $1,000,000. Said limits and/or deductible may be adjusted from time to time. Said insurance may be evidenced by a policy or policies covering only the Metro System or by endorsement to bring the same within a blanket policy or policies held by the City covering other properties in which the City has an interest provided the policy or policies have a location aggregate provision. The City may satisfy the first $1,000,000 per occurrence with a self-insurance retention program for public liability claims. The policy or policies shall name the Participating Agencies as additional insureds with evidence of same supplied to each. Insurance premiums, claims payments and claims administration costs shall be included in the computation of the SSC.

10.2 Substantially Equivalent Coverage.

In the event of a transfer of the Metro System to a nonpublic entity pursuant to Article II, coverage substantially equivalent to all the above provisions shall be maintained by any successor in interest.

XI. INTERRUPTION OF SERVICE

Should the Metro System services to the Participating Agencies be interrupted as a result of a major disaster, by operation of federal or state law, or other causes beyond the City's control, the Participating Agencies shall continue all payments required under this Agreement during the period of the interruption.

XII. NOTICES REQUIRED UNDER AGREEMENT

The City and each Participating Agency shall give notice when required by this Agreement. All notices must be in writing and either served personally, or mailed by certified mail. The notices shall be sent to the officer listed for each party, at the address listed for each party in Exhibit D in accordance with this Article. If a party wishes to change the officer and/or

address to which notices are given, the party shall notify all other parties in accordance with this Article. Upon such notice, as a ministerial matter, the City shall amend Exhibit D to reflect the changes. The amendment shall be made within thirty (30) days after the change occurs. The City shall keep an updated version of Exhibit D on file with the City Public Utilities Department. The City shall provide a copy of the amended Exhibit D to all parties.

XIII. EFFECTIVE DATE AND EXPIRATION

13.1 Effective Date.

This Agreement shall be effective thirty (30) days after execution by the City and all of the Participating Agencies, and shall be dated as of the signature date of the last executing party.

13.2 Expiration.

Subject to the rights and obligations set forth in Section 13.4, this Agreement shall expire on December 31, 2065. This Agreement is subject to extension by agreement of the parties. The parties shall commence discussions on an agreement to provide wastewater treatment services beyond the year 2065 on or before December 31, 2055.

13.3 Contract Capacity Rights Survive Expiration.

The Participating Agencies' right to obtain wastewater treatment services from the facilities referred to in, or constructed pursuant to this Agreement shall survive the expiration of the Agreement. Provided however, upon expiration of this Agreement, the Participating Agencies shall be required to pay their proportional share based on Flow and Strength of all Metro System Costs (Capital Improvement Costs and Operation and Maintenance) to maintain their right to such treatment services. Provided further, that in the event that the Participating Agencies exercise their rights to treatment upon expiration of this Agreement, the City shall have the absolute right, without consultation, to manage, operate and expand the Metro System in its discretion.

13.4 Abandonment.

After December 31, 2065, the City may abandon the Metro System upon delivery of notice to the Participating Agencies ten (10) years in advance of said abandonment. Upon notice by the City to abandon the Metro System, the parties shall meet and confer over the nature and conditions of such abandonment. In the event the parties cannot reach agreement, the matter shall be submitted to mediation under Article IX. In the event of abandonment, the City shall retain ownership of all Metro System assets free of any claim of the Participating Agencies.

XIV. GENERAL

14.1 Exhibits.

1. This Agreement references Exhibits A through G. Each exhibit is attached to this Agreement, and is incorporated herein by reference. The exhibits are as follows:

Exhibit A	Metro Facilities;
Exhibit B	Contract Capacities;
Exhibit C	Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies;
Exhibit D	Notice Listing;
Exhibit E	Map of Reclaimed Water Projects;
Exhibit F	Pure Water Cost Allocation and Revenues; and
Exhibit G	2050 Flow Projections

14.2 Amendment of Agreement.

Except as provided in this Agreement, and recognizing that certain amendments are ministerial and preapproved, this Agreement may be amended or supplemented only by a written agreement between the City and the Participating Agencies stating the parties' intent to amend or supplement the Agreement.

14.3 Construction of Agreement.

14.3.1 Drafting of Agreement

It is acknowledged that the City and the Participating Agencies, with the assistance of competent counsel, have participated in the drafting of this Agreement and that any ambiguity should not be construed for or against the City or any Participating Agency on account of such drafting.

14.3.2 Entire Agreement

The City and each Participating Agency represent, warrant and agree that no promise or agreement not expressed herein has been made to them, that this Agreement contains the entire agreement between the parties, that this Agreement supersedes any and all prior agreements or understandings between the parties unless otherwise provided herein, and that the terms of this Agreement are contractual and not a mere recital; that in executing this Agreement, no party is relying on any statement or representation made by the other party, or the other party's representatives concerning the subject matter, basis or effect of this Agreement other than as set forth herein; and that each party is relying solely on its own judgement and knowledge.

14.3.3 Agreement Binding on All

This Agreement shall be binding upon and shall inure to the benefit of each of the parties, and each of their respective successors, assigns, trustees or receivers. All the covenants contained in this Agreement are for the express benefit of each and all such parties. This Agreement is not intended to benefit any third parties, and any such third party beneficiaries are expressly disclaimed.

14.3.4 Severability

14.3.4.1 Should any provision of this Agreement be held invalid or illegal, such invalidity or illegality shall not invalidate the whole of this Agreement, but, rather, the Agreement shall be construed as if it did not contain the invalid or illegal part, and the rights and obligations of the parties shall be construed and enforced accordingly except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely frustrate either the City's or a Participating Agency's essential objectives set forth in this Agreement.

14.3.4.2 Should a court determine that one or more components of the allocation of costs set forth in this Agreement places the City or a Participating Agency in violation of Article XIII, Section 6 of the California Constitution with respect to their ratepayers, such components shall no longer be of force or effect. In such an event, the City and the Participating Agencies shall promptly meet to renegotiate the violative component of the cost allocation to comply with Article XIII, Section 6 of the California Constitution, and use the dispute resolution process in Article IX of this Agreement if an agreement cannot be reached through direct negotiation.

14.3.5 Choice of Law

This Agreement shall be construed and enforced pursuant to the laws of the State of California.

14.3.6 Recognition of San Diego Sanitation District as Successor to Certain Parties.

The parties hereby acknowledge and agree that the San Diego County Sanitation District is a Participating Agency under this Agreement as the successor in interest to the Alpine Sanitation District, East Otay Mesa Sewer Maintenance District, Lakeside Sanitation District, Spring Valley Sanitation District, and Winter Gardens Sewer Maintenance District.

14.4 <u>Declarations Re: Agreement</u>.

14.4.1 Understanding of Intent and Effect of Agreement

The parties expressly declare and represent that they have read the Agreement and that they have consulted with their respective counsel regarding the meaning of the terms and conditions contained herein. The parties further expressly declare and represent that they fully understand the content and effect of this Agreement and they approve and accept the terms and conditions contained herein, and that this Agreement is executed freely and voluntarily.

14.4.2 Warranty Regarding Obligation and Authority to Enter Into This Agreement

Each party represents and warrants that its respective obligations herein are legal and binding obligations of such party, that each party is fully authorized to enter into this Agreement, and that the person signing this Agreement hereinafter for each party has been duly authorized to sign this Agreement on behalf of said party.

14.5 Restrictions on Veto of Transfers and Acquisitions of Capacity

Each party understands and agrees that this Agreement governs its respective rights and responsibilities with respect to the subject matter hereto and specifically recognizes that with respect to the transfer and acquisition of Contract Capacity (Section 4.2) or the creation of New Contract Capacity for any Participating Agency (Article VII), no Participating Agency has a right to veto or prevent the transfer of capacity by and among other Participating Agencies or with the City, or to veto or prevent the creation or acquisition capacity for another Participating Agency or Agencies, recognizing that by signing this Agreement each Participating Agency has expressly preapproved such actions. The sole right of a Participating Agency to object to any of the foregoing shall be through expression of its opinion to the Metro Commission and, where applicable, through exercise of its rights under the dispute resolution provisions of this Agreement.

14.6 Right to Make Other Agreements

Nothing in this Agreement limits or restricts the right of the City or the Participating Agencies to make separate agreements among themselves without the need to amend this Agreement, provided that such agreements are consistent with this Agreement. Nothing in this Agreement or Exhibit F limits or restricts the right of the City or the Participating Agencies to enter into separate agreements for the purchase or sale of Repurified Water produced by the Water Repurification System or sharing in City Water Utility PW Costs. Such agreements shall not affect the cost allocation and Metro System revenues delineated in Exhibit F.

14.7 Limitation of Claims

Notwithstanding any longer statute of limitations in State law, for purposes of any claims asserted by the City or a Participating Agency for refunds of overpayments or collection of undercharges arising under this Agreement, the parties agree that such refunds or collections shall not accrue for more than four years prior to the date that notice of such claim is received by the City or a Participating Agency. This also applies to any related

adjustments to each Participating Agency's share of net Metro System costs or revenues resulting from the resolution of such claims. The City and the Participating Agencies hereby waive any applicable statute of limitations available under State law that exceed four years. In no case shall the limitations period stated in this section begin to accrue until the date that the annual audit and year-end adjustment from which the claim arises are complete.

14.8 Counterparts

This Agreement may be executed in counterparts. This Agreement shall become operative as soon as one counterpart hereof has been executed by each party. The counterparts so executed shall constitute one Agreement notwithstanding that the signatures of all parties do not appear on the same page.

14.9 No Third Party Beneficiaries

This Agreement is intended to benefit only the parties hereto and no other person or entity has or shall acquire any rights hereunder. This Agreement does not create any third party beneficiary rights.

SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the Parties have executed this Amendment and Restated Regional Wastewater Disposal Agreement as of the date first set forth above.

CITY OF CHULA VISTA	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF CORONADO	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF DEL MAR	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF EL CAJON	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF IMPERIAL BEACH	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF LA MESA	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
LEMON GROVE SANITATION DISTRICT	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF NATIONAL CITY	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____

OTAY WATER DISTRICT

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

PADRE DAM MUNICIPAL WATER DISTRICT

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

CITY OF POWAY

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

CITY OF SAN DIEGO

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

SAN DIEGO COUNTY SANITATION DISTRICT

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

EXHIBIT A

METRO FACILITIES AS OF 6/27/18

Existing Facilities

Pt. Loma Wastewater Treatment Plant
Pt. Loma Ocean Outfall
Pump Station #1
Pump Station #2
South Metro Interceptor
North Metro Interceptor
Metro Force Mains 1 & 2
Digested Sludge Pipeline
North City Water Reclamation Plant
Metro Biosolids Center (NCWR Plant Related Facilities)
North City Tunnel Connector
North City Raw Sludge Pipeline
Centrate Pipeline
Rose Canyon Parallel Trunk Sewer
Second Rose Canyon Trunk Sewer
East Mission Bay Trunk Sewer
Morena Blvd. Interceptor
South Bay Water Reclamation-Plant
Dairy Mart Road & Bridge Rehab
Grove Avenue Pump Station
Grove Avenue Pump Station Sewer Pipeline
South Bay Raw Sludge Pipeline
South Bay Land/Ocean Outfall[1]
Environmental Monitoring & Technical Services Laboratory
Centrate Treatment Facility at Metropolitan Biosolids Center
Metro Operations Center (Iv10C) Complex (based on annual facilities allocation)

Additional Metro Facilities

Note: The below listed facilities could be required as part of the Metro System for hydraulic capacity, good engineering practices and/or compliance with applicable law, rules or regulations, including OPRA, and the continuation of the City's waiver of applicable treatment standards at the Point Loma Wastewater Treatment Plant ("Waiver").

South Bay Sludge Processing Facility

[1] The South Bay Land/Ocean Outfall is jointly owned by the International Boundary and Water Commission, U.S. Section (60.06%) and the City of San Diego (39.94%). The capacity of the City's portion of the outfall as of the date of this Agreement is 74 MDG average dry weather flow, of which the Metro System has a capacity right to 69.2 MGD and the City as an exclusive right to 4.8 MGD.

South Bay Secondary Treatment Plant, Phase I (21 MGD)
South Bay Secondary Sewers, Phase I

Note: These facilities could be required as part of the Metro System for hydraulic capacity, good engineering practices, compliance with OPRA, and to maintain the City's Waiver. In the event that hydraulic capacity demands, or the obligations of OPRA (or its successor) or the terms of the City's Waiver change, these facilities may not be required or may be modified or supplemented, as appropriate, pursuant to the terms of this Agreement.

South Bay Secondary Treatment Plant, Phase II (28 MGD)
South Bay Secondary Sewers, Phase II

Note: These facilities could be added to the Metro System as part of Phase I of the Pure Water Program.

Expansion of North City Water Reclamation Plant
Morena Pump Station

EXHIBIT B

CONTRACT CAPACITIES

Annual Average Daily Flow
in
Millions of Gallons Per Day

Metro Agency	Original Contract Capacity	Additional Contract Capacity[1]	New Contract Capacity[2]	Transferred Contract Capacity[3]	Total Contract Capacity	Percent of Total
Chula Vista	19.843	1.021	0.000	0.000	20.864	8.182%
Coronado	3.078	0.172	0.000	0.000	3.250	1.275%
Del Mar	0.821	0.055	0.000	0.000	0.876	0.344%
East Otay Mesa	0.000	0.000	0.000	1.000	1.000	0.392%
El Cajon	10.260	0.655	0.000	0.000	10.915	4.280%
Imperial Beach	3.591	0.164	0.000	0.000	3.755	1.473%
La Mesa	6.464	0.359	0.000	0.170	6.993	2.742%
Lakeside-Alpine	4.586	0.255	0.000	0.000	4.841	1.898%
Lemon Grove	2.873	0.154	0.000	0.000	3.027	1.187%
National City	7.141	0.346	0.000	0.000	7.487	2.936%
Otay	1.231	0.056	0.000	0.000	1.287	0.505%
Padre Dam	6.382	0.343	0.000	(0.500)	6.225	2.441%
Poway	5.130	0.264	0.000	0.500	5.894	2.312%
Spring Valley	10.978	0.545	0.000	(1.170)	10 .353	4.060%
Wintergardens	1.241	0.068	0.000	0.000	1.309	0.513%
Subtotal	83.619	4.459	0.000	0.000	88.078	34.540%

Revised 04-21-2010

Metro Agency	Original Contract Capacity	Additional Contract Capacity[1]	New Contract Capacity[2]	Transferred Contract Capacity[3]	Total Contract Capacity	Percent of Total
San Diego	156.381	10.541	0.000	0.000	166.922	65.460%
Total	**240.000**	**15.000**	**0.000**	**0.000**	**255.000**	**100.00%**

1. Additional Contract Capacity is capacity allocated pursuant to Section 4.3.1 of the Agreement.
2. New Contract Capacity is capacity obtained pursuant to Section 6 of the Agreement.
3. Transferred Contract Capacity is capacity obtained pursuant to Section 4.2 of the Agreement.

EXHIBIT C

ADMINISTRATIVE PROTOCOL ON ALLOCATION OF OPERATING RESERVES AND DEBT SERVICE COVERAGE TO PARTICIPATING AGENCIES

EXHIBIT D

NOTICE LISTING

City Manager
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91919
Phone: 691-5031
Fax: 585-5612

City Manager
City of Coronado
1825 Strand Way
Coronado, CA 92113
Phone: 522-7335
Fax: 522-7846

City Manager
City of Del Mar
1050 Camino Del Mar
Del Mar, CA 92014
Phone: 755-9313 ext. 25
Fax: 755-2794

City Manager
City of El Cajon
200 Civic Center Way
El Cajon, CA 92020
Phone: 441-1716
Fax: 441-1770

City Manager
City of Imperial Beach
825 Imperial Beach Blvd.
Imperial Beach, CA 91932
Phone: 423-8300 ext. 7
Fax: 429-9770

City Manager
City of La Mesa
8130 Allison Avenue
La Mesa, CA 91942
Phone: 667-1101
Fax: 462-7528

City Manager
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945
Phone: 464-6934
Fax: 460-3716

City Manager
City of National City
1243 National City Blvd.
National City, CA 91950
Phone: 336-4240
Fax: 336-4327

City Manager
City of Poway
13325 Civic Center Drive
Poway, CA 92064
Phone: 679-4200
Fax: 679-4226

City Manager
City of San Diego
202 “C” Street
San Diego, CA 92101
Phone: 236-5949
Fax: 236-6067

Chief Administrative Officer
County of San Diego
1600 Pacific Highway, Rm. 209
San Diego, CA 92101
Phone: 531-5250
Fax: 557-4060

General Manager
Otay Water District
2554 Sweetwater Springs Blvd.
Spring Valley, CA 91977
Phone: 670-2210
Fax: 670-2258

General Manager
Padre Dam Municipal Water District
9300 Fanita Pkwy
Santee, CA 92071
Phone: 258-4610
Fax: 258-4794

EXHIBIT E

MAP OF RECLAIMED WATER PROJECTS

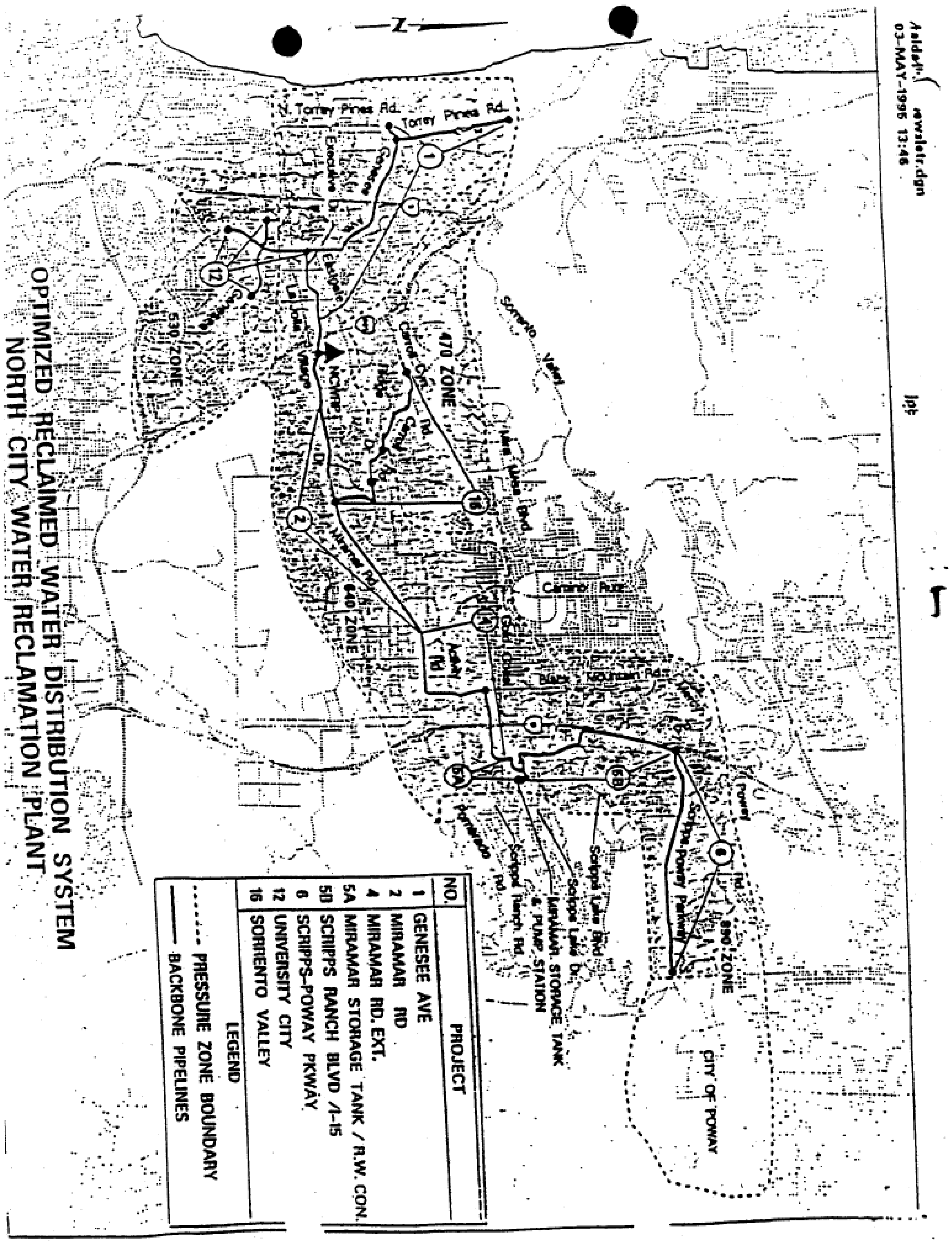


EXHIBIT F

PURE WATER COST ALLOCATION AND REVENUES

EXHIBIT G

2050 FLOW PROJECTIONS

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10
Agency	2050 Projected Flow %	Average Daily Dry Weather Flows 2050	10 Year Yearly Wet Weather Average Daily Flow	Peak 24 Hour Wet Weather Flow	10 Year Average Wet Weather Average Daily Flow Non-Metro Capacity	Wet Weather Flow Rights (10 Year Wet Weather Daily Average Flow)		Peak 24 Hour Wet Weather Capacity	
Chula Vista	10.914%	19.580	22.024	44.049	0.000	22.024	11.465%	44.049	11.183%
Coronado	1.359%	2.438	2.742	5.485	0.000	2.742	1.428%	5.485	1.392%
Del Mar	0.017%	0.030	0.034	0.069	0.000	0.034	0.018%	0.069	0.017%
East Otay Mesa	2.398%	4.302	4.839	9.678	0.000	4.839	2.519%	9.678	2.457%
El Cajon	4.233%	7.594	8.542	17.084	0.000	8.542	4.447%	17.084	4.337%
Imperial Beach	1.286%	2.307	2.595	5.190	0.000	2.595	1.351%	5.190	1.318%
La Mesa	2.683%	4.813	5.414	10.829	0.000	5.414	2.818%	10.829	2.749%
Lakeside/Alpine	3.751%	6.729	7.570	15.139	6.434	1.135	0.591%	8.705	2.210%
Lemon Grove	1.274%	2.286	2.571	5.142	0.000	2.571	1.338%	5.142	1.305%
National City	2.180%	3.911	4.399	8.798	0.000	4.399	2.290%	8.798	2.234%
Otay	0.213%	0.382	0.430	0.860	0.000	0.430	0.224%	0.860	0.218%
Padre Dam	1.386%	2.486	2.797	5.594	2.377	0.420	0.218%	3.216	0.817%
Poway	1.733%	3.109	3.497	6.994	0.000	3.497	1.820%	6.994	1.776%
Spring Valley	4.656%	8.353	9.396	18.792	0.000	9.396	4.891%	18.792	4.771%
Wintergardens	0.515%	0.924	1.039	2.079	0.883	0.156	0.081%	1.195	0.303%
San Diego	61.402%	110.155	123.909	247.818	0.000	123.909	64.501%	247.818	62.913%
Total	100.00%	179.4	201.8	403.6	9.6948756	192.1049304	100%	393.9	100%

EXHIBIT G

7/16/18 Version

AMENDED AND RESTATED

REGIONAL WASTEWATER DISPOSAL AGREEMENT

BETWEEN

THE CITY OF SAN DIEGO

AND

THE PARTICIPATING AGENCIES

IN

THE METROPOLITAN SEWERAGE SYSTEM

AMENDED AND RESTATED

REGIONAL WASTEWATER DISPOSAL AGREEMENT

TABLE OF CONTENTS

		Page
I.	DEFINITIONS	2
II.	OWNERSHIP AND OPERATION OF THE METRO SYSTEM	~~4~~6
III.	PAYMENT AND MONITORING PROVISIONS	~~8~~11
IV.	CAPACITY RIGHTS	~~9~~14
V.	SYSTEM OF CHARGES	~~10~~15
VI.	PLANNING	~~14~~20
VII.	FACILITIES SOLELY FOR NEW CONTRACT CAPACITY	~~14~~20
VIII.	THE METRO COMMISSION	~~16~~23
IX.	DISPUTE RESOLUTION	~~17~~23
X.	INSURANCE AND INDEMNITY	~~18~~24
XI.	INTERRUPTION OF SERVICE	~~19~~25
XII.	NOTICES REQUIRED UNDER AGREEMENT	~~19~~25
XIII.	EFFECTIVE DATE AND TERMINATION	~~19~~26
XIV.	GENERAL	~~20~~26

Exhibits

A. Metro Facilities

B. Contract Capacities

C. ~~Existing Capacity Charge Listing~~Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies

D. Notice Listing

E. Reclaimed Water Distribution System

F. Pure Water Cost Allocation and Revenues

G. 2050 Flow Projections

AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT

THIS AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT is made and entered into this _____ day of _____, ~~1998~~2018, by and between the CITY OF SAN DIEGO, a municipal corporation ("the City"); and the CITY OF CHULA VISTA, a municipal corporation; the CITY OF CORONADO, a municipal corporation; the CITY OF DEL MAR, a municipal corporation; the CITY OF EL CAJON, a municipal corporation; the CITY OF IMPERIAL BEACH, a municipal corporation; the CITY OF LA MESA, a municipal corporation; the LEMON GROVE SANITATION DISTRICT, a political subdivision of the State of California; the CITY OF NATIONAL CITY, a municipal corporation; the CITY OF POWAY, a municipal corporation; the ~~WINTER GARDENS SEWER MAINTENANCE DISTRICT, a maintenance district established pursuant to California Streets & Hwys. Code section 5820 et seq.; the ALPINE SANITATION DISTRICT, a political subdivision of the State of California; the LAKESIDE SANITATION DISTRICT, a political subdivision of the State of California; the SPRING VALLEY SANITATION DISTRICT, a political subdivision of the State of California; the~~ OTAY WATER DISTRICT, a political subdivision of the State of California; ~~and~~ the PADRE DAM MUNICIPAL WATER DISTRICT, a political subdivision of the State of California; and the SAN DIEGO COUNTY SANITATION DISTRICT, a political subdivision of the State of California (the "Participating Agencies").

RECITALS

WHEREAS, the City and the Participating Agencies (or their predecessors in interest) entered into that certain Regional Wastewater Disposal Agreement dated May 18, 1998 (the "1998 Agreement"), which provided, among other things, for certain contract rights to capacity in the Metropolitan Sewerage System, a system of wastewater conveyance, treatment, and disposal facilities ("Metro System") and the establishment of a mechanism to fund the planning, design, construction, operation, and maintenance of the Metro System by the City and the Participating Agencies; and

~~WHEREAS, the City and the Participating Agencies are autonomous entities each having the authority to provide and to contract for the conveyance, treatment and disposal of wastewater.~~

~~WHEREAS, each Participating Agency currently has a contract with the City to provide wastewater conveyance, treatment and disposal services through the Metropolitan Sewerage System (Metro System), a system of wastewater conveyance, treatment and disposal facilities.~~

~~WHEREAS, each of the Participating Agencies has specified capacity service rights in the existing Metro System pursuant to pre-existing agreements with the City.~~

WHEREAS, the purposes of ~~this~~the 1998 Agreement ~~are~~were: (1) to replace the ~~existing~~prior-existing sewage disposal agreements between the City and the Participating Agencies; (2) to provide certain contract rights to capacity in the Metro System to the Participating Agencies; (3) to establish a mechanism to fund the planning, design, construction,

operation and maintenance of the Metro System by the City and the Participating Agencies as necessary to provide hydraulic capacity, and to comply with applicable law and with generally accepted engineering practices; and (4) to establish a system of charges which allocates the costs of the planning, design and construction of such new wastewater conveyance, treatment and disposal facilities as are necessary solely to provide for new capacity on a fair and equitable basis.; and

WHEREAS, on April 29, 2014 the San Diego City Council gave its approval and support for the Pure Water San Diego program by adoption of Resolution No. R-308906. The Resolution approved and supported the City's efforts to develop an implementation strategy to offload wastewater flow from the Point Loma Wastewater Treatment Plant through implementation of potable reuse, resulting in effluent discharged to the Pacific Ocean being equivalent to what would be achieved by upgrading the Point Loma Wastewater Treatment Plant to a secondary treatment plant (secondary equivalency); and

WHEREAS, the City is implementing a phased, multi-year program designed to regionally produce at least 83 million gallons per day of safe, reliable potable water using new, expanded, or modified facilities, some of which will include Metro System facilities, in order to achieve secondary equivalency at the Point Loma Wastewater Treatment Plant; and

WHEREAS, the Pure Water Program will not only benefit the City by producing repurified water, but also the Participating Agencies and their wastewater customers, especially if secondary equivalency is recognized through federal legislation amending the Clean Water Act. Specifically, implementation of the Pure Water Program will reduce wastewater discharges to the Point Loma Wastewater Treatment Plant, part of the Metro System where a large portion of the Participating Agencies' wastewater is currently treated and disposed by discharging it into the Pacific Ocean. By diverting wastewater from the Point Loma Wastewater Treatment Plant and reducing the effluent discharged into the Pacific Ocean, the City and the Participating Agencies will potentially avoid billions of dollars in unnecessary capital, financing, energy, and operating costs to upgrade the Point Loma plant to secondary treatment at full capacity. Avoiding such costs would result in significant savings for regional wastewater customers; and

WHEREAS, the Padre Dam Municipal Water District, San Diego County Sanitation District, and the City of El Cajon have proposed a program to produce up to 15 million gallons per day of safe, reliable potable water for East San Diego County using wastewater that would otherwise be disposed of in the Metro System ("East County AWP Program"). By offloading wastewater and wastewater contents from the Point Loma Wastewater Treatment Plant, the East County AWP Program would, if implemented, help the City's and region's efforts to achieve long-term compliance with the Clean Water Act by producing a regional annual average of at least 83 million gallons per day of water suitable for potable reuse by December 31, 2035, as described in the Cooperative Agreement in Support of Pure Water San Diego entered into by the City and certain environmental stakeholders on December 9, 2014.

WHEREAS, Section XIV, subsection B, of the 1998 Agreement provided that the Parties may amend the Agreement by a written agreement between the City and all Participating Agencies stating the parties' intent to amend the Agreement; and

WHEREAS, in order to comprehensively and equitably address the costs and revenues associated with the Pure Water Program and the related construction, expansion, and/or modification of Metro System facilities, the City and Participating Agencies wish to amend and restate the Regional Wastewater Disposal Agreement as provided herein.

THEREFORE, in consideration of the mutual promises set forth herein, the City and the Participating Agencies agree as follows:

I. DEFINITIONS

A. **Annual Average Daily Flow** is the number, in millions of gallons of wastewater per day ("MGD"), calculated by dividing total Flow on a fiscal year basis by 365 days.

B. **Brine** is a waste byproduct of the demineralization process at an upstream Water Repurification System facility or a Reclaimed Water facility.

C. **Capital Expense Rate** is the cost per acre foot that will apply if the Metro System's Capital Improvement Costs for the Pure Water Program and/or upgrading of the Point Loma WTP to secondary treatment exceed $1.8 billion, as further described in Exhibit F.

D. ~~B.~~ **Capital Improvement Costs** are costs associated with the planning, design, financing, construction, or reconstruction of facilities.

E. ~~C.~~ **Chemical Oxygen Demand or "COD"** means the measure of the chemically decomposable material in wastewater, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination for Water and Wastewater," or any successor publication which establishes the industry standard.

F. **City Water Utility PW Costs** are those Pure Water Program costs allocated to the City's water utility and therefore excluded as Metro System costs under Exhibit F.

G. ~~D.~~ **Contract Capacity** is the contractual right possessed by each Participating Agency to discharge wastewater into the Metro System pursuant to this Agreement up to the limit set forth in Exhibit B attached hereto. Contract Capacity is stated in terms of Annual Average Daily Flow.

H. ~~E.~~ **Flow** is the amount of wastewater discharged by the City and each Participating Agency.

I. ~~F.~~ **Functional-Design Methodology** shall mean the process of allocating

Operation and Maintenance Costs and Capital Improvement Costs to Flow and Strength parameters recognizing the benefits of both the design criteria and the primary function of a unit process.

J. **Metro Commission** is the advisory body created under Section VIII.

K. ~~G.~~ **Metro System Costs** are those costs set forth in Section ~~V.B.1~~5.2.1.

L. ~~H.~~ **Metro System Revenues** are those revenues set forth in Section ~~V.B.2~~5.2.2.

M. ~~I.~~ **Metropolitan Sewerage System or Metro System** shall mean and consist of those facilities and contract rights to facilities which are shown and/or described in Exhibit A attached hereto and incorporated by this reference, including any amendments thereto authorized by this Agreement.

N. ~~J.~~ **Municipal System** shall mean the City's wastewater collection system, which consists of pipelines and pump stations, that collects wastewater within the City of San Diego and conveys it to the Metropolitan Sewerage System for treatment and disposal.

O. ~~K.~~ **New Capacity** is the capacity to discharge wastewater outside the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.

P. ~~L.~~ **New Contract Capacity** is the capacity to discharge wastewater into the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.

Q. ~~M.~~ **North City Water Reclamation Plant** or **North City WRP** is the 30 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 4949 Eastgate Mall in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.

R. ~~N.~~ **Operation and Maintenance Costs** are the costs of those items and activities required by sound engineering and management practices to keep the conveyance, disposal, treatment, and reuse facilities functioning in accordance with all applicable laws, rules, and regulations.

S. ~~O.~~ **Point Loma Wastewater Treatment Plant** or **Point Loma WTP** is the 240 million gallons per day (as of the date of this Agreement) advanced primary treatment plant which includes four major processes: screening, grit removal, sedimentation, and digestion.

T. **Pure Water Program** is the City's phased, multi-year program designed to produce at least 83 million gallons per day of Repurified Water using new, expanded, or modified facilities, some of which will include Metro System facilities.

U. ~~P.~~ **Reclaimed Water (or Recycled Water)** shall have the definition set forth in Title 22, Division 4 of the California Code of Regulations and shall mean water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or a controlled use that otherwise could not occur.

V. ~~Q.~~ **Reclaimed Water (or Recycled Water) Distribution System** shall mean and consist of those eight (8) reclaimed water projects listed in Attachment B of the Stipulated Final Order for Injunctive Relief approved by the U.S. District Court on June 6, 1997 in *U.S.A. v. City of San Diego*, Case No. 88-1101-B, and attached hereto as Exhibit E.

W. ~~R.~~ **Repurified Water** shall mean water which, as a result of advanced treatment of Reclaimed Water, is suitable for use as a source of domestic (or potable) water supply.

X. **Repurified Water Revenue** is the cost savings that will be realized when the City water utility's annual costs per-acre foot for Repurified Water are less than the purchase costs per-acre foot for comparable water from the San Diego County Water Authority, as further described in Exhibit F.

Y. ~~S.~~ **Return Flow** shall mean the effluent created by the dewatering of digested biosolids, which includes centrate.

Z. ~~T.~~ **Reuse** shall mean to use again, such as water which has been reclaimed or repurified, or sludge that has been converted to biosolids for beneficial use.

AA. ~~U.~~ **South Bay Land/Ocean Outfall** is the facility that is jointly owned by the International Boundary & Water Commission (U.S. Section IBWC) and the City of San Diego. The Outfall is planned to convey and discharge treated effluent from the IBWC's International Wastewater Treatment Plant and treated effluent from the City's South Bay Water Reclamation Plant and the South Bay Secondary Treatment Plant. As of the date of this Agreement, the Outfall has a current Average Daily Flow Capacity of 174 million gallons per day. As of the date of this Agreement, the City owns 39.94% of the capacity of the Outfall and the balance of the capacity is owned by the IBWC.

BB. **South Bay Water Reclamation Plant** is the 15 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 2411 Dairy Mart Road in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.

CC. ~~V.~~ **Strength** means the measurement of Suspended Solids (SS) and Chemical Oxygen Demand (COD) within the wastewater Flow and any other measurement required by law after the date of this Agreement.

DD. ~~W. "~~**Suspended Solids**~~"~~ or ~~"~~**SS**~~"~~ means the insoluble solid matter in wastewater that is separable by laboratory filtration, as determined by the procedures

specified in the most current edition of "Standard Methods for the Examination of Water and Wastewater," or any successor publication which establishes the industry standard.

EE. ~~X.~~ **Tertiary Component** is that portion of the wastewater treatment process that currently filters the secondary treated wastewater effluent through fine sand and/or anthracite coal to remove fine Suspended Solids and disinfects it to meet the requirements of the California Administrative Code, Title 22, or its successor for filtered and disinfected wastewater.

~~Y. **Water Repurification System** includes the Advanced Water Treatment (AWT) Facility located at or near the North City Water Reclamation Plant site and the Repurified Water Conveyance System which will transport repurified water from the AWT Facility to the San Vicente Reservoir. The major processes of the AWT Facility include: ultra or micro filtration, reverse osmosis, and ozonation.~~

FF. **Water Repurification System** shall mean any facilities, including treatment and conveyance facilities, the purpose of which is the production or conveyance of Repurified Water. Water Repurification System includes, but is not limited to: the Tertiary Component of the North City Water Reclamation Plant to the extent being used to produce Repurified Water, the North City Advanced Water Purification Facility to be located across the street from the North City Water Reclamation Plant ("North City AWP Facility"); the Repurified Water conveyance system, which will transport Repurified Water from the North City AWP Facility and/or other facilities to the Miramar Reservoir or other alternative location(s) as determined by the City; and any other Repurified Water treatment or conveyance facilities which are part of the Pure Water Program.

GG. **Wet Weather Flow** is Flow entering the Metro System during rainy weather.

Peak 24-Hour Wet Weather Flow is the highest measured Wet Weather Flow occurring in a 24 hour period during a fiscal year.

Wet Weather Flow Rights are the estimated amounts of Wet Weather Flow, stated in millions of gallons per day (MGD), that the City and each Participating Agency are projected to have in the 2050 fiscal year. Wet Weather Flow Rights are the 10-year average of Wet Weather Flow for 2050, and are calculated by dividing total estimated annual Wet Weather Flow by 365 days. Wet Weather Flow Rights are stated in Column 7 of Exhibit G.

II. OWNERSHIP AND OPERATION OF THE METRO SYSTEM

2.1 ~~A.~~ Rights of the Parties.

The City is the owner of the Metro System, and of any additions to the Metro System or other facilities constructed pursuant to this Agreement. All decisions with respect to the planning, design, construction, operation and maintenance of the Metro System shall rest

with the City, in consultation with the Metro Commission. The Participating Agencies shall have a contractual right to use the Metro System and to participate in its operation as set forth in this Agreement. Subject to the terms of this Agreement, and in conformance with all applicable laws, the City may transfer ownership of all or part of the Metro System at any time. In the event of a transfer, the City's successor shall be bound by the terms of this Agreement. Subject to the terms of this Agreement, any Participating Agency may transfer or assign its rights and obligations under this Agreement. Any transfer shall first be approved by the City. No transfer may occur if the City reasonably determines, after consultation with the Participating Agencies involved, that the proposed transfer will imbalance, or will otherwise adversely impact the City's ability to operate the Metro System.

2.2 ~~B.~~ Metro System Services.

2.2.1 ~~1.~~ The City shall provide wastewater conveyance, treatment and disposal services to the Participating Agencies through the Metro System, under the terms set forth in this Agreement.

2.2.2 ~~2.~~ The City shall operate the Metro System in an efficient and economical manner, maintaining it in good repair and working order, all in accordance with recognized sound engineering and management practices.

