



City of Lemon Grove
City Council Regular Meeting Agenda
Tuesday, October 2, 2018, 6:00 p.m.

Lemon Grove Community Center
3146 School Lane, Lemon Grove, CA

The City Council also sits as the Lemon Grove Housing Authority, Lemon Grove Sanitation District Board, Lemon Grove Roadway Lighting District Board, and Lemon Grove Successor Agency

Call to Order:

Pledge of Allegiance:

Changes to the Agenda:

Presentation:

- Fire Prevention Week Proclamation
- Fire Department – Open House
- Sheriff – Reserve Senior Volunteer Patrol & You Are Not Alone Program Presentation

Public Comment:

(Note: In accordance with State Law, the general public may bring forward an item not scheduled on the agenda; however, the City Council may not take any action at this meeting. If appropriate, the item will be referred to staff or placed on a future agenda.)

1. Consent Calendar:

(Note: The items listed on the Consent Calendar will be enacted in one motion unless removed from the Consent Calendar by Council, staff, or the public.)

A. Waive Full Text Reading of All Ordinances on the Agenda

Reference: Jim Lough, City Attorney

Recommendation: Waive the full text reading of all ordinances included in this agenda; Ordinances shall be introduced and adopted by title only.

B. City of Lemon Grove Payment Demands

Reference: Molly Brennan, Finance Director

Recommendation: Ratify Demands

C. Approval of Meeting Minutes

Regular Meeting

September 18, 2018

Reference: Shelley Chapel, City Clerk

Recommendation: Approve Minutes

D. Authorize Transfer of Escheat Monies

Reference: Molly Brennan, Finance Director

Recommendation: Escheat \$1,299.44 of unclaimed monies and authorize a transfer to the Funds upon which the original checks were drawn.

E. Authorize Rejection of Claim

Reference: Mike James, Assistant City Manager / Public Works Director

Recommendation: Reject claim submitted by Maxim Laufer.

F. Resolution Repealing Resolution Number 2018-3603

Reference: Lydia Romero, City Manager

Recommendation: Adopt Resolution Repealing Resolution Number 2018-3603.

2. Report:

Amended and Restated Wastewater Disposal Agreement (*Sanitation District*)

The City Council will provide the District Board with information to decide on whether or not to approve an amended and restated wastewater disposal agreement between the City of San Diego and Lemon Grove Sanitation District. .

Reference: Mike James, Assistant City Manager / Public Works Director

Recommendation: Adopt Resolution Approving the Amended and Restated Wastewater Disposal Agreement, Provide Direction to the Metro Commission / Metro JPA Representative to Support the Agreement, and Authorize the Chair to Sign the Agreement.

3. City Council Oral Comments and Reports on Meetings Attended at the Expense of the City:
(GC 53232.3 (d)) (53232.3.(d) states that members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.)

4. City Manager and Department Director Reports: (*Non-Action Items*)

5. Closed Session:

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Government Code Section 54956.9 d

Number of potential cases: 1

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9

Adjournment:

In compliance with the Americans with Disabilities Act (ADA), the City of Lemon Grove will provide special accommodations for persons who require assistance to access, attend and/or participate in meetings of the City Council. If you require such assistance, please contact the City Clerk at (619) 825-3800 or email schapel@lemongrove.ca.gov. A full agenda packet is available for public review at City Hall.

AFFIDAVIT OF NOTIFICATION AND POSTING

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) SS
CITY OF LEMON GROVE)

I, Shelley Chapel, MMC, City Clerk of the City of Lemon Grove, hereby declare under penalty of perjury that a copy of the above Agenda of the Regular Meeting of the City Council of the City of Lemon Grove, California, was delivered and/or notice by email not less than 72 hours before the hour of 5:30 p.m. on September 27, 2018, to the members of the governing agency, and caused the agenda to be posted on the City's website at www.lemongrove.ca.gov and at Lemon Grove City Hall, 3232 Main Street Lemon Grove, CA 91945.

/s/: Shelley Chapel

Shelley Chapel, MMC, City Clerk

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.A
Dept. City Attorney

Item Title: Waive Full Text Reading of All Ordinances on the Agenda.

Staff Contact: James P. Lough, City Attorney

Recommendation:

Waive the full text reading of all ordinances included in this agenda. Ordinances shall be introduced and adopted by title only.

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

None.

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.B
Dept. Finance

Item Title: City of Lemon Grove Payment Demands

Staff Contact: Molly Brennan, Finance Manager

Recommendation:

Ratify Demands

Fiscal Impact:

None.

Environmental Review:

Not subject to review

Categorical Exemption, Section

Negative Declaration

Mitigated Negative Declaration

Public Information:

None

Newsletter article

Notice to property owners within 300 ft.

Notice published in local newspaper

Neighborhood meeting

Attachments:

None.

City of Lemon Grove Demands Summary

Approved as Submitted:

Molly Brennan, Finance Manager

For Council Meeting: 10/02/18

ACH/AP Checks 09/11/18-09/24/18

906,481.22

Payroll - 09/11/18

141,330.86

Total Demands

1,047,812.08

| CHECK NO | INVOICE NO | VENDOR NAME | CHECK DATE | Description | INVOICE AMOUNT | CHECK AMOUNT |
|----------|---|--|------------|---|--|--------------|
| ACH | Aug18 | Home Depot Credit Services | 09/11/2018 | Home Depot Purchases - Aug'18 | 2,684.39 | 2,684.39 |
| ACH | 4154920380 3568860625 | SDG&E | 09/11/2018 | Electric Usage:St Light 7/31/18-8/31/18 Electric Usage:St Light 7/31/18-8/31/18 | 1,879.92 1,286.23 | 3,166.15 |
| ACH | Aug18 | Wells Fargo Bank | 09/11/2018 | Bank Service Charge - Aug'18 | 707.35 | 707.35 |
| ACH | 8639131 | LEAF | 09/11/2018 | Ricoh C3502 Copier System-PW Yard - Aug'18 | 160.51 | 160.51 |
| ACH | 1015402874 | California Public Empl Retirement System | 09/12/2018 | Fees for GASB-68 Reports & Schedules | 1,750.00 | 1,750.00 |
| ACH | Aug29-Sep11 18 | Calpers Supplemental Income 457 Plan | 09/12/2018 | 457 Plan 8/29/18-9/11/18 | 7,929.95 | 7,929.95 |
| ACH | Sep11 18 | Employment Development Department | 09/13/2018 | State Taxes 9/11/18 | 8,882.98 | 8,882.98 |
| ACH | Aug18 Aug18 | Wells Fargo Bank | 09/13/2018 | Credit Card Processing-Mo.Svc Charge - Aug'18 Credit Card Transaction Fees- Aug'18 | 9.95 779.98 | 789.93 |
| ACH | Sep11 18 | US Treasury | 09/18/2018 | Federal Taxes 9/11/18 | 27,837.95 | 27,837.95 |
| ACH | Refill 9/20/18 | Pitney Bowes Global Financial Services LLC | 09/24/2018 | Postage Usage 9/20/18 | 250.00 | 250.00 |
| 10156 | C6826 | A-Pot Rentals, Inc. | 09/12/2018 | Portable Restroom Rental- 8/9/18-9/8/18 | 132.10 | 132.10 |
| 10157 | 76866 | Anthem Blue Cross EAP | 09/12/2018 | Employee Assistance Program - Sep 18 | 129.80 | 129.80 |
| 10158 | 4724184 | Bearcom | 09/12/2018 | Portable Radios Monthly Contract 8/22/18-9/21/18 | 150.00 | 150.00 |
| 10159 | 886479-9 886793-9 888541-9 888750-9 | BJ's Rentals | 09/12/2018 | Propane Propane Propane Auger Rental - Install Park Signs/Berry St Park | 16.97 13.05 16.97 83.82 | 130.81 |
| 10160 | 9/11/18 | California State Disbursement Unit | 09/12/2018 | Wage Withholding Pay Period Ending 9/11/18 | 161.53 | 161.53 |
| 10161 | 4026847808 | Canon Solutions America, Inc. | 09/12/2018 | Canon Maintenance-Copier Usage 5/27/18-8/26/18 | 58.58 | 58.58 |
| 10162 | 1900215542 4008289779 4008524114 4008770082 4009255822 4009255869 4009493279 694514418 | Cintas Corporation #694 | 09/12/2018 | Janitorial Supplies - 7/24/18 Janitorial Supplies - Fire - 8/2/18 Janitorial Supplies - 8/9/18 Janitorial Supplies - 8/16/18 Janitorial Supplies - Fire - 8/30/18 Janitorial Supplies - 8/30/18 Janitorial Supplies - 9/6/18 Janitorial Supplies - Fire - 7/5/18 | 991.08 258.97 230.97 592.81 443.18 1,600.63 231.10 356.05 | 4,704.79 |
| 10163 | 682 | City of Chula Vista | 09/12/2018 | Animal Control Services- Jun '18 | 16,923.00 | 16,923.00 |
| 10164 | 1821 | Clark Telecom & Electric Inc. | 09/12/2018 | Street Light Dig Alert Mark Outs - Jul '18 | 103.44 | 103.44 |
| 10165 | 81913985 | Corelogic Solutions, LLC. | 09/12/2018 | RealQuest Graphics Package - Aug'18 | 300.00 | 300.00 |
| 10166 | 8/19/2018 9/1/2018 9/1/2018 8/17/2018 | Cox Communications | 09/12/2018 | Phone/PW Yard/2873 Skyline- 8/19/18-9/18/18 Main Phone/Fire- 9/1/18-9/30/18 Phone/City Hall- 9/1/18-9/30/18 City Manager/Copy Room Fax Line- 8/18/18-9/17/18 | 211.81 468.75 974.00 3.45 | 1,658.01 |
| 10167 | 0718.17.1051 | Dexter Wilson Engineering, Inc. | 09/12/2018 | Metro JPA Wastewater Issues - Jul'18 | 16,727.50 | 16,727.50 |

| CHECK NO | INVOICE NO | VENDOR NAME | CHECK DATE | Description | INVOICE AMOUNT | CHECK AMOUNT |
|----------|--|--|------------|--|--|--------------|
| 10168 | 447300971 | EAN Services, LLC | 09/12/2018 | Car Rental- Lion Fire- 6/24/18-7/7/18 Wrisley | 783.15 | 783.15 |
| 10169 | 8/27-30/18 | Esgil Corporation | 09/12/2018 | 75% Building Fees- 8/27/18-8/30/18 | 3,423.19 | 3,423.19 |
| 10170 | 416545 | EW Truck & Equipment Company, Inc. | 09/12/2018 | PW/Supplies | 2.76 | 90.86 |
| | 417481 | | | LED Signal - LGPW#29 | 88.10 | |
| 10171 | 9/11/18 | Franchise Tax Board | 09/12/2018 | Wage Withholding Pay Period Ending 9/11/18 | 745.66 | 745.66 |
| 10172 | 109520405 | Globalstar USA, Inc. | 09/12/2018 | Satellite Service 6/16/18-7/15/18 | 165.31 | 165.31 |
| 10173 | 90418-01 | Heartland Fire Training Facility | 09/12/2018 | Registration - Rescue Sys II- 9/4/18 Duenez | 1,000.00 | 1,000.00 |
| 10174 | 00054486 00055289 | Hudson Safe-T- Lite Rentals | 09/12/2018 | 10' Square Posts/Anchors/Sleeves 4 5-Gallon Red Traffic Paint | 779.40 428.67 | 1,208.07 |
| 10175 | 18-4446 | I love a Clean San Diego | 09/12/2018 | ILACSD Recycling Educ Community Outreach Events thru 7/31/18 | 2,750.00 | 2,750.00 |
| 10176 | Sep11 18 | ICMA | 09/12/2018 | ICMA Deferred Compensation Pay Period Ending 9/11/18 | 580.77 | 580.77 |
| 10177 | 2296 | La Prensa San Diego | 09/12/2018 | Election Notice in Spanish 8/31/18 | 155.00 | 155.00 |
| 10178 | INV22551 | Logiccopy | 09/12/2018 | Ricoh C3502 Copier Contract Charge- PW Yard - 9/7/18-10/6/18 | 51.58 | 51.58 |
| 10179 | IN1259747 | Municipal Emergency Services Inc. | 09/12/2018 | SCBA Repair/Regulators | 885.11 | 885.11 |
| 10180 | NEX18-179-1 NEX18-179-1 | NexTech Systems, Inc. | 09/12/2018 | Replace Pedestrian Crossing RRFB unit at Golden Ave & School Lane Shipping | 4,945.65 372.15 | 5,317.80 |
| 10181 | 8461 | Nguoi Viet Today News | 09/12/2018 | Election Notice in Vietnamese 8/31/18 | 30.00 | 30.00 |
| 10182 | 605033007 | Nichols Consulting Engineers, CHTD | 09/12/2018 | Prof Svc: Pavement Mgmt Program 2018 Update thru 7/31/18 | 1,005.00 | 1,005.00 |
| 10183 | 76024 81533 | Penske Ford | 09/12/2018 | LGPW #07-'14 Ford Patch Truck F450-Service/Stalling/Erratic Idle LGPW #01-'12 Ford F350 Dump Truck- Oil Change/Filter | 130.00 60.96 | 190.96 |
| 10184 | 3102401699 | Pitney Bowes Global Financial Services LLC | 09/12/2018 | Postage Meter Rental 6/30/18-9/29/18 | 180.75 | 180.75 |
| 10185 | Racic | Racic, Aileen | 09/12/2018 | Refund/Racic, Aileen/Partial Fac Rental/Comm Ctr 9/26/18 | 200.00 | 200.00 |
| 10186 | Jul-Dec 18 | San Diego County Sheriff's Department | 09/12/2018 | Cal-ID Program Costs 7/1/18-12/31/18 | 3,601.00 | 3,601.00 |
| 10187 | 3601 1/2LGA-8/2 Aug18 | SDG&E | 09/12/2018 | 3601 1/2 LGA- Gas & Electric 7/19/18-8/19/18 Gas & Electric 7/20/18-8/20/18 | 37.07 27,466.86 | 27,503.93 |
| 10188 | 8125509170 | Shred-It USA | 09/12/2018 | Shredding Services 8/21/18 & 8/28/18 | 649.45 | 649.45 |
| 10189 | 8051259009 | Staples Advantage | 09/12/2018 | Office Supplies - City Hall | 137.54 | 137.54 |
| 10190 | Sep-18 | Sun Life Financial | 09/12/2018 | Life Insurance - Sep18 | 113.85 | 113.85 |
| 10191 | 00069820 | The East County Californian | 09/12/2018 | Notice of Nominees 9/6/18 | 59.50 | 59.50 |
| 10192 | 5833-18 | The Filipino Press | 09/12/2018 | Election Notice in Tagalog 9/1/18 | 50.00 | 50.00 |
| 10193 | 7601-4 | The Sherwin-Williams Co. | 09/12/2018 | Paint for Utility Boxes/LGPW#23 | 49.12 | 49.12 |
| 10194 | C35672 | Valley Power Systems Inc. | 09/12/2018 | E210 Repairs - Replace Output Speed Sensor | 453.82 | 453.82 |
| 10195 | 9812689761 9812690339 9812689762 | Verizon Wireless | 09/12/2018 | City Phone Charges- 7/13/18-8/12/18 Mobile Broadband Access- 7/13/18-8/12/18 PW Tablets- 7/13/18-8/12/18 | 321.56 76.02 188.78 | 586.36 |
| 10196 | 71876353 71923601 71929767 71931403 71934283 71937698 71937699 71944009 | Vulcan Materials Company | 09/12/2018 | Asphalt Asphalt Asphalt Asphalt Asphalt Asphalt Asphalt Asphalt | 151.82 254.18 297.82 101.39 105.27 106.24 106.24 152.79 | 1,275.75 |
| 10197 | 113-18-007 | Walters, Matthew | 09/12/2018 | Reimb:Training/Sheriff/Traffic Collision Investgn 7/16-7/20 | 215.00 | 215.00 |

| CHECK NO | INVOICE NO | VENDOR NAME | CHECK DATE | Description | INVOICE AMOUNT | CHECK AMOUNT |
|----------|--|---|------------|---|--|--------------|
| 10198 | 2016.04-025 | West Coast General Corporation | 09/12/2018 | LGA Realignment Proj- 7/1/18-7/31/18 | 642,433.40 | 642,433.40 |
| 10199 | 12703 | AAA Imaging | 09/19/2018 | Business Cards/Vasquez | 86.20 | 86.20 |
| 10200 | 11413 | AdminSure | 09/19/2018 | Workers' Compensation Claims Administration - Oct'18 | 440.42 | 440.42 |
| 10201 | 6191 6192 | Aguirre & Associates | 09/19/2018 | 8055 Golden Map Review - Aug '18 7021 Central Ave Street Dedication - Aug '18 | 690.00 275.00 | 965.00 |
| 10202 | 5656312979 | AutoZone, Inc. | 09/19/2018 | Diesel Exhaust Fluid/Windshield Washer Fluid | 30.05 | 30.05 |
| 10203 | 889854-9 | BJ's Rentals | 09/19/2018 | Auger Rental - Install Park Signs/LG Park/Civic Ctr/Kunkel Park | 137.38 | 137.38 |
| 10204 | Oct-18 | California Dental Network Inc. | 09/19/2018 | California Dental Insurance -Oct18 | 382.20 | 382.20 |
| 10205 | 19196845 | Canon Financial Services Inc. | 09/19/2018 | Canon Copier Contract Charge 9/20/18-10/19/18 | 81.35 | 81.35 |
| 10206 | 4009756732 | Cintas Corporation #694 | 09/19/2018 | Janitorial Supplies - 9/13/18 | 580.50 | 580.50 |
| 10207 | 377 424 539 | City of Chula Vista | 09/19/2018 | Animal Control Services- Apr '18 Animal Control Services- Mar '18 Animal Control Services- May '18 | 16,923.00 16,923.00 16,923.00 | 50,769.00 |
| 10208 | FRS0000116 FRS0000116 FRS0000116 FRS0000116 FRS0000116 FRS0000116 | City of El Cajon | 09/19/2018 | Overtime Reimbursement - Cameron 8/24/18 Overtime Reimbursement - Geilenfeldt 8/11/18 Overtime Reimbursement - Geilenfeldt 8/24/18 Overtime Reimbursement - Jenkins 8/24/18 Overtime Reimbursement - Paddock 8/11/18 Overtime Reimbursement - Pinson 8/12/18 | 1,168.30 1,395.47 1,395.47 1,197.49 299.38 1,197.49 | 6,653.60 |
| 10209 | 20259 | City of La Mesa | 09/19/2018 | FY17-18 Qtr 4-JPA Reconciliation- Apr-Jun 18 | 13,177.00 | 13,177.00 |
| 10210 | 36197 36476 | Colantuono, Highsmith & Whatley, | 09/19/2018 | Legal Svcs - thru Jul'18 Legal Svcs - thru Aug'18 | 0.75 87.97 | 88.72 |
| 10211 | 201800766 | County of SD/Assessor/Recorder/Clerk | 09/19/2018 | Recording Services - 8/28/18 | 95.00 | 95.00 |
| 10212 | 9/6/2018 9/6/2018 9/9/2018 8/30/2018 9/4/2018 | Cox Communications | 09/19/2018 | Calsense Modem Line:2259 Washington 9/6/18-10/5/18 Calsense Modem Line:7071 Mt Vernon 9/6/18-10/5/18 Calsense Modem Line:8235 Mt Vernon 9/9/18-10/8/18 Internet/Community Ctr- 8/30/18-9/29/18 Phone/Rec Ctr/ 3131 School Ln- 9/4/18-10/3/18 | 20.97 19.87 94.39 75.00 97.91 | 308.14 |
| 10213 | 090318560 | DAR Contractors | 09/19/2018 | Animal Disposal- Aug '18 | 162.00 | 162.00 |
| 10214 | 0818.04.1139 0818.18.1129 | Dexter Wilson Engineering, Inc. | 09/19/2018 | Eng Svc-District's Sewer System Mgmt Plan - Aug'18 Metro JPA Wastewater Issues - Aug'18 | 140.00 8,090.00 | 8,230.00 |
| 10215 | 9/4-6/18 | Esgil Corporation | 09/19/2018 | 75% Building Fees- 9/4/18-9/6/18 | 2,187.11 | 2,187.11 |
| 10216 | INV1013975 | George Hills Company | 09/19/2018 | TPA Claims- Adjusting/Other Services - Aug 18 | 1,505.00 | 1,505.00 |
| 10217 | 08/09/18 | Helix Water District | 09/19/2018 | Unmetered Water 7/1/17-6/30/18 - St Sweeping/Sewer Line Cleaning | 1,063.19 | 1,063.19 |
| 10218 | 00055636 | Hudson Safe-T- Lite Rentals | 09/19/2018 | 12x18 Hi-Intensity No Parking Signs | 194.85 | 194.85 |
| 10219 | 129637 129638 | Knott's Pest Control, Inc. | 09/19/2018 | Monthly Bait Stations- Civic Ctr - Aug18 Monthly Bait Stations- Sheriff - Aug18 | 60.00 45.00 | 105.00 |
| 10220 | 201807 | Lemon Grove Car Wash, Inc. | 09/19/2018 | Full Service Oil Change - LGPW#28 - 8/6/18 | 44.99 | 44.99 |
| 10221 | 1466147 | Liebert Cassidy Whitmore | 09/19/2018 | Prof Svcs: LE050-00004 thru 8/31/18 | 1,380.50 | 1,380.50 |
| 10222 | Aug 18 Aug 18 Aug 18 Aug 18 | Lounsbery Ferguson Altona & Peak LLP | 09/19/2018 | General 01163-00002 - Aug '18 Code Enforcement 01163-00003 - Aug '18 01163-00028 - Aug '18 01163-00041 - Aug '18 | 13,215.22 4,974.25 265.60 66.40 | 18,521.47 |
| 10223 | 112186 | Omega Industrial Supply Inc. | 09/19/2018 | Graffiti Remover/Cleaner | 465.32 | 465.32 |
| 10224 | 31531919 | RCP Block & Brick, Inc. | 09/19/2018 | Fast Setting Concrete Mix - LG Park | 50.67 | 50.67 |
| 10225 | CC-2 CC-3 CC-4 CC-5 | Smith Air Conditioning | 09/19/2018 | Service Call- AC Unit Repair/Sheriff Stn Service Call- AC Unit Repair/City Hall Server Service Call- AC Unit Repair/Fire Stn Service Call- AC Unit Repair/Fire Stn-Unit 2 | 151.50 215.00 150.50 198.00 | 715.00 |

