



**Meeting of the Metro Commission
and Metro Wastewater JPA**

AGENDA

**Thursday, JUNE 3, 2010
12:00 p.m.**

**9192 Topaz Way (MOC II) Auditorium
San Diego, California**

"The mission of the Metro Commission is to create an equitable partnership with the San Diego City Council on wastewater issues in the San Diego region that ensures fair rates for participating agencies, concern for the environment, and regionally balanced decisions through data analysis, collaboration among all stakeholders, and open dialogue."

Note: Any member of the Public may address the Metro Commission/Metro Wastewater JPA on any Agenda Item. Please complete a Speaker Slip and submit it to the Administrative Assistant or Chairperson prior to the start of the meeting if possible, or in advance of the specific item being called. Comments are limited to three (3) minutes per individual.

Documentation
Included

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE TO THE FLAG
3. PUBLIC COMMENT
Persons speaking during Public Comment may address the Metro Commission/ Metro Wastewater JPA on any subject matter within the jurisdiction of the Metro Commission and/or Metro Wastewater JPA that is not listed as an agenda item. Comments are limited to three (3) minutes. Please complete a Speaker Slip and submit it prior to the start of the meeting.
- X 4. **ACTION** – CONSIDERATION AND POSSIBLE ACTION TO APPROVE THE MINUTES OF May 6, 2010 (**Attachment**)
- X 5. **ACTION** – CONSIDERATION AND POSSIBLE ACTION TO APPROVE AMENDMENTS TO LEGAL SERVICES AGREEMENT WITH BBK LAW
- X 6. **ACTION** – CONSIDERATION AND POSSIBLE ACTION TO APPROVE AMENDMENTS TO TREASURER SERVICES AGREEMENT WITH PADRE DAM MUNICIPAL WATER DISTRICT (**Attachment**)
- X 7. **ACTION** – CONSIDERATION AND POSSIBLE ACTION TO APPROVE AGREEMENT WITH PBS&J FOR AS-NEEDED ENGINEERING AND FINANCIAL SERVICES FOR FY2011 (**Attachment**)
- X 8. **ACTION** – CONSIDERATION AND POSSIBLE ACTION TO REVIEW AND ACCEPT THE FY2008 EXHIBIT E AUDIT RESULTS (**Attachment**)

- X 9. **ACTION** – CONSIDERATION AND POSSIBLE ACTION TO APPROVE FY 2010-2011 METRO JPA BUDGET (**Attachment**)

- X 10. **ACTION** – CONSIDERATION AND POSSIBLE ACTION TO APPROVE AMENDMENT TO THE WASTEWATER BID TO GOAL PUBLIC CONTRACT OPERATIONS AGREEMENT (Tom Crane) (**Attachments**)

- X 11. **ACITION** – CONSIDERATION AND POSSIBLE ACTION TO SUBMIT LETTER IN SUPPORT OF AB 2256 – PRODUCT LABELING – FLUSHABLE PRODUCTS (**Attachment**)

- 12. MODIFIED PERMIT UPDATE

- X 13. KEY RELATED ITEMS WE SHOULD BE TRACKING/GETTING UP TO SPEED ON (**Attachments**)

- 14. METRO TAC UPDATE

- 15. IROC UPDATE

- 16. FINANCE COMMITTEE
- X a. Minutes of the April 28, 2010 Finance Committee Meeting (**Attachment**)

- 17. REPORT OF GENERAL COUNSEL

- 18. PROPOSED AGENDA ITEMS FOR THE NEXT METRO COMMISSION/ METRO WASTEWATER JPA MEETING **July 1, 2010**.

- 19. METRO COMMISSIONERS' AND JPA BOARD MEMBERS' COMMENTS

- 20. ADJOURNMENT OF METRO COMMISSION AND METRO WASTEWATER JPA

The Metro Commission and/or Metro Wastewater JPA may take action on any item listed in this Agenda whether or not it is listed "For Action."

Materials provided to the Metro Commission and/or Metro Wastewater JPA related to any open-session item on this agenda are available for public review by contacting L. Peoples at (619) 476-2557 during normal business hours.

***In compliance with the
AMERICANS WITH DISABILITIES ACT***

The Metro Commission/Metro Wastewater JPA requests individuals who require alternative agenda format or special accommodations to access, attend, and/or participate in the Metro Commission/Metro Wastewater JPA meetings, contact M. Kane at (858) 292.6321, at least forty-eight hours in advance of the meetings.

Agenda Item 4



**Meeting of the Metro Commission
and Metro Wastewater JPA**

**9192 Topaz Way (MOC II) Auditorium
San Diego, California**

**May 06, 2010
DRAFT Minutes**

Chairman Ewin called the meeting to order at 12:04 p.m. A quorum of the Metro Wastewater JPA and Metro Commission was declared, and the following representatives were present:

1. ROLL CALL

<u>Agencies</u>	<u>Representatives</u>		<u>Alternate</u>
City of Chula Vista	Cheryl Cox		Scott Tulloch
City of Coronado	Al Ovrom	X	
City of Del Mar	Donald Mosier	X	
City of El Cajon	Bill Wells		Dennis Davies
City of Imperial Beach	Patricia McCoy	X	
City of La Mesa	Ernie Ewin	X	
Lemon Grove Sanitation District	Jerry Jones	X	
City of National City	Alejandra Sotelo-Solis	X	
City of Poway	Merrilee Boyack	X	Leah Browder
City of San Diego	Jerry Sanders		Ann Sasaki
County of San Diego	Dianne Jacob		Daniel Brogadir
Otay Water District	Larry Breitfelder	X	
Padre Dam MWD	Augie Caires		Augie Scalzitti
Metro TAC Chair	Scott Huth	X	
IROC	Don Billings		(No representation)

Others present: Metro JPA General Counsel Paula de Sousa; City of San Diego City Attorney Tom Zeleny; JPA Treasurer Doug Wilson; Karyn Keese – PBS&J

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Commissioner Sotelo-Solis led the Pledge.

3. PUBLIC COMMENT

There was no public comment.

4. ACTION – CONSIDERATION AND POSSIBLE ACTION TO APPROVE THE MINUTES OF APRIL 8, 2010 (Attachment)

ACTION: Upon motion by Commissioner McCoy, seconded by Commissioner Breitfelder, the April 8, 2010 Regular Meeting Minutes were approved.

5. PRESENTATION ON THE IMPACTS OF CLIMATE CHANGE ON THE SAN DIEGO REGION (Emily Young, PhD, Senior Director, Environment Analysis & Strategy, The San Diego Foundation)

Dr. Young was unable to be present. Ms. Nicola Hedge, representing The San Diego Foundation, a charitable institution since the mid-1970s looking at increasing effective and responsible philanthropy in the region, provided a brief Power Point presentation on global climate change and the impacts on the San Diego Region.

6. PRESENTATION ON COASTAL TRAINING PROGRAM AND UPCOMING PLANNING FOR CLIMATE CHANGE TRAINING WORKSHOP SERIES (Kristen A. Goodrich, Coastal Training Program Coordinator, Tijuana River National Estuarine Research Reserve)

Ms. Goodrich was unable to be present. Ms. Nicola Hedge, representing The San Diego Foundation, stated that a conference on planning for climate change, local, state and national was being held Friday, May 14th. Ms. Hedge stated she had heard the conference was full, but requested that anyone interested in attending contact her and she would try to assist them. Additionally, Ms. Hedge stated that a future workshop would be held June 17th and she will request Ms. Goodrich send the information to be forwarded out to the Commission should anyone wish to attend.

Commissioner McCoy stated that in the beginning of June, the SANDAG Borders Committee and COBRO who works on both sides of the border would be holding a Bi-National conference at the CalTrans building looking at infrastructure, climate change and sea level rise.

7. ACTION – CONSIDERATION AND POSSIBLE ACTION TO APPROVE A FLOW MONITORING AND EMERGENCY NOTIFICATION CONTRACT (Isam Hireish)

Mr. Hireish, Senior Engineer, San Diego Wastewater Division, provided a brief verbal presentation noting that the current contract expires on June 28, 2010. The new cost will be approximately \$5.8 million over 5 years.

MetroTAC Chairman Huth stated that they had reviewed the proposed contract and recommended approval.

ACTION: Upon motion by Commissioner Mosier, seconded by Commissioner Boyack, recommendation of approval of Flow Monitoring and Emergency Notification Contract was approved unanimously.

8. MODIFIED PERMIT UPDATE (Ann Sasaki)

Ann Sasaki, Assistant Director, Wastewater Branch, stated they had hoped to have a final permit by the end of April, however in discussions with EPA, they are having a workload issue and so they are now hoping to have the permit by the end of May which will then be followed by a 30-day public comment period and become effective the end of July.

9. KEY RELATED ITEMS WE SHOULD BE TRACKING/GETTING UP TO SPEED ON (Attachments)

Chairman Ewin inquired as to whether any of the Commissioners had anything to add to the list, otherwise items will continue to be brought forward as MetroTAC dealt with the issues. He then asked if anyone had participated in the San Diego County Sheriff's Department Drug Drop program which ties into the "No Drugs Down the Drain" program, to which Commissioner Boyack replied that her City, Poway, had and it was quite successful.

10. METRO TAC UPDATE

MetroTAC Chairman Huth stated that anything added to the MetroTAC Work Plan would be reflected in **BOLD** lettering and an update would be provided at each future meeting.

Chairman Ewin requested Mr. Huth identify a rank and timeframe for each item. Mr. Huth responded that the MetroTAC was working on establishing success measures and a schedule and they are working on this and will bring them back to the JPA once finalized.

MetroTAC Chairman Huth then reported that MetroTAC had already covered the RFP process with ADF and spent part of their meeting reviewing the 14 recommendations proposed by San Diego on the Bid to Goal program and will review them once more at MetroTAC and then bring them back to the JPA in June. The other item is part of the recycle water study, they have received technical memorandums to comment on, and the third was released last week and was forwarded to all TAC members. It is unique in that it summarizes the processes involved in moving forward in the study so it may not have many comments, but is worth reviewing to get a perspective on how city staff is working with the consultants on the project. There is a two week period within which to respond, so he requested anyone working on this, get their comments back to Ms. Keese or him and they will formulate a response.

11. IROC UPDATE

An attachment was provided by Commissioner Caires who was not present today, and requested any questions be directed to Commissioner Caires.

12. FINANCE COMMITTEE

Finance Committee Chairman Ovrom stated that the Finance Committee had met on the 28th of April and carried a number of subjects for consideration. They spoke about the Reserve Policy; reviewed and approved the 2008 Exhibit E to be forwarded to MetroTAC; reviewed the status of the 2009 Exhibit E which remains on track; received a report on debt refunding from San Diego which means refunding has resulted in a considerable savings to most Participating Agencies; reviewed the contract for year-end by PBS&J.

a. Minutes of the February 24, 2010 Finance Committee Meeting (Attachment)

Finance Committee Chair Ovrom stated that the February 24, 2010 Finance Committee Meeting Minutes had been approved and they did not hold a meeting in March.

b. ACTION – Consideration and Possible Action to Approve the Operations Reserve Policy of the Metro Wastewater JPA (Attachment)

Metro JPA Treasurer Doug Wilson explained that there had never been a reserve policy and that last year Commissioner Ovrom inquired as to how much cash we had in the bank and what the reserve balances should be and concurrence was reached that a policy should be established. The Finance Committee has included a recommendation that the reserve policy should be a 4 month or 33% of operating reserve of target balances.

ACTION: Upon motion by Commissioner Ovrom, seconded by Commissioner Boyack, the Operations Reserve Policy of the Metro Wastewater JPA was approved unanimously.

c. Update on 2008 and 2009 Exhibit E Audits (Attachments)

Finance Committee Chair Ovrom stated that the audits would next go before the MetroTAC for review.

d. ACTION – Consideration and Possible Action to Approve the Contract Status Report and Request for Contract Amendment PBS&J (Attachment)

Ms. Keese added that refunding that the City of San Diego did, this was the third and final one of all the old outstanding debt has resulted in a substantial savings, approximately \$7.68 million to the Participating Agencies which equates to a reduction in your annual debt service payments of \$154,200/annually. She commended the City of San Diego for their continued effort to move forward with lowering the debt service payments.

With regards to the PBS&J agreement, Ms. Keese noted that as previously discussed in February, they had been doing a lot more this year than envisioned when the Scope of Work was put together last year. The largest single contributor is all the issues pertaining to reclaimed water. There are 3 components: the reclaimed water pricing study; the matrix issue within the contract and credits to be received from reclaimed water at the So. Bay Plant; the technical memorandums coming from the \$2 million recycled water study. As of this month they are \$400 over the original contract amount and are requesting an amendment of \$15,300. to get them through to the end of this year.

MetroTAC Chair Huth stated that this situation was something that was anticipated and envisioned.

Chairman Ewin inquired as to how many Schedule E's were done to which Ms. Keese responded that two were done and the third is in the works, normally only one was done and a lot of additional financial work had been done this year that was not envisioned.

Metro JPA Treasurer Wilson also spoke in support of the amendment request by Ms. Keese and advised that there were sufficient funds available without the need for a supplemental billing.

ACTION: Upon motion by Commissioner Boyack, seconded by Vice Chairman Jones, the request for contract amendment by PBS&J was approved unanimously.

Chairman Ewin expressed gratitude to Ms. Sasaki for the cooperation received from her staff during the audits and their efforts to keep the staff the same.

13. STRATEGIC PLAN (ANNUAL RETREAT) AD HOC COMMITTEE

There was no report.

14. REPORT OF GENERAL COUNSEL

There was no report.

15. PROPOSED AGENDA ITEMS FOR THE NEXT METRO COMMISSION METRO WASTEWATER JPA MEETING (June 3, 2010)

There were none.

16. METRO COMMISSIONERS' and JPA BOARD MEMBERS' COMMENTS

An announcement was made that the Metro JPA had received an invitation to attend the IROC Finance Sub-Committee Meeting at 8:30 a.m. on May 17, 2010 in the MOCII Auditorium where the Metro Wastewater Division Chief Financial Officer will provide an explanation for the two 7.5% water cost increases.

Chairman Ewin encouraged all members to keep their respective Councils and Boards updated.

17. ADJOURNMENT OF METRO COMMISSION AND METRO WASTEWATER JPA

At 1:00 p.m., there being no further business, Chairman Ewin declared the meeting adjourned.

Recording Secretary

Agenda Item 5

**FIRST AMENDMENT TO THE AGREEMENT BETWEEN
METRO WASTEWATER JOINT POWERS AUTHORITY
AND BEST BEST & KRIEGER LLP FOR ONGOING
GENERAL COUNSEL SERVICES**

THIS FIRST AMENDMENT ("First Amendment") is made and entered into this ____ day of _____, 2010 and effective July 1, 2010, by and between Metro Wastewater Joint Powers Authority (hereinafter referred to as the "Metro JPA"), a joint powers authority organized and operating pursuant to California Government Code section 6500 *et seq.*, and Best Best & Krieger LLP.

RECITALS

A. WHEREAS, Metro JPA and Best Best & Krieger LLP entered into an agreement for continued Ongoing General Counsel Services (hereinafter referred to as "Agreement") executed on June 7, 2007; and

B. WHEREAS, Metro JPA and Best Best & Krieger LLP desire to amend the Agreement to establish new hourly rates for the services provided by Best Best & Krieger LLP and to amend the requirements for retention of Metro JPA records by Best Best & Krieger LLP; and

C. WHEREAS, the Board of Directors of Metro JPA approved the amendments to the Agreement as delineated in this First Amendment, at its regular meeting of June 3, 2010;

NOW THEREFORE, in consideration of the mutual obligations of the parties herein expressed, Metro JPA and Best Best & Krieger LLP agree as follows:

1. The Agreement section titled "YOUR OBLIGATIONS ABOUT FEES AND BILLINGS" is hereby deleted in its entirety and replaced with the following:

YOUR OBLIGATIONS ABOUT FEES AND BILLINGS

We will continue to provide the Metro JPA with General Counsel services at the following billing rates, which rates will be effective commencing on July 1, 2010:

\$200.00 per hour for all Attorneys

\$120.00 per hour for Paralegals and Clerks

Our billing rates will be increased on July 1 each year based on increases to the most recently issued San Diego Consumer Price Index-Urban Consumers. The memorandum attached to this letter describes the other aspects of our firm's billing policies. The Metro JPA should consider this memorandum part of this agreement as it binds both of us. For that reason, the Metro JPA should read it carefully.

2. The Agreement section titled "CLIENT FILE" is hereby deleted in its entirety and replaced with the following:

CLIENT FILE

If the Metro JPA does not request the return of its file, we will retain your file for five years. After five years, we may have your file destroyed, but only after receiving written approval by the Metro JPA. If the Metro JPA would like its file maintained for more than five years or returned, the Metro JPA must make separate arrangements with us.

3. All other terms and conditions of the original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, this First Amendment to Agreement is executed by Metro JPA and by Best Best & Krieger LLP on the day and year first written above.

METRO WASTEWATER
JOINT POWERS AUTHORITY

BEST BEST & KRIEGER LLP

By: _____
Ernest Ewin
Chair

By: _____

BEST BEST & KRIEGER

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May 30, 2007

Board of Directors
Metro Wastewater JPA
c/o Teri Basta
Padre Dam Municipal Water District
P O Box 719003
Santee, CA 92072-9003

Re: *Agreement between Metro Wastewater JPA and Best Best & Krieger LLP
for Ongoing General Counsel Services*

Ladies and Gentlemen:

ABOUT OUR REPRESENTATION

Best Best & Krieger LLP is pleased to continue to assist Metro Wastewater JPA ("Metro JPA") with ongoing General Counsel services. This letter constitutes our agreement setting the terms of our continued representation.

CONFIDENTIALITY AND ABSENCE OF CONFLICTS

An attorney-client relationship requires mutual trust between the client and the attorney. It is understood that communications exclusively between counsel and the client are confidential and protected by the attorney-client privilege.

To also assure mutuality of trust, we have maintained a conflict of interest index. The California Rules of Professional Conduct defines whether a past or present relationship with any party prevents us from representing the Metro JPA. Similarly, the Metro JPA's name will be included in our list of clients to ensure we comply with the Rules of Professional Conduct with respect to the Metro JPA.

With all new matters, we will check the names of potentially interested and adverse parties against our client index. This will be done on a case by case basis. Please be sure to provide us with a complete list of those parties involved in each new matter to ensure that all persons or entities are included. Otherwise, we will assume that the information we have is

BEST BEST & KRIEGER
ATTORNEYS AT LAW

Metro Wastewater JPA
May 30, 2007
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complete and accurate. We request that the Metro JPS update this list for us if there are any changes in the future.

YOUR OBLIGATIONS ABOUT FEES AND BILLINGS

We will continue to provide the Metro JPA with General Counsel services at the following billing rates:

\$180.00 per hour for Partners;
\$155.00 per hour for Senior Associates;
\$125.00 per hour for Junior Associates;
\$100.00 per hour for Paralegals; and
\$100.00 per hour for Clerks.

The memorandum attached to this letter describes the other aspects of our firm's billing policies. The Metro JPA should consider this memorandum part of this agreement as it binds both of us. For that reason, the Metro JPA should read it carefully.

INSURANCE

We understand that the Metro JPA is not now insured or have any insurance that may cover potential liability or attorneys' fees in this case. If the Metro JPA believes that it may have such insurance, please notify me immediately.

We are also pleased to let the Metro JPA know that Best Best & Krieger LLP carries errors and omissions insurance with Lloyd's of London. After a standard deductible, this insurance provides coverage beyond what is required by the State of California.

NEW MATTERS

We are often later asked to work on additional matters. The Metro JPA should know that such new matters will be the subject of a new signed supplement to this agreement. Similarly, this agreement does not cover and is not a commitment by either of us that we will undertake any appeals or collection procedures. Any such future work would also have to be agreed upon in a signed supplement.

CIVILITY IN LITIGATION

In litigation, courtesy is customarily honored with opposing counsel, such as extensions to file pleadings or responses to other deadlines. In our experience, the reciprocal extension of such courtesies saves our clients' time and money. By signing this letter the Metro JPA will be confirming the Metro JPA's approval of this practice in the Metro JPA's case.