2.2.3 ~~3.~~ The City shall convey, treat, and dispose of or reuse all wastewater received under this Agreement in such a manner as to comply with all applicable laws, rules and regulations.

2.3 ~~C.~~ Flow Commitment.

2.3.1 ~~1.~~ Absent agreement of the parties, all Flow from the Participating Agencies and the City, up to the capacity limits set forth in Exhibit B or any amendments thereto, shall remain in the Metro System.

2.3.2 ~~2.~~ This Agreement shall not preclude any Participating Agency from diverting Flow from the Metro System as a result of the construction of reclamation facilities or New Capacity outside of the Metro System.

2.3.3 ~~3.~~ Any Participating Agency may negotiate an agreement with the City to withdraw all Flow from the Metro System, which at a minimum requires the Agency to pay its proportionate share of Capital Improvement Costs.

If a Participating Agency enters into an agreement with the City by December 31, 2019, to withdraw all Flow from the Metro System by January 1, 2035, such Participating Agency shall not pay Pure Water Program Capital Improvement Costs except for Phase I (as defined below in Section 2.8).

2.4 ~~D.~~ Funding Obligations.

Nothing in this Section or in this Agreement shall obligate the City to make any payment for the acquisition, construction, maintenance or operation of the Metro System from moneys derived from taxes or from any income and revenue of the City other than moneys in or sewer revenues which go into the Sewer Revenue Fund for the Metro System and from construction funds derived from the sale of such sewer revenue bonds for the Metro System as are duly authorized. Nothing in this ~~contract~~Agreement shall be construed to obligate the City to pay from its annual income and revenues any sum which would create an indebtedness, obligation or liability within the meaning of the provisions of Section 18 of Article XVI of the Constitution of the State of California. Nothing in this Section, however, or in this Agreement shall prevent the City, in its discretion, from using tax revenues or any other available revenues or funds of the City for any purpose for which the City is empowered to expend moneys under this Agreement. Nothing herein shall relieve the City from its obligations to fund and carry out this Agreement. Nothing in this Section or in this Agreement shall obligate any Participating Agency to make any payment which would create an indebtedness, obligation or liability within the meaning of the provisions of Section 18 of Article XVI of the Constitution of the State of California, or which is not authorized by law.

2.5 ~~E.~~ Financial Statements.

2.5.1 ~~1.~~ The City shall keep appropriate records and accounts of all costs and expenses relating to conveyance, treatment, disposal, and reuse of wastewater, and production of Repurified Water, and the acquisition, planning, design, construction, administration, monitoring, operation and maintenance of the Metro System~~.~~ and Water Repurification System, and any grants, loans, or other revenues received therefor. The City shall keep such records and accounts for at least four (4) years, or for any longer period required by law or outside funding sources.

2.5.2 ~~2.~~ Said records and accounts shall be subject to reasonable inspection by any authorized representative of any Participating Agency at its expense. Further, said accounts and records shall be audited annually by an independent certified public accounting firm appointed by the City pursuant to generally accepted accounting principles. A copy of said report shall be available to any Participating Agency. As part of said audit, the actual amount of City Water Utility's PW Costs, Pure Water Program costs attributable to the Metro System, Repurified Water Revenue, and the Capital Expense Rate shall be determined and audited by the City's external auditors and Participating Agency representatives, and a cumulative and annual summary of such amounts shall be included as a footnote or attachment to the audit of the Metro System. Cost summaries shall include separate lines for Capital Improvement Costs and Operation and Maintenance Costs.

2.5.3 The City shall make a good faith effort to complete the annual audit, and any related adjustments under this Agreement, by the end of the following fiscal year.

2.6 ~~F.~~ Limitations on Types and Condition of Wastewater.

2.6.1 ~~1.~~ Each Participating Agency will comply with all applicable laws, rules and regulations including its regulatory obligations associated with the discharge of wastewater into its respective system and from such system into the Metro System.

2.6.2 ~~2.~~ Each Participating Agency will minimize to the maximum extent practicable, the infiltration and inflow of surface, ground or stormwaters into its respective wastewater systems.

2.6.3 ~~3.~~ Each Participating Agency will insure that all industrial users of its wastewater system are regulated by an effective industrial pretreatment program that conforms to all to all applicable laws, rules and regulations and that is acceptable to the City. Provided, however, that the City shall not require the Participating Agencies to take any actions beyond that which is required under applicable laws, rules and regulations that can be taken but are not being taken by the City.

2.6.4 ~~4.~~ The City and the Participating Agencies agree that nothing in this Agreement, including the termination of the existing sewage disposal agreements, shall affect the validity of the Interjurisdictional Pretreatment Agreements, or the separate transportation agreements that are currently in effect between or among the City and the Participating Agencies.

2.6.5 ~~5.~~ Each Participating Agency will not discharge a substantial amount of sewage originating outside its respective boundaries into the Metro System without the approval of the City.

2.6.6 ~~6.~~ Each Participating Agency shall be responsible for the violation of any applicable laws, rules or regulations associated with its respective discharge of wastewater into the Metro System. Nothing in this Agreement shall affect the ability of any Participating Agency to hold third parties responsible for such violations.

2.6.7 ~~7.~~ In the event a regulatory agency imposes any penalty or takes other enforcement action relating to the conveyance, treatment, and disposal ~~or reuse~~ of wastewater in or from the Metro System, the City shall determine ~~whether~~if the City or a Participating Agency or Agencies caused or contributed to ~~such penalty or enforcement actions~~the violation by exceeding its Contract Capacity or by the contents of its wastewater. The City shall allocate the penalty or other relief, including the costs of defense, to the party or parties responsible. Each responsible party, whether a Participating Agency or the City, shall be obligated to pay its share of such penalty or other relief, and any costs of defense. In the event that the City cannot make such an allocation, the cost of such

penalty or other relief shall be shared by the Participating Agencies and the City proportionately based on Flow and Strength.

2.7 ~~G.~~ Right of First Refusal.

2.7.1 ~~1.~~ The City shall not sell or agree to sell the Metro System without first offering it to the Participating Agencies. For the purposes of this section, "Participating Agencies" shall mean a Participating Agency, a group of Participating Agencies, or a third party representing one or more Participating Agencies. The term "sell" shall include any transfer or conveyance of the Metro System or of any individual treatment or reclamation facility or outfall within the Metro System.

2.7.2 ~~2.~~ The City and the Participating Agencies recognize that transfer of ownership of the Metro System is currently restricted by Sections 6.04 and 6.20 of the Installment Purchase Agreement between the City and the Public Facilities Financing Authority of the City, which inter alia restricts the transfer of ownership to the Metropolitan Wastewater Sewage District or other governmental agency whose primary purpose is to provide wastewater treatment. The City shall not seek to impose on bond holders a waiver of Section 6.04 or 6.20. Absent such a restriction, before the City sells or agrees to sell the Metro System, or any portion of it, the City shall offer to sell the Metro System to the Participating Agencies ("the Offer") on the terms and at a price equal to that proposed for the sale of the Metro System to a third party. The Participating Agencies shall have thirty days from receipt of the Offer ("the Intent to Respond Period") in which to notify the City of their intent to respond to the Offer. The Participating Agencies shall have five months from the expiration of the Intent to Respond Period in which to accept or reject the Offer. The Offer shall contain the name of the proposed purchaser, the proposed sale price, the terms of payment, the required deposit, the time and place for the close of escrow, and any other material terms and conditions on which the sale is to be consummated.

2.7.3 ~~3.~~ If the Participating Agencies give timely notice of their intent to respond and timely notice of their acceptance of the Offer, then the City shall be obligated to sell and the Participating Agencies shall be obligated to purchase the Metro System or any individual treatment or reclamation facility or outfall within the Metro System, as applicable, at the price and on the terms and conditions of the Offer. If the Participating Agencies do not give timely notice of their intent to respond or their acceptance of the Offer, or do not submit an offer on the same terms and conditions as the Offer, the City may, following the end of the Offer period, sell the Metro System, or any portion of it, at a price and on terms and conditions no less favorable to the City than those in the Offer. The City shall not sell the Metro System to any third party on terms or at a price

less favorable to the City from the terms and price contained in the Offer absent compliance with the terms of this Section.

2.7.4 ~~4.~~ Nothing herein shall prevent the City from entering into a financing agreement which may impose limits on the City's power to sell the Metro System to the Participating Agencies pursuant to Section ~~H.1~~2.7.1. if the City reasonably believes that such a financing agreement is in the City's best interest. Neither the entry into such a financing agreement by the City nor the performance thereof by the City shall constitute a breach or default by the City hereunder.

2.8 Pure Water San Diego Program.

Each new, expanded, or modified Metro System facility which is used in relation to the production of Repurified Water (in addition to the modification and expansion of the North City Water Reclamation Facility) shall be governed by this Agreement and Exhibit F, attached hereto and incorporated herein.

2.9 Future Negotiations and Cooperation.

2.9.1 This Agreement and Exhibit F specifically contemplate Phase I of the Pure Water Program, which consists of new, expanded, or modified Metro System facilities and Water Repurification System facilities designed to produce only up to 30 million gallons per day of Repurified Water ("Phase I"). During the planning process for later phases of the Pure Water Program, the parties shall meet and negotiate in good faith regarding one or more amendments to this Agreement or its Exhibits to address:

2.9.1.1 The allocation of specific Pure Water Program costs between City's water utility and the Metro System for such later phases;

2.9.1.2 Whether, and to what extent, certain Metro System costs should be charged based on volume capacity rights, Strength capacity rights, Peak 24-Hour Wet Weather Flow, and/or other factors;

2.9.1.3 The exclusion of costs related to the industrial discharges inspection and monitoring program within San Diego under Section 5.2.1.2.3 of the Agreement; and

2.9.1.4 The handling of waste generated at United States military bases under this Agreement.

If such negotiations do not result in an amendment to this Agreement or its Exhibits concerning these subjects, this Agreement shall remain in full force and effect as set forth herein. Further, if the City proceeds with a later phase of the Pure Water Program as authorized under Section 2.1

of this Agreement, and the Parties have not yet amended this Agreement or Exhibit F to specifically address such costs by the time they are incurred, all costs listed in Section I of Exhibit F shall nonetheless be excluded as Metro System costs under this Agreement.

2.9.2 The City and the Participating Agencies shall cooperate and coordinate in good faith with the Padre Dam Municipal Water District, San Diego County Sanitation District, and City of El Cajon on issues that relate to the East County AWP Program, including, but not limited to, the transfer of the Mission Gorge Pump Station; disposal of residuals; and a source control program.

III. III. PAYMENT AND MONITORING PROVISIONS

3.1 A. Payment for Metro System Facilities.

Through the system of charges set forth in SectionArticle V of this Agreement, each Participating Agency shall pay its share of the costs of planning, design and construction of all of the Metro System facilities which are identified in Exhibit A hereto, which is incorporated herein by reference.

3.2 B. Payment for Additional Metro System Facilities.

Through the system of charges set forth in SectionArticle V of this Agreement, each Participating Agency shall pay its share of the costs of acquisition, or planning, design and construction of such facilities in addition to those set forth on Exhibit A as are necessary for the Metro System to maintain compliance with applicable laws, rules and regulations, including the Ocean Pollution Reduction Act of 1994 and its successor(s), present and future waivers of applicable treatment standards at any Metro System treatment facility, and all facilities as are necessary to convey, treat, dispose, and reuse wastewater in the Metro System to provide the Contract Capacity set forth in Exhibit B, to maintain hydraulic capacity and as otherwise required by sound engineering principles. As a ministerial matter, the City shall amend Exhibit A from time to time to reflect such additional facilities and shall give notice of any amendments to the Participating Agencies. The City shall keep an updated version of Exhibit A on file with the City ClerkPublic Utilities Department. Exhibit A may be amended to reflect other changes to the Metro System only as expressly provided in this Agreement.

3.3 C. Payment for Operation and Maintenance.

Through the system of charges set forth in SectionArticle V of this Agreement, each Participating Agency shall pay its share of the Operation and Maintenance Costs of all Metro System facilities. Provided however, that The Participating Agencies shall not pay for the Operation and Maintenance Costs of the Tertiary Component of the North Water Repurification System, which are City Water Reclamation Plant that can be allocated solely to the production of Repurified WaterUtility PW Costs.

3.4 ~~D.~~ Charges Based on Flow and Strength; Exception.

3.4.1 Except as otherwise described in this Section 3.4, a Participating Agency's share of the charges in this ~~Section~~Article III shall be assessed pursuant to ~~Section~~Article V of this Agreement based on its proportionate Flow in the Metro System and the Strength of its wastewater.

3.4.2 Notwithstanding section 3.4.1, or any other provision of this Agreement, a Participating Agency's share of Pure Water Program Capital Improvement Costs and Pure Water Program revenues attributable to the Metro System under Exhibit F shall be assessed or credited based on the parties' proportionate share of Wet Weather Flow Rights. Wet Weather Flow Rights are based on projections of each party's 10-year average of Wet Weather Flow in the year 2050 as set forth in Column 7 of Exhibit G, which is attached hereto and incorporated herein. The City shall annually allocate the estimated and actual Pure Water Program Capital Improvement Costs and revenues which are attributable to the Metro System under Exhibit F in proportion to each party's share of Wet Weather Flow Rights (Column 8 of Exhibit G) when estimating quarterly payments and conducting year-end adjustments under Article V.

3.4.3 Each party recognizes that operation within respective Wet Weather Flow Rights is essential to the accurate allocation of costs and revenues under the Pure Water Program. In recognition of same, the parties agree as follows:

3.4.3.1 Beginning in the next fiscal year after the effective date of this Agreement, if any party's Annual Average Daily Flow exceeds its Wet Weather Flow Rights for any two (2) consecutive fiscal years, the City shall prepare an amendment to Exhibit G that adjusts projections of each party's 10-year average of Wet Weather Flow in 2050 based on information about such party's exceedance and other relevant information. Upon approval by a majority of the Metro Commission, the City shall, as a ministerial matter, amend the Wet Weather Flow Rights in Column 7 of Exhibit G (and the percentages in Column 8 of Exhibit G) to reflect the new projections of 10-year average of Wet Weather Flow. The City shall keep an updated version of Exhibit G on file with the City Public Utilities Department. If the City and the Metro Commission cannot agree on an amendment to Exhibit G, the matter shall be submitted to dispute resolution pursuant to Article IX.

3.4.3.2 Notwithstanding the amounts set forth in Column 7 of Exhibit G, the following parties will have the following Wet Weather Flow Rights until July 1, 2025:

3.4.3.2.1 Padre Dam: 2.797 MGD

3.4.3.2.2 San Diego County Sanitation District: 22.844 MGD

3.4.3.2.3 El Cajon: 8.542 MGD

3.4.3.3 If Exhibit G is amended to update one or more parties' Wet Weather Flow Rights, the change in Wet Weather Flow Rights shall be retroactive in effect, and the City shall use the updated amounts in estimating quarterly payments and conducting year-end adjustments for Pure Water Program costs and revenues. Therefore, any party that underpaid based on previous Wet Weather Flow Rights (which were based on prior projections of 2050 Flow) shall pay the retroactive amount due in its quarterly payments the following fiscal year; any party that overpaid based on previous Wet Weather Flow Rights shall receive a credit in its quarterly payments the following fiscal year. Notwithstanding the preceding sentence, if the retroactive amount due exceeds 20% of a party's average annual Metro System payments for the previous four (4) years, such party may elect to pay the retroactive amount due in its quarterly payments over the subsequent four (4) fiscal years; any party that overpaid based on previous Wet Weather Flow Rights shall receive a credit in its quarterly payments the following four (4) fiscal years.

3.5 ~~E.~~ Monitoring Flow and Strength.

3.5.1 ~~1.~~ The City shall monitor wastewater that is discharged into the Metro System for Flow and Strength. The City shall own and operate as part of the Metro System monitoring devices which will measure the amount of daily wastewater discharged into the Metro System. These devices shall be installed at locations appropriate to accurately monitor Flow and Strength. The City may also monitor wastewater Flow and Strength at other locations as it deems appropriate.

3.5.2 ~~2.~~ In measuring Strength, the frequency and nature of the monitoring shall not be more stringent for the Participating Agencies than it is for the City.

3.5.3 ~~3.~~ The City shall, at least once every five (5) years, update and provide its plans for the monitoring system and for the procedures it will use to determine Strength to the Participating Agencies ~~for~~. The Participating

Agencies shall have the opportunity to review and comment prior to implementation.

3.5.4 ~~4.~~ The City shall report Flow and Strength data to the Participating Agencies at least quarterly.

IV. CAPACITY RIGHTS

4.1 ~~A.~~ Contract Capacity.

In consideration of the obligations in this Agreement, each Participating Agency shall have a contractual right to discharge wastewater to the Metro System up to the Contract Capacity set forth in Exhibit B. The Wet Weather Flow Rights stated in Exhibit G, which are used solely for the purpose of allocating Pure Water Program costs and revenues attributable to the Metro System under this Agreement, do not replace or limit Contract Capacity. Each party's Contract Capacity takes into account Wet Weather Flow.

4.2 ~~B.~~ Transfers of Contract Capacity.

The Participating Agencies and the City may buy, sell or exchange all or part of their Contract Capacity among themselves on such terms as they may agree upon. The City shall be notified prior to any transfer. Any transfer shall be first approved by the City. No Contract Capacity may be transferred if the City determines, after consultation with the Participating Agencies involved in the transaction, that said transfer will unbalance, or will otherwise adversely impact the City's ability to operate the Metro System. Provided, however, that the Participating Agency seeking the transfer may offer to cure such imbalance at its own expense. Following the City's consent, as a ministerial matter, the Contract Capacity set forth in Exhibit B shall be adjusted to reflect the approved transfer.

4.3 ~~C.~~ Allocation of Additional Capacity.

The parties recognize that the City's applicable permits for the Metro System may be modified to create capacity in the Metro System beyond that set forth in Exhibit B as a result of the construction of additional facilities or as a result of regulatory action. This additional capacity shall be allocated as follows:

4.3.1 ~~1.~~ Except as provided in ~~subsection 2~~section 4.3.2 below, in the event that the Metro System is rerated so that additional permitted capacity is created, said capacity shall be allocated proportionately based upon the Metro System charges that have been paid since July 1, 1995 to the date of rerating.

4.3.2 ~~2.~~ In the event that the additional permitted capacity is created as the result of the construction of non-Metro System facilities, or as the result of the construction of facilities pursuant to ~~Section~~Article VII, such additional capacity shall be allocated proportionately based on the payments made to plan, design and construct such facilities.

4.4 ~~D.~~ Deductions in Contract Capacity.

The parties further recognize that the Contract Capacity in Exhibit B and Wet Weather Flow Rights in Exhibit G may be modified to comply with, or in response to, applicable permit conditions, or related regulatory action, or sound engineering principles. In the event that the capacity of the Metro System is rerated to a level below the total capacity set forth in Exhibit B, the Contract Capacity in Exhibit B and Wet Weather Flow Rights in Exhibit G shall be reallocated proportionately pending the acquisition or construction of new facilities. The City shall acquire or construct such facilities as necessary to provide the Contract Capacity rights set forth in Exhibit B, as planning and capacity needs require. The costs of such facilities shall be assessed pursuant to Section ~~III.B. above~~3.2.

4.5 ~~E.~~ Amendments to Exhibits B and C.

As a ministerial matter, the City shall prepare amendments to Exhibits B and C to reflect any adjustment in Contract Capacity pursuant to this ~~Section~~Article within ninety (90) days after the adjustment is made. The City shall give notice of the amendments to each Participating Agency, and shall provide copies of the amendments with the notice. The City shall keep an updated version of Exhibits B and C on file with the City ~~Clerk~~Public Utilities Department.

4.6 ~~F.~~ The South Bay Land/Ocean Outfall.

Nothing in this ~~Section~~Article shall limit the City's right to transfer capacity service rights in that portion of the South Bay Land/Ocean Outfall which is not part of the Metro System.

~~V.~~ V. SYSTEM OF CHARGES

5.1 ~~A.~~ Charges Authorized.

The City agrees to implement and the Participating Agencies agree to abide by a new system of charges. This new system allows the City to equitably recover from all Participating Agencies their proportional share of the net Metro System Costs through the imposition of the following charges:

5.1.1 ~~1.~~ SSC (Sewer System Charge);

~~2. ECC (Existing Capacity Charge);~~

5.1.2 ~~3.~~ NCCC (New Contract Capacity Charge).

5.2 ~~B.~~ SSC (Sewer System Charge).

The City shall determine the SSC based on the projected Metro System Costs (as defined below) for the forthcoming fiscal year, less all Metro System Revenues (as defined below).

5.2.1 ~~1.~~ Metro System Costs

5.2.1.1 ~~a.~~ The following shall at a minimum be considered Metro System Costs for purposes of calculating the annual SSC:

5.2.1.1.1 ~~(i)~~ Except as provided in section 5.2.1.2 (Excluded Costs~~, subsection b. below~~), the annual costs associated with administration, operation, maintenance, replacement, annual debt service costs and other periodic financing costs and charges, capital improvement, insurance premiums, claims payments and claims administration costs of the Metro System, including projected overhead. Overhead shall be calculated using accepted accounting practices to reflect the overhead costs of the Metro System.

5.2.1.1.2 ~~(ii)~~ Fines or penalties imposed on the City as a result of the operation of the Metro System, unless the fine/penalty is allocated to the City or a Participating Agency as provided in Section ~~II.F.7~~2.6.7.

~~(iii) Costs incurred by the City, including attorneys' fees, necessary to implement the terms of this Agreement.~~

~~b. Excluded Costs~~

5.2.1.2 Excluded Costs. The following items shall not be considered Metro System Costs for purposes of calculating the annual SSC:

5.2.1.2.1 ~~(i)~~ Costs related to the City of San Diego's Municipal System as determined by reasonable calculations;

5.2.1.2.2 ~~(ii)~~ Costs related to the treatment of sewage from any agency which is not a party to this Agreement;

5.2.1.2.3 ~~(iii)~~ Costs related to the inspection and monitoring program for the industrial dischargers located in San Diego, including associated administrative and laboratory services;

5.2.1.2.4 ~~(iv)~~ Right-of-way charges for the use of public streets of the City or any Participating Agency. The City and the Participating Agencies agree not to impose a right-of-way charge for the use of its public rights-of-way for Metro System purposes~~.~~;

5.2.1.2.5 ~~(v)~~ Capital Improvement Costs of any non-Metro System facility~~.~~;

5.2.1.2.6 ~~(vi)~~ Capital Improvement Costs for which an NCCC is paid~~.~~; and

~~(vii) Excluded Operation and Maintenance Costs set forth in Section III.C.~~

5.2.1.2.7 City Water Utility PW Costs.

5.2.2 ~~2.~~ Metro System Revenues.

5.2.2.1 ~~a.~~ The following revenues shall be at a minimum considered Metro System Revenues for purposes of determining the annual SSC:

5.2.2.1.1 ~~(i)~~ Any grant or loan receipts or any other receipts that are attributable to the Metro System, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System; provided, however, that this shall not include any grant, loan, or other receipts attributable to the Metro System components of the Pure Water Program, which are specifically addressed in Section 5.2.2.1.8.

5.2.2.1.2 ~~(ii)~~ All compensation or receipts from the sale or other conveyance or transfer of any Metro System by-products, including, but not limited to gas, electrical energy, sludge products, and Reclaimed Water (excepting therefrom any receipts allocated pursuant to ~~subsection 2.a.(3) below.~~section 5.2.2.1.3).

5.2.2.1.3 ~~(iii)~~ The distribution of revenue from the sale of Reclaimed Water from the North City Water Reclamation Plant, including incentives for the sale of Reclaimed Water, shall first be used to pay for the cost of the Reclaimed Water Distribution System, then the cost of the Operation and Maintenance of the Tertiary Component of the North City Water Reclamation Plant that can be allocated to the production of Reclaimed Water, and then to the Metro System.

5.2.2.1.4 ~~(iv)~~ Any portion of an NCCC that constitutes reimbursement of costs pursuant to Section ~~VII.A.4~~7.1.4.

5.2.2.1.5 ~~(v)~~ Any penalties paid under Section ~~VII.C~~7.3.

5.2.2.1.6 Proceeds from the Capital Expense Rate, as calculated under Exhibit F and allocated among the City and Participating Agencies in the proportions set forth in Column 8 of Exhibit G.

5.2.2.1.7 Those portions of Repurified Water Revenue attributable to the Metro System, as calculated under Exhibit F and allocated among the Participating Agencies in the proportions set forth in Column 8 of Exhibit G.

5.2.2.1.8 Any grant or loan receipts or any other receipts that are attributable to the Metro System components of the Pure Water Program, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System components of the Pure Water Program. Any proceeds under this section shall be allocated among the City and the Participating Agencies in the proportions set forth in Column 8 of Exhibit G.

5.2.2.2 ~~b.~~ Excluded Revenue

5.2.2.2.1 ~~(i)~~ Capital Improvement Costs for which an NCCC is paid;

5.2.2.2.2 ~~(ii)~~ Proceeds from the issuance of debt for Metro System projects.

5.2.2.2.3 ~~(iii)~~ Proceeds from the sale of Reclaimed Water used to pay for the Reclaimed Water Distribution System pursuant to ~~subsection 2.a.(3)~~section 5.2.2.1.3 above.

~~(iv) All revenues, including incentives, attributable to Repurified Water from the Water Repurification System.~~

5.2.3 ~~3.~~ Calculation of SSC Rates.

5.2.3.1 ~~a.~~ Prior to the initial implementation of the new system of charges, the City shall prepare a sample fiscal year estimate setting forth the methodology and sampling data used as a base

for Strength based billing (SBB) which includes Flow and Strength (Chemical Oxygen Demand (COD) and Suspended Solids (SS)). The analysis shall be submitted to each Participating Agency.

5.2.3.2 ~~b.~~ The City shall determine the unit SSC rates by allocating net costs (Metro System Costs less Metro System Revenues) between parameters of Flow, COD and SS. This allocation is based on the approved Functional-Design Methodology analyses for individual Capital Improvement Projects (CIPs) and estimated Operation and Maintenance (O&M) Costs allocated to the three parameters. The City may revise the calculations to include any other measurement required by law after the effective date of this Agreement.

5.2.3.3 ~~c.~~ The net cost allocated to each of the three parameters (Flow, COD and SS) shall be divided by the total Metro System quantity for that parameter to determine the unit rates for Flow, COD and SS. These unit rates shall apply uniformly to all Participating Agencies.

5.2.4 ~~4.~~ Estimate and Billing Schedule and Year End Adjustment

5.2.4.1 ~~a. Estimate –~~ The City shall estimate the SSC rates on an annual basis prior to January 15. The City shall quantify the SSC rates by estimating the quantity of Flow, COD and SS for each party, based on that party's actual flow and the cumulative data of sampling for COD and SS over the preceding years. If cumulative data is no longer indicative of discharge from a Participating Agency due to the implementation of methods to reduce Strength, previous higher readings may be eliminated.

5.2.4.2 ~~b.~~ Costs of treating Return Flow for solids handling will be allocated to the Participating Agencies in proportion to their Flow and Strength. Return Flow will not be counted against the Participating Agencies' Contract Capacity as shown in Exhibit B.

5.2.4.3 ~~c. SSC Billing Schedule –~~ The City shall bill the Participating Agencies quarterly, invoicing on August 1 , November 1, February 1 and May 1. Each bill shall be paid within thirty (30) days of mailing. Quarterly payments will consist of the total estimated cost for each Participating Agency, based on their estimated Flow, COD and SS, divided by four.

5.2.4.4 ~~d. Year-End Adjustments –~~ At the end of each fiscal year, the City shall determine the actual Metro System~~.~~ Costs and the actual Flow as well as the cumulative Strength data for the City and each of the Participating Agencies. The City shall make any

necessary adjustments to the unit rates for Flow, COD and SS based on actual costs for the year. The City shall then recalculate the SSC for the year using actual costs for the year, actual Flow, and cumulative Strength factors (COD, SS and Return Flow) for the City and for each Participating Agency. The City shall credit any future charges or bill for any additional amounts due, the quarter after the prior year costs have been audited.

~~C. ECC (Existing Capacity Charge).~~

~~In addition to paying an SSC, each Participating Agency shall pay an ECC. The ECC shall be paid only for the period specified in Exhibit C. The amount and nature of each Participating Agency's obligation, and the date on which the obligation shall expire, are set forth in Exhibit C. The ECC is billed annually, invoiced by January 2, due February 1.~~

5.3 ~~D.~~ NCCC (New Contract Capacity Charge).

If New Contract Capacity is required or requested by a Participating Agency, pursuant to ~~Section~~Article VII, the Metro System shall provide the needed or requested capacity, provided that the Participating Agency agrees to pay an NCCC in the amount required to provide the New Contract Capacity. New Contract Capacity shall be provided pursuant to ~~Section~~Article VII.

5.4 ~~E.~~ Debt Financing.

The City retains the sole right to determine the timing and amount of debt financing required to provide Metro System Facilities.

5.5 Allocation of Operating Reserves and Debt Service Coverage.

The parties shall continue to comply with the 2010 Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies, attached hereto and incorporated herein as Exhibit C.

VI. PLANNING

6.1 ~~A.~~ Projected Flow and Capacity Report.

Commencing on July 1, 1999, each Participating Agency shall provide the City and the Metro Commission with a ten-year projection of its Flow and capacity requirements from the Metro System. The Agencies shall disclose any plans to acquire New Capacity outside the Metro System. This "Projected Flow and Capacity Report" shall be updated annually.

6.2 ~~B.~~ Other Planning Information.

Each Participating Agency shall provide the City with such additional information as requested by the City as necessary for Metro System planning purposes.

6.3 ~~C.~~ Ten-Year Capital Improvement Plan.

The City shall prepare a Ten-Year Capital Improvement Plan for the Metro System that describes the facilities necessary to convey, treat, and dispose of, or reuse all Flow in the Metro System in compliance with all applicable rules, laws and regulations. The plan shall be updated annually.

6.4 ~~D.~~ Notice to Metro Commission.

In the event that the City is not able to include a facility in the Ten-Year Capital Improvement Plan, the City shall notify the Metro Commission as soon as possible before the detailed design or construction of such facility provided that the facility will significantly impact the Metro System.

VII. FACILITIES SOLELY FOR NEW CONTRACT CAPACITY

The Participating Agencies and City are obligated to pay for the acquisition or planning, design, and construction of new facilities in the Metro System that are needed solely to provide New Contract Capacity only under the terms provided below.

7.1 ~~A.~~ Determination of Need for New Contract Capacity.

7.1.1 ~~1.~~ As part of its planning efforts, and considering the planning information provided to the City by the Participating Agencies, the City shall determine when additional facilities beyond those acquired or constructed pursuant to ~~Section~~Article III above will be necessary solely to accommodate a need for New Contract Capacity in the Metro System, whether by the City or by the Participating Agencies. The City shall determine: (1) the amount of New Contract Capacity needed; (2) the Participating Agency or Agencies, or the City, as the case may be, in need of the New Contract Capacity; (3) the type and location of any capital improvements necessary to provide the New Contract Capacity; (4) the projected costs of any necessary capital improvements; and, (5) the allocation of the cost of any such facilities to the Participating Agency and/or the City for which any New Contract Capacity is being developed. The City shall notify the Participating Agencies of its determination within sixty days of making such determination.

7.1.2 ~~2.~~ The City or Participating Agency or Agencies in need of New Contract Capacity as determined by the City pursuant to ~~Paragraph 1~~section 7.1.1 above, may choose, in their sole discretion, to obtain New Capacity outside of the Metro System in lieu of New Contract Capacity. Under such circumstances, the Participating Agency or Agencies shall commit to the City in writing their intent to obtain such New Capacity.

Upon such commitment, the City shall not be required to provide New Contract Capacity to such Agency or Agencies as otherwise required under this Agreement.

7.1.3 ~~3.~~ The Participating Agencies shall have six months from the date of notice of the determination within which to comment on or challenge all or part of the City's determination regarding New Contract Capacity, or to agree thereto or to commit, in writing, to obtain New Capacity outside of the Metro System. Any Participating Agency objecting to the City's determination shall have the burden to commence and diligently pursue the formal dispute resolution procedures of this Agreement within said six month period. The City's determination shall become final at the close of the six month comment and objection period. The City's determination shall remain valid notwithstanding commencement of dispute resolution unless and until ~~set aside by a final, binding, determination of an arbitrator~~otherwise agreed to pursuant to the dispute resolution process ~~set forth in this Agreement~~in Article IX, or pursuant to a final court order.

7.1.4 ~~4.~~ The City and the Participating Agency or Agencies which need New Contract Capacity shall thereafter enter into an agreement specifying the terms and conditions pursuant to which the New Contract Capacity will be provided, including the amount of capacity and the New Contract Capacity. Each party obtaining New Contract Capacity shall reimburse the Metro System for the costs of acquisition, planning, design, and construction of facilities necessary to provide the New Contract Capacity that have been paid by other parties under Section ~~VII.B.3~~7.2.3.

7.1.5 ~~5.~~ The parties recognize that the City may acquire and plan, design and construct facilities that are authorized pursuant to both ~~Section~~Article III and ~~Section~~Article VII of this Agreement. Under such circumstances, the City shall allocate the costs and capacity of such facilities pursuant to ~~Section~~Article III and Section ~~VII.A.1~~7.1.1 as applicable.

7.2 ~~B.~~ Charges for Facilities Providing New Contract Capacity

7.2.1 ~~1.~~ The expense of acquisition, planning, design, and construction of New Contract Capacity shall be borne by the City or the Participating Agency or Agencies in need of such New Contract Capacity.

7.2.2 ~~2.~~ Notwithstanding any provision in this Agreement, the City and the Participating Agencies shall pay for the Operation and Maintenance Costs of all facilities pursuant to the payment provisions of ~~Section~~Article III, including those facilities acquired and constructed to provide New Contract Capacity in the Metro System.

7.2.3 ~~3.~~ Charges for the acquisition, planning, design and construction of facilities solely to provide New Contract Capacity shall be paid for by the Participating Agencies and the City pursuant to the payment provisions in ~~Section~~Article III of this Agreement until an agreement is reached under Section ~~VII.A.4~~7.1.4. or pending the resolution of any dispute relating to the City's determination with respect to New Contract Capacity.

7.2.4 ~~4.~~ As a ministerial matter, the City shall prepare amendments to Exhibits A and B to reflect the acquisition or construction of facilities to provide New Contract Capacity pursuant to this ~~Section~~Article. The City shall give notice of the Amendments to the Participating Agencies, and shall provide copies of the Amendments with the notice.

~~C. Penalty for Failure to Pay.~~

7.3 Liquidated Damages.

7.3.1 ~~1.~~ The parties recognize that appropriate capacity and long term planning for same are essential to the proper provision of sewerage service. In recognition of same, the parties agree that discharge beyond Contract Capacity ~~should be penalized~~will result in damages that are difficult to determine. Therefore, the damages are being liquidated in an amount estimated to the actual damage that will be incurred by the City, and is not a penalty. In the event that a Participating Agency exceeds its Contract Capacity after the City has given notice that New Capacity is required, said Participating Agency shall be assessed and pay a ~~quarterly penalty~~liquidated damages until such time as the Participating Agency obtains the required New Capacity. The ~~penalty~~liquidated damages shall be fifteen percent (15%) of the quarterly charges authorized pursuant to this Agreement times the amount of Flow which exceeds the Participating Agency's Contract Capacity for the ~~first quarter, twenty-five percent (25%) of such amount for the second quarter, thirty percent (30%) of such amount for the third quarter, and thirty-five percent (35%) of such amount for every quarter thereafter.~~each quarter in which any exceedance occurs.

7.3.2 ~~2.~~ In the event that a Participating Agency fails to pay the charges imposed under this Article after the City has given notice that payment is required, said Participating Agency shall be assessed and shall pay ~~a penalty of fifteen~~liquidated damages of ten percent (~~15~~10%) of the total outstanding charges each quarter until said charges are paid in full.

VIII. THE METRO COMMISSION

8.1 ~~A.~~ Membership.

The Metro Commission shall consist of one representative from each Participating Agency. Each Participating Agency shall have the right to appoint a representative of its choice to the Metro Commission. If a Participating Agency is a dependent district whose governing body is that of another independent public agency that Participating Agency shall be represented on the Metro Commission by a representative appointed by the governing body which shall have no more than one representative no matter how many Participating Agencies it governs. Each member has one vote in any matter considered by the Metro Commission. The Metro Commission shall establish its own meeting schedule and rules of conduct. The City may participate in the Metro Commission on an ex officio, non-voting~~,~~ basis.

8.2 ~~B.~~ Advisory Responsibilities of Metro Commission.

8.2.1 ~~1.~~ The Metro Commission shall act as an advisory body, advising the City on matters affecting the Metro System. The City shall present the position of the majority of the Metro Commission to the City's governing body in written staff reports. The Metro Commission may prepare and submit materials in advance and may appear at any hearings on Metro System matters and present its majority position to the governing body of the City.

8.2.2 ~~2.~~ The Metro Commission may advise the City of its position on any issue relevant to the Metro System.

IX. DISPUTE RESOLUTION

This Section governs all disputes arising out of this Agreement.

9.1 ~~A. Voluntary~~Mandatory Non-Binding Mediation.

~~Upon notice to all of the parties involved, any dispute may be submitted to a mutually-acceptable mediator, including a consultant specializing in the subject matter of the dispute, for determination of the issue(s) raised. Unless the parties involved agree in writing otherwise, the decision of the mediator or consultant shall not be final and binding. In the event that there is no agreement to mediate the dispute, any party may proceed directly to Arbitration.~~

~~B. Arbitration.~~

~~Arbitration~~If a dispute arises among the parties relating to or arising from a party's obligations under this Agreement that cannot be resolved through informal discussions and meetings, the parties involved in the dispute shall first endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the rules of JAMS, AAA, or any other neutral organization agreed upon by the parties before having recourse in a court of law. Mediation shall be commenced by sending a Notice of Demand for ~~Arbitration~~Mediation

to the other party or parties to the dispute. A copy of the notice shall be sent to the City, all other Participating Agencies, and the Metro Commission. ~~Notice shall be given in accordance with Section XII. After such notice, any party that fails to timely participate by giving notice within forty-five (45) days thereafter, shall be barred from the noticed action. The scope of the arbitrator's jurisdiction shall not include the authority to amend the terms of this Agreement.~~

9.2 Selection of Mediator.

A single mediator that is acceptable to the parties involved in the dispute shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Agreement, if possible, and chosen from lists furnished by JAMS, AAA, or any other agreed upon mediator.

~~1. The arbitration shall be conducted by a mutually-acceptable dispute resolution entity which utilizes retired judges as arbitrators or arbitrators agreed to by the parties. If the parties cannot agree on such an entity, then the American Arbitration Association shall be used.~~

~~2. All arbitrations shall be conducted in accordance within California Code of Civil Procedure Sections 1282 et seq., provided, however, that in the event of a conflict between the Code of Civil Procedure arbitration provisions and the provisions of this Agreement, the provisions of this Agreement control.~~

~~3. Discovery regarding the subject matter of the arbitration shall be allowed as provided in Code of Civil Procedure Section 1283.05 (or its successors), except that depositions may be taken without first obtaining permission from the arbitrator. The arbitrator's fee shall be paid in equal shares by the parties who participate in the arbitration. The arbitrator may award costs to the prevailing party, except, however, all costs incurred by the City for arbitration arising under Section VII shall be a Metro System cost and charged accordingly. The decision of the arbitrator shall be final and binding.~~

9.3 Mediation Expenses.

The expenses of witnesses for either side shall be paid by the party producing such witnesses. All mediation costs, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be Metro System costs.