| CHECK NO | INVOICE NO | VENDOR NAME | CHECK DATE | Description | INVOICE AMOUNT | CHECK AMOUNT |
|----------|----------------|---------------------------------|------------|---|----------------|--------------|
| 10226 | SD038201807 | The Epoch Times in San Diego | 09/19/2018 | Election Notice in Chinese 7/13/18 | 120.00 | 120.00 |
| 10227 | STMT 8/22/2018 | US Bank Corporate Payment | 09/19/2018 | Fuel- LGPW#31 | 15.00 | 2,263.09 |
| | STMT 8/22/2018 | | | Veh Repair - LGPW#19/Engine Check/Replace Hose Valve Assembly | 308.25 | |
| | STMT 8/22/2018 | | | Supplies/Insecticide/Hose Adapters/Rubber Stopper | 23.00 | |
| | STMT 8/22/2018 | | | Pipe Installation/8001 Broadway | 208.65 | |
| | STMT 8/22/2018 | | | Daycamp Fieldtrip/Aquaplex Aug18 | 692.00 | |
| | STMT 8/22/2018 | | | Locksmith | 132.24 | |
| | STMT 8/22/2018 | | | Oil- E10 | 48.46 | |
| | STMT 8/22/2018 | | | Fuel- Fire 7/26/18 | 39.71 | |
| | STMT 8/22/2018 | | | Refreshments/State of the City Address 8/8/18 | 71.12 | |
| | STMT 8/22/2018 | | | Firefighter Handbooks | 222.99 | |
| | STMT 8/22/2018 | | | Water for Crews on Fire Incidents | 27.20 | |
| | STMT 8/22/2018 | | | SoGOSQ/Membership Fee/Charge in Dispute | 65.00 | |
| | STMT 8/22/2018 | | | JPA Rec/Trng/Registration & Lodging 8/22/18-8/23/18 Drum | 375.85 | |
| | STMT 8/22/2018 | | | Dept Expense/Laptop Key & Photo Backdrop | 33.62 | |
| 10228 | 3394640-CA | US HealthWorks Medical Group,PC | 09/19/2018 | Annual DMV Medical Exam - 9/4/18 | 99.00 | 99.00 |
| 10229 | 9813947399 | Verizon Wireless | 09/19/2018 | Modems- Cardiac Monitors - 8/4/18-9/3/18 | 14.08 | 14.08 |
| 10230 | 71953521 | Vulcan Materials Company | 09/19/2018 | Asphalt | 134.69 | 134.69 |
| 10231 | 1015 | World Advancement of Technology | 09/19/2018 | Annual Support & Maint/Patient Care Reporting- 7/1/18-6/30/19 for EMS | 4,200.00 | 4,200.00 |
| | | | | | 906,481.22 | 906,481.22 |

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.C

Dept. City Manager's Office

Item Title: Approval of City Council Meeting Minutes

Staff Contact: Shelley Chapel, MMC, City Clerk

Recommendation:

Approval of City Council Meeting Minutes for Regular Meeting held September 18, 2018

Fiscal Impact:

None.

Environmental Review:

Not subject to review

Categorical Exemption, Section

Negative Declaration

Mitigated Negative Declaration

Public Information:

None

Newsletter article

Notice to property owners within 300 ft.

Notice published in local newspaper

Neighborhood meeting

Attachments:

None.

**MINUTES OF A MEETING OF
THE LEMON GROVE CITY COUNCIL
TUESDAY, SEPTEMBER 18, 2018**

*The City Council also sits as the Lemon Grove Housing Authority,
Lemon Grove Sanitation District Board, Lemon Grove Roadway Lighting District Board,
and Lemon Grove Successor Agency.*

Call To Order:

Mayor Vasquez called the Regular Meeting to order at 5:59 p.m.

Present: Mayor Racquel Vasquez, Mayor Pro Tem Jerry Jones, Councilmember Jennifer Mendoza, Councilmember David Arambula, and Councilmember Matt Mendoza.

Absent: None.

Staff Members Present:

Lydia Romero, City Manager, James Lough, City Attorney, Mike James, Assistant City Manager/Public Works Director, Daryn Drum, Fire Division Chief, Lieutenant Scott Amos, San Diego County Sheriff's Office - Lemon Grove Substation, Shelley Chapel, City Clerk, and Molly Brennan, Finance Manager.

Pledge of Allegiance:

Pledge of Allegiance to the Flag was led by Councilmember M. Mendoza.

Changes to the Agenda:

City Manager Romero stated a presentation by Senator Joel Anderson would be added to the meeting.

Presentations:

Mayor Vasquez introduced Johnathon Taylor, President of the Board of CALI Children's Academy of Learning Inclusivity who provided a PowerPoint Presentation on the program.

Mayor Vasquez introduced MTS Representative Rob Schupp, Director of Marketing and Communication who provided an overview of the MTS Free Ride Day Outreach Program. Mayor read a Proclamation recognizing Free Ride Day October 2, 2018. Lyft, Uber, Bird Scooter, and North County Services are joining MTS for the Free Ride event.

City Manager Romero introduced Senator Joel Anderson who presented Mayor Vasquez a Proclamation recognizing her as a leader in the community.

Public Comment:

Appeared to comment were: Brenda Hammond, and John L. Wood.

Consent Calendar:

- 1.A. Approval of Reading by Title all Ordinances and Waiver of Reading in full of Ordinances on the Agenda
- 1.B. Ratification of Payment of Demands
- 1.C. Approval of Meeting Minutes for the September 4, 2018 Regular Meeting.

- 1.D. Adopted Resolution No. 2018-3608, entitled, "A Resolution of the City Council of the City of Lemon Grove, California, Authorizing the Amendments to the City of Lemon Grove Conflict of Interest Code as Required by the Fair Political Practices Commission, Repealing Resolution No. 2016-3428."
- 1.E. Adopted Resolution No. 2018-3609, entitled, "A Resolution of the City Council of the City of Lemon Grove, California, Authorizing the City to Access State and Federal Level Summary Criminal History Information."
- 1.F. Adopted Resolution No. 2018-3610, entitled, "Resolution of the City Council of the City of Lemon Grove, California Opposing New Offshore Oil and Gas Drilling."

Action: Motion by Councilmember J. Mendoza, seconded by Councilmember Arambula to approve Consent Calendar Items 1.A – 1.F Item 1.G was pulled and discussed as the last item.

The motion passed by the following vote:

**Ayes: Vasquez, Jones, Arambula, J. Mendoza, M. Mendoza
Absent: None.**

Reports:

- 2. Request for Proposals – Indirect Cost Allocation Plan (*Sanitation District Board*)

Molly Brennan, Finance Manager, presented the report.

Council questioned staff about the process, Mrs. Brennan and City Manager Romero responded to questions.

Action: Motion by Mayor Pro Tem Jones, seconded by Councilmember Arambula, to authorize the release of RFP to select a consultant to prepare an indirect cost allocation plan.

The motion passed by the following vote:

**Ayes: Vasquez, Jones, Arambula, J. Mendoza, M. Mendoza
Absent: None.**

- 3. Request for Proposals for Digital Message Board Signs on City-Owned Real Property Discussion

Mike James, Assistant City Manager presented the report and PowerPoint Presentation.

During the discussion Councilmembers expressed concern regarding content of advertisements, revenue that could be generated, lighting and possible distraction, revenue sharing, maintenance, and static boards. Mayor Pro Tem Jones requested that a memo be provided to the Council including a map of locations of City owned property.

Action: City Council provided staff direction.

Item 1.G. pulled by a member of the public for question.

Appeared to comment was John L. Wood

1.G. 115 Funds Transfer from Sanitation District.

Mike James, Assistant City Manager provided a response to Mr. Wood, as to the overage and why the refund. James Lough, City Attorney responded to the question that the audit resulted in a refund as the City was overcharged.

The Transfer of \$516,879 from the Sanitation District to the 115 Funds Transfer for investment toward future CalPERS obligations.

Action: Motion by Mayor Pro Tem Jones, seconded by Councilmember M. Mendoza, to authorize the transfer of \$516,879 from the Sanitation District to the 115 Trust for investment towards future CalPERS obligation.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Arambula, J. Mendoza, M. Mendoza

Absent: None.

A member of the public requested that she be allowed to comment under Public Comment at this time as she was unable to speak under the item due to unforeseen circumstances. The Mayor allowed Chantelle Harris to provide public comment.

City Council Oral Comments & Reports on Meetings Attended At City Expense: (G.C. 53232.3(d))

Councilmember J. Mendoza attended the following meetings and events:

- SANDAG Meeting
- American Cancer Society Breakfast
- CPR Class
- VFW Ceremony to Honor MIA and POW Vets
- Helix Water District Celebrating Electric Vehicle Fleet

Mayor Pro-Tem Jones attended the following meetings and events:

- Government Affairs Meeting

Mayor Vasquez attended the following meetings and events:

- Lemon Grove Historical Society Fire-side Chat
- 9-11 Event at the Lemon Grove American Legion
- Leadership Power Luncheon Event *Executives who Champion Inclusion*
- I Am My Brother's Keeper Event
- SANDAG Policy Meeting
- ROCK Church Simulcast
- VFW Post 1512 Annual Ceremony to Honor MIA and POW Vets

Mayor announced that the date of the Budget Workshop will take place on Tuesday, October 23, 2018 at 6:00 p.m.

City Manager and Department Director Reports: (Non-Action Items)

City Manager Lydia Romero announced that she moderated a session at the League of California Cities Conference on Public Participation and a program called TIERS, and attended a Beacon Program Awards Ceremony for Cities that have sustainability as an Institute for Local Government (ILG) Board Member

Closed Session:

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9 (d)(2)
Number of potential cases: 1

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9 (d)(2)
Number of potential cases: 1

3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9 (d)(2)
Number of potential cases: 1

4. PUBLIC EMPLOYEE EMPLOYMENT
Government Code Section 54957
Position: City Attorney

City Attorney James Lough announced the City Council will be adjourning to closed session at 7:33 p.m. for the purposes above.

City Attorney Lough reported reportable action on items discussed in Closed Session, rescinding the resignation of City Attorney Lough.

Action: Motion by Councilmember Jones, seconded by Councilmember J. Mendoza, to Rescind Resolution No. 2018-3603 appointing Kristen Steinke as City Attorney, therefore reinstating James Lough as City Attorney.

The motion passed by the following vote:

**Ayes: Vasquez, Jones, Arambula, J. Mendoza, M. Mendoza
Absent: None.**

Adjournment:

There being no further business to come before the Council, the meeting was adjourned at 8:10 p.m. to a meeting to be held Tuesday, October 2, 2018, in the Lemon Grove Community Center located at 3146 School Lane, for a Regular meeting.

Shelley Chapel, MMC
City Clerk

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.D
Mtg. Date October 2, 2018
Dept. Finance

Item Title: Escheat Monies

Staff Contact: Molly Brennan, Finance Manager

Recommendation:

Escheat \$1,299.44 of unclaimed monies and authorize a transfer to the Funds upon which the original checks were drawn.

Item Summary:

Pursuant to Government Code sections 50050 through 50057, unclaimed monies held for more than three years will escheat to the City of Lemon Grove after proper public notice. Notice (**Attachment A**) was published in the local newspaper on July 26th and August 2nd. The notice is required to include the individual or business name as shown on the issued check, the amount of the issued check, and the fund in which it is held. Forty-five (45) days after the initial public notice if not claimed, the money shall become the property of the City of Lemon Grove. The notice was also published on the City of Lemon Grove website. No claims were submitted to the City in relation to the checks listed in the notice. Therefore, all checks listed, for a total amount of \$1,299.44, will now become the property of the City.

Fiscal Impact:

\$1,299.44 will be credited to the funds the outstanding checks were written from.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Escheat Monies Publication

Attachment A

PUBLIC NOTICE OF UNCLAIMED MONEY CITY OF LEMON GROVE

NOTICE IS HEREBY GIVEN that the City has held unclaimed monies for more than three years, and such unclaimed monies will escheat to the City of Lemon Grove by operation of the law pursuant to Government Code sections 50050 through 50057, if not validly claimed by the date specified below.

Any claims of unclaimed monies must be filed and postmarked by the 18th day of September, 2018.

To submit a claim related to one of the payments listed, please contact the City Treasurer prior to September 18, 2018. Proper proof of claim and current identification must be provided with completed and signed claim forms. For more information contact the City by calling (619)825-3803 or emailing mbrennan@lemongrove.ca.gov.

| VENDOR NAME | AMOUNT | FUND |
|-----------------------------------|--------|--------------------------------|
| A B Alterations Services | 15.00 | General Fund |
| Breeze Point Heat | 15.00 | Stormwater Fund |
| Carmody, Madge | 200.00 | General Fund |
| Cuevas, Manual | 100.00 | Household Hazardous Waste Fund |
| Damschen, Dale | 68.00 | General Fund |
| Hernandez, Danie | 68.00 | General Fund |
| Kirkof, Jesse | 68.00 | General Fund |
| Lemon Grove Tire Shop | 13.25 | Stormwater Fund |
| Marsal | 12.00 | General Fund |
| Morrow, Robert | 56.00 | General Fund |
| Romero, Sergio | 35.00 | General Fund |
| S and A Construction | 78.00 | Stormwater Fund |
| Sabatchi, Rhona | 14.13 | General Fund |
| San Diego County Fire Chiefs Assn | 30.00 | General Fund |
| San Diego County Fire Chiefs Assn | 50.00 | General Fund |
| San Diego Solar Install | 26.00 | Stormwater Fund |
| San Diego Solar Install | 46.00 | General Fund |
| Santana, Abelardo | 129.12 | General Fund |
| Sweetman, Kathy | 20.00 | General Fund |
| The Giant Hamburger | 13.00 | General Fund |
| Vivero, Salvador | 25.00 | General Fund |
| Vivint Solar Inc. | 149.94 | General Fund |
| White, Kenny | 68.00 | General Fund |

Publication Notice Dates: July 26 and August 2, 2018

2018-001

The East County Californian

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.E
Mtg. Date October 2, 2018
Dept. Public Works

Item Title: Rejection of Claim

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Recommendation:

That the City Council rejects a claim submitted by Maxim Laufer. |

Item Summary:

On August 14, 2018, the City of Lemon Grove received a timely submitted claim from Maxim Laufer. After investigating the claim, staff recommends that it is rejected. |

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

None.

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. ___1.F.____
Mtg. Date ___October 2, 2018
Dept. ___City Manager___

Item Title: RESOLUTION REPEALING RESOLUTION NUMBER 2018-3603

Staff Contact: [Lydia Romero, City Manager]

Recommendation:

Adopt Resolution Repealing Resolution Number 2018-3603.

Item Summary:

[This Resolution repeals Resolution Number 2018-3603 to appoint a new City Attorney with the withdrawal of the resignation of James P. Lough at the Closed Session of September 18, 2018.]

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report.
- B. Resolution Repealing Resolution Number 2018-3603.

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 1.F.

Mtg. Date October 2, 2018

Item Title: **RESOLUTION Repealing Resolution Number 2018-3603**

Staff Contacts: [Lydia Romero, City Manager]

Background:

James P. Lough has served as City Attorney for the City of Lemon Grove, under the City's Contract with Lounsbery, Ferguson, Altona & Peak ("City Attorney Firm"), since February 2010. Mr. Lough has served as City Attorney since January 1, 2004. The City's contract is with the City Attorney Firm and not any individual attorney.

Mr. Lough has submitted his retirement notice to the City, effective September 30, 2018. Currently, the City has two Deputy City Attorneys from the City Attorney Firm. At a Closed Session held September 18, 2018, the City Council agreed to accept the withdrawal of Mr. Lough's resignation.

Analysis:

Mr. Lough has decided to postpone his retirement and remain as City Attorney. The Council accepted his request. He will assist in completing several assignments that he is currently handling.

Costs

None. |

Conclusion:

Staff recommends that the City Council approve the attached Resolution (Attachment "B").

ATTACHMENT B

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, REPEALING RESOLUTION NUMBER 2018-3603

WHEREAS, the City Council has determined to accept the rescission of the retirement of James P. Lough; and

WHEREAS, the City Council desires to allow Mr. Lough to continue as City Attorney.

NOW THEREFORE, the City Council of the City of Lemon Grove does resolve as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Resolution Number 2018-3603 is repealed.

PASSED AND ADOPTED by the City Council of the City of Lemon Grove, State of California, on October 4, 2018 by the following vote:

AYES:

NOES:

ABSENT:

Racquel Vasquez, Mayor

Attest: _____

Shelley Chapel, City Clerk

**LEMON GROVE SANITATION DISTRICT
AGENDA ITEM SUMMARY**

Item No. 2
Mtg. Date October 2, 2018
Dept. Public Works

Item Title: **Amended and Restated Wastewater Disposal Agreement**

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Recommendation:

Adopt a resolution (**Attachment B**) approving the amended and restated wastewater disposal agreement, provide direction to the Metro Commission/Metro JPA Representative to support the agreement, and authorize the Chair to sign the agreement.]

Item Summary:

The purpose of this report is to provide the District Board with information to decide on whether or not to approve an amended and restated wastewater disposal agreement between the City of San Diego and the Lemon Grove Sanitation District.

If the District Board chooses to approve the agreement, it is recommended that the Board direct the Metro JPA representative (Vice Chair Jones) to support the agreement at future Metro JPA meetings, and authorize the Chair to sign the agreement.

Fiscal Impact:

None

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution

LEMON GROVE SANITATION DISTRICT STAFF REPORT

Item No. 2

Mtg. Date October 2, 2018

Item Title: **Amended and Restated Wastewater Disposal Agreement**

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Background:

The Point Loma Wastewater Treatment Plant (Point Loma), constructed in 1963, is the backbone of the Metro System and where Lemon Grove's two million gallons a day of wastewater are treated. Lemon Grove is one of twelve participating agencies (PAs) that convey wastewater to the Metro System for treatment.