BEST BEST & KRIEGER
ATTORNEYS AT LAW

Metro Wastewater JPA
May 30, 2007
Page 3

HOW THIS AGREEMENT MAY BE TERMINATED

The Metro JPA, of course, has the right to end our services at any time. If the Metro JPA does so, it will be responsible for the payment of fees and costs accrued but not yet paid, plus reasonable fees and costs in transferring the case to the Metro JPA or its new counsel. By the same token, we reserve the right to terminate our services to Metro JPA upon written notice, order of the court, or in accordance with our attached memorandum. This could happen if the Metro JPA fails to pay our fees and costs as agreed, fail to cooperate with us in this matter, or if we determine we cannot continue to represent the Metro JPA for ethical or practical concerns.

CLIENT FILE

If the Metro JPA does not request the return of its file, we will retain your file for five years. After five years, we may have your file destroyed. If the Metro JPA would like its file maintained for more than five years or returned, the Metro JPA must make separate arrangements with us.

THANK YOU

On a personal note, we are pleased that the Metro JPA has decided to continue Best Best & Krieger's representation of the Metro JPA. We look forward to continuing our long and valued relationship with the Metro JPA. If you have any questions at any time about our services or billings, please do not hesitate to call me.

If this letter meets with the approval of the Metro JPA, please sign and date it, and return the original to us. We have enclosed a separate signed copy of this letter for your records.

Very truly yours,



-Paula C.P. de Sousa
of BEST BEST & KRIEGER LLP

AGREED AND ACCEPTED:

By:

Dated:

Henry Alvarbanel
7 June 2007

BEST BEST & KRIEGER LLP'S BILLING POLICIES

Our century of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing and payment terms. Therefore, this statement is intended to explain our billing policies and procedures. Clients are encouraged to discuss with us any questions they have about these policies and procedures. Clients may direct specific questions about a bill to the attorney with whom the client works or to Judy Ismael of our Accounting Department. Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between the client and the firm.

Fees for Professional Services

Unless a flat fee is set forth in our engagement letter with a client, our fees for the legal work we will undertake will be based in substantial part on time spent by personnel in our office on that client's behalf. In special circumstances which will be discussed with the client and agreed upon in writing, fees will be based upon the novelty or difficulty of the matter, or the time or other special limitations imposed by the client.

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. Time is accrued on an incremental basis for such matters as telephone calls (minimum .3 hour) and letters (minimum .5 hour), and on an actual basis for all other work. Our attorneys are currently billed at rates from \$150 to \$465 per hour, and our administrative assistants, research assistants, paralegals and law clerks are billed at rates from \$115 to \$210 per hour. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply to each affected client, after advance notice.

Fees For Other Services, Costs and Expenses

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges include but are not limited to, mileage at the current IRS approved rate per mile, extraordinary telephone and document delivery charges, copying charges, computerized research, court filing fees and other court-related expenditures including court reporter and transcription fees. No separate charge is made for secretarial or word processing services; those costs are included within the above hourly rates.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges,

we need to have sufficient funds on hand from you to pay them when due. We will advise the client from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

Advance Deposit Toward Fees And Costs

Because new client matters involve both a substantial undertaking by our firm and the establishment of client credit with our accounting office, we require an advance payment from clients. The amount of this advance deposit is determined on a case-by-case basis discussed first with the client, and is specified in our engagement letter.

Upon receipt, the advance deposit will be deposited into the firm's client trust account. Our monthly billings will reflect such applications of the advance deposit to costs and not to attorney's fees. At the end of engagement, we will apply any remaining balance first to costs and then to fees. We also reserve the right to require increases or renewals of these advanced deposits.

By signing the initial engagement letter, each client is agreeing that trust account balances may be withdrawn and applied to costs as they are incurred and to our billings, after presentation to the client. If we succeed in resolving your matter before the amounts deposited are used, any balance will be promptly refunded.

Monthly Invoices and Payment

Best Best & Krieger LLP provides our clients with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on the client's behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full amount is covered by the balance of an advance held in our trust account. If a bill is not paid within 30 days, a late charge of one percent per month on the unpaid invoice shall be added to the balance owed, commencing with the next statement and continuing until paid.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within 60 days of mailing, we assume the client is, for whatever reason, refusing to pay. We will then advise the client by letter that the client may pay the invoice within 14 days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise that with us during the 14-day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

Changes in Fee Arrangements and Budgets

It may be necessary under certain circumstances for a client to increase the size of required advances for fees after the commencement of our engagement and depending upon the scope of the work. For example, prior to a protracted trial or hearing, the firm may require a further advance payment to the firm's trust account sufficient to cover expected fees. Any such changes in fee arrangements will be discussed with the client and mutually agreed in writing.

Because of the uncertainties involved, any estimates of anticipated fees that we provide at the request of a client for budgeting purposes, or otherwise, can only be an approximation of potential fees.

BEST BEST & KRIEGER LLP

Agenda Item 6

**SECOND AMENDMENT TO THE AGREEMENT
FOR TREASURER SERVICES BETWEEN METRO
WASTEWATER JOINT POWERS AUTHORITY
AND PADRE DAM MUNICIPAL WATER
DISTRICT**

THIS SECOND AMENDMENT is made and entered into this ____ day of _____, 2010 , by and between the Metro Wastewater Joint Powers Authority (herein referred to as “Metro JPA”), a joint powers authority organized and operating pursuant to California Government Code section 6500 *et seq.*, and the Padre Dam Municipal Water District (herein referred to as the “District”), collectively referred to herein as the “Parties.”

RECITALS

A. WHEREAS, the Parties did enter into an agreement for treasurer services (hereinafter referred to as “Agreement”) on May 29, 2008 for the District to provide treasurer services to Metro JPA until June 30, 2009; and

B. WHEREAS, Section 4 of the Agreement provides that the treasurer services may be extended by the mutual agreement of both Parties, and

C. WHEREAS, the Parties entered into a First Amendment to the agreement on June 4, 2009 to extend the treasurer’s service until June 30, 2010, and

D. WHEREAS, the Parties seek to continue the treasurer contract.

NOW THEREFORE, in consideration of the mutual obligations of the parties herein expressed, the Parties agree as follows:

1. Section 3 of the original Agreement is amended to reflect the hourly rate of \$257 per hour (increased from \$249).

2. Section 4 of the original Agreement is amended as necessary to extend the end date of treasurer services until June 30, 2011.

3. All other terms and conditions of the original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, this Second Amendment to Agreement is executed by Metro JPA and by the District on the day and year first written above.

METRO WASTEWATER
JOINT POWERS
AUTHORITY

PADRE DAM MUNICIPAL WATER
DISTRICT

By: _____
Ernest Ewin
Chair

By: _____
Douglas S. Wilson
General Manager

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: _____
Paula C. P. de Sousa
General Counsel
Metro Wastewater Joint Powers Authority

AGREEMENT FOR TREASURER SERVICES

This Agreement ("Agreement") is made and entered into this 29th day of May, 2008 by and between the METRO WASTEWATER JPA ("JPA") and the PADRE DAM MUNICIPAL WATER DISTRICT ("District").

RECITALS

WHEREAS, certain Participating Agencies are members of Metro Wastewater JPA; and

WHEREAS, the activities of the JPA require the services of a treasurer to keep accounts, allocate costs and process accounts payable;

WHEREAS, the JPA requires the services of a treasurer from one of its members;

WHEREAS, the District has provided services as treasurer since September 1, 2002; and

WHEREAS, the parties seek to continue the treasurer contract.

AGREEMENT

IN CONSIDERATION of the mutual promises set forth herein, the Parties agree as follows:

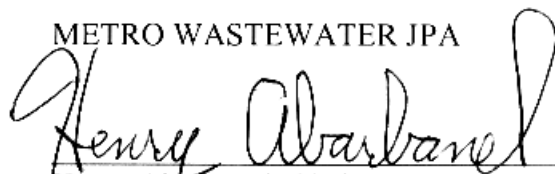
1. Padre Dam agrees to provide treasurer services to the JPA to include:
 - Open separate bank accounts to include savings and checking
 - Maintain and reconcile bank accounts
 - Prepare member agency annual billings
 - Collect and deposit member agency billings
 - Make authorized expenditures to conduct METRO/JPA business
 - Provide periodic unaudited financial reporting which reflects cash balances, outstanding receivable, payables.
 - Provide periodic unaudited income statement financial reporting.
 - Financial reporting will separately track METRO and JPA receipts and expenditures.
 - Accrual basis of accounting will be used to reveal outstanding receivables and payables to the extent known as of the financial statement date.
 - Attend staff and Board meetings as desired by METRO/JPA.
 - Consult and respond to questions from member agencies concerning finances and billings.
 - Other incidental services consistent with the Treasurer's position.
2. Padre Dam shall assign Douglas S. Wilson, General Manager of Padre Dam as the

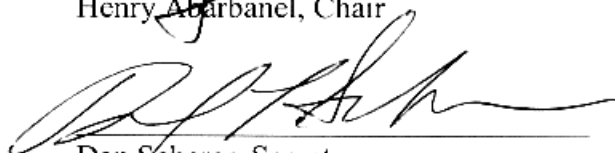
treasurer to provide the above referenced services.

3. JPA agrees to reimburse Padre Dam for labor services on an hourly basis. The hourly rate for said services is \$249 per hour. It is estimated by the parties that services will be performed for an estimated 3 to 5 hours per month with extra time spent in the beginning and end of the fiscal year for set up and year-end statements. Some of the more routine monthly tasks will be assigned to other personnel and billed at their lower rate.
4. Said treasurer services shall continue until June 30, 2009 but may be extended by mutual agreement of both parties. Either party may terminate this Agreement upon ninety (90) days notice.
5. Total charges against this Agreement shall not exceed \$14,000, unless said amount is increased by an amendment to the Agreement.
6. The JPA agrees to protect and hold harmless Padre Dam, Mr. Wilson and Padre Dam's elective, appointive Board, officers, agents and employees from any and all claims, liabilities, expenses or damages arising out of or in any way connected with the performance of this Agreement by Padre Dam or Mr. Wilson. The only exception to Padre Dam or Mr. Wilson's responsibility to protect is due to the gross negligence or willful misconduct of Padre Dam or Mr. Wilson.

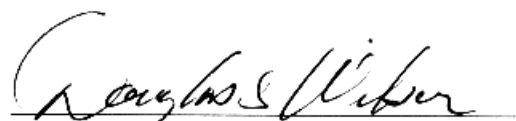
IN WITNESS WHEREOF this Agreement is executed by the Metro Wastewater JPA and by the District.

METRO WASTEWATER JPA


Henry Abarbanel, Chair


Dan Scherer, Secretary
DAVID

PADRE DAM MUNICIPAL WATER DISTRICT


Douglas S. Wilson, General Manager

Agenda Item 7



An employee-owned company

May 26, 2010

Mr. Ernie Ewin
Chairman, Metro Commission/JPA
276 Fourth Avenue
Chula Vista, CA 91910

Mr. Scott Huth
Chairman, Metro TAC
276 Fourth Avenue
Chula Vista, CA 91910

SUBJECT: PROPOSAL TO PROVIDE AS-NEEDED ENGINEERING AND FINANCIAL SERVICES

Dear Mr. Ewin and Mr. Huth:

We very much appreciate this opportunity to submit our proposal to provide engineering and financial consulting services for the Metro TAC/JPA/Commission. The purpose of this proposal is to provide continued technical and financial support by PBS&J to the Metro TAC/JPA/Commission during the upcoming fiscal year ending (FYE) 2011. Our goal is to assist the Participating Agencies in meeting their objectives of fair rates, equitable cost sharing, and program validation.

The intention of this contract is to provide continued review and oversight of the Metro System program with a minimum of duplication of effort by the Participating Agencies. Our goals are to assist in increasing the responsiveness of the group regarding key issues of concern, ensure coverage at key meetings, centralize data collection, minimize duplication of efforts by the Participating Agencies, and reduce costs for the Participating Agencies as well as the overall costs of the Metro Program through our audit and financial services.

We have enjoyed working with the Metro TAC/JPA/Commission since 1998 and we look forward to continuing our successful relationship. As we are sensitive to public agency finances in these tough economic times, we are not increasing our hourly rate (\$175 per hour) or the total contract amount (\$105,595) from FYE 2010. A copy of our standard rate schedule is attached to this proposal. The \$175 per hour rate is a 15% discount on our standard hourly rate. Please call me at 858.514.1008 if you have any questions.

Sincerely,
PBS&J

A handwritten signature in blue ink, appearing to read 'Karyn Keese', written in a cursive style.

Karyn Keese
Financial Services Manager

ATTACHMENT A
EXECUTIVE SUMMARY
METRO TAC/JPA/COMMISSION
AS-NEEDED ENGINEERING AND FINANCIAL SERVICES
MAY 26, 2010

Up until the late 1990's, the Participating Agencies (PAs) in the City of San Diego Metropolitan Wastewater System (Metro System) had outdated contracts with the City of San Diego (City). The Metro System provides wastewater treatment and disposal for the PAs. These contracts had been written and entered in 1963. A new contract was agreed upon and entered between the PAs and the City in early 1998. This contract provided for:

- A role in decision making
- A role in the budget process and preparation
- A role in capital improvement planning
- A mechanism to verify overhead cost allocation
- An assurance that San Diego Metro and Municipal expenses were properly allocated
- A definition of what was being paid for
- An appeal process for disputes
- A role in governance
- A role in technical and operational review
- A guaranteed sharing of new capacity under a re-rating scenario
- A role in long-range planning

In addition, the new contract provided for the establishment of the Metro Commission and their technical arm, the Metro TAC. Since that time the Metro TAC/Commission has become fully engaged in the City's wastewater issues. Metro TAC representatives now review every aspect of the City's capital project decision-making process from the earliest project conception to completion and, in fact, sit on consultant selection panels. In addition, the Joint Powers Authority (JPA) was formed to create an effective regional voice in wastewater issues, generally in partnership with the City staff and Council.

In September 1998, the Metro TAC/JPA/Commission contracted with PBS&J to provide engineering and financial consulting services. It was felt that an outside consultant could provide an independent third party objective review and was more efficient than each PA reviewing all the capital project and financial information provided by the City. To that end PBS&J has provided the following consulting services:

- Review of all financial aspects, including the budget, audit, CIP and rate case proposals
- Attendance at meetings to provide technical support for the Metro TAC/JPA/Commission
- Review of capital improvement programs
- Technical support to Ad Hoc Financial Committee (now the Finance Committee)

- Participate in Metro TAC/Commission Strategic Planning process
- Provide specific tasks as directed by the Metro TAC, AdHoc Finance Committee, and the Metro JPA/Commission

Since the inception of this contract, PBS&J has assisted the Metro TAC in modifying the scope of proposed capital projects. In addition, PBS&J has participated in annual audits of the costs associated with the operations and maintenance and capital programs associated with the Metro System (Exhibit E Audits). The participation in the Exhibit E Audits have resulted in several reforms and normally annual cost savings for the PAs. As shown on the following table, our participation in the audit process has resulted in an average of approximately \$390,000 per year savings for the PAs. It should be noted our goal is to work with Public Utilities staff so that through continued improvements in accounting practices and the continuity of personnel that eventually there will be no audit findings. As the table illustrates there has been great improvements since 2003.

Annual Savings From Audit Findings							
Findings	2008	2007	2006	2005	2004	2003	6-Year Average
Metro	\$ 697,915	\$ 368,292	\$ 772,778	\$2,289,812	\$1,774,222	\$1,400,000	\$ 1,217,170
Muni	\$ (354,673)	\$ (189,024)	\$ -	\$ -	\$ -	\$ -	\$ (90,616)
Total Annual Metro Savings	\$ 343,242	\$ 179,268	\$ 772,778	\$2,289,812	\$1,774,222	\$1,400,000	\$ 1,126,554
Total Savings PAs	\$ 120,135	\$ 62,744	\$ 270,472	\$ 801,434	\$ 620,978	\$ 490,000	\$ 394,294

During FYE 2010 we participated in the close of the FYE 2007 and 2008 Exhibit E Audits with total funds returned to the PAs of \$12.3 million. It is anticipated that the FYE 2009 audit will be completed by June 30, 2010 and additional monies will be returned to the PAs in the first quarter of FYE 2011.

Other work performed through our last year contract included the following Special Projects:

1. Metro TAC Subcommittee on Debt Service Coverage/Operations Reserve Issue: In response to San Diego's request for \$20 million in reserves and debt service coverage we created draft cash flow models to show that the debt service coverage was already being met through the timing of the payments by the PAs for O&M and capital expenses. In addition we negotiated with the City to lower their requested debt service coverage from 1.7 to 1.2 and their operations reserve requirements from 70 days to 45 days. The final resolution reduced the PAs requirements to \$4 million from \$20 million and for the first time since the inception of the contract the PAs will be receiving credit for interest on their contributed fund balance.
2. Provide Metro TAC Work Plan Support: We have provided engineering and financial support to the following Metro TAC issues during 2010:
 - State Waste Discharge Requirements and Communication Plan;
 - "No Drugs Down the Drain" Program;
 - Grease Recycling;

- Flushable Items that do not Degrade
 - In-Pipe Technology Support
 - Sewer Meter Alarm early warning system: review agreement, solicit input from PAs, provide feedback to San Diego, interface with ADS
3. Review of San Diego's rate case and 2010 and 2011 budgets
 4. Metro TAC Subcommittee(s) on Reclaimed Water Issues: There are currently three issues before Metro TAC that PBS&J is supporting. The first is the review of the City's Draft Recycled Water Pricing Study to insure that the outcome will incentivize the sale of reclaimed water while bringing in a reasonable amount of revenue. The second is the resolution of contractual issues regarding the sale of reclaimed water from the South Bay WRP. And the third is the attendance at work meetings for the City's Recycled Water Master Plan, review and comment on technical memorandum's and other work products generated by the City's consultant.
 5. Finance Committee Support: We prepared agenda's, minutes, and generated supporting documentation on all financial issues of concern to the Metro Wastewater JPA. We attended meetings and presented reports to the Committee.
 6. Secondary Waiver Support: Modeled Secondary capital costs to determine financial impacts on the PAs if the waiver had not been granted.

Over the past few years, PBS&J's responsibilities have changed to provide a greater emphasis on an extension of staff role to the Metro TAC/JPA. An average of 50 percent of our annual services fall into special projects or "as-needed" services as discussed earlier. The majority of these projects were not envisioned at the time of the negotiations for the last contract in May of 2009.

We have discussed our proposed scope of work with Scott Huth, Chair of Metro TAC and he has advised us as to projects they would like to see completed in FYE 2011. Scott Huth has also requested that we include hours to support Metro TAC in unforeseen technical projects that may arise during that time period.

We have not increased our base hourly rate for FYE 2011. Based on these unchanged rates, we have determined a fee of \$105,595 for FYE 2011, which is the same as our 2008, 2009, and 2010 estimated budgets. This will maintain a 15% discount on PBS&J's normal hourly rates.

ATTACHMENT B
SCOPE OF SERVICES
METRO TAC/JPA/COMMISSION
AS-NEEDED ENGINEERING AND FINANCIAL SERVICES
MAY 26, 2010

The purpose of the As-Needed Consulting Contract for the Metro Wastewater JPA/Commission is to provide technical and financial support to the PAs in meeting their objectives of fair rates, equitable cost sharing, and program validation. The intention of the As-Needed Contract is to provide review and oversight of the San Diego Metropolitan Sewer System (Metro System) Program with a minimum of duplication by the PAs. By combining the efforts of the PAs into a central focal point, our goal is to assist in increasing the responsiveness of the group to key issues of concern, ensure coverage at key meetings, centralize the data collection, minimize duplication of efforts by the PAs, and reduce the costs of both Metro TAC/ JPA/Commission efforts, as well as the overall costs of the Metro Program.

I. Scope of Services

The effort by PBS&J will be divided into five major categories, one for routine services, two for specific financial tasks, one for anticipated technical tasks, and one for general Metro TAC support.