9.4 Conduct of Mediation.

Mediation hearings will be conducted in an informal manner. Discovery shall not be allowed. The discussions, statements, writings and admissions and any offers to compromise during the proceedings will be confidential to the proceedings (pursuant to California Evidence Code Sections 1115 – 1128 and 1152) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. The parties involved in the dispute shall have representatives attend the mediation who are authorized to settle the dispute, though a recommendation of settlement

may be subject to the approval of each agency's boards or legislative bodies. Either party may have attorneys, witnesses or experts present.

9.5 Mediation Results.

Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

9.6 ~~C.~~ Performance Required During Dispute.

Nothing in this ~~Section~~Article shall relieve the City and the Participating Agencies from performing their obligations under this Agreement. The City and the Participating Agencies shall be required to comply with this Agreement, including the performance of all disputed activity and disputed payments, pending the resolution of any dispute under this Agreement.

9.7 Offers to Compromise

Any offers to compromise before or after mediation proceedings will not be used to prove a party's liability for loss or damage unless otherwise agreed by the parties in writing (pursuant to Evidence Code Section 1152.)

X. INSURANCE AND INDEMNITY

10.1 ~~A.~~ City Shall Maintain All Required Insurance.

10.1.1 ~~1.~~ The City shall maintain all insurance required by law, including workers' compensation insurance, associated with the operation of the Metro System.

10.1.2 ~~2.~~ Throughout the term of this Agreement the City shall procure and maintain in effect liability insurance covering, to the extent reasonably available, any and all liability of the City, the Metro System and the Participating Agencies, including their respective officers, directors, agents, and employees, if any, with respect to or arising out of the ownership, maintenance, operation, use and/or occupancy of the Metro System and all operations incidental thereto, including but not limited to structural alterations, new construction and demolition, including coverage for those hazards generally known in the insurance industry as exploding, collapse and underground property damage.

10.1.3 ~~3.~~ Said insurance shall name the City, and its respective officers, employees, and agents, and shall have a limit of not less than $24,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage suffered by any person. Said insurance may provide for a deduction from coverage, which deductible

shall not be more than $1,000,000. Said limits and/or deductible may be adjusted from time to time. Said insurance may be evidenced by a policy or policies covering only the Metro System or by endorsement to bring the same within a blanket policy or policies held by the City covering other properties in which the City has an interest provided the policy or policies have a location aggregate provision. The City may satisfy the first $1,000,000 per occurrence with a self-insurance retention program for public liability claims. The policy or policies shall name the Participating Agencies as additional insureds with evidence of same supplied to each. Insurance premiums, claims payments and claims administration costs shall be included in the computation of the SSC.

10.2 ~~B.~~ Substantially Equivalent Coverage.

In the event of a transfer of the Metro System to a nonpublic entity pursuant to ~~Section~~Article II, coverage substantially equivalent to all the above provisions shall be maintained by any successor in interest.

XI. INTERRUPTION OF SERVICE

Should the Metro System services to the Participating Agencies be interrupted as a result of a major disaster, by operation of federal or state law, or other causes beyond the City's control, the Participating Agencies shall continue all payments required under this Agreement during the period of the interruption.

XII. NOTICES REQUIRED UNDER AGREEMENT

The City and each Participating Agency shall give notice when required by this Agreement. All notices must be in writing and either served personally, or mailed by certified mail. The notices shall be sent to the officer listed for each party, at the address listed for each party in Exhibit D in accordance with this ~~Section~~Article. If a party wishes to change the officer and/or address to which notices are given, the party shall notify all other parties in accordance with this ~~Section~~Article. Upon such notice, as a ministerial matter, the City shall amend Exhibit D to reflect the changes. The amendment shall be made within thirty (30) days after the change occurs. The City shall keep an updated version of Exhibit D on file with the City ~~Clerk~~Public Utilities Department. The City shall provide a copy of the amended Exhibit D to all parties.

XIII. EFFECTIVE DATE AND ~~TERMINATION~~EXPIRATION

13.1 ~~A.~~ Effective Date.

This Agreement shall be effective thirty (30) days after execution by the City and ~~at least fifty percent (50%)~~all of the Participating Agencies~~. Participating Agencies which have not executed the Agreement on the effective date will not be Participating Agencies under this Agreement until the Agreement is amended pursuant to paragraph XIV(B) hereof. Nothing~~

~~in this paragraph shall limit the City's discretion in determining whether to execute this Agreement.~~, and shall be dated as of the signature date of the last executing party.

13.2 ~~B. Preferences~~Expiration.

~~In the event one or more agencies which are subject to Wastewater Agreements with the City before the effective date of this Agreement do not execute this Agreement, the City agrees not to enter into any new agreements with said agency or agencies without first offering the Participating Agencies agreements under substantially the same terms and conditions for any proposed agreement covering the same subject matter and issues.~~

~~C. Termination.~~

Subject to the rights and obligations set forth in Section ~~XIII.C. below~~13.4, this Agreement shall ~~terminate~~expire on December 31, ~~2050~~2065. This Agreement is subject to extension by agreement of the parties. The parties shall commence discussions on an agreement to provide wastewater treatment services beyond the year ~~2050~~2065 on or before December 31, ~~2040~~2055.

13.3 ~~D.~~ Contract Capacity Rights Survive ~~Termination~~Expiration.

The Participating Agencies' right to obtain wastewater treatment services from the facilities referred to in, or constructed pursuant to this Agreement shall survive the ~~termination~~expiration of the Agreement. Provided however, upon expiration of this Agreement, the Participating Agencies shall be required to pay their proportional share based on Flow and Strength of all Metro System Costs (Capital Improvement Costs and Operation and Maintenance) to maintain their right to such treatment services. Provided further, that in the event that the Participating Agencies exercise their rights to treatment upon expiration of this Agreement, the City shall have the absolute right, without consultation, to manage, operate and expand the Metro System in its discretion.

13.4 ~~E.~~ Abandonment.

After December 31, ~~2050~~2065, the City may abandon the Metro System upon delivery of notice to the Participating Agencies ten (10) years in advance of said abandonment. Upon notice by the City to abandon the Metro System, the parties shall meet and confer over the nature and conditions of such abandonment. In the event the parties cannot reach agreement, the matter shall be submitted to ~~arbitration~~mediation under ~~the provisions of Section~~Article IX. In the event of abandonment, the City shall retain ownership of all Metro System assets free of any claim of the Participating Agencies.

XIV. GENERAL

14.1 ~~A.~~ Exhibits.

1. This Agreement references Exhibits A through ~~E~~G. Each exhibit is attached to this Agreement, and is incorporated herein by reference. The exhibits are as follows:

Exhibit A	Metro Facilities;
Exhibit B	Contract Capacities;
Exhibit C	~~Existing Capacity Charge Listing~~Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies;
Exhibit D	Notice Listing; ~~and~~
Exhibit E	Map of Reclaimed Water Projects~~.~~;
Exhibit F	Pure Water Cost Allocation and Revenues; and
Exhibit G	2050 Flow Projections

14.2 ~~B.~~ Amendment of Agreement.

Except as provided in this Agreement, and recognizing that certain amendments are ministerial and preapproved, this Agreement may be amended or supplemented only by a written agreement between the City and the Participating Agencies stating the parties' intent to amend or supplement the Agreement.

14.3 ~~C.~~ Construction of Agreement.

14.3.1 ~~1.~~ Drafting of Agreement

It is acknowledged that the City and the Participating Agencies, with the assistance of competent counsel, have participated in the drafting of this Agreement and that any ambiguity should not be construed for or against the City or any Participating Agency on account of such drafting.

14.3.2 ~~2.~~ Entire Agreement

The City and each Participating Agency represent, warrant and agree that no promise or agreement not expressed herein has been made to them, that this Agreement contains the entire agreement between the parties, that this Agreement supersedes any and all prior agreements or understandings between the parties unless otherwise provided herein, and that the terms of this Agreement are contractual and not a mere recital; that in executing this Agreement, no party is relying on any statement or representation made by the other party, or the other party's representatives concerning the subject matter, basis or effect of this

Agreement other than as set forth herein; and that each party is relying solely on its own judgement and knowledge.

14.3.3 ~~3.~~ Agreement Binding on All

This Agreement shall be binding upon and shall inure to the benefit of each of the parties, and each of their respective successors, assigns, trustees or receivers. All the covenants contained in this Agreement are for the express benefit of each and all such parties. This Agreement is not intended to benefit any third parties, and any such third party beneficiaries are expressly disclaimed.

14.3.4 ~~4.~~ Severability

14.3.4.1 Should any provision of this Agreement be held invalid or illegal, such invalidity or illegality shall not invalidate the whole of this Agreement, but, rather, the Agreement shall be construed as if it did not contain the invalid or illegal part, and the rights and obligations of the parties shall be construed and enforced accordingly except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely frustrate either the City's or a Participating Agency's essential objectives set forth in this Agreement.

14.3.4.2 Should a court determine that one or more components of the allocation of costs set forth in this Agreement places the City or a Participating Agency in violation of Article XIII, Section 6 of the California Constitution with respect to their ratepayers, such components shall no longer be of force or effect. In such an event, the City and the Participating Agencies shall promptly meet to renegotiate the violative component of the cost allocation to comply with Article XIII, Section 6 of the California Constitution, and use the dispute resolution process in Article IX of this Agreement if an agreement cannot be reached through direct negotiation.

14.3.5 ~~5.~~ Choice of Law

This Agreement shall be construed and enforced pursuant to the laws of the State of California.

14.3.6 Recognition of San Diego Sanitation District as Successor to Certain Parties.

The parties hereby acknowledge and agree that the San Diego County Sanitation District is a Participating Agency under this Agreement as the successor in interest to the Alpine Sanitation District, East Otay Mesa

Sewer Maintenance District, Lakeside Sanitation District, Spring Valley Sanitation District, and Winter Gardens Sewer Maintenance District.

14.4 ~~D.~~ Declarations Re: Agreement.

14.4.1 ~~1.~~ Understanding of Intent and Effect of Agreement

The parties expressly declare and represent that they have read the Agreement and that they have consulted with their respective counsel regarding the meaning of the terms and conditions contained herein. The parties further expressly declare and represent that they fully understand the content and effect of this Agreement and they approve and accept the terms and conditions contained herein, and that this Agreement is executed freely and voluntarily.

14.4.2 ~~2.~~ Warranty Regarding Obligation and Authority to Enter Into This Agreement

Each party represents and warrants that its respective obligations herein are legal and binding obligations of such party, that each party is fully authorized to enter into this Agreement, and that the person signing this Agreement hereinafter for each party has been duly authorized to sign this Agreement on behalf of said party.

14.5 ~~3.~~ Restrictions on Veto of Transfers and Acquisitions of Capacity

Each party understands and agrees that this Agreement governs its respective rights and responsibilities with respect to the subject matter hereto and specifically recognizes that with respect to the transfer and acquisition of Contract Capacity (Section ~~IV.B~~4.2) or the creation of New Contract Capacity for any Participating Agency (~~Section~~Article VII), no Participating Agency has a right to veto or prevent the transfer of capacity by and among other Participating Agencies or with the City, or to veto or prevent the creation or acquisition capacity for another Participating Agency or Agencies, recognizing that by signing this Agreement each Participating Agency has expressly preapproved such actions. The sole right of a Participating Agency to object to any of the foregoing shall be through expression of its opinion to the Metro Commission and, where applicable, through exercise of its rights under the dispute resolution provisions of this Agreement.

14.6 ~~4.~~ Right to Make Other Agreements

Nothing in this Agreement limits or restricts the right of the City or the Participating Agencies to make separate agreements among themselves without the need to amend this Agreement, provided that such agreements are consistent with this Agreement. Nothing in this Agreement or Exhibit F limits or restricts the right of the City or the Participating Agencies to enter into separate agreements for the purchase or sale of Repurified Water produced by the Water Repurification System or sharing in City Water Utility PW

Costs. Such agreements shall not affect the cost allocation and Metro System revenues delineated in Exhibit F.

14.7 Limitation of Claims

Notwithstanding any longer statute of limitations in State law, for purposes of any claims asserted by the City or a Participating Agency for refunds of overpayments or collection of undercharges arising under this Agreement, the parties agree that such refunds or collections shall not accrue for more than four years prior to the date that notice of such claim is received by the City or a Participating Agency. This also applies to any related adjustments to each Participating Agency's share of net Metro System costs or revenues resulting from the resolution of such claims. The City and the Participating Agencies hereby waive any applicable statute of limitations available under State law that exceed four years. In no case shall the limitations period stated in this section begin to accrue until the date that the annual audit and year-end adjustment from which the claim arises are complete.

14.8 ~~5.~~ Counterparts

This Agreement may be executed in counterparts. This Agreement shall become operative as soon as one counterpart hereof has been executed by each party. The counterparts so executed shall constitute one Agreement notwithstanding that the signatures of all parties do not appear on the same page.

14.9 No Third Party Beneficiaries

This Agreement is intended to benefit only the parties hereto and no other person or entity has or shall acquire any rights hereunder. This Agreement does not create any third party beneficiary rights.

SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the Parties have executed this Amendment and Restated Regional Wastewater Disposal Agreement as of the date first set forth above.

CITY OF CHULA VISTA	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF CORONADO	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF DEL MAR	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF EL CAJON	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF IMPERIAL BEACH	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF LA MESA	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
LEMON GROVE SANITATION DISTRICT	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF NATIONAL CITY	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____

OTAY WATER DISTRICT	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
PADRE DAM MUNICIPAL WATER DISTRICT	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF POWAY	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF SAN DIEGO	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
SAN DIEGO COUNTY SANITATION DISTRICT	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT A

METRO FACILITIES AS OF 6/27/18

~~I. ORIGINAL~~Existing Facilities

- Pt. Loma Wastewater Treatment Plant
- Pt. Loma Ocean Outfall
- Pump Station #1
- Pump Station #2
- South Metro Interceptor
- North Metro Interceptor
- Metro Force Mains 1 & 2
- Digested Sludge Pipeline
- ~~Fiesta Island Sludge Processing Facility~~
- ~~Fiesta Island Centrate Pipeline.~~

~~**II. FIESTA ISLAND REPLACEMENT PROJECT (FIRP) AND STATE OCEAN PLAN (SOP) COMPLIANCE FACILITIES**~~

- ~~Pt. Loma Outfall Extension~~
- ~~Fiesta Island Replacement Project Digested Sludge Pipeline Fiesta Island Replacement Project Pump Station~~
- ~~Metro Biosolids Center (FIRP Facilities)~~

~~**III. OTHER METRO FACILITIES**~~

- North City Water Reclamation Plant
- Metro Biosolids Center (NCWR Plant Related Facilities)
- North City Tunnel Connector
- North City Raw Sludge Pipeline
- Centrate Pipeline
- Rose Canyon Parallel Trunk Sewer
- Second Rose Canyon Trunk Sewer
- East Mission Bay Trunk Sewer
- Morena Blvd. Interceptor
- South Bay Water ~~Reclamation Plant~~Reclamation-Plant
- Dairy Mart Road & Bridge Rehab~~[1]~~
- Grove Avenue Pump Station
- Grove Avenue Pump Station Sewer Pipeline

~~[1] The City and the Participating Agencies shall continue their joint effort to seek federal funding for the Dairy Mart Road and Bridge Rehabilitation Project with a goal of requiring 60% federal participation.~~

~~**CITY OF SAN DIEGO**~~
~~**Metropolitan Sewerage System**~~

~~**METRO FACILITIES**~~

~~**III. OTHER METRO FACILITIES (CONTINUED)**~~

- South Bay Raw Sludge Pipeline
- South Bay Land/Ocean Outfall~~2~~[1]
- Environmental Monitoring & Technical Services Laboratory
- Centrate Treatment Facility at Metropolitan Biosolids Center
- ~~Sludge & Biosolids Management Facility (Monofill)~~
- Metro Operations Center (~~MOC~~Iv10C) Complex (based on annual facilities allocation)

~~• Additional 8 mgd Water Reclamation Treatment Capacity~~

~~**VI.**~~ Additional Metro Facilities

~~A.~~ Note: The below listed facilities ~~will~~could be required as part of the Metro System for
hydraulic capacity, good engineering practices and/or compliance with applicable law, rules or regulations, including OPRA, and the continuation of the ~~City's~~City's waiver of applicable treatment standards at the Point Loma Wastewater Treatment Plant (~~"~~"Waiver~~"~~").

- South Bay Sludge Processing Facility
- South Bay Secondary Treatment Plant, Phase I (21 MGD)
- South Bay Secondary Sewers, Phase I

~~B.~~ Note: These facilities ~~will~~could be required as part of the Metro System for hydraulic
capacity, good engineering practices, compliance with OPRA, and to maintain the ~~City's~~City's Waiver. In the event that hydraulic capacity demands, or the obligations of OPRA (or its successor) or the terms of the ~~City's~~City's Waiver change, these facilities may not be required or may be modified or supplemented, as appropriate, pursuant to the terms of this Agreement.

- South Bay Secondary Treatment Plant, Phase II (28 MGD)
- South Bay Secondary Sewers, Phase II

Note: These facilities could be added to the Metro System as part of Phase I of the Pure Water Program.

~~2~~[1] The South Bay Land/Ocean Outfall is jointly owned by the International Boundary and Water Commission, U.S. Section (60.06%) and the City of San Diego (39.94%). The capacity of the City's portion of the outfall as of the date of this Agreement is 74 ~~MGD~~MDG average dry weather flow, of which the Metro System has a capacity right to 69.2 MGD and the City ~~has~~as an exclusive right to 4.8 MGD.

Expansion of North City Water Reclamation Plant
Morena Pump Station

EXHIBIT A-3

EXHIBIT B

~~CITY OF SAN DIEGO~~
~~METROPOLITAN SEWERAGE SYSTEM~~
CONTRACT CAPACITIES

Annual Average Daily Flow
in
Millions of Gallons Per Day

Metro Agency	Original Contract Capacity	Additional Contract Capacity[1]	New Contract Capacity[2]	Transferred Contract Capacity[3]	Total Contract Capacity	Percent of Total
Chula Vista	19.843	1.021	0.000	0.000	20.864	8.182%
Coronado	3.078	0.172	0.000	0.000	3.250	1.275%
Del Mar	0.821	0.055	0.000	0.000	0.876	0.344%
East Otay Mesa	0.000	0.000	0.000	1.000	1.000	0.392%
El Cajon	10.260	0.655	0.000	0.000	10.915	4.280%
Imperial Beach	3.591	0.164	0.000	0.000	3.755	1.473%
La Mesa	6.464	0.359	0.000	0.170	6.993	2.742%
Lakeside-Alpine	4.586	0.255	0.000	0.000	4.841	1.898%
Lemon Grove	2.873	0.154	0.000	0.000	3.027	1.187%
National City	7.141	0.346	0.000	0.000	7.487	2.936%
Otay	1.231	0.056	0.000	0.000	1.287	0.505%
Padre Dam	6.382	0.343	0.000	(0.500)	6.225	2.441%
Poway	5.130	0.264	0.000	0.500	5.894	2.312%
Spring Valley	10.978	0.545	0.000	(1.170)	10 .353	4.060%
Wintergardens	1.241	0.068	0.000	0.000	1.309	0.513%
Subtotal	83.619	4.459	0.000	0.000	88.078	34.540%

Revised 04-21-2010

~~AN~~

~~NUAL AVERAGE DAILY FLOW~~
~~IN~~
~~MILLIONS OF GALLONS PER DAY~~

	~~Original Contract~~	~~Additional Contract~~				

EXHIBIT C

~~Metro Agency~~	~~Capacity~~	~~Capacity[3]~~	~~New Contract Capacity[4]~~	~~Transferred Contract Capacity[5]~~	~~Total Contract Capacity~~	~~Percent of Total~~
~~Chula Vista~~	~~19.843~~	~~0.000~~	~~0.000~~	~~0.000~~	~~19.843~~	~~8.268%~~
~~Coronado~~	~~3.078~~	~~0.000~~	~~0.000~~	~~0.000~~	~~3.078~~	~~1.283%~~
~~Del Mar~~	~~0.821~~	~~0.000~~	~~0.000~~	~~0.000~~	~~0.821~~	~~0.342%~~
~~El Cajon~~	~~10.260~~	~~0.000~~	~~0.000~~	~~0.000~~	~~10.260~~	~~4.275%~~
~~Imperial Beach~~	~~3.591~~	~~0.000~~	~~0.000~~	~~0.000~~	~~3.591~~	~~1.496%~~
~~La Mesa~~	~~6.464~~	~~0.000~~	~~0.000~~	~~0.000~~	~~6.464~~	~~2.693%~~
~~Lakeside-Alpine~~	~~4.586~~	~~0.000~~	~~0.000~~	~~0.000~~	~~4.586~~	~~1.911%~~
~~Lemon Grove~~	~~2.873~~	~~0.000~~	~~0.000~~	~~0.000~~	~~2.873~~	~~1.197%~~
~~National City~~	~~7.141~~	~~0.000~~	~~0.000~~	~~0.000~~	~~7.141~~	~~2.975%~~
~~Otay~~	~~1.231~~	~~0.000~~	~~0.000~~	~~0.000~~	~~1.231~~	~~0.513%~~
~~Padre Dam~~	~~6.382~~	~~0.000~~	~~0.000~~	~~0.000~~	~~6.382~~	~~2.659%~~
~~Poway~~	~~5.130~~	~~0.000~~	~~0.000~~	~~0.000~~	~~5.130~~	~~2.138%~~
~~San Diego~~	~~156.381~~	~~0.000~~	~~0.000~~	~~0.000~~	~~156.381~~	~~65.159%~~
~~Spring Valley~~	~~10.978~~	~~0.000~~	~~0.000~~	~~0.000~~	~~10.978~~	~~4.574%~~
~~Wintergardens~~	~~1.241~~	~~0.000~~	~~0.000~~	~~0.000~~	~~1.241~~	~~0.517%~~
~~**Total**~~	~~**240.000**~~	~~**0.000**~~	~~**0.000**~~	~~**0.000**~~	~~**240.000**~~	~~**100.00%**~~

~~[3] Additional Contract Capacity is capacity allocated pursuant to Section N.C. of this Agreement.~~
~~[4] New Contract Capacity is capacity obtained pursuant to Section VII of this Agreement.~~
~~[5] Transferred Contract Capacity is capacity obtained pursuant to Section N.B. of this Agreement.~~

Metro Agency	Original Contract Capacity	Additional Contract Capacity[1]	New Contract Capacity[2]	Transferred Contract Capacity[3]	Total Contract Capacity	Percent of Total
San Diego	156.381	10.541	0.000	0.000	166.922	65.460%
Total	**240.000**	**15.000**	**0.000**	**0.000**	**255.000**	**100.00%**

1. Additional Contract Capacity is capacity allocated pursuant to Section 4.3.1 of the Agreement.
2. New Contract Capacity is capacity obtained pursuant to Section 6 of the Agreement.
3. Transferred Contract Capacity is capacity obtained pursuant to Section 4.2 of the Agreement.

EXHIBIT C

ADMINISTRATIVE PROTOCOL ON ALLOCATION OF OPERATING RESERVES AND DEBT SERVICE COVERAGE TO PARTICIPATING AGENCIES

~~CITY OF SAN DIEGO~~
~~METROPOLITAN SEWERAGE SYSTEM~~

~~EXISTING CAPACITY CHARGE LISTING~~

~~PARTICIPATING AGENCY~~	~~ANNUAL CAPACITY CHARGE THROUGH FEBRUARY 1, 2003~~
~~Chula Vista~~	~~$219,892~~
~~Coronado~~	~~25,613~~
~~El Cajon~~	~~108,277~~
~~Imperial Beach~~	~~33,138~~
~~La Mesa~~	~~62,334~~
~~Lemon Grove~~	~~22,872~~
~~National City~~	~~71,495~~
~~Spring Valley~~	~~114,663~~
~~Del Mar~~	~~20,408~~
~~Otay Water District~~	~~14,581~~
~~Lakeside/Alpine~~	~~155,901~~
~~Padre Dam Muni. Water District~~	~~151,888~~
~~Poway~~	~~162,949~~
~~Wintergardens~~	~~33,856~~

~~**AGENCIES TOTAL**~~	~~**$1,197,804**~~

~~CITY OF SAN DIEGO~~
~~METROPOLITAN SEWERAGE SYSTEM~~**EXHIBIT D**

NOTICE LISTING

City Manager
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91919
Phone: 691-5031
Fax: 585-5612

City Manager
City of Coronado
1825 Strand Way
Coronado, CA 92113
Phone: 522-7335
Fax: 522-7846

City Manager
City of Del Mar
1050 Camino Del Mar
Del Mar, CA 92014
Phone: 755-9313 ext. 25
Fax: 755-2794

City Manager
City of El Cajon
200 ~~E. Main Street~~Civic Center Way
El Cajon, CA 92020
Phone: 441-1716
Fax: 441-1770

City Manager
City of Imperial Beach
825 Imperial Beach Blvd.
Imperial Beach, CA 91932
Phone: 423-8300 ext. 7
Fax: 429-9770

City Manager
City of La Mesa
8130 Allison Avenue
La Mesa, CA ~~91941~~91942
Phone: 667-1101
Fax: 462-7528

City Manager
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945
Phone: 464-6934
Fax: 460-3716

City Manager
City of National City
1243 National City Blvd.
National City, CA 91950
Phone: 336-4240
Fax: 336-4327

City Manager
City of Poway
13325 Civic Center Drive
Poway, CA 92064
Phone: 679-4200
Fax: 679-4226

City Manager
City of San Diego
202 "C" Street
San Diego, CA 92101
Phone: 236-5949
Fax: 236-6067

Chief Administrative Officer
County of San Diego
1600 Pacific Highway, Rm. 209
San Diego, CA 92101
Phone: 531-5250
Fax: 557-4060

General Manager
Otay Water District
2554 Sweetwater Springs Blvd.
Spring Valley, CA 91977
Phone: 670-2210
Fax: 670-2258

General Manager
Padre Dam Municipal Water District
~~10887 Woodside Avenue~~9300 Fanita Pkwy
Santee, CA 92071
Phone: 258-4610
Fax: 258-4794

EXHIBIT E

MAP OF RECLAIMED WATER PROJECTS

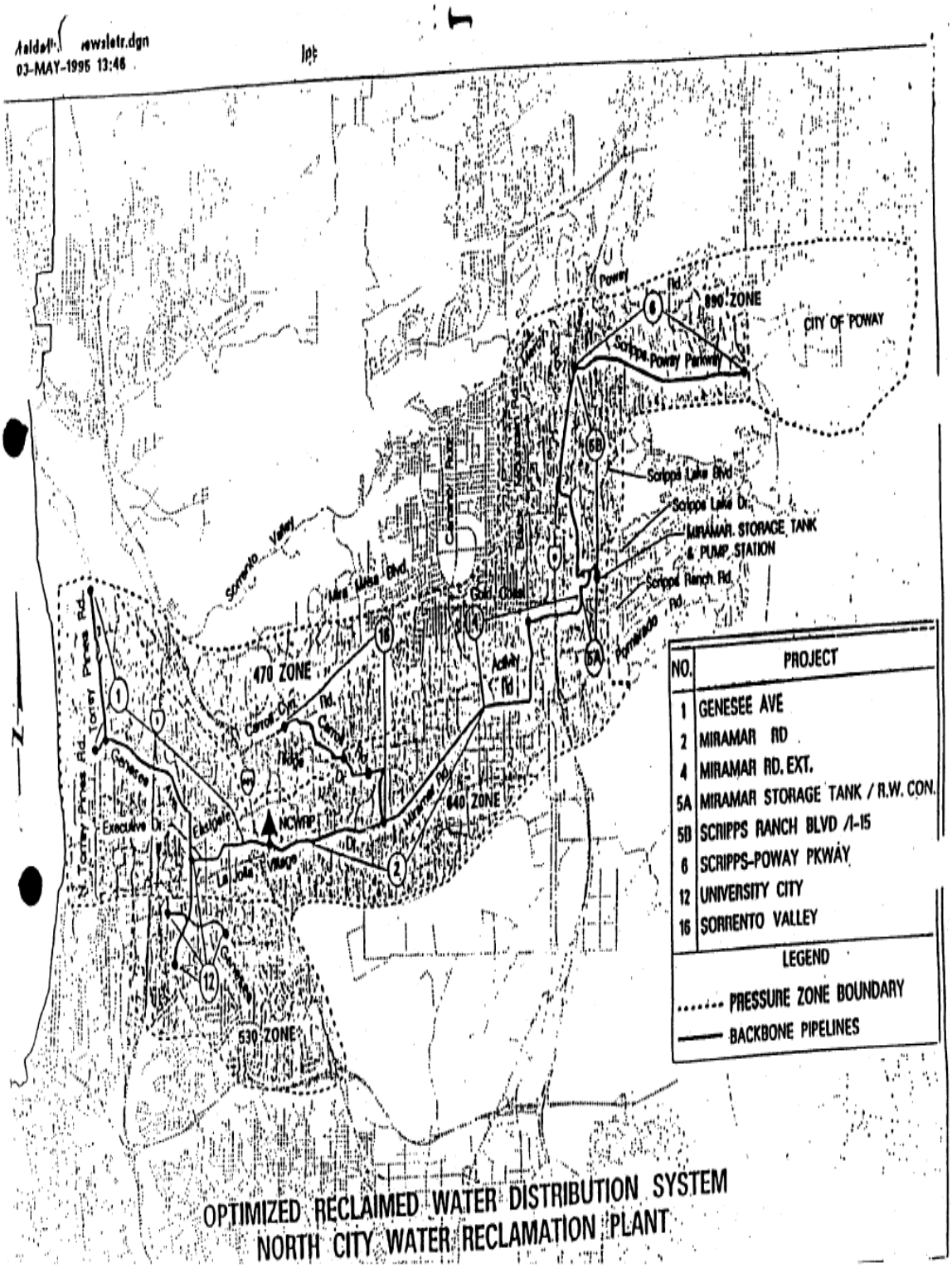


EXHIBIT F

PURE WATER COST ALLOCATION AND REVENUES

EXHIBIT G

2050 FLOW PROJECTIONS

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10
Agency	2050 Projected Flow %	Average Daily Dry Weather Flows 2050	10 Year (Yearly) Wet Weather Average Daily Flow	Peak 24 Hour Wet Weather Flow	10 Year Average Wet Weather Average Daily Flow Non-Metro Capacity	Wet Weather Flow Rights (10 Year Wet Weather Daily Average Flow)		Peak 24 Hour Wet Weather Capacity	
Chula Vista	10.9148%	19.5583	22.0124	44.0249	0.000	22.024	11.4653%	44.0249	11.1383%
Coronado	1.3559%	2.4308	2.7412	5.4825	0.000	2.742	1.4268%	5.4825	1.3918%
Del Mar	0.0173%	0.0309	0.0394	0.0789	0.000	0.0394	0.0205%	0.0789	0.0173%
East Otay Mesa	2.3980%	4.3012	4.8339	9.6678	0.000	4.8339	2.5158%	9.6678	2.4578%
El Cajon	4.2559%	7.5944	8.5412	17.0824	0.000	8.5412	4.4478%	17.0824	4.3378%
Imperial Beach	1.2885%	2.3077	2.5975	5.1950	0.000	2.5975	1.3518%	5.1950	1.3188%
La Mesa	2.6832%	4.8113	5.4114	10.8228	0.000	5.4114	2.8168%	10.8228	2.7498%
Lakeside/Alpine	3.7513%	6.7224	7.5628	15.1256	6.4534	1.1355	0.5911%	8.7105	2.2108%
Lemon Grove	1.2748%	2.2855	2.5711	5.1422	0.000	2.5711	1.3388%	5.1422	1.3058%
National City	2.1808%	3.9112	4.3999	8.7998	0.000	4.3999	2.2908%	8.7998	2.2348%
Otay	0.2153%	0.3862	0.4343	0.8686	0.000	0.4343	0.2261%	0.8686	0.2208%
Padre Dam	1.3065%	2.4062	2.7317	5.5634	2.377	0.4207	0.2189%	3.2165	0.8167%
Poway	1.7335%	3.1081	3.4597	6.9194	0.000	3.4597	1.8012%	6.9194	1.7568%
Spring Valley	4.5550%	8.3573	9.3965	18.7929	0.000	9.3965	4.8911%	18.7929	4.7715%
Winterguardens	0.5153%	0.9241	1.0392	2.0784	0.8652	0.1528	0.0795%	1.1952	0.3035%
San Diego	61.4028%	110.1155	123.8049	247.6098	0.000	123.9049	64.5301%	247.6098	62.9193%
Total	100.00%	179.4	201.8	403.6	9.594875	192.1048504	100%	393.9	100%

EXHIBIT H

Summary report: **Litéra® Change-Pro 7.5.0.135 Document comparison done on 7/16/2018 4:22:29 PM**	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original DMS:iw://iManage/iManage/30817939/1	
Modified DMS: iw://iManage/iManage/30914102/9	
Changes:	
Add	451
~~Delete~~	396
~~Move From~~	6
Move To	6
Table Insert	17
~~Table Delete~~	4
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	4
Embedded Excel	0
Format changes	0
Total Changes:	884

AMENDED AND RESTATED

REGIONAL WASTEWATER DISPOSAL AGREEMENT

BETWEEN

THE CITY OF SAN DIEGO

AND

THE PARTICIPATING AGENCIES

IN

THE METROPOLITAN SEWERAGE SYSTEM

AMENDED AND RESTATED

REGIONAL WASTEWATER DISPOSAL AGREEMENT

TABLE OF CONTENTS

		Page
I.	DEFINITIONS	2
II.	OWNERSHIP AND OPERATION OF THE METRO SYSTEM	~~4~~6
III.	PAYMENT AND MONITORING PROVISIONS	~~8~~11
IV.	CAPACITY RIGHTS	~~9~~14
V.	SYSTEM OF CHARGES	~~10~~15
VI.	PLANNING	~~14~~20
VII.	FACILITIES SOLELY FOR NEW CONTRACT CAPACITY	~~14~~20
VIII.	THE METRO COMMISSION	~~16~~23
IX.	DISPUTE RESOLUTION	~~17~~23
X.	INSURANCE AND INDEMNITY	~~18~~24
XI.	INTERRUPTION OF SERVICE	~~19~~25
XII.	NOTICES REQUIRED UNDER AGREEMENT	~~19~~25
XIII.	EFFECTIVE DATE AND TERMINATION	~~19~~26
XIV.	GENERAL	~~20~~26

Exhibits

A. Metro Facilities

B. Contract Capacities

C. Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies

D. Notice Listing

E. Reclaimed Water Distribution System

F. Pure Water Cost Allocation and ~~Commodity Rate~~Revenues

G. ~~Metro System Capacity Pool Allocation~~2050 Flow Projections

AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT

THIS AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT is made and entered into this _____ day of _____, 2018, by and between the CITY OF SAN DIEGO, a municipal corporation ("the City"); and the CITY OF CHULA VISTA, a municipal corporation; the CITY OF CORONADO, a municipal corporation; the CITY OF DEL MAR, a municipal corporation; the CITY OF EL CAJON, a municipal corporation; the CITY OF IMPERIAL BEACH, a municipal corporation; the CITY OF LA MESA, a municipal corporation; the LEMON GROVE SANITATION DISTRICT, a political subdivision of the State of California; the CITY OF NATIONAL CITY, a municipal corporation; the CITY OF POWAY, a municipal corporation; the OTAY WATER DISTRICT, a political subdivision of the State of California; the PADRE DAM MUNICIPAL WATER DISTRICT, a political subdivision of the State of California; and the SAN DIEGO COUNTY SANITATION DISTRICT, a political subdivision of the State of California (the "Participating Agencies").

RECITALS

~~WHEREAS, the City and the Participating Agencies are autonomous entities each having the authority to provide and to contract for the conveyance, treatment and disposal of wastewater; and~~

WHEREAS, the City and the Participating Agencies (or their predecessors in interest) entered into that certain Regional Wastewater Disposal Agreement dated May 18, 1998 (the "1998 Agreement"), which provided, among other things, for certain contract rights to capacity in the Metropolitan Sewerage System, a system of wastewater conveyance, treatment, and disposal facilities ("Metro System") and the establishment of a mechanism to fund the planning, design, construction, operation, and maintenance of the Metro System by the City and the Participating Agencies; and

WHEREAS, the purposes of the 1998 Agreement were: (1) to replace the prior-existing sewage disposal agreements between the City and the Participating Agencies; (2) to provide certain contract rights to capacity in the Metro System to the Participating Agencies; (3) to establish a mechanism to fund the planning, design, construction, operation and maintenance of the Metro System by the City and the Participating Agencies as necessary to provide hydraulic capacity, and to comply with applicable law and with generally accepted engineering practices; and (4) to establish a system of charges which allocates the costs of the planning, design and construction of such new wastewater conveyance, treatment and disposal facilities as are necessary solely to provide for new capacity on a fair and equitable basis; and

WHEREAS, on April 29, 2014 the San Diego City Council gave its approval and support for the Pure Water San Diego program by adoption of Resolution No. ~~R~~R-308906. The Resolution approved and supported the City's efforts to develop an implementation strategy to ~~accomplish secondary equivalency at~~offload wastewater flow from the Point Loma Wastewater Treatment Plant through implementation of potable reuse, resulting in effluent discharged to the Pacific Ocean being equivalent to what would be achieved by upgrading the

General comments from Otay regarding draft Amended and Restated Agreement:

1. All Exhibits must be provided before Otay WD can complete its review of this agreement.
2. The following question has been asked at several meetings and has never been answered: What happens if an agency does not approve this agreement? A legal opinion should be presented to the Metro JPA at a closed hearing so they understand the pros and cons of staying with the original agreement vs. signing on to this agreement.
3. This agreement should only address the cost allocation for the first phase of secondary equivalency since there are many unknowns still to be resolved concerning the ultimate size and scope of the full implementation. Prior to the start of construction of the ultimate design, a replacement agreement will be required. All parties and the flow that they are committing to the project will be known, as well as the reimbursements that will need to be provided to those agencies opting out of the agreement.
4. Provide a lot more time for review and comment.
5. An alternate approach is to set a time limit on this agreement. Based on the draft restated agreement, all agencies need an off-ramp after eight years - a no fault period that allows Otay WD, or other agencies, to opt out of the agreement and pay only what is due at that time but with no penalty fees. It will take the City

Point Loma Wastewater Treatment Plant to a secondary treatment plant (secondary equivalency); and

WHEREAS, the City ~~intends to implement~~is implementing a phased, multi-year program ~~to~~designed to regionally produce ~~up to~~at least 83 million gallons per day of safe, reliable potable water ~~for the City~~ using ~~the~~ new, expanded, or modified facilities, some of which will include Metro System facilities, in order to achieve secondary equivalency ~~under the Clean Water Act~~ at the Point Loma Wastewater Treatment Plant ~~by offloading wastewater from the Point Loma plant~~; and

Suggested language changes by Tom Zeleny (City of SD).