The federal Clean Water Act, passed in 1972, required that all wastewater treatment plants be permitted with a National Pollutant Discharge Elimination System (NPDES) permit. The Clean Water Act required wastewater treatment plants to treat wastewater to at least a secondary level. The permitting process in California involves the Environmental Protection Agency (EPA), the Regional Water Quality Control Board, the State Water Resources Control Board and the California Coastal Commission.

Several years after the Clean Water Act was enacted, it was amended to allow a modified permit (waiver of secondary treatment) if the discharger could demonstrate the safe discharge of wastewater to the receiving water (lake, river or ocean). Initially, the City of San Diego (San Diego) applied for a modified permit for Point Loma, but later withdrew the application and began planning to convert Point Loma to secondary treatment. During this time, the window for applying for modified permits closed and San Diego had not begun the construction to convert Point Loma. Subsequently, the EPA and several environmental groups sued San Diego for not being at the secondary treatment level.

In 1994, the Ocean Pollution Reduction Act (OPRA) was passed by the Federal government modifying the Clean Water Act. OPRA re-opened the window and gave San Diego the opportunity again to apply for a modified permit for Point Loma. In return for support from the environmental community, San Diego agreed to construct a treatment plant with a 45 million gallons per day of reclaimed water capacity. This resulted in the construction of the North City Water Reclamation Plant, the South Bay Water Reclamation Plant and the South Bay Ocean Outfall. San Diego was granted a modified permit for Point Loma in 1994 with environmental stakeholder support because of the development of reclaimed water capacity.

During this time, there was a significant discontent between the City of San Diego and the participating agencies. The PAs felt that San Diego was operating the Metro System and making large financial decisions without their input or consideration at a cost to their ratepayers. The disputes led to the creation of the 1998 Regional Wastewater Disposal Agreement and the formation of the Metropolitan Wastewater Commission.

The Metropolitan Wastewater Commission (Metro Commission) was formed in 1998 pursuant to the terms of the Regional Wastewater Disposal Agreement between the PAs and the City of San Diego. The Regional Wastewater Disposal Agreement stipulated that the City of San

Attachment A

Diego is the owner of the Metropolitan Wastewater System and that all decisions with respect to the planning, design, construction, operation and maintenance shall rest with the City of San Diego in consultation with the Metro Commission, made up of member agencies.

Point Loma operates under a National Pollutant Discharge Elimination System Permit (NPDES) from the EPA. Each permit is good for a five-year period following issuance. The Point Loma plant is currently discharging approximately 150 million-gallon-per-day (mgd) of treated wastewater effluent and that effluent meets most of the criteria required of a secondary plant. Even though Point Loma is operating within the current law and has demonstrated through 20 years of extensive ocean monitoring that there is no harm to the environment, there has been consistent political pressure to convert Point Loma from an advanced primary wastewater treatment plant to a secondary wastewater treatment plant. Both the California Coastal Commission and environmental stakeholders have threatened or sued San Diego over previous and potential waiver applications. All of this uncertainty creates a significant amount of risk and instability for not only San Diego but also all twelve participating agencies in the Metro System. This past political pressure has led to a number of projects that San Diego has agreed to implement in return for permit support from the environmental community.

Pure Water and Secondary Equivalency:

In an attempt to avoid spending billions of dollars on a conversion to secondary, a strategy was developed using the improvements proposed in the 2012 San Diego Recycled Water Study. This strategy was called Pure Water San Diego. The strategy allows achievement of equivalent treatment to secondary within the Metro System. Flows would be offloaded from Point Loma to other facilities within the system thus reducing the discharges at Point Loma to levels below that required by secondary wastewater treatment. The result of this would be that Point Loma would no longer have to apply for a waiver but would instead apply for a more traditional NPDES permit every 5 years. In addition, there is proven technology available to convert these offloaded flows into potable drinking water. This means the offloaded flows from Point Loma could be used as a new water source for San Diego.

Pursuing the Pure Water program still requires a significant financial investment from wastewater ratepayers. To commit to this investment, the PAs needed something in return for their support and financial commitment. It was thought that Federal legislation could be passed defining secondary equivalency for Point Loma and allowing Point Loma to remain at the advanced primary treatment level. In 2014 representatives from the PAs, the City of San Diego and environmental stakeholders (Surfrider, Coastkeeper, Audubon Society and Coastal Environmental Rights Foundation) agreed on proposed language to enable secondary equivalency legislation and titled it the Ocean Pollution Reduction Act (OPRA) II. An agreement was also prepared between the City of San Diego and the environmental stakeholders that assured environmental stakeholder support for NPDES permits at Point Loma as well as OPRA II.

The City of San Diego included the concept of secondary equivalency and a program of facility construction within the 2015 NPDES permit for Point Loma. The concept included offloading 83 million gallons a day of wastewater from Point Loma and turning it into drinking water by 2035. The key to this strategy was securing secondary equivalency legislation and ratepayer protection from having to construct secondary treatment at Point Loma. Instead of investing in secondary treatment facilities at Point Loma, which offered minimal benefit, the investment would be in the Pure Water program that would have an equivalent benefit to the environment

Attachment A

but the added benefit of creating a local drinking water supply. The District and the Metro Commission supported the City of San Diego's NPDES permit that was submitted in 2015.

Staff from the City of San Diego and from the participating agencies have been meeting since 2014 to discuss how to implement the Pure Water program. The first phase of Pure Water is to be constructed at the North City Water Reclamation plant and will develop 30 million gallons a day of potable drinking water from secondary treated wastewater. Construction of phase 1 is scheduled to begin in 2019. The primary discussion point was allocation of costs. The challenge with Pure Water cost allocation is to fairly apportion costs between the water customer and the wastewater customer. A series of deal points have been agreed to that define the cost allocation principals.

Consideration was also given to how to memorialize the cost allocation and deal points. The logical mechanism was to use the 1998 Agreement, but it was quickly realized that the 1998 Agreement was going to need significant changes to accommodate the complexities of the Pure Water program. This led to the development of the Amended and Restated Agreement, included as Exhibit 1 to the attached draft Resolution (Attachment B)

The basis for financial discussions began with the cost of converting Point Loma to secondary treatment. This was the assumed worst-case scenario for the sewer ratepayer. Because this was the worst-case scenario, a financial cap is included in the Amended and Restated Agreement that limits future sewer ratepayer financial exposure.

The current cost estimate to convert Point Loma to secondary treatment is \$1.8 billion. The cost estimate for Pure Water Phase 1 is currently \$1.388 billion and is split between \$546 million in wastewater costs (39%) and \$842 million in water costs (61%). Lemon Grove's portion of the wastewater cost is approximately 1.338% or \$7.3 million. In the Amended and Restated Agreement limits the District's Pure Water program financial exposure will be capped at a not to exceed amount.

Also, included in the amended and restated agreement is a future revenue sharing component for wastewater customers. This revenue sharing is an additional incentive for participating agencies to support the Pure Water program and to provide a mechanism to recover ratepayer investments. The following describes how revenue sharing works. The initial cost to produce Pure Water will be more expensive than the cost of imported water, much the same way that desalinated water is currently more expensive than imported water. However, the cost of imported water is projected to increase faster than the cost to produce Pure Water and will eventually exceed the cost of Pure Water. When the cost of imported water exceeds the cost of Pure Water there will be revenue. The revenue will be credited back to the wastewater and water customer based on their capital investment in the Pure Water program. Once the capital debt is paid off, the credit will be based on proportional share of operation and maintenance costs for Pure Water.

Now, secondary equivalency legislation (OPRA II) has not yet been submitted for consideration at the Federal government. Staff from the City of San Diego has been working with Congressman Scott Peter's office and Congressman Duncan Hunter's office on sponsoring the legislation. The lack of secondary equivalency legislation approval reinforces the need and importance of having a financial cap for wastewater rate payers.

Attachment A

Next Steps:

At the August 2018 Metro Commission/Metro JPA meeting all 12 PA's supported the Amended and Restated Agreement. Currently, there are two agencies, City of Coronado and the Padre Dam Municipal Water District that generally supported the Agreement as presented but have specific concerns that are directly related to each entity. The support from Metro was forwarded to the City of San Diego for its consideration. San Diego City staff has asked the City of San Diego City Council to approve the Agreement either prior to or at the same time as it considers authorization to proceed with the construction for Pure Water Phase 1.

The City of San Diego would like to get authority from its City Council for the Mayor of San Diego to award the entire \$1.388 billion Pure Water program at one time. The Mayor would then award individual phases and construction packages for the project of which there are many. The schedule for Pure Water construction authorization approval was not available at the time of this report. Staff will provide it at the time of the City Council presentation.

Financial Considerations:

The primary purpose of the Amended and Restated Agreement is to address the complexities of the upcoming Pure Water San Diego construction program. The Agreement contains long-term financial protections for wastewater ratepayers by defining cost allocation for the planned Pure Water facilities. The Agreement also includes a financial cap on future Pure Water construction spending. Additionally, the Agreement includes a future revenue sharing component that is expected to pay back wastewater ratepayers over time for their investment in Pure Water. |

Conclusion:

| That the Lemon Grove Sanitation District Board adopts a Resolution (Attachment B) approving the Amended and Restated Wastewater Disposal Agreement, provide direction to the Metro Commission/Metro JPA Representative to support the agreement, and authorize the District Chair to sign the agreement.

Attachment B

RESOLUTION NO. 2018 -

RESOLUTION OF THE DISTRICT BOARD OF THE LEMON GROVE SANITATION DISTRICT APPROVING THE AMENDED AND RESTATED WASTEWATER DISPOSAL AGREEMENT, DIRECTING THE METRO COMMISSION/METRO JPA REPRESENTATIVE TO SUPPORT THE AGREEMENT, AND AUTHORIZE THE DISTRICT CHAIR TO SIGN THE AGREEMENT

WHEREAS, Lemon Grove Sanitation District strives to provide and improve on high quality municipal services; and

WHEREAS, the NPDES permit for the Point Loma Wastewater Treatment Plant submitted in 2015 included a goal of offloading 83 million gallons a day of wastewater and turning it into potable drinking water by 2035. This project is titled Pure Water San Diego; and

WHEREAS, the Point Loma offloading as planned will bring the solids discharged from the plant down to a level that would be equivalent to that of converting the plant to secondary treatment; and

WHEREAS, wording for Federal legislation to protect Point Loma from having to convert to the secondary treatment level has been agreed to by local stakeholders including environmental groups, but has not yet been approved at the Federal level; and

WHEREAS, the 1998 Regional Wastewater Disposal Agreement between the City of San Diego and the participating agencies governs the planning, capacity rights and cost allocation of wastewater facilities in the Metropolitan Wastewater System; and

WHEREAS, the 1998 Agreement did not contemplate the complexities of the Pure Water program and needs to be amended to adequately address the proposed facilities, allocation of costs and long-term financial protection of wastewater rate payers; and

WHEREAS, staff from the City of San Diego and the participating agencies have been working since 2014 on deal points for the Pure Water program and those deal points have been incorporated into an Amended and Restated Wastewater Disposal Agreement; and

NOW, THEREFORE, BE IT RESOLVED that the District Board of the Lemon Grove Sanitation District hereby:

1. Directs the Metro Commission/Metro JPA representative to support the amended and restated wastewater disposal agreement (*Exhibit 1*); and
2. Authorizes the District Chair to sign the agreement.

BE IT FURTHER RESOLVED, should the agreement be modified and if the modifications are non-substantive changes and do not impact the Lemon Grove Sanitation District then the District Chair is authorized to sign such a modified agreement at the discretion of the City Manager or her designee.

/////
/////

7/16/18 Version

AMENDED AND RESTATED
REGIONAL WASTEWATER DISPOSAL AGREEMENT
BETWEEN
THE CITY OF SAN DIEGO
AND
THE PARTICIPATING AGENCIES
IN
THE METROPOLITAN SEWERAGE SYSTEM

AMENDED AND RESTATED
REGIONAL WASTEWATER DISPOSAL AGREEMENT

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Exhibits

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- B. Contract Capacities
- C. Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies
- D. Notice Listing
- E. Reclaimed Water Distribution System
- F. Pure Water Cost Allocation and Revenues
- G. 2050 Flow Projections

AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT

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

RECITALS

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

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

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

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

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

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

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

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

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

I. DEFINITIONS

- A. **Annual Average Daily Flow** is the number, in millions of gallons of wastewater per day ("MGD"), calculated by dividing total Flow on a fiscal year basis by 365 days.
- B. **Brine** is a waste byproduct of the demineralization process at an upstream Water Repurification System facility or a Reclaimed Water facility.
- C. **Capital Expense Rate** is the cost per acre foot that will apply if the Metro System's Capital Improvement Costs for the Pure Water Program and/or upgrading of the Point Loma WTP to secondary treatment exceed \$1.8 billion, as further described in Exhibit F.

- D. **Capital Improvement Costs** are costs associated with the planning, design, financing, construction, or reconstruction of facilities.
- E. **Chemical Oxygen Demand or "COD"** means the measure of the chemically decomposable material in wastewater, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination for Water and Wastewater," or any successor publication which establishes the industry standard.
- F. **City Water Utility PW Costs** are those Pure Water Program costs allocated to the City's water utility and therefore excluded as Metro System costs under Exhibit F.
- G. **Contract Capacity** is the contractual right possessed by each Participating Agency to discharge wastewater into the Metro System pursuant to this Agreement up to the limit set forth in Exhibit B attached hereto. Contract Capacity is stated in terms of Annual Average Daily Flow.
- H. **Flow** is the amount of wastewater discharged by the City and each Participating Agency.
- I. **Functional-Design Methodology** shall mean the process of allocating Operation and Maintenance Costs and Capital Improvement Costs to Flow and Strength parameters recognizing the benefits of both the design criteria and the primary function of a unit process.
- J. **Metro Commission** is the advisory body created under Section VIII.
- K. **Metro System Costs** are those costs set forth in Section 5.2.1.
- L. **Metro System Revenues** are those revenues set forth in Section 5.2.2.
- M. **Metropolitan Sewerage System or Metro System** shall mean and consist of those facilities and contract rights to facilities which are shown and/or described in Exhibit A attached hereto and incorporated by this reference, including any amendments thereto authorized by this Agreement.
- N. **Municipal System** shall mean the City's wastewater collection system, which consists of pipelines and pump stations, that collects wastewater within the City of San Diego and conveys it to the Metropolitan Sewerage System for treatment and disposal.
- O. **New Capacity** is the capacity to discharge wastewater outside the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.
- P. **New Contract Capacity** is the capacity to discharge wastewater into the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.

- Q. **North City Water Reclamation Plant** or **North City WRP** is the 30 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 4949 Eastgate Mall in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.
- R. **Operation and Maintenance Costs** are the costs of those items and activities required by sound engineering and management practices to keep the conveyance, disposal, treatment, and reuse facilities functioning in accordance with all applicable laws, rules, and regulations.
- S. **Point Loma Wastewater Treatment Plant** or **Point Loma WTP** is the 240 million gallons per day (as of the date of this Agreement) advanced primary treatment plant which includes four major processes: screening, grit removal, sedimentation, and digestion.
- T. **Pure Water Program** is the City's phased, multi-year program designed to produce at least 83 million gallons per day of Repurified Water using new, expanded, or modified facilities, some of which will include Metro System facilities.
- U. **Reclaimed Water (or Recycled Water)** shall have the definition set forth in Title 22, Division 4 of the California Code of Regulations and shall mean water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or a controlled use that otherwise could not occur.
- V. **Reclaimed Water (or Recycled Water) Distribution System** shall mean and consist of those eight (8) reclaimed water projects listed in Attachment B of the Stipulated Final Order for Injunctive Relief approved by the U.S. District Court on June 6, 1997 in *U.S.A. v. City of San Diego*, Case No. 88-1101-B, and attached hereto as Exhibit E.
- W. **Repurified Water** shall mean water which, as a result of advanced treatment of Reclaimed Water, is suitable for use as a source of domestic (or potable) water supply.
- X. **Repurified Water Revenue** is the cost savings that will be realized when the City water utility's annual costs per-acre foot for Repurified Water are less than the purchase costs per-acre foot for comparable water from the San Diego County Water Authority, as further described in Exhibit F.
- Y. **Return Flow** shall mean the effluent created by the dewatering of digested biosolids, which includes centrate.
- Z. **Reuse** shall mean to use again, such as water which has been reclaimed or repurified, or sludge that has been converted to biosolids for beneficial use.
- AA. **South Bay Land/Ocean Outfall** is the facility that is jointly owned by the International Boundary & Water Commission (U.S. Section IBWC) and the City

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

- BB. **South Bay Water Reclamation Plant** is the 15 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 2411 Dairy Mart Road in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.
- CC. **Strength** means the measurement of Suspended Solids (SS) and Chemical Oxygen Demand (COD) within the wastewater Flow and any other measurement required by law after the date of this Agreement.
- DD. **Suspended Solids** or **SS** means the insoluble solid matter in wastewater that is separable by laboratory filtration, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination of Water and Wastewater," or any successor publication which establishes the industry standard.
- EE. **Tertiary Component** is that portion of the wastewater treatment process that currently filters the secondary treated wastewater effluent through fine sand and/or anthracite coal to remove fine Suspended Solids and disinfects it to meet the requirements of the California Administrative Code, Title 22, or its successor for filtered and disinfected wastewater.
- FF. **Water Repurification System** shall mean any facilities, including treatment and conveyance facilities, the purpose of which is the production or conveyance of Repurified Water. Water Repurification System includes, but is not limited to: the Tertiary Component of the North City Water Reclamation Plant to the extent being used to produce Repurified Water, the North City Advanced Water Purification Facility to be located across the street from the North City Water Reclamation Plant ("North City AWP Facility"); the Repurified Water conveyance system, which will transport Repurified Water from the North City AWP Facility and/or other facilities to the Miramar Reservoir or other alternative location(s) as determined by the City; and any other Repurified Water treatment or conveyance facilities which are part of the Pure Water Program.
- GG. **Wet Weather Flow** is Flow entering the Metro System during rainy weather.

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

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

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

II. OWNERSHIP AND OPERATION OF THE METRO SYSTEM

2.1 Rights of the Parties.

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

2.2 Metro System Services.

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

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

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

2.3 Flow Commitment.

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

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

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

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

2.4 Funding Obligations.

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

2.5 Financial Statements.

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

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

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

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

2.6 Limitations on Types and Condition of Wastewater.

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

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

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

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

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

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

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

2.7 Right of First Refusal.

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

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

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

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

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

2.8 Pure Water San Diego Program.

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

2.9 Future Negotiations and Cooperation.

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

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

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

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

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

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

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

III. PAYMENT AND MONITORING PROVISIONS

3.1 Payment for Metro System Facilities.

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

3.2 Payment for Additional Metro System Facilities.

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

3.3 Payment for Operation and Maintenance.

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

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

3.4 Charges Based on Flow and Strength; Exception.

- 3.4.1 Except as otherwise described in this Section 3.4, a Participating Agency's share of the charges in this Article III shall be assessed pursuant to Article V of this Agreement based on its proportionate Flow in the Metro System and the Strength of its wastewater.
- 3.4.2 Notwithstanding section 3.4.1, or any other provision of this Agreement, a Participating Agency's share of Pure Water Program Capital Improvement Costs and Pure Water Program revenues attributable to the Metro System under Exhibit F shall be assessed or credited based on the parties' proportionate share of Wet Weather Flow Rights. Wet Weather Flow Rights are based on projections of each party's 10-year average of Wet Weather Flow in the year 2050 as set forth in Column 7 of Exhibit G, which is attached hereto and incorporated herein. The City shall annually allocate the estimated and actual Pure Water Program Capital Improvement Costs and revenues which are attributable to the Metro System under Exhibit F in proportion to each party's share of Wet Weather Flow Rights (Column 8 of Exhibit G) when estimating quarterly payments and conducting year-end adjustments under Article V.
- 3.4.3 Each party recognizes that operation within respective Wet Weather Flow Rights is essential to the accurate allocation of costs and revenues under the Pure Water Program. In recognition of same, the parties agree as follows:
- 3.4.3.1 Beginning in the next fiscal year after the effective date of this Agreement, if any party's Annual Average Daily Flow exceeds its Wet Weather Flow Rights for any two (2) consecutive fiscal years, the City shall prepare an amendment to Exhibit G that adjusts projections of each party's 10-year average of Wet Weather Flow in 2050 based on information about such party's exceedance and other relevant information. Upon approval by a majority of the Metro Commission, the City shall, as a ministerial matter, amend the Wet Weather Flow Rights in Column 7 of Exhibit G (and the percentages in Column 8 of Exhibit G) to reflect the new projections of 10-year average of Wet Weather Flow. The City shall keep an updated version of Exhibit G on file with the City Public Utilities Department. If the City and the Metro Commission cannot agree on an amendment to Exhibit G, the matter shall be submitted to dispute resolution pursuant to Article IX.

