

# History of Regional Wastewater Disposal Agreement

Metro Wastewater JPA

PRESENTED BY

Paula de Sousa Mills

General Counsel, Metro Wastewater JPA  
Partner, Best Best & Krieger LLP

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## History of Regional Wastewater Disposal Agreement

- What led up to the Regional Wastewater Disposal Agreement (“Regional Agreement”):
  - A whole lot:
    - The Participating Agencies (“PAs”) contracted with the City of San Diego for treatment and disposal through the Metro System but the PAs did not have:
      - A voice or role in governance
      - The ability to provide input on or undertake review of operations
      - The opportunity to undertake financial review
        - though the PAs paid 1/3 of the cost

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## History of Regional Wastewater Disposal Agreement

- What led up to the Regional Agreement (cont.)
  - The PAs also did not have:
    - The ability to provide input on or undertake review of the \$2.5 Billion CIP
    - Confidence on accuracy of cost allocation between Muni and Metro
    - Any guaranteed share of new capacity



## Special Act District

- In the early 1990's there was a shift
  - The San Diego Wastewater Management District (aka "Special Act District") was formed:
    - SB 1225 (1992), effective January 1, 1993
    - All PAs plus the City of San Diego were included
    - Governed by a 19 member board
    - Was intended to serve as a regional entity to possibly take over the ownership and operation of the Metro System



## Special Act District

- A draft agreement was prepared, negotiated and debated
- Due to policy disagreements, the Special Act District Board concluded that it was not a viable entity to own and operate the Metro System
- Several member agencies withdrew:
  - City of San Diego
  - City of Chula Vista
  - City of El Cajon
  - City of La Mesa
  - County of San Diego



## AFFORD

- Breakdown of Special Act District led to formation of “AFFORD”
  - Agencies for Fair & Objective Rate Determination
    - This was at a time where the PAs and City of San Diego were not communicating
    - Some PAs refused to pay their bills
    - AFFORD was getting ready to initiate litigation against the City of San Diego
      - “Cooler Heads Prevailed”
      - Resulted in “Principals of Understanding”



## AFFORD Principles of Understanding

- “AFFORD” Leads to New Regional Wastewater Disposal Agreement (“Regional Agreement”)
  - Based on negotiated “Principles of Understanding”
    - Principle #1: Establishment of “Metro Commission”
    - Principle #2: PAs pay fair share based on flow for entire Metro System
    - Principle #3: City of SD would consider re-purchase of excess PA capacity and permit transfer of capacity
    - Principle #4: City of SD and PAs will continue to pursue legislative and regulatory remedies to minimize the cost of operation of the Metro System while meeting science based prudent ocean discharge requirements



## AFFORD Principles of Understanding

- Principle #4: City of SD and PAs will continue to pursue legislative and regulatory remedies to minimize the cost of operation of the Metro System while meeting science based prudent ocean discharge requirements
- Principle #5: City of SD and PAs agree that an additional 15 mgd of reclaimed water capacity is required by the Ocean Pollution Reduction Act of 1994 (“OPRA”)
- Principle #7: City of SD agrees not to move forward with South Bay Water Reclamation Plant and related facilities until a joint engineering study is completed



## AFFORD Principles of Understanding

- Principle #9: PAs will share in CIP and O&M costs for primary and secondary treatment at North City Reclamation Plant
- Principle #10 and #11: PAs will not pay for City of SD right-of-way charges and the City of SD will stabilize Metro invoicing, establishing a quarterly billing process
- Principle #12: City of SD would rebate penalty fees charged to PAs due to billing dispute
- Principle #13: Negotiation of new long-term uniform sewage disposal agreement(s)



## Regional Agreement

- Principles of Understanding Memorialized in the New Regional Agreement
  - Key Terms of Regional Agreement:
    - Effective on May 18, 1998
    - Terminates on December 31, 2050
      - PAs and City of SD to start discussions on new agreement starting on December 31, 2040
      - PAs' Contract Capacity Rights survive termination of the Agreement
      - City of SD may abandon the Metro System after December 31, 2050 with 10 years advance notice to the PAs