A. Routine Meetings

The routine meetings will include the following tasks:

1. As-needed attendance at the Metro TAC meetings by the Financial Services Manager and Technical Project Engineer
2. As-needed attendance and preparation for the Metro Commission/JPA meetings by the Financial Services Manager and Technical Project Engineer
3. Support of Metro Finance Committee by Financial Services Manager

B. Routine Audit Review – Public Utilities Department, Wastewater Operations Branch Exhibit E Audit Review – FYEs 2009 and 2010

1. Review and negotiate the auditors Scope of Work
2. Attend Entrance and Exit Conferences with the Auditors
3. Select audit sample
4. Attend Interim Bi-Weekly work meetings with the Auditors (maximum of 5)
5. Review the Draft and Final Audit numbers and test results
6. Review all audit samples for contract compliance and accounting accuracy

7. Review the annual general services cost allocation
8. Review output for any special projects (In the past this has included the reconciliation of the Shames and other municipal lawsuits, and the Clean Water Program management contract to insure that only Metro costs have/had been charged to the PAs)
9. Prepare work-meeting reports
10. Present the results to the AdHoc Finance Committee, Metro TAC, and Metro Wastewater JPA / Commission
11. Monitor closeout process to insure timely payment of refunds (if any) and the accuracy of any additional billings' (if any) to PAs

C. Routine Review of MWWD Budget – FYE 2012

1. Line item review of the proposed CIP projects to verify that they are a part of the Wastewater Agreement. Provide a preliminary review of the O&M costs to identify areas of concern for the PAs
2. Identify budget items that show major deviation from previous years, and discuss these deviations with the City
3. Attend meetings with the City of San Diego Public Utilities staff to identify the nature and magnitude of the budget items
4. Provide updates on budget issues to the Metro TAC, the Finance Committee, and the Metro Wastewater JPA/Commission meetings

D. 2011 Special Projects

1. Reclaimed Water Support – There are three main issues to be addressed that surround the production and sale of reclaimed water.
 - a) Review of Recycled Water Pricing Study – In December 2009 the City asked its consultant to address the difference between wholesale and retail customers' and their recycled water rates. The City's original proposed unitary rate structure is of major concern to the PAs. A second draft of the pricing study is due out for review in September 2010. The PAs goal for this study is to insure that the rates are fair and equitable to all parties, and set at appropriate levels that balance the facilitation of increased use of reclaimed water per the City's agreement with the environmental community, while providing additional monies to operate the system. PBS&J will review the September draft in-depth to insure that the PAs goals are reached.
 - b) Continued Support and Resolution of Reclaimed Water Contractual Issues – In 2003 the Metro Wastewater JPA commissioned PBS&J to prepare a "Review of the City of San Diego's Recycled Water Pricing Policy". During that review it was confirmed with City staff that per the

Regional Disposal Agreement Sections V.B.2.a(2) and (3) that the revenues from sales of reclaimed water and incentives such as those provided by Metropolitan Water District/County Water Authority were revenues attributed to the participating agencies and the City's municipal wastewater customers. The participating agencies as well as the City of San Diego's own municipal wastewater customers are paying 100% of the cost to produce the tertiary water (capital and O&M) needed for reclaimed water. However, to date the Water Department has been collecting 100% of the revenues from sales and incentives and paying 0% of the costs. Metro TAC has formed a subcommittee to work with the City staff on resolution of this issue. PBS&J will provide financial and technical support to the subcommittee.

- c) Continued Support for Reclaimed Water Master Plan – The Metro TAC has formed a subcommittee to provide proactive input to the City during the development of their Reclaimed Water Master Plan. The United States Environmental Protection Agency (USEPA) recently made a decision to grant the City a waiver to its National Pollutant Discharge Elimination System (NPDES) Permit. In lieu of opposition to the waiver, San Diego Coastkeeper and the San Diego Chapter of Surfrider Foundation have entered into a Cooperative Agreement with the City to publicly support USEPA's decision. The City's responsibility per the Agreement is to execute this study. PBS&J will provide technical support to the subcommittee by attending 8 project meetings, and review and commenting on the deliverables provided by the City's consultant. It is anticipated the consultant will produce 8 technical memoranda's and one Technical Report during FYE 2011.

- E. Metro TAC Staff Support – This task includes 4 hours per month for unforeseen financial analysis to be provided by Karyn Keese and 4 hours of technical engineering support to be provided by Dean Gipson. PBS&J will support, as-needed, the following items on the Metro TAC 2010 Work plan:

- State WDRs and WDR Communication Plan
- PLWWTP Waiver
- IPR Pilot Program(s)
- Lateral Issues
- Grease Recycling
- Water Reduction – Impacts on Sewer Rates
- Flushable Items that Do Not Degrade
- "Power Tariff"
- Continued Monitoring and Updating of Metro TAC Workplan

II. ADDITIONAL SERVICES AS REQUESTED

- A. Participate in the MWWD Strategic Business Plan
- B. Review of ongoing background material not envisioned
- C. Prepare for and attend additional meetings beyond what is included in Section I
- D. Provide additional follow-up on the additional items identified
- E. Participate in the MWWD Annual Master Plan Update
- F. Provide additional technical support on specific projects as directed by the Metro TAC, AdHoc Finance Committee, and Metro JPA/Commission Chairmen
- G. Provide technical support, as requested, to fulfill Metro JPA objectives



**PBS&J SOUTHWEST INFRASTRUCTURE
STANDARD RATE SCHEDULE
EFFECTIVE JANUARY 1, 2010**

ENGINEERING SERVICES

Principal Engineer IV	\$219.00
Principal Engineer III	209.00
Principal Engineer II	196.00
Principal Engineer I	180.00
Supervising Engineer II	170.00
Supervising Engineer I	155.00
Senior Engineer III	145.00
Senior Engineer II	140.00
Senior Engineer I	130.00
Engineer III	120.00
Engineer II	115.00
Engineer I	105.00
Engineering Aide	70.00

CONSTRUCTION RELATED SERVICES

Senior Construction Manager	\$175.00
Senior Project Engineer (Const.)	135.00
Construction Manager	130.00
Senior Field Representative*	115.00
Construction Management Rep. II*	100.00
Construction Management Rep. I*	90.00
Prevailing Wage Field Rep.**	125.00
Sr. Contract Administrator	110.00
Contract Administrator	85.00

ENVIRONMENTAL SCIENCE

Supervising Scientist	\$220.00
Senior Scientist III	185.00
Senior Scientist II	165.00
Senior Scientist I	140.00
Scientist III	130.00
Scientist II	120.00
Scientist I	100.00
Assistant Scientist	85.00
Research Assistant	60.00

PUBLIC AFFAIRS SERVICES

Project Manager	\$170.00
Community Relations Specialist	140.00
Assistant Project Manager	125.00
Account Coordinator	80.00

OTHER PROFESSIONAL SERVICES

Principal Professional	\$196.00
Supervising Professional	170.00
Sr. Professional III / Sr. GIS Analyst III	150.00
Senior Professional II / Sr. GIS Analyst II	135.00
Senior Professional I / Sr. GIS Analyst I	122.00
Professional II / GIS Analyst II	101.00
Professional I / GIS Analyst I	88.00

DESIGN & GRAPHIC SERVICES

Senior Designer III	\$140.00
Senior Designer II	135.00
Senior Designer I	120.00
Designer II	110.00
Designer I	100.00
CAD Technician III	95.00
CAD Technician II	85.00
CAD Technician I	70.00
Graphics Designer II	100.00
Graphics Designer I	95.00

ADMINISTRATIVE SERVICES

Senior Administrator	\$110.00
Senior Administrative Assistant III	100.00
Senior Administrative Assistant II	85.00
Senior Administrative Assistant I	80.00
Administrative Assistant III	75.00
Administrative Assistant II	65.00
Administrative Assistant I / Clerk	60.00

EXPENSES AND OUTSIDE SERVICES

In addition, identifiable non-salary costs that are directly attributable to the project, such as reproduction costs, telephone charges, mileage, postage, etc., are billed at actual cost plus 15 percent to cover overhead and administration plus 3 percent for insurance costs.

Principal Engineer IV and litigation support rates negotiated on a contract by contract basis.

Computer Aided Drafting, hydrologic water, sewer, and stormwater modeling, GIS, automated mapping, database and web programming, etc., is charged at \$5 per labor hour.

* Non-Prevailing Wage

** Prevailing Wage Rate – Overtime will be charged at 1.25 times, and Sundays and holidays, 1.70 times the above rates.

If applicable, a vehicle allowance of \$900.00 per month will be charged for the use of a company vehicle assigned to a full-time inspector. This monthly allowance will be prorated based upon hours worked for part-time inspection.

Fees for litigation and expert witness services will be charged at \$450.00 per hour with a 4-hour minimum per day.

Fees for subconsultant services provided are billed at actual cost plus 15 percent to cover overhead and administration, plus 3 percent for insurance costs.

PAYMENT TERMS

A late payment finance charge at a rate of 18 percent per annum will be applied to any unpaid balance commencing 30 days after the date of original invoice.

This rate schedule is subject to annual and/or periodic revisions as necessary to accommodate inflationary trends, salary adjustments and the general costs of business.

H:\Admin\Public Works Admin\Standard Rate Sheets\2010 Rates\Southwest Infrastructure Std Rate 0110 - SAN-DGO Ltrhd.docx

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN METRO WASTEWATER JOINT POWERS AUTHORITY
AND PBS&J**

This agreement is made and entered into as of _____, 2010, by and between the METRO WASTEWATER JOINT POWERS AUTHORITY (hereinafter referred to as the "Metro JPA"), a joint powers authority organized and operating pursuant to California Government Code section 6500 *et seq.*, and PBS&J (hereinafter referred to as "Consultant").

RECITALS

A. The Metro JPA would like to retain the services of Consultant to provide as-needed technical, financial and administrative support services as set forth in more detail herein for the fiscal year of 2010-11.

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The parties desire by this agreement to establish the terms for Metro JPA to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the Metro JPA with the services described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein.

2. Compensation.

a. Subject to paragraph 2(b) below, the Metro JPA shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "B."

b. In no event shall the total amount paid for services rendered by Consultant pursuant to Exhibit "A" exceed the sum of \$105,595.00 for fiscal year 2010-11. Periodic payments shall be made within 30 days of receipt of a statement for services rendered. Payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

If changes in the work seem merited by Consultant or the Metro JPA, and informal consultations with the other party indicate that a change is warranted, it shall be processed by the Metro JPA in the following manner: a letter outlining the changes shall be forwarded to the Metro JPA by Consultant with a statement of estimated changes in fee or time schedule. An

amendment to this Agreement shall be prepared by the Metro JPA and executed by both parties before performance of such services, or the Metro JPA will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the Agreement period and for four (4) years from the date of final payment under the Agreement for inspection by Metro JPA. Consultant shall obtain the written consent of Metro JPA prior to destroying any such records or any work product prepared by Consultant as a result of the Services provided under this Agreement.

5. Time of Performance.

Consultant shall perform its services in a prompt and timely manner and shall commence performance on July 1, 2010, and upon execution of this Agreement by both parties.

6. Delays in Performance.

Neither Metro JPA nor Consultant shall be considered in default of this agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this agreement.

7. Compliance with Law.

Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government.

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this agreement or any rights under or interest in this agreement without the written consent of the Metro JPA, which may be withheld

for any reason. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent Consultant and is not an employee of Metro JPA. No employee or agent of Consultant shall become an employee of Metro JPA. The work to be performed shall be in accordance with the work described in Exhibit "A," subject to such directions and amendments from Metro JPA as herein provided.

11. Integration

This agreement represents the entire understanding of Metro JPA and Consultant as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. This agreement may not be modified or altered except in writing signed by both parties hereto. This is an integrated agreement.

12. Insurance

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this agreement, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Metro JPA.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001)

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply
- (6) Contractual Liability with respect to this Agreement
- (7) Broad Form Property Damage
- (8) Independent Consultants Coverage

(iv) All such policies shall name the Metro JPA, the Board and each member of the Board, its officers, employees, agents and Metro JPA designated volunteers as Additional Insureds under the policy.

(v) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Metro JPA.

b. Automobile Liability

(i) At all times during the performance of the work under this agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Metro JPA.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 0001 (ed. 12/93) covering automobile liability, Code 1 (any auto).

(iii) The automobile liability program may utilize deductibles, but not a self-insured retention, subject to written approval by the Metro JPA.

(iv) All such policies shall name the Metro JPA, the Board and each member of the Board, its officers, employees, agents and Metro JPA designated volunteers as Additional Insureds under the policies.

c. Workers' Compensation/Employer's Liability

(i) At all times during the performance of Services under this Agreement, the Consultant shall maintain workers' compensation in compliance with applicable statutory requirements and Employer's Liability Coverage in amounts indicated herein.

(ii) Such insurance shall include an insurer's Waiver of Subrogation in favor of the Metro JPA and will be in a form and with insurance companies acceptable to the Metro JPA.

(iii) If insurance is maintained, the workers' compensation and employer's liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Metro JPA.

(iv) Before beginning work, the Consultant shall furnish to the Metro JPA satisfactory proof that he/she has taken out for the period covered by the work under this agreement, full compensation insurance for all persons employed directly by him/her or through subconsultants in carrying out the work contemplated under this agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV or the Labor Code of the State of California and any acts amendatory thereof. Consultant shall require all subconsultants to obtain and maintain workers' compensation coverage of the same type and limits as specified in this section.

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant

shall maintain professional liability insurance, in a form and with insurance companies acceptable to Metro JPA and in an amount indicated herein.

e. Public Liability, Property Damage, Automobile Liability, Employer's Liability, and Professional Liability (Errors and Omissions)

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

f. Evidence Required

Prior to execution of the agreement, the Consultant shall file with the Metro JPA evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 2010 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent). All evidence of insurance shall be certified by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional primary insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

(i) All policies shall contain a provision for 30 days advance written notice by the insurer(s) to the Metro JPA of any cancellation. Statements that the carrier "will endeavor" and "that failure to mail such notice shall impose no obligation and liability upon the company, its agents or representatives," will not be acceptable on certificates.

(ii) All policies shall contain a provision stating that the Consultant's policies are primary insurance and the insurance of the Metro JPA or any named insureds shall not be called upon to contribute to any loss.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the Metro JPA, which satisfy the following minimum requirements:

(ii) Insurance carriers shall be qualified to do business in California and maintain an agent for process within the state. Such insurance carrier shall have not less than an "A-" policyholder's rating and a financial rating of not less than "Class VII" according to the latest Best Key Rating Guide.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Metro JPA, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this agreement, including but not limited to, the provisions concerning indemnification. Neither the Metro JPA nor the Board, nor any member of the Board, nor any of the directors, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of the Agreement.

(ii) If at any time during the life of the agreement, the Consultant fails to maintain in full force any insurance required by the agreement documents, the Metro JPA may acquire the necessary insurance for the Consultant and deduct the cost thereof from the appropriate progress payments due the Consultant.

(iii) The Consultant shall include all subconsultants as insureds under its policies or shall furnish separate certificates and endorsements for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.

(iv) The Metro JPA may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Agreement.

13. Indemnification

Consultant agrees to protect, save, defend and hold harmless Metro JPA and its Board and each member of the Board, officers, agents and employees from any and all claims, liabilities, expenses or damages of any nature, including attorneys' fees, for injury or death or any person, or damage to property, or interference with use of property, including loss of use, arising out of or in any way connected with the negligent performance or willful misconduct under this agreement by Consultant, Consultant's agents, officers, employees, subconsultants, or independent consultants hired by Consultant. The only exception to Consultant's responsibility to protect, save, defend and hold harmless Metro JPA, is due to the sole negligence, willful misconduct or active negligence of Metro JPA. This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits does not act as a limitation upon the amount of indemnification to be provided by Consultant.

14. Laws, Venue, and Attorneys' Fees

This agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this agreement, the action shall be brought in a state or federal court situated in the County of San Diego, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, as determined by the court.

15. Termination or Abandonment

a. Metro JPA has the right to terminate or abandon any portion or all of the work under this agreement by giving ten (10) calendar days written notice to Consultant. In such event, Metro JPA shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. Metro JPA shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by Metro JPA and Consultant of the portion of such task completed but not paid prior to said termination. Metro JPA shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this agreement upon thirty (30) calendar days' written notice to Metro JPA only in the event of substantial failure by Metro JPA to perform in accordance with the terms of this agreement through no fault of Consultant.

16. Notice

Any notice or instrument required to be given or delivered by this agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

METRO JPA:	CONSULTANT:
Metro Wastewater JPA	PBS&J
101 B Ave.	9275 Sky Park Court, Ste. 200
Coronado, CA 92118	San Diego, CA 92123-4386
Attn: c/o Scott Huth, City of Coronado	Attn: Karyn Keese

and shall be effective upon receipt thereof.

17. Data

Consultant shall be entitled to rely upon the accuracy of data and information provided by the Metro JPA without independent review or evaluation unless such review or evaluation is specified in the scope of services.

18. Third Party Rights

Nothing in this agreement shall be construed to give any rights or benefits to anyone other than the Metro JPA and the Consultant.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first written above.

METRO WASTEWATER JPA:

PBS&J:

By: _____
Ernie Ewin
Chairperson

By: _____

APPROVED AS TO FORM:

Paula C. P. de Sousa
General Counsel
METRO WASTEWATER JPA

EXHIBIT A

Scope of Services

EXHIBIT B

Schedule of Charges/Payments

Agenda Item 8



An employee-owned company

May 26, 2010

Mr. Ernie Ewin
Chairman
Metro Commission/ Metro Wastewater JPA
276 Fourth Ave.
Chula Vista, CA 91910

SUBJECT: 2008 Exhibit E Audit Results

Dear Mr. Ewin and Commission Members:

Attached are the Schedule of Allocation for Billing to Metropolitan System and Independent Auditor's Report (Exhibit E) and the Schedule of Findings prepared by Macias Gini & O'Connell LLP as well as a listing of final findings from the 2008 Exhibit E Audit. The Finance Committee and the Metro TAC have reviewed the 2008 Exhibit E Audit Report and findings and unanimously recommends the acceptance of 2008 Exhibit E Audit to the Metro Commission/Metro Wastewater JPA.

The audit followed the same sampling procedures we have followed in past years. The City generates a listing of all transactions in excess of \$1,000 excluding payroll, San Diego Data Processing (SDDP) charges, and capital improvements (CIP) costs. The total dollar amount of these transactions was \$134.4 million this year. The selected samples from this data base totaled \$75 million or 56% of the total dollar amount.

In addition the auditors select 25 payroll samples and the JPA team selects 10 CIP and 20 revenue samples from separate transaction reports. The total sample in 2008 is as follows:

Sample	# Sample
Auditor (MGO)	225
JPA (Metro)	100
CIP (Metro)	10
SDDP (Metro)	1 week
Payroll (MGO)	25
Revenue (Metro)	17
Legal (MGO)	1
Total	378

Out of the sample, there were a total of 35 findings totaling \$1.1 million dollars as shown in the first two sections of the following table. This is further broken down into Metro and Muni findings. The Metro findings totaled \$698,000 and the Muni findings totaled \$355,000. Metro findings are

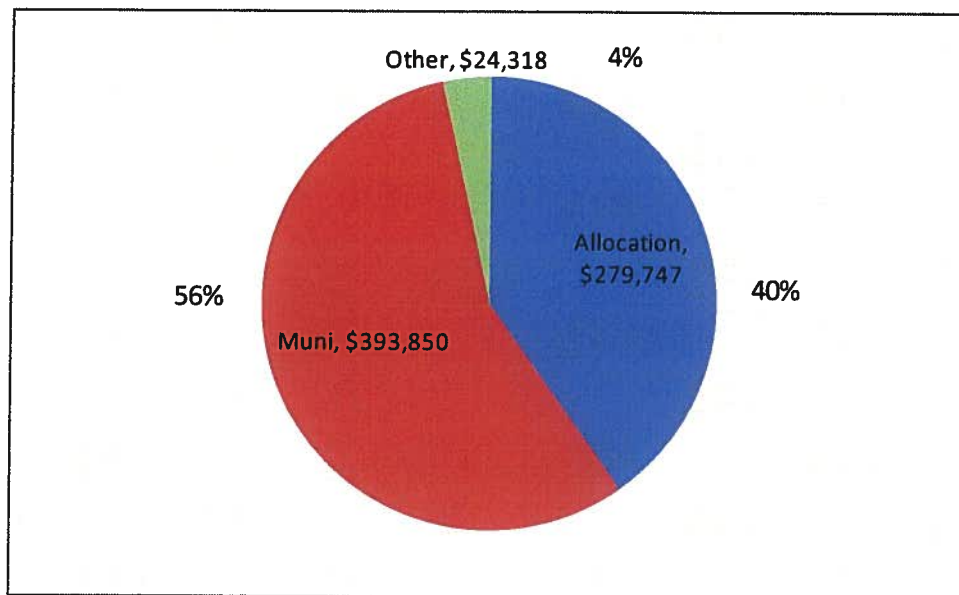
defined as transactions found in the sample that are actually Muni expenses but have been charged as Metro expenses. The converse definition applies for Muni expenses. The total is the sum of the two to reflect the aggregate of incorrect transactions or audit findings.