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

3.4.3.2.1 Padre Dam: 2.797 MGD

3.4.3.2.2 San Diego County Sanitation District: 22.844 MGD

3.4.3.2.3 El Cajon: 8.542 MGD

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

3.5 Monitoring Flow and Strength.

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

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

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

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

IV. CAPACITY RIGHTS

4.1 Contract Capacity.

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

4.2 Transfers of Contract Capacity.

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

4.3 Allocation of Additional Capacity.

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

- 4.3.1 Except as provided in section 4.3.2 below, in the event that the Metro System is rerated so that additional permitted capacity is created, said capacity shall be allocated proportionately based upon the Metro System charges that have been paid since July 1, 1995 to the date of rerating.
- 4.3.2 In the event that the additional permitted capacity is created as the result of the construction of non-Metro System facilities, or as the result of the construction of facilities pursuant to Article VII, such additional capacity shall be allocated proportionately based on the payments made to plan, design and construct such facilities.

4.4 Deductions in Contract Capacity.

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

4.5 Amendments to Exhibits B and C.

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

4.6 The South Bay Land/Ocean Outfall.

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

V. **SYSTEM OF CHARGES**

5.1 Charges Authorized.

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

5.1.1 SSC (Sewer System Charge);

5.1.2 NCCC (New Contract Capacity Charge).

5.2 SSC (Sewer System Charge).

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

5.2.1 Metro System Costs

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

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

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

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

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

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

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

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

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

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

5.2.1.2.7 City Water Utility PW Costs.

5.2.2 Metro System Revenues.

- 5.2.2.1 The following revenues shall be at a minimum considered Metro System Revenues for purposes of determining the annual SSC:
- 5.2.2.1.1 Any grant or loan receipts or any other receipts that are attributable to the Metro System, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System; provided, however, that this shall not include any grant, loan, or other receipts attributable to the Metro System components of the Pure Water Program, which are specifically addressed in Section 5.2.2.1.8.
 - 5.2.2.1.2 All compensation or receipts from the sale or other conveyance or transfer of any Metro System by-products, including, but not limited to gas, electrical energy, sludge products, and Reclaimed Water (excepting therefrom any receipts allocated pursuant to section 5.2.2.1.3).
 - 5.2.2.1.3 The distribution of revenue from the sale of Reclaimed Water from the North City Water Reclamation Plant, including incentives for the sale of Reclaimed Water, shall first be used to pay for the cost of the Reclaimed Water Distribution System, then the cost of the Operation and Maintenance of the Tertiary Component of the North City Water Reclamation Plant that can be allocated to the production of Reclaimed Water, and then to the Metro System.
 - 5.2.2.1.4 Any portion of an NCCC that constitutes reimbursement of costs pursuant to Section 7.1.4.
 - 5.2.2.1.5 Any penalties paid under Section 7.3.
 - 5.2.2.1.6 Proceeds from the Capital Expense Rate, as calculated under Exhibit F and allocated among the City and Participating Agencies in the proportions set forth in Column 8 of Exhibit G.
 - 5.2.2.1.7 Those portions of Repurified Water Revenue attributable to the Metro System, as calculated under Exhibit F and allocated among the Participating Agencies in the proportions set forth in Column 8 of Exhibit G.
 - 5.2.2.1.8 Any grant or loan receipts or any other receipts that are attributable to the Metro System components of the

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

5.2.2.2 Excluded Revenue

- 5.2.2.2.1 Capital Improvement Costs for which an NCCC is paid;
- 5.2.2.2.2 Proceeds from the issuance of debt for Metro System projects.
- 5.2.2.2.3 Proceeds from the sale of Reclaimed Water used to pay for the Reclaimed Water Distribution System pursuant to section 5.2.2.1.3 above.

5.2.3 Calculation of SSC Rates.

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

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

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

5.2.4 Estimate and Billing Schedule and Year End Adjustment

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

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

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

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

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

5.3 NCCC (New Contract Capacity Charge).

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

5.4 Debt Financing.

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

5.5 Allocation of Operating Reserves and Debt Service Coverage.

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

VI. PLANNING

6.1 Projected Flow and Capacity Report.

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

6.2 Other Planning Information.

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

6.3 Ten-Year Capital Improvement Plan.

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

6.4 Notice to Metro Commission.

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

VII. FACILITIES SOLELY FOR NEW CONTRACT CAPACITY

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

7.1 Determination of Need for New Contract Capacity.

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

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

- 7.1.2 The City or Participating Agency or Agencies in need of New Contract Capacity as determined by the City pursuant to section 7.1.1 above, may choose, in their sole discretion, to obtain New Capacity outside of the Metro System in lieu of New Contract Capacity. Under such circumstances, the Participating Agency or Agencies shall commit to the City in writing their intent to obtain such New Capacity. Upon such commitment, the City shall not be required to provide New Contract Capacity to such Agency or Agencies as otherwise required under this Agreement.
- 7.1.3 The Participating Agencies shall have six months from the date of notice of the determination within which to comment on or challenge all or part of the City's determination regarding New Contract Capacity, or to agree thereto or to commit, in writing, to obtain New Capacity outside of the Metro System. Any Participating Agency objecting to the City's determination shall have the burden to commence and diligently pursue the formal dispute resolution procedures of this Agreement within said six month period. The City's determination shall become final at the close of the six month comment and objection period. The City's determination shall remain valid notwithstanding commencement of dispute resolution unless and until otherwise agreed to pursuant to the dispute resolution process in Article IX, or pursuant to a final court order.
- 7.1.4 The City and the Participating Agency or Agencies which need New Contract Capacity shall thereafter enter into an agreement specifying the terms and conditions pursuant to which the New Contract Capacity will be provided, including the amount of capacity and the New Contract Capacity. Each party obtaining New Contract Capacity shall reimburse the Metro System for the costs of acquisition, planning, design, and construction of facilities necessary to provide the New Contract Capacity that have been paid by other parties under Section 7.2.3.
- 7.1.5 The parties recognize that the City may acquire and plan, design and construct facilities that are authorized pursuant to both Article III and Article VII of this Agreement. Under such circumstances, the City shall allocate the costs and capacity of such facilities pursuant to Article III and Section 7.1.1 as applicable.

7.2 Charges for Facilities Providing New Contract Capacity

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

- 7.2.2 Notwithstanding any provision in this Agreement, the City and the Participating Agencies shall pay for the Operation and Maintenance Costs of all facilities pursuant to the payment provisions of Article III, including those facilities acquired and constructed to provide New Contract Capacity in the Metro System.
- 7.2.3 Charges for the acquisition, planning, design and construction of facilities solely to provide New Contract Capacity shall be paid for by the Participating Agencies and the City pursuant to the payment provisions in Article III of this Agreement until an agreement is reached under Section 7.1.4. or pending the resolution of any dispute relating to the City's determination with respect to New Contract Capacity.
- 7.2.4 As a ministerial matter, the City shall prepare amendments to Exhibits A and B to reflect the acquisition or construction of facilities to provide New Contract Capacity pursuant to this Article. The City shall give notice of the Amendments to the Participating Agencies, and shall provide copies of the Amendments with the notice.

7.3 Liquidated Damages.

- 7.3.1 The parties recognize that appropriate capacity and long term planning for same are essential to the proper provision of sewerage service. In recognition of same, the parties agree that discharge beyond Contract Capacity will result in damages that are difficult to determine. Therefore, the damages are being liquidated in an amount estimated to the actual damage that will be incurred by the City, and is not a penalty. In the event that a Participating Agency exceeds its Contract Capacity after the City has given notice that New Capacity is required, said Participating Agency shall be assessed and pay a liquidated damages until such time as the Participating Agency obtains the required New Capacity. The liquidated damages shall be fifteen percent (15%) of the quarterly charges authorized pursuant to this Agreement times the amount of Flow which exceeds the Participating Agency's Contract Capacity for the each quarter in which any exceedance occurs.
- 7.3.2 In the event that a Participating Agency fails to pay the charges imposed under this Article after the City has given notice that payment is required, said Participating Agency shall be assessed and shall pay liquidated damages of ten percent (10%) of the total outstanding charges each quarter until said charges are paid in full.

VIII. THE METRO COMMISSION

8.1 Membership.

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

8.2 Advisory Responsibilities of Metro Commission.

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

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

IX. DISPUTE RESOLUTION

This Section governs all disputes arising out of this Agreement.

9.1 Mandatory Non-Binding Mediation.

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

9.2 Selection of Mediator.

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

9.3 Mediation Expenses.

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

9.4 Conduct of Mediation.

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

9.5 Mediation Results.

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

9.6 Performance Required During Dispute.

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

9.7 Offers to Compromise

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

X. INSURANCE AND INDEMNITY

10.1 City Shall Maintain All Required Insurance.

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

- 10.1.2 Throughout the term of this Agreement the City shall procure and maintain in effect liability insurance covering, to the extent reasonably available, any and all liability of the City, the Metro System and the Participating Agencies, including their respective officers, directors, agents, and employees, if any, with respect to or arising out of the ownership, maintenance, operation, use and/or occupancy of the Metro System and all operations incidental thereto, including but not limited to structural alterations, new construction and demolition, including coverage for those hazards generally known in the insurance industry as exploding, collapse and underground property damage.
- 10.1.3 Said insurance shall name the City, and its respective officers, employees, and agents, and shall have a limit of not less than \$24,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage suffered by any person. Said insurance may provide for a deduction from coverage, which deductible shall not be more than \$1,000,000. Said limits and/or deductible may be adjusted from time to time. Said insurance may be evidenced by a policy or policies covering only the Metro System or by endorsement to bring the same within a blanket policy or policies held by the City covering other properties in which the City has an interest provided the policy or policies have a location aggregate provision. The City may satisfy the first \$1,000,000 per occurrence with a self-insurance retention program for public liability claims. The policy or policies shall name the Participating Agencies as additional insureds with evidence of same supplied to each. Insurance premiums, claims payments and claims administration costs shall be included in the computation of the SSC.

10.2 Substantially Equivalent Coverage.

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

XI. INTERRUPTION OF SERVICE

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

XII. NOTICES REQUIRED UNDER AGREEMENT

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

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

XIII. EFFECTIVE DATE AND EXPIRATION

13.1 Effective Date.

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

13.2 Expiration.

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

13.3 Contract Capacity Rights Survive Expiration.

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

13.4 Abandonment.

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

XIV. GENERAL

14.1 Exhibits.

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

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

14.2 Amendment of Agreement.

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

14.3 Construction of Agreement.

14.3.1 Drafting of Agreement

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

14.3.2 Entire Agreement

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

14.3.3 Agreement Binding on All

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

14.3.4 Severability

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

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

14.3.5 Choice of Law

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

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

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

14.4 Declarations Re: Agreement.

14.4.1 Understanding of Intent and Effect of Agreement

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

14.4.2 Warranty Regarding Obligation and Authority to Enter Into This Agreement

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

14.5 Restrictions on Veto of Transfers and Acquisitions of Capacity

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

14.6 Right to Make Other Agreements

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

14.7 Limitation of Claims

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

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

14.8 Counterparts

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

14.9 No Third Party Beneficiaries

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

SIGNATURES ON FOLLOWING PAGES

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

CITY OF CHULA VISTA

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF CORONADO

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF DEL MAR

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF EL CAJON

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF IMPERIAL BEACH

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF LA MESA

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

LEMON GROVE SANITATION DISTRICT

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF NATIONAL CITY

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

OTAY WATER DISTRICT

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

PADRE DAM MUNICIPAL WATER DISTRICT

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

CITY OF POWAY

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

CITY OF SAN DIEGO

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

SAN DIEGO COUNTY SANITATION DISTRICT

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

EXHIBIT A**METRO FACILITIES AS OF 6/27/18**Existing Facilities

Pt. Loma Wastewater Treatment Plant
 Pt. Loma Ocean Outfall
 Pump Station #1
 Pump Station #2
 South Metro Interceptor
 North Metro Interceptor
 Metro Force Mains 1 & 2
 Digested Sludge Pipeline
 North City Water Reclamation Plant
 Metro Biosolids Center (NCWR Plant Related Facilities)
 North City Tunnel Connector
 North City Raw Sludge Pipeline
 Centrate Pipeline
 Rose Canyon Parallel Trunk Sewer
 Second Rose Canyon Trunk Sewer
 East Mission Bay Trunk Sewer
 Morena Blvd. Interceptor
 South Bay Water Reclamation-Plant
 Dairy Mart Road & Bridge Rehab
 Grove Avenue Pump Station
 Grove Avenue Pump Station Sewer Pipeline
 South Bay Raw Sludge Pipeline
 South Bay Land/Ocean Outfall¹
 Environmental Monitoring & Technical Services Laboratory
 Centrate Treatment Facility at Metropolitan Biosolids Center
 Metro Operations Center (Iv10C) Complex (based on annual facilities allocation)

Additional Metro Facilities

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

South Bay Sludge Processing Facility

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

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

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

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

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

Expansion of North City Water Reclamation Plant
Morena Pump Station

EXHIBIT B
CONTRACT CAPACITIES

Annual Average Daily Flow
in
Millions of Gallons Per Day

| <u>Metro Agency</u> | <u>Original Contract Capacity</u> | <u>Additional Contract Capacity¹</u> | <u>New Contract Capacity²</u> | <u>Transferred Contract Capacity³</u> | <u>Total Contract Capacity</u> | <u>Percent of Total</u> |
|---------------------|-----------------------------------|---|--|--|--------------------------------|-------------------------|
| Chula Vista | 19.843 | 1.021 | 0.000 | 0.000 | 20.864 | 8.182% |
| Coronado | 3.078 | 0.172 | 0.000 | 0.000 | 3.250 | 1.275% |
| Del Mar | 0.821 | 0.055 | 0.000 | 0.000 | 0.876 | 0.344% |
| East Otay Mesa | 0.000 | 0.000 | 0.000 | 1.000 | 1.000 | 0.392% |
| El Cajon | 10.260 | 0.655 | 0.000 | 0.000 | 10.915 | 4.280% |
| Imperial Beach | 3.591 | 0.164 | 0.000 | 0.000 | 3.755 | 1.473% |
| La Mesa | 6.464 | 0.359 | 0.000 | 0.170 | 6.993 | 2.742% |
| Lakeside-Alpine | 4.586 | 0.255 | 0.000 | 0.000 | 4.841 | 1.898% |
| Lemon Grove | 2.873 | 0.154 | 0.000 | 0.000 | 3.027 | 1.187% |
| National City | 7.141 | 0.346 | 0.000 | 0.000 | 7.487 | 2.936% |
| Otay | 1.231 | 0.056 | 0.000 | 0.000 | 1.287 | 0.505% |
| Padre Dam | 6.382 | 0.343 | 0.000 | (0.500) | 6.225 | 2.441% |
| Poway | 5.130 | 0.264 | 0.000 | 0.500 | 5.894 | 2.312% |
| Spring Valley | 10.978 | 0.545 | 0.000 | (1.170) | 10.353 | 4.060% |
| Wintergardens | <u>1.241</u> | <u>0.068</u> | <u>0.000</u> | <u>0.000</u> | <u>1.309</u> | <u>0.513%</u> |
| Subtotal | 83.619 | 4.459 | 0.000 | 0.000 | 88.078 | 34.540% |

Revised 04-21-2010

| <u>Metro Agency</u> | <u>Original Contract Capacity</u> | <u>Additional Contract Capacity¹</u> | <u>New Contract Capacity²</u> | <u>Transferred Contract Capacity³</u> | <u>Total Contract Capacity</u> | <u>Percent of Total</u> |
|---------------------|-----------------------------------|---|--|--|--------------------------------|-------------------------|
| San Diego | <u>156.381</u> | <u>10.541</u> | <u>0.000</u> | <u>0.000</u> | <u>166.922</u> | <u>65.460%</u> |
| Total | 240.000 | 15.000 | 0.000 | 0.000 | 255.000 | 100.00% |

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

EXHIBIT C

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

METRO WASTEWATER JPA



276 Fourth Avenue Chula Vista, CA 91950 619-476-2557

Ernest Ewin, Chairman

April 19, 2010

Rod Greek
Public Utilities Deputy Director
City of San Diego, Metropolitan Wastewater
9192 Topaz Way
San Diego, CA 92123

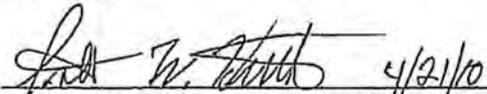
Re: Administrative Protocol on Allocation of Operating Reserves and Debt Service
Coverage to Participating Agencies

Dear Mr. Greek:

This letter is intended to memorialize the attached Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies ("Protocol") negotiated between the City of San Diego and Metro TAC/ Metro JPA/ Metro Commission, on behalf of the Participating Agencies under the Regional Wastewater Disposal Agreement. Your signature will indicate acceptance of the Protocol on behalf of the City.

By countersigning this letter, the City of San Diego and Metro TAC/ Metro JPA/ Metro Commission acknowledge and agree to the terms and conditions contained in the attached Protocol.

Sincerely,


for the Metro TAC/ Metro JPA/ Metro Commission

Enclosure

The Protocol is accepted by the City of San Diego pursuant to the terms and conditions set forth in the attachment hereto:

Date: 4/19/10


Rod Greek, Public Utilities Deputy Director

The Protocol is accepted by Metro TAC/ Metro JPA/ Metro Commission on behalf of the Participating Agencies pursuant to the terms and conditions set forth in the attachment hereto:

Date: 5/6/10



The Joint Powers Authority Proactively Addressing Regional Wastewater Issues

Chula Vista • Coronado • Del Mar • Imperial Beach • La Mesa • Lemon Grove Sanitation District
National City • Otay Water District • Poway • Padre Dam Municipal Water District
County of San Diego, representing East Otay, Lakeside/Alpine, Spring Valley & Winter Gardens Sanitation Districts

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

BACKGROUND:

In early 2008 the MetroTAC formed a working group in response to the City of San Diego's request for \$20 million in funding in FYE 2009 from the Participating Agencies ("PAs") for operating reserves and debt service coverage. The working group continued to meet with City of San Diego staff regarding the establishment of a mutually agreed upon protocol through early February 2010. A summary of the City of San Diego's 2008 proposal and the negotiated 2010 protocol is included as Attachment A.

At its regular meeting of February 17, 2010, the MetroTAC approved the following recommendations to move to the Finance Committee of the Metro Wastewater JPA and thereafter to the Metro Commission/ Metro Wastewater JPA for discussion and action:

- Proceed with PAs funding a 1.2 debt service ratio coverage
- Proceed with PAs funding a 45 day operating reserves
- The PAs will fund no other reserves
- FY07 and FY08 refund monies will be used to fund the operating reserves
- Interest accrual on operating reserves and undesignated accounts will start with FY10 (beginning on July 1, 2009)

The Finance Committee of the Metro Wastewater JPA, at its February 24, 2010 meeting, took action to recommend approval of the above, by the Metro Commission/ Metro Wastewater JPA. At its March 4, 2010 meeting, the Metro Commission/ Metro Wastewater JPA, comprised of representatives of the PAs, approved the components of the negotiated policy, with the understanding that any such policy would serve as an administrative protocol regarding the allocation of debt service coverage to the PAs and funding of operating reserves by the PAs.

PROTOCOL REGARDING PA FUNDING OF OPERATING RESERVES:

Background:

Operating reserves are established to provide funding for unforeseen events that might occur during the course of the fiscal year such as unforeseen major maintenance or capital projects. The PAs performed a survey of other regional wholesale agencies and determined that agencies such as the San Diego County Water Authority maintain a 45 day operating reserves. Although the City of San Diego's current policy is to increase operating reserves for its retail customers from 45 to 70 days, the City realizes that if a major maintenance incident should occur it can immediately request payment from the PAs per the Regional Wastewater Disposal Agreement. The City of San Diego's retail customer's rates cannot be immediately increased due to Proposition 218 requirements for noticing and public hearings.