WHEREAS, ~~if secondary equivalency is recognized through federal legislation amending the Clean Water Act,~~ the Pure Water Program will not only benefit the City by producing repurified water, but also the Participating Agencies and their wastewater customers~~.~~, especially if secondary equivalency is recognized through federal legislation amending the Clean Water Act. Specifically, implementation of the Pure Water Program will reduce wastewater discharges to the Point Loma Wastewater Treatment Plant, part of the Metro System where a large portion of the Participating Agencies' wastewater is currently treated and disposed by discharging it into the Pacific Ocean. By diverting wastewater from the Point Loma Wastewater Treatment Plant and reducing the effluent discharged into the Pacific Ocean, the City and the Participating Agencies will potentially avoid billions of dollars in unnecessary capital, financing, energy, and operating costs to upgrade the Point Loma plant to secondary treatment at full capacity. Avoiding such costs would result in significant savings for regional wastewater customers; and

Suggested language changes by Tom Zeleny (City of SD).

Comment from Otay: The discussion about offloading Point Loma must be specific about Pure Water being more than just a scalping plant. Stronger language must be used to insure Pure Water as a must-run facility so that we don't overbuild secondary treatment facilities that are not used. This is what happened with the NCWRP and the SBWRP. City staff have mentioned many times that the Judge said the City had to build them but he didn't say they had to operate them.

WHEREAS, the Padre Dam Municipal Water District, San Diego County Sanitation District, and the City of El Cajon have proposed a program to produce up to 15 million gallons per day of safe, reliable potable water for East San Diego County using wastewater that would otherwise be disposed of in the Metro System ("East County AWP Program"). By offloading wastewater and wastewater contents from the Point Loma Wastewater Treatment Plant, the East County AWP Program would, if implemented, help the City's and region's efforts to achieve long-term compliance with the Clean Water Act by producing a regional annual average of at least 83 million gallons per day of water suitable for potable reuse by December 31, 2035, as described in the Cooperative Agreement in Support of Pure Water San Diego entered into by the City and certain environmental stakeholders on December 9, 2014.

Response from Metro TAC PW Ad Hoc Committee: Under the Cooperative Agreement and proposed OPRA II legislation, the 83 mgd of potable reuse facilities is "must run."

Additional language requested by Padre Dam.

WHEREAS, Section XIV, subsection B, of the 1998 Agreement provided that the Parties may amend the Agreement by a written agreement between the City and all Participating Agencies stating the parties' intent to amend the Agreement; and

WHEREAS, in order to comprehensively and equitably address the costs and revenues associated with the Pure Water Program and the related construction, expansion, and/or modification of Metro System facilities, the City and Participating Agencies wish to amend and restate the Regional Wastewater Disposal Agreement as provided herein.

THEREFORE, in consideration of the mutual promises set forth herein, the City and the Participating Agencies agree as follows:

I. DEFINITIONS

A. **Annual Average Daily Flow** is the number, in millions of gallons of wastewater per day ("MGD"), calculated by dividing total Flow on a fiscal year basis by 365 days.

B. **Brine** is a waste byproduct of the demineralization process at an upstream Water Repurification System facility or a Reclaimed Water facility.

C. **Capital Expense Rate** is the cost per acre foot that will apply if the Metro System's Capital Improvement Costs for the Pure Water Program and/or upgrading of the Point Loma WTP to secondary treatment exceed $1.8 billion, as further described in Exhibit F.

D. ~~B.~~ **Capital Improvement Costs** are costs associated with the planning, design, financing, construction, or reconstruction of facilities.

E. ~~C.~~ **Chemical Oxygen Demand or "COD"** means the measure of the chemically decomposable material in wastewater, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination for Water and Wastewater," or any successor publication which establishes the industry standard.

F. ~~D.~~ **City Water Utility PW Costs** are those Pure Water Program costs ~~which are~~allocated to the City's water utility and therefore excluded as Metro System costs under Exhibit F~~ and are the responsibility of City's water utility~~.

G. ~~E.~~ **Contract Capacity** is the contractual right possessed by each Participating Agency to discharge wastewater into the Metro System pursuant to this Agreement up to the limit set forth in Exhibit B attached hereto. Contract Capacity is stated in terms of Annual Average Daily Flow.

H. ~~F.~~ **Flow** is the amount of wastewater discharged by the City and each Participating Agency.

I. ~~G.~~ **Functional-Design Methodology** shall mean the process of allocating Operation and Maintenance Costs and Capital Improvement Costs to Flow and Strength parameters recognizing the benefits of both the design criteria and the primary function of a unit process.

J. **Metro Commission** is the advisory body created under Section VIII.

K. ~~H.~~ **Metro System Costs** are those costs set forth in Section ~~V.B.1~~5.2.1.

L. ~~I.~~ **Metro System Revenues** are those revenues set forth in Section ~~V.B.2~~5.2.2.

M. ~~J.~~ **Metropolitan Sewerage System or Metro System** shall mean and consist of those facilities and contract rights to facilities which are shown and/or described in Exhibit A attached hereto and incorporated by this reference, including any amendments thereto authorized by this Agreement.

Comment from Otay: Label each section of the agreement. There are several cross references in the agreement referencing "Section__". Follow through by referencing the sections accordingly.

Comment from Otay: This section has not been appropriately updated as there are some very obvious omissions such as the South Bay Water Reclamation Plant is not defined or mentioned in this agreement.

Comment from Otay: Why isn't the existing advanced water purification demonstration plant mentioned. Shouldn't the Metro JPA get reimbursed for their investment if it will be removed or demolished with the first phase?

Comment from Otay: Brine discharge needs to be defined so it is clear the City Water Utility PW is responsible for the cost of conveyance and treatment of this effluent.

Definition added at suggestion of Otay WD.

Suggested language changes by Tom Zeleny (City of SD).

Comment from Otay: This needs to be consistent with the section that mentions capacity as the basis for some of the billing.

Tom Zeleny (City of SD) suggested adding Metro JPA as party to the agreement so that Metro JPA could represent the PAs in approving certain ministerial amendments to the Agreement. BB&K recommends using Metro Commission for this purpose because the Metro Commission will exist for the term of this Agreement and would not require the addition of a new party.

N. ~~K.~~ **Municipal System** shall mean the City's wastewater collection system, which consists of pipelines and pump stations, that collects wastewater within the City of San Diego and conveys it to the Metropolitan Sewerage System for treatment and disposal.

O. ~~L.~~ **New Capacity** is the capacity to discharge wastewater outside the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.

P. ~~M.~~ **New Contract Capacity** is the capacity to discharge wastewater into the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.

Q. ~~N.~~ **North City Water Reclamation Plant** or **North City WRP** is the 30 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 4949 Eastgate Mall in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.

R. ~~O.~~ **Operation and Maintenance Costs** are the costs of those items and activities required by sound engineering and management practices to keep the conveyance, disposal, treatment, and reuse facilities functioning in accordance with all applicable laws, rules, and regulations.

S. ~~P.~~ **Point Loma Wastewater Treatment Plant** or **Point Loma WTP** is the 240 million gallons per day (as of the date of this Agreement) advanced primary treatment plant which includes four major processes: screening, grit removal, sedimentation, and digestion.

T. ~~Q.~~ **Pure Water Program** is the City's phased, multi-year program designed to produce ~~up to~~ at least 83 million gallons per day of Repurified Water using new, expanded, or modified facilities, some of which will include Metro System facilities.

Suggested language change by Tom Zeleny (City of SD).

U. ~~R.~~ **Reclaimed Water (or Recycled Water)** shall have the definition set forth in Title 22, Division 4 of the California Code of Regulations and shall mean water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or a controlled use that otherwise could not occur.

V. ~~S.~~ **Reclaimed Water (or Recycled Water) Distribution System** shall mean and consist of those eight (8) reclaimed water projects listed in Attachment B of the Stipulated Final Order for Injunctive Relief approved by the U.S. District Court on June 6, 1997 in *U.S.A. v. City of San Diego*, Case No. 88-1101-B, and attached hereto as Exhibit E.

W. ~~T.~~ **Repurified Water** shall mean water which, as a result of advanced treatment of ~~reclaimed water~~Reclaimed Water, is suitable for use as a source of domestic

(or potable) water supply.

X. **Repurified Water Revenue** is the cost savings that will be realized when the City water utility's annual costs per-acre foot for Repurified Water are less than the purchase costs per-acre foot for comparable water from the San Diego County Water Authority, as further described in Exhibit F.

Y. ~~U.~~ **Return Flow** shall mean the effluent created by the dewatering of digested biosolids, which includes centrate.

Z. ~~V.~~ **Reuse** shall mean to use again, such as water which has been reclaimed or repurified, or sludge that has been converted to biosolids for beneficial use.

AA. ~~W.~~ **South Bay Land/Ocean Outfall** is the facility that is jointly owned by the International Boundary & Water Commission (U.S. Section IBWC) and the City of San Diego. The Outfall is planned to convey and discharge treated effluent from the IBWC's International Wastewater Treatment Plant and treated effluent from the City's South Bay Water Reclamation Plant and the South Bay Secondary Treatment Plant. As of the date of this Agreement, the Outfall has a current Average Daily Flow Capacity of 174 million gallons per day. As of the date of this Agreement, the City owns 39.94% of the capacity of the Outfall and the balance of the capacity is owned by the IBWC.

BB. **South Bay Water Reclamation Plant** is the 15 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 2411 Dairy Mart Road in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.

Suggested addition by Otay WD.

CC. ~~X.~~ **Strength** means the measurement of Suspended Solids (SS) and Chemical Oxygen Demand (COD) within the wastewater Flow and any other measurement required by law after the date of this Agreement.

DD. ~~Y. "~~**Suspended Solids**~~"~~ or ~~"~~**SS**~~"~~ means the insoluble solid matter in wastewater that is separable by laboratory filtration, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination of Water and Wastewater," or any successor publication which establishes the industry standard.

EE. ~~Z.~~ **Tertiary Component** is that portion of the wastewater treatment process that currently filters the secondary treated wastewater effluent through fine sand and/or anthracite coal to remove fine Suspended Solids and disinfects it to meet the requirements of the California Administrative Code, Title 22, or its successor for filtered and disinfected wastewater.

FF. ~~AA.~~ **Water Repurification System** shall mean any facilities, including treatment and conveyance facilities, the purpose of which is the production or conveyance of Repurified Water. Water Repurification System includes, but is not limited

to: the Tertiary Component of the North City Water Reclamation Plant to the extent being used to produce Repurified Water, the North City Advanced Water Purification Facility to be located across the street from the North City Water Reclamation Plant ("North City AWP Facility"); the Repurified Water conveyance system, which will transport Repurified Water from the North City AWP Facility and/or other facilities to the Miramar Reservoir or other alternative location(s) as determined by the City; and any other Repurified Water treatment or conveyance facilities which are part of the ~~City's 83 million gallons per day~~ Pure Water Program.

GG. **Wet Weather Flow** is Flow entering the Metro System during rainy weather.

Peak 24-Hour Wet Weather Flow is the highest measured Wet Weather Flow occurring in a 24 hour period during a fiscal year.

Wet Weather Flow Rights are the estimated amounts of Wet Weather Flow, stated in millions of gallons per day (MGD), that the City and each Participating Agency are projected to have in the 2050 fiscal year. Wet Weather Flow Rights are the 10-year average of Wet Weather Flow for 2050, and are calculated by dividing total estimated annual Wet Weather Flow by 365 days. Wet Weather Flow Rights are stated in Column 7 of Exhibit G.

II. OWNERSHIP AND OPERATION OF THE METRO SYSTEM

2.1 Rights of the Parties.

The City is the owner of the Metro System, and of any additions to the Metro System or other facilities constructed pursuant to this Agreement. All decisions with respect to the planning, design, construction, operation and maintenance of the Metro System shall rest with the City, in consultation with the Metro Commission. The Participating Agencies shall have a contractual right to use the Metro System and to participate in its operation as set forth in this Agreement. Subject to the terms of this Agreement, and in conformance with all applicable laws, the City may transfer ownership of all or part of the Metro System at any time. In the event of a transfer, the City's successor shall be bound by the terms of this Agreement. Subject to the terms of this Agreement, any Participating Agency may transfer or assign its rights and obligations under this Agreement. Any transfer shall first be approved by the City. No transfer may occur if the City reasonably determines, after consultation with the Participating Agencies involved, that the proposed transfer will imbalance, or will otherwise adversely impact the City's ability to operate the Metro System.

2.2 ~~B.~~ Metro System Services.

2.2.1 ~~1.~~ The City shall provide wastewater conveyance, treatment and disposal services to the Participating Agencies through the Metro System, under the terms set forth in this Agreement.

Comment from Tom Zeleny (City of SD): Not all of the tertiary component is for repurified water. Some is for reclaimed water.

Suggested addition by Tom Zeleny (City of SD).

Comment from Otay: This definition should include mention of Pure Water and should be clear this is not a Metro cost.

Response to comment from Otay: Section 5.2.1.2.7 excludes "City Water Utility PW Costs" from Metro Costs. Costs related to the Water Repurification System fall within that category.

Comment from Otay: There should also be some limitation on the member agencies' liability for O&M and other costs attributable to Pure Water.

Response to comment from Otay WD: Exhibit F describes which costs are Metro System costs and which costs are City Water Utility costs. All O&M, capital, and other costs associated with non-Metro PW facilities are City Water Utility costs.

Comment from County: Add exception for LAFCO-approved changes in organization, which should not require City pre-approval.

Suggested addition by El Cajon.

~~A.~~ Comment from Otay: The original agreement is twenty years old and this new agreement replaces the old agreement. It is important that the facilities built by Metro during the original time frame are included in this agreement or by omission they could be lost or in dispute. This includes the SBWRF and the Advanced Water Purification facility.

Comment from Otay: Metro JPA should have a bigger role than just an advisory role. A 35% stake in the cost of wastewater capital costs and higher O&M justifies a bigger role in the decision making process.

2.2.2 ~~2.~~ The City shall operate the Metro System in an efficient and economical manner, maintaining it in good repair and working order, all in accordance with recognized sound engineering and management practices.

2.2.3 ~~3.~~ The City shall convey, treat, and dispose of or reuse all wastewater received under this Agreement in such a manner as to comply with all applicable laws, rules and regulations.

2.3 ~~C.~~ Flow Commitment.

2.3.1 Absent agreement of the parties, all Flow from the Participating Agencies and the City, up to the capacity limits set forth in Exhibit B or any amendments thereto, shall remain in the Metro System.

2.3.2 ~~2.~~ This Agreement shall not preclude any Participating Agency from diverting Flow from the Metro System as a result of the construction of reclamation facilities or New Capacity outside of the Metro System.

2.3.3 ~~3.~~ Any Participating Agency may negotiate an agreement with the City to withdraw all Flow from the Metro System, which at a minimum requires the Agency to pay its proportionate share of Capital Improvement Costs.

If a Participating Agency enters into an agreement with the City by December 31, 2019, to withdraw all Flow from the Metro System by January 1, 2035, such Participating Agency shall not pay Pure Water Program Capital Improvement Costs except for Phase I (as defined below in Section 2.8).

2.4 ~~D.~~ Funding Obligations.

Nothing in this Section or in this Agreement shall obligate the City to make any payment for the acquisition, construction, maintenance or operation of the Metro System from moneys derived from taxes or from any income and revenue of the City other than moneys in or sewer revenues which go into the Sewer Revenue Fund for the Metro System and from construction funds derived from the sale of such sewer revenue bonds for the Metro System as are duly authorized. Nothing in this ~~contract~~Agreement shall be construed to obligate the City to pay from its annual income and revenues any sum which would create an indebtedness, obligation or liability within the meaning of the provisions of Section 18 of Article XVI of the Constitution of the State of California. Nothing in this Section, however, or in this Agreement shall prevent the City, in its discretion, from using tax revenues or any other available revenues or funds of the City for any purpose for which the City is empowered to expend moneys under this Agreement. Nothing herein shall relieve the City from its obligations to fund and carry out this Agreement. Nothing in this Section or in this Agreement shall obligate any Participating Agency to make any payment which would create an indebtedness, obligation or liability within

Comment from Otay: Please add: "This Agreement shall not preclude any Participating Agency from diverting Flow from Metro System as a result of the construction of El Cajon suggests adding "some or," so that the provision would read as follows:

"Any Participating Agency may

Comment from Poway: Statement needs to be clarified with Section III.D (now Section 3.4) with regard to Padre Dam, San Diego County Sanitation District and El Cajon.

Response to Poway comment: Even with the East County project online, Padre Dam, the County, and El Cajon will still be sending some Flow to the Metro System, so they will not be withdrawing all Flow as described here. Also, the East County project would fall under Section 2.3.2, which allows diversion to reclamation facilities without agreement of the City.

the meaning of the provisions of Section 18 of Article XVI of the Constitution of the State of California, or which is not authorized by law.

2.5 ~~E.~~ Financial Statements.

2.5.1 ~~1.~~ The City shall keep appropriate records and accounts of all costs and expenses relating to conveyance, treatment, disposal, and reuse of wastewater, and production of Repurified Water, and the acquisition, planning, design, construction, administration, monitoring, operation and maintenance of the Metro System~~.~~ and Water Repurification System, and any grants, loans, or other revenues received therefor. The City shall keep such records and accounts for at least four (4) years, or for any longer period required by law or outside funding sources.

2.5.2 ~~2.~~ Said records and accounts shall be subject to reasonable inspection by any authorized representative of any Participating Agency at its expense. Further, said accounts and records shall be audited annually by an independent certified public accounting firm appointed by the City pursuant to generally accepted accounting principles. A copy of said report shall be available to any Participating Agency. As part of said audit, the actual amount of City Water Utility's PW Costs, Pure Water Program costs attributable to the Metro System, Repurified Water Revenue, and the Capital Expense Rate shall be determined and audited by the City's external auditors and Participating Agency representatives, and a cumulative and annual summary of such amounts shall be included as a footnote or attachment to the audit of the Metro System. Cost summaries shall include separate lines for Capital Improvement Costs and Operation and Maintenance Costs.

2.5.3 The City shall make a good faith effort to complete the annual audit, and any related adjustments under this Agreement, by the end of the following fiscal year.

2.6 ~~F.~~ Limitations on Types and Condition of Wastewater.

2.6.1 ~~1.~~ Each Participating Agency will comply with all applicable laws, rules and regulations including its regulatory obligations associated with the discharge of wastewater into its respective system and from such system into the Metro System.

2.6.2 ~~2.~~ Each Participating Agency will minimize to the maximum extent practicable, the infiltration and inflow of surface, ground or stormwaters into its respective wastewater systems.

2.6.3 ~~3.~~ Each Participating Agency will insure that all industrial users of its wastewater system are regulated by an effective industrial pretreatment program that conforms to all to all applicable laws, rules and regulations

Comment from Otay: The City needs to commit to debt financing of this project. The original commitment by the Metro JPA was for a 15 MGD project that would have required little infrastructure for Metro to build. This larger project was the City's idea and since the JPA didn't sign on to this bigger project, the City should get bonds to cover the PAs cost for the project.

Response to Otay WD: Please touch base with Karyn Keze, who can discuss City's financing of Metro System projects.

Language moved from Exhibit F.

Language moved from Exhibit F.

Added at suggestion of County, after discussions with City.

and that is acceptable to the City. Provided, however, that the City shall not require the Participating Agencies to take any actions beyond that which is required under applicable laws, rules and regulations that can be taken but are not being taken by the City.

2.6.4 4. The City and the Participating Agencies agree that nothing in this Agreement, including the termination of the existing sewage disposal agreements, shall affect the validity of the Interjurisdictional Pretreatment Agreements, or the separate transportation agreements that are currently in effect between or among the City and the Participating Agencies.

2.6.5 5. Each Participating Agency will not discharge a substantial amount of sewage originating outside its respective boundaries into the Metro System without the approval of the City.

2.6.6 6. Each Participating Agency shall be responsible for the violation of any applicable laws, rules or regulations associated with its respective discharge of wastewater into the Metro System. Nothing in this Agreement shall affect the ability of any Participating Agency to hold third parties responsible for such violations.

2.6.7 7. In the event a regulatory agency imposes any penalty or takes other enforcement action relating to the conveyance, treatment, and disposal or reuse of wastewater in or from the Metro System, the City shall determine whether if the City or a Participating Agency or Agencies caused or contributed to such penalty or enforcement actions the violation by exceeding its Contract Capacity or by the contents of its wastewater. The City shall allocate the penalty or other relief, including the costs of defense, to the party or parties responsible. Each responsible party, whether a Participating Agency or the City, shall be obligated to pay its share of such penalty or other relief, and any costs of defense. In the event that the City cannot make such an allocation, the cost of such penalty or other relief shall be shared by the Participating Agencies and the City proportionately based on Flow and Strength.

Coronado requested the following addition:

For the purposes of this Agreement, the United States Naval Bases in Coronado shall not be considered outside the boundaries of the City of Coronado.

Comment from Coronado:

There should be something that defines and codifies the handling of wastewater from the Naval facilities located in the City of Coronado. The Navy is not a participating agency, their waste is generated in Coronado; however, they pay the City of San Diego directly for disposal. I'm not sure where this should be inserted, perhaps a special note under Section 2.F Limitations on Types and

Response to Coronado: Due to the potential complexity of this issue, the City suggests putting this in the list of items that will be discussed between the Parties during Phase II planning and may potentially be in a future amendment. (See Section 2.9.)

Specific language requested by Coronado, with minor edits suggested by City of SD.

"Or reuse" language removed at suggestion of Otay WD.

Suggested edits by the City of San Diego in response to language proposed by City of El Cajon. (see comment below).

2.7 ~~G.~~ Right of First Refusal.

2.7.1 ~~1.~~ The City shall not sell or agree to sell the Metro System without first offering it to the Participating Agencies. For the purposes of this section, "Participating Agencies" shall mean a Participating Agency, a group of Participating Agencies, or a third party representing one or more Participating Agencies. The term "sell" shall include any transfer or conveyance of the Metro System or of any individual treatment or reclamation facility or outfall within the Metro System.

2.7.2 ~~2.~~ The City and the Participating Agencies recognize that transfer of ownership of the Metro System is currently restricted by Sections 6.04 and 6.20 of the Installment Purchase Agreement between the City and the Public Facilities Financing Authority of the City, which inter alia restricts the transfer of ownership to the Metropolitan Wastewater Sewage District or other governmental agency whose primary purpose is to provide wastewater treatment. The City shall not seek to impose on bond holders a waiver of Section 6.04 or 6.20. Absent such a restriction, before the City sells or agrees to sell the Metro System, or any portion of it, the City shall offer to sell the Metro System to the Participating Agencies ("the Offer") on the terms and at a price equal to that proposed for the sale of the Metro System to a third party. The Participating Agencies shall have thirty days from receipt of the Offer ("the Intent to Respond Period") in which to notify the City of their intent to respond to the Offer. The Participating Agencies shall have five months from the expiration of the Intent to Respond Period in which to accept or reject the Offer. The Offer shall contain the name of the proposed purchaser, the proposed sale price, the terms of payment, the required deposit, the time and place for the close of escrow, and any other material terms and conditions on which the sale is to be consummated.

2.7.3 ~~3.~~ If the Participating Agencies give timely notice of their intent to respond and timely notice of their acceptance of the Offer, then the City shall be obligated to sell and the Participating Agencies shall be obligated to purchase the Metro System or any individual treatment or reclamation facility or outfall within the Metro System, as applicable, at the price and on the terms and conditions of the Offer. If the Participating Agencies do not give timely notice of their intent to respond or their acceptance of the Offer, or do not submit an offer on the same terms and conditions as the Offer, the City may, following the end of the Offer period, sell the Metro System, or any portion of it, at a price and on terms and conditions no less favorable to the City than those in the Offer. The City shall not sell the Metro System to any third party on terms or at a price less favorable to the City from the terms and price contained in the Offer absent compliance with the terms of this Section.

2.7.4 ~~4.~~ Nothing herein shall prevent the City from entering into a financing agreement which may impose limits on the City's power to sell the Metro System to the Participating Agencies pursuant to Section ~~H.1~~2.7.1. if the City reasonably believes that such a financing agreement is in the City's best interest. Neither the entry into such a financing agreement by the City nor the performance thereof by the City shall constitute a breach or default by the City hereunder.

Suggested addition by El Cajon.

2.8 ~~H.~~ Pure Water San Diego Program.

~~1.~~ Each new, expanded, or modified Metro System facility which is used in relation to the production of Repurified Water (in addition to the modification and expansion of the North City Water Reclamation Facility) shall be governed by this Agreement and Exhibit F, attached hereto and incorporated herein. ~~The parties acknowledge and agree that additional amendments to Exhibit F will be necessary based on the actual Repurified Water processes selected and the nature of specific facilities. Therefore, notwithstanding Section XIV, subsection B (Amendment of Agreement), the City's Mayor and the chief executive officer of each of the Participating Agencies shall have the authority to execute ministerial amendments to Exhibit F. For purposes of this provision, a "ministerial amendment" is a written amendment that: (1) allocates costs related to new, expanded, or modified Metro System facilities in connection with the production of Repurified Water, and (2) is generally consistent with the cost allocation principles set forth in the original Exhibit F, which is attached to this Agreement.~~

~~2. Nothing in this Agreement or Exhibit F limits or restricts the right of the City or the Participating Agencies to enter into separate agreements the purchase or sale of Repurified Water produced by the Water Repurification System or sharing in City Water Utility's associated capital, debt, operation, and maintenance costs. Under such circumstances, the cost allocation and commodity rate delineated in Exhibit F will remain unchanged.~~

2.9 Future Negotiations and Cooperation.

2.9.1 This Agreement and Exhibit F specifically contemplate Phase I of the Pure Water Program, which consists of new, expanded, or modified Metro System facilities and Water Repurification System facilities designed to produce only up to 30 million gallons per day of Repurified Water ("Phase I"). During the planning process for later phases of the Pure Water Program, the parties shall meet and negotiate in good faith regarding one or more amendments to this Agreement or its Exhibits to address:

2.9.1.1 The allocation of specific Pure Water Program costs between City's water utility and the Metro System for such later phases;

2.9.1.2 Whether, and to what extent, certain Metro System costs should be charged based on volume capacity rights, Strength capacity rights, Peak 24-Hour Wet Weather Flow, and/or other factors;

2.9.1.3 The exclusion of costs related to the industrial discharges inspection and monitoring program within San Diego under Section 5.2.1.2.3 of the Agreement; and

2.9.1.4 The handling of waste generated at United States military bases under this Agreement.

If such negotiations do not result in an amendment to this Agreement or its Exhibits concerning these subjects, this Agreement shall remain in full force and effect as set forth herein. Further, if the City proceeds with a later phase of the Pure Water Program as authorized under Section 2.1 of this Agreement, and the Parties have not yet amended this Agreement or Exhibit F to specifically address such costs by the time they are incurred, all costs listed in Section I of Exhibit F shall nonetheless be excluded as Metro System costs under this Agreement.

2.9.2 The City and the Participating Agencies shall cooperate and coordinate in good faith with the Padre Dam Municipal Water District, San Diego County Sanitation District, and City of El Cajon on issues that relate to the East County AWP Program, including, but not limited to, the transfer of the Mission Gorge Pump Station; disposal of residuals; and a source control program.

Added at request of Padre Dam.

~~III.~~ III. PAYMENT AND MONITORING PROVISIONS

Comment from Otay:
There needs to be a clear distinction between how capital costs for secondary equivalency are being charged and how O&M costs are calculated and billed since the Flow bases are different.

Response to comment from Otay WD: Please contact Karyn Keze, who can discuss calculation and billing issues.

3.1 Payment for Metro System Facilities.

Through the system of charges set forth in ~~Section~~Article V of this Agreement, each Participating Agency shall pay its share of the costs of planning, design and construction of all of the Metro System facilities which are identified in Exhibit A hereto, which is incorporated herein by reference.

3.2 ~~B.~~ Payment for Additional Metro System Facilities.

Through the system of charges set forth in ~~Section~~Article V of this Agreement, each Participating Agency shall pay its share of the costs of acquisition, or planning, design and construction of such facilities in addition to those set forth on Exhibit A as are necessary for the Metro System to maintain compliance with applicable laws, rules and regulations, including the Ocean Pollution Reduction Act of 1994 and its successor(s), present and future waivers of applicable treatment standards at any Metro System treatment facility, and all facilities as are necessary to convey, treat, dispose, and reuse wastewater in the Metro System to provide the Contract Capacity set forth in Exhibit B, to maintain hydraulic capacity and as otherwise required by sound engineering principles. As a ministerial matter, the City shall amend Exhibit A from time to time to reflect such additional facilities and shall give notice of any amendments to the Participating Agencies. The City shall keep an updated version of Exhibit A on file with

the City ~~Clerk~~Public Utilities Department. Exhibit A may be amended to reflect other changes to the Metro System only as expressly provided in this Agreement.

3.3 ~~C.~~ Payment for Operation and Maintenance.

Through the system of charges set forth in ~~Section~~Article V of this Agreement, each Participating Agency shall pay its share of the Operation and Maintenance Costs of all Metro System facilities. The Participating Agencies shall not pay for the Operation and Maintenance Costs of Water Repurification System, which are City Water Utility PW Costs.

3.4 ~~D.~~ Charges Based on Flow and Strength; Exception.

3.4.1 ~~1.~~ Except as otherwise described in this ~~subsection D~~Section 3.4, a Participating Agency's share of the charges in this ~~Section~~Article III shall be assessed pursuant to ~~Section~~Article V of this Agreement based on its proportionate Flow in the Metro System and the Strength of its wastewater.

3.4.2 ~~2.~~ Notwithstanding ~~the above~~section 3.4.1, or any other provision of this Agreement, a Participating Agency's share of Pure Water Program Capital Improvement Costs and Pure Water Program revenues attributable to the Metro System under Exhibit F shall be assessed or credited based on the parties' ~~"Metro Capacity Rights," which~~proportionate share of Wet Weather Flow Rights. Wet Weather Flow Rights are based on projections of each party's ~~2050 Flow. Metro Capacity Rights are~~10-year average of Wet Weather Flow in the year 2050 as set forth in Column 7 of Exhibit G, which is attached hereto and incorporated herein. The City shall annually ~~determine~~allocate the estimated and actual ~~costs~~ Pure Water Program Capital Improvement Costs and revenues which are attributable to the Metro System under Exhibit F ~~and take into account the above assessment method~~in proportion to each party's share of Wet Weather Flow Rights (Column 8 of Exhibit G) when estimating quarterly payments and conducting year-end adjustments under ~~Section~~Article V.

3.4.3 ~~3.~~ Each party recognizes that operation within respective ~~Metro Capacity~~Wet Weather Flow Rights is essential to the accurate allocation of costs and revenues under the Pure Water Program. In recognition of same, the parties agree as follows:

~~a. If any party's Flow exceeds the sum of its Metro Capacity Rights and its portion of the Reserve Capacity Pool (as shown in Exhibit G) for any continuous three (3) month period, such party shall pay for the use of such capacity from the Reserve Capacity Pool. Payment for such use of the Reserve Capacity Pool shall be made as part of the yearly billing adjustments under Section V.B.4 and shall be credited to offset the other parties' Pure Water Program Capital Improvement Costs. Such payments shall be based on the following amounts, which shall be annually adjusted each July 1 (starting on July 1, 2018) to reflect the~~

Comment from Nick Norvell (Metro JPA): The City has explained that the City Clerk no longer maintains records for the entire City. The successor for this purpose would be the City Public Utilities Department. Similar changes have been made in other sections of this draft Agreement.

~~A.~~ Comment from Otay: Shouldn't the capital costs for the secondary equivalency improvements be covered under either of these sections rather than Section III.D?

Response to comment from Otay WD: Please contact Karyn Keze, who can discuss cost allocation and billing issues.

Comment from Poway: Need to clarify that Exhibit B is no longer governing capacity rights.

Response to comment from Poway: The revised Agreement would not entirely do away with the Contract Capacities in Exhibit B. Each party would retain its Contract Capacity in the system, but would have a financial incentive to keep its Flow under the amounts that will be used for determining Pure Water Program capital costs.

Comment from Otay:

It is not clear how the capital improvements for secondary equivalency will take into consideration sewer strength in the allocation of these costs. The SSC as defined and set in Section V.B. leaves this to the City to calculate. It appears that there would need to be a change to how the capital costs are determined separate from how the O&M costs are calculated. Also, if Otay WD were to stop treatment at RWCWRF and increase its allocation, there would need to be a credit for reducing the strength of the existing capacity? Or if Otay WD did solids handling and reduced strength but kept flow the same. What assumptions are being made for ultimate strength?

Comment from Tom Zeleny (City of SD): Probably need to specify which column.

~~annual percentage change in the Engineering News Record – Los Angeles construction cost index:~~

~~(1) $_____ per MGD (for use of any portion of the Reserve Capacity Pool up to four (4) times such party's share of the Reserve Capacity Pool)~~

~~(2) $_____ per MGD (for use of any portion of the Reserve Capacity Pool over four (4) times such party's share of the Reserve Capacity Pool)~~

3.4.3.1 Beginning in the next fiscal year after the effective date of this Agreement, if any party's Annual Average Daily Flow exceeds its Wet Weather Flow Rights for any two (2) consecutive fiscal years, the City shall prepare an amendment to Exhibit G that adjusts projections of each party's 10-year average of Wet Weather Flow in 2050 based on information about such party's exceedance and other relevant information. Upon approval by a majority of the Metro Commission, the City shall, as a ministerial matter, amend the Wet Weather Flow Rights in Column 7 of Exhibit G (and the percentages in Column 8 of Exhibit G) to reflect the new projections of 10-year average of Wet Weather Flow. The City shall keep an updated version of Exhibit G on file with the City Public Utilities Department. If the City and the Metro Commission cannot agree on an amendment to Exhibit G, the matter shall be submitted to dispute resolution pursuant to Article IX.

3.4.3.2 ~~b.~~ Notwithstanding the amounts set forth in Column 7 of Exhibit G, the following parties will have the following ~~Metro Capacity~~Wet Weather Flow Rights until July 1, ~~2023~~2025:

3.4.3.2.1 ~~(1)~~ Padre Dam: ~~2.48~~2.797 MGD

3.4.3.2.2 ~~(2)~~ San Diego County Sanitation District: ~~10.959~~22.844 MGD

3.4.3.2.3 ~~(3)~~ El Cajon: ~~7.8~~8.542 MGD

~~c. Notwithstanding the amounts set forth in Exhibit G, the following parties will have the following Metro Capacity Rights until July 1, 2028:~~

~~(1) San Diego County Sanitation District: 5.739 MGD~~

~~(2) El Cajon: 7.8 MGD~~

~~d. If any party's Flow exceeds the sum of its Metro Capacity Rights and its portion of the Reserve Capacity Pool (as shown in Exhibit G) for any continuous six (6) month period, the City shall contract with an independent consultant (who shall be approved by a majority of the Metro Commission) to prepare an amendment to Exhibit G that accurately~~

Comment from Otay: Otay doesn't have any land use authority so is unable to determine ultimate buildout flows and as a wastewater treatment plant may send flows during periods of maintenance. Also how will I & I be addressed? If a series of rain events increase flows, due to poor maintenance by the City and the way they measure flow (spot checks a couple of times a year) will spread this flow increase to all agencies. The agency that has the high I & I gets subsidized by the JPA.

County suggests deleting and made this comment: ECAWP is planned to be constructed in one initial phase to be completed by July 1, 2028.

Comment from Otay: Off-ramps provided to some agencies. Otay wants an off-ramp as well.

Comment from Poway: San Diego County Sanitation District and El Cajon will be allowed higher capacities for a 5-year period with the first phase of Pure Water on-line. They should have to contribute a pre-determined share for this period.

Response to comment from Poway: All parties, including the East County parties, will pay O&M based solely on Flow and Strength for the PW Metro facilities. For capital improvements, the parties are paying based on long-term capacity needs. The committee believes this combination of charges is a fair way to charge for actual current use and long-term capacity planning.

Response to comment from Poway: That concern would be addressed by 3.4.3.1 and 3.4.3.4. Like all parties, if the East County parties exceed their average wet weather flows for two consecutive years, Exhibit G would be amended, and the exceeding parties would make retroactive payments for their fair share of Pure Water costs.

Comment from Poway: Need a clause if Padre Dam, San Diego County, El Cajon do not meet established timelines for reducing flows, what portion of Capital Costs will they incur? In other words, if their project does not come to fruition, they will still be a stakeholder in Pure Water and the Metro System. Will other agencies be reimbursed?

~~reflects projections of 2050 Flow. The revised Exhibit G prepared by the consultant shall, as a ministerial matter, be adopted by the City within 180 days of such exceedance. The City shall give notice of the amendment of Exhibit G to each Participating Agency, and shall provide copies of the amendment with the notice. The City shall keep an updated version of Exhibit G on file with the City Clerk.~~

3.4.3.3 ~~e.~~ If Exhibit G is amended to update one or more parties' ~~Metro Capacity~~Wet Weather Flow Rights, the change in ~~Metro Capacity~~Wet Weather Flow Rights shall be retroactive in effect, and the City shall use the updated amounts in estimating quarterly payments and conducting year-end adjustments for Pure Water Program costs and revenues. Therefore, any party that underpaid based on previous ~~Metro Capacity~~Wet Weather Flow Rights (which were based on prior projections of 2050 Flow) shall pay the ~~difference~~retroactive amount due in its quarterly payments the following fiscal year; any party that overpaid based on previous ~~Metro Capacity~~Wet Weather Flow Rights shall receive a credit in its quarterly payments the following fiscal year. Notwithstanding the preceding sentence, if the retroactive amount due exceeds 20% of a party's average annual Metro System payments for the previous four (4) years, such party may elect to pay the retroactive amount due in its quarterly payments over the subsequent four (4) fiscal years; any party that overpaid based on previous Wet Weather Flow Rights shall receive a credit in its quarterly payments the following four (4) fiscal years.

Comment from Tom Zeleny (City of SD): This could be quite large if a PA exceeds its capacity late in the game, like after 2040.

County comment: Need to have a statute of limitations on how far back true-up can go.

Response from Nick Norvell (Metro JPA): Agreed. Please review new suggested language at bottom of this paragraph, which allows for payment of retroactive costs over multiple years where the amount would be substantial for a particular PA.

3.5 ~~E.~~ Monitoring Flow and Strength.

Comment from Otay: Will Strength need to be potentially redefined to include TDS? What are the impacts of higher TDS on the long term life and maintenance of the facilities?

3.5.1 ~~1.~~ The City shall monitor wastewater that is discharged into the Metro System for Flow and Strength. The City shall own and operate as part of the Metro System monitoring devices which will measure the amount of daily wastewater discharged into the Metro System. These devices shall be installed at locations appropriate to accurately monitor Flow and Strength. The City may also monitor wastewater Flow and Strength at other locations as it deems appropriate.

3.5.2 ~~2.~~ In measuring Strength, the frequency and nature of the monitoring shall not be more stringent for the Participating Agencies than it is for the City.

3.5.3 ~~3.~~ The City shall, at least once every five (5) years, update and provide its plans for the monitoring system and for the procedures it will use to determine Strength to the Participating Agencies ~~for~~. The Participating Agencies shall have the opportunity to review and comment prior to implementation.