Section 1: Comparison of Number of Findings							
Findings	2008	2007	2006	2005	2004	2003	
Metro	28	15					
Muni	7	9					
Total	35	24					
Section 2: Comparison of Total Dollars of Findings							
Findings	2008	2007	2006	2005	2004	2003	6-Year Average
Metro	\$ 697,915	\$ 368,292	\$ 772,778	\$2,289,812	\$1,774,222	\$1,400,000	\$ 1,217,170
Muni	\$ 354,673	\$ 189,024	\$ -	\$ -	\$ -	\$ -	\$ 90,616
Total Metro/Muni Findings	\$1,052,587	\$ 557,317	\$ 772,778	\$2,289,812	\$1,774,222	\$1,400,000	\$ 1,307,786
Section 3: Annual Metro Savings From Audit Findings							
Findings	2008	2007	2006	2005	2004	2003	6-Year Average
Total Annual Metro Savings	\$ 343,242	\$ 179,268	\$ 772,778	\$2,289,812	\$1,774,222	\$1,400,000	\$ 1,126,554
Total Savings PAs	\$ 120,135	\$ 62,744	\$ 270,472	\$ 801,434	\$ 620,978	\$ 490,000	\$ 394,294

The third section of the table shows the actual Metro savings from the audit results (Metro findings – Muni findings = Actual Metro Savings). The Metro savings are shared with the City of San Diego users. Thus the participating agencies share of the Metro findings is approximately 35% of the total annual Metro savings or in Fiscal Year 2008 \$120,135.

It should be noted that the goal of your audit team (PBS&J and your Treasurer, Doug Wilson) is to work with the Public Utilities staff so that through continued improvements in accounting practices and the continuity of personnel that eventually there will be no audit findings. As the table illustrates there has been great improvements since 2003.

The Metro findings of \$697,915 can be classified into three basic categories: incorrect allocations, muni costs charged to Metro, and other. The breakdown of these three groups is illustrated in the following graph and a detail is included as an attachment to the letter.



If I can provide you with any additional information please do not hesitate to call me at 858-514-1008.

Sincerely,
PBS&J

Karyn Keese
Client Financial Services Manager

**CITY OF SAN DIEGO METROPOLITAN
WASTEWATER DEPARTMENT**

**Schedule of Allocation for Billing to Metropolitan
System and Independent Auditor's Reports**

For the Fiscal Year Ended June 30, 2008

CITY OF SAN DIEGO METROPOLITAN WASTEWATER DEPARTMENT
Schedule of Allocation for Billing to Metropolitan System and Independent Auditor's Reports
For the Fiscal Year Ended June 30, 2008

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MACIAS GINI & O'CONNELL LLP
Certified Public Accountants & Management Consultants

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**INDEPENDENT AUDITOR'S REPORT ON
SCHEDULE OF ALLOCATION FOR BILLING TO METROPOLITAN SYSTEM**

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

We have audited the accompanying Schedule of Allocation for Billing to Metropolitan System (the "Schedule") of the City of San Diego Metropolitan Wastewater Department (MWWD), an enterprise fund of the City of San Diego (the "City"), for the year ended June 30, 2008. This Schedule is the responsibility of the MWWD's management. 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 of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the MWWD's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the Schedule, assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall presentation of the Schedule. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 3, the accompanying Schedule referred to above 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 and the Participating Agencies in the Metropolitan Wastewater System dated May 18, 1998 and the First Amendment dated May 15, 2000 (Agreements). Accordingly, the Schedule is not intended to present the financial position or the changes in the financial position of the MWWD in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the Schedule referred to above presents fairly, in all material respects, the allocation for billing to Metropolitan System for the year ended June 30, 2008 on the basis of accounting described in Note 3.

In accordance with *Government Auditing Standards*, we have also issued our report dated March 5, 2010, on our consideration of the MWWD'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 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 internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

This report is intended solely for the information and use of the City Council and the MWWD's management and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Macias Jini & O'Connell LLP
Certified Public Accountants
San Diego, California
March 5, 2010

CITY OF SAN DIEGO METROPOLITAN WASTEWATER DEPARTMENT
Schedule of Allocation for Billing to Metropolitan System
For the Fiscal Year Ended June 30, 2008

	Operating Expenses		
	Municipal System	Metropolitan System	Total
TRANSMISSION:			
Cleaning and Stoppage Removals, Mains and Laterals.....	\$ 13,410,317	\$ -	\$ 13,410,317
Accrued Claims.....	-	-	-
Maintenance of Laterals.....	5,593,624	-	5,593,624
Maintenance of Mains and Manholes.....	6,973,688	-	6,973,688
Sewage Pumping Stations.....	10,424,543	1,595,179	12,019,722
Metro Pump Station #1.....	-	2,176,736	2,176,736
Metro Pump Station #2.....	-	6,885,264	6,885,264
TOTAL TRANSMISSION.....	36,402,172	10,657,179	47,059,351
TREATMENT AND DISPOSAL:			
Cogeneration Facilities.....	-	1,177,607	1,177,607
Pont Loma Plant.....	-	14,941,077	14,941,077
North City Water Reclamation Plant.....	-	8,355,230	8,355,230
Metro Biosolid Center.....	-	16,027,183	16,027,183
South Bay Water Reclamation Plant.....	-	6,556,057	6,556,057
San Pasqual Water Reclamation Plant.....	50,701	-	50,701
Escondido System.....	1,748,059	-	1,748,059
Sewage Testing and Control.....	4,125,567	462,501	4,588,068
Wastewater Chemistry.....	387,621	5,167,427	5,555,048
Biology/Ocean Operations.....	984,767	3,526,172	4,510,939
TOTAL TREATMENT AND DISPOSAL.....	7,296,715	56,213,254	63,509,969
GENERAL AND ADMINISTRATION:			
Utilities Administration and General Expenses.....	26,518,441	20,963,698	47,482,139
Utility Commercial.....	5,558,538	-	5,558,538
Technical Services Administration.....	-	1,655,923	1,655,923
Central Support Facility.....	989,391	9,543,316	10,532,707
Expenses of Other City Departments Applicable to			
Sewerage Utility.....	15,842,952	6,775,015	22,617,967
Engineering Expenses.....	3,152,845	5,910,503	9,063,348
TOTAL GENERAL AND ADMINISTRATION.....	52,062,187	44,848,455	96,910,622
TOTAL EXPENSES.....	95,761,054	111,718,688	207,479,742
CAPITAL IMPROVEMENT EXPENSE.....	27,687,191	3,487,123	31,174,314
METROPOLITAN SYSTEM CAPITAL IMPROVEMENT INCOME CREDITS.....	-	(4,466,786)	(4,466,786)
DEBT SERVICE ALLOCATION.....	34,583,453	57,873,961	92,427,414
METROPOLITAN SYSTEM INCOME CREDITS.....	-	(2,433,785)	(2,433,785)
TOTAL ALLOCATION FOR BILLING PURPOSES.....	\$ 158,001,698	\$ 166,179,401	\$ 324,181,099

See Notes to Allocation for Billing to Metropolitan System

CITY OF SAN DIEGO METROPOLITAN WASTEWATER DEPARTMENT

Notes to the Schedule of Allocation for Billing to Metropolitan System
For the Fiscal Year Ended June 30, 2008

Note 1 – General

The City of San Diego Metropolitan Wastewater Department (“MWWD”) 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 have entered into the Regional Wastewater Disposal Agreement dated May 18, 1998 and amended on May 15, 2000, for their respective share of usage and upkeep of the Metropolitan System. The accompanying Schedule of Allocation for Billing to Metropolitan System (the “Schedule”), represents the allocation of expenses for billing related to the Metropolitan System of the Participating Agencies.

The MWWD is accounted for and reported as an Enterprise fund of the City of San Diego.

Note 2 – Participating Agencies

The Participating Agencies consist of the following municipalities and districts:

City of Chula Vista	Lemon Grove Sanitation District
City of Coronado	City of National City
City of Del Mar	Otay Water District
East Otay Mesa Sewer Maintenance District	Padre Dam Municipal Water District
City of El Cajon	City of Poway
City of Imperial Beach	Spring Valley Sanitation District
City of La Mesa	Wintergardens Sewer Maintenance District
Lakeside/Alpine Sanitation Districts	

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. As a result, the Schedule is not intended to be a presentation of the financial position or the changes in the financial position in conformity with generally accepted accounting principles. The more significant differences are:

1. Purchases of capital assets are presented as capital improvement expenses.
2. Payments of principal and interest on long-term debt are presented as debt service allocation expenses.

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

CITY OF SAN DIEGO METROPOLITAN WASTEWATER DEPARTMENT
Notes to the Schedule of Allocation for Billing to Metropolitan System (Continued)
For the Fiscal Year Ended June 30, 2008

Note 4 – Metropolitan System Capital Improvement Expense

Construction costs incurred during the fiscal year to maintain and improve the Metropolitan System and equipment purchases used in the maintenance of the Metropolitan System are included in capital improvement expense.

Metropolitan System capital improvement income credits include 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 is that portion of the principal and interest payments relating to the 1993, 1995, 1997A, 1997B, 1999A and 1999B sewer revenue bond issuances, 2007 sewer revenue note issuance, and outstanding loans with the State of California.

Note 6 – Metropolitan System Income Credits

Metropolitan System income credits are revenues earned by the Metropolitan System for which costs have been incurred during the current or previous fiscal years. There is a dispute between the Participating Agencies and the City regarding reclaimed water revenue. The City's position is that the Reclaimed Water system is one system and at this time it is not earning revenue in excess of its operating and capital costs. MWWD has not collected any revenue from reclaimed water.

Note 7 – Total Allocation for Billing Purposes

Costs to be billed to Participating Agencies include all individual construction projects 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. The percentages are determined from cumulative samples and 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 were weighted by total project cost 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 were evaluated based on four cost categories: pump stations, plant operations, technical services and cogeneration. These percentages were weighted by the annual O&M cost for each category, and combined to determine a derived percentage for administrative costs. All O&M costs were then allocated based on the measured flow, suspended solids and COD of each Participating Agency.

CITY OF SAN DIEGO METROPOLITAN WASTEWATER DEPARTMENT
Notes to the Schedule of Allocation for Billing to Metropolitan System (Continued)
For the Fiscal Year Ended June 30, 2008

Note 8 – Pension

The rates supporting expenses related to the employer share of pension costs are actuarially determined by the San Diego City Employees' Retirement System's (SDCERS) actuary. Employer contribution rates are set with a 2 year time-lag (i.e., rates effective in fiscal year 2008 were calculated in the fiscal year 2006 actuarial valuation). The City's enterprise funds fully paid their pension rates set by the actuary in the actuarial report prepared in fiscal year 2006 for the fiscal year 2008.

Note 9 – Post Employment Retirement Healthcare Benefits

In fiscal year 2008, the City implemented the Governmental Accounting Standards Board (GASB) Statement No. 45, *Accounting and Financial Reporting by Employers for Post Employment Benefits Other Than Pensions*. This statement has significant effects on the accounting treatment and financial reporting of other post employment benefits other than pensions that the City provides to its employees. Specifically, GASB Statement No. 45 requires the City to recognize the cost of benefits when incurred rather than when paid or provided. The costs are measured and accrued based upon annual actuarial valuations similar to current practice with pension plans. The actuarial valuations will provide information on the annual required contributions (ARC) to fund the plan. If the City fails to fund the plan, based on the ARC, it will be required to report a liability on the face of the financial statements for the "underpayment."

Further information regarding the City's Post Employment Retirement Healthcare Benefits at June 30, 2008 can be found in the City's Comprehensive Annual Financial Report.



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**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
SYSTEM 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 the accompanying Schedule of Allocation for Billing to Metropolitan System (the "Schedule") of the City of San Diego Wastewater Department (MWWD), an enterprise fund of the City of San Diego (City), for the year ended June 30, 2008, and have issued our report thereon dated March 5, 2010. Our report contained an explanatory paragraph describing 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 the First Amendment dated May 15, 2000 (Agreements). 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.

Internal Control over Financial Reporting

In planning and performing our audit, we considered MWWD's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the Schedule, but not for the purpose of expressing our opinion on the effectiveness of the MWWD's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the MWWD's internal control over financial reporting.

A control deficiency 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 misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of MWWD's Schedule that is more than inconsequential will not be prevented or detected by MWWD's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by MWWD's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether MWWD's Schedule is free of 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 the 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*.

We noted certain matters that we reported to management of MWWD in a separate letter dated March 5, 2010.

This report is intended solely for the information and use of the City Council, the MWWD's management, others within the entity, and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Macias Jini & O'Connell LLP
Certified Public Accountants
San Diego, California
March 5, 2010

**CITY OF SAN DIEGO
METROPOLITAN WASTEWATER
DEPARTMENT**

Report to Management

For the Fiscal Year Ended June 30, 2008



MACIAS GINI & O'CONNELL LLP
Certified Public Accountants & Management Consultants

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SAN MARCOS

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

In planning and performing our audit of the Schedule of Allocation for Billing to Metropolitan System (the "Schedule") of the City of San Diego Metropolitan Wastewater Department ("MWWD") for the year ended June 30, 2008, we considered the MWWD's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the Schedule and not to provide an opinion on the internal control over financial reporting.

However, during our audit we noted certain matters involving internal controls and their operation, and are submitting for your consideration related recommendations designed to help the City make improvements and achieve operational efficiencies. Our comments reflect our desire to be of continuing assistance to the City. This letter does not affect our report dated March 5, 2010 on the Schedule of the Metropolitan System.

We will review the status of these comments during our next audit engagement. We have already discussed these comments and recommendations with various City personnel and we will be pleased to discuss them in further detail at your convenience, to perform any additional study of these matters, or to assist you in implementing the recommendations.

This letter is intended solely for the information and use of the Honorable Mayor and City Council of the City of San Diego and is not intended to be and should not be used by anyone other than these specified parties.

Macias Gini & O'Connell LLP

Certified Public Accountants
San Diego, California
March 5, 2010

CITY OF SAN DIEGO METROPOLITAN WASTEWATER DEPARTMENT

Schedule of findings

For the Fiscal Year Ended June 30, 2008

CURRENT YEAR COMMENT

Recording of Metropolitan and Municipal Wastewater Utility Related Expenses

Observation – During our testing of a total of four hundred and eighteen (418) samples – two hundred and fifty (250) Metropolitan (Metro) MGO selected, one hundred (100) Metropolitan Metro Commission/ Metro TAC selected, forty (40) Municipal (Muni) MGO selected, ten (10) CIP Metro Commission/Metro TAC selected, and one (1) legal cost MGO selected on cash disbursement expense items and seventeen (17) Income Credit Metro Commission/ Metro TAC selected on income revenue items – charged to the Metropolitan System for reasonableness as well as for compliance with the contractual agreements between the City and the participating agencies, we noted the following:

- Twenty-three (23) cash disbursements selected overcharged Metro expenses and were not allocated accurately between Muni and Metro funds.
- Seven (7) cash disbursements selected undercharged Metro expenses and were not allocated accurately between Muni and Metro funds.
- Three (3) cash disbursements selected were actually prior year's expenses that were not accrued in the prior year, but were captured and reported in the current year.
- One (1) cash disbursement selected was actually subsequent year's expense that should not accrue in the current year, but was reported in the current year.
- One (1) cash disbursement selected was properly allocated but was charged to the wrong account, causing the allocation method to be incorrect.
- One (1) income credit selected under-reported Metro revenue was not allocated accurately between Muni and Metro funds.
- One (1) income credit selected over reported Metro revenue was not allocated accurately between Muni and Metro funds

Recommendation – In response to the findings noted above, we recommend the following;

- Since Metro-Muni allocation percentages vary depending on the City-PA contractual agreements, allocation basis and circumstances, MWWD should establish strong controls to ensure accuracy on expenditure allocation calculations.
- In addition, MWWD should establish controls to appropriately capture expenses in the correct year that they were incurred.
- The MWWD should establish strong internal controls to record income credits in the correct fund, which should match the fund the corresponding expenditure is recorded in.

CITY OF SAN DIEGO METROPOLITAN WASTEWATER DEPARTMENT

Schedule of findings (Continued)

For the Fiscal Year Ended June 30, 2008

- The MWWD should establish strong controls on revenue recording and allocation between Metro and Muni funds.
- Revenue transactions should be supported by sufficient back-up documentation and reviewed by appropriate personnel other than preparers.

Management Response – MWWD will continue to have one full-time Accountant on staff to specifically work on Exhibit E accounting issues. Currently, this Accountant reviews all payment documents and verifies that appropriate support is provided, determining whether the payment is a Metro versus Muni expense. If an allocation is used, the Accountant verifies the documentation and appropriateness of the allocation method. MWWD has developed a department Internal Control Review Team for FY2010 that will work on enhancing controls. A new training was developed for Exhibit E and was given to 92 Public Utilities employees in the first quarter of 2010. The Accountant, along with the Internal Control Review Team, will continue to provide training to the staff in the various divisions within the Public Utilities Group, to ensure those responsible for processing the payments have a clear understanding of Muni and Metro expenses and the importance of tracking these costs. The Comptroller's Office will be notified regarding the incorrect accrual entries and will be requested to implement procedures to ensure accruals are properly recorded in the future. Updated facilities lists are provided to both the Accountant and Analysts involved with the recording of MWWD expenses and will also be provided to those involved in recording MWWD revenue.

CITY OF SAN DIEGO METROPOLITAN WASTEWATER DEPARTMENT

Summary Schedule of Prior Audit Findings (Continued)

For the Fiscal Year Ended June 30, 2008

PRIOR YEAR COMMENTS

Fiscal Year 2007:

Recording of Metropolitan and Municipal Wastewater Utility Related Expenses

Observation – During our testing of a total of three hundred and sixty seven (367) samples – two hundred and twenty seven (227) Metropolitan MGO selected, one hundred (100) Metropolitan Metro Commission/Metro TAC selected and forty (40) Municipal MGO selected, on cash disbursement expense items charged to the Metropolitan System for reasonableness as well as for compliance with the contractual agreements between the City and the participating agencies, we noted the following:

- 15 cash disbursements selected undercharged Municipal expenses and were not allocated accurately between Muni and Metro funds.
- 9 cash disbursements selected undercharged Metro expenses and were not allocated accurately between Muni and Metro funds.

Status – In progress. See current year finding.

Fiscal Year 2006:

Recording of Metropolitan and Municipal Wastewater Utility Related Expenses

Observation – During the testwork on cash disbursements charged to the Metropolitan System for reasonableness as well as for compliance with the contractual agreements between the City and the participating agencies, we noted the following:

- 3 cash disbursement transactions selected were actually prior year expenses that were not accrued in the prior year, but were captured and reported in the current year.
- 3 cash disbursement transactions were not allocated accurately between Muni and Metro funds.
- 6 cash disbursement transactions did not have sufficient supporting documentation that these were Metro fund expenses versus Muni fund expenses.