Protocol:

Attachment B is a summary of the funding strategy showing each PAs 2007 and 2008 refunds based on recent City Metro Wastewater Exhibit E audits. The refunds will be used to fund the PAs 45 day operating reserves contribution. In the majority of cases most PAs will see a refund even after they have

fully funded their portion of the operating reserves. PAs that do not have adequate refunds will be billed for their portion of the reserve in the next quarterly 2010 billing. The operating reserves for each fiscal year will be established based on 45 days of operating revenues as determined by the following formula:

$$\frac{\text{Fiscal Year Estimated Operating Expenses (not including CIP and debt service)}}{365 \text{ days}} \times 45 \text{ days}$$

The number of days included in the calculation cannot be changed without prior consent of the PAs.

The operating reserves will be maintained by the City of San Diego and interest will accrue on a monthly basis based on actual interest rates on the City's investments. This interest revenue will be added to the PAs undesignated fund balance for that fiscal year. As part of each year's Exhibit E audit the actual required operating reserves and interest earned on it will be determined and audited by the City of San Diego's external auditors and PA representatives. A summary of the operating reserves balance and interest earned for each PA will be included as a footnote or attachment to the City Metro Wastewater Exhibit E Audit.

PROTOCOL REGARDING ALLOCATION OF DEBT SERVICE COVERAGE TO PAs

Background:

A 1.2 debt service coverage ratio is a requirement for all of the outstanding Metro parity debt. A cash flow prepared by the City of San Diego shows (Attachment C) that if the PAs are billed at the current level (\$65 million annually to cover the PAs portion of operations, pay-go capital, and debt service expense) for the next three to five years that this requirement can be achieved without additional contributions by the PAs. This provides the PAs a stable projected annual Metro contribution for the next three to five years.

Protocol:

The PAs will maintain through annual contributions and use of PA undesignated fund balance a positive cash flow not to exceed 1.2 times the PA share of the required annual debt service on Metro Debt. The debt service coverage ratio of 1.2 cannot be changed without prior consent of the PAs.

The undesignated fund balance will be maintained by the City of San Diego and interest will accrue on a monthly basis based on actual interest rates on the City's investments. This interest revenue will be added to the PAs undesignated fund balance for that fiscal year.

As part of each year's Exhibit E audit the actual required reserve coverage and interest earned on the undesignated fund balance will be determined and audited by the City of San Diego's external auditors and PA representatives. A summary of the debt service coverage requirement and portion of interest earned on the undesignated fund balance for each PA will be included as a footnote or attachment to the City Metro Wastewater Exhibit E Audit.

If the cash flow in any year does not provide the required 1.2 debt service coverage the PAs will be billed the additional required revenue including interest.

Attachment A
Original San Diego Proposal

Draft

FY 2009, and prospective years, Participating Agency funding process for the allocation of the MWWD Debt Service Coverage requirement:

Year 1

On October 1, 2008

1. Obtain the FY 2009 total MWWD debt service amount including SRF debt from the Administrative Services, Budget Section.
2. Calculate the debt service coverage dollar amount greater than 100%. The target debt service coverage percentage of 1.56 is the average debt service coverage ratio found in the current rate case model. The formula is: ([Current Debt Service Amount], $\$94,306,351 * .56 = \$52,811,557$).
3. Allocate the total debt service coverage amount between the Municipal and Metropolitan Systems using their respective debt service percentages of 77.91% for the Metropolitan System and 22.09% for the Municipal System.
4. Obtain final FY 2009 projected flow-based billing percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
5. Allocate the Metropolitan System portion of the debt service coverage amount to the City of San Diego and the 15 Participating Agencies using final FY 2009 projected flow-based billing percentages.
6. Update the Participating Agency Debt Coverage Payment Schedule.

On October 4, 2008

1. Forward the Participating Agency Debt Coverage Payment Schedule to the Admin Services, Agency Contracts Section, (Peggy Merino).

On November 1, 2008

1. Admin Services, Agency Contracts Section, (Peggy Merino) sends FY 2009 second quarter invoices to include as a second item, the debt service coverage amounts. The due date is December 1, 2008. (no interest will be applied to these accounts due to the mid year payment approach)

On December 1, 2008

1. Recognize the Participating Agencies debt service coverage payments as new revenues and update the Participating Agency Debt Coverage Payment Schedule.
2. Inform Admin Services, Agency Contracts Section, (Peggy Merino) to reduce the Participating Agencies FY 2010 CIP expense allocation by the FY 2009 Participating Agencies debt service coverage payments.
3. Obtain the preliminary FY 2010 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
4. Calculate a preliminary FY 2010 debt service coverage schedule and forward to the Admin Services, Agency Contracts Section, (Peggy Merino)

On January 1, 2009

1. Admin Services, Agency Contracts Section, (Peggy Merino), informs the Participating Agencies of the FY 2010 projected debt service coverage amounts for budgeting purposes.

On July 1, 2009

1. Apply the FY 2009 Participating Agencies debt service coverage payments towards the cash requirement for the FY 2010 Metro based CIP Project budget. Any residual amounts will be applied to the O&M budget.

Year 2 (Prospective Years)**On October 1, 2009**

1. Obtain the Fiscal Year 2010 total MWWD debt service amount including SRF debt from the Administrative Services, Budget Section.
2. Calculate the debt service coverage dollar amount greater than 100%. The target debt service coverage percentage of 1.56 is the average debt service coverage ratio found in the current rate case model. The formula is: ([Current Debt Service Amount], $\$xxx,xxx,xxx * .56 = \xxx,xxx,xxx)
3. Allocate the total debt service coverage amount between the Municipal and Metropolitan Systems using their respective debt service coverage percentages of xx.xx% for the Municipal System and xx.xx% for the Metropolitan System.
4. Obtain the final FY 2010 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
5. Allocate the Metropolitan System portion of the debt service coverage amount to the City of San Diego and the 15 Participating Agencies using the preliminary FY 2010 projected flow-based percentages.
6. Update the Participating Agency Debt Coverage Payment Schedule.

On October 4, 2009

1. Forward the Participating Agency Debt Coverage Payment Schedule to the Admin Services, Agency Contracts Section, (Peggy Merino) for invoicing purposes.

On November 1, 2009

1. Admin Services, Agency Contracts Section, (Peggy Merino) sends FY 2009 second quarter invoices to include as a second item, the debt service coverage amounts. The due date is December 1, 2009. (no interest will be applied to these accounts due to the mid year payment approach)

On December 1, 2009

1. Recognize the Participating Agencies debt service coverage payments as new revenues and update the Participating Agency Debt Coverage Payment Schedule.
2. Inform Admin Services, Agency Contracts Section, (Peggy Merino) to reduce the Participating Agencies FY 2011 CIP expense allocation by the FY 2010 Participating Agencies debt service coverage payments.
3. Obtain the preliminary FY 2011 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
4. Calculate a preliminary FY 2011 debt service coverage schedule and forward to the Admin Services, Agency Contracts Section, (Peggy Merino)

On January 1, 2010

1. Admin Services, Agency Contracts Section, (Peggy Merino), informs the Participating Agencies of the FY 2011 projected debt service coverage amounts for budgeting purposes.

On July 1, 2010

1. Apply the FY 2010 Participating Agencies debt service coverage payments towards the cash requirement for the FY 2011 Metro based CIP Project budget. Any residual amounts will be applied to the O&M budget.

Attachment B
Operating Reserve Funding Strategy

FY07-FY08 Operating Reserve Rate Stabilization
Based on 2008 Flows
FINAL

| Agency | EXHIBIT E AUDIT ADJUSTMENTS | | | 2008 FLOWS & LOADS | | |
|-----------------|-----------------------------|----------------------|-----------------------|-----------------------|----------------------|--------------------------|
| | FY 2007 | FY 2008 | TOTAL | 2008 FLOWS & LOADS | OPERATING RESERVE | NET |
| CHULA VISTA | (\$1,837,010) | (\$2,100,751) | (\$3,937,761) | 28.083% | \$1,202,374 | (\$2,735,387) |
| CORONADO | (\$189,910) | (\$366,858) | (\$556,768) | 3.356% | \$143,693 | (\$413,075) |
| DEL MAR | (\$87,785) | (\$103,913) | (\$191,698) | 1.029% | \$44,061 | (\$147,637) |
| EL CAJON | (\$290,369) | \$66,888 | (\$223,481) | 15.270% | \$653,789 | \$430,308 |
| IMPERIAL BEACH | (\$132,300) | (\$130,153) | (\$262,453) | 3.652% | \$156,373 | (\$106,080) |
| LA MESA | (\$99,793) | (\$40,190) | (\$139,983) | 8.842% | \$378,561 | \$238,578 |
| LAKESIDE/ALPINE | (\$293,313) | (\$243,206) | (\$536,519) | 5.357% | \$229,368 | (\$307,151) |
| LEMON GROVE | (\$147,034) | (\$195,043) | (\$342,077) | 3.611% | \$154,615 | (\$187,462) |
| NATIONAL CITY | (\$637,379) | (\$947,043) | (\$1,584,422) | 7.572% | \$324,211 | (\$1,260,211) |
| OTAY | \$123,792 | (\$138,545) | (\$14,753) | 0.459% | \$19,668 | \$4,915 |
| PADRE DAM | (\$789,976) | (\$1,752,218) | (\$2,542,194) | 5.198% | \$222,537 | (\$2,319,657) |
| POWAY | (\$683,251) | \$130,168 | (\$553,083) | 5.770% | \$247,021 | (\$306,062) |
| SPRING VALLEY | (\$611,093) | (\$667,539) | (\$1,278,632) | 10.316% | \$441,691 | (\$836,941) |
| WINTERGARDENS | (\$71,984) | (\$56,162) | (\$128,146) | 1.482% | \$63,470 | (\$64,676) |
| TOTAL | (\$5,747,405) | (\$6,544,565) | (\$12,291,970) | 100% | \$4,281,432 | \$ (8,010,538.00) |

Attachment C
Debt Service Coverage Funding Strategy

Attachment C

Schedule of Participating Agency Contributions to Operations Reserve and Debt Service Coverage Cash flow FY 2007-2011
Prepared on: February 23, 2010

HOW TO READ CASH FLOW SPREADSHEET:

Blue font = data inputted directly into spreadsheet
Green font = data imported from another spreadsheet in workbook
Black font = Calculation; see legend to determine calculation

| Line # | Cash flow Component | Legend | Foot-note # | AUDITED | | PROJECTED | | | | | | | |
|--------|---------------------------------------|-----------------------------|-------------|--------------|--------------|--------------|---------------|--------------|---------------|---------------|--------------|--------------|--------------|
| | | | | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 | |
| 1 | Current Projected Revenue Stream | Input | | \$54,007,596 | \$63,231,038 | \$57,249,960 | \$64,487,408 | \$65,000,000 | \$65,000,000 | \$65,000,000 | \$65,000,000 | \$65,000,000 | \$65,000,000 |
| 2 | Annual Refund After Exhibit E Audit | Input | | | | | | (1,500,000) | (3,000,000) | (2,500,000) | (2,100,000) | (2,100,000) | (1,800,000) |
| 3 | Transfer (to)/from Operating Reserve | Line 21-Prior Year | | | | - | (4,281,432) | (42,814) | (43,242) | (43,675) | (44,112) | (44,553) | (44,553) |
| 4 | Undesignated Fund Balance Interest | Line 17 X Interest Rate | (1) | | | | 79,990 | 258,156 | 225,608 | 113,282 | 62,579 | 58,899 | 58,899 |
| 5 | Operating Reserve Interest | Calculated Off-Line | (2) | | | | 164,514 | 186,158 | 167,821 | 169,498 | 171,194 | 172,906 | 172,906 |
| 6 | Gross PA System Revenue | Sum(Line1:Line5) | | \$54,007,596 | \$63,231,038 | \$57,249,960 | \$52,241,049 | \$63,881,500 | \$62,350,187 | \$62,739,106 | \$63,089,661 | \$63,387,252 | \$63,387,252 |
| 7 | Less: | | | | | | | | | | | | |
| 8 | PA Estimated Total Operating Expenses | Prior year X 1.01 | (3) | \$32,304,298 | \$37,150,042 | \$34,727,170 | \$34,727,170 | \$35,074,442 | \$35,425,186 | \$35,779,438 | \$36,137,232 | \$36,498,605 | \$36,498,605 |
| 9 | | | | | | | | | | | | | |
| 10 | Net PA System Revenue | Line 6 - Line 8 | | \$21,703,298 | \$26,080,996 | \$22,522,790 | \$17,513,879 | \$28,807,059 | \$26,925,001 | \$26,959,668 | \$26,952,429 | \$26,888,647 | \$26,888,647 |
| 11 | | | | | | | | | | | | | |
| 12 | PA Annual Debt Service Payment | Calculated Off-Line | | \$20,373,393 | \$19,950,051 | \$20,441,069 | \$20,049,964 | \$20,043,880 | \$22,479,045 | \$22,478,266 | \$22,478,075 | \$22,478,140 | \$22,478,140 |
| 13 | CIP Pay Go - 20% of Projected CIP | Input | (4) | (4,417,502) | (512,512) | - | 1,318,048 | 5,610,210 | 7,369,218 | 5,800,940 | 4,570,129 | 4,655,009 | 4,655,009 |
| 14 | Total CIP and Debt Service | Line 12 + 13 | | 15,955,891 | 19,337,539 | 20,441,069 | 25,368,037 | 29,654,090 | 29,848,257 | 28,279,206 | 27,048,204 | 27,133,739 | 27,133,739 |
| 15 | | | | | | | | | | | | | |
| 16 | Net Income after CIP and Debt Service | Line 10 - 14 | | \$5,747,407 | \$6,743,457 | \$2,081,721 | (\$7,854,157) | (\$847,032) | (\$2,923,257) | (\$1,319,537) | (\$95,775) | (\$245,092) | (\$245,092) |
| 17 | PA Undesignated Fund Balance | Line 16 + Prior Year | | \$5,747,407 | \$12,490,864 | \$14,572,585 | \$6,718,428 | \$5,871,396 | \$2,948,139 | \$1,628,602 | \$1,532,827 | \$1,287,735 | \$1,287,735 |
| 18 | | | | | | | | | | | | | |
| 19 | Calculated Debt Service Ratio | Line 10/Line 12 | (5) | | | | 0.73 | 1.20 | 1.20 | 1.20 | 1.20 | 1.20 | 1.20 |
| 20 | | | | | | | | | | | | | |
| 21 | Operating Reserve (45 days) | (Line 8/365 days) X 45 days | | | | | \$4,281,432 | \$4,324,246 | \$4,367,489 | \$4,411,164 | \$4,455,275 | \$4,499,828 | \$4,499,828 |

Footnotes:

- (1) average of current year ending balance + prior year ending balance times 3.2%
- (2) average monthly balance times LAIF rate (first year calculated at half year interest)
- (3) FY09 based on average of FY07 & FY08 then 1% inflation
- (4) 20% of projected Metro CIP
- (5) Minimum coverage requirement 1.2 time annual Metro debt service

FY10 Operating Reserve Calc:

| | |
|---------------------------|--------------|
| PA Operating Expenses: | \$34,727,170 |
| divided by: | 365 |
| Equals: | \$95,143 |
| Times: | 45 |
| 45 day Operating Reserve: | \$4,281,432 |

FY10 Operating Reserve Interest Calc:

| | |
|---------------------------------------|--|
| PA Operating Expenses: | \$4,281,432 |
| Times ave monthly LAIF Interest Rate: | 0.038425 (range from 3.18% to 4.53% per month) |
| FY10 Estimated Interest Earned: | \$164,514 |

EXHIBIT D
NOTICE LISTING

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

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

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

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

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

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

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

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

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

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

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

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

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

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EXHIBIT E
MAP OF RECLAIMED WATER PROJECTS

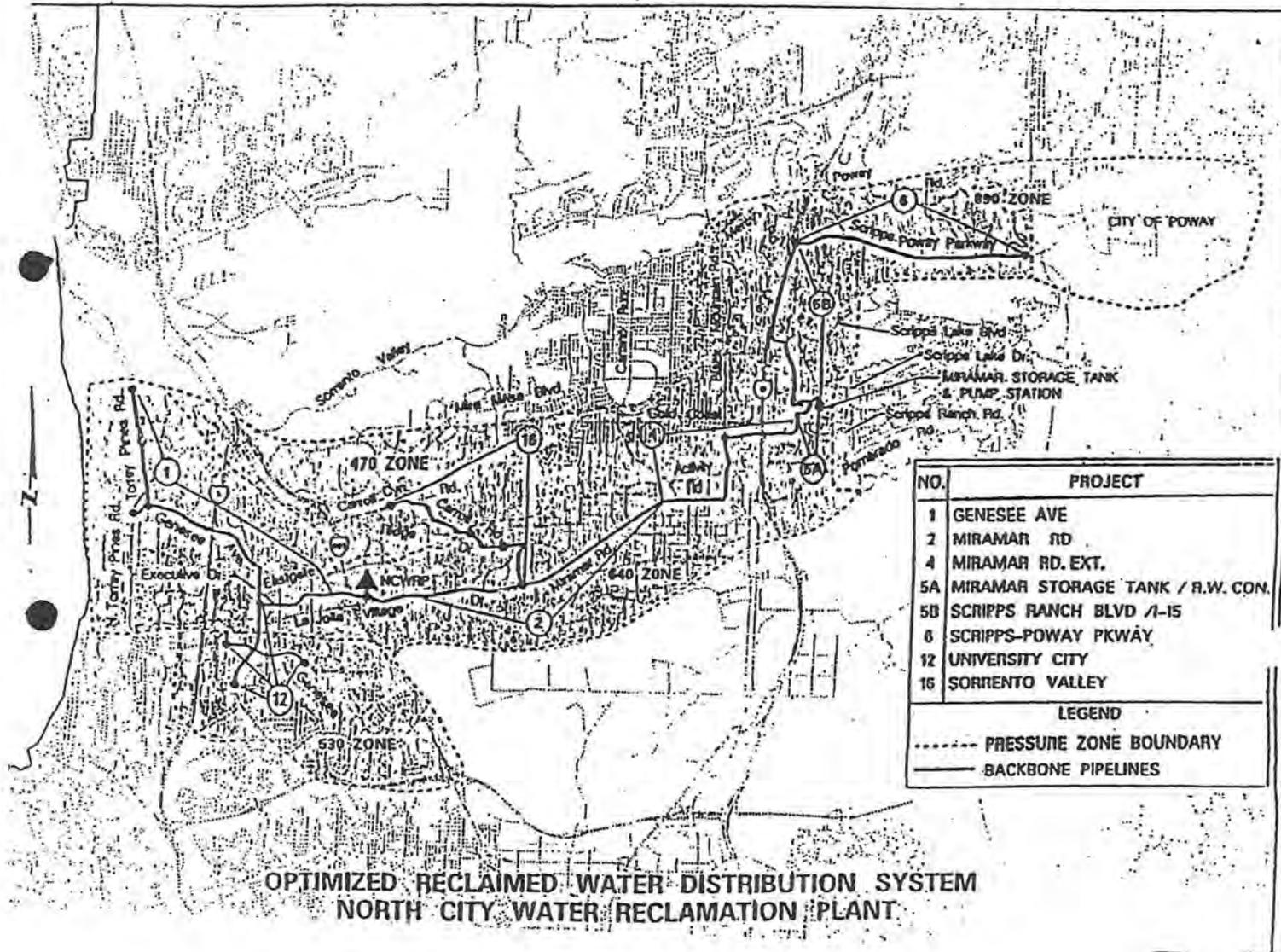


EXHIBIT E

EXHIBIT F
PURE WATER COST ALLOCATION AND REVENUES

7/16/18 Version

EXHIBIT F**PURE WATER PROGRAM COST ALLOCATION AND REVENUES**

As part of the Pure Water Program, the City intends to modify the North City Water Reclamation Plant (a Metro System facility) and expand its capacity to 52 mgd. In addition, the City intends to construct the North City Advanced Water Purification Facility on a nearby site to produce Repurified Water. This Exhibit F sets forth the costs and revenues associated with the Pure Water Program which are, or are not, attributable to the Metro System.