Added by Metro TAC Ad Hoc Committee in response to comment from Otay WD.

Comment from Otay: Change; "The City shall prepare and update a monitoring plan every five years for the monitoring system… The City has multiple connections that aren't monitored for flow or strength. The City also has significant issues with TDS that increase the cost of treatment for agencies that have spent a considerable capital investment in reducing I & I.

3.5.4 ~~4.~~ The City shall report Flow and Strength data to the Participating Agencies at least quarterly.

IV. CAPACITY RIGHTS

4.1 ~~A.~~ Contract Capacity.

In consideration of the obligations in this Agreement, each Participating Agency shall have a contractual right to discharge wastewater to the Metro System up to the Contract Capacity set forth in Exhibit B. The Wet Weather Flow Rights stated in Exhibit G, which are used solely for the purpose of allocating Pure Water Program costs and revenues attributable to the Metro System under this Agreement, do not replace or limit Contract Capacity. Each party's Contract Capacity takes into account Wet Weather Flow.

4.2 ~~B.~~ Transfers of Contract Capacity.

The Participating Agencies and the City may buy, sell or exchange all or part of their Contract Capacity among themselves on such terms as they may agree upon. The City shall be notified prior to any transfer. Any transfer shall be first approved by the City. No Contract Capacity may be transferred if the City determines, after consultation with the Participating Agencies involved in the transaction, that said transfer will unbalance, or will otherwise adversely impact the City's ability to operate the Metro System. Provided, however, that the Participating Agency seeking the transfer may offer to cure such imbalance at its own expense. Following the City's consent, as a ministerial matter, the Contract Capacity set forth in Exhibit B shall be adjusted to reflect the approved transfer.

4.3 ~~C.~~ Allocation of Additional Capacity.

The parties recognize that the City's applicable permits for the Metro System may be modified to create capacity in the Metro System beyond that set forth in Exhibit B as a result of the construction of additional facilities or as a result of regulatory action. This additional capacity shall be allocated as follows:

4.3.1 ~~1.~~ Except as provided in ~~subsection 2~~section 4.3.2 below, in the event that the Metro System is rerated so that additional permitted capacity is created, said capacity shall be allocated proportionately based upon the Metro System charges that have been paid since July 1, 1995 to the date of rerating.

4.3.2 ~~2.~~ In the event that the additional permitted capacity is created as the result of the construction of non-Metro System facilities, or as the result of the construction of facilities pursuant to ~~Section~~Article VII, such additional capacity shall be allocated proportionately based on the payments made to plan, design and construct such facilities.

Comment from Poway: Need clarification on how this fits in given Capacity Rights have been redistributed with Pure Water (Section III and Exhibit G). Note this is also defined under Section I(E).

Response to comment from Poway: The revised Agreement would not entirely do away with the Contract Capacities in Exhibit B. Each party would retain its Contract Capacity in the system, but would have a financial incentive to keep its Flow under the amounts that will be used for determining Pure Water Program capital costs. A sentence has been added to Section 4.1 to clarify this issue.

Comment from Coronado: *Capacity Rights are going to be redefined with Pure Water; the new Capacity Rights need to be clearly detailed.*

4.4 ~~D.~~ Deductions in Contract Capacity.

The parties further recognize that the Contract Capacity in Exhibit B and Wet Weather Flow Rights in Exhibit G may be modified to comply with, or in response to, applicable permit conditions, or related regulatory action, or sound engineering principles. In the event that the capacity of the Metro System is rerated to a level below the total capacity set forth in Exhibit B, the Contract Capacity in Exhibit B and Wet Weather Flow Rights in Exhibit G shall be reallocated proportionately pending the acquisition or construction of new facilities. The City shall acquire or construct such facilities as necessary to provide the Contract Capacity rights set forth in Exhibit B, as planning and capacity needs require. The costs of such facilities shall be assessed pursuant to Section ~~III.B. above~~3.2.

4.5 ~~E.~~ Amendments to Exhibits B and C.

As a ministerial matter, the City shall prepare amendments to Exhibits B and C to reflect any adjustment in Contract Capacity pursuant to this ~~Section~~Article within ninety (90) days after the adjustment is made. The City shall give notice of the amendments to each Participating Agency, and shall provide copies of the amendments with the notice. The City shall keep an updated version of Exhibits B and C on file with the City ~~Clerk~~Public Utilities Department.

4.6 ~~F.~~ The South Bay Land/Ocean Outfall.

Nothing in this ~~Section~~Article shall limit the City's right to transfer capacity service rights in that portion of the South Bay Land/Ocean Outfall which is not part of the Metro System.

Comment from Otay: The City should not be able to transfer capacity that would strand an asset paid for by Metro, and the City must reimburse Metro for the capital cost to replace the lost treatment capacity at Point Loma WWTP including any incremental cost to increase conveyance capacity to transfer wastewater that would have been treated at the SBWRP.

~~V.~~ V. SYSTEM OF CHARGES

5.1 ~~A.~~ Charges Authorized.

The City agrees to implement and the Participating Agencies agree to abide by a new system of charges. This new system allows the City to equitably recover from all Participating Agencies their proportional share of the net Metro System Costs through the imposition of the following charges:

5.1.1 ~~1.~~ SSC (Sewer System Charge);

5.1.2 ~~2.~~ NCCC (New Contract Capacity Charge).

Response to comment from Otay: Of the portions of the Outfall owned by the City, the Metro System has a capacity right to 69.2 MGD and the City as a separate and exclusive right to 4.8 MGD. This provision only relates to the exclusive portion, not the portion owned as part of the Metro System. (See Exhibit A, FN 1 for further discussion.)

5.2 ~~B.~~ SSC (Sewer System Charge).

The City shall determine the SSC based on the projected Metro System Costs (as defined below) for the forthcoming fiscal year, less all Metro System Revenues (as defined below).

Comment from Otay: This section must be updated.

5.2.1 ~~1.~~ Metro System Costs

Comment from Nick Norvell (Metro JPA): References to the Existing Capacity Charge have been removed because all payments for existing capacity were completed in 2003 as provided under the original Agreement.

5.2.1.1 ~~a.~~ The following shall at a minimum be considered Metro System Costs for purposes of calculating the annual SSC:

5.2.1.1.1 ~~(1)~~ Except as provided in section 5.2.1.2 (Excluded Costs~~, subsection b. below~~), the annual costs associated with administration, operation, maintenance, replacement, annual debt service costs and other periodic financing costs and charges, capital improvement, insurance premiums, claims payments and claims administration costs of the Metro System~~,~~, including projected overhead. Overhead shall be calculated using accepted accounting practices to reflect the overhead costs of the Metro System.

5.2.1.1.2 ~~(2)~~ Fines or penalties imposed on the City as a result of the operation of the Metro System, unless the fine/penalty is allocated to the City or a Participating Agency as provided in Section ~~II.F.7~~2.6.7.

~~(3) Costs incurred by the City, including attorneys' fees, necessary to implement the terms of this Agreement.~~

5.2.1.2 ~~b.~~ Excluded Costs. The following items shall not be considered Metro System Costs for purposes of calculating the annual SSC;

5.2.1.2.1 ~~(1)~~ Costs related to the City of San Diego's Municipal System as determined by reasonable calculations;

5.2.1.2.2 ~~(2)~~ Costs related to the treatment of sewage from any agency which is not a party to this Agreement;

5.2.1.2.3 ~~(3)~~ Costs related to the inspection and monitoring program for the industrial dischargers located in San Diego, including associated administrative and laboratory services;

5.2.1.2.4 ~~(4)~~ Right-of-way charges for the use of public streets of the City or any Participating Agency. The City and the Participating Agencies agree not to impose a right-of-way charge for the use of its public rights-of-way for Metro System purposes~~.~~;

5.2.1.2.5 ~~(5)~~ Capital Improvement Costs of any non-Metro System facility~~.~~;

County comment: Claims costs should exclude any costs resulting from negligence of City or a PA.

Response to County comment: The Committee discussed this with the City, but the City explained that excluding costs for some types of claims would raise other types of costs associated with the system.

Section 5.2.1.2.8 added in response to County comment.

Comment from Nick Norvell (Metro JPA): Removal of this language has been suggested by the City of SD because it is duplicative of Section 5.2.1.1.1, which already includes costs of administration of the Metro System.

Comment from Tom Zeleny (City of SD): Re deleted language, it could be construed as an attorney's fee provision.

Additional comment based on phone discussion between Tom Zeleny and Nick Norvell: Removal of this language entirely would be appropriate because it is duplicative of Section 5.2.1.1.1. That section already includes costs of administration of the Metro System.

Comment from Otay: Excluded costs must include "Operation and Maintenance Costs of the Water Purification System." (as referenced in Section III.C)

Response to comment from Otay WD: Section 5.2.1.2.7 excludes "City Water Utility PW Costs." Under Exhibit F, City Water Utility PW Costs means all costs, including O&M and Capital Improvement costs for the Water Repurification System (as well as other excluded costs).

Comment from Coronado: *What about effluent from the Navy? They are not a party to the Agreement.*

For City review/comment.

5.2.1.2.6 ~~(6)~~ Capital Improvement Costs for which an NCCC is paid~~.~~; and

5.2.1.2.7 ~~(7)~~ City Water Utility PW Costs ~~as defined in Exhibit F~~.

5.2.2 ~~2.~~ Metro System Revenues.

5.2.2.1 ~~a.~~ The following revenues shall be at a minimum considered Metro System Revenues for purposes of determining the annual SSC:

5.2.2.1.1 ~~(1)~~ Any grant or loan receipts or any other receipts that are attributable to the Metro System, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System~~, and~~; provided, however, that this shall not include any grant, loan, or other receipts attributable to the Metro System components of the Pure Water Program, which are specifically addressed in Section 5.2.2.1.8.

Comment from Tom Zeleny (City of SD): Regarding this new language, does this really go into the SSC, or does it only go into the calculation in section 3.4.2?

Response from Nick Norvell (Metro JPA): Language changed based on comment from T. Zeleny.

5.2.2.1.2 ~~(2)~~ All compensation or receipts from the sale or other conveyance or transfer of any Metro System by-products, including, but not limited to gas, electrical energy, sludge products, and Reclaimed Water (excepting therefrom any receipts allocated pursuant to ~~subsection 2.a.(3) below); provided however, that this shall not include the Secondary Effluent Commodity Rate, which is specifically addressed in subsection 2.a.(6) below.~~section 5.2.2.1.3).

5.2.2.1.3 ~~(3)~~ The distribution of revenue from the sale of Reclaimed Water from the North City Water Reclamation Plant, including incentives for the sale of Reclaimed Water, shall first be used to pay for the cost of the Reclaimed Water Distribution System, then the cost of the Operation and Maintenance of the Tertiary Component of the North City Water Reclamation Plant that can be allocated to the production of Reclaimed Water, and then to the Metro System.

5.2.2.1.4 ~~(4)~~ Any portion of an NCCC that constitutes reimbursement of costs pursuant to Section ~~VII.A.4~~7.1.4.

5.2.2.1.5 ~~(5)~~ Any penalties paid under Section ~~VII.C~~7.3.

5.2.2.1.6 ~~(6)~~ Proceeds from the ~~Secondary Effluent Commodity~~Capital Expense Rate, as calculated under Exhibit F and allocated among the City and Participating Agencies in the proportions set forth in Column 8 of Exhibit G.

Comment from Tom Zeleny (City of SD): Is this really allocated to each PA, or should it simply be Metro System revenue that offsets Metro System costs?

5.2.2.1.7 Those portions of Repurified Water Revenue attributable to the Metro System, as calculated under Exhibit F and allocated among the Participating Agencies in the proportions set forth in Column 8 of Exhibit G.

5.2.2.1.8 Any grant or loan receipts or any other receipts that are attributable to the Metro System components of the Pure Water Program, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System components of the Pure Water Program. Any proceeds under this section shall be allocated among the City and the Participating Agencies in the proportions set forth in Column 8 of Exhibit G.

Comment from Otay:

This sample fiscal year estimate should be done now to identify costs. This is so the City can plan for the electrical and flow meters needed to separate costs and to identify how staff full time equivalent charges will be split for this calculation.

Will the City be reimbursing Metro for all of its legal costs as well? This section states that Metro will reimburse the City for its legal costs. Is this allocation similar to the Metro allocation where the City will end up being responsible for the majority of legal costs, or will all the member agencies, excluding the City pick up the legal tab? All of the member agencies are incurring legal costs related to this contract amendment, so each agency should be responsible for its own legal costs.

5.2.2.2 ~~b.~~ Excluded Revenue

5.2.2.2.1 ~~(1)~~ Capital Improvement Costs for which an NCCC is paid;

5.2.2.2.2 ~~(2)~~ Proceeds from the issuance of debt for Metro ~~system~~System projects.

5.2.2.2.3 ~~(3)~~ Proceeds from the sale of Reclaimed Water used to pay for the Reclaimed Water Distribution System pursuant to ~~subsection 2.a.(3)~~section 5.2.2.1.3 above.

5.2.3 ~~3.~~ Calculation of SSC Rates.

Response to comment from Otay WD:

Attachment 1 of Exhibit F will be an example of how costs are allocated for Pure Water.

Please see the new paragraph of Section 2.8 regarding electric and flow meters and tracking of labor costs.

5.2.3.1 ~~a.~~ Prior to the initial implementation of the new system of charges, the City shall prepare a sample fiscal year estimate setting forth the methodology and sampling data used as a base for Strength based billing (SBB) which includes Flow and Strength (Chemical Oxygen Demand (COD) and Suspended Solids (SS)). The analysis shall be submitted to each Participating Agency.

Question from Committee to City based on comment from Otay WD: Is City Attorney time for developing this amendment being tracked such that it can be excluded as a Metro System cost? All other parties are bearing their own costs/time for review by their individual attorneys.

5.2.3.2 ~~b.~~ The City shall determine the unit SSC rates by allocating net costs (Metro System Costs less Metro System Revenues) between parameters of Flow, COD and SS. This allocation is based on the approved Functional-Design Methodology analyses for individual Capital Improvement Projects (CIPs) and estimated Operation and Maintenance (O&M) Costs allocated to the three parameters. The City may revise the calculations to include any other measurement required by law after the effective date of this Agreement.

5.2.3.3 ~~c.~~ The net cost allocated to each of the three parameters (Flow, COD and SS) shall be divided by the total Metro System quantity for that parameter to determine the unit rates for Flow, COD and SS. These unit rates shall apply uniformly to all Participating Agencies.

5.2.4 ~~4.~~ Estimate and Billing Schedule and Year End Adjustment

5.2.4.1 ~~a. Estimate –~~ The City shall estimate the SSC rates on an annual basis prior to January 15. The City shall quantify the SSC rates by estimating the quantity of Flow, COD and SS for each party, based on that party's actual flow and the cumulative data of sampling for COD and SS over the preceding years. If cumulative data is no longer indicative of discharge from a Participating Agency due to the implementation of methods to reduce Strength, previous higher readings may be eliminated.

5.2.4.2 ~~b.~~ Costs of treating Return Flow for solids handling will be allocated to the Participating Agencies in proportion to their Flow and Strength. Return Flow will not be counted against the Participating Agencies' Contract Capacity as shown in Exhibit B.

5.2.4.3 ~~c. SSC Billing Schedule –~~ The City shall bill the Participating Agencies quarterly, invoicing on August 1 , November 1, February 1 and May 1. Each bill shall be paid within thirty (30) days of mailing. Quarterly payments will consist of the total estimated cost for each Participating Agency, based on their estimated Flow, COD and SS, divided by four.

5.2.4.4 ~~d. Year End Adjustments –~~ At the end of each fiscal year, the City shall determine the actual Metro System~~.~~ Costs and the actual Flow as well as the cumulative Strength data for the City and each of the Participating Agencies. The City shall make any necessary adjustments to the unit rates for Flow, COD and SS based on actual costs for the year. The City shall then recalculate the SSC for the year using actual costs for the year, actual Flow, and cumulative Strength factors (COD, SS and Return Flow) for the City and for each Participating Agency. The City shall credit

County comment: Consider adding a time limit to complete true-up.

any future charges or bill for any additional amounts due, the quarter after the prior year costs have been audited.

5.3 ~~C.~~ NCCC (New Contract Capacity Charge).

If New Contract Capacity is required or requested by a Participating Agency, pursuant to ~~Section~~Article VII, the Metro System shall provide the needed or requested capacity, provided that the Participating Agency agrees to pay an NCCC in the amount required to provide the New Contract Capacity. New Contract Capacity shall be provided pursuant to ~~Section~~Article VII.

5.4 ~~D.~~ Debt Financing.

The City retains the sole right to determine the timing and amount of debt financing required to provide Metro System Facilities.

5.5 ~~E.~~ Allocation of Operating Reserves and Debt Service Coverage.

Comment from Nick Norvell (Metro JPA): In 2010, the City and Metro JPA agreed to a protocol related to operating reserves and debt service under the agreement and have been operating in accordance with the protocol since that time. This will add the protocol as a formal part of the Agreement.

The parties shall continue to comply with the 2010 Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies, attached hereto and incorporated herein as Exhibit C.

VI. PLANNING

6.1 ~~A.~~ Projected Flow and Capacity Report.

Commencing on July 1, 1999, each Participating Agency shall provide the City and the Metro Commission with a ten-year projection of its Flow and capacity requirements from the Metro System. The Agencies shall disclose any plans to acquire New Capacity outside the Metro System. This "Projected Flow and Capacity Report" shall be updated annually.

6.2 ~~B.~~ Other Planning Information.

Each Participating Agency shall provide the City with such additional information as requested by the City as necessary for Metro System planning purposes.

6.3 ~~C.~~ Ten-Year Capital Improvement Plan.

The City shall prepare a Ten-Year Capital Improvement Plan for the Metro System that describes the facilities necessary to convey, treat, and dispose of, or reuse all Flow in the Metro System in compliance with all applicable rules, laws and regulations. The plan shall be updated annually.

6.4 ~~D.~~ Notice to Metro Commission.

In the event that the City is not able to include a facility in the Ten-Year Capital Improvement Plan, the City shall notify the Metro Commission as soon as possible before the detailed design or construction of such facility provided that the facility will significantly impact the Metro System.

VII. FACILITIES SOLELY FOR NEW CONTRACT CAPACITY

The Participating Agencies and City are obligated to pay for the acquisition or planning, design, and construction of new facilities in the Metro System that are needed solely to provide New Contract Capacity only under the terms provided below.

7.1 ~~A.~~ Determination of Need for New Contract Capacity.

7.1.1 ~~1.~~ As part of its planning efforts, and considering the planning information provided to the City by the Participating Agencies, the City shall determine when additional facilities beyond those acquired or constructed pursuant to ~~Section~~Article III above will be necessary solely to accommodate a need for New Contract Capacity in the Metro System, whether by the City or by the Participating Agencies. The City shall determine: (1) the amount of New Contract Capacity needed; (2) the Participating Agency or Agencies, or the City, as the case may be, in need of the New Contract Capacity; (3) the type and location of any capital improvements necessary to provide the New Contract Capacity; (4) the projected costs of any necessary capital improvements; and, (5) the allocation of the cost of any such facilities to the Participating Agency and/or the City for which any New Contract Capacity is being developed. The City shall notify the Participating Agencies of its determination within sixty days of making such determination.

7.1.2 ~~2.~~ The City or Participating Agency or Agencies in need of New Contract Capacity as determined by the City pursuant to ~~Paragraph 1~~section 7.1.1 above, may choose, in their sole discretion, to obtain New Capacity outside of the Metro System in lieu of New Contract Capacity. Under such circumstances, the Participating Agency or Agencies shall commit to the City in writing their intent to obtain such New Capacity. Upon such commitment, the City shall not be required to provide New Contract Capacity to such Agency or Agencies as otherwise required under this Agreement.

7.1.3 ~~3.~~ The Participating Agencies shall have six months from the date of notice of the determination within which to comment on or challenge all or part of the City's determination regarding New Contract Capacity, or to agree thereto or to commit, in writing, to obtain New Capacity outside of the Metro System. Any Participating Agency objecting to the City's determination shall have the burden to commence and diligently pursue the formal dispute resolution procedures of this Agreement within said six month period. The City's determination shall become final at the

close of the six month comment and objection period. The City's determination shall remain valid notwithstanding commencement of dispute resolution unless and until ~~set aside by a final, binding, determination of an arbitrator~~otherwise agreed to pursuant to the dispute resolution process ~~set forth in this Agreement~~in Article IX, or pursuant to a final court order.

7.1.4 ~~4.~~ The City and the Participating Agency or Agencies which need New Contract Capacity shall thereafter enter into an agreement specifying the terms and conditions pursuant to which the New Contract Capacity will be provided, including the amount of capacity and the New Contract Capacity. Each party obtaining New Contract Capacity shall reimburse the Metro System for the costs of acquisition, planning, design, and construction of facilities necessary to provide the New Contract Capacity that have been paid by other parties under Section ~~VII.B.3~~7.2.3.

7.1.5 ~~5.~~ The parties recognize that the City may acquire and plan, design and construct facilities that are authorized pursuant to both ~~Section~~Article III and ~~Section~~Article VII of this Agreement. Under such circumstances, the City shall allocate the costs and capacity of such facilities pursuant to ~~Section~~Article III and Section ~~VII.A.1~~7.1.1 as applicable.

7.2 ~~B.~~ Charges for Facilities Providing New Contract Capacity

7.2.1 ~~1.~~ The expense of acquisition, planning, design, and construction of New Contract Capacity shall be borne by the City or the Participating Agency or Agencies in need of such New Contract Capacity.

7.2.2 ~~2.~~ Notwithstanding any provision in this Agreement, the City and the Participating Agencies shall pay for the Operation and Maintenance Costs of all facilities pursuant to the payment provisions of ~~Section~~Article III, including those facilities acquired and constructed to provide New Contract Capacity in the Metro System.

7.2.3 ~~3.~~ Charges for the acquisition, planning, design and construction of facilities solely to provide New Contract Capacity shall be paid for by the Participating Agencies and the City pursuant to the payment provisions in ~~Section~~Article III of this Agreement until an agreement is reached under Section ~~VII.A.4~~7.1.4. or pending the resolution of any dispute relating to the City's determination with respect to New Contract Capacity.

7.2.4 ~~4.~~ As a ministerial matter, the City shall prepare amendments to Exhibits A and B to reflect the acquisition or construction of facilities to provide New Contract Capacity pursuant to this ~~Section~~Article. The City shall give notice of the Amendments to the Participating Agencies, and shall provide copies of the Amendments with the notice.

~~C. Penalty for Failure to Pay.~~

7.3 Liquidated Damages.

7.3.1 ~~1.~~ The parties recognize that appropriate capacity and long term planning for same are essential to the proper provision of sewerage service. In recognition of same, the parties agree that discharge beyond Contract Capacity ~~should be penalized~~will result in damages that are difficult to determine. Therefore, ~~in~~the damages are being liquidated in an amount estimated to the actual damage that will be incurred by the City, and is not a penalty. In the event that a Participating Agency exceeds its Contract Capacity after the City has given notice that New Capacity is required, said Participating Agency shall be assessed and pay a ~~quarterly penalty~~liquidated damages until such time as the Participating Agency obtains the required New Capacity. The ~~penalty~~liquidated damages shall be fifteen percent (15%) of the quarterly charges authorized pursuant to this Agreement times the amount of Flow which exceeds the Participating Agency's Contract Capacity for the ~~first quarter, twenty-five percent (25%) of such amount for the second quarter, thirty percent (30%) of such amount for the third quarter, and thirty-five percent (35%) of such amount for every quarter thereafter.~~each quarter in which any exceedance occurs.

7.3.2 ~~2.~~ In the event that a Participating Agency fails to pay the charges imposed under this Article after the City has given notice that payment is required, said Participating Agency shall be assessed and shall pay ~~a penalty of fifteen~~liquidated damages of ten percent (~~15~~10%) of the total outstanding charges each quarter until said charges are paid in full.

Comment from Tom Zeleny (City of SD): With all respect to our legal predecessors, this is an unenforceable penalty provision. We need to convert this to a liquidated damages provision.

Note: The City has suggested the changes shown to Section 7.3.

VIII. THE METRO COMMISSION

8.1 ~~A.~~ Membership.

The Metro Commission shall consist of one representative from each Participating Agency. Each Participating Agency shall have the right to appoint a representative of its choice to the Metro Commission. If a Participating Agency is a dependent district whose governing body is that of another independent public agency that Participating Agency shall be represented on the Metro Commission by a representative appointed by the governing body which shall have no more than one representative no matter how many Participating Agencies it governs. Each member has one vote in any matter considered by the Metro Commission. The

Metro Commission shall establish its own meeting schedule and rules of conduct. The City may participate in the Metro Commission on an ex officio, non-voting~~,~~ basis.

8.2 ~~B.~~ Advisory Responsibilities of Metro Commission.

8.2.1 ~~1.~~ The Metro Commission shall act as an advisory body, advising the City on matters affecting the Metro System. The City shall present the position of the majority of the Metro Commission to the City's governing body in written staff reports. The Metro Commission may prepare and submit materials in advance and may appear at any hearings on Metro System matters and present its majority position to the governing body of the City.

8.2.2 ~~2.~~ The Metro Commission may advise the City of its position on any issue relevant to the Metro System.

IX. DISPUTE RESOLUTION

This Section governs all disputes arising out of this Agreement.

City of SD suggests moving to non-binding mediation, rather than binding arbitration.

9.1 ~~A. Voluntary~~Mandatory Non-Binding Mediation.

~~Upon notice to all of the parties involved, any dispute may be submitted to a mutually acceptable mediator, including a consultant specializing in the subject matter of the dispute, for determination of the issue(s) raised. Unless the parties involved agree in writing otherwise, the decision of the mediator or consultant shall not be final and binding. In the event that there is no agreement to mediate the dispute, any party may proceed directly to Arbitration.~~

~~B. Arbitration.~~

~~Arbitration~~If a dispute arises among the parties relating to or arising from a party's obligations under this Agreement that cannot be resolved through informal discussions and meetings, the parties involved in the dispute shall first endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the rules of JAMS, AAA, or any other neutral organization agreed upon by the parties before having recourse in a court of law. Mediation shall be commenced by sending a Notice of Demand for ~~Arbitration~~Mediation to the other party or parties to the dispute. A copy of the notice shall be sent to the City, all other Participating Agencies, and the Metro Commission. ~~Notice shall be given in accordance with Section XII. After such notice, any party that fails to timely participate by giving notice within forty-five (45) days thereafter, shall be barred from the noticed action. The scope of the arbitrator's jurisdiction shall not include the authority to amend the terms of this Agreement.~~

9.2 Selection of Mediator.

A single mediator that is acceptable to the parties involved in the dispute shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of

this Agreement, if possible, and chosen from lists furnished by JAMS, AAA, or any other agreed upon mediator.

~~1. The arbitration shall be conducted by a mutually acceptable dispute resolution entity which utilizes retired judges as arbitrators or arbitrators agreed to by the parties. If the parties cannot agree on such an entity, then the American Arbitration Association shall be used.~~

~~2. All arbitrations shall be conducted in accordance within California Code of Civil Procedure Sections 1282 et seq., provided, however, that in the event of a conflict between the Code of Civil Procedure arbitration provisions and the provisions of this Agreement, the provisions of this Agreement control.~~

~~3. Discovery regarding the subject matter of the arbitration shall be allowed as provided in Code of Civil Procedure Section 1283.05 (or its successors), except that depositions may be taken without first obtaining permission from the arbitrator. The arbitrator's fee shall be paid in equal shares by the parties who participate in the arbitration. The arbitrator may award costs to the prevailing party, except, however, all costs incurred by the City for arbitration arising under Section VII shall be a Metro System cost and charged accordingly. The decision of the arbitrator shall be final and binding.~~

9.3 Mediation Expenses.

The expenses of witnesses for either side shall be paid by the party producing such witnesses. All mediation costs, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be Metro System costs.

9.4 Conduct of Mediation.

Mediation hearings will be conducted in an informal manner. Discovery shall not be allowed. The discussions, statements, writings and admissions and any offers to compromise during the proceedings will be confidential to the proceedings (pursuant to California Evidence Code Sections 1115 – 1128 and 1152) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. The parties involved in the dispute shall have representatives attend the mediation who are authorized to settle the dispute, though a recommendation of settlement may be subject to the approval of each agency's boards or legislative bodies. Either party may have attorneys, witnesses or experts present.

Based on suggested addition by El Cajon.

9.5 Mediation Results.

Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

9.6 ~~C.~~ Performance Required During Dispute.

Nothing in this ~~Section~~Article shall relieve the City and the Participating Agencies from performing their obligations under this Agreement. The City and the Participating Agencies shall be required to comply with this Agreement, including the performance of all disputed activity and disputed payments, pending the resolution of any dispute under this Agreement.

9.7 Offers to Compromise

Any offers to compromise before or after mediation proceedings will not be used to prove a party's liability for loss or damage unless otherwise agreed by the parties in writing (pursuant to Evidence Code Section 1152.)

Added based on suggested addition by El Cajon.

X. INSURANCE AND INDEMNITY

Comment from Coronado: *Should the insurance coverages be reviewed and updated?*

10.1 ~~A.~~ City Shall Maintain All Required Insurance.

10.1.1 ~~1.~~ The City shall maintain all insurance required by law, including workers' compensation insurance, associated with the operation of the Metro System.

10.1.2 ~~2.~~ Throughout the term of this Agreement the City shall procure and maintain in effect liability insurance covering, to the extent reasonably available, any and all liability of the City, the Metro System and the Participating Agencies, including their respective officers, directors, agents, and employees, if any, with respect to or arising out of the ownership, maintenance, operation, use and/or occupancy of the Metro System and all operations incidental thereto, including but not limited to structural alterations, new construction and demolition, including coverage for those hazards generally known in the insurance industry as exploding, collapse and underground property damage.

10.1.3 ~~3.~~ Said insurance shall name the City, and its respective officers, employees, and agents, and shall have a limit of not less than $24,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage suffered by any person. Said insurance may provide for a deduction from coverage, which deductible shall not be more than $1,000,000. Said limits and/or deductible may be adjusted from time to time. Said insurance may be evidenced by a policy or policies covering only the Metro System or by endorsement to bring the same within a blanket policy or policies held by the City covering other properties in which the City has an interest provided the policy or policies have a location aggregate provision. The City may satisfy the first $1,000,000 per occurrence with a self-insurance retention program for public liability claims. The policy or policies shall name the Participating Agencies as additional insureds with evidence of same

supplied to each. Insurance premiums, claims payments and claims administration costs shall be included in the computation of the SSC.

10.2 ~~B.~~ Substantially Equivalent Coverage.

In the event of a transfer of the Metro System to a nonpublic entity pursuant to ~~Section~~Article II, coverage substantially equivalent to all the above provisions shall be maintained by any successor in interest.

XI. INTERRUPTION OF SERVICE

Should the Metro System services to the Participating Agencies be interrupted as a result of a major disaster, by operation of federal or state law, or other causes beyond the City's control, the Participating Agencies shall continue all payments required under this Agreement during the period of the interruption.

County comment: Why should PAs be liable for charges when no services are being provided?

XII. NOTICES REQUIRED UNDER AGREEMENT

The City and each Participating Agency shall give notice when required by this Agreement. All notices must be in writing and either served personally, or mailed by certified mail. The notices shall be sent to the officer listed for each party, at the address listed for each party in Exhibit D in accordance with this ~~Section~~Article. If a party wishes to change the officer and/or address to which notices are given, the party shall notify all other parties in accordance with this ~~Section~~Article. Upon such notice, as a ministerial matter, the City shall amend Exhibit D to reflect the changes. The amendment shall be made within thirty (30) days after the change occurs. The City shall keep an updated version of Exhibit D on file with the City ~~Clerk~~Public Utilities Department. The City shall provide a copy of the amended Exhibit D to all parties.

XIII. EFFECTIVE DATE AND ~~TERMINATION~~EXPIRATION

13.1 ~~A.~~ Effective Date.

This Agreement shall be effective thirty (30) days after execution by the City and all of the Participating Agencies, and shall be dated as of the signature date of the last executing party. ~~Upon the effective date of this Agreement, the 1998 Agreement shall be of no further force and effect~~

Previous section below (Preferences) removed as no longer necessary because there are no PAs that have separate agreements with the City relating to the Metro System.

13.2 Expiration.

~~B. Preferences.~~

~~In the event one or more agencies which are subject to Wastewater Agreements with the City before the effective date of this Agreement do not execute this Agreement, the City agrees not to enter into any new agreements with said agency or agencies without first offering the Participating Agencies agreements under substantially the same terms and conditions for any proposed agreement covering the same subject matter and issues.~~

~~C. Termination.~~

Subject to the rights and obligations set forth in Section ~~XIII.C. below~~13.4, this Agreement shall ~~terminate~~expire on December 31, 2065. This Agreement is subject to extension by agreement of the parties. The parties shall commence discussions on an agreement to provide wastewater treatment services beyond the year 2065 on or before December 31, 2055.

Comment from Nick Norvell (Metro JPA): The term of the Agreement would be extended 15 years to allow for cost recovery by wastewater if the wastewater costs of the Pure Water Program exceed the costs of converting the Point Loma WTP to full secondary at 165 MGD capacity.

13.3 ~~D.~~ Contract Capacity Rights Survive ~~Termination~~Expiration.

The Participating Agencies' right to obtain wastewater treatment services from the facilities referred to in, or constructed pursuant to this Agreement shall survive the ~~termination~~expiration of the Agreement. Provided however, upon expiration of this Agreement, the Participating Agencies shall be required to pay their proportional share based on Flow and Strength of all Metro System Costs (Capital Improvement Costs and Operation and Maintenance) to maintain their right to such treatment services. Provided further, that in the event that the Participating Agencies exercise their rights to treatment upon expiration of this Agreement, the City shall have the absolute right, without consultation, to manage, operate and expand the Metro System in its discretion.

13.4 ~~E.~~ Abandonment.

After December 31, 2065, the City may abandon the Metro System upon delivery of notice to the Participating Agencies ten (10) years in advance of said abandonment. Upon notice by the City to abandon the Metro System, the parties shall meet and confer over the nature and conditions of such abandonment. In the event the parties cannot reach agreement, the matter shall be submitted to ~~arbitration~~mediation under ~~the provisions of Section~~Article IX. In the event of abandonment, the City shall retain ownership of all Metro System assets free of any claim of the Participating Agencies.

XIV. GENERAL

14.1 ~~A.~~ Exhibits.

1. This Agreement references Exhibits A through G. Each exhibit is attached to this Agreement, and is incorporated herein by reference. The exhibits are as follows:

Exhibit A	Metro Facilities;
Exhibit B	Contract Capacities;
Exhibit C	Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies;
Exhibit D	Notice Listing;

Comment from Otay: Not provided. Need exhibit to follow the agreement.

All Exhibits will be included with this version of the Agreement.

Comment from Otay: Not provided. Need exhibit to follow the agreement. Values for the County need to be totals to be consistent with Section III. Payment and Monitoring Provisions, Subsection D.3.b and c.

Comment from Otay: Not provided. Need exhibit to follow the agreement.

Comment from Otay: Not provided. Need exhibit to follow the agreement.

Exhibit E Map of Reclaimed Water Projects;

Exhibit F Pure Water Cost Allocation and ~~Commodity Rate~~Revenues; and

Exhibit G ~~Metro System Capacity Pool Allocation~~2050 Flow Projections

14.2 ~~B.~~ Amendment of Agreement.

Except as provided in this Agreement, and recognizing that certain amendments are ministerial and preapproved, this Agreement may be amended or supplemented only by a written agreement between the City and the Participating Agencies stating the parties' intent to amend or supplement the Agreement.

14.3 ~~C.~~ Construction of Agreement.

14.3.1 ~~1.~~ Drafting of Agreement

It is acknowledged that the City and the Participating Agencies, with the assistance of competent counsel, have participated in the drafting of this Agreement and that any ambiguity should not be construed for or against the City or any Participating Agency on account of such drafting.

14.3.2 ~~2.~~ Entire Agreement

The City and each Participating Agency represent, warrant and agree that no promise or agreement not expressed herein has been made to them, that this Agreement contains the entire agreement between the parties, that this Agreement supersedes any and all prior agreements or understandings between the parties unless otherwise provided herein, and that the terms of this Agreement are contractual and not a mere recital; that in executing this Agreement, no party is relying on any statement or representation made by the other party, or the other party's representatives concerning the subject matter, basis or effect of this Agreement other than as set forth herein; and that each party is relying solely on its own judgement and knowledge.

14.3.3 ~~3.~~ Agreement Binding on All

This Agreement shall be binding upon and shall inure to the benefit of each of the parties, and each of their respective successors, assigns, trustees or receivers. All the covenants contained in this Agreement are for the express benefit of each and all such parties. This Agreement is not intended to benefit any third parties, and any such third party beneficiaries are expressly disclaimed.

Comment from Otay: Not provided. Need exhibit to follow the agreement.

Comment from Otay: This Exhibit is described as "Stipulated Final Order for Injunctive Relief" in Section I.S. and as "Map of Reclaimed Water Projects" in Section XIV.A.1.

Comment from Otay: This Exhibit is described as "Stipulated Final Order for Injunctive Relief" in Section I.S. and as "Map of Reclaimed Water Projects" in Section XIV.A.1.

Comment from Otay: Otay WD submitted a response to Metro TAC that has been added to a revised agreement that changes the way Otay WD will be billed. Otay WD reserves the right to modify these values, without penalty. This section penalizes an agency that doesn't have any land use authority for any projects within its District and has already made a significant investment in non-potable reuse.

14.3.4 ~~4.~~ Severability

14.3.4.1 Should any provision of this Agreement be held invalid or illegal, such invalidity or illegality shall not invalidate the whole of this Agreement, but, rather, the Agreement shall be construed as if it did not contain the invalid or illegal part, and the rights and obligations of the parties shall be construed and enforced accordingly~~.~~ except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely frustrate either the City's or a Participating Agency's essential objectives set forth in this Agreement.

Comment from Nick Norvell (Metro JPA): What would happen if this were the case?

New language suggested by City of SD.

14.3.4.2 Should a court determine that one or more components of the allocation of costs set forth in this Agreement places the City or a Participating Agency in violation of Article XIII, Section 6 of the California Constitution with respect to their ratepayers, such components shall no longer be of force or effect. In such an event, the City and the Participating Agencies shall promptly meet to renegotiate the violative component of the cost allocation to comply with Article XIII, Section 6 of the California Constitution, and use the dispute resolution process in Article IX of this Agreement if an agreement cannot be reached through direct negotiation.

Comment from Tom Zeleny (City of SD): We may all need this, they way Prop 218 keeps getting stricter.

14.3.5 ~~5.~~ Choice of Law

This Agreement shall be construed and enforced pursuant to the laws of the State of California.

14.3.6 ~~6.~~ Recognition of San Diego Sanitation District as Successor to Certain Parties.

The parties hereby acknowledge and agree that the San Diego County Sanitation District is a Participating Agency under this Agreement as the successor in interest to the Alpine Sanitation District, East Otay Mesa Sewer Maintenance District, Lakeside Sanitation District, Spring Valley Sanitation District, and Winter Gardens Sewer Maintenance District.