Status – Partially corrected. Please see current year finding.

Fiscal Year 2005:

Recording of Metropolitan and Municipal Wastewater Utility Related Expenses

Observation – We performed testwork on cash disbursements and payroll expenses charged to the Metropolitan System for reasonableness as well as for compliance with the City and participating agencies contractual agreements. During the performance of this testwork, we noted that 13 out of 325 cash disbursement items tested were incorrectly allocated (either over or under allocated) to the participating agencies.

CITY OF SAN DIEGO METROPOLITAN WASTEWATER DEPARTMENT
Summary Schedule of Prior Audit Findings (Continued)
For the Fiscal Year Ended June 30, 2008

Status – In Progress. Please see current year finding.

Allocation Ratio Expenses

Observation – During the performance of expense testing, we noted that the ratio used to split expenses shared by Metropolitan and Municipal Wastewater Utility was not always used appropriately. During the performance of this testwork, we noted that 6 out of 325 cash disbursement items tested had incorrect allocations between these utilities.

Status – In Progress. Please see current year finding regarding expenditure allocation between Muni and Metro.

**2008 Exhibit E
Findings**

#	Date	Amount	City Response	Finding Metro Amount	Finding Muni Amount
J1	7/27/2007	7,803.00	Refuse Disposal Fees throughout the year were expended 100% Metro in error. Should be 93% Metro / 7% Muni. Decrease Metro and increase Muni by \$25,318.09	25,318.09	
J6	12/18/2007	11,262.50	Expend was 100% Metro with the allocation based on labor (E215 list) in error. Should be 12% Metro / 88% Muni. Decrease Metro and increase Muni by \$9,911.	9,911.00	
J55	11/28/2007	54,810.00	An incorrect JO was used which placed this expenditure on the "Do not Allocate" list in error. This expense is for North City and needs to be allocated to the PA's. Metro needs to increase by \$54,810.00.		(54,810.00)
J56	10/29/2007	17,302.23	Muni COS Study. Total expenditure for FY07 and FY08 should be 100% Muni. Decrease Metro and increase Muni by \$179,251.07.	179,251.07	
J61	8/13/2007	31,008.34	Expend was 100% Metro in error. Should be 66% Metro / 34% Muni. Decrease Metro and increase Muni by \$15,814.25.	15,814.25	
J70	8/31/2007	12,266.91	Total payments for the year for the MOC 2 portion were 100% Metro in error. Should be 66% Metro / 34% Muni. Decrease Metro and increase Muni by \$2,375.06.	2,375.06	
J75	6/30/2008	41,862.74	Expend was 100% Metro in error. Should be 93% Metro / 7% Muni. Decrease Metro and increase Muni by \$4,757.13.	4,757.13	
J76a-- J76c	7/13/2007	1,261.60	Expend was 100% Metro in error. Should be 93% Metro / 7% Muni. Decrease Metro and increase Muni by \$6,914.83.	6,914.83	
J78	10/16/2007	35,246.18	Same as J56.	Included in J56.	
J79	3/13/2008	17,009.24	JV to move Muni CIP to Muni labor. Labor was expended 100% Metro in error. Should be 100% Muni. Decrease Metro and Increase Muni by \$193,506.73.	193,506.73	
J80	6/23/2008	6,314.56	\$208.61 of the expenditure cannot be accounted for by the Verizon management company, lsys LLC. Move to Muni.	208.61	

**2008 Exhibit E
Findings**

#	Date	Amount	City Response	Finding Metro Amount	Finding Muni Amount
J100	2/14/2008	30,000.00	Expend was 100% Metro in error. Out of 17 monitoring screens, 2 monitor Muni Facilities. Muni portion of cost should be 2/17 times \$37,262.62 = \$4,383.84. Decrease Metro and increase Muni by \$4,383.84.	4,383.84	
M8	4/4/2008	28,852.00	Same as J1.	Included in J1.	
M18	5/30/2008	32,680.00	Same as J1.	Included in J1.	
M23	6/30/2008	261,424.74	Total payments for the year for Emerson were using an incorrect allocation spread. Should be 84% Metro / 16% Muni. Increase Metro and decrease Muni by \$46,570.54.		(46,570.54)
M29	6/30/2008	132,502.19	Same as M23.	Included in M23.	
M71	5/20/2008	16,133.14	Total payments for the year for Energy for MOC 2 were expended 100% Metro in error. Should be 66% Metro / 34% Muni. Decrease Metro and increase Muni by \$83,405.32.	83,405.32	
M76	7/19/2007	1,621.70	Expend was 100% Metro in error. Should be 100% Muni. Decrease Metro and increase Muni by \$1,621.70.	1,621.70	
M83	12/10/2007	7,399.16	Metro was overcharged by \$944.92. Decrease Metro and increase Muni by \$944.92	944.92	
M94	10/11/2007	50,000.00	SCAP membership. Expenditure was 100% Metro in error. Should be 50% Metro / 50% Muni. This membership benefits both Metro and Muni. Decrease Metro and increase Muni by \$25,000.	25,000.00	
M96	10/26/2007	1,616.25	Tax was calculated and paid twice in error. Move overpayment to Muni: \$116.25.	116.25	
M130	6/12/2008	29,815.81	The total expenditure for this PO should be 100% Metro. Increase Metro and decrease Muni by \$90,593.98.		(90,593.98)
M170	7/27/2007	79,023.71	Muni Rate Model. The total payments thru FY08 for PO 5102436 were 100% Metro in error. Should be 17% Metro and 83% Muni. Decrease Metro and increase Muni by \$89,712.91.	89,712.91	
Note: The FY09 adjustment has already been added to the FY09 Findings Schedule.					

2008 Exhibit E
Findings

#	Date	Amount	City Response	Finding Metro Amount	Finding Muni Amount
M178	1/23/2008	24,108.91	State tax was paid in error. Decrease Metro and Increase Muni by \$24,108.91.	24,108.91	
M179	6/24/2008	110,463.79	Same as M23.	Included in M23.	
M199	5/5/2008	58,557.38	Expend was 100% Metro in error. Should be 93% Metro / 7% Muni. Decrease Metro and increase Muni by \$4,845.69.	4,845.69	
M210	11/6/2007	1,900.34	Expend was 70% Metro 30% Muni in error. Should be 100% Metro. Increase Metro and decrease Muni by \$814.44.		(814.44)
M276	10/17/2007	6,693.33	Expend for the year was 100% Muni in error. Should be 100% Metro. Increase Metro and decrease Muni by \$22,330.96.		(22,330.96)
R3		2,822,300.00	The Metro Fund 41509 used to record the negative revenue entry for Requisition MUN7-414 was incorrect. Should be Muni Fund 41506. Increase Metro Revenue and decrease Muni Revenue by \$18,177.00.	18,177.00	
R3		2,822,300.00	100% of Revenue, in the amount of \$15,455, received for Bond Reimb of CIP 459562, MOC 2 Upgrade, expenditures was deposited in Fund 41509 in error. The allocation should be 66% Metro and 34% Muni. Decrease Metro Revenue and increase Muni Revenue by \$5,254.70.		(5,254.70)
R13		131,458.00	100% of Revenue, in the amount of \$134,298, received as a FEMA reimbursement for a Muni Project was deposited in Fund 41509 in error. The Fund should have been 41506. Decrease Metro Revenue and increase Muni Revenue by \$134,298.		(134,298.00)
C2		897.71	Expenditure for MOC 2 Upgrade CIP project should be 34% Muni. Decrease Metro and increase Muni by \$305.22.	305.22	
C2		3,983.55	Expenditure for MOC 2 Upgrade CIP project should be 34% Muni. Decrease Metro and increase Muni by \$1,354.41.	1,354.41	
C2		9,067.35	Expenditure for MOC 2 Upgrade CIP project should be 34% Muni. Decrease Metro and increase Muni by \$3,082.90.	3,082.90	
Legal		2,798.89	Shames Job Order billed Metro 100% in error. Should be 100% Muni. Decrease Metro and increase Muni by \$2,798.89.	2,798.89	

**2008 Exhibit E
Findings**

#	Date	Amount	City Response	Finding Metro Amount	Finding Muni Amount
M30	6/30/2008	468,309.28	This expense was accrued in FY08 in error. The service was for July 2008, so it should have remained an FY09 payment.	Noted	
M87	8/8/2007	119,403.20	Energy purchase was for June 2007. Paid in August 2007. \$119,403.20 should have been an accrual entry for FY07.	Noted	
M123	7/20/2007	136,350.00	This expenditure was charged to Metro properly. However, it was for service period 5/30/07-6/30/07. So the expenditure should have been in FY07, not FY08.	Noted	
M124	10/26/2007	101,462.04	The expenditure was charged to Metro properly. However, it was for service period 12/1/06-2/28/07. So the expenditure should have been of FY07, not FY08.	Noted	
TOTAL FINDINGS - METRO & MUNI				697,914.73	(354,672.62)

Agenda Item 9

Metro Wastewater JPA

DRAFT Budget

July 1, 2010 - June 30, 2011

<u>Consider approval - Metro TAC</u>	<u>5/19/2010</u>
<u>Consider approval - Metro Finance Committee</u>	<u>5/26/2010</u>
<u>Consider approval - Metro JPA</u>	<u>6/3/2010</u>

Presented by Doug Wilson, Metro JPA Treasurer

**Metro Wastewater JPA
Budget - Fiscal Year 2010/11**

Metro/JPA - One year budget

Ordinary Income/Expense

	July 1, 2009-June 30, 2010			FY 2010/11	NOTES
	Estimated	Budget	Variance	BUDGET	
	Actual		Fav (Unfav)		
Income					
Membership Dues	210,000	210,000	0	210,000	Based on current yr expenses
Interest Income	920	1,500	(580)	1,500	Estimated
Total Income	210,920	211,500	(580)	211,500	
Expense					
PBS&J	121,300	106,000	(15,300)	106,000	Historical-contract
Legal	34,832	35,000	168	38,500	Historical-increase 10% billing rate
Per Diem - Agency	21,050	24,750	3,700	24,750	Same as prior yr budget
Treasury Support - Padre Dam	14,000	14,000	0	14,000	Historical-contract
Metro/JPA/TAC meeting expenses	4,621	5,500	879	5,500	Historical plus retreat
Administrative Support-LP	3,050	2,400	(650)	3,600	Metro JPA portion \$300 per month estimate
Annual Retreat - strategic plan	-	3,000	3,000	3,000	Place holder
Automobile Expense	1,575	3,000	1,425	3,000	Historical-potential increase
Public Information	-	1,000	1,000	1,000	Small place holder
Web Site	844	1,000	156	1,000	Historical - \$55 per month + \$100 domain name
Office Supplies	861	200	(661)	900	Historical
Supplies	536	300	(236)	750	Historical
Miscellaneous	-	750	750	750	Historical placeholder
Dues and Subscriptions	538	600	62	600	Historical
Financial Consultant	-	3,000	3,000	-	Removed - San Diego financing complete
Contingencies	-	10,000	10,000	10,000	Contingency
Total Expense	203,207	210,500	7,293	213,350	
Net Ordinary Income	7,713	1,000	6,713	(1,850)	

	30-Jun-10		30-Jun-11
Cash Balances-projected	68,855	Cash Balances-projected	67,005
		Operating expense coverage =	31.4%
		Cash Reserve policy target	71,117
			33.00%

Metro Commission / JPA Agency Cost Allocation

	Metro Flow 2010 forecast (MGD)	Commission Flow Distribution %	Total Agency Billings	Prior Yr Billings
Chula Vista	16.543	27.07%	\$ 56,839	\$ 59,341
Coronado	2.200	3.60%	\$ 7,559	\$ 8,290
County of SD	11.734	19.20%	\$ 40,316	\$ 37,111
Del Mar	0.675	1.10%	\$ 2,319	\$ 2,278
El Cajon	8.800	14.40%	\$ 30,235	\$ 29,478
Imperial Beach	2.250	3.68%	\$ 7,731	\$ 7,626
La Mesa	5.210	8.52%	\$ 17,901	\$ 17,422
Lemon Grove	2.296	3.76%	\$ 7,889	\$ 7,613
National City	4.571	7.48%	\$ 15,705	\$ 16,609
Otay Water District	0.303	0.50%	\$ 1,041	\$ 1,001
Padre Dam MWD	3.070	5.02%	\$ 10,548	\$ 12,070
Poway	3.469	5.68%	\$ 11,919	\$ 11,161
Total Flow	61.121	100.00%	\$ 210,000	\$ 210,000

Agenda Item 10

Fiscal Year 2010 Amendment
Memorandum of Understanding

**Public Utilities Department
Wastewater Fund Employees
Labor/Management Partnership
BID TO GOAL PUBLIC CONTRACT OPERATIONS AGREEMENT**

I. PREAMBLE

This Memorandum of Understanding (MOU) —Fiscal Year 2010 Amendment amends that Memorandum of Understanding dated January 17, 2008 regarding the Bid to Goal program and supersedes the terms of that January 17, 2008 Memorandum of Understanding for the period of July 1, 2010 to June 30, 2012. This MOU constitutes the basis of the Wastewater Bid to Goal Public Contract Operations Agreement (Agreement) with Wastewater Fund employees and is effective July 1, 2010 through June 30, 2012. This MOU is between the Mayor, on behalf of the City of San Diego (City), the Public Utilities Department Director (Director) and Wastewater Management Team, and all employees compensated by the Wastewater Fund, hereafter referred to as the “Parties.” The Labor-Management Partnership (LMP) comprises employees represented by the American Federation of State, County and Municipal Employees (AFSCME), Local 127; employees represented by the San Diego Municipal Employees’ Association (MEA); as well as Classified Unrepresented Non-management employees and the Wastewater Management Team. Any employee of the Public Utilities Department (Department) who accomplishes work justifiably compensable from the Wastewater Fund is deemed to be a member of this LMP. The intent of this MOU is to supersede the terms of the January 17, 2008 Memorandum of Understanding for the period of July 1, 2010 to June 30, 2012.

II. RECITALS

WHEREAS, Wastewater Fund employees are responsible for the operation, maintenance and all support functions of the regional sewerage system (collectively the “System”), including the City sewerage collection system; and

WHEREAS, the City desires to have this System operated and maintained in the most efficient and effective manner possible, while complying with all federal, state, and local laws, rules, and regulations, and while protecting the environment and promoting the health, safety and well-being of System employees, ratepayers, and other stakeholders; and

WHEREAS, the efficient and effective operation and maintenance of the System requires unique, specialized skills and certifications together with experience and expertise in established and new technologies; and

WHEREAS, Wastewater Fund employees have acquired, refined, and maintained these same skills, certifications, and expertise; and

WHEREAS, with the assistance of external consultants, and review by citizen and employee groups, the Parties have critically assessed the organization, processes, procedures, practices, budget, and staffing supported by the Wastewater Fund, including process improvements analyzed through extensive business process reengineering, optimization efforts, and associated benchmarking;

NOW THEREFORE, the Parties agree that the organizational arrangement, LMP, and accountability structure described in this MOU, referred to as Wastewater Bid to Goal Public Contract Operations Agreement (which is designed to combine the most beneficial aspects of the private and public sectors), is the current process by which they continue the optimization of the organization, policies, and practices of the Department.

III. SCOPE AND DEFINITIONS

The Agreement expresses a commitment by the Parties to the goals related to meeting budgets (efficiency) and maintaining service levels (effectiveness) in a manner consistent with the findings of the business process reengineering process completed in fiscal year (FY) 2007 to validate and update appropriate service levels and practices. This MOU along with the companion LMP Bid document as accepted by the Mayor constitute the entirety of the Agreement.

Commencing on July 1, 2007, the Wastewater LMP shall operate and manage the system on a 24-hour per day, 7-days per week basis, and shall collect, receive, and treat wastewater; discharge the effluent; treat reclaimed water; transport and dispose of residuals and operating wastes; control odors; conduct sampling, monitoring, and reporting; provide appropriate support for the capital improvement program; and otherwise manage the business and operations of the City's wastewater infrastructure in accordance with the terms of the Agreement.

The scope of this Agreement includes the operations, maintenance and support services associated with all facilities and customer requirements recognized as supported by the Wastewater Fund at the conclusion of FY2007. It is the intent of this Agreement that service levels provided shall meet or exceed stated benchmarks, and in any event shall not be less than those service levels provided in FY2007 unless stipulated in this Agreement or specified by City Management for business reasons.

The Bid to Goal Program will be administered by the Department in accordance with Department Instruction 15.24.

Any new facilities and/or activities that have not been accounted for in the MOU or the LMP Bid document, or that were not part of the Wastewater Utility's mission and operating scope in FY2007 (acknowledged as the base year), shall not be within the scope of the Agreement. Changes in facilities or activities considered within the scope of the Agreement must be reflected in amendments agreed to by all Parties.

It is understood that the Goal represents the proposed cost to provide In-Scope services by the LMP and is based on performance service levels optimized at benchmarks determined by a third party industry expert to be within the competitive range for public and private Wastewater service providers nationally.

The LMP Bid is designed to yield economic benefits to ratepayers while maintaining the integrity and soundness of capital investments, infrastructure, and operations; and to ensure public safety and safeguard the environment. In addition, the LMP Bid is designed such that the City can continue to meet its commitments to employees and promote cooperative labor-management relations. In order to remain in compliance with federal/state mandates and bond covenants, operation and maintenance procedures and process modifications planned or executed to attain the goals are subject to review by an independent feasibility engineer or other competent agent, if deemed necessary by the Mayor. Results of such review may impact proposed modifications and future-year adjusted LMP Bid amounts. Key Performance Service Levels are specified in Table 1.

It is noted that the Bid to Goal concept embodies continual improvement through industry benchmarking and process assessment, both on an ongoing basis and periodically (approximately every 5 years) via a very rigorous and thorough review. The periodic major benchmarking and continuous process improvement effort is designed to account for such very significant changes in the operating environment as improved technology, enhanced industry best practices, and changes in the competitive marketplace. This aspect of the Agreement is analogous to the periodic refreshment of private contract operations via re-negotiation of ongoing contracts with updated information.

The Parties agree that the LMP Bid will be submitted after the City Council's ratification of this MOU, and that the Mayor will evaluate the LMP Bid and facilitate reasonable actions to achieve final acceptance assuming the LMP bid is responsive, responsible, and superior to the Private Market Proposal (PMP). The LMP Bid will be a plan offered by the LMP to meet the performance service levels indicated in this MOU, along with implementation and interpretive details. Operating as companion and complementary documents, this MOU plus the associated LMP Bid constitute the contract-like provisions needed to assure mutual accountability in delivering the functions and service levels specified in a clear and transparent manner.

IV. PROGRAM ELEMENTS

A. Key Performance Service Levels

All strategies employed to meet the LMP Bid will be consistent with the premise that primary service levels of core Wastewater Fund functions must be maintained at current standards, or better, unless otherwise noted in light of refreshed benchmarks or analyses of stakeholder requirements. The Parties acknowledge that there may be reasonable differences of interpretation regarding service level components and standards. In this regard, the LMP Bid will provide clarifying information as appropriate. The performance service levels stipulated in Table 1 below are considered key metrics to overall Wastewater Fund service delivery.

Table 1: Key Performance Service Levels

Key Performance Metrics	Performance Goal
Sanitary Sewer Overflows: Number of SSO's per 100 miles of Main	FY 2008 to improve upon FY 2007 total. Goal thereafter to be reset each year.
Point Loma Wastewater Treatment Plant Permit Compliance	80% TSS Removal (annual average), 58% BOD Removal (annual average)
North City Wastewater Reclamation Plant Permit Compliance	30 mg/1 BOD and TSS for 30-day avg., 45 mg/1 BOD and TSS for daily max
South Bay Wastewater Reclamation Plant Permit Compliance	30 mg/1 BOD and TSS for 30-day avg., 45 mg/1 BOD and TSS for daily max
Metro Biosolids Center Performance	Maintain cake solids percent between 28% and 32%
ISO 140001 Certification for Wastewater Collection Division	Retain certification
ISO 140001 Certification for Wastewater Treatment and Disposal Division	Retain certification
ISO 140001 Certification for Environmental Monitoring and Technical Services Division	Retain certification

B. LMP Bid

A competitive budget objective (the Goal of the Bid to Goal program) was developed by an industry expert as a representative offering by a private sector firm to accomplish the mission of the Wastewater Fund. For In-Scope services, the LMP is committed to continuing performance at the established service levels and the LMP Bid is reflective of an optimized organization.