I. Costs Excluded from Metro System Costs

All of the following Pure Water Program costs, including Capital Improvement Costs, Operation and Maintenance Costs, and other related costs (including administration, insurance, claims, and overhead) are excluded as Metro System Costs for purposes of calculating the annual Sewer System Charge, and shall be the responsibility of City's water utility ("**City Water Utility PW Costs**"), unless otherwise expressly agreed to pursuant to an amendment to this Exhibit F:

1.1 General Exclusions.

1.1.1 Costs of the Water Repurification System and any Metro System facilities to the extent constructed, modified, expanded, or used for the purpose of treating water beyond secondary treatment (ocean discharge standard under current law). This shall include costs for preliminary treatment, primary treatment, and secondary treatment to the extent such costs are higher than they would otherwise be due to the production of Repurified Water.

1.1.2 Costs for fail-safe disposal, if necessary, for design capacity for Repurified Water, including, but not limited to, any costs associated with the reservation of capacity at the Point Loma Wastewater Treatment Plant.

1.1.3 Costs for the demolition or replacement of existing Metro System facilities with similar facilities for the purpose of making space available for Water Repurification System facilities. Such costs may take into account the current asset value or market value of the existing Metro System facility.

1.2 Cost Exclusions Specific to North City Water Reclamation Plant Improvements.

1.2.1 Costs for increased aeration tank volume to the extent the new volume exceeds the amount necessary to provide 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.

1.2.2 Costs for the methanol feed system.

1.2.3 Costs for brine disposal, including, but not limited to, pump stations, pipelines, retreatment, ocean outfall, and monitoring.

7/16/18 Version

1.2.4 Costs for the use of existing tertiary water filters for Repurified Water purposes, which may take into account depreciated value of such filters. (Such costs shall be reimbursed or credited by City's water utility to the Metro System).

II. North City Water Reclamation Plant Improvement Costs Included as Metro System Costs

Notwithstanding the above exclusions, the City and the Participating Agencies have specifically agreed that the following Capital Improvement Costs and Operation and Maintenance Costs related to North City Water Reclamation Plant improvements shall be included as Metro System Costs for purposes of calculating the annual Sewer System Charge (and therefore not qualify as City Water Utility PW Costs):

- 2.1 Costs for chemically enhanced primary treatment for up to 52 mgd capacity.
- 2.2 Costs for primary effluent equalization for up to 52 mgd capacity.
- 2.3 Costs for increased volume of aeration tanks that will provide up to, but not exceeding, 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.
- 2.4 Costs to add secondary clarifier tanks sufficient for up to 52 mgd capacity.
- 2.5 Costs for wastewater conveyance facilities to provide wastewater for replacement of centrate flows that cannot be treated at the North City Water Reclamation Plant due to the production of Repurified Water.
- 2.6 Costs for treatment and conveyance of all return flows (micro-filtration and tertiary backwash) based on Flow, COD, and SS.

III. Cost Allocation Example

Attachment 1 is an example of the City's Pure Water Phase I Cost Estimate (based on 60% design), and indicates which costs are City Water Utility PW Costs and which costs are attributable to the Metro System. The Parties agree that Attachment 1 is an illustrative document to assist the Parties in the future and is not a comprehensive list of all such costs. If there is any conflict between this Exhibit F and Attachment 1, or if a specific cost is not addressed in Attachment 1, this Exhibit F shall control.

IV. Revenue Sharing for Repurified Water

4.1 **Background.** Initially, the parties anticipate that the cost per acre foot associated with the production of Repurified Water will be more expensive than the cost per acre foot of untreated imported water. However, it is anticipated that Repurified Water produced under the Pure Water Program will be less expensive than untreated imported water sometime in the future. Once Repurified Water produced under the Pure Water Program becomes less expensive than the cost of untreated imported water, the parties agree that there will be revenue from the Pure Water Program.

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4.2 **Calculation.** Revenue sharing shall occur in each fiscal year during which the annual cost per acre foot associated with the production of Repurified Water is less than the cost of untreated water per acre foot from the San Diego County Water Authority (“CWA”). The annual cost difference shall be known as “**Repurified Water Revenue.**” Repurified Water Revenue shall be determined as follows:

Annual cost per acre foot of CWA untreated water purchased by the City for delivery at Miramar Reservoir (which shall be determined based on the total of certain fixed and variable costs for water actually billed to the City by CWA for water delivered at Miramar Reservoir in a fiscal year, divided by the number of acre-feet of CWA water delivered at Miramar Reservoir that year)

less

Annual cost per acre foot of City Water Utility PW Costs (which shall be determined based on the total annual City Water Utility PW Costs, as defined above in Section A, divided by the number of acre-feet of Repurified Water actually produced in that year)

multiplied by

The number of acre feet of Repurified Water produced by Pure Water Program facilities during the applicable fiscal year.

Attachment 2 is an example of a bill from CWA showing which fixed and variable costs for untreated water will be used for determining Repurified Water Revenue and the amount of water delivered in a billing period. The Parties agree that Attachment 2 shall be referred to by the Parties in the future in determining how costs for water delivered at Miramar Reservoir are calculated. If no untreated water is delivered at Miramar Reservoir in a given year, then the closest point of delivery of untreated water to the City shall be used.

Attachment 3 is a sample calculation of Repurified Water Revenue.

The City shall estimate whether there will be Repurified Water Revenue in the upcoming fiscal year prior to January 15 of each year, and the estimated amount of Repurified Water Revenue shall be effective on July 1 of the upcoming fiscal year.

4.3 **Revenue Sharing.** Repurified Water Revenue shall initially be shared based on the relative actual Capital Improvement Costs for the Pure Water Program contributed by City’s Water Utility and the Metro System. Such Capital Improvement Cost contributions are currently estimated as (61% City Water Utility and 39% Metro System) until the debt attributable to the Metro System is fully paid.

Following full payment of debt attributable to the Metro System, Repurified Water Revenue shall be shared based on the relative actual Operation and Maintenance Costs for Pure

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Water Program facilities contributed by City's Water Utility and the Metro System, calculated annually. Such Operation and Maintenance Costs are currently estimated as (76% City Water Utility and 24% Metro System) on an annual basis.

4.4 Year-End Adjustment. At the end of each fiscal year during which there is Repurified Water Revenue, the City shall determine the actual cost per acre foot of CWA untreated water purchased by the City, the actual cost per acre foot of City water Utility PW costs, and the actual amount of Repurified Water produced at Pure Water Program facilities.

Based on the actual cost and production information, the City will recalculate the Repurified Water Revenue for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

4.5 Change in Potable Reuse Method. The parties acknowledge that the Pure Water Program will initially use the surface water augmentation method of potable reuse. The use of CWA untreated water costs in calculating Repurified Water Revenue is intended to provide an appropriate point of comparison to costs for producing Repurified Water that will be introduced into surface water. The parties agree that if the City implements direct potable reuse (in which Repurified Water is introduced directly into a water supply pipeline or facility), the parties shall meet and negotiate in good faith regarding an amendment to this Exhibit F to appropriately update the formula for Repurified Water Revenue.

V. Secondary Effluent Commodity Rate

5.1 Background. The Point Loma Wastewater Treatment Plant operates under a National Pollutant Discharge Elimination System ("NPDES") permit modified under section 301(h) & (j)(5) of the Clean Water Act. If such modified permit were ever revoked or not renewed, the parties agree that, under current law, the City would have an obligation to upgrade the Point Loma WTP to secondary treatment. The parties further agree that \$1.8 billion is a fair and comprehensive estimation of the costs that could be incurred by the Metro System to meet the legal requirements related to the Metro System under current law.

Therefore, the parties agree that \$1.8 billion represents the maximum amount of Capital Improvement Costs that the Metro System should be obligated to contribute to the Pure Water Program, the purpose of which is not solely the disposal of wastewater, but also the production of Repurified Water. The parties agree that this \$1.8 billion maximum contribution should apply whether or not the Point Loma WTP is actually upgraded to secondary treatment to meet legal requirements in the future because, as of the date of the Agreement, the parties have the option of upgrading the Point Loma WTP to full secondary treatment for the cost of approximately \$1.8 billion.

In light of the above, the parties have agreed that if Metro System costs related to the Pure Water Program exceed the \$1.8 billion, City's Water Utility will pay a charge for each acre foot of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water.

5.2 Capital Expense Rate. Under the circumstances described below, City's Water Utility shall pay a charge ("**Capital Expense Rate**") for each acre-foot of secondary treated

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effluent produced by Metro System facilities and used for the production of Repurified Water. City's Water Utility shall pay the Capital Expense Rate if the following costs alone, or in combination, exceed \$1.8 billion (which amount shall be adjusted for inflation):

(a) the sum of all Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F; and/or

(b) the sum of all Capital Improvement Costs and associated debt for the full or partial upgrading of the Point Loma Wastewater Treatment Plant to secondary treatment.

Notwithstanding, the Capital Expense Rate shall not apply if the Point Loma WTP is actually upgraded to secondary treatment (or beyond) due to: (a) a change in federal or state statutory law making it necessary to upgrade the Point Loma WTP to comply with such new discharge standard; or (b) a final decision by a state or federal court or a federal administrative agency of competent jurisdiction that an NPDES permit modified under section 301(h) & (j)(5) of the Clean Water Act is thereby revoked or denied renewal due to a finding that the discharge from the Point Loma WTP violates 40 C.F.R. 131.12, State Water Resources Control Board Resolution 68-16, and State Water Resources Control Board Administrative Procedures Update No. 90-004.

5.3 Calculation of Capital Expense Rate . The amount per acre-foot of the Capital Expense Rate shall be determined as follows:

The sum of all Capital Improvement Costs and associated debt attributable to (i) the Metro System components of the Pure Water Program under this Exhibit F and (ii) upgrading of the Point Loma WTP to secondary treatment (if any)

less

\$1.8 billion, as adjusted for inflation each July 1 (starting on July 1, 2019) to reflect the annual percentage change in the Engineering News Record – Los Angeles construction cost index

multiplied by

1.42 (which estimates the total interest on a 30-year State Revolving Fund loan with an interest rate of 2.5%)

and divided by

The total number of acre feet per year of secondary treated effluent that is expected to be produced by Metro System facilities for the production of Repurified Water over a period of thirty (30) years, or the number of years remaining in the term of the Agreement, whichever is shorter.

The City shall estimate whether there the Capital Expense Rate shall apply to the upcoming fiscal year (and its amount) prior to January 15 of each year, and the estimated amount

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of the Capital Expense Rate shall be effective on July 1 of the upcoming fiscal year.

For purposes of this Article V of Exhibit F, Capital Improvement Costs and associated debt shall include such costs incurred by the Metro System prior to the effective date of the Agreement.

5.4 Year-End Adjustment

At the end of each fiscal year during which the Capital Expense Rate applies, the City shall determine the actual Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F and any upgrading of the Point Loma WTP to secondary treatment, the then-applicable interest amount for outstanding loans for the Metro System components of the Pure Water Program and Point Loma WTP upgrades, and the actual amount of Repurified Water produced at Pure Water Program facilities.

Based on the actual cost, interest, and production information, the City will recalculate the Capital Expense Rate for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

5.5 Duration; Expiration

The Capital Expense Rate shall continue until the cost difference between (a) the actual sum of the Capital Improvement Costs and associated debt attributable to the Metro System under this Exhibit F and the costs to upgrade the Point Loma WTP and (b) \$1.8 billion (as adjusted for inflation) has been fully repaid.

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ATTACHMENT 1

Pure Water Phase I Cost Estimate

| | Total | % |
|---|----------------------------|------------|
| Wastewater: | | |
| MorenaPump Station WW Force Main and Brine Conveyance | \$ 324,712,285.00 | |
| North City Renewable Energy | \$ 33,794,784.00 | |
| North City MBC Improvements | \$ 7,310,835.00 | |
| North City WRP Expansion and PWF Influent Conveyance | \$ 176,882,842.00 | |
| SDG&E | \$ 3,288,932.00 | |
| Total Wastewater | \$ 545,989,678.00 | 39% |
| Water: | | |
| MorenaPump Station WW Force Main and Brine Conveyance | \$ 46,504,958.00 | |
| North City Renewable Energy | \$ 94,020,128.00 | |
| Miramar WTP Pump and Plant Improvements | \$ 4,555,811.00 | |
| North City Pure Water Facility | \$ 521,652,285.00 | |
| North City WRP Expansion and PWF Influent Conveyance | \$ 45,236,959.00 | |
| North City Pure Water Pipeline | \$ 109,411,952.00 | |
| North City Pure Water Pump Station | \$ 20,469,509.00 | |
| Total Water | \$ 841,851,602.00 | 61% |
| Total Project | \$ 1,387,841,280.00 | |
| Shared Projects: | | |
| MorenaPump Station WW Force Main and Brine Conveyance | | |
| Wastewater | \$ 324,712,285.00 | 87% |
| Water | \$ 46,504,958.00 | 13% |
| | \$ 371,217,243.00 | |
| North City Renewable Energy | | |
| Wastewater | \$ 33,794,784.00 | 26% |
| Water | \$ 94,020,128.00 | 74% |
| | \$ 127,814,912.00 | |
| North City WRP Expansion and PWF Influent Conveyance | | |
| Wastewater | \$ 176,882,842.00 | 80% |
| Water | \$ 45,236,959.00 | 20% |
| | \$ 222,119,801.00 | |

Note: The above estimates are based on 60% design of Phase I of the Pure Water Program.

7/16/18 Version

ATTACHMENT 2 – SAMPLE CWA BILL

DRAFT

7/16/18 Version

ATTACHMENT 3 – SAMPLE CALCULATION OF REPURIFIED WATER
REVENUE

60409.00001\30398144.12

DRAFT

EXHIBIT G
2050 FLOW PROJECTIONS

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

EXHIBIT G

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.A
Dept. City Attorney

Item Title: Waive Full Text Reading of All Ordinances on the Agenda.

Staff Contact: James P. Lough, City Attorney

Recommendation:

Waive the full text reading of all ordinances included in this agenda. Ordinances shall be introduced and adopted by title only.

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

None.

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.B
Dept. Finance

Item Title: City of Lemon Grove Payment Demands

Staff Contact: Molly Brennan, Finance Manager

Recommendation:

| |
|----------------|
| Ratify Demands |
|----------------|

Fiscal Impact:

None.

Environmental Review:

Not subject to review

Categorical Exemption, Section

Negative Declaration

Mitigated Negative Declaration

Public Information:

None

Newsletter article

Notice to property owners within 300 ft.

Notice published in local newspaper

Neighborhood meeting

Attachments:

None.

City of Lemon Grove Demands Summary

Approved as Submitted:

Molly Brennan, Finance Manager

For Council Meeting: 10/02/18

ACH/AP Checks 09/11/18-09/24/18

906,481.22

Payroll - 09/11/18

141,330.86

Total Demands

1,047,812.08

| CHECK NO | INVOICE NO | VENDOR NAME | CHECK DATE | Description | INVOICE AMOUNT | CHECK AMOUNT |
|----------|---|--|------------|---|--|--------------|
| ACH | Aug18 | Home Depot Credit Services | 09/11/2018 | Home Depot Purchases - Aug'18 | 2,684.39 | 2,684.39 |
| ACH | 4154920380 3568860625 | SDG&E | 09/11/2018 | Electric Usage:St Light 7/31/18-8/31/18 Electric Usage:St Light 7/31/18-8/31/18 | 1,879.92 1,286.23 | 3,166.15 |
| ACH | Aug18 | Wells Fargo Bank | 09/11/2018 | Bank Service Charge - Aug'18 | 707.35 | 707.35 |
| ACH | 8639131 | LEAF | 09/11/2018 | Ricoh C3502 Copier System-PW Yard - Aug'18 | 160.51 | 160.51 |
| ACH | 1015402874 | California Public Empl Retirement System | 09/12/2018 | Fees for GASB-68 Reports & Schedules | 1,750.00 | 1,750.00 |
| ACH | Aug29-Sep11 18 | Calpers Supplemental Income 457 Plan | 09/12/2018 | 457 Plan 8/29/18-9/11/18 | 7,929.95 | 7,929.95 |
| ACH | Sep11 18 | Employment Development Department | 09/13/2018 | State Taxes 9/11/18 | 8,882.98 | 8,882.98 |
| ACH | Aug18 Aug18 | Wells Fargo Bank | 09/13/2018 | Credit Card Processing-Mo.Svc Charge - Aug'18 Credit Card Transaction Fees- Aug'18 | 9.95 779.98 | 789.93 |
| ACH | Sep11 18 | US Treasury | 09/18/2018 | Federal Taxes 9/11/18 | 27,837.95 | 27,837.95 |
| ACH | Refill 9/20/18 | Pitney Bowes Global Financial Services LLC | 09/24/2018 | Postage Usage 9/20/18 | 250.00 | 250.00 |
| 10156 | C6826 | A-Pot Rentals, Inc. | 09/12/2018 | Portable Restroom Rental- 8/9/18-9/8/18 | 132.10 | 132.10 |
| 10157 | 76866 | Anthem Blue Cross EAP | 09/12/2018 | Employee Assistance Program - Sep 18 | 129.80 | 129.80 |
| 10158 | 4724184 | Bearcom | 09/12/2018 | Portable Radios Monthly Contract 8/22/18-9/21/18 | 150.00 | 150.00 |
| 10159 | 886479-9 886793-9 888541-9 888750-9 | BJ's Rentals | 09/12/2018 | Propane Propane Propane Auger Rental - Install Park Signs/Berry St Park | 16.97 13.05 16.97 83.82 | 130.81 |
| 10160 | 9/11/18 | California State Disbursement Unit | 09/12/2018 | Wage Withholding Pay Period Ending 9/11/18 | 161.53 | 161.53 |
| 10161 | 4026847808 | Canon Solutions America, Inc. | 09/12/2018 | Canon Maintenance-Copier Usage 5/27/18-8/26/18 | 58.58 | 58.58 |
| 10162 | 1900215542 4008289779 4008524114 4008770082 4009255822 4009255869 4009493279 694514418 | Cintas Corporation #694 | 09/12/2018 | Janitorial Supplies - 7/24/18 Janitorial Supplies - Fire - 8/2/18 Janitorial Supplies - 8/9/18 Janitorial Supplies - 8/16/18 Janitorial Supplies - Fire - 8/30/18 Janitorial Supplies - 8/30/18 Janitorial Supplies - 9/6/18 Janitorial Supplies - Fire - 7/5/18 | 991.08 258.97 230.97 592.81 443.18 1,600.63 231.10 356.05 | 4,704.79 |
| 10163 | 682 | City of Chula Vista | 09/12/2018 | Animal Control Services- Jun '18 | 16,923.00 | 16,923.00 |
| 10164 | 1821 | Clark Telecom & Electric Inc. | 09/12/2018 | Street Light Dig Alert Mark Outs - Jul '18 | 103.44 | 103.44 |
| 10165 | 81913985 | Corelogic Solutions, LLC. | 09/12/2018 | RealQuest Graphics Package - Aug'18 | 300.00 | 300.00 |
| 10166 | 8/19/2018 9/1/2018 9/1/2018 8/17/2018 | Cox Communications | 09/12/2018 | Phone/PW Yard/2873 Skyline- 8/19/18-9/18/18 Main Phone/Fire- 9/1/18-9/30/18 Phone/City Hall- 9/1/18-9/30/18 City Manager/Copy Room Fax Line- 8/18/18-9/17/18 | 211.81 468.75 974.00 3.45 | 1,658.01 |
| 10167 | 0718.17.1051 | Dexter Wilson Engineering, Inc. | 09/12/2018 | Metro JPA Wastewater Issues - Jul'18 | 16,727.50 | 16,727.50 |