14.4 ~~D.~~ Declarations Re: Agreement.

14.4.1 ~~1.~~ Understanding of Intent and Effect of Agreement

The parties expressly declare and represent that they have read the Agreement and that they have consulted with their respective counsel regarding the meaning of the terms and conditions contained herein. The parties further expressly declare and represent that they fully understand the content and effect of this Agreement and they approve and accept

the terms and conditions contained herein, and that this Agreement is executed freely and voluntarily.

14.4.2 ~~2.~~ Warranty Regarding Obligation and Authority to Enter Into This Agreement

Each party represents and warrants that its respective obligations herein are legal and binding obligations of such party, that each party is fully authorized to enter into this Agreement, and that the person signing this Agreement hereinafter for each party has been duly authorized to sign this Agreement on behalf of said party.

14.5 ~~3.~~ Restrictions on Veto of Transfers and Acquisitions of Capacity

Each party understands and agrees that this Agreement governs its respective rights and responsibilities with respect to the subject matter hereto and specifically recognizes that with respect to the transfer and acquisition of Contract Capacity (Section ~~IV.B~~4.2) or the creation of New Contract Capacity for any Participating Agency (~~Section~~Article VII), no Participating Agency has a right to veto or prevent the transfer of capacity by and among other Participating Agencies or with the City, or to veto or prevent the creation or acquisition capacity for another Participating Agency or Agencies, recognizing that by signing this Agreement each Participating Agency has expressly preapproved such actions. The sole right of a Participating Agency to object to any of the foregoing shall be through expression of its opinion to the Metro Commission and, where applicable, through exercise of its rights under the dispute resolution provisions of this Agreement.

14.6 ~~4.~~ Right to Make Other Agreements

Nothing in this Agreement limits or restricts the right of the City or the Participating Agencies to make separate agreements among themselves without the need to amend this Agreement, provided that such agreements are consistent with this Agreement. Nothing in this Agreement or Exhibit F limits or restricts the right of the City or the Participating Agencies to enter into separate agreements for the purchase or sale of Repurified Water produced by the Water Repurification System or sharing in City Water Utility PW Costs. Such agreements shall not affect the cost allocation and Metro System revenues delineated in Exhibit F.

Placeholder comment in case commodity rate is replaced with other type of revenue.

14.7 Limitation of Claims

Notwithstanding any longer statute of limitations in State law, for purposes of any claims asserted by the City or a Participating Agency for refunds of overpayments or collection of undercharges arising under this Agreement, the parties agree that such refunds or collections shall not accrue for more than four years prior to the date that notice of such claim is received by the City or a Participating Agency. This also applies to any related adjustments to each Participating Agency's share of net Metro System costs or revenues resulting from the resolution of such claims. The City and the Participating Agencies hereby waive any applicable statute of limitations available under State law that exceed four

years. In no case shall the limitations period stated in this section begin to accrue until the date that the annual audit and year-end adjustment from which the claim arises are complete.

Suggested addition by City of SD.

Comment from Tom Zeleny (City of SD): This is something we promised to do as a result of the Padre Dam claim.

14.8 ~~5.~~ Counterparts

This Agreement may be executed in counterparts. This Agreement shall become operative as soon as one counterpart hereof has been executed by each party. The counterparts so executed shall constitute one Agreement notwithstanding that the signatures of all parties do not appear on the same page.

14.9 No Third Party Beneficiaries

This Agreement is intended to benefit only the parties hereto and no other person or entity has or shall acquire any rights hereunder. This Agreement does not create any third party beneficiary rights.

SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the Parties have executed this Amendment and Restated Regional Wastewater Disposal Agreement as of the date first set forth above.

CITY OF CHULA VISTA	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF CORONADO	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF DEL MAR	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF EL CAJON	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF IMPERIAL BEACH	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF LA MESA	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
LEMON GROVE SANITATION DISTRICT	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF NATIONAL CITY	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____

OTAY WATER DISTRICT	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
PADRE DAM MUNICIPAL WATER DISTRICT	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF POWAY	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
CITY OF SAN DIEGO	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____
SAN DIEGO COUNTY SANITATION DISTRICT	Approved as to Form:
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT A

METRO FACILITIES AS OF 6/27/18

Existing Facilities

Pt. Loma Wastewater Treatment Plant
Pt. Loma Ocean Outfall
Pump Station #1
Pump Station #2
South Metro Interceptor
North Metro Interceptor
Metro Force Mains 1 & 2
Digested Sludge Pipeline
North City Water Reclamation Plant
Metro Biosolids Center (NCWR Plant Related Facilities)
North City Tunnel Connector
North City Raw Sludge Pipeline
Centrate Pipeline
Rose Canyon Parallel Trunk Sewer
Second Rose Canyon Trunk Sewer
East Mission Bay Trunk Sewer
Morena Blvd. Interceptor
South Bay Water Reclamation-Plant
Dairy Mart Road & Bridge Rehab
Grove Avenue Pump Station
Grove Avenue Pump Station Sewer Pipeline
South Bay Raw Sludge Pipeline
South Bay Land/Ocean Outfall[1]
Environmental Monitoring & Technical Services Laboratory
Centrate Treatment Facility at Metropolitan Biosolids Center
Metro Operations Center (Iv10C) Complex (based on annual facilities allocation)

Additional Metro Facilities

~~[INSERT CURRENT VERSION OF EXHIBIT A ON FILE WITH CITY CLERK]~~Note: The below listed facilities could be required as part of the Metro System for
hydraulic capacity, good engineering practices and/or compliance with applicable law, rules or regulations, including OPRA, and the continuation of the City's waiver of

[1] The South Bay Land/Ocean Outfall is jointly owned by the International Boundary and Water Commission, U.S. Section (60.06%) and the City of San Diego (39.94%). The capacity of the City's portion of the outfall as of the date of this Agreement is 74 MDG average dry weather flow, of which the Metro System has a capacity right to 69.2 MGD and the City as an exclusive right to 4.8 MGD.

applicable treatment standards at the Point Loma Wastewater Treatment Plant ("Waiver").

South Bay Sludge Processing Facility
South Bay Secondary Treatment Plant, Phase I (21 MGD)
South Bay Secondary Sewers, Phase I

Note: These facilities could be required as part of the Metro System for hydraulic capacity, good engineering practices, compliance with OPRA, and to maintain the City's Waiver. In the event that hydraulic capacity demands, or the obligations of OPRA (or its successor) or the terms of the City's Waiver change, these facilities may not be required or may be modified or supplemented, as appropriate, pursuant to the terms of this Agreement.

South Bay Secondary Treatment Plant, Phase II (28 MGD)
South Bay Secondary Sewers, Phase II

Note: These facilities could be added to the Metro System as part of Phase I of the Pure Water Program.

Expansion of North City Water Reclamation Plant
Morena Pump Station

EXHIBIT B

CONTRACT CAPACITIES

Annual Average Daily Flow
in
Millions of Gallons Per Day

Metro Agency	Original Contract Capacity	Additional Contract Capacity[1]	New Contract Capacity[2]	Transferred Contract Capacity[3]	Total Contract Capacity	Percent of Total
Chula Vista	19.843	1.021	0.000	0.000	20.864	8.182%
Coronado	3.078	0.172	0.000	0.000	3.250	1.275%
Del Mar	0.821	0.055	0.000	0.000	0.876	0.344%
East Otay Mesa	0.000	0.000	0.000	1.000	1.000	0.392%
El Cajon	10.260	0.655	0.000	0.000	10.915	4.280%
Imperial Beach	3.591	0.164	0.000	0.000	3.755	1.473%
La Mesa	6.464	0.359	0.000	0.170	6.993	2.742%
Lakeside-Alpine	4.586	0.255	0.000	0.000	4.841	1.898%
Lemon Grove	2.873	0.154	0.000	0.000	3.027	1.187%
National City	7.141	0.346	0.000	0.000	7.487	2.936%
Otay	1.231	0.056	0.000	0.000	1.287	0.505%
Padre Dam	6.382	0.343	0.000	(0.500)	6.225	2.441%
Poway	5.130	0.264	0.000	0.500	5.894	2.312%
Spring Valley	10.978	0.545	0.000	(1.170)	10 .353	4.060%
Wintergardens	1.241	0.068	0.000	0.000	1.309	0.513%
Subtotal	83.619	4.459	0.000	0.000	88.078	34.540%

Revised 04-21-2010

~~[INSERT CURRENT VERSION OF EXHIBIT B ON FILE WITH CITY CLERK, IF DIFFERENT FROM 1998 VERSION]~~

Metro Agency	Original Contract Capacity	Additional Contract Capacity[1]	New Contract Capacity[2]	Transferred Contract Capacity[3]	Total Contract Capacity	Percent of Total
San Diego	156.381	10.541	0.000	0.000	166.922	65.460%
Total	**240.000**	**15.000**	**0.000**	**0.000**	**255.000**	**100.00%**

1. Additional Contract Capacity is capacity allocated pursuant to Section 4.3.1 of the Agreement.
2. New Contract Capacity is capacity obtained pursuant to Section 6 of the Agreement.
3. Transferred Contract Capacity is capacity obtained pursuant to Section 4.2 of the Agreement.

EXHIBIT C

ADMINISTRATIVE PROTOCOL ON ALLOCATION OF OPERATING RESERVES AND DEBT SERVICE COVERAGE TO PARTICIPATING AGENCIES

EXHIBIT D

NOTICE LISTING

Each agency: Please review and update contact information as appropriate.

City Manager
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91919
Phone: 691-5031
Fax: 585-5612

City Manager
City of La Mesa
8130 Allison Avenue
La Mesa, CA 91942
Phone: 667-1101
Fax: 462-7528

City Manager
City of San Diego
202 "C" Street
San Diego, CA 92101
Phone: 236-5949
Fax: 236-6067

City Manager
City of Coronado
1825 Strand Way
Coronado, CA 92113
Phone: 522-7335
Fax: 522-7846

City Manager
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945
Phone: 464-6934
Fax: 460-3716

Chief Administrative Officer
County of San Diego
1600 Pacific Highway, Rm. 209
San Diego, CA 92101
Phone: 531-5250
Fax: 557-4060

City Manager
City of Del Mar
1050 Camino Del Mar
Del Mar, CA 92014
Phone: 755-9313 ext. 25
Fax: 755-2794

City Manager
City of National City
1243 National City Blvd.
National City, CA 91950
Phone: 336-4240
Fax: 336-4327

General Manager
Otay Water District
2554 Sweetwater Springs Blvd.
Spring Valley, CA 91977
Phone: 670-2210
Fax: 670-2258

City Manager
City of El Cajon
200 ~~E. Main Street~~Civic Center Way
El Cajon, CA 92020
Phone: 441-1716
Fax: 441-1770

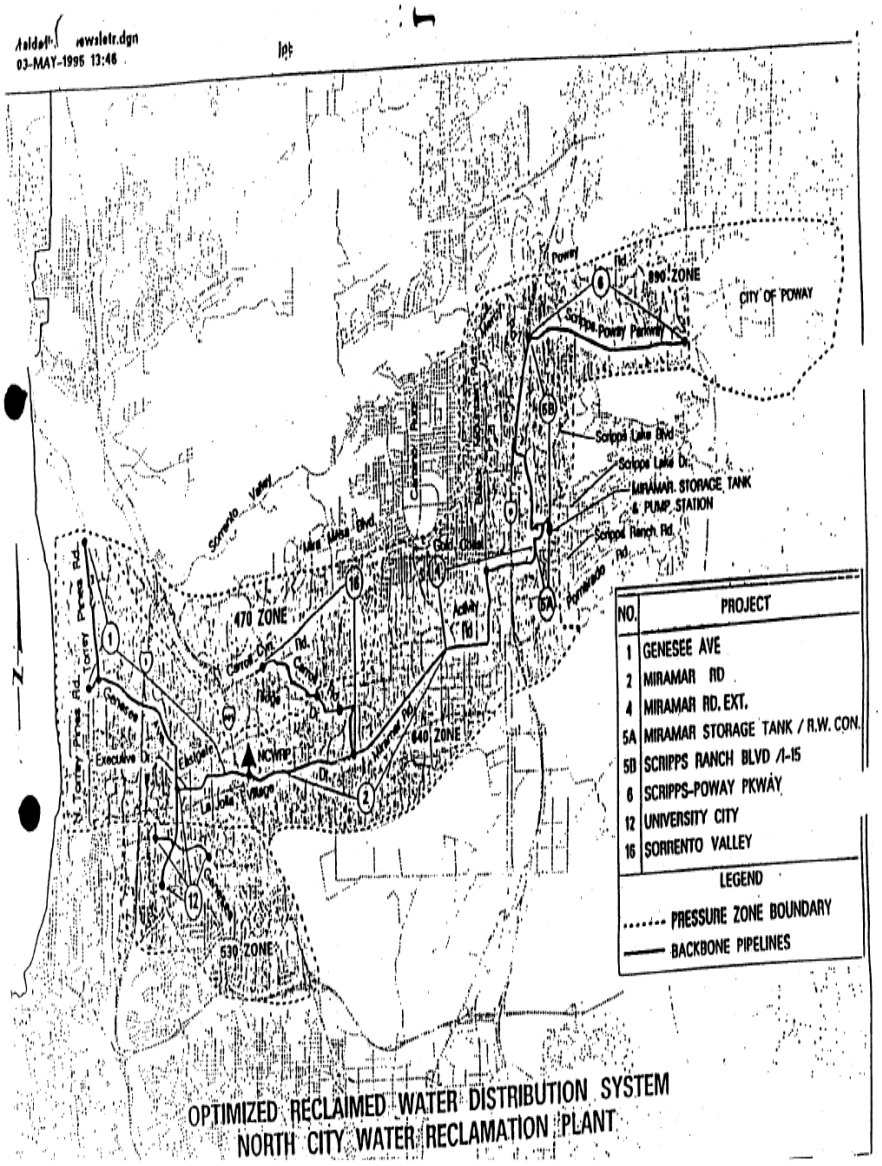
City Manager
City of Poway
13325 Civic Center Drive
Poway, CA 92064
Phone: 679-4200
Fax: 679-4226

General Manager
Padre Dam Municipal Water District
~~10887 Woodside Avenue~~9300 Fanita Pkwy
Santee, CA 92071
Phone: 258-4610
Fax: 258-4794

City Manager
City of Imperial Beach
825 Imperial Beach Blvd.
Imperial Beach, CA 91932
Phone: 423-8300 ext. 7
Fax: 429-9770

EXHIBIT E

MAP OF RECLAIMED WATER PROJECTS



60409.00001\~~30914102.3~~30914102.8

EXHIBIT F

PURE WATER COST ALLOCATION AND ~~COMMODITY RATE~~REVENUES

EXHIBIT G

~~METRO SYSTEM CAPACITY POOL ALLOCATION~~
2050 FLOW PROJECTIONS

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10
Agency	2050 Projected Flow %	Average Daily Dry Weather Flows 2050	10 Year Yearly Wet Weather Average Daily Flow	Peak 24 Hour Wet Weather Flow	10 Year Average Wet Weather Average Daily Flow Non-Metro Capacity	Wet Weather Flow Nights (10 Year Wet Weather Daily Average Flow)		Peak 24-Hour Wet Weather Capacity	
Chula Vista	10.91%%	19.33%	22.01%	44.04%	0.00%	22.07%	11.46%%	44.04%	11.33%%
Coronado	1.55%%	2.74%	2.74%	5.40%	0.00%	2.74%	1.42%%	5.40%	1.39%%
Del Mar	0.01%%	0.02%	0.01%	0.02%	0.00%	0.01%	0.00%%	0.02%	0.01%%
Fast Gray Mesa	2.59%%	4.92%	4.85%	9.57%	0.00%	4.85%	2.51%%	9.57%	2.47%%
El Cajon	4.25%%	7.54%	8.54%	17.00%	0.00%	8.54%	4.44%%	17.00%	4.37%%
Imperial Beach	1.26%%	2.37%	2.55%	5.10%	0.00%	2.55%	1.32%%	5.10%	1.31%%
La Mesa	2.66%%	4.81%	5.41%	10.82%	0.00%	5.41%	2.81%%	10.82%	2.74%%
Lakeside/Alpine	3.75%%	6.72%	7.57%	15.15%	0.44%	1.15%	0.59%%	15.70%	2.21%%
Lemon Grove	1.27%%	2.26%	2.57%	5.14%	0.00%	2.57%	1.33%%	5.14%	1.32%%
National City	2.10%%	3.51%	4.49%	8.75%	0.00%	4.49%	2.32%%	8.75%	2.24%%
Otay	0.21%%	0.32%	0.45%	0.86%	0.00%	0.45%	0.23%%	0.86%	0.21%%
Point Loma	1.86%%	2.46%	3.75%	5.59%	2.37%	0.42%	0.20%%	3.21%	0.81%%
Poway	1.75%%	3.18%	3.45%	6.94%	0.00%	3.45%	1.80%%	6.94%	1.77%%
Spring Valley	4.65%%	8.35%	9.36%	18.70%	0.00%	9.36%	4.85%%	18.70%	4.77%%
Winterguardens	0.51%%	0.91%	1.05%	2.07%	0.00%	0.15%	0.08%%	1.14%	0.30%%
San Diego	61.40%%	110.15%	123.93%	247.80%	0.00%	123.93%	64.30%%	247.80%	62.24%%
Total	100.00%%	179.4	201.82	403.64	3.154247752	191.1045234	100%	393.3	100%

EXHIBIT H

60409.00001\~~30914102.3~~30914102.8

Summary report: Litéra® Change-Pro 7.5.0.135 Document comparison done on 7/16/2018 4:00:59 PM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original DMS:iw://iManage/iManage/30914102/3	
Modified DMS: iw://iManage/iManage/30914102/8	
Changes:	
Add	600
~~Delete~~	365
~~Move From~~	16
Move To	16
Table Insert	15
~~Table Delete~~	2
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	4
Embedded Excel	0
Format changes	0
Total Changes:	1018

EXHIBIT F

PURE WATER PROGRAM COST ALLOCATION AND ~~COMMODITY RATE~~REVENUES

~~The City intends to implement the phased, multi-year Pure Water Program to produce up to 83 mgd of safe, reliable potable water for the City using new or modified facilities.~~ As part of the Pure Water Program, the City intends to modify the North City Water Reclamation Plant (a Metro System facility) and expand its capacity to 52 mgd. In addition, the City intends to construct the North City Advanced Water Purification Facility on a nearby site to produce Repurified Water. ~~In the future, the Parties anticipate that the City may construct, modify, or expand other Metro System facilities in connection with the production of Repurified Water and the Pure Water Program.~~

This Exhibit F sets forth the costs and revenues associated with the Pure Water Program which are, or are not, attributable to the Metro System.

I. ~~A.~~ **Costs Excluded from Metro System Costs**

All of the following Pure Water Program costs, including Capital Improvement Costs, Operation and Maintenance Costs, and other related costs (including administration, insurance, claims, and overhead) are excluded as Metro System Costs for purposes of calculating the annual Sewer System Charge, and shall be the responsibility of City's water utility ("**City Water Utility PW Costs**"), unless otherwise expressly agreed to pursuant to an amendment to this Exhibit F:

1.1 ~~1.~~ **General Exclusions.**

1.1.1 ~~a.~~ Costs of the Water Repurification System and any Metro System facilities to the extent constructed, modified, expanded, or used for the purpose of treating water beyond secondary treatment (ocean discharge standard under current law). This shall include costs for preliminary treatment, primary treatment, and secondary treatment to the extent such costs are higher than they would otherwise be due to the production of Repurified Water.

1.1.2 ~~b.~~ Costs for fail-safe disposal, if necessary, for design capacity for Repurified Water, including, but not limited to, any costs associated with the reservation of capacity at the Point Loma Wastewater Treatment Plant.

~~c. Costs for preliminary treatment, primary treatment, and secondary treatment to the extent such costs are higher than they would otherwise be due to the production of Repurified Water.~~

1.1.3 ~~d.~~ Costs for the demolition or replacement of existing Metro System facilities with similar facilities for the purpose of making space available for Water

Repurification System facilities. Such costs may take into account the current asset value or market value of the existing Metro System facility.

1.2 ~~2.~~ **Cost Exclusions Specific to North City Water Reclamation Plant Improvements.**

~~a.~~ 1.2.1 Costs for increased aeration tank volume to the extent the new volume exceeds the amount necessary to provide 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.

~~b.~~ 1.2.2 Costs for the methanol feed system.

~~c.~~ 1.2.3 Costs for brine disposal, including, but not limited to, pump stations, pipelines, retreatment, ocean outfall, and monitoring.

~~d.~~ 1.2.4 Costs for the use of existing ~~of~~ tertiary water filters for Repurified Water purposes, which may take into account depreciated value of such filters. (Such costs shall be reimbursed or credited by City's water utility to the Metro System).

II. ~~B.~~ **North City Water Reclamation Plant Improvement Costs Included as Metro System Costs**

Notwithstanding the above exclusions, the City and the Participating Agencies have specifically agreed that the following Capital Improvement Costs and Operation and Maintenance Costs related to North City Water Reclamation Plant improvements shall be included as Metro System Costs for purposes of calculating the annual Sewer System Charge (and therefore not qualify as City Water Utility PW Costs):

2.1 ~~1.~~ Costs for chemically enhanced primary treatment for up to 52 mgd capacity.

2.2 ~~2.~~ Costs for primary effluent equalization for up to 52 mgd capacity.

2.3 ~~3.~~ Costs for increased volume of aeration tanks that will provide up to, but not exceeding, 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.

2.4 ~~4.~~ Costs to add secondary clarifier tanks sufficient for up to 52 mgd capacity.

2.5 ~~5.~~ Costs for wastewater conveyance facilities to provide wastewater for replacement of centrate flows that cannot be treated at the North City Water Reclamation Plant due to the production of Repurified Water.

2.6 ~~6.~~ Costs for treatment and conveyance of all return flows (micro-filtration and tertiary backwash) based on Flow, COD, and SS.

III. ~~C.~~ **Cost Allocation Example**

~~Provisions subject to further discussions between City and Metro JPA.~~

~~Provision subject to further discussions between City and Metro JPA.~~

Comment from Otay: Brine needs to be defined. This will avoid an

Response to Comment regarding Brine: A definition has been add

~~Provision subject to further discussions between City and Metro JPA~~Com

Typo removed.

Comment from Otay: Why are the participating agencies paying for conveyance facilities necessitated by Pure Water? The member agencies should not be responsible for picking up the tab due to a water limitation. Perhaps this could be addressed with the provisions above dealing with O&M. If so, there should be a caveat added such as, "to the degree the costs do not exceed the limit established in Section xx" – see OWD's comments above

Comment from Metro TAC Ad Hoc Committee re: conveyance facilities are considered Metro System costs under the existing agreement.

Comment from Metro TAC Ad Hoc Committee re: cost cap: This cost would be included in calculating the Contingent Rate component of the commodity rate.

Accordingly, if the costs to the Metro System, including costs for these conveyance facilities, exceed the estimated cost to upgrade PLWTP to full secondary, and such upgrading is required in the future, City's water utility would repay the cost difference through the Contingent Rate.

DRAFT

Attachment 1 is an example of ~~costs relating to~~ the City's ~~budget for~~ Pure Water Phase I Cost Estimate (based on 60% design), and indicates which costs are City Water Utility PW Costs and which costs are attributable to the Metro System. The Parties agree that Attachment 1 is an illustrative document to assist the Parties in the future and is not a comprehensive list of all such costs. If there is any conflict between this Exhibit F and Attachment 1, or if a specific cost is not addressed in Attachment 1, this Exhibit F shall control.

IV. Revenue Sharing for Repurified Water

4.1 **Background.** Initially, the parties anticipate that the cost per acre foot associated with the production of Repurified Water will be more expensive than the cost per acre foot of untreated imported water. However, it is anticipated that Repurified Water produced under the Pure Water Program will be less expensive than untreated imported water sometime in the future. Once Repurified Water produced under the Pure Water Program becomes less expensive than the cost of untreated imported water, the parties agree that there will be revenue from the Pure Water Program.

4.2 **Calculation.** Revenue sharing shall occur in each fiscal year during which the annual cost per acre foot associated with the production of Repurified Water is less than the cost of untreated water per acre foot from the San Diego County Water Authority ("**CWA**"). The annual cost difference shall be known as "**Repurified Water Revenue**." Repurified Water Revenue shall be determined as follows:

> Annual cost per acre foot of CWA untreated water purchased by the City for delivery at Miramar Reservoir (which shall be determined based on the total of certain fixed and variable costs for water actually billed to the City by CWA for water delivered at Miramar Reservoir in a fiscal year, divided by the number of acre-feet of CWA water delivered at Miramar Reservoir that year)
>
> ***less***
>
> Annual cost per acre foot of City Water Utility PW Costs (which shall be determined based on the total annual City Water Utility PW Costs, as defined above in Section A, divided by the number of acre-feet of Repurified Water actually produced in that year)
>
> ***multiplied by***
>
> The number of acre feet of Repurified Water produced by Pure Water Program facilities during the applicable fiscal year.

Attachment 2 is an example of a bill from CWA showing which fixed and variable costs for untreated water will be used for determining Repurified Water Revenue and the amount of water delivered in a billing period. The Parties agree that Attachment 2 shall be referred to by the Parties in the future in determining how costs for water delivered at Miramar Reservoir are

calculated. If no untreated water is delivered at Miramar Reservoir in a given year, then the closest point of delivery of untreated water to the City shall be used.

Attachment 3 is a sample calculation of Repurified Water Revenue.

The City shall estimate whether there will be Repurified Water Revenue in the upcoming fiscal year prior to January 15 of each year, and the estimated amount of Repurified Water Revenue shall be effective on July 1 of the upcoming fiscal year.

The Metro TAC Ad Hoc Committee is proposing that this basic commodity rate apply beginning the first year in which the City uses secondary treated effluent produced by Metro System facilities. The rate would continue each year the City uses such secondary treated effluent to produce Repurified Water.

4.3 **Revenue Sharing.** Repurified Water Revenue shall initially be shared based on the relative actual Capital Improvement Costs for the Pure Water Program contributed by City's Water Utility and the Metro System. Such Capital Improvement Cost contributions are currently estimated as (61% City Water Utility and 39% Metro System) until the debt attributable to the Metro System is fully paid.

Following full payment of debt attributable to the Metro System, Repurified Water Revenue shall be shared based on the relative actual Operation and Maintenance Costs for Pure Water Program facilities contributed by City's Water Utility and the Metro System, calculated annually. Such Operation and Maintenance Costs are currently estimated as (76% City Water Utility and 24% Metro System) on an annual basis.

Comment from Otay: Metro System Revenue – Secondary Effluent Commodity Rate. Secondary effluent commodity rate for each AF should be equivalent to the wholesale rate the City charges today for recycled water to agencies that use the effluent to offload Point Loma. The cost of tertiary water charged to Otay WD from the SBWRP is $756 per AF. Why should the commodity rate be any different if the net result is lowering flow to Point Loma?

4.4 **Year-End Adjustment.** At the end of each fiscal year during which there is Repurified Water Revenue, the City shall determine the actual cost per acre foot of CWA untreated water purchased by the City, the actual cost per acre foot of City water Utility PW costs, and the actual amount of Repurified Water produced at Pure Water Program facilities.

Based on the actual cost and production information, the City will recalculate the Repurified Water Revenue for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

4.5 **Change in Potable Reuse Method.** The parties acknowledge that the Pure Water Program will initially use the surface water augmentation method of potable reuse. The use of CWA untreated water costs in calculating Repurified Water Revenue is intended to provide an appropriate point of comparison to costs for producing Repurified Water that will be introduced into surface water. The parties agree that if the City implements direct potable reuse (in which Repurified Water is introduced directly into a water supply pipeline or facility), the parties shall meet and negotiate in good faith regarding an amendment to this Exhibit F to appropriately update the formula for Repurified Water Revenue.

V. ~~**D.**~~ ~~**Metro System Revenue –**~~ **Secondary Effluent Commodity Rate**

~~City's Water Utility shall pay a commodity rate ("**Secondary Effluent Commodity Rate**") for each acre foot of secondary treated effluent produced by Metro System facilities for the production of Repurified Water.~~

~~**a. Basic Rate**~~

~~The Secondary Effluent Commodity Rate shall equal $178.80 per acre foot of~~

~~secondary effluent, which amount shall be adjusted annually starting on July 1, 2018 to equal twenty percent (20%) of the San Diego County Water Authority's melded untreated M&I supply rate (the "**Basic Rate**"). The Basic Rate shall begin in the fiscal year in which Pure Water Program costs are first allocated to the Metro System, and shall continue until termination of the Agreement.~~

~~The basis for setting the rate is subject to further discussion among the PAs and with the City of San Diego.~~

~~The Metro TAC Ad Hoc Committee is in discussions with the City of San Diego about a Commodity Rate that would begin as soon as Pure Water costs are incurred by wastewater.~~

~~Details about the Basic Rate are the subject of further discussion among the PAs and with the City.~~

~~**b. Contingent Rate**~~

~~In addition to the Basic Rate, City's Water Utility shall pay also pay an additional amount (the "**Contingent Rate**") if:~~

~~(a) the~~5.1 **Background.** The Point Loma Wastewater Treatment Plant ~~is fully or partially upgraded to secondary treatment due to (i) the failure to receive an~~operates under a National Pollutant Discharge Elimination System ("NPDES") permit modified under section 301(h) & (j)(5) of the Clean Water Act~~ for~~. If such modified permit were ever revoked or not renewed, the parties agree that, under current law, the City would have an obligation to upgrade the Point Loma WTP~~, or (ii) a discretionary decision of the City (except to the extent such~~ to secondary treatment~~ upgrade is part of the Pure Water program); and~~. The parties further agree that $1.8 billion is a fair and comprehensive estimation of the costs that could be incurred by the Metro System to meet the legal requirements related to the Metro System under current law.

Therefore, the parties agree that $1.8 billion represents the maximum amount of Capital Improvement Costs that the Metro System should be obligated to contribute to the Pure Water Program, the purpose of which is not solely the disposal of wastewater, but also the production of Repurified Water. The parties agree that this $1.8 billion maximum contribution should apply whether or not the Point Loma WTP is actually upgraded to secondary treatment to meet legal requirements in the future because, as of the date of the Agreement, the parties have the option of upgrading the Point Loma WTP to full secondary treatment for the cost of approximately $1.8 billion.

In light of the above, the parties have agreed that if Metro System costs related to the Pure Water Program exceed the $1.8 billion, City's Water Utility will pay a charge for each acre foot of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water.

(~~b~~a) the sum of all Capital Improvement Costs and associated debt attributable to ~~(i)~~ the Metro System components of the Pure Water Program under this Exhibit F; and/or

(~~ii~~b) the sum of all Capital Improvement Costs and associated debt for the full or partial upgrading of the Point Loma ~~WTP~~Wastewater Treatment Plant to secondary treatment~~ exceeds $_____ (which amount shall be adjusted for inflation)~~.

Notwithstanding, the ~~Contingent~~Capital Expense Rate shall not apply if the ~~upgrading~~

~~of the~~ Point Loma WTP is actually upgraded to secondary treatment (or beyond) ~~is caused by~~due to: (a) a change in federal or state statutory law making it necessary to upgrade the Point Loma WTP to comply with such new discharge standard; or (b) a final decision by a state or federal court or a federal administrative agency of competent jurisdiction that an NPDES permit modified under section 301(h) & (j)(5) of the Clean Water Act is thereby revoked or denied renewal due to a finding that the discharge from the Point Loma WTP violates 40 C.F.R. 131.12, State Water Resources Control Board Resolution 68-16, and State Water Resources Control Board Administrative Procedures Update No. 90-004~~.[~~.

~~**c. Calculation of Contingent Rate**~~

~~At the end of each fiscal year during the term of the Agreement, there shall be a reasonable determination by the City, in consultation with the Participating Agencies, of whether or not the Contingent Rate shall be added to the Basic Rate as described above. In calculating the sum of all Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F and the upgrading of the Point Loma WTP to secondary treatment, the City shall take into account all costs incurred to date, including any debt issued for such costs.~~

5.3 **Calculation of Capital Expense Rate .** The amount per acre-foot of the ~~Contingent~~Capital Expense Rate shall be determined as follows:

These are the federal and state regulations that implement the anti-degradation policies of the Clean Water Act.

5.2 **Capital Expense Rate.** Under the circumstances described below, City's Water Utility shall pay a charge ("**Capital Expense Rate**") for each acre-foot of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water. City's Water Utility shall pay the Capital Expense Rate if the following costs alone, or in combination, ex

Comment from Metro TAC Ad Hoc: The first item (subsection (a)) would apply if the permit/waiver was not renewed for any reason *other than* a finding of actual environmental degradation.

The second item would only apply if a court or federal agency concluded that the Point Loma WTP *actually caused* environmental degradation, and based on that finding the permit was revoked or not renewed.

DRAFT

The sum of all Capital Improvement Costs and associated debt attributable to (i) the Metro System components of the Pure Water Program under this Exhibit F and (ii) ~~any~~ upgrading of the Point Loma WTP to secondary treatment (if any)

less

$~~_____, [the estimated cost to upgrade the Point Loma Wastewater Treatment Plant to full secondary at 165 mgd which will be identified by the City's consultant]~~1.8 billion, as adjusted for inflation each July 1 (starting on July 1, 2019) to reflect the annual percentage change in the Engineering News Record – Los Angeles construction cost index

multiplied by

1.42 (which estimates the total interest on a 30-year State Revolving Fund loan with an interest rate of 2.5%)

and divided by

The total number of acre feet per year of secondary treated effluent that is expected to be produced by Metro System facilities for the production of Repurified Water over a period of thirty (30) years, or the number of years remaining in the term of the Agreement, whichever is shorter.

The City shall estimate whether there the Capital Expense Rate shall apply to the upcoming fiscal year (and its amount) prior to January 15 of each year, and the estimated amount of the Capital Expense Rate shall be effective on July 1 of the upcoming fiscal year.

The Metro TAC Ad Hoc Committee is proposing that this basic commodity rate apply beginning the first year in which the City uses secondary treated effluent produced by Metro System facilities. The rate would continue each year the City uses such secondary treated effluent to produce Repurified Water.

For purposes of this Article V of Exhibit F, Capital Improvement Costs and associated debt shall include such costs incurred by the Metro System prior to the effective date of the Agreement.

~~d.~~ 5.4 Year-End Adjustment

At the end of each fiscal year during which the ~~City's Water Utility pays the Contingent~~Capital Expense Rate applies, the City shall determine the actual Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F and any upgrading of the Point Loma WTP to secondary treatment~~ if different from the amounts determined in the first year the Contingent Rate went into effect. In addition, the City shall determine the~~, the then-applicable interest amount for outstanding loans for the Metro System components of the Pure Water Program and Point Loma WTP upgrades, and ~~will update the interest multiplier accordingly for that fiscal year~~the actual amount of Repurified Water produced at Pure Water Program facilities.

Comment from Otay: Metro System Revenue – Secondary Effluent Commodity Rate. Secondary effluent commodity rate for each AF should be equivalent to the wholesale rate the City charges today for recycled water to agencies that use the effluent to offload Point Loma. The cost of tertiary water charged to Otay WD from the SBWRP is $756 per AF. Why should the commodity rate be any different if the net result is lowering flow to Point Loma?

Based on the ~~above, the Contingent Rate will then be recalculated for secondary~~

effluent purchased duringactual cost, interest, and production information, the City will recalculate the Capital Expense Rate for the prior fiscal year and allocated in the proportions set forth in Exhibit G. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

e. 5.5 **Duration; Expiration**

The ContingentCapital Expense Rate shall continue until the cost difference between (a) the actual sum of the Capital Improvement Costs and associated debt attributable to the Metro System under this Exhibit F and the costs to upgrade the Point Loma WTP and (b) $ (which amount shall be1.8 billion (as adjusted for inflation) has been fully repaid.

Note: The previous version of Exhibit F included a section titled "Audit Procedures." Much of the language in that section was duplicative of what is in Section 2.5 of the Agreement. Accordingly, the "Audit Procedures" section has been deleted here from Exhibit F. Audit-related language specific to the Pure Water program has been moved into Section 2.5 of the Agreement.

D. Audit Procedures

For the clarity of the Parties, and without limiting the generality of the City's obligations under the Agreement, the City agrees as follows:

1. The City shall, keep appropriate records and accounts of all costs, expenses, and revenues relating to conveyance, treatment, disposal, and reuse of wastewater, and production of Repurified Water; the acquisition, planning, design, construction, administration, monitoring, operation and maintenance of the Metro System and Water Repurification System; and any grants, loans, or other revenue received therefor. The City shall keep such records and accounts for at least four (4) years, or for any longer period required by law or outside funding sources.

2. Said accounts and records shall be subject to reasonable inspection by any authorized representative of any Participating Agency at its expense and shall be audited annually by an independent certified public accounting firm appointed by the City pursuant to generally accepted accounting principles, and a copy of said report shall be available to any Participating Agency.

3. As part of said audit, the actual amount of City Water Utility's PW Costs, Pure Water Program costs attributable to the Metro System, and Secondary Effluent Commodity Rate shall be determined and audited by the City's external auditors and Participating Agency representatives, and a summary of such amounts shall be included as a footnote or attachment to the audit of the Metro System.

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ATTACHMENT 1~~ – EXAMPLE OF PURE WATER BUDGET~~

Pure Water Phase I Cost Estimate

		Total	%
Wastewater:			
MorenaPump Station WW Force Main and Brine Conveyance	$	324,712,285.00	
North City Renewable Energy	$	33,794,784.00	
North City MBC Improvements	$	7,310,835.00	
North City WRP Expansion and PWF Influent Conveyance	$	176,882,842.00	
SDG&E	$	3,288,932.00	
Total Wastewater	$	545,989,678.00	39%
Water:			
MorenaPump Station WW Force Main and Brine Conveyance	$	46,504,958.00	
North City Renewable Energy	$	94,020,128.00	
Miramar WTP Pump and Plant Improvements	$	4,555,811.00	
North City Pure Water Facility	$	521,652,285.00	
North City WRP Expansion and PWF Influent Conveyance	$	45,236,959.00	
North City Pure Water Pipeline	$	109,411,952.00	
North City Pure Water Pump Station	$	20,469,509.00	
Total Water	$	841,851,602.00	61%
Total Project	$	1,387,841,280.00	
Shared Projects:			
MorenaPump Station WW Force Main and Brine Conveyance			
Wastewater	$	324,712,285.00	87%
Water	$	46,504,958.00	13%
	$	371,217,243.00	
North City Renewable Energy			
Wastewater	$	33,794,784.00	26%
Water	$	94,020,128.00	74%
	$	127,814,912.00	
North City WRP Expansion and PWF Influent Conveyance			
Wastewater	$	176,882,842.00	80%
Water	$	45,236,959.00	20%
	$	222,119,801.00	

Note: The above estimates are based on 60% design of Phase I of the Pure Water Program.