In response to the competitive budget objective for FY2008, the LMP arrived at a Total FY2008 Bid for In-Scope services. Going forward, each fiscal year's LMP Bid will be recalculated with Non-Personnel Expenses (NPE) increasing/decreasing proportionate to the Consumer Price Index (CPI) using the All Urban Consumers index for the San Diego region as of June 30th and Personnel Expenses (PE) adjusted based on negotiated employee salary and compensation changes. In addition, commencing in FY2010, the LMP Bid will be adjusted down by the amount of any audited incentive award payout. This will provide a lower bid target in subsequent years in recognition of permanent efficiencies which have become institutionalized. In addition, by adjusting downward only by the amount of audit incentive award payout (not the entire savings) the process recognizes the effort required to maintain ongoing savings and provides an incentive to the LMP for continual improvement. If the LMP Bid is adjusted down as a result of an incentive award payout, it may also be adjusted up in future years if the actual expenditures exceed the adjusted bid in any future year. The LMP Bid adjustment up shall equal an amount of the prior year actual expenditures, plus approved NPE and PE adjustments, however not to exceed the original LMP Bid amount, plus NPE and PE adjustments.

The LMP Bid excludes Out of Scope costs, which are not part of the Statement of Work and which would not be part of a private contractor bid. These costs include items specified in Table 2 as well as emergent costs that are out of the control of the LMP.

The Parties acknowledge that on-going organizational process improvement necessary for optimized service delivery is a significant undertaking. The necessary changes to processes, work practices, and staffing must be carefully and conscientiously planned and implemented. When required by law, these proposed changes will be subject to the Meet and Confer process with formally recognized employee bargaining representatives.

Table 2: Fiscal Year 2008 Wastewater Fund Financial Summary

<u>CATEGORY</u>	<u>FY2008 Dollars</u>
LMP Bid	\$ 207,157,305
Personnel Expenditures (PE)	\$ 86,544,142
Non-Personnel Expenditures (NPE)	\$ 120,613,163
Out of Scope Costs	\$ 262,822,846
O&M Service Level Agreements	\$ 15,698,605
Debt Service	\$ 100,110,283
Reserves	\$ 46,335,002
Capital Improvement Program (CIP)	\$ 100,678,956
Total	\$ 469,980,151

Fiscal accountability and audit of the LMP Performance will be based on total actual expenditures of all In-Scope costs compared to the LMP Bid. The personnel and non-personnel components are presented for information only and shall not enter into comparisons. This means specifically that it is acceptable for operating trade-offs to be made between personnel and non-personnel expenditures as long as the total LMP Bid is not exceeded. As in previous Bid to Goal Agreements, it is understood that any significant changes in service levels required by the City will prompt the inclusion of an amendment to this Agreement. Other specific adjustments for costs related to unforeseen circumstances may be made only pursuant to the Administration of Agreement provisions in Section V.

C. Accountability: Wastewater Fund Employee Efficiency Incentive Reserve and Resulting Operational Savings

The LMP Bid described in the above Section IV.B. reflects spending levels validated to be within the competitive range in the current marketplace for supporting, operating and maintaining the existing System. Results of this Agreement will be influenced by a number of factors, including achieving and maintaining specified service levels, and the ongoing ability of the City / Department to implement optimization measures, and to manage and accommodate challenges in the dynamic work environment. A key part of the Bid to Goal concept is accountability through the administration of appropriate performance measurement and management systems to provide transparency of results, alignment of common business goals and objectives, and encouragement of desirable outcomes.

To these ends, and to encourage future efficiency gains beyond the Agreement's LMP Bid, a performance management program modeled on private sector gainsharing principles will be administered. To facilitate this performance management program, the Wastewater Employee Efficiency Incentive Reserve (EEIR) is implemented. The major intent of the EEIR is to motivate continual efficiencies beyond those determined in the extensive FY 2007 Business Process Reengineering effort and the proceeding continuous process improvement efforts. In this context, the Parties agree that 50% of any positive variance between final annual validated In-Scope expenditures and the In-Scope LMP Bid shall be identified, deposited, and accounted for in the Wastewater EEIR. This deposit will be contingent upon validation of key performance service levels as identified in Section IV.A. above (including any applicable decrements from unmet key performance goals), and any analysis deemed necessary of all enterprise fund expenditures and legal obligations. Should any of these Key Performance Service Levels not be met, the deposit to the Wastewater Fund EEIR shall be decremented by 10% for each unmet key performance metric goal. This EEIR shall be capped at a \$10,000,000 cumulative balance (new share + existing balance from prior years), with all remaining funds designated as savings for the benefit of Wastewater ratepayers. However, the EEIR may at times exceed the \$10M cap if designation of funds to be expended precedes the execution of the actual debit to the EEIR. In no case shall undesignated funds may not exceed the \$10M account cap. Undesignated funds – not encumbered officially (unapproved for spending by the Director) – exceeding the \$10M cap on June 30th of each program year will be transferred into the Dedicated Reserve from Efficiency Savings (DRES). Expenditure of funds from the EEIR shall follow normal City rules and authorization processes with the additional requirements that they will be subject to specific authorization by the Director based upon recommendations from the Wastewater Fund Labor-Management Committee (LMC). The potential uses of the EEIR include, but are not limited to:

- Credits toward meeting the LMP Bid in subsequent years if and when single year expenditures exceed the LMP Bid, and/or;
- Purchase of otherwise unfunded new technology, equipment, training, consultant services, and/or to promote the productivity and professionalism of Wastewater Fund employees, and/or,
- Funding of incentive awards to employees. Incentive awards are discussed in greater detail in section IV.D, below.

At the conclusion of the term of this Agreement (after a final determination is made of appropriate funds for the final year and final incentive awards if warranted), residual EEIR funds may be applied toward: a) an EEIR in a successor agreement, if any; or b) enhancing the productivity and/or professionalism of Wastewater Fund employees and the Department, as recommended by the LMC and approved by the Director. All residual funds utilization must be completed within 12 months of the issuance of the final year Audit Report. All unused residual funds will be transferred into the DRES.

Prior to any funds being available for use from the newly established EEIR, an amount equal to the funds appropriated for consultant assistance in the FY2007 Business Process Reengineering/Bid to Goal Optimization Study (\$1.1 million) shall be reimbursed from the validated savings (positive variance as described above). This amount was reimbursed from

FY2008 savings. Commencing in FY2010, costs for maintaining the Agreement which will be calculated at the close of each program year will be deducted from the annually-established EEIR balance. If in any given year there are insufficient funds to pay for the administrative cost, this cost will be carried forward to succeeding years until the full obligation is met. This reimbursement must occur prior to any funds being available for other recommended use from the EEIR balance.

D. Gainsharing

The Gainsharing option for EEIR funds is defined as a team cash performance pay incentive award, and will be in-lieu of all other team incentives governed by the Department, such as the previously-existing Pay-for-Performance Program. Basic Gainsharing program guidelines are as follows:

- 1) This successor Wastewater Bid to Goal Gainsharing program is intended to be a unified performance pay incentive utilizing aspects of previous Bid to Goal Gainsharing and Pay-for-Performance programs. As a result, this redefined Gainsharing program consolidates the previously administered Gainsharing and Pay-for-Performance systems into one unified performance management system designed to appropriately recognize and provide accountability for achievement of organizational goals.
- 2) Subject to funds available in the Wastewater EEIR, actual individual incentive awards shall be recommended annually by the LMC and approved by the Director. Individual incentive awards shall be capped at \$4,000 (net of taxes) per year, and shall be based on goal achievement at department and division/section levels, as well as individual employee eligibility and performance. Department Instruction 15.24 provides details regarding how incentive awards are calculated and specific eligibility requirements.
- 3) Commencing in FY2010, when no savings are generated in any program year, no incentive awards will be authorized from existing EEIR balances for that year.

V. ADMINISTRATION OF AGREEMENT

A. Term of Agreement

This Agreement is effective on July 1, 2010. It is acknowledged that the extensive level of assessment and benchmarking undertaken to effect this Agreement is not cost-effective on a continual basis, but must be renewed periodically to appropriately account for potential changes in technology, industry best practices, and the relevant marketplace. Accordingly, it is the intent of this Agreement that the basic provisions remain in effect until June 30, 2012, subject to the termination provisions described in V. B. and V. C. below. Other benchmarking and goal-setting actions appropriate for assuring quality service delivery shall be conducted within the provisions and intent of this Agreement.

B. Termination for Default

Commencing in FY2010, should In-Scope spending exceed the adjusted LMP Bid by more than 10%, this Agreement may be deemed in default by the Mayor for inefficiency.

Should any three of the key performance service levels specified in Table 1 remain unmet at the end of a fiscal year, this Agreement may be deemed in default by the Mayor for ineffectiveness.

All prior annual LMP Bid expenditures over the original LMP Bid amount, plus any approved PE or NPE adjustments, must be repaid in total before a positive balance can be established in the EEIR and before funds can be expended from the EEIR. In-Scope Wastewater spending (as defined in the LMP Bid) in excess of the original LMP Bid amount is defined as a Bid shortfall.

The Parties agree that if LMP performance results in default, as defined above, the Agreement may be terminated at the sole discretion of the Mayor. In addition, a competitive procurement pursuant to and consistent with applicable laws, regulations, and policies may be initiated at the sole discretion of the Mayor.

If the Mayor does deem the Agreement in default, the Mayor may terminate the contract or specify terms to remediate the unsatisfactory performance. Such terms may include suspension of incentive awards until the default condition is resolved or other specified provisions stated in writing are met.

C. Termination for Convenience

The Mayor shall have the right at any time after the completion of the first fiscal year of service, exercisable at his/her sole discretion, for his/her convenience and without cause, to terminate this MOU upon 60 days written notice to the Wastewater LMP and the two signatory labor organizations.

D. Performance Monitoring

The Parties agree that the methods to be used to monitor performance during the term of the Agreement shall be typical of the methods used by public agencies in assessing the performance and costs of private contract operators of Wastewater utilities. To that end, expenditures charged against this Agreement will be limited to those associated with core operations and maintenance functions of the Wastewater Utility and those business support functions which support the Wastewater Fund. As defined more thoroughly in the LMP Bid document, the costs charged shall exclude:

- Unplanned costs directly associated with the Capital Improvement Program
- Employee time or Wastewater Fund resources, beyond current levels, for activities which are mandated by the City but are not associated with core or direct support functions.

Changes in revenues associated with operation will not directly impact system performance with respect to the LMP Bid. However, revenue changes resulting from employee innovation and

initiative may be discussed on a case by case basis with the Mayor, who may, based upon his review, authorize some or all of the surplus revenue to be allocated to the EEIR or other Wastewater Fund uses (including LMP Bid shortfalls) in accordance with the bond covenants.

Annually, no later than November 30, the Director shall submit Performance Results to the Mayor so that the annual audit may begin based on these performance results. The performance report shall include the following:

- Performance standards and actual performance (both financial & operational) - quantitative measures of performance which demonstrate level of services provided;
- Explanations for all instances where efficiency and/or performance standards are not met and an action plan for correcting the situation in the current year; a narrative description of issues and events bearing on current and prospective oversight of the Agreement; and
- A summary of performance and claim of savings resulting from efficiency gains to be deposited in the EEIR.

After its submission, the Annual Performance Report shall be reviewed by an independent auditor who shall issue a report to the Mayor and the Director. A copy of the audit report shall be provided to each signatory labor union and may be reviewed by other governing bodies as required. Results of this audit or review will be taken into account with regard to any amounts of claimed savings allocated to the EEIR. Employee Gainsharing may be disbursed only after the external audits are completed.

The form and content of performance monitoring will be further defined in the LMP Bid. It is understood that the LMP Bid as accepted by the Mayor shall remain inviolate for the term of this Agreement, subject to adjustments pursuant to the express language of this MOU.

E. Uncontrollable Events/Change in Law

The LMP Bid is based on reasonable assumptions of projected costs and savings. However, the Parties understand and acknowledge that extraordinary unforeseen events, beyond the reasonable control of Wastewater employees and management, may result in costs and/or savings that could significantly affect their ability to meet the stated objectives.

To protect and promote the objectives of Bid to Goal, the Parties agree that cost impacts associated with extraordinary and unforeseen events may lead to adjustments of the LMP Bid for the purposes of assessing the performance in this program. Such events may include but are not limited to:

- Inflation in major NPE beyond appropriate consumer price indices;
- Mandates for increased and/or decreased service levels;
- Mandates for changes in governmental policy or regulations;
- Significant detrimental changes in influent characteristics;
- Catastrophic breakdowns of major equipment or capital; and
- Force majeure.

Any other events beyond the reasonable control of Wastewater employees and management, including changes in law, that have a material effect upon costs or their ability to perform to the terms of this Agreement and/or corollary service agreements may have the effect of re-opening negotiations between the Mayor and the LMP to make appropriate adjustments to the LMP Bid.

A Change in Law shall generally include any of the following events which occur after the Agreement date:

- a) the promulgation, modification, or written change in interpretation by a controlling authority of any applicable law unless the Department had or should have had notice and sufficient interpretive information of such a change as of the date of this Agreement; or
- b) the order or judgment of any court or other controlling authority as long as it was not the result of a willful or negligent act or lack of reasonable diligence by a Party to this Agreement; or
- c) the inclusion of a new relevant permit condition or the denial of a permit application if such denial is not the result of a willful or negligent action or lack of diligence by a Party to this Agreement.

A Change in Law shall not include a change in any tax law.

The Director or his designee shall be responsible for investigating uncontrollable events/changes in law to determine materiality, as detailed above. Upon such findings, the Director shall issue notice to the Parties of this Agreement stating the cost and consequence of the event. Depending on the nature of the event and findings, the Parties of this Agreement may mutually agree to either remove the costs associated with this event from the total costs charged against the Wastewater Fund for assessing fiscal performance; or reconvene to renegotiate the LMP Bid in light of the event. In the latter case, only that part of the LMP Bid related to the specific event shall be reopened; all other terms and conditions shall remain unchanged.

F. Labor-Management Cooperation

The Parties acknowledge that cooperative labor-management relations as typified by the relationship established in developing and successfully executing the Wastewater Bid to Goal Agreement, are critical to meeting the competitive challenge and objectives detailed in this Agreement. The Parties commit to maintaining the momentum, energy, and good will of this effort.

To that end, the Wastewater Fund employees, AFSCME Local 127, and MEA will participate in the LMC to monitor progress, identify issues, and eliminate barriers to success, and to otherwise maintain a mutual commitment to open communications and consensus.

G. Relationship with Labor Contracts

It is the intent of the Parties that this Agreement be interpreted in harmony and compliance with the comprehensive labor contracts and/or provisions between the City of San Diego and authorized employee organizations representing Wastewater Fund employees.

H. Dispute Resolution

Any disputes (except for those concerning audits or reviews) that arise from a charge of a violation or misinterpretation of this Agreement shall be resolved through the applicable use of established processes within labor agreements in effect at the time of the dispute.

I. Severability

In the event that any condition, covenant, or provision of this MOU is held to be invalid or void by any court of competent jurisdiction, or is deemed to be contrary to the law or any covenant or condition or provision of any contract to which the City is a party, the same shall be deemed severable from the remainder of this MOU and in no way shall affect any other covenant, condition, or provision. If any covenant, condition, or provision of this MOU is deemed to be invalid due to scope or breadth, such covenant, condition, or provision shall be deemed valid to the extent the scope or breadth is permitted by law.

J. Impacts on Staff

The Parties agree that a top priority in the Agreement is to optimize the System operations without infringing upon the employment rights of all affected employees as established under current City of San Diego policies and negotiated labor MOUs or implementation procedures.

K. Successor Agreement

The Parties recognize that insofar as it is in the mutual interest of the public and the Parties, and that insofar that the Parties will have met the terms and conditions of this and corollary service agreements, that it will be the option of the Parties to negotiate a new agreement or extension of the existing agreement at the conclusion of the term of this Agreement.

IN WITNESS WHEREOF, the undersigned agree to submit this Memorandum of Understanding to the appropriate bodies for approval and final ratification.

Date: _____

AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL
EMPLOYEES, LOCAL 127, AFL-CIO

CITY OF SAN DIEGO

Mayor, City of San Diego

President

Chief Operating Officer, City of San
Diego

SAN DIEGO MUNICIPAL EMPLOYEES'
ASSOCIATION

Director, Public Utilities Department

President

ORIGINAL

Memorandum of Understanding
Metropolitan Wastewater Department
Labor/Management Partnership
BID TO GOAL PUBLIC CONTRACT OPERATIONS AGREEMENT

I. PREAMBLE

This Memorandum of Understanding (MOU) constitutes the basis of a successor department-wide agreement for the two Metropolitan Wastewater Department (MWWD) Bid to Goal Agreements (one covering the Wastewater Treatment and Disposal (previously the Operations and Maintenance Division) and the other the Wastewater Collection Division), which are effective through June 30, 2007. This agreement is between the Mayor, on behalf of the City of San Diego (City), the MWWD Director and the MWWD Management Team, and the employees of MWWD; hereafter referred to as the parties. The Labor-Management Partnership (LMP) is comprised of employees represented by the American Federation of State, County and Municipal Employees (AFSCME), Local 127, AFL-CIO (Local 127); employees represented by the San Diego Municipal Employees' Association (MEA); as well as Classified Unrepresented MWWD employees and the MWWD Management Team.

II. RECITALS

WHEREAS, MWWD is responsible for the operation, maintenance and all support functions of the regional sewerage system (System), including the City sewerage collection system; and

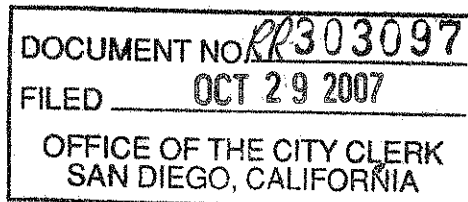
WHEREAS, the City desires to have this system operated and maintained in the most efficient and effective manner possible; while complying with all federal, state, and local laws, rules, and regulations; and while protecting the environment and promoting the health, safety and well-being of System employees, ratepayers, and other stakeholders; and

WHEREAS, the efficient and effective operation and maintenance of the System requires unique, specialized skills and certifications together with experience and expertise in established and new technologies; and

WHEREAS, employees of MWWD have acquired, refined, and maintained these same skills, certifications, and expertise; and

WHEREAS, with the assistance of external consultants, and review by citizen and employee groups, the parties have critically assessed the organization, processes, procedures, practices, budget, and staffing of MWWD, including process improvements analyzed through extensive business process reengineering, optimization efforts, and associated benchmarking;

NOW THEREFORE, the parties agree that the organizational arrangement, LMP, and accountability



structure described in this document, referred to as MWWD Bid to Goal Public Contract Operations Agreement (which combines the most beneficial aspects of the private and public sectors), is the mutually preferred and supported process to continue the optimization of the organization, policies, and practices of MWWD.

III. SCOPE AND DEFINITIONS

MWWD Bid to Goal Public Contract Operations Agreement (Agreement) is herein defined as a commitment by the parties to the goals related to meeting budgets (efficiency) and maintaining service levels (effectiveness) in a manner consistent with the findings of the business process reengineering process completed in fiscal year (FY) 2007 to validate and update appropriate service levels and practices. The Agreement in its entirety will be described in this MOU as ratified by appropriate governance bodies, and in the LMP Bid as accepted by the Mayor of the City of San Diego.