| CHECK NO | INVOICE NO | VENDOR NAME | CHECK DATE | Description | INVOICE AMOUNT | CHECK AMOUNT |
|----------|--|--|------------|--|--|--------------|
| 10168 | 447300971 | EAN Services, LLC | 09/12/2018 | Car Rental- Lion Fire- 6/24/18-7/7/18 Wrisley | 783.15 | 783.15 |
| 10169 | 8/27-30/18 | Esgil Corporation | 09/12/2018 | 75% Building Fees- 8/27/18-8/30/18 | 3,423.19 | 3,423.19 |
| 10170 | 416545 | EW Truck & Equipment Company, Inc. | 09/12/2018 | PW/Supplies | 2.76 | 90.86 |
| | 417481 | | | LED Signal - LGPW#29 | 88.10 | |
| 10171 | 9/11/18 | Franchise Tax Board | 09/12/2018 | Wage Withholding Pay Period Ending 9/11/18 | 745.66 | 745.66 |
| 10172 | 109520405 | Globalstar USA, Inc. | 09/12/2018 | Satellite Service 6/16/18-7/15/18 | 165.31 | 165.31 |
| 10173 | 90418-01 | Heartland Fire Training Facility | 09/12/2018 | Registration - Rescue Sys II- 9/4/18 Duenez | 1,000.00 | 1,000.00 |
| 10174 | 00054486 00055289 | Hudson Safe-T- Lite Rentals | 09/12/2018 | 10' Square Posts/Anchors/Sleeves 4 5-Gallon Red Traffic Paint | 779.40 428.67 | 1,208.07 |
| 10175 | 18-4446 | I love a Clean San Diego | 09/12/2018 | ILACSD Recycling Educ Community Outreach Events thru 7/31/18 | 2,750.00 | 2,750.00 |
| 10176 | Sep11 18 | ICMA | 09/12/2018 | ICMA Deferred Compensation Pay Period Ending 9/11/18 | 580.77 | 580.77 |
| 10177 | 2296 | La Prensa San Diego | 09/12/2018 | Election Notice in Spanish 8/31/18 | 155.00 | 155.00 |
| 10178 | INV22551 | Logiccopy | 09/12/2018 | Ricoh C3502 Copier Contract Charge- PW Yard - 9/7/18-10/6/18 | 51.58 | 51.58 |
| 10179 | IN1259747 | Municipal Emergency Services Inc. | 09/12/2018 | SCBA Repair/Regulators | 885.11 | 885.11 |
| 10180 | NEX18-179-1 NEX18-179-1 | NexTech Systems, Inc. | 09/12/2018 | Replace Pedestrian Crossing RRFB unit at Golden Ave & School Lane Shipping | 4,945.65 372.15 | 5,317.80 |
| 10181 | 8461 | Nguoi Viet Today News | 09/12/2018 | Election Notice in Vietnamese 8/31/18 | 30.00 | 30.00 |
| 10182 | 605033007 | Nichols Consulting Engineers, CHTD | 09/12/2018 | Prof Svc: Pavement Mgmt Program 2018 Update thru 7/31/18 | 1,005.00 | 1,005.00 |
| 10183 | 76024 81533 | Penske Ford | 09/12/2018 | LGPW #07-'14 Ford Patch Truck F450-Service/Stalling/Erratic Idle LGPW #01-'12 Ford F350 Dump Truck- Oil Change/Filter | 130.00 60.96 | 190.96 |
| 10184 | 3102401699 | Pitney Bowes Global Financial Services LLC | 09/12/2018 | Postage Meter Rental 6/30/18-9/29/18 | 180.75 | 180.75 |
| 10185 | Racic | Racic, Aileen | 09/12/2018 | Refund/Racic, Aileen/Partial Fac Rental/Comm Ctr 9/26/18 | 200.00 | 200.00 |
| 10186 | Jul-Dec 18 | San Diego County Sheriff's Department | 09/12/2018 | Cal-ID Program Costs 7/1/18-12/31/18 | 3,601.00 | 3,601.00 |
| 10187 | 3601 1/2LGA-8/2 Aug18 | SDG&E | 09/12/2018 | 3601 1/2 LGA- Gas & Electric 7/19/18-8/19/18 Gas & Electric 7/20/18-8/20/18 | 37.07 27,466.86 | 27,503.93 |
| 10188 | 8125509170 | Shred-It USA | 09/12/2018 | Shredding Services 8/21/18 & 8/28/18 | 649.45 | 649.45 |
| 10189 | 8051259009 | Staples Advantage | 09/12/2018 | Office Supplies - City Hall | 137.54 | 137.54 |
| 10190 | Sep-18 | Sun Life Financial | 09/12/2018 | Life Insurance - Sep18 | 113.85 | 113.85 |
| 10191 | 00069820 | The East County Californian | 09/12/2018 | Notice of Nominees 9/6/18 | 59.50 | 59.50 |
| 10192 | 5833-18 | The Filipino Press | 09/12/2018 | Election Notice in Tagalog 9/1/18 | 50.00 | 50.00 |
| 10193 | 7601-4 | The Sherwin-Williams Co. | 09/12/2018 | Paint for Utility Boxes/LGPW#23 | 49.12 | 49.12 |
| 10194 | C35672 | Valley Power Systems Inc. | 09/12/2018 | E210 Repairs - Replace Output Speed Sensor | 453.82 | 453.82 |
| 10195 | 9812689761 9812690339 9812689762 | Verizon Wireless | 09/12/2018 | City Phone Charges- 7/13/18-8/12/18 Mobile Broadband Access- 7/13/18-8/12/18 PW Tablets- 7/13/18-8/12/18 | 321.56 76.02 188.78 | 586.36 |
| 10196 | 71876353 71923601 71929767 71931403 71934283 71937698 71937699 71944009 | Vulcan Materials Company | 09/12/2018 | Asphalt Asphalt Asphalt Asphalt Asphalt Asphalt Asphalt Asphalt | 151.82 254.18 297.82 101.39 105.27 106.24 106.24 152.79 | 1,275.75 |
| 10197 | 113-18-007 | Walters, Matthew | 09/12/2018 | Reimb:Training/Sheriff/Traffic Collision Investgn 7/16-7/20 | 215.00 | 215.00 |

| CHECK NO | INVOICE NO | VENDOR NAME | CHECK DATE | Description | INVOICE AMOUNT | CHECK AMOUNT |
|----------|--|---|------------|---|--|--------------|
| 10198 | 2016.04-025 | West Coast General Corporation | 09/12/2018 | LGA Realignment Proj- 7/1/18-7/31/18 | 642,433.40 | 642,433.40 |
| 10199 | 12703 | AAA Imaging | 09/19/2018 | Business Cards/Vasquez | 86.20 | 86.20 |
| 10200 | 11413 | AdminSure | 09/19/2018 | Workers' Compensation Claims Administration - Oct'18 | 440.42 | 440.42 |
| 10201 | 6191 6192 | Aguirre & Associates | 09/19/2018 | 8055 Golden Map Review - Aug '18 7021 Central Ave Street Dedication - Aug '18 | 690.00 275.00 | 965.00 |
| 10202 | 5656312979 | AutoZone, Inc. | 09/19/2018 | Diesel Exhaust Fluid/Windshield Washer Fluid | 30.05 | 30.05 |
| 10203 | 889854-9 | BJ's Rentals | 09/19/2018 | Auger Rental - Install Park Signs/LG Park/Civic Ctr/Kunkel Park | 137.38 | 137.38 |
| 10204 | Oct-18 | California Dental Network Inc. | 09/19/2018 | California Dental Insurance -Oct18 | 382.20 | 382.20 |
| 10205 | 19196845 | Canon Financial Services Inc. | 09/19/2018 | Canon Copier Contract Charge 9/20/18-10/19/18 | 81.35 | 81.35 |
| 10206 | 4009756732 | Cintas Corporation #694 | 09/19/2018 | Janitorial Supplies - 9/13/18 | 580.50 | 580.50 |
| 10207 | 377 424 539 | City of Chula Vista | 09/19/2018 | Animal Control Services- Apr '18 Animal Control Services- Mar '18 Animal Control Services- May '18 | 16,923.00 16,923.00 16,923.00 | 50,769.00 |
| 10208 | FRS0000116 FRS0000116 FRS0000116 FRS0000116 FRS0000116 FRS0000116 | City of El Cajon | 09/19/2018 | Overtime Reimbursement - Cameron 8/24/18 Overtime Reimbursement - Geilenfeldt 8/11/18 Overtime Reimbursement - Geilenfeldt 8/24/18 Overtime Reimbursement - Jenkins 8/24/18 Overtime Reimbursement - Paddock 8/11/18 Overtime Reimbursement - Pinson 8/12/18 | 1,168.30 1,395.47 1,395.47 1,197.49 299.38 1,197.49 | 6,653.60 |
| 10209 | 20259 | City of La Mesa | 09/19/2018 | FY17-18 Qtr 4-JPA Reconciliation- Apr-Jun 18 | 13,177.00 | 13,177.00 |
| 10210 | 36197 36476 | Colantuono, Highsmith & Whatley, | 09/19/2018 | Legal Svcs - thru Jul'18 Legal Svcs - thru Aug'18 | 0.75 87.97 | 88.72 |
| 10211 | 201800766 | County of SD/Assessor/Recorder/Clerk | 09/19/2018 | Recording Services - 8/28/18 | 95.00 | 95.00 |
| 10212 | 9/6/2018 9/6/2018 9/9/2018 8/30/2018 9/4/2018 | Cox Communications | 09/19/2018 | Calsense Modem Line:2259 Washington 9/6/18-10/5/18 Calsense Modem Line:7071 Mt Vernon 9/6/18-10/5/18 Calsense Modem Line:8235 Mt Vernon 9/9/18-10/8/18 Internet/Community Ctr- 8/30/18-9/29/18 Phone/Rec Ctr/ 3131 School Ln- 9/4/18-10/3/18 | 20.97 19.87 94.39 75.00 97.91 | 308.14 |
| 10213 | 090318560 | DAR Contractors | 09/19/2018 | Animal Disposal- Aug '18 | 162.00 | 162.00 |
| 10214 | 0818.04.1139 0818.18.1129 | Dexter Wilson Engineering, Inc. | 09/19/2018 | Eng Svc-District's Sewer System Mgmt Plan - Aug'18 Metro JPA Wastewater Issues - Aug'18 | 140.00 8,090.00 | 8,230.00 |
| 10215 | 9/4-6/18 | Esgil Corporation | 09/19/2018 | 75% Building Fees- 9/4/18-9/6/18 | 2,187.11 | 2,187.11 |
| 10216 | INV1013975 | George Hills Company | 09/19/2018 | TPA Claims- Adjusting/Other Services - Aug 18 | 1,505.00 | 1,505.00 |
| 10217 | 08/09/18 | Helix Water District | 09/19/2018 | Unmetered Water 7/1/17-6/30/18 - St Sweeping/Sewer Line Cleaning | 1,063.19 | 1,063.19 |
| 10218 | 00055636 | Hudson Safe-T- Lite Rentals | 09/19/2018 | 12x18 Hi-Intensity No Parking Signs | 194.85 | 194.85 |
| 10219 | 129637 129638 | Knott's Pest Control, Inc. | 09/19/2018 | Monthly Bait Stations- Civic Ctr - Aug18 Monthly Bait Stations- Sheriff - Aug18 | 60.00 45.00 | 105.00 |
| 10220 | 201807 | Lemon Grove Car Wash, Inc. | 09/19/2018 | Full Service Oil Change - LGPW#28 - 8/6/18 | 44.99 | 44.99 |
| 10221 | 1466147 | Liebert Cassidy Whitmore | 09/19/2018 | Prof Svcs: LE050-00004 thru 8/31/18 | 1,380.50 | 1,380.50 |
| 10222 | Aug 18 Aug 18 Aug 18 Aug 18 | Lounsbery Ferguson Altona & Peak LLP | 09/19/2018 | General 01163-00002 - Aug '18 Code Enforcement 01163-00003 - Aug '18 01163-00028 - Aug '18 01163-00041 - Aug '18 | 13,215.22 4,974.25 265.60 66.40 | 18,521.47 |
| 10223 | 112186 | Omega Industrial Supply Inc. | 09/19/2018 | Graffiti Remover/Cleaner | 465.32 | 465.32 |
| 10224 | 31531919 | RCP Block & Brick, Inc. | 09/19/2018 | Fast Setting Concrete Mix - LG Park | 50.67 | 50.67 |
| 10225 | CC-2 CC-3 CC-4 CC-5 | Smith Air Conditioning | 09/19/2018 | Service Call- AC Unit Repair/Sheriff Stn Service Call- AC Unit Repair/City Hall Server Service Call- AC Unit Repair/Fire Stn Service Call- AC Unit Repair/Fire Stn-Unit 2 | 151.50 215.00 150.50 198.00 | 715.00 |

| CHECK NO | INVOICE NO | VENDOR NAME | CHECK DATE | Description | INVOICE AMOUNT | CHECK AMOUNT |
|----------|----------------|---------------------------------|------------|---|----------------|--------------|
| 10226 | SD038201807 | The Epoch Times in San Diego | 09/19/2018 | Election Notice in Chinese 7/13/18 | 120.00 | 120.00 |
| 10227 | STMT 8/22/2018 | US Bank Corporate Payment | 09/19/2018 | Fuel- LGPW#31 | 15.00 | 2,263.09 |
| | STMT 8/22/2018 | | | Veh Repair - LGPW#19/Engine Check/Replace Hose Valve Assembly | 308.25 | |
| | STMT 8/22/2018 | | | Supplies/Insecticide/Hose Adapters/Rubber Stopper | 23.00 | |
| | STMT 8/22/2018 | | | Pipe Installation/8001 Broadway | 208.65 | |
| | STMT 8/22/2018 | | | Daycamp Fieldtrip/Aquaplex Aug18 | 692.00 | |
| | STMT 8/22/2018 | | | Locksmith | 132.24 | |
| | STMT 8/22/2018 | | | Oil- E10 | 48.46 | |
| | STMT 8/22/2018 | | | Fuel- Fire 7/26/18 | 39.71 | |
| | STMT 8/22/2018 | | | Refreshments/State of the City Address 8/8/18 | 71.12 | |
| | STMT 8/22/2018 | | | Firefighter Handbooks | 222.99 | |
| | STMT 8/22/2018 | | | Water for Crews on Fire Incidents | 27.20 | |
| | STMT 8/22/2018 | | | SoGOSQ/Membership Fee/Charge in Dispute | 65.00 | |
| | STMT 8/22/2018 | | | JPA Rec/Trng/Registration & Lodging 8/22/18-8/23/18 Drum | 375.85 | |
| | STMT 8/22/2018 | | | Dept Expense/Laptop Key & Photo Backdrop | 33.62 | |
| 10228 | 3394640-CA | US HealthWorks Medical Group,PC | 09/19/2018 | Annual DMV Medical Exam - 9/4/18 | 99.00 | 99.00 |
| 10229 | 9813947399 | Verizon Wireless | 09/19/2018 | Modems- Cardiac Monitors - 8/4/18-9/3/18 | 14.08 | 14.08 |
| 10230 | 71953521 | Vulcan Materials Company | 09/19/2018 | Asphalt | 134.69 | 134.69 |
| 10231 | 1015 | World Advancement of Technology | 09/19/2018 | Annual Support & Maint/Patient Care Reporting- 7/1/18-6/30/19 for EMS | 4,200.00 | 4,200.00 |
| | | | | | 906,481.22 | 906,481.22 |

**MINUTES OF A MEETING OF
THE LEMON GROVE CITY COUNCIL
TUESDAY, SEPTEMBER 18, 2018**

*The City Council also sits as the Lemon Grove Housing Authority,
Lemon Grove Sanitation District Board, Lemon Grove Roadway Lighting District Board,
and Lemon Grove Successor Agency.*

Call To Order:

Mayor Vasquez called the Regular Meeting to order at 5:59 p.m.

Present: Mayor Racquel Vasquez, Mayor Pro Tem Jerry Jones, Councilmember Jennifer Mendoza, Councilmember David Arambula, and Councilmember Matt Mendoza.

Absent: None.

Staff Members Present:

Lydia Romero, City Manager, James Lough, City Attorney, Mike James, Assistant City Manager/Public Works Director, Daryn Drum, Fire Division Chief, Lieutenant Scott Amos, San Diego County Sheriff's Office - Lemon Grove Substation, Shelley Chapel, City Clerk, and Molly Brennan, Finance Manager.

Pledge of Allegiance:

Pledge of Allegiance to the Flag was led by Councilmember M. Mendoza.

Changes to the Agenda:

City Manager Romero stated a presentation by Senator Joel Anderson would be added to the meeting.

Presentations:

Mayor Vasquez introduced Johnathon Taylor, President of the Board of CALI Children's Academy of Learning Inclusivity who provided a PowerPoint Presentation on the program.

Mayor Vasquez introduced MTS Representative Rob Schupp, Director of Marketing and Communication who provided an overview of the MTS Free Ride Day Outreach Program. Mayor read a Proclamation recognizing Free Ride Day October 2, 2018. Lyft, Uber, Bird Scooter, and North County Services are joining MTS for the Free Ride event.

City Manager Romero introduced Senator Joel Anderson who presented Mayor Vasquez a Proclamation recognizing her as a leader in the community.

Public Comment:

Appeared to comment were: Brenda Hammond, and John L. Wood.

Consent Calendar:

- 1.A. Approval of Reading by Title all Ordinances and Waiver of Reading in full of Ordinances on the Agenda
- 1.B. Ratification of Payment of Demands
- 1.C. Approval of Meeting Minutes for the September 4, 2018 Regular Meeting.

- 1.D. Adopted Resolution No. 2018-3608, entitled, "A Resolution of the City Council of the City of Lemon Grove, California, Authorizing the Amendments to the City of Lemon Grove Conflict of Interest Code as Required by the Fair Political Practices Commission, Repealing Resolution No. 2016-3428."
- 1.E. Adopted Resolution No. 2018-3609, entitled, "A Resolution of the City Council of the City of Lemon Grove, California, Authorizing the City to Access State and Federal Level Summary Criminal History Information."
- 1.F. Adopted Resolution No. 2018-3610, entitled, "Resolution of the City Council of the City of Lemon Grove, California Opposing New Offshore Oil and Gas Drilling."

Action: Motion by Councilmember J. Mendoza, seconded by Councilmember Arambula to approve Consent Calendar Items 1.A – 1.F Item 1.G was pulled and discussed as the last item.

The motion passed by the following vote:

**Ayes: Vasquez, Jones, Arambula, J. Mendoza, M. Mendoza
Absent: None.**

Reports:

- 2. Request for Proposals – Indirect Cost Allocation Plan (*Sanitation District Board*)

Molly Brennan, Finance Manager, presented the report.

Council questioned staff about the process, Mrs. Brennan and City Manager Romero responded to questions.

Action: Motion by Mayor Pro Tem Jones, seconded by Councilmember Arambula, to authorize the release of RFP to select a consultant to prepare an indirect cost allocation plan.

The motion passed by the following vote:

**Ayes: Vasquez, Jones, Arambula, J. Mendoza, M. Mendoza
Absent: None.**

- 3. Request for Proposals for Digital Message Board Signs on City-Owned Real Property Discussion

Mike James, Assistant City Manager presented the report and PowerPoint Presentation.

During the discussion Councilmembers expressed concern regarding content of advertisements, revenue that could be generated, lighting and possible distraction, revenue sharing, maintenance, and static boards. Mayor Pro Tem Jones requested that a memo be provided to the Council including a map of locations of City owned property.

Action: City Council provided staff direction.

Item 1.G. pulled by a member of the public for question.

Appeared to comment was John L. Wood

1.G. 115 Funds Transfer from Sanitation District.

Mike James, Assistant City Manager provided a response to Mr. Wood, as to the overage and why the refund. James Lough, City Attorney responded to the question that the audit resulted in a refund as the City was overcharged.

The Transfer of \$516,879 from the Sanitation District to the 115 Funds Transfer for investment toward future CalPERS obligations.

Action: Motion by Mayor Pro Tem Jones, seconded by Councilmember M. Mendoza, to authorize the transfer of \$516,879 from the Sanitation District to the 115 Trust for investment towards future CalPERS obligation.

The motion passed by the following vote:

Ayes: Vasquez, Jones, Arambula, J. Mendoza, M. Mendoza

Absent: None.

A member of the public requested that she be allowed to comment under Public Comment at this time as she was unable to speak under the item due to unforeseen circumstances. The Mayor allowed Chantelle Harris to provide public comment.