ATTACHMENT 2 – SAMPLE CWA BILL

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ATTACHMENT ~~2~~3 – ~~EXAMPLE~~SAMPLE CALCULATION OF ~~CWA BILL~~REPURIFIED WATER REVENUE

60409.00001\~~30398144.7~~30398144.11

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Summary report: **Litéra® Change-Pro 7.5.0.135 Document comparison done on 7/16/2018 4:03:38 PM**	
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Move To	13
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~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	1
Embedded Excel	0
Format changes	0
Total Changes:	227

METRO WASTEWATER **JPA**

www.metrojpa.org

276 Fourth Avenue Chula Vista, CA 91950 619-476-2557

Ernest Ewin, Chairman

April 19, 2010

Rod Greek
Public Utilities Deputy Director
City of San Diego, Metropolitan Wastewater
9192 Topaz Way
San Diego, CA 92123

Re: Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies

Dear Mr. Greek:

This letter is intended to memorialize the attached Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies ("Protocol") negotiated between the City of San Diego and Metro TAC/ Metro JPA/ Metro Commission, on behalf of the Participating Agencies under the Regional Wastewater Disposal Agreement. Your signature will indicate acceptance of the Protocol on behalf of the City.

By countersigning this letter, the City of San Diego and Metro TAC/ Metro JPA/ Metro Commission acknowledge and agree to the terms and conditions contained in the attached Protocol.

Sincerely,

4/21/10

for the Metro TAC/ Metro JPA/ Metro Commission

Enclosure

The Protocol is accepted by the City of San Diego pursuant to the terms and conditions set forth in the attachment hereto:

Date: 4/19/10

Rod Greek, Public Utilities Deputy Director

The Protocol is accepted by Metro TAC/ Metro JPA/ Metro Commission on behalf of the Participating Agencies pursuant to the terms and conditions set forth in the attachment hereto:

Date: 5/6/10

Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies

BACKGROUND:

In early 2008 the MetroTAC formed a working group in response to the City of San Diego's request for $20 million in funding in FYE 2009 from the Participating Agencies ("PAs") for operating reserves and debt service coverage. The working group continued to meet with City of San Diego staff regarding the establishment of a mutually agreed upon protocol through early February 2010. A summary of the City of San Diego's 2008 proposal and the negotiated 2010 protocol is included as Attachment A.

At its regular meeting of February 17, 2010, the MetroTAC approved the following recommendations to move to the Finance Committee of the Metro Wastewater JPA and thereafter to the Metro Commission/ Metro Wastewater JPA for discussion and action:

- Proceed with PAs funding a 1.2 debt service ratio coverage
- Proceed with PAs funding a 45 day operating reserves
- The PAs will fund no other reserves
- FY07 and FY08 refund monies will be used to fund the operating reserves
- Interest accrual on operating reserves and undesignated accounts will start with FY10 (beginning on July 1, 2009)

The Finance Committee of the Metro Wastewater JPA, at its February 24, 2010 meeting, took action to recommend approval of the above, by the Metro Commission/ Metro Wastewater JPA. At its March 4, 2010 meeting, the Metro Commission/ Metro Wastewater JPA, comprised of representatives of the PAs, approved the components of the negotiated policy, with the understanding that any such policy would serve as an administrative protocol regarding the allocation of debt service coverage to the PAs and funding of operating reserves by the PAs.

PROTOCOL REGARDING PA FUNDING OF OPERATING RESERVES:

Background:

Operating reserves are established to provide funding for unforeseen events that might occur during the course of the fiscal year such as unforeseen major maintenance or capital projects. The PAs performed a survey of other regional wholesale agencies and determined that agencies such as the San Diego County Water Authority maintain a 45 day operating reserves. Although the City of San Diego's current policy is to increase operating reserves for its retail customers from 45 to 70 days, the City realizes that if a major maintenance incident should occur it can immediately request payment from the PAs per the Regional Wastewater Disposal Agreement. The City of San Diego's retail customer's rates cannot be immediately increased due to Proposition 218 requirements for noticing and public hearings.

Protocol:

Attachment B is a summary of the funding strategy showing each PAs 2007 and 2008 refunds based on recent City Metro Wastewater Exhibit E audits. The refunds will be used to fund the PAs 45 day operating reserves contribution. In the majority of cases most PAs will see a refund even after they have

fully funded their portion of the operating reserves. PAs that do not have adequate refunds will be billed for their portion of the reserve in the next quarterly 2010 billing. The operating reserves for each fiscal year will be established based on 45 days of operating revenues as determined by the following formula:

$$\frac{\text{Fiscal Year Estimated Operating Expenses (not including CIP and debt service)}}{365 \text{ days}} \times 45 \text{ days}$$

The number of days included in the calculation cannot be changed without prior consent of the PAs.

The operating reserves will be maintained by the City of San Diego and interest will accrue on a monthly basis based on actual interest rates on the City's investments. This interest revenue will be added to the PAs undesignated fund balance for that fiscal year. As part of each year's Exhibit E audit the actual required operating reserves and interest earned on it will be determined and audited by the City of San Diego's external auditors and PA representatives. A summary of the operating reserves balance and interest earned for each PA will be included as a footnote or attachment to the City Metro Wastewater Exhibit E Audit.

PROTOCOL REGARDING ALLOCATION OF DEBT SERVICE COVERAGE TO PAs

Background:

A 1.2 debt service coverage ratio is a requirement for all of the outstanding Metro parity debt. A cash flow prepared by the City of San Diego shows (Attachment C) that if the PAs are billed at the current level ($65 million annually to cover the PAs portion of operations, pay-go capital, and debt service expense) for the next three to five years that this requirement can be achieved without additional contributions by the PAs. This provides the PAs a stable projected annual Metro contribution for the next three to five years.

Protocol:

The PAs will maintain through annual contributions and use of PA undesignated fund balance a positive cash flow not to exceed 1.2 times the PA share of the required annual debt service on Metro Debt. The debt service coverage ratio of 1.2 cannot be changed without prior consent of the PAs.

The undesignated fund balance will be maintained by the City of San Diego and interest will accrue on a monthly basis based on actual interest rates on the City's investments. This interest revenue will be added to the PAs undesignated fund balance for that fiscal year.

As part of each year's Exhibit E audit the actual required reserve coverage and interest earned on the undesignated fund balance will be determined and audited by the City of San Diego's external auditors and PA representatives. A summary of the debt service coverage requirement and portion of interest earned on the undesignated fund balance for each PA will be included as a footnote or attachment to the City Metro Wastewater Exhibit E Audit.

If the cash flow in any year does not provide the required 1.2 debt service coverage the PAs will be billed the additional required revenue including interest.

Attachment A
Original San Diego Proposal

Draft

FY 2009, and prospective years, Participating Agency funding process for the allocation of the MWWD Debt Service Coverage requirement:

Year 1

On October 1, 2008

1. Obtain the FY 2009 total MWWD debt service amount including SRF debt from the Administrative Services, Budget Section.
2. Calculate the debt service coverage dollar amount greater than 100%. The target debt service coverage percentage of 1.56 is the average debt service coverage ratio found in the current rate case model. The formula is: ([Current Debt Service Amount], $94,306,351 * .56 = $52,811,557).
3. Allocate the total debt service coverage amount between the Municipal and Metropolitan Systems using their respective debt service percentages of 77.91% for the Metropolitan System and 22.09% for the Municipal System.
4. Obtain final FY 2009 projected flow-based billing percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
5. Allocate the Metropolitan System portion of the debt service coverage amount to the City of San Diego and the 15 Participating Agencies using final FY 2009 projected flow-based billing percentages.
6. Update the Participating Agency Debt Coverage Payment Schedule.

On October 4, 2008

1. Forward the Participating Agency Debt Coverage Payment Schedule to the Admin Services, Agency Contracts Section, (Peggy Merino).

On November 1, 2008

1. Admin Services, Agency Contracts Section, (Peggy Merino) sends FY 2009 second quarter invoices to include as a second item, the debt service coverage amounts. The due date is December 1, 2008. (no interest will be applied to these accounts due to the mid year payment approach)

On December 1, 2008

1. Recognize the Participating Agencies debt service coverage payments as new revenues and update the Participating Agency Debt Coverage Payment Schedule.
2. Inform Admin Services, Agency Contracts Section, (Peggy Merino) to reduce the Participating Agencies FY 2010 CIP expense allocation by the FY 2009 Participating Agencies debt service coverage payments.
3. Obtain the preliminary FY 2010 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
4. Calculate a preliminary FY 2010 debt service coverage schedule and forward to the Admin Services, Agency Contracts Section, (Peggy Merino)

On January 1, 2009

1. Admin Services, Agency Contracts Section, (Peggy Merino), informs the Participating Agencies of the FY 2010 projected debt service coverage amounts for budgeting purposes.

On July 1, 2009

1. Apply the FY 2009 Participating Agencies debt service coverage payments towards the cash requirement for the FY 2010 Metro based CIP Project budget. Any residual amounts will be applied to the O&M budget.

<u>Year 2 (Prospective Years)</u>

On October 1, 2009

1. Obtain the Fiscal Year 2010 total MWWD debt service amount including SRF debt from the Administrative Services, Budget Section.
2. Calculate the debt service coverage dollar amount greater than 100%. The target debt service coverage percentage of 1.56 is the average debt service coverage ratio found in the current rate case model. The formula is: ([Current Debt Service Amount], $xxx,xxx,xxx * .56 = $xxx,xxx,xxx)
3. Allocate the total debt service coverage amount between the Municipal and Metropolitan Systems using their respective debt service coverage percentages of xx.xx% for the Municipal System and xx.xx% for the Metropolitan System.
4. Obtain the final FY 2010 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino). .
5. Allocate the Metropolitan System portion of the debt service coverage amount to the City of San Diego and the 15 Participating Agencies using the preliminary FY 2010 projected flow-based percentages.
6. Update the Participating Agency Debt Coverage Payment Schedule.

On October 4, 2009

1. Forward the Participating Agency Debt Coverage Payment Schedule to the Admin Services, Agency Contracts Section, (Peggy Merino) for invoicing purposes.

On November 1, 2009

1. Admin Services, Agency Contracts Section, (Peggy Merino) sends FY 2009 second quarter invoices to include as a second item, the debt service coverage amounts. The due date is December 1, 2009. (no interest will be applied to these accounts due to the mid year payment approach)

On December 1, 2009

1. Recognize the Participating Agencies debt service coverage payments as new revenues and update the Participating Agency Debt Coverage Payment Schedule.
2. Inform Admin Services, Agency Contracts Section, (Peggy Merino) to reduce the Participating Agencies FY 2011 CIP expense allocation by the FY 2010 Participating Agencies debt service coverage payments.
3. Obtain the preliminary FY 2011 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
4. Calculate a preliminary FY 2011 debt service coverage schedule and forward to the Admin Services, Agency Contracts Section, (Peggy Merino)

On January 1, 2010

1. Admin Services, Agency Contracts Section, (Peggy Merino), informs the Participating Agencies of the FY 2011 projected debt service coverage amounts for budgeting purposes.

On July 1, 2010

1. Apply the FY 2010 Participating Agencies debt service coverage payments towards the cash requirement for the FY 2011 Metro based CIP Project budget. Any residual amounts will be applied to the O&M budget.

H:\Participating Agencies\FY 2009 Debt Coverage Process Flow 07162008 ver 2 draft.doc

Attachment B
Operating Reserve Funding Strategy

FY07-FY08 Operating Reserve Rate Stabilization
Based on 2008 Flows
FINAL

	EXHIBIT E AUDIT ADJUSTMENTS			2008 FLOWS & LOADS		
Agency	FY 2007	FY 2008	TOTAL	2008 FLOWS & LOADS	OPERATING RESERVE	NET
CHULA VISTA	($1,837,010)	($2,100,751)	($3,937,761)	28.083%	$1,202,374	($2,735,387)
CORONADO	($189,910)	($366,858)	($556,768)	3.356%	$143,693	($413,075)
DEL MAR	($87,785)	($103,913)	($191,698)	1.029%	$44,061	($147,637)
EL CAJON	($290,369)	$66,888	($223,481)	15.270%	$653,789	$430,308
IMPERIAL BEACH	($132,300)	($130,153)	($262,453)	3.652%	$156,373	($106,080)
LA MESA	($99,793)	($40,190)	($139,983)	8.842%	$378,561	$238,578
LAKESIDE/ALPINE	($293,313)	($243,206)	($536,519)	5.357%	$229,368	($307,151)
LEMON GROVE	($147,034)	($195,043)	($342,077)	3.611%	$154,615	($187,462)
NATIONAL CITY	($637,379)	($947,043)	($1,584,422)	7.572%	$324,211	($1,260,211)
OTAY	$123,792	($138,545)	($14,753)	0.459%	$19,668	$4,915
PADRE DAM	($789,976)	($1,752,218)	($2,542,194)	5.198%	$222,537	($2,319,657)
POWAY	($683,251)	$130,168	($553,083)	5.770%	$247,021	($306,062)
SPRING VALLEY	($611,093)	($667,539)	($1,278,632)	10.316%	$441,691	($836,941)
WINTERGARDENS	($71,984)	($56,162)	($128,146)	1.482%	$63,470	($64,676)
TOTAL	($5,747,405)	($6,544,565)	($12,291,970)	100%	$4,281,432	$ (8,010,538.00)

Attachment C
Debt Service Coverage Funding Strategy

Attachment C

Schedule of Participating Agency Contributions to Operations Reserve and Debt Service Coverage Cash flow FY 2007-2011
Prepared on: February 23, 2010

HOW TO READ CASH FLOW SPREADSHEET:
Blue font = data inputted directly into spreadsheet
Green font = data imported from another spreadsheet in workbook
Black font = Calculation; see legend to determine calculation

Line #	Cash flow Component	Legend	Foot-note #	AUDITED FY07	AUDITED FY08	PROJECTED FY09	PROJECTED FY10	PROJECTED FY11	PROJECTED FY12	PROJECTED FY13	PROJECTED FY14	PROJECTED FY15
1	**Current Projected Revenue Stream**	Input		$54,007,596	$63,231,038	$57,249,960	$64,487,408	$65,000,000	$65,000,000	$65,000,000	$65,000,000	$65,000,000
2	**Annual Refund After Exhibit E Audit**	Input					[redacted]	(1,500,000)	(3,000,000)	(2,500,000)	(2,100,000)	(1,800,000)
3	**Transfer (to)/from Operating Reserve**	Line 21-Prior Year				-	(4,281,432)	(42,814)	(43,242)	(43,675)	(44,112)	(44,553)
4	**Undesignated Fund Balance Interest**	Line 17 X Interest Rate	(1)				79,990	258,156	225,608	113,282	62,579	58,899
5	**Operating Reserve Interest**	Calculated Off-Line	(2)				164,514	166,159	167,821	169,499	171,194	172,906
6	**Gross PA System Revenue**	Sum(Line1:Line5)		$54,007,596	$63,231,038	$57,249,960	$52,241,049	$63,881,500	$62,350,187	$62,739,106	$63,089,661	$63,387,252
7	**Less:**											
8	**PA Estimated Total Operating Expenses**	Prior year X 1.01	(3)	$32,304,298	$37,150,042	$34,727,170	$34,727,170	$35,074,442	$35,425,186	$35,779,438	$36,137,232	$36,498,605
9												
10	**Net PA System Revenue**	Line 6 - Line 8		$21,703,298	$26,080,996	$22,522,790	$17,513,879	$28,807,059	$26,925,001	$26,959,668	$26,952,429	$26,888,647
11												
12	**PA Annual Debt Service Payment**	Calculated Off-Line		$20,373,393	$19,850,051	$20,441,069	$24,049,989	$24,043,880	$22,479,039	$22,478,266	$22,478,075	$22,478,730
13	**CIP Pay Go -- 20% of Projected CIP**	Input	(4)	(4,417,502)	(512,512)	-	1,318,048	5,610,210	7,369,218	5,800,940	4,570,129	4,655,009
14	**Total CIP and Debt Service**	Line 12 + 13		15,955,891	19,337,539	20,441,069	25,368,037	29,654,090	29,848,257	28,279,206	27,048,204	27,133,739
15												
16	**Net Income after CIP and Debt Service**	Line 10 - 14		$5,747,407	$6,743,457	$2,081,721	($7,854,157)	($847,032)	($2,923,257)	($1,319,537)	($95,775)	($245,092)
17	**PA Undesignated Fund Balance**	Line 16 + Prior Year		$5,747,407	$12,490,864	$14,572,585	$6,718,428	$5,871,396	$2,948,139	$1,628,602	$1,532,827	$1,287,735
18												
19	**Calculated Debt Service Ratio**	Line 10/Line 12	(5)				0.73	1.20	1.20	1.20	1.20	1.20
20												
21	**Operating Reserve (45 days)**	(Line 8/365 days) X 45 days					$4,281,432	$4,324,246	$4,367,489	$4,411,164	$4,455,275	$4,499,828

Footnotes:

(1) average of current year ending balance + prior year ending balancel times 3.2%
(2) average monthly balance times LAIF rate (first year calculated at half year interest)
(3) FY09 based on average of FY07 & FY08 then 1% inflation
(4) 20% of projected Metro CIP
(5) Minimum coverage requirement 1.2 time annual Metro debt service

FY10 Operating Reserve Calc:

PA Operating Expenses:	$34,727,170
divided by:	365
Equals:	$95,143
Times:	45
45 day Operating Reserve:	$4,281,432

FY10 Operating Reserve Interest Calc:

PA Operating Expenses:	$4,281,432
Times ave monthly LAIF Interest Rate:	0.038425 (range from 3.18% to 4.53% per month)
FY10 Estimated Interest Earned:	$164,514

7/16/18 Version

EXHIBIT F

PURE WATER PROGRAM COST ALLOCATION AND REVENUES

As part of the Pure Water Program, the City intends to modify the North City Water Reclamation Plant (a Metro System facility) and expand its capacity to 52 mgd. In addition, the City intends to construct the North City Advanced Water Purification Facility on a nearby site to produce Repurified Water. This Exhibit F sets forth the costs and revenues associated with the Pure Water Program which are, or are not, attributable to the Metro System.

I. Costs Excluded from Metro System Costs

All of the following Pure Water Program costs, including Capital Improvement Costs, Operation and Maintenance Costs, and other related costs (including administration, insurance, claims, and overhead) are excluded as Metro System Costs for purposes of calculating the annual Sewer System Charge, and shall be the responsibility of City's water utility ("**City Water Utility PW Costs**"), unless otherwise expressly agreed to pursuant to an amendment to this Exhibit F:

1.1 General Exclusions.

1.1.1 Costs of the Water Repurification System and any Metro System facilities to the extent constructed, modified, expanded, or used for the purpose of treating water beyond secondary treatment (ocean discharge standard under current law). This shall include costs for preliminary treatment, primary treatment, and secondary treatment to the extent such costs are higher than they would otherwise be due to the production of Repurified Water.

1.1.2 Costs for fail-safe disposal, if necessary, for design capacity for Repurified Water, including, but not limited to, any costs associated with the reservation of capacity at the Point Loma Wastewater Treatment Plant.

1.1.3 Costs for the demolition or replacement of existing Metro System facilities with similar facilities for the purpose of making space available for Water Repurification System facilities. Such costs may take into account the current asset value or market value of the existing Metro System facility.

1.2 Cost Exclusions Specific to North City Water Reclamation Plant Improvements.

1.2.1 Costs for increased aeration tank volume to the extent the new volume exceeds the amount necessary to provide 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.

1.2.2 Costs for the methanol feed system.

1.2.3 Costs for brine disposal, including, but not limited to, pump stations, pipelines, retreatment, ocean outfall, and monitoring.

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1.2.4 Costs for the use of existing tertiary water filters for Repurified Water purposes, which may take into account depreciated value of such filters. (Such costs shall be reimbursed or credited by City's water utility to the Metro System).

II. North City Water Reclamation Plant Improvement Costs Included as Metro System Costs

Notwithstanding the above exclusions, the City and the Participating Agencies have specifically agreed that the following Capital Improvement Costs and Operation and Maintenance Costs related to North City Water Reclamation Plant improvements shall be included as Metro System Costs for purposes of calculating the annual Sewer System Charge (and therefore not qualify as City Water Utility PW Costs):

2.1 Costs for chemically enhanced primary treatment for up to 52 mgd capacity.

2.2 Costs for primary effluent equalization for up to 52 mgd capacity.

2.3 Costs for increased volume of aeration tanks that will provide up to, but not exceeding, 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.

2.4 Costs to add secondary clarifier tanks sufficient for up to 52 mgd capacity.

2.5 Costs for wastewater conveyance facilities to provide wastewater for replacement of centrate flows that cannot be treated at the North City Water Reclamation Plant due to the production of Repurified Water.

2.6 Costs for treatment and conveyance of all return flows (micro-filtration and tertiary backwash) based on Flow, COD, and SS.

III. Cost Allocation Example

Attachment 1 is an example of the City's Pure Water Phase I Cost Estimate (based on 60% design), and indicates which costs are City Water Utility PW Costs and which costs are attributable to the Metro System. The Parties agree that Attachment 1 is an illustrative document to assist the Parties in the future and is not a comprehensive list of all such costs. If there is any conflict between this Exhibit F and Attachment 1, or if a specific cost is not addressed in Attachment 1, this Exhibit F shall control.

IV. Revenue Sharing for Repurified Water

4.1 **Background.** Initially, the parties anticipate that the cost per acre foot associated with the production of Repurified Water will be more expensive than the cost per acre foot of untreated imported water. However, it is anticipated that Repurified Water produced under the Pure Water Program will be less expensive than untreated imported water sometime in the future. Once Repurified Water produced under the Pure Water Program becomes less expensive than the cost of untreated imported water, the parties agree that there will be revenue from the Pure Water Program.

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4.2 **Calculation.** Revenue sharing shall occur in each fiscal year during which the annual cost per acre foot associated with the production of Repurified Water is less than the cost of untreated water per acre foot from the San Diego County Water Authority ("**CWA**"). The annual cost difference shall be known as "**Repurified Water Revenue**." Repurified Water Revenue shall be determined as follows:

> Annual cost per acre foot of CWA untreated water purchased by the City for delivery at Miramar Reservoir (which shall be determined based on the total of certain fixed and variable costs for water actually billed to the City by CWA for water delivered at Miramar Reservoir in a fiscal year, divided by the number of acre-feet of CWA water delivered at Miramar Reservoir that year)
>
> ***less***
>
> Annual cost per acre foot of City Water Utility PW Costs (which shall be determined based on the total annual City Water Utility PW Costs, as defined above in Section A, divided by the number of acre-feet of Repurified Water actually produced in that year)
>
> ***multiplied by***
>
> The number of acre feet of Repurified Water produced by Pure Water Program facilities during the applicable fiscal year.

Attachment 2 is an example of a bill from CWA showing which fixed and variable costs for untreated water will be used for determining Repurified Water Revenue and the amount of water delivered in a billing period. The Parties agree that Attachment 2 shall be referred to by the Parties in the future in determining how costs for water delivered at Miramar Reservoir are calculated. If no untreated water is delivered at Miramar Reservoir in a given year, then the closest point of delivery of untreated water to the City shall be used.

Attachment 3 is a sample calculation of Repurified Water Revenue.

The City shall estimate whether there will be Repurified Water Revenue in the upcoming fiscal year prior to January 15 of each year, and the estimated amount of Repurified Water Revenue shall be effective on July 1 of the upcoming fiscal year.

4.3 **Revenue Sharing.** Repurified Water Revenue shall initially be shared based on the relative actual Capital Improvement Costs for the Pure Water Program contributed by City's Water Utility and the Metro System. Such Capital Improvement Cost contributions are currently estimated as (61% City Water Utility and 39% Metro System) until the debt attributable to the Metro System is fully paid.

Following full payment of debt attributable to the Metro System, Repurified Water Revenue shall be shared based on the relative actual Operation and Maintenance Costs for Pure

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Water Program facilities contributed by City's Water Utility and the Metro System, calculated annually. Such Operation and Maintenance Costs are currently estimated as (76% City Water Utility and 24% Metro System) on an annual basis.

4.4 **Year-End Adjustment.** At the end of each fiscal year during which there is Repurified Water Revenue, the City shall determine the actual cost per acre foot of CWA untreated water purchased by the City, the actual cost per acre foot of City water Utility PW costs, and the actual amount of Repurified Water produced at Pure Water Program facilities.

Based on the actual cost and production information, the City will recalculate the Repurified Water Revenue for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

4.5 **Change in Potable Reuse Method.** The parties acknowledge that the Pure Water Program will initially use the surface water augmentation method of potable reuse. The use of CWA untreated water costs in calculating Repurified Water Revenue is intended to provide an appropriate point of comparison to costs for producing Repurified Water that will be introduced into surface water. The parties agree that if the City implements direct potable reuse (in which Repurified Water is introduced directly into a water supply pipeline or facility), the parties shall meet and negotiate in good faith regarding an amendment to this Exhibit F to appropriately update the formula for Repurified Water Revenue.

V. **Secondary Effluent Commodity Rate**

5.1 **Background.** The Point Loma Wastewater Treatment Plant operates under a National Pollutant Discharge Elimination System ("NPDES") permit modified under section 301(h) & (j)(5) of the Clean Water Act. If such modified permit were ever revoked or not renewed, the parties agree that, under current law, the City would have an obligation to upgrade the Point Loma WTP to secondary treatment. The parties further agree that $1.8 billion is a fair and comprehensive estimation of the costs that could be incurred by the Metro System to meet the legal requirements related to the Metro System under current law.

Therefore, the parties agree that $1.8 billion represents the maximum amount of Capital Improvement Costs that the Metro System should be obligated to contribute to the Pure Water Program, the purpose of which is not solely the disposal of wastewater, but also the production of Repurified Water. The parties agree that this $1.8 billion maximum contribution should apply whether or not the Point Loma WTP is actually upgraded to secondary treatment to meet legal requirements in the future because, as of the date of the Agreement, the parties have the option of upgrading the Point Loma WTP to full secondary treatment for the cost of approximately $1.8 billion.

In light of the above, the parties have agreed that if Metro System costs related to the Pure Water Program exceed the $1.8 billion, City's Water Utility will pay a charge for each acre foot of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water.

5.2 **Capital Expense Rate.** Under the circumstances described below, City's Water Utility shall pay a charge ("**Capital Expense Rate**") for each acre-foot of secondary treated

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effluent produced by Metro System facilities and used for the production of Repurified Water. City's Water Utility shall pay the Capital Expense Rate if the following costs alone, or in combination, exceed $1.8 billion (which amount shall be adjusted for inflation):

(a) the sum of all Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F; and/or

(b) the sum of all Capital Improvement Costs and associated debt for the full or partial upgrading of the Point Loma Wastewater Treatment Plant to secondary treatment.

Notwithstanding, the Capital Expense Rate shall not apply if the Point Loma WTP is actually upgraded to secondary treatment (or beyond) due to: (a) a change in federal or state statutory law making it necessary to upgrade the Point Loma WTP to comply with such new discharge standard; or (b) a final decision by a state or federal court or a federal administrative agency of competent jurisdiction that an NPDES permit modified under section 301(h) & (j)(5) of the Clean Water Act is thereby revoked or denied renewal due to a finding that the discharge from the Point Loma WTP violates 40 C.F.R. 131.12, State Water Resources Control Board Resolution 68-16, and State Water Resources Control Board Administrative Procedures Update No. 90-004.

5.3 **Calculation of Capital Expense Rate .** The amount per acre-foot of the Capital Expense Rate shall be determined as follows:

The sum of all Capital Improvement Costs and associated debt attributable to (i) the Metro System components of the Pure Water Program under this Exhibit F and (ii) upgrading of the Point Loma WTP to secondary treatment (if any)

less

$1.8 billion, as adjusted for inflation each July 1 (starting on July 1, 2019) to reflect the annual percentage change in the Engineering News Record – Los Angeles construction cost index

multiplied by

1.42 (which estimates the total interest on a 30-year State Revolving Fund loan with an interest rate of 2.5%)

and divided by

The total number of acre feet per year of secondary treated effluent that is expected to be produced by Metro System facilities for the production of Repurified Water over a period of thirty (30) years, or the number of years remaining in the term of the Agreement, whichever is shorter.

The City shall estimate whether there the Capital Expense Rate shall apply to the upcoming fiscal year (and its amount) prior to January 15 of each year, and the estimated amount

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of the Capital Expense Rate shall be effective on July 1 of the upcoming fiscal year.

For purposes of this Article V of Exhibit F, Capital Improvement Costs and associated debt shall include such costs incurred by the Metro System prior to the effective date of the Agreement.

5.4 Year-End Adjustment

At the end of each fiscal year during which the Capital Expense Rate applies, the City shall determine the actual Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F and any upgrading of the Point Loma WTP to secondary treatment, the then-applicable interest amount for outstanding loans for the Metro System components of the Pure Water Program and Point Loma WTP upgrades, and the actual amount of Repurified Water produced at Pure Water Program facilities.

Based on the actual cost, interest, and production information, the City will recalculate the Capital Expense Rate for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

5.5 Duration; Expiration

The Capital Expense Rate shall continue until the cost difference between (a) the actual sum of the Capital Improvement Costs and associated debt attributable to the Metro System under this Exhibit F and the costs to upgrade the Point Loma WTP and (b) $1.8 billion (as adjusted for inflation) has been fully repaid.

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7/16/18 Version

ATTACHMENT 1

Pure Water Phase I Cost Estimate

		Total	%
Wastewater:			
MorenaPump Station WW Force Main and Brine Conveyance	$	324,712,285.00	
North City Renewable Energy	$	33,794,784.00	
North City MBC Improvements	$	7,310,835.00	
North City WRP Expansion and PWF Influent Conveyance	$	176,882,842.00	
SDG&E	$	3,288,932.00	
Total Wastewater	$	545,989,678.00	39%
Water:			
MorenaPump Station WW Force Main and Brine Conveyance	$	46,504,958.00	
North City Renewable Energy	$	94,020,128.00	
Miramar WTP Pump and Plant Improvements	$	4,555,811.00	
North City Pure Water Facility	$	521,652,285.00	
North City WRP Expansion and PWF Influent Conveyance	$	45,236,959.00	
North City Pure Water Pipeline	$	109,411,952.00	
North City Pure Water Pump Station	$	20,469,509.00	
Total Water	$	841,851,602.00	61%
Total Project	$	1,387,841,280.00	
Shared Projects:			
MorenaPump Station WW Force Main and Brine Conveyance			
Wastewater	$	324,712,285.00	87%
Water	$	46,504,958.00	13%
	$	371,217,243.00	
North City Renewable Energy			
Wastewater	$	33,794,784.00	26%
Water	$	94,020,128.00	74%
	$	127,814,912.00	
North City WRP Expansion and PWF Influent Conveyance			
Wastewater	$	176,882,842.00	80%
Water	$	45,236,959.00	20%
	$	222,119,801.00	

Note: The above estimates are based on 60% design of Phase I of the Pure Water Program.

7/16/18 Version

ATTACHMENT 2 – SAMPLE CWA BILL

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7/16/18 Version

ATTACHMENT 3 – SAMPLE CALCULATION OF REPURIFIED WATER REVENUE

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Attachment 8

Amdt. 1

CH2M Hill

Engineers

Pure Water

No. City Plant

METRO JPA/TAC
Staff Report
Date: July 18, 2018

Project Title:
Pure Water Program – Amendment No. 1 to the Agreement with CH2M Hill Engineers, Inc. for Design Engineering Services for the North City Water Reclamation Plant Expansion and Influent Conveyance Project

Requested Action:
Approve Amendment No. 1 to the design engineering services agreement between the City of San Diego and CH2M Hill Engineers, Inc. for the North City Water Reclamation Plant Expansion and Influent Conveyance Project and forward item to Metro JPA/ Metro Commission for approval. Amendment No. 1 is for a total not to exceed amount of $2,500,000, which will be utilized for design and construction support services.

Recommendations:
Approve Amendment No. 1 to the agreement

Metro TAC:	Approve the subject item and forward to Metro JPA/ Metro Commission for approval
IROC:	N/A
Prior Actions: (Committee/Commission, Date, Result)	N/A

Fiscal Impact:

Is this projected budgeted?	Yes _X_ No ____
Cost breakdown between Metro & Muni:	It is estimated that the funding will be allocated as follows: Water: 23% (approximately $587,000), Wastewater: 77% (approximately $1,913,000) (Metro: 100%, Muni: 0%).
Fiscal impact to the Metro JPA:	33.5% of Metro cost (approximately $640,855)

Capital Improvement Program:

New Project?	Yes ___ No _X__ N/A ___
Existing Project?	Yes _X__ No ___ Upgrade/addition ___ Change ___

Previous TAC/JPA Action:
None.

Additional/Future Action:
Present item to Metro JPA/ Metro Commission for approval on September 6, 2018.

City Council Action:
City Council approval is anticipated on September 11, 2018.

Background: *Provide background information on the need for the project*
San Diego's imported water supplies face increasing stresses from a variety of sources. As a result, the region's supplies are becoming less reliable and more expensive. These circumstances, and the threat limitation on San Diego's water supplies, have intensified the need for new sources of water. Pure Water San Diego is the City of San Diego's (City) 20-year program to provide a safe, secure and sustainable local drinking water supply for San Diego. Recycled water will be turned into drinkable

water through the use of water purification technology. Further, Pure Water's system-wide reuse will significantly reduce flows to the Point Loma Wastewater Treatment Plant (PLWTP) and will make San Diego more water independent. On April 29, 2014, City Council adopted Resolution Number R-308906 supporting the Pure Water Program. Pure Water implementation includes design and construction of new treatment and conveyance facilities. To ensure quality design and construction of future Pure Water facilities, the Public Utilities Department has elected to obtain professional engineering and technical services for completing the design work.

One of the currently on-going projects that is being executed under the Pure Water Program is the expansion of the existing North City Water Reclamation Plant (NCWRP). The NCWRP treats wastewater from several San Diego Communities and distributes recycled water for irrigation and industrial purposes in the northern San Diego region. As part of the Pure Water Program implementation, the NCWRP will be expanded so the facility can treat an average annual flow of 52 million gallons per day (mgd), continue serving recycled water customers, and provide tertiary-treated water to the Pure Water Facility so it can produce 30 mgd of pure water.

In November 2017, the City awarded an agreement to CH2M Hill Engineers, Inc. to perform design and construction support services for the North City Water Reclamation Plant Expansion and Influent Conveyance project. The original Agreement is on file in the Office of the City Clerk as Document No. R-310738. The said Agreement was issued for an amount not to exceed $17,198,752 for a duration of five (5) years.

Discussion: *Provide information on decisions made to advance the project*

Since the initiation of the design and through the continuing design efforts, it has been determined that additional design and construction support services are needed to complete the NCWRP Expansion project. Overall, the project has increased in complexity to include equipment improvements throughout various process areas to bring the plant up its original 30 mgd design capacity. These upgrades are necessary to ensure there are no equipment deficiencies and the plant is operating reliably before it is expanded under the Pure Water Program. A substantial amount of design efforts have been expended for these equipment improvements thus requiring an increase in the Additional Services Task to cover any additional design and construction support services.

The original agreement allocated $1,500,000 for an Additional Services Task specifically dedicated for any additional design and construction support services not covered under the original agreement. However, as the design phase of the project progressed, unanticipated and unforeseen design and engineering support services were authorized, thus fully depleting the funding under the Additional Services Task. These services include upgrades to the plant equipment to bring the facility up to its original 30 mgd capacity, replacement of all sluice gates at the Headworks facility, design of utility relocations for the future Renewable Energy project located at the NCWRP, implementation of an alternate design concept to repurpose the secondary clarifiers which reduced the construction cost by approximately $7.5 million, development of a sewer process model for facility control strategies, design of the replacement for the existing electrical substation and the design of the brine line that is within the NCWRP footprint. These items will be bid in conjunction with the NCWRP Expansion project and in turn will increase the overall construction scope. Furthermore, these items require highly technical coordination involving multiple disciplines and engineering support which necessitates an increase for the related construction support services. At this time, the existing agreement does not account for the construction support services associated with these additional items. Therefore, Amendment No. 1 will provide the necessary funding for any related design and construction support services by increasing the Additional Services Task by a not to exceed amount of $2,500,000, in turn increasing the total contract amount from $17,198,752 to $19,698,752. Overall, this request will provide the essential engineering support and uninterrupted construction support services throughout the entire duration of the construction phase of the project.

Bid Results: *If bidding was done provide bidding format and results*
N/A

Public Utilities Department

Amendment No. 1 to the Agreement with CH2M Hill Engineers, Inc. for Design Engineering Services for the North City Water Reclamation Plant Expansion and Influent Conveyance Project

Metro Technical Advisory Committee
July 18, 2018

The City of SAN DIEGO

Background

- NCWRP Expansion Project is a component of North City Phase 1 delivery of 30 mgd of Pure Water
- NCWRP will be expanded to treat an annual average flow of 52 mgd
- CH2M Hill Engineers, Inc. is the selected design firm
- Total agreement amount is $17,198,752
- Original agreement allocated $1,500,000 for an Additional Services Task

Proposed Amendment

- Additional Services Amount exhausted for unanticipated engineering services:
  - Upgrades and improvements to existing equipment
  - Replacement of sluice gates at the Headworks facility
  - Alternate design concept to repurpose the secondary clarifiers (Savings of $7.5 M)
  - Development of sewer process model
  - Replacement of electrical substations
  - Design of brine line
  - Site preparation for the future Renewable Energy Project
- Amendment No. 1 will replenish the Additional Services Task in an amount not to exceed $2,500,000; New total agreement amount is $19,698,752
- Additional funding will cover design and construction support services

Schedule

ACTIVITY	DATE
Environment Committee	8/2/2018
Metro JPA/ Metro Commission	9/6/2018
City Council	9/11/2018

Questions

Attachment 12

Metro Wastewater JPA Audit for 2 Years Ending June 30, 2015

WHITE NELSON DIEHL EVANS LLP
Certified Public Accountants & Consultants

Board of Directors
Metro Wastewater Joint Powers Authority
Santee, California

We have audited the financial statements of the Metro Wastewater Joint Powers Authority (the Authority) for the two-years ended June 30, 2015 and have issued our report thereon dated June 15, 2018. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in the engagement letter dated December 9, 2015. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Matters:

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Metro Wastewater Joint Powers Authority are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during the two-years ended June 30, 2015. We noted no transactions entered into by Metro Wastewater Joint Powers Authority during the two-years for which there is lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate affecting the Authority's financial statements was the collectability of accounts receivable.

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosure affecting the financial statement was the member agency assessment that is based on each agency's projected treated wastewater flow discharge.

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

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Offices located in Orange and San Diego Counties

Significant Audit Findings (Continued)

Corrected and Uncorrected Adjustments

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. There were no known or likely adjustments identified during the audit, other than those that are clearly trivial.

Disagreements with Management

For the purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated June 15, 2018.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Authority's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the Authority's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

We applied certain limited procedures to Management's Discussion and Analysis which is required supplementary information (RSI) that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

Restriction on Use

This information is intended solely for the use of the Board of Directors and management of the Metro Wastewater Joint Powers Authority and is not intended to be, and should not be, used by anyone other than these specified parties.