Commencing on July 1, 2007, the MWWD LMP shall operate and manage the System on a 24-hour per day, 7-day per week basis, and shall collect, receive, and treat wastewater; discharge the effluent; treat reclaimed water; transport and dispose of residuals and operating wastes; control odors; conduct sampling, monitoring, and reporting; provide appropriate support for the capital improvement program; and otherwise manage and operate the City's wastewater infrastructure so as to comply with the requirements of this MOU and the LMP Bid.

The scope of this Agreement includes the operations, maintenance and support services associated with all facilities and customer requirements recognized by MWWD at the conclusion of FY 2007. It is the intent of this Agreement that service levels provided shall meet or exceed stated benchmarks, and in any event shall not be less than those service levels provided in FY 2007 unless stipulated in the Agreement or by City management for business reasons.

Any new facilities and/or activities that have not been accounted for in the MOU or the accepted LMP Bid, or that were not part of the MWWD mission and operating scope in FY 2007, shall not be within the scope of the Agreement. Changes in facilities or activities considered within the scope of the Agreement must be reflected in Agreement amendments agreed to by all parties.

It is understood that the MEO Budget Objective identified in this document is based on performance service levels optimized at benchmarks determined by a third party industry expert to be within the competitive range for public and private wastewater service providers nationally. In order to remain in compliance with federal/state mandates and bond covenants, operation and maintenance procedures and process modifications planned or executed to attain the goals are subject to review by an independent feasibility engineer or other competent agent, if deemed necessary by the Mayor of San Diego. Results of such review may impact proposed modifications and MEO Budget Objectives. Key performance service levels are specified in Section IV, GOAL.

The Goal is designed to yield economic benefits to ratepayers while maintaining the integrity and soundness of capital investments, infrastructure, and operations; and safeguarding the environment. In

addition, the Goal is designed such that the City can continue to meet its commitments to employees and promote cooperative labor-management relations. It is noted that the Bid to Goal concept embodies continual improvement through industry benchmarking and process assessment, both on an ongoing basis and periodically (approximately every 5 years) in a very rigorous and thorough project. The periodic major benchmarking and process reengineering effort is designed to account for such very significant changes in the operating environment as improved technology, enhanced industry best practices, and changes in the competitive marketplace. This aspect of Bid to Goal is analogous to the periodic refreshment of private contract operations via re-negotiation of ongoing contracts with updated information, but avoids the potential disruption of a public health and safety related service (documented as experienced by other local governments) attributed to changing service providers when current operations are appropriate, proven, and analyzed to be competitive relative to a viable private provider. A related factor is the mitigation of expenses, time and litigation risks associated with an open competition. The initial MWWD Bid to Goal agreements covered wastewater collection, conveyance, treatment, and disposal processes. This Agreement refreshes those benchmarks, plus incorporates all support services conducted by MWWD into a unified department-wide Agreement aimed at articulating and aligning common business goals and objectives for the entire wastewater utility.

The parties agree that an LMP Bid will be submitted after the City Council's ratification of this MOU, and that the Mayor will evaluate the LMP Bid and facilitate reasonable actions to achieve final acceptance. The LMP Bid will be a plan offered by the LMP to meet the performance service levels and MEO Budget Objectives indicated in this MOU, along with implementation and interpretive details. Operating as companion and complementary documents, this MOU and the associated LMP Bid constitute the Public Contract Agreement (Agreement) that provides the contract-like provisions needed to assure mutual accountability in delivering the functions and service levels specified in a clear and transparent manner.

IV. GOAL

This MOU is a commitment to operate and maintain the system effectively, efficiently, and competitively. The Goal reflects a level of competitive performance and cost efficiency determined through Business Process Reengineering managed by the City Business Office and based upon data from benchmarking efforts developed by a third party industry expert. In addition, the Goal has been reviewed and supported by oversight organizations as appropriate.

A. Key Performance Service Levels

All strategies employed to meet the MEO Budget Objectives of the MWWD Bid to Goal Agreement will be consistent with the premise that primary service levels of core wastewater management functions must be maintained at current standards, or better, unless otherwise noted in light of refreshed benchmarks or analyses of stakeholder requirements. The parties acknowledge that there may be reasonable differences of interpretation regarding service level components and standards. In this regard, the LMP Bid will provide clarifying information as appropriate. The performance service levels stipulated in the table below are considered key metrics to overall wastewater utility service delivery.

In that context, should any of these core measures not be met, the deposit to the Employee Efficiency Incentive Reserve (described in section IV.C. below) shall be decremented by 10% for each unmet key performance metric.

Table 1: Key Performance Service Levels

Key Performance Metrics	Performance Goal
Sanitary Sewer Overflows: Number of SSO's per 100 miles of Main	FY 2008 to improve upon FY 2007 total. Goal thereafter to be reset each year.
Point Loma Wastewater Treatment Plant Permit Compliance:	80% TSS Removal (annual average), 58% BOD Removal (annual average)
North City Water Reclamation Plant Permit Compliance:	30 mg/l BOD and TSS for 30-day avg., 45 mg/l BOD and TSS for daily max
South Bay Water Reclamation Plant Permit Compliance:	30 mg/l BOD and TSS for 30-day avg., 45 mg/l BOD and TSS for daily max
Metro Biosolids Center Performance:	Maintain cake solids percent between 28% and 32%
ISO 140001 Certification for Wastewater Collection Division	Retain certification
ISO 140001 Certification for Wastewater Treatment and Disposal Division	Retain certification
ISO 140001 Certification for Environmental Monitoring and Technical Services Division	Retain certification

B. MEO Budget Objective

The MEO Budget Objective was developed by an industry expert as a representative offering by a private sector firm to accomplish the mission of MWWD. For in-scope facilities, the LMP is committed to continuing performance at the benchmarked service and budget levels validated to reflect an optimized organization.

The Projected Baseline Budget below is the current proposed Fiscal Year 2008 MWWD Budget. The MEO Budget Objective for Fiscal Year 2008 will be the Total Fiscal Year 2008 MWWD Budget less Pass-Through items. Going forward, each fiscal year's MEO Budget Objective will be recalculated with Non-Personnel Expenses (NPE) inflated proportionate to the Consumer Price Index (CPI) and Personnel Expenses (PE) inflated with consideration of negotiated employee salary and compensation increases.

The parties acknowledge that on-going organizational reengineering necessary for optimized service delivery is a significant undertaking. The necessary changes to processes, work practices, and staffing must be carefully and conscientiously planned and implemented. When lawfully required, proposed

changes will be subject to the Meet and Confer process with formally recognized employee bargaining representatives.

Table 2: Fiscal Year 2008 Projected Baseline Budget & MEO Budget Objective

CATEGORY	PROJECTED BASELINE BUDGET	MEO BUDGET OBJECTIVE
Total Operating Budget	\$ 213,502,095.	\$ 213,502,095
Personnel Expenditures (PE)	\$ 86,544,142.	\$ 86,544,142.
Non-Personnel Expenditures (NPE)	\$ 126,957,953	\$ 126,957,953
Total Pass-Through Items	\$ 262,822,846.	
O&M Service Level Agreements	\$ 15,698,605.	
Debt Service	\$ 100,110,283	
Reserves	\$ 46,335,002	
Capital Improvement Program (CIP)	\$ 100,678,956.	
Total MWWD Budget	\$ 476,324,941.	

- (1) Fiscal evaluation will be made on total MEO Budget Objective and total In-Scope Expenditures only. MWWD will not be held to PE and NPE components.
- (2) As in previous Bid to Goal Agreements, it is understood that any significant changes in service levels required by the City will prompt the inclusion of an amendment to this Agreement.
- (3) Other specific adjustments for costs related to unforeseen circumstances may be made only pursuant to the Administration of Agreement provisions in Section V of this document.

C. Accountability: Employee Efficiency Incentive Reserve and Resulting Operational Savings

The MEO Budget Objective described in the above Section IV.B. reflects spending levels validated to be within the competitive range for supporting, operating and maintaining the existing System. Results of this Agreement will be influenced by a number of factors, including achieving and maintaining specified service levels, and the ongoing ability of the City / MWWD organization to implement optimization measures, and to manage and accommodate challenges in the dynamic work environment. A key part of the Bid to Goal concept is accountability through the administration of appropriate performance measurement and management systems to provide transparency of results, alignment of common business goals and objectives, and encouragement of desirable outcomes.

To these ends, and to encourage future efficiency gains beyond MEO Budget Objectives, a performance management program modeled on private sector gainsharing principles will be administered. To facilitate this performance management program, the Employee Efficiency Incentive Reserve is implemented. The major intent of the Employee Efficiency Incentive Reserve is to motivate efficiencies beyond those determined in the extensive FY 2007 Business Process Reengineering effort and the resultant funds available for the benefit of sewer ratepayers. In this context, the parties agree that 50% of any positive variance between final annual validated in-scope expenditures and the in-scope MEO Budget Objective shall be identified, deposited and accounted for in the Employee Efficiency Incentive Reserve. This deposit will be contingent upon validation of key performance service levels as

identified in Section IV.A. above (including any applicable decrements from unmet key performance metrics), and any analysis deemed necessary of all Sewer Fund expenditures and legal obligations. This Employee Efficiency Incentive Reserve is capped at a \$10,000,000 cumulative balance (new share + existing balance from prior years), with all remainder designated as savings for the benefit of sewer ratepayers. Expenditure of funds from the Employee Efficiency Incentive Reserve shall follow normal City rules and authorization processes with the additional requirements that they will be subject to specific authorization by the MWWD Director, based upon recommendations from the MWWD Bid to Goal Labor-Management Committee (LMC). The potential uses of this reserve include, but are not limited to:

- 1) Credits toward MEO Budget Objectives in subsequent years if and when necessary for the LMP to meet annual goals, and/or;
- 2) Purchase of otherwise unfunded new technology, equipment, training, consultant services, and/or to promote the productivity and professionalism of MWWD employees, and/or,
- 3) Funding of a Gainsharing payout to employees. Gainsharing is discussed in greater detail in section IV.D, below.

At the conclusion of the term of this Agreement (after a final determination is made of appropriate funds for the final year and a final Gainsharing payout if warranted), residual Employee Efficiency Incentive Reserve funds may be applied toward: a) an Employee Efficiency Incentive Reserve in a successor agreement, if any; or b) enhancing the productivity and/or professionalism of employees and the department, as recommended by the LMC and approved by the Department Director.

Prior to any funds being available for recommended use from the newly established Employee Efficiency Incentive Reserve, an amount equal to the funds appropriated for consultant assistance in the FY 2007 Business Process Reengineering / Bid to Goal Optimization Study (\$1.1 million) shall be reimbursed from validated savings (positive variance as described above). Once this reimbursement is satisfied, the guidelines covered above shall be applied to further savings during the term of this Agreement.

D. Gainsharing

The Gainsharing option for Employee Efficiency Incentive Reserve funds is defined as a team cash performance pay incentive, and will be in-lieu of all other team incentives, such as the existing Pay-for-Performance Program. Basic Gainsharing program guidelines are as follows:

- 1) This successor MWWD Bid to Goal Gainsharing program is intended to be a unified performance pay incentive utilizing aspects of previous Bid to Goal Gainsharing and Pay-for-Performance programs. As a result, this redefined Gainsharing program consolidates the previously administered gainsharing and Pay-for-Performance systems into one unified performance management system designed to appropriately recognize and provide accountability for achievement of organizational goals.

2) Subject to funds available in the Employee Efficiency Incentive Reserve, actual individual payouts shall be recommended annually by the LMC and approved by the Department Director. Individual full payout shares shall be capped at \$4,000 (net of taxes) per year, and shall be based on goal achievement at department and division/section levels, as well as individual employee eligibility and performance.

V. ADMINISTRATION OF AGREEMENT

A. Term of Agreement

Service levels and budget objectives for this Agreement have been defined through Business Process Reengineering and Bid to Goal Optimization processes through 5 years (FY 2008 –FY 2012). It is acknowledged that this extensive level of assessment and benchmarking is not cost-effective on a continual basis, but must be renewed periodically to appropriately account for potential changes in technology, industry best practices, and the relevant marketplace. Accordingly, it is the intent of this Agreement that the basic provisions remain in effect for the 5 years specified, subject to the termination provisions described in V. B. and V. C. below. Other benchmarking and goal-setting actions appropriate for assuring quality service delivery shall be conducted within the provisions and intent of this Agreement.

B. Termination for Default

In-scope spending, less a) an amount of no more than two times the unexpended monies in the Employee Efficiency Incentive Reserve, and b) any Mayoral authorized amount of enhanced Department revenues allocated to budget shortfalls, may not exceed MEO Budget Objective spending as adjusted pursuant to section V.D. Performance Monitoring and V.E. Uncontrollable Events/Changes in Law by more than a cumulative total of \$4 million during the term of this Agreement. Should the cumulative Department spending exceed a MEO Budget Objective, as defined above, by more than \$4 million, this Agreement may be deemed in default for inefficiency.

Should any three of the key performance service levels specified in Section IV.A. be unmet at the end of a fiscal year, this Agreement may be deemed in default for ineffectiveness.

All annual MEO Budget Objective shortfalls of the Department must be repaid in total before a positive balance can be established in the Employee Efficiency Incentive Reserve before funds can be expended from the Employee Efficiency Incentive Reserve. In-scope MWWWD spending (as defined in the LMP Bid) in excess of MEO Budget Objectives is defined to be a MEO Budget Objective shortfall.

The parties recognize that if LMP performance results in default, as defined above, the Agreement may be terminated at the sole discretion of the Mayor of the City of San Diego. In addition, a competitive procurement pursuant to and consistent with applicable laws, regulations and policies may be initiated at the sole discretion of the Mayor of the City of San Diego.

C. Termination for Convenience

The Mayor of the City of San Diego shall have the right at any time after the completion of the first fiscal year of service, exercisable at his/her sole discretion, for his/her convenience and without cause, to terminate this Memorandum of Understanding upon 60 days written notice to the other parties (specifically MWWD and the two signatory labor organizations).

D. Performance Monitoring

The parties agree that the methods to be used to monitor the Department's performance during the term of the Agreement shall be typical of the methods used by public agencies in assessing the performance and costs of private contract operators of wastewater treatment facilities. To that end, costs properly charged to MWWD will be limited to those associated with core operations and maintenance functions of MWWD and direct support functions including administration costs associated with employee transitions (i.e. training, job counseling, and costs of processing employee transfers). As defined more thoroughly in the LMP Bid document, the costs charged to the system would properly exclude:

- Unplanned costs directly associated with Capital Improvement Projects
- Employee time or MWWD resources, beyond current levels, for activities which are mandated by the City but are not associated with core or direct support functions.

Changes in revenues associated with the System operation will not directly impact System performance with respect to Goal attainment. However, revenue changes resulting from employee innovation and initiative may be discussed on a case by case basis with the Mayor's Office. The Mayor may, based upon the review, authorize some or all of the revenue to be allocated to the Employee Efficiency Incentive Reserve or other Sewer Enterprise Fund uses (including budget shortfalls) in accordance with the bond covenants.

At least annually, not later than November 30, MWWD via the MWWD Director shall submit a Performance Report to the Public Works Deputy Chief Operating Officer. The Performance Report shall include the following:

- Performance standards and actual performance (both financial & operational) - quantitative measures of performance which demonstrate level of services provided,
- Explanations for all instances where MEO Budget Objectives and/or performance standards are not met and an action plan for correcting the situation in the current year, and
- A narrative description of issues and events bearing on current and prospective oversight of the Agreement.
- A summary of performance and claim of savings resulting from efficiency gains to be deposited in the Employee Efficiency Incentive Reserve.

After it is submitted, the annual Performance Report shall be reviewed by an independent auditor who shall issue a report to the Mayor and the Metropolitan Wastewater Department Director related to the review. A copy of the audit report shall be provided to each labor union. Results of this audit or review will be taken into account with regard to any amounts of claimed savings allocated to the Employee

Efficiency Incentive Reserve. Employee Gainsharing may only be disbursed after the Employee Efficiency Incentive Reserve is validated.

The form and content of performance monitoring will be further defined in the LMP Bid. It is understood that the MEO Budget Objective as stated in this Agreement and as reset each year in line with the MWWD approved budget shall remain inviolate for the term of this Agreement, subject to adjustments only pursuant to the express language of this MOU.

E. Uncontrollable Events/Change in Law

The MWWD Bid to Goal MEO Budget Objective is based on reasonable assumptions of projected costs and savings. However, the parties understand and acknowledge that extraordinary unforeseen events, beyond the reasonable control of MWWD employees and management, may result in costs and/or savings that could significantly affect their ability to meet the stated objectives.

To protect and promote the objectives of Bid to Goal, the parties agree that cost impacts associated with extraordinary and unforeseen events may lead to adjustments of the MEO Budget Objective for the purposes of assessing MWWD's performance in this program. Such events may include but are not limited to:

- Inflation in major NPE beyond appropriate consumer price indices;
- Mandates for increased and/or decreased service levels;
- Increases in wastewater flow volumes significantly in excess of volumes projected in the system financing plans;
- Significant detrimental changes in influent characteristics;
- Catastrophic breakdowns of major equipment or capital; and
- Catastrophic Acts of Nature.

Any other events beyond the reasonable control of employees and management, including changes in law, that have a material effect upon costs or their ability to perform to the terms of this Agreement and/or corollary service agreements may have the effect of re-opening negotiations to make appropriate adjustments to MEO Budget Objective.

A Change in Law shall generally include any of the following events which occur after the Agreement date:

- a) the promulgation, modification, or written change in interpretation by a controlling authority of any applicable law unless MWWD had or should have had notice and sufficient interpretive information of such a change as of the date of this Agreement; or
- b) the order or judgment of any court or other controlling authority as long as it was not the result of a willful or negligent act or lack of reasonable diligence by a party to this Agreement; or

c) the inclusion of a new relevant permit condition or the denial of a permit application if such denial is not the result of a willful or negligent action or lack of diligence by a party to this Agreement.

A Change in Law shall not include a change in any tax or similar law.

The Director of MWWD shall be responsible for investigating uncontrollable events/changes in law to determine materiality, as detailed above. Upon such findings, the Director shall issue notice to the parties of this agreement stating the cost and consequence of the event. Depending on the nature of the event and findings, associated costs may either be: a) removed from the total costs charged against MWWD for assessing fiscal performance; or b) the parties of this Agreement shall reconvene to renegotiate the MEO Budget Objective in light of the event. In the latter case, only the MEO Budget Objective of this Agreement related to the specific event shall be reopened; all other terms and conditions shall remain unchanged.

F. Labor-Management Cooperation

The parties acknowledge that cooperative labor-management relations as typified by the relationship established in developing and successfully executing the MWWD Bid to Goal Agreement, are critical to meeting the competitive challenge and objectives detailed in this document. The parties commit to maintaining the momentum, energy, and good will of this effort.

To that end, MWWD, Local 127, and MEA will participate in a Department-wide LMC to monitor progress, identify issues and eliminate barriers to success, and to otherwise maintain a mutual commitment to open communications and consensus.

G. Relationship with Labor Contracts

It is the intent of the parties that this Agreement be interpreted in harmony and compliance with the comprehensive labor contracts between the City of San Diego and authorized employee organizations representing MWWD employees.

H. Dispute Resolution

Any disputes (except for those concerning audits or reviews) that arise from a charge of a violation or misinterpretation of this Agreement shall be resolved through the applicable use of established processes within labor agreements in effect at the time of the dispute.

I. Applicable Law

In the event that any condition, covenant, or provision of this MOU is held to be invalid or void by any court of competent jurisdiction, or is deemed to be contrary to the law or any covenant or condition or provision of any contract to which the City is a party, the same shall be deemed severable from the remainder of this MOU and in no way shall affect any other covenant, condition, or provision. If any

covenant, condition, or provision of this MOU is deemed to be invalid due to scope or breadth, such covenant, condition, or provision shall be deemed valid to the extent the scope or breadth is permitted by law.

J. Impacts on Staff

The parties agree that a top priority in the MWWD Bid to Goal Agreement is to optimize the System operations and, in the process of doing so, to protect the employment rights of all affected employees.