## Key Terms of Regional Agreement

- Metro Commission was established
- Right to provide input on:
  - Master Planning
  - CIP
  - Annual budget
  - Right to Audit
- Distinguished Metro from Muni Systems



## Key Terms of Regional Agreement

- PAs own capacity in Metro System
  - May purchase more capacity (if approved by City of SD, and if no imbalance results)
  - May transfer capacity to another PA (if approved by the City of SD and if no imbalance)
- PAs pay for Metro System Facilities
- PAs also pay for O&M
  - Exceptions related to North City Water Reclamation Plant



## Key Terms of Regional Agreement

- Charges based in Strength and Flow
  - Monitored by City of SD
    - Frequency and nature of monitoring of strength the same for PAs and City of SD
    - City of SD must provide its plans for monitoring to the PAs for review and comment prior to implementing



## Key Terms of Regional Agreement

- System of Charges
  - Sewer System Charge (SSC)
    - Metro System Costs – Revenues
  - Existing Capacity Charge (ECC)
    - Established in Exhibit "C"
  - New Contract Capacity Charge (NCCC)
    - Cost of the New Capacity



## Key Terms of Regional Agreement

- Sewer System Charge (SSC)
  - Metro System Costs less Revenues
    - Metro System Costs
      - Unless a listed “excluded cost” costs associated with administration, operation, maintenance, replacement, annual debt service costs and other periodic financing costs and charges, capital improvement, insurance premiums, claims payments and claims administration costs of the Metro System, including projected overhead
      - Fines or penalties imposed on the City of SD as a result of the operation of the Metro System, unless the fine/penalty is allocated to the City of SD or a PA
      - Costs incurred by the City of SD, including attorneys' fees, necessary to implement the terms of the Agreement



## Key Terms of Regional Agreement

- Sewer System Charge (SSC)
  - Metro System Costs less Revenues
    - Costs Excluded from “Metro System Costs”
      - Muni System Costs
      - Costs for treating Non-PA sewage
      - Costs related to the City of SD’s inspection and monitoring program for the industrial dischargers
      - Right-of-way charges for the use of public streets of the City of SD or any PA
      - Capital Improvement Costs of any non-Metro System facility
      - Capital Improvement Costs for which an New Contract Capacity Charge is paid
      - Excluded Operation and Maintenance Cost for NCWRP





## Key Terms of Regional Agreement

- Sewer System Charge (SSC)
  - Metro System Costs less Revenues
    - Metro System Revenues
      - Any grant or loan receipts or receipts that are attributable to the Metro System, including all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System
      - All revenue from the sale, conveyance or transfer of any Metro System by-products, including, but not limited to gas, electrical energy, sludge products, and Reclaimed Water excepting therefrom any receipts related to sale of Reclaimed Water from NCWRP
      - Any portion of a New Contract Capacity Charge that constitutes reimbursement of costs previously paid for by the City and PAs
      - Penalties for discharge beyond Contract Capacity

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## Key Terms of Regional Agreement

- Sewer System Charge (SSC)
  - Metro System Costs less Revenues
    - Revenues Excluded from Metro System Revenues  
Include:
      - Capital Improvement Costs for which New Contract Capacity Charge is Paid
      - Proceeds from the issuance of debt for Metro system projects
      - Proceeds from the sale of Reclaimed Water used to pay for the Reclaimed Water Distribution System

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## Key Terms of Regional Agreement

- Sewer System Charge (SSC)
  - The unit SSC rate determined by allocating costs (Metro Costs less Metro System Revenues) between parameters of:
    - Flow
    - Strength
      - COD-Chemical Oxygen Demand
      - SS-Suspended Solids

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**QUESTIONS?**

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