White Nelson Diehl Evans LLP

June 15, 2018
Carlsbad, CA

METRO WASTEWATER JOINT POWERS AUTHORITY

BASIC FINANCIAL STATEMENTS

WITH REPORT ON AUDIT BY
INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

FOR THE TWO-YEAR PERIOD ENDED JUNE 30, 2015

BASIC FINANCIAL STATEMENTS

TWO-YEAR PERIOD ENDED JUNE 30, 2015

	Page Number
Independent Auditors' Report	1 - 2
Management's Discussion and Analysis (Required Supplementary Information)	3 - 5
Basic Financial Statements	
Statement of Net Position	6
Statement of Revenues, Expenses and Changes in Net Position	7
Statement of Cash Flows	8
Notes to Financial Statements	9 - 14

INDEPENDENT AUDITORS' REPORT

Board of Directors
Metro Wastewater Joint Powers Authority
Santee, California

We have audited the accompanying financial statements of the Metro Wastewater Joint Powers Authority (the Authority) as of and for the two-year period ended June 30, 2015, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditors consider internal control relevant to the Authority's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Metro Wastewater Joint Powers Authority as of June 30, 2015, and the respective changes in financial position and cash flows thereof for the two-years then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis as identified in the accompanying table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during the audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance on them.

White Nelson Diehl Evans LLP

Carlsbad, California
June 15, 2018

MANAGEMENT'S DISCUSSION AND ANALYSIS

My discussion and analysis of Metro Wastewater Joint Powers Authority's (JPA) financial performance provides an overview of Metro's financial activities for the two year period ended June 30, 2015. Please read it in conjunction with the JPA's financial statements, which follow this section. The year ended June 30, 2013 is provided for reference.

Financial Statements

This discussion and analysis provides an introduction and a brief description of the JPA's financial statements, including the relationship of the statements to each other and the significant differences in the information they provide. The JPA's financial statements include four components:

- Statement of Net Position
- Statement of Revenues, Expenses and Changes in Net Position
- Statement of Cash Flows
- Notes to Basic Financial Statements

The statement of net position includes all of the JPA's assets and liabilities, with the difference between the two reported as net position. There were no deferred outflows or deferred inflows of resources for the year ended June 30, 2015. The JPA's entire net position is unrestricted.

The statement of revenues, expenses and changes in net position presents information which shows how the JPA's net position changed during the year. All of the current year's revenues and expenses are recorded when the underlying transaction occurs, regardless of the timing of the related cash flows. The statement of revenues, expenses and changes in net position measures the success of the JPA's operations over the past year and determines whether the JPA has recovered its costs through member agency assessments.

The statement of cash flows provides information regarding the JPA's cash receipts and cash disbursements during the year. This statement reports the JPA's cash activity as either Operating or Investing; the JPA had no Capital and Related Financing Activities or Noncapital and Related Financing Activities for the year. The statement of cash flows differs from the statement of revenues, expenses and changes in net position because it accounts only for transactions that result in cash receipts or cash disbursements.

The notes to the financial statements provide a description of the accounting policies used to prepare the financial statements and present material disclosures required by generally accepted accounting principles that are not otherwise present in the financial statements.

Financial Highlights

For the two year period ended June 30, 2015, the JPA's total net position decreased by $20,035. The JPA's operating revenues of $475,225 increased by $5,000 from fiscal year 2013 to fiscal year 2014 and $18,195 from fiscal year 2014 to fiscal year 2015. Operating expenses of $495,362 increased by $75,860 from fiscal year 2013 to fiscal year 2014 and decreased by $41,677 from fiscal year 2014 to fiscal year 2015.Non-operating revenues decreased by $11 from fiscal year 2013 to 2014 and $34 from fiscal year 2014 to 2015. There were no non-operating expenses.

Financial Analysis of the Financial Statements

Net Position

The JPA's net position at June 30, 2015 totaled $126,475 compared to $146,510 at June 30, 2013. The decrease in net position is attributed to an operating loss for the two year period, net of operating expenses, of $20,137 and $102 of nonoperating revenue. The following is a summary of the JPA's statement of net position:

	June 30, 2015	June 30, 2013	Difference
Assets			
Current Assets	$ 197,101	$ 222,089	$ (24,988)
Total Assets	197,101	222,089	(24,988)
Liabilities			
Current Liabilities	70,626	75,579	(4,953)
Total Liabilities	70,626	75,579	(4,953)
Net Position			
Unrestricted	126,475	146,510	(20,035)
Total Net Position	$ 126,475	$ 146,510	$ (20,035)

Revenues, Expenses and Changes in Net Position

This audit covers the two year period from July 1, 2013 to June 30, 2015. The prior audit was for the year ended June 30, 2013. For this reason, this section compares the change in revenues, expenses and net position on a year by year basis.

The JPA reported a negative change in net position of $20,035 for the two year period ended June 30, 2015 or a negative $39,936 for the fiscal year ended June 30, 2014 and a positive $19,901 for the fiscal year ended June 30, 2015; this is a decrease of $70,876 from fiscal year 2013 to 2014 and an increase of $59,837 from fiscal year 2014 to 2015. Revenues for the two year period were $475,327 or $228,583 for the fiscal year ended June 30, 2014 and $246,744 for the fiscal year ended June 30, 2015; this is an increase of $4,983 from fiscal year 2013 to 2014 and an increase of $18,161 from fiscal year 2014 to 2015 due to increased contributions from member agencies. Operating expenses for the two year period were $495,362 or $268,519 for the fiscal year ended June 30, 2014 and $226,843 for the fiscal year ended June 30, 2015. This is an increase of $75,859 from fiscal year 2013 to 2014 and a decrease of $41,677 from fiscal year 2014 to 2015. The increase from fiscal year 2013 to 2014 was primarily due to additional legal work by BB&K, additional consulting work by Atkins, a redesign of the JPA website and additional JPA meetings/expenses. The decrease from fiscal year 2014 to 2015 was primarily due to no website redesign in 2015, a decrease in legal work from BB&K, a decrease in consulting work from Atkins and a reduction in JPA meetings/expenses.

Financial Analysis of the Financial Statements (continued)

Revenues, Expenses and Changes in Net Position (continued)

The following is a summary of the JPA's statement of revenues, expenses and changes in net position:

	June 30, 2015	June 30, 2014	June 30, 2013	Difference FY15 to FY13	Difference FY14 to FY13
Operating Revenues	$ 246,710	$ 228,515	$ 223,515	$ 23,195	$ 5,000
Nonoperating Revenues	34	68	85	(51)	(17)
Total Revenues	246,744	228,583	223,600	23,144	4,983
Operating Expenses	226,843	268,519	192,660	34,183	75,859
Total Expenses	226,843	268,519	192,660	34,183	75,859
Changes in Net Position	19,901	(39,936)	30,940	(11,039)	(70,876)
Net Position at Beg of Year	106,574	146,510	115,570	(8,996)	30,940
Net Position at End of Year	$ 126,475	$ 106,574	$ 146,510	$ (20,035)	$ (39,936)

Long-Term Debt and Capital Assets

The JPA has no long-term debt or capital assets.

Conditions Affecting Current Financial Position

There are no known facts, decisions, or conditions that are expected to have a significant effect on the JPA's net position or future results of operations.

Contacting the JPA's Financial Manager

This financial report is designed to provide Metro Wastewater JPA's member agencies, their constituents and the State of California with a general overview of the JPA's finances and to demonstrate the JPA's accountability for the money it receives. If you have questions about this report or need additional financial information, contact the JPA's treasurer, Karen Jassoy.

METRO WASTEWATER
JOINT POWERS AUTHORITY

STATEMENT OF NET POSITION
June 30, 2015

ASSETS		
Current Assets:		
Cash and cash equivalents	$	163,657
Accounts receivable		33,444
Total Current Assets		197,101
TOTAL ASSETS		197,101
LIABILITIES		
Current Liabilities:		
Accounts payable		70,626
Total Current Liabilites		70,626
TOTAL LIABILITIES		70,626
NET POSITION		
Unrestricted		126,475
TOTAL NET POSITION	$	126,475

See accompanying notes to basic financial statements.

METRO WASTEWATER
JOINT POWERS AUTHORITY

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
For the two-year period ended June 30, 2015

OPERATING REVENUES	
Member agency assessments	$ 475,225
Total Operating Revenues	475,225
OPERATING EXPENSES	
Engineering	301,713
Directors meetings	49,662
General and administrative	78,875
Legal	65,112
Total Operating Expenses	495,362
OPERATING INCOME	(20,137)
NONOPERATING REVENUES	
Investment income	102
Total Nonoperating Revenues	102
Change in Net Position	(20,035)
Net Position, Beginning of Period	146,510
Net Position, End of Period	$ 126,475

See accompanying notes to basic financial statements.

METRO WASTEWATER
JOINT POWERS AUTHORITY

STATEMENT OF CASH FLOWS
For the two-year period ended June 30, 2015

Cash Flows from Operating Activities:		
Cash receipts from membership agency assessments	$	472,862
Cash paid to vendors and suppliers for materials and services		(522,292)
Net Cash Used by Operating Activities		(49,430)
Cash Flows from Investing Activities:		
Interest earnings		102
Net Cash Provided by Investing Activities		102
Net Decrease in Cash and Cash Equivalents		(49,328)
Cash and Cash Equivalents, Beginning of Period		212,985
Cash and Cash Equivalents, End of Period	$	163,657

Reconciliation of Operating Loss to Net Cash Flows Used by Operating Activities:

Operating loss	$	(20,137)
Adjustments to Reconcile Operating Income to Net Cash Used by Operating Activities:		
Changes in operating assets and liabilites:		
Increase in accounts receivable		(24,340)
Decrease in accounts payable		(4,953)
Total Adjustments		(29,293)
Net Cash Used by Operating Activities	$	(49,430)

See accompanying notes to basic financial statements.

June 30, 2015

1. REPORTING ENTITY AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

a. Organization and Operations of the Reporting Entity:

The Metropolitan Wastewater Commission was formed in 1998 pursuant to the terms of the 1998 Regional Wastewater Disposal Agreement between the City of San Diego and the following municipalities collectively referred to as the Participating Agencies: Cities of Chula Vista, Coronado, Del Mar, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, the Otay Water District, Padre Dam Municipal Water District, East Otay Mesa, Lakeside/Alpine, Spring Valley, and Winter Gardens Sanitation District. The Metropolitan Wastewater Commission is an advisory body to the City of San Diego, advising the City on matters affecting the Metro System, owned by the City of San Diego.

In 2001 the Metro Wastewater Joint Powers Authority (the Authority) was formed to provide the Participating Agencies with a stronger voice in the operations of the Metro System, for which they collectively pay approximately 35% of the operation and capital costs. As of October 2007, all Participating Agencies of the Metropolitan Wastewater Commission are members of the Authority.

The Authority, along with the Metropolitan Wastewater Commission acts as partners with the City of San Diego and the City's Metropolitan Wastewater Department in planning and budget development, and through its participation in the Metro Technical Advisory Committee, monitors the implementation of the City of San Diego Metropolitan Wastewater Plan and the City's Metropolitan Wastewater Department's engineering and financial practices.

b. Measurement Focus, Basis of Accounting and Financial Statements Presentation:

"Measurement focus" is a term used to describe *which* transactions are recorded within the various financial statements. "Basis of accounting" refers to *when* transactions are recorded regardless of the measurement focus applied. The accompanying financial statements are reported using the "economic resources measurement focus", and the "accrual basis of accounting". Under the economic resources measurement focus all assets and liabilities (whether current or noncurrent) are included on the Statement of Net Position. The Statement of Revenues, Expenses and Changes in Net Position present increases (revenues) and decreases (expenses) in total net position. Under the accrual basis of accounting, revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows.

Operating revenues, mainly member agency assessments, result from exchange transactions associated with the principal activity of the Authority. Exchange transactions are those in which each party receives and gives up essentially equal values. Nonoperating revenues, result from non-exchange transactions, in which, the Authority receives value without directly giving value in exchange.

The Authority reports its activities as an enterprise fund, which is used to account for operations that are financed and operated in a manner similar to a private business enterprise.

1. REPORTING ENTITY AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued):

b. Measurement Focus, Basis of Accounting and Financial Statements Presentation (continued):

The basic financial statements of the Metro Wastewater Joint Powers Authority have been prepared in conformity with accounting principles generally accepted in the United States of America. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for governmental accounting financial reporting purposes.

Net position of the Authority is classified into three components: (1) net investment in capital assets, (2) restricted net position, and (3) unrestricted net position. These classifications are defined as follows:

Net Investment in Capital Assets
This component of net position consists of capital assets, net of accumulated depreciation and reduced by the outstanding balances of notes or borrowing that are attributable to the acquisition of the asset, construction, or improvement of those assets. If there are significant unspent related debt proceeds at year-end, the portion of the debt attributable to the unspent proceeds are not included in the calculation of net investment in capital assets. The Authority has no net investment in capital assets at June 30, 2015.

Restricted Net Position
This component of net position consists of net position with constrained use through external constraints imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments or constraints imposed by law through constitutional provisions or enabling legislation. The Authority has no amounts in restricted net position at June 30, 2015.

Unrestricted Net Position
This component of net position consists of net position that does not meet the definition of "net investment in capital assets" or "restricted net position".

When both restricted and unrestricted resources are available for use, it is the Authority's practice to use restricted resources first, then unrestricted resources as they are needed.

c. New Accounting Pronouncements:

Implemented:

- GASB 65 - "*Items Previously Reported as Assets and Liabilities*", required to be implemented during the two year period ended June 30, 2015 and did not impact the Authority.

- GASB 66 - *"Technical Corrections, an amendment of GASB Statement No. 10 and Statement No. 62"*, required to be implemented during the two year period ended June 30, 2015 and did not impact the Authority.

- GASB 67 - "*Financial Reporting for Pension Plans, an amendment of GASB Statement No. 25* required to be implemented during the two year period ended June 30, 2015 and did not impact the Authority.

- GASB 68 - "*Accounting and Financial Reporting for Pensions, an amendment of GASB Statement No. 27*", required to be implemented during the two year period ended June 30, 2015 and did not impact the Authority.

1. REPORTING ENTITY AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued):

c. New Accounting Pronouncements (Continued):

Implemented (continued):

- GASB Statement No. 69 - "*Government Combinations and Disposals of Government Operations*", required to be implemented during the two year period ended June 30, 2015 and did not impact the Authority.

- GASB 70 - *"Accounting and Financial Reporting for Nonexchange Financial Guarantees"*, required to be implemented during the two year period ended June 30, 2015 and did not impact the Authority.

- GASB 71 - "*Pension Transition for Contributions Made Subsequent to the Measurement Date – an Amendment of GASB No. 68"*, required to be implemented during the two year period ended June 30, 2015 and did not impact the Authority.

Pending Accounting Standards:

GASB has issued the following statements which may impact the Authority's financial reporting requirements in the future:

- GASB 72 - "*Fair Value Measurement and Application*", effective for periods beginning after June 15, 2015.

- GASB 73 - *"Accounting and Financial Reporting for Pensions and Related Assets That Are Not within the Scope of GASB Statement 68, and Amendments to Certain Provisions of GASB Statement 67 and 68*", effective for periods beginning after June 15, 2015 - except for those provisions that address employers and governmental nonemployer contributing entities for pensions that are not within the scope of Statement 68, which are effective for periods beginning after June 15, 2016.

- GASB 74 - "*Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*", effective for periods beginning after June 15, 2016.

- GASB 75 - "*Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*", effective for periods beginning after June 15, 2017.

- GASB 76 - "*The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments*", effective for periods beginning after June 15, 2015.

- GASB 77 - *"Tax Abatement Disclosure"*, effective for periods beginning after December 15, 2015.

- GASB 78 - *"Pensions Provided through Certain Multiple-Employer Defined Benefit Pension Plans"*, effective for periods beginning after December 15, 2015.

- GASB 79 - *"Certain External Investment Pools and Pool Participants"*, the certain provisions on portfolio quality, custodial credit risk, and shadow pricing, is effective for periods beginning after December 15, 2015.

1. REPORTING ENTITY AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued):

Pending Accounting Standards (continued):

GASB has issued the following statements which may impact the District's financial reporting requirements in the future:

- GASB 80 - *Blending Requirements for Certain Component Units*, effective for periods beginning after June 15, 2016.
- GASB 81 - *Irrevocable Split-Interest Agreements*, effective for periods beginning after December 15, 2016.
- GASB 82 – *Pension Issues -An Amendment of GASB Statement No. 67, No. 68, and No.73*, effective for periods beginning after June 15, 2016.
- GASB 83 – "*Certain Asset Retirement Obligations*, effective for periods beginning after June 15, 2018.
- GASB 84 - *Fiduciary Activities*, effective for periods beginning after December 15, 2018.
- GASB 85 - *Omnibus 2017*, effective for periods beginning after June 15, 2017.
- GASB 86 - *Certain Debt Extinguishment Issues*, effective for periods beginning after June 15, 2017.
- GASB 87 - *Leases*, effective for periods beginning after December 15, 2019.
- GASB 88 – *Certain Disclosures Related to Debt, including Direct Borrowings and Direct Placements* for periods beginning after June 15,2018.

d. Cash and Cash Equivalents:

For purposes of the statement of cash flows, the Authority considers all investment instruments purchased with a maturity of three months or less to be cash equivalents.

e. Accounts Receivable:

Management believes that all receivables are fully collectible; therefore no allowance for doubtful accounts was recorded as of June 30, 2015.

f. Budgetary Controls:

The Authority prepares a budget that is approved by the Board of Directors. Unspent appropriations for the operating budget lapse at fiscal year-end unless designated by Board action to be carried forward to the next budget period.

1. REPORTING ENTITY AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued):

g. Estimates:

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

h. Subsequent Events:

Events occurring after June 30, 2015 have been evaluated for possible adjustments to the financial statements or disclosures as of June 15, 2018, which is the date these financial statements were available to be issued.

2. CASH AND INVESTMENTS:

At June 30, 2015, the $163,657 of cash and cash equivalents shown on the Statement of Net Position are deposits with financial institutions.

Custodial credit risk for deposits is the risk that, in the event of the failure of a depository financial institution, the Authority will not be able to recover its deposits or will not be able to recover collateral securities that are in the possession of an outside party. The custodial credit risk for investments is the risk that, in the event of the failure of the counter-party (e.g., broker-dealer) the Authority will not be able to recover the value of its investment or collateral securities that are in the possession of another party. The California Government Code and the Authority's investment policy do not contain legal or policy requirements that would limit the exposure to custodial credit risk for deposits or investments, other than the following provision for deposits: The California Government Code requires that a financial institution secure deposits made by state or local governmental units by pledging securities in an undivided collateral pool held by a depository regulated under state law (unless so waived by the governmental unit). The market value of the pledged securities in the collateral pool must equal at least 110% of the total amount deposited by the public agencies. California law also allows financial institutions to secure Authority deposits by pledging first trust deed mortgage notes having a value of 150% of the secured public deposits.

As of June 30, 2015, there were no deposits with financial institutions in excess of the Federal insurance limits.

3. MEMBER AGENCY ASSESSMENTS:

The Authority prepares an expense budget, then calculates member agency assessments to cover budgeted expenses. Member agency assessments are based on each agency's projected treated wastewater flow discharge. The projected discharge is based on the actual figures from the prior year.

	For the Fiscal Year Ending June 30, 2014		For the Fiscal Year Ending June 30, 2015		
Agency	Commission Flow Distribution Percentage	Billings	Commission Flow Distribution Percentage	Billings	Total Billings
Chula Vista	28.34	$ 64,761	28.31	$ 69,843	$ 134,604
Coronado	3.62	8,268	4.22	10,411	18,679
County of San Diego	19.27	44,037	18.95	46,752	90,789
Del Mar	0.95	2,169	0.42	1,036	3,205
El Cajon	13.49	30,818	13.68	33,750	64,568
Imperial Beach	3.70	8,456	3.84	9,474	17,930
La Mesa	7.96	18,179	7.63	18,824	37,003
Lemon Grove	3.70	8,471	3.77	9,301	17,772
National City	7.52	17,179	7.78	19,194	36,373
Otay Water District	0.65	1,485	0.67	1,653	3,138
Padre Dam	4.93	11,275	4.67	11,521	22,796
Poway	5.87	13,417	6.06	14,951	28,368
Total	100.00	$ 228,515	100.00	$ 246,710	$ 475,225

Attachment 14

MetroTAC Work PLAN

Metro TAC Work Plan
Active & Pending Items
June 2018
Updated Items in Red Italics

Active Items	Description	Member(s)
Muni Transportation Rate Study Working Group	San Diego has hired Carollo Engineers to review the existing transportation rate structure. A work group has been formed to review and give input. First meeting will be in December 2017. Although this is a muni issue it is included on the work plan due to its significance and potential effect on all Metro TAC members. 3/18: Technical consultants to meet with PUD staff and Carollo on 3/22/18 to review model in detail *6/18: JPA technical consultants continue to work with PUD staff on understanding rate calculations*	Roberto Yano Dan Brogadir Erin Bullers Mark Niemiec Yazmin Arellano Dexter Wilson Karyn Keese Carmen Kasner SD staff
Point Loma Permit Ad Hoc TAC	Metro Commission/JPA Ad Hoc established 9/17. GOAL: Create regional water reuse plan so that both a new, local, diversified water supply is created AND maximum offload at Point Loma is achieved to support legislation for permanent acceptance of Point Loma as a smaller advanced primary plant. Minimize ultimate Point Loma treatment costs and most effectively spend ratepayer dollars through successful coordination between water and wastewater agencies. 10/17: Group has met several times. Discussions are ongoing. *3/18: Group continues to meet at least monthly. 6/18: Group continues to meet monthly. Outreach subgroup formed.*	Jerry Jones Jim Peasley Ed Spriggs Bill Baber Steve Padilla Metro TAC staff & JPA consultants
Pure Water EIR Comment Ad Hoc Sub Committee	Created at September 2017 Metro TAC meeting. Purpose to provide technical review of the Pure Water Program EIR and provide draft comments for Metro TAC/JPA review. 10/17: Dexter Wilson & Carmen Kasner reviewed their comments w/Metro TAC. They will forward comments to Chair Humora & he will forward to San Diego. 3/18: Comments submitted to EIR staff. Response from San Diego does not address all issues. Technical consultants and Ad Hoc working with City staff on issues. *6/18: One lawsuit filed by La Jolla Planning Group against the EIR. San Diego extends JPA tolling agreement for 60 days.*	Roberto Yano Dexter Wilson Carmen Kasner Lisa Coburn-Boyd Paula de Sousa Mills
Pure Water Facilities Working Group	This subcommittee was formed by Metro TAC and is a technical group of engineers and supporting financial staff to work with San Diego staff and consultants on cost allocations for proposed Pure Water facilities. This group meets at least monthly. Current projects include North City and MBC expansions. First meeting was 3/24/17. Roberto Yano is the chair. 5/17: Group continues to meet monthly with PUD and PWP consultants. Reviewed and accepted cost allocation for MBC.7/17: Facilities WG has submitted their comments to the City of SD on the 30% design of the North City Expansion Project. They are working cooperatively with PUD staff and consultants in the review of the design and their comments. 9/17: Positive progress, reviewed Construction package 1 and 3 and provided comments 10/17: Continued work w/SD on cost allocation of major PWP facilities. Projected draft cost allocation document in November/December 2017. 3/18: Working group have reviewed all four construction design packages and has turned in comments & questions to PUD staff. Work on cost allocation continues. *6/18: Continued review of designs & questions.*	Yazmin Arellano Dan Brogadir Steve Beppler Al Lau Scott Tulloch Dexter Wilson Roberto Yano SD staff & consultants

Metro TAC Work Plan
Active & Pending Items
June 2018
Updated Items in Red Italics

Active Items	Description	Member(s)
Sample Rejection Protocol Working Group	7/16: The sample rejection protocol from the B&C 2013 report has been under discussion between PUD staff and Metro TAC. A working group was formed to deal with this highly technical issue and prepare draft recommendations on any changes to current sampling procedures. The existing protocol is to be used through FY17. If changes are approved to the protocol they will be implemented in FY18. 1/17: Work group continues to meet monthly. 6/17: Working Group has complete their review. Three work items to be brought forward at June Metro TAC and during the next fiscal year quarter: 1) Edgar Patino will write memo to support decisions of working group. 2) PUD financial staff to provide workshop for PAs during next fiscal year quarter to go over strength based billing and how to understand sampling data and quarterly billings. Training session to be videotaped and uploaded to the JPA website 3) Dexter Wilson to provide draft protocol on how to read and validate quarterly billings. March 2018: PUD staff has prepared the draft memo and has distributed it to the working group *6/18: Memo presented to TAC and accepted as Protocol #3. Only remaining task is SBB training session.*	Dennis Davies Dan Brogadir Al Lau Dexter Wilson Erin Bullers SD staff
PLWTP Permit Ad Hoc Working Group	1/17: Greg Humora and Scott Tulloch continue to meet with stakeholders. . Milestones are included in each month Metro TAC and Commission agenda packet.	Greg Humora Scott Tulloch SD staff & consultants Enviro members
Flow Commitment Working Group	6/16: Upon the request of Metro Com Chair Jim Peasley Chairman Humora created a working group to review the Flow Commitment section of the Regional Agreement and make recommendations on the fiscal responsibilities of members who might withdraw their flow from the Metro System. The Work Group held their first meeting June 24, 2016. Yazmin Arellano chairs the work group. 1/17: Work group continues to meet monthly. 4/17: Group has prepared draft RFP to hire engineering consultant to update Pt. Loma capacities. 7/17: Working Group is waiting for additional data from PUD staff and is finalizing the scope and selection of a consultant for the Pt. Loma Cost Capacity Study 10/17: Metro System Sewage Generated Flow projections worksheet handed out. Copy attached. 3/18: Working group continues to meet monthly; presentation made at March Metro TAC meeting. Agencies to review draft capacity numbers and provide comments by April Metro TAC meeting. *6/18: New capacity numbers developed and incorporated into draft Amendment.*	Yazmin Arellano Roberto Yano Erin Bullers Eric Minicilli Al Lau Dexter Wilson Karyn Keese SD staff

Metro TAC Work Plan
Active & Pending Items
June 2018
Updated Items in Red Italics

Active Items	Description	Member(s)
Secondary Equivalency	5/14: Definition of secondary equivalency for Point Loma agreed to be enviros 12/14: Cooperative agreement signed between San Diego and enviros to work together to pass legislation for secondary equivalency (until 8/1/19) San Diego indicated that passage of Federal legislation is not possible under the current political environment. San Diego is exploring options for State legislation 9/15: Letter received from EPA endorsing modified permit for Point Loma 6/16: Pursuit of Federal Legislation will be held off until after the November 2016 election. City of San Diego to consult with DC lobbyists on 2/4/17 6/17: Mayor Faulconer to meet with EPA Washington re: proceeding with Admin Fix. JPA to send letter stating that they do not support Admin Fix and request pursuit of permanent legislation instead. 10/17: SD is pursing both Admin Fix and Secondary Equivalency legislation in Washington; Ad Hoc to monitor efforts. Updates to be provided by SD staff/consultants at each Metro Commission meeting.	Greg Humora Scott Tulloch
Pure Water Program Cost Allocation Working Group	A working group was formed to discuss Pure Water program cost allocation policies. 9/16: Concepts to be refined by Metro TAC and San Diego staff for presentation to Commission 1/17. 4/17: This group is currently being supported on a technical level by the Pure Water Facilities Subcommittee.7/17: Working group is reviewing full PWP components list with PUD staff. 3/18: Cost allocation continues. Phase I cost allocation to be set based on outcome of bids for13 PWP construction packages due to be bid in the fall of 2018. *6/18: Award of blanket contract approval by San Diego City Council moved to 10/2/18.*	Greg Humora Scott Tulloch Roberto Yano Karyn Keese SD staff & consultants
Pure Water Program Cost Allocation Metro TAC Working Group	5/14: Draft facility plan and cost allocation table provided to Metro TAC working group 3/15: Draft cost allocation presentation provided to Metro TAC	Greg Humora Scott Tulloch Rick Hopkins Roberto Yano Al Lau Bob Kennedy Karyn Keese
Exhibit E Audit	6/16: FY 2013 audit accepted by Metro Commission; 9/16: FYE 2014 audit accepted by Metro Commission. FYE 2015 audit report to be issued by end of 2016 and then all audits will be caught up. 1/17: FYE 2015 to be issued in February 2017. FYE 2016 fieldwork is underway with anticipated draft 7/17. 3/17: FYE 2015 audit report issued. Acceptance pending resolution of PWP cost allocation for cost incurred in that fiscal year. 5/17: FYE 2015 audit to move forward as requested costs have been received. FYE 2016 audit field work complete. 6/17: FYE 2015 audit accepted by JPA with assurances that once the PWP cost allocation is complete and approved by all parties that incurred costs will be adjusted as necessary to approved split of shared costs between water and wastewater. FYE 2016 audit field work complete. Completion anticipated in October 2017. 10/17: FYE 2017 Exhibit E Audit has begun. 3/18: FYE 2016 audit completion date moved to 4/18. FYE 2017 preliminary draft number prior to fieldwork is showing an increase from $65 million PA share to $70 million. *6/18: Exhibit E 2016 audit completion projected to be 7/18.*	Karyn Keese Karen Jassoy

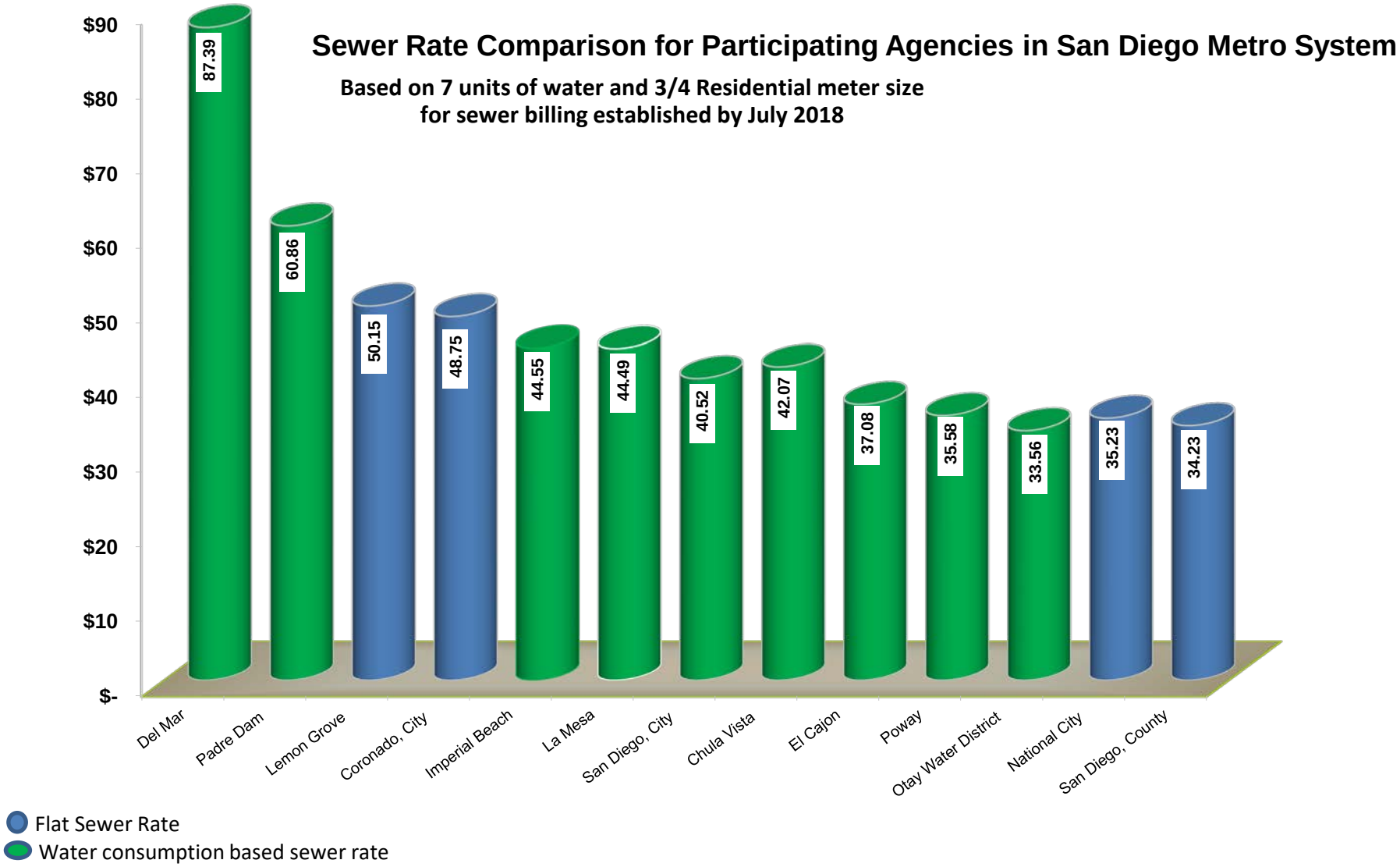
Metro TAC Work Plan
Active & Pending Items
June 2018
Updated Items in Red Italics

Active Items	Description	Member(s)
Amend Regional Wastewater Disposal Agreement	The addition of Pure Water facilities and costs will likely require the amendment of the 1998 Regional Wastewater Disposal Agreement. The Padre Dam billing errors have led to a need to either amend the Agreement and/or develop administrative protocols to help resolve potential future billing errors. After Pure Water cost allocation had been agreed to this effort will begin.	Greg Humora Roberto Yano Dan Brogadir Karyn Keese Paula de Sousa Mills
Debt Allocation Working Group	3/18: Working group has been preparing an MOU and draft Amendment to the Regional Disposal Agreement to incorporate cost allocation "deal points" into a formal document. Draft MOU and Agreement has been reviewed by Ad Hoc and will go to Metro TAC at their March meeting. *6/18: Draft amendment is still under negotiation with San Diego staff. 5/14/18 version presented to Metro TAC and JPA/Commission.*	Greg Humora Roberto Yano Scott Tulloch Dexter Wilson Karyn Keese Paula de Sousa Mills Nicholas Norvell
IRWMP	8/15 RAC minutes included in August Metro TAC agenda. Padre Dam received a $6 million grant for their project. 9/16: June 2, 2016 and August 3, 2016 minutes presented to Metro TAC. 12/16: Roberto Yano and Yazmin Arellano appointed to IRWMP. 5/17: Roberto Yano providing monthly updates as well as grant funding opportunities 6/17: Robert Yano urged Metro TAC members to visit the IRWMP website to keep on top of funding opportunities: http://www.sdirwmp.org; Yazmin to attend June meeting. 10/17: Roberto Yano requested comments from TAC on storm water presentation to be provided to IRWMP10/17: Yazmin gave update on Prop 1 and other funding sources. Members should monitor funding opportunities at: http://www.sdirwmp.org	Roberto Yano Yazmin Arellano
Strength Based Billing Evaluation	San Diego will hire a consultant every three years to audit the Metro metered system to insure against billing errors.	Al Lau Dan Brogadir Karyn Keese
Changes in water legislation	Metro TAC and the Board should monitor and report on proposed and new legislation or changes in existing legislation that impact wastewater conveyance, treatment, and disposal, including recycled water issues	Paula de Sousa Mills

Metro TAC
Participating Agencies
Selection Panel Rotation

Agency	Representative	Selection Panel	Date Assigned
County of San Diego	Dan Brogadir	As-Needed Condition Assessment Contract	3/24/2015
Chula Vista	Roberto Yano	Out on Leave	6/10/15
La Mesa	Greg Humora	North City to San Vicente Advanced Water Purification Conveyance System	6/10/15
Poway	Mike Obermiller	Real Property Appraisal, Acquisition, and Relocation Assistance for the Public Utilities Department	11/30/15
El Cajon	Dennis Davies	PURE WATER RFP for Engineering Design Services	12/22/15
Lemon Grove	Mike James	PURE WATER RFP Engineering services to design the North City Water reclamation Plant and Influence conveyance project	03/16/15
National City	Kuna Muthusamy	Passes	04/04/2016
Coronado	Ed Walton	As-Needed Environmental Services - 2 Contracts	04/04/2016
Otay Water District	Bob Kennedy	As Needed Engineering Services Contract 1 & 2	04/11/2016
Del Mar	Eric Minicilli	Pure Water North City Public Art Project	08/05/2016
Padre Dam	Al Lau	Biosolids/Cogeneration Facility solicitation for Pure Water	08/24/2016
County of San Diego	Dan Brogadir	Pure Water North City Public Art Project	08/10/2016
Chula Vista	Roberto Yano	Design Metropolitan Biosolids Center (MBC) Improvements Pure Water Program	9/10/2016
La Mesa	Greg Humora	Design of Metropolitan Biosolids Center (MBC) Improvements	9/22/16
Poway	Mike Obermiller	Electrodialysis Reversal (EDR) System Maintenance	12/7/16
El Cajon	Dennis Davies	As-Needed Construction Management Services for Pure Water	3/13/17
Lemon Grove	Mike James	Morena Pipeline, Morena Pump Station, Pure Water Pipeline and Dechlorination Facility, and the Subaqueous Pipeline	8/7/17
National City	Vacant	North City and Miramar Energy Project Landfill Gas and Generation- Pass	1/31/2018
Coronado	Ed Walton	North City and Miramar Energy Project Landfill Gas and Generation	1/31/2018
Otay Water District	Bob Kennedy	As Needed Engineering Services - Contracts 3 and 4 (H187008 & H187009)	2/16/2018
Del Mar	Joe Bride	Request for Proposal Owner Controlled Insurance Program (OCIP) Pure Water – 1st email sent on 5/23/18 & 2nd email sent on 5/29/18	5/23/18
Padre Dam	Al Lau	Request for Proposal Owner Controlled Insurance Program (OCIP) Pure Water (Mark Niemiec will participate)	5/31/18
County of San Diego	Dan Brogadir		

Chula Vista	Frank Rivera		
Imperial Beach	Eric Minicilli		
La Mesa	Greg Humora		
Poway	Mike Obermiller		
El Cajon	Dennis Davies		
Lemon Grove	Mike James		
National City	Roberto Yano		
Coronado	Ed Walton		
Otay Water District	Bob Kennedy		
Del Mar	Joe Bride		
Padre Dam	Al Lau		
County of San Diego	Dan Brogadir		
Chula Vista	Frank Rivera		
Imperial Beach	Eric Minicilli		
La Mesa	Greg Humora		
Poway	Mike Obermiller		
El Cajon	Dennis Davies		
Lemon Grove	Mike James		
National City	Roberto Yano		
Coronado	Ed Walton		
Otay Water District	Bob Kennedy		
Del Mar	Joe Bride		
Padre Dam	Al Lau		
County of San Diego	Dan Brogadir		
Chula Vista	Frank Rivera		
Imperial Beach	Eric Minicilli		
La Mesa	Greg Humora		
Poway	Mike Obermiller		
El Cajon	Dennis Davies		
Lemon Grove	Mike James		
National City	Roberto Yano		
Coronado	Ed Walton		


Sewer Rate Comparison for Participating Agencies in San Diego Metro System
Based on 7 units of water and 3/4 Residential meter size
for sewer billing established by July 2018
$90
$80
$70
$60
$50
$40
$30
$20
$10
$-
87.39
60.86
50.15
48.75
44.55
44.49
40.52
42.07
37.08
35.58
33.56
35.23
34.23
Del Mar
Padre Dam
Lemon Grove
Coronado, City
Imperial Beach
La Mesa
San Diego, City
Chula Vista
El Cajon
Poway
Otay Water District
National City
San Diego, County
Flat Sewer Rate
Water consumption based sewer rate