K. Successor Agreement

The parties recognize that insofar as it is in the mutual interest of the public and the parties, and that insofar that the parties will have met the terms and conditions of this and corollary service agreements, that it will be the option of the parties to negotiate a new agreement or extension of the existing agreement at the conclusion of the term of this Agreement.

This Agreement shall be effective only after the ratification of all parties listed below as evidenced by their respective signatures. This Agreement will have no force or final effect without City Council approval.


IN WITNESS WHEREOF, the undersigned agree to submit this Memorandum of Understanding to the appropriate bodies for approval and final ratification.

Date: 01/17/08

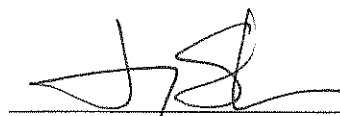
AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL
EMPLOYEES, LOCAL 127, AFL-CIO

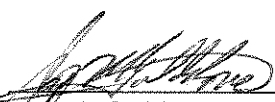

Joan Raymond, President

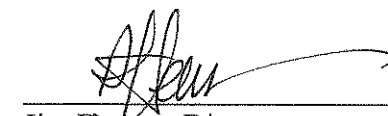

SAN DIEGO MUNICIPAL EMPLOYEES'
ASSOCIATION


Judie Italiano, General Manager

CITY OF SAN DIEGO


Jerry Sanders, Mayor, City of San Diego


Jay M. Goldstone, Chief Operating Officer,
City of San Diego


Jim Barrett, Director,
Metropolitan Wastewater Department


RESOLUTION NUMBER R- 303097

DATE OF FINAL PASSAGE NOV 08 2007

RESOLUTION OF THE CITY COUNCIL RATIFYING THE
BID TO GOAL MEMORANDUM OF UNDERSTANDING;
AND AUTHORIZING THE MAYOR TO APPROVE AND
ACCEPT THE BID OF THE METROPOLITAN WASTEWATER
DEPARTMENT'S LABOR - MANAGEMENT PARTNERSHIP.

WHEREAS, the City of San Diego has had bid to goal agreements in connection with
the operation of the City's wastewater system since 1997; and

WHEREAS, the bid to goal agreements have resulted in substantial cost savings to the
City; and

WHEREAS, the bid to goal agreements expired at the end of Fiscal Year 2007; and

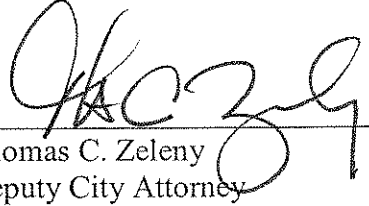
WHEREAS, the City would like to renew and expand the bid to goal agreements for the
Metropolitan Wastewater Department; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council ratifies
the Memorandum of Understanding for the Bid to Goal Public Contract Operations Agreement,
as set forth in the document, on file in the office of the City Clerk as Document Number
RR 303097 regarding the operation of the City's wastewater system.

BE IT FURTHER RESOLVED, that pursuant to the Memorandum of Understanding,
the Mayor or his designee is authorized to approve and accept a responsible and responsive
Metropolitan Wastewater Department Labor-Management Partnership Bid for the operation of
the City's wastewater system.

BE IT FURTHER RESOLVED, that this activity is not a "project" and therefore is not subject to the California Environmental Quality Act pursuant to State CEQA Guidelines section 15060(c)(3).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Thomas C. Zeleny
Deputy City Attorney

TCZ:mb
07/18/07
Aud.Cert:N/A
Or.Dept:MWWD
MWD-8000
R-2008-90

I hereby certify that the foregoing resolution was passed by the Council of the City of San Diego, at its meeting of OCT 29 2007.

ELIZABETH S. MALAND, City Clerk

By 
Deputy City Clerk

Approved: 11-8-07
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

Passed by the Council of The City of San Diego on October 29, 2007, by the following vote:

YEAS: PETERS, FAULCONER, ATKINS, YOUNG, FRYE, MADAFFER, & HUESO.
NAYS: NONE.
NOT PRESENT: MAIENSCHIN.
RECUSED: NONE.

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

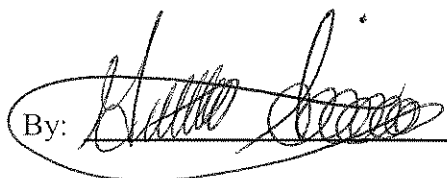
By: GIL SANCHEZ, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. R-303097, approved by the Mayor of The City of San Diego,
California on November 08, 2007.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By:  Deputy

City of San Diego Public Utilities Department

Wastewater Fund

Public Contract Operations Agreement
(FY 2008 – 2012)

*Presentation to Metro JPA
June 3, 2010*



Action Requested

Support for the Amended Wastewater Fund
Public Contract Operations Agreement (MOU)

Salient Features

- Based on FY 2008 MWWD Contract Ratified November 8, 2007 and Signed by Parties on January 17, 2008.
- Bid must be Superior to Private Market Proposal.
- Program Administration Paid for out of Employee Savings.
- Bids Adjusted Downward in Amount of Prior Year Incentive Awards.
- Incentive Awards More Difficult to Earn.

Gainsharing Goals Are More

- Quantifiable
- Challenging
- Relevant
- Auditable

Performance Audit Found FY 2010 Goals to be, “More specific...and include more robust information on the relevance and justification, making them more measurable than goals in the previous two years.”

Program Controls Overhauled

- All 14 Performance Audit Recommendations Implemented.
- Policies and Procedures Manual Issued. Training Completed.
- New Processes in Place.
- Identified Areas for Internal Audit.
- Increased Scope of External Auditor.

Program Future

- Department Consolidation Studies Continuing. More Savings Expected.
- Participative Employee Culture Continues to Improve.
- Program Assists in Achieving Reduced Routine Operational Costs While Improving Service.
- Good for Ratepayers. Good for Employees.

Action Requested

Support for Amended Wastewater Fund
Public Contract Operations Agreement (MOU)

Questions



Agenda Item 11

Organization Letterhead

<date>

Assemblymember Jared Huffman
State Capitol, Room 3120
Sacramento, CA 95814
Fax: (916) 319-2106

RE: AB 2256 – Support

Dear Mr. Huffman:

On behalf of *<name of organization>*, I am writing to support AB 2256, which will clarify when a consumer product may be labeled as ‘flushable’ in order to prevent products from being flushed that cause sewage clogs and costly sanitation agency repairs.

Over recent years an increasingly diverse range of disposable products has become available for consumer use. The growth of the markets for such products is evidence of their popularity with the public, but their increased use brings with it discussion about their disposal, especially the topic of flushability.

However, there currently is no state or federal law, consistent or widely accepted definition of what constitutes a ‘flushable’ consumer product. As a result, manufacturers have used their own definitions and methods to determine the flushability of their products. For consumers and sewage utilities, this means there has been no single reference from which to assess the flushability of products.

This lack of consistency can lead to confusion in the market place and a lack of clarity about when it is appropriate for products to be disposed of via the wastewater system. Where such confusion exists, there is a higher risk that poorly flushable products are flushed down the toilet, which has lead to costly problems for homeowners and wastewater treatment operators and increased risk of sewage overflows in some circumstances.

To prevent non-dispersable or poorly dispersable products from entering sewer systems and potentially causing overflows, AB 2256 will clarify what can be marketed as flushable in order to assist manufacturers when labeling consumer products, and enable consumers to identify which products are safe to dispose via the plumbing system.

Thank you for authoring this important legislation.

Sincerely,

Name/Organization

Agenda Item 13

**MetroTAC
2009/2010 Work Plan**

MetroTAC Items	Description	Subcommittee Member(s)
State WDRs & WDR Communications Plan COMPLETED	The Waste Discharge Requirements (WDRs), a statewide requirement that became effective on May 2, 2006, requires all owners of a sewer collection system to prepare a Sewer System Management Plan (SSMP). Agencies' plans have been created. We will continue to work to meet state requirements, taking the opportunity to work together to create efficiencies in producing public outreach literature and implementing public programs.	Dennis Davies Patrick Lund
Lateral Issues	Sewer laterals are owned by the property owners they serve, yet laterals often allow infiltration and roots to the main lines causing maintenance issues. As this is a common problem among PAs, the MetroTAC will gather statistics from national studies and develop solutions.	Tom Howard Joe Smith
Secondary Waiver	The City of San Diego received approval from the Coastal Commission and now the Waiver is being processed by the EPA. The new 5 year waiver to operate the Point Loma Wastewater Treatment Plant at advanced primary should go into affect soon.	Scott Huth
IPR Pilot Program(s)	San Diego is evaluating proposals for the design/build/operate project for the Indirect Potable Reuse (IPR) pilot program to replenish potable water sources with reclaimed water. The MetroTAC will monitor and participate in the process as it moves forward.	Neal Brown
Fiscal Items	The Finance committee will continue to monitor and report on the financial issues affecting the Metro System and the charges to the PAs. The debt finance and reserve coverage issues have been resolved. Refunds totaling \$12.3 million were sent to most of the PA's. The recycled water credits issue will be taken up starting in June 2010.	Greg Humora Scott Huth Karyn Keese
Debt Reserve and Operating Reserve Discussion COMPLETED	In March 2010, the JPA approved recommendations developed by Metro JPA Finance Committee, MetroTAC, and the City of San Diego regarding how the PA's will fund the operating reserve and debt financing. MetroTAC has prepared a policy document to memorialize this agreement. Project complete: 4/10	Scott Huth Karyn Keese
Water Reduction - Impacts on Sewer Rates	The MetroTAC wants to evaluate the possible impact to sewer rates and options as water use goes down, and consequently the sewer flows go down, reducing sewer revenues. Sewer strengths are also increasing because of less water to dilute the waste. We are currently monitoring the effects of this.	David Scherer Manny Magaña Karyn Keese
"No Drugs Down the Drain"	The state has initiated a program to reduce pharmaceuticals entering the wastewater flows. To date there have been a number of collection events within the region. The MetroTAC, working in association with the Southern California Alliance of Publicly-owned Treatment Works (SCAP), will continue to monitor proposed legislation and develop educational tools to be used to further reduce the amount of drugs disposed of into the sanitary sewer system.	Greg Humora
Flushable Items that do not Degrade	Several PAs have problems with flushable products, such as personal wipes, that do not degrade and cause blockages. MetroTAC is investigating solutions by other agencies, and a public affairs campaign to raise awareness of the problems caused by flushable products. We are also working with SCAP in their efforts to help formulate state legislation to require manufacturers of products to meet certain criteria prior to labeling them as "flushable." Follow AB2256 and offer support.	David Scherer Dean Gipson

MetroTAC Items	Description	Subcommittee Member(s)
Grease Recycling	To reduce fats, oils, and grease (FOG) in the sewer systems, more and more restaurants are being required to collect and dispose of cooking grease. Companies exist that will collect the grease and turn it into energy. MetroTAC is exploring if a regional facility offers cost savings for the PAs. The PAs are also sharing information amongst each other for use in our individual programs.	David Scherer Dean Gipson
"Power Tariff"	Power companies are moving to a peak demand pricing scheme which negatively impacts PAs with pump stations and other high energy uses. MetroTAC wants to evaluate the new legislation and regulations, and to identify and implement cost savings efforts for the PAs.	Tom Howard Paula de Sousa
Recycled Water Study	As part of the secondary waiver process, San Diego agreed to perform a recycled water study within the Metro service area. That study is currently underway, and MetroTAC has representatives participating in the working groups. We will monitor progress and provide feedback as it relates to our individual agencies.	Scott Huth Neal Brown Dean Gipson
Recycled Water Rate Study	San Diego is working on a rate study for pricing recycled water from the South Bay plant and the North City plant. MetroTAC, in addition to individual PAs, have been engaged in this process and have provided comments on drafts San Diego has produced. We are currently waiting for San Diego to promulgate a new draft which addresses the changes we have requested.	Karyn Keese
Metro JPA Strategic Initiatives	MetroTAC to develop success measures for the JPA strategic initiatives and suggest a schedule to complete certain items	Scott Huth Dan Brogadir Dean Gipson
Board Members' Items		
Rate Case Items	San Diego is starting the process for their next five-year rate case. As part of that process, MetroTAC and the Finance Committee will be monitoring the City's proposals as we move forward.	
Schedule E	MetroTAC and the Finance Committee are active and will monitor this process. Individual items related to Schedule E will come directly to the Board as they develop.	
Future bonding	MetroTAC and the Finance Committee are active and will monitor this process. Individual items related to bonding efforts will come directly to the Board as they develop.	
Changes in water legislation	MetroTAC 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	
Ocean Maps from Scripps	Schedule a presentation on the Sea Level Rise research by either Dr. Emily Young, San Diego Foundation, or Karen Goodrich, Tijuana River National Estuarine Research Reserve	COMPLETED
Role of Metro JPA regarding Recycled Water	As plans for water reuse unfold and projects are identified, Metro JPA's role must be defined with respect to water reuse and impacts to the various regional sewer treatment and conveyance facilities	
Border Region	Impacts of sewer treatment and disposal along the international border should be monitored and reported to the Board. These issues would directly affect the South Bay plants on both sides of the border.	

Agenda Item 16a



**Metro JPA Finance Committee
April 28, 2010
Minutes**

Meeting called to order: 8:59 a.m. at Best Best & Krieger LLP, 655 West Broadway, 15th Floor, and San Diego, California by Committee Chairman Ovrom.

1. Roll Call

Attendees:

Al Ovrom, Committee Chairman, Metro Wastewater JPA Finance Committee
Merrilee Boyack, Committee Member
Augie Caires, Committee Member
Alejandra Sotelo-Solis, Committee Member

Support Staff:

Doug Wilson, Metro JPA Treasurer
Karyn Keese, PBS&J
Paula de Sousa, BBK

City of San Diego Staff:

Jeanne Cole, City of San Diego Public Utilities Interim Program Manager
Peggy Merino, City of San Diego
Edgar Patino, City of San Diego

General Public:

Miyuki Freeman, Macias, Gini, and O'Connell

2. Public Comment

There was no public comment.

3. Approval of Minutes from the February 24, 2010 Finance Committee Meeting

Upon motion by Committee Member Boyack, seconded by Committee Member Sotelo-Solis, the February 24, 2010 Regular Meeting Minutes were approved.

4. Approval of Operations Reserve Policy of the Metro Wastewater JPA

Metro JPA Treasurer Doug Wilson presented a revised draft policy to the Committee (a copy is attached to these minutes). The draft policy summarizes the Metro JPA's historical operating results as well as the proposed operating reserve-target maximum cash balances. Treasurer Wilson emphasized that the goal of this policy is to stabilize the annual member contributions for support of the JPA. He requested the Finance Committee approve the target cash balance of 4 months of operating cash.

ACTION: Motion by Committee Member Boyack, seconded by Committee Member Caires that the Metro JPA adopt a formal policy of maintaining a target cash balance of 4 months worth of operating cash based on each year's adopted operating budget. Motion carried unanimously.

5. Review and Approval of 2008 Exhibit E Audit

Miyuki Freeman from Macias Gini & O'Connell (MGO), the City of San Diego's external auditor, reviewed the "Independent Auditor's Report on Schedule of Allocation for Billing to Metropolitan System " and its companion report "Report to Management " for the fiscal year ended June 30, 2008 in detail for the Committee. Committee Chairman Ovrom commented that the number of errors in the cash disbursements and income credits as reported on Page 2 of the "Report to Management" had increased substantially over 2007 and was concerned about that trend. He asked if additional testing above the current level was warranted. Ms. Freeman noted that while the number is higher that the dollar amount is not material. The Committee discussed whether testing should be expanded and decided that if the auditors or the PAs representatives felt additional testing should be required if something material does arise they will leave it to them to decide the nature of the additional tests. The Committee also requested that when the audit report is sent forward to the Commission/JPA that a list of the findings should be attached.

ACTION: Motion by Committee Member Caires, seconded by Committee Member Boyack that the Committee accept the 2008 audit and move it forward to the Commission/JPA for review and action.

6. Review of Status of 2009 Exhibit E

Karyn Keese reviewed the 2008 audit schedule that was attached to the agenda. She stated that several additional items had been completed since the schedule was last updated including the completion of the initial sample review by Doug Wilson and her. She also noted that the initial review appeared to be producing less potential findings than the 2008 audit and that the MJO auditors had caught several of the findings. She also complimented the City of the thorough preparation of backup for each of the samples. Miyuki Freeman explained that although the anticipated completion date had slipped by one week that they are on target to finish the audit by June 30, 2010.

7. Report on San Diego Debt Refunding and Rating Agency Conference Calls

Jeanne Cole reported that on April 6, 2010 the Senior Sewer Revenue Refunding Bonds, Series 2010 A (the 2010A Bonds) were successfully priced for the Public Facilities Financing Authority of the City of San Diego. This financing is the third and final of the 2009 Wastewater System refinancing. With a

par issue size of \$161.9 million, the 2010A Bonds were priced at an average coupon rate of 5.25% and an all-in true interest cost savings of 4.71% higher than the City Council authorized target savings level of 3.0%.

The 2010A Bonds are rated A2/A+/AA- (Moody's/S&P/Fitch). Approximately \$411 million in total orders were placed with most of the maturities oversubscribed resulting in a lower interest rate than originally anticipated.

Below is a summary of the refunding results:

- Gross cumulative savings of \$25.6 million (approximately \$7.68 million for the PAs)
- Average annual debt service savings for Fiscal Year 2011 through 2024 – approximately \$514,000 (\$154,200 PAs) and for Fiscal Years 2024 through 2029 – approximately \$3.1 million (\$930,000 PAs).

In addition Ms. Cole reported that the bond rating agencies are in the process of recalibrating their ratings to make Municipalities online with corporate ratings. Fitch and Moody's have recalibrated San Diego Wastewater as follows:

Fitch – AA
Moody's AA3

These recalibrations were done after the 2010A Bonds but bode well for the future. The City has not heard from Standard & Poor's but will let the Finance Committee know when they receive word. Ms. Cole provided the Finance Committee with a spreadsheet showing what the current annual wastewater debt service is after the three refunding. She will email an excel version as well as the formal ratings from the three agencies. A copy of the formal ratings is attached to these minutes. She also reported that the City was actively pursuing State Revolving (SRF) Low Interest Loans for many of the current capital projects because of their excellent interest rates. An example of this is \$10 million for the Metro Biosolids Center CIP. She will provide a full list of all the Metro SRF Loans.

8. Final Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies

Ms. Keese reported that the protocol has been signed by Rod Greek of Public Utilities and Scott Huth from MetroTAC. It still needs to be signed by Chairman Ewin on behalf of the Metro Commission/JPA. Ms. Keese also asked when the PAs will be receiving their refund checks from 2008. Edgar Patino stated that he has been in contact with the City's Financial Management staff on a daily basis and it appears the checks will be mailed by Mid-May.

9. Contract Status Report PBS&J

Ms. Keese provided the Committee with an update to the PBS&J contract. As discussed at mid-year with the Finance Committee, MetroTAC, and discussed at the Metro JPA at its February 2010 meeting PBS&J's level of effort this year has been much greater than anticipated when the budget estimate was prepared last year. As of April 25, 2010, PBS&J has exceeded their approved contract amount by \$400 and requested the Finance Committee's consideration for a contract amendment to cover their work efforts through June 30, 2010 in the amount of \$15,300.

As was discussed in February the single largest contributor to their contract overrun is the work performed on all of the issues surrounding reclaimed water and in particular the contractual issues regarding the credit due to the participating agencies for sales of reclaimed water at the South Bay WRP. Matters surrounding these issues have been discussed with the JPA in closed sessions.

The Finance Committee supported moving PBS&J's contract amendment to the Metro JPA for consideration at its May 2010 meeting.

10. Review of Items to be Brought Forward to the Metro Commission/Metro JPA

The Finance Committee recommended that items 3, 4, 5, 6, and 9 should be moved forward to the May 2010 Metro Commission/JPA meeting.

11. Other Business of the Finance Committee

There was no other business of the Finance Committee discussed.

12. Adjournment

The meeting was adjourned at 9:52 a.m. The next regularly scheduled meeting of the Finance Committee will be May 26, 2010 at the PBS&J San Diego Office.