City Council Oral Comments & Reports on Meetings Attended At City Expense: (G.C. 53232.3(d))

Councilmember J. Mendoza attended the following meetings and events:

- SANDAG Meeting
- American Cancer Society Breakfast
- CPR Class
- VFW Ceremony to Honor MIA and POW Vets
- Helix Water District Celebrating Electric Vehicle Fleet

Mayor Pro-Tem Jones attended the following meetings and events:

- Government Affairs Meeting

Mayor Vasquez attended the following meetings and events:

- Lemon Grove Historical Society Fire-side Chat
- 9-11 Event at the Lemon Grove American Legion
- Leadership Power Luncheon Event *Executives who Champion Inclusion*
- I Am My Brother's Keeper Event
- SANDAG Policy Meeting
- ROCK Church Simulcast
- VFW Post 1512 Annual Ceremony to Honor MIA and POW Vets

Mayor announced that the date of the Budget Workshop will take place on Tuesday, October 23, 2018 at 6:00 p.m.

City Manager and Department Director Reports: (Non-Action Items)

City Manager Lydia Romero announced that she moderated a session at the League of California Cities Conference on Public Participation and a program called TIERS, and attended a Beacon Program Awards Ceremony for Cities that have sustainability as an Institute for Local Government (ILG) Board Member

Closed Session:

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9 (d)(2)
Number of potential cases: 1

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9 (d)(2)
Number of potential cases: 1

3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9 (d)(2)
Number of potential cases: 1

4. PUBLIC EMPLOYEE EMPLOYMENT
Government Code Section 54957
Position: City Attorney

City Attorney James Lough announced the City Council will be adjourning to closed session at 7:33 p.m. for the purposes above.

City Attorney Lough reported reportable action on items discussed in Closed Session, rescinding the resignation of City Attorney Lough.

Action: Motion by Councilmember Jones, seconded by Councilmember J. Mendoza, to Rescind Resolution No. 2018-3603 appointing Kristen Steinke as City Attorney, therefore reinstating James Lough as City Attorney.

The motion passed by the following vote:

**Ayes: Vasquez, Jones, Arambula, J. Mendoza, M. Mendoza
Absent: None.**

Adjournment:

There being no further business to come before the Council, the meeting was adjourned at 8:10 p.m. to a meeting to be held Tuesday, October 2, 2018, in the Lemon Grove Community Center located at 3146 School Lane, for a Regular meeting.

Shelley Chapel, MMC
City Clerk

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.D
Mtg. Date October 2, 2018
Dept. Finance

Item Title: Escheat Monies

Staff Contact: Molly Brennan, Finance Manager

Recommendation:

Escheat \$1,299.44 of unclaimed monies and authorize a transfer to the Funds upon which the original checks were drawn.

Item Summary:

Pursuant to Government Code sections 50050 through 50057, unclaimed monies held for more than three years will escheat to the City of Lemon Grove after proper public notice. Notice (**Attachment A**) was published in the local newspaper on July 26th and August 2nd. The notice is required to include the individual or business name as shown on the issued check, the amount of the issued check, and the fund in which it is held. Forty-five (45) days after the initial public notice if not claimed, the money shall become the property of the City of Lemon Grove. The notice was also published on the City of Lemon Grove website. No claims were submitted to the City in relation to the checks listed in the notice. Therefore, all checks listed, for a total amount of \$1,299.44, will now become the property of the City.

Fiscal Impact:

\$1,299.44 will be credited to the funds the outstanding checks were written from.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Escheat Monies Publication

Attachment A

PUBLIC NOTICE OF UNCLAIMED MONEY CITY OF LEMON GROVE

NOTICE IS HEREBY GIVEN that the City has held unclaimed monies for more than three years, and such unclaimed monies will escheat to the City of Lemon Grove by operation of the law pursuant to Government Code sections 50050 through 50057, if not validly claimed by the date specified below.

Any claims of unclaimed monies must be filed and postmarked by the 18th day of September, 2018.

To submit a claim related to one of the payments listed, please contact the City Treasurer prior to September 18, 2018. Proper proof of claim and current identification must be provided with completed and signed claim forms. For more information contact the City by calling (619)825-3803 or emailing mbrennan@lemongrove.ca.gov.

| VENDOR NAME | AMOUNT | FUND |
|-----------------------------------|--------|--------------------------------|
| A B Alterations Services | 15.00 | General Fund |
| Breeze Point Heat | 15.00 | Stormwater Fund |
| Carmody, Madge | 200.00 | General Fund |
| Cuevas, Manual | 100.00 | Household Hazardous Waste Fund |
| Damschen, Dale | 68.00 | General Fund |
| Hernandez, Danie | 68.00 | General Fund |
| Kirkof, Jesse | 68.00 | General Fund |
| Lemon Grove Tire Shop | 13.25 | Stormwater Fund |
| Marsal | 12.00 | General Fund |
| Morrow, Robert | 56.00 | General Fund |
| Romero, Sergio | 35.00 | General Fund |
| S and A Construction | 78.00 | Stormwater Fund |
| Sabatchi, Rhona | 14.13 | General Fund |
| San Diego County Fire Chiefs Assn | 30.00 | General Fund |
| San Diego County Fire Chiefs Assn | 50.00 | General Fund |
| San Diego Solar Install | 26.00 | Stormwater Fund |
| San Diego Solar Install | 46.00 | General Fund |
| Santana, Abelardo | 129.12 | General Fund |
| Sweetman, Kathy | 20.00 | General Fund |
| The Giant Hamburger | 13.00 | General Fund |
| Vivero, Salvador | 25.00 | General Fund |
| Vivint Solar Inc. | 149.94 | General Fund |
| White, Kenny | 68.00 | General Fund |

Publication Notice Dates: July 26 and August 2, 2018

2018-001

The East County Californian

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.E
Mtg. Date October 2, 2018
Dept. Public Works

Item Title: Rejection of Claim

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Recommendation:

That the City Council rejects a claim submitted by Maxim Laufer.

Item Summary:

On August 14, 2018, the City of Lemon Grove received a timely submitted claim from Maxim Laufer. After investigating the claim, staff recommends that it is rejected.

Fiscal Impact:

None.

Environmental Review:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

None.

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. ___1.F.____
Mtg. Date ___October 2, 2018
Dept. ___City Manager___

Item Title: RESOLUTION REPEALING RESOLUTION NUMBER 2018-3603

Staff Contact: [Lydia Romero, City Manager]

Recommendation:

Adopt Resolution Repealing Resolution Number 2018-3603.

Item Summary:

[This Resolution repeals Resolution Number 2018-3603 to appoint a new City Attorney with the withdrawal of the resignation of James P. Lough at the Closed Session of September 18, 2018.]

Fiscal Impact:

None.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report.
- B. Resolution Repealing Resolution Number 2018-3603.

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 1.F.

Mtg. Date October 2, 2018

Item Title: **RESOLUTION Repealing Resolution Number 2018-3603**

Staff Contacts: Lydia Romero, City Manager

Background:

James P. Lough has served as City Attorney for the City of Lemon Grove, under the City's Contract with Lounsbery, Ferguson, Altona & Peak ("City Attorney Firm"), since February 2010. Mr. Lough has served as City Attorney since January 1, 2004. The City's contract is with the City Attorney Firm and not any individual attorney.

Mr. Lough has submitted his retirement notice to the City, effective September 30, 2018. Currently, the City has two Deputy City Attorneys from the City Attorney Firm. At a Closed Session held September 18, 2018, the City Council agreed to accept the withdrawal of Mr. Lough's resignation.

Analysis:

Mr. Lough has decided to postpone his retirement and remain as City Attorney. The Council accepted his request. He will assist in completing several assignments that he is currently handling.

Costs

None.

Conclusion:

Staff recommends that the City Council approve the attached Resolution (Attachment "B").

ATTACHMENT B

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, REPEALING RESOLUTION NUMBER 2018-3603

WHEREAS, the City Council has determined to accept the rescission of the retirement of James P. Lough; and

WHEREAS, the City Council desires to allow Mr. Lough to continue as City Attorney.

NOW THEREFORE, the City Council of the City of Lemon Grove does resolve as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Resolution Number 2018-3603 is repealed.

PASSED AND ADOPTED by the City Council of the City of Lemon Grove, State of California, on October 4, 2018 by the following vote:

AYES:

NOES:

ABSENT:

Racquel Vasquez, Mayor

Attest: _____

Shelley Chapel, City Clerk

October 1, 2018 Version

AMENDED AND RESTATED
REGIONAL WASTEWATER DISPOSAL AGREEMENT
BETWEEN
THE CITY OF SAN DIEGO
AND
THE PARTICIPATING AGENCIES
IN
THE METROPOLITAN SEWERAGE SYSTEM

AMENDED AND RESTATED
REGIONAL WASTEWATER DISPOSAL AGREEMENT

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Exhibits

- A. Metro Facilities
- B. Contract Capacities
- C. Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies
- D. Notice Listing
- E. Reclaimed Water Distribution System
- F. Pure Water Cost Allocation and Revenues
- G. Pure Water Capital Billing Table

AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT

THIS AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT is made and entered into this _____ day of _____, 20____, by and between the CITY OF SAN DIEGO, a municipal corporation (“the City”); and the CITY OF CHULA VISTA, a municipal corporation; the CITY OF CORONADO, a municipal corporation; the CITY OF DEL MAR, a municipal corporation; the CITY OF EL CAJON, a municipal corporation; the CITY OF IMPERIAL BEACH, a municipal corporation; the CITY OF LA MESA, a municipal corporation; the LEMON GROVE SANITATION DISTRICT, a political subdivision of the State of California; the CITY OF NATIONAL CITY, a municipal corporation; the CITY OF POWAY, a municipal corporation; the OTAY WATER DISTRICT, a political subdivision of the State of California; the PADRE DAM MUNICIPAL WATER DISTRICT, a political subdivision of the State of California; and the SAN DIEGO COUNTY SANITATION DISTRICT, a political subdivision of the State of California (the “Participating Agencies”). The City and the Participating Agencies may be referred to herein individually as a “Party,” and collectively as the “Parties.”

RECITALS

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

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

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

WHEREAS, the City is implementing a phased, multi-year program designed to regionally produce at least 83 million gallons per day of safe, reliable potable water using new,

expanded, or modified facilities, some of which will include Metro System facilities, in order to achieve secondary equivalency at the Point Loma Wastewater Treatment Plant; and

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

WHEREAS, the Padre Dam Municipal Water District, the San Diego County Sanitation District, and the City of El Cajon have proposed a program to produce up to 12 million gallons per day of safe, reliable potable water for East San Diego County using wastewater that would otherwise be disposed of in the Metro System ("East County AWP Program"). By offloading wastewater and wastewater contents from the Point Loma Wastewater Treatment Plant, the East County AWP Program would, if implemented, help the City's and region's efforts to achieve long-term compliance with the Clean Water Act by producing a regional annual average of at least 83 million gallons per day of water suitable for potable reuse by December 31, 2035, as described in the Cooperative Agreement in Support of Pure Water San Diego entered into by the City and certain environmental stakeholders on December 9, 2014; and

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

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

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

I. DEFINITIONS

- A. **Annual Average Daily Flow** is the number, in millions of gallons of wastewater per day ("MGD"), calculated by dividing total Flow on a fiscal year basis by 365 days.
- B. **Brine** is a waste byproduct of the demineralization process at an upstream Water Repurification System facility or a Reclaimed Water facility.
- C. **Capital Expense Rate** is the cost per acre foot that will apply if the Metro

System's Capital Improvement Costs for the Pure Water Program and/or upgrading of the Point Loma WTP to secondary treatment exceed \$1.8 billion, as further described in Exhibit F.

- D. **Capital Improvement Costs** are costs associated with the planning, design, financing, construction, or reconstruction of facilities.
- E. **Chemical Oxygen Demand or "COD"** means the measure of the chemically decomposable material in wastewater, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination for Water and Wastewater," or any successor publication which establishes the industry standard.
- F. **City Water Utility PW Costs** are those Pure Water Program costs allocated to the City's water utility and therefore excluded as Metro System costs under Exhibit F.
- G. **Contract Capacity** is the contractual right possessed by each Participating Agency to discharge wastewater into the Metro System pursuant to this Agreement up to the limit set forth in Exhibit B attached hereto. Contract Capacity is stated in terms of Annual Average Daily Flow.
- H. **Flow** is the amount of wastewater discharged by the City and each Participating Agency.
- I. **Functional-Design Methodology** shall mean the process of allocating Operation and Maintenance Costs and Capital Improvement Costs to Flow and Strength parameters recognizing the benefits of both the design criteria and the primary function of a unit process.
- J. **Metro Commission** is the advisory body created under Section VIII.
- K. **Metro System Costs** are those costs set forth in Section 5.2.1.
- L. **Metro System Revenues** are those revenues set forth in Section 5.2.2.
- M. **Metropolitan Sewerage System or Metro System** shall mean and consist of those facilities and contract rights to facilities which are shown and/or described in Exhibit A attached hereto and incorporated by this reference, including any amendments thereto authorized by this Agreement.
- N. **Municipal System** shall mean the City's wastewater collection system, which consists of pipelines and pump stations, that collects wastewater within the City of San Diego and conveys it to the Metropolitan Sewerage System for treatment and disposal.
- O. **New Capacity** is the capacity to discharge wastewater outside the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.

- P. **New Contract Capacity** is the capacity to discharge wastewater into the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.
- Q. **North City Water Reclamation Plant** or **North City WRP** is the 30 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 4949 Eastgate Mall in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.
- R. **Operation and Maintenance Costs** are the costs of those items and activities required by sound engineering and management practices to keep the conveyance, disposal, treatment, and reuse facilities functioning in accordance with all applicable laws, rules, and regulations.
- S. **Point Loma Wastewater Treatment Plant** or **Point Loma WTP** is the 240 million gallons per day (as of the date of this Agreement) advanced primary treatment plant which includes four major processes: screening, grit removal, sedimentation, and digestion.
- T. **Projected 2050 Strength and Flow Amounts** are the three (3) values described below:
1. **Projected COD 2050 Flows** is the estimated amount of Chemical Oxygen Demand (COD), stated in pounds per day, that the City and each Participating Agency are projected to have in the 2050 fiscal year. Projected COD 2050 Flows for each Party are stated in Column 7 of Exhibit G.
 2. **Projected Metro Flow 2050** is the estimated amount of Annual Average Daily Flow, stated in millions of gallons per day (MGD), that the City and each Participating Agency are projected to have in the 2050 fiscal year. Projected Metro Flow 2050 for each Party is stated in Column 4 of Exhibit G.
 3. **Projected SS 2050 Flows** is the estimated amount of Suspended Solids (SS) stated in pounds per day, that the City and each Participating Agency are projected to have in the 2050 fiscal year. Projected SS 2050 Flows for each Party are stated in Column 10 of Exhibit G.
- U. **Pure Water Capital Merged Percentage** or **Merged Percentage** is the proportionate share, stated in Column 12 of Exhibit G, by which Pure Water Program Capital Improvement Costs, Repurified Water Revenue, and the Capital Expense Rate will be allocated among the City and the Participating Agencies. The Pure Water Capital Merged Percentage is based on each Party's proportionate share of Projected Metro Flow 2050, Projected SS 2050 Flows, and Projected COD 2050 Flows, which proportions are weighted as described in Footnote 3 of Exhibit G.
- V. **Pure Water Program** is the City's phased, multi-year program designed to

produce at least 83 million gallons per day of Repurified Water using new, expanded, or modified facilities, some of which will include Metro System facilities.

- W. **Reclaimed Water (or Recycled Water)** shall have the definition set forth in Title 22, Division 4 of the California Code of Regulations and shall mean water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or a controlled use that otherwise could not occur.
- X. **Reclaimed Water (or Recycled Water) Distribution System** shall mean and consist of those eight (8) reclaimed water projects listed in Attachment B of the Stipulated Final Order for Injunctive Relief approved by the U.S. District Court on June 6, 1997 in *U.S.A. v. City of San Diego*, Case No. 88-1101-B, and attached hereto as Exhibit E.
- Y. **Repurified Water** shall mean water which, as a result of advanced treatment of Reclaimed Water, is suitable for use as a source of domestic (or potable) water supply.
- Z. **Repurified Water Revenue** is the cost savings that will be realized when the City water utility's annual costs per-acre foot for Repurified Water are less than the purchase costs per-acre foot for comparable water from the San Diego County Water Authority, as further described in Exhibit F.
- AA. **Return Flow** shall mean the effluent created by the dewatering of digested biosolids, which includes centrate.
- BB. **Reuse** shall mean to use again, such as water which has been reclaimed or repurified, or sludge that has been converted to biosolids for beneficial use.
- CC. **South Bay Land/Ocean Outfall** is the facility that is jointly owned by the International Boundary & Water Commission (U.S. Section IBWC) and the City of San Diego. The Outfall is planned to convey and discharge treated effluent from the IBWC's International Wastewater Treatment Plant and treated effluent from the City's South Bay Water Reclamation Plant and the South Bay Secondary Treatment Plant. As of the date of this Agreement, the Outfall has a current Average Daily Flow Capacity of 174 million gallons per day. As of the date of this Agreement, the City owns 39.94% of the capacity of the Outfall and the balance of the capacity is owned by the IBWC.
- DD. **South Bay Water Reclamation Plant** is the 15 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 2411 Dairy Mart Road in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.
- EE. **Strength** means the measurement of Suspended Solids (SS) and Chemical Oxygen Demand (COD) within the wastewater Flow and any other measurement required by law after the date of this Agreement.

- FF. **Suspended Solids** or **SS** means the insoluble solid matter in wastewater that is separable by laboratory filtration, as determined by the procedures specified in the most current edition of “Standard Methods for the Examination of Water and Wastewater,” or any successor publication which establishes the industry standard.
- GG. **Tertiary Component** is that portion of the wastewater treatment process that currently filters the secondary treated wastewater effluent through fine sand and/or anthracite coal to remove fine Suspended Solids and disinfects it to meet the requirements of the California Administrative Code, Title 22, or its successor for filtered and disinfected wastewater.
- HH. **Water Repurification System** shall mean any facilities, including treatment and conveyance facilities, the purpose of which is the production or conveyance of Repurified Water. Water Repurification System includes, but is not limited to: the Tertiary Component of the North City Water Reclamation Plant to the extent being used to produce Repurified Water, the North City Pure Water Facility to be located across the street from the North City Water Reclamation Plant (“North City Pure Water Facility”); the Repurified Water conveyance system, which will transport Repurified Water from the North City Pure Water Facility and/or other facilities to the Miramar Reservoir or other alternative location(s) as determined by the City; and any other Repurified Water treatment or conveyance facilities which are part of the Pure Water Program.

II. OWNERSHIP AND OPERATION OF THE METRO SYSTEM

2.1 Rights of the Parties.

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

2.2 Metro System Services.

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

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

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

2.3 Flow Commitment.

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

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

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

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

2.4 Funding Obligations.

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

2.5 Financial Statements.

- 2.5.1 The City shall keep appropriate records and accounts of all costs and expenses relating to conveyance, treatment, disposal, and reuse of wastewater, and production of Repurified Water, and the acquisition, planning, design, construction, administration, monitoring, operation and maintenance of the Metro System and Water Repurification System, and any grants, loans, or other revenues received therefor. The City shall keep such records and accounts for at least four (4) years, or for any longer period required by law or outside funding sources.
- 2.5.2 Said records and accounts shall be subject to reasonable inspection by any authorized representative of any Participating Agency at its expense. Further, said accounts and records shall be audited annually by an independent certified public accounting firm appointed by the City pursuant to generally accepted accounting principles. A copy of said report shall be available to any Participating Agency. As part of said audit, the actual amount of City Water Utility's PW Costs, Pure Water Program costs attributable to the Metro System, Repurified Water Revenue, and the Capital Expense Rate shall be determined and audited by the City's external auditors and Participating Agency representatives, and a cumulative and annual summary of such amounts shall be included as a footnote or attachment to the audit of the Metro System. Cost summaries shall include separate lines for Capital Improvement Costs and Operation and Maintenance Costs.
- 2.5.3 The City shall make a good faith effort to complete the annual audit, and any related adjustments under this Agreement, by the end of the following fiscal year.

2.6 Limitations on Types and Condition of Wastewater.

- 2.6.1 Each Participating Agency will comply with all applicable laws, rules and regulations including its regulatory obligations associated with the discharge of wastewater into its respective system and from such system into the Metro System.
- 2.6.2 Each Participating Agency will minimize to the maximum extent practicable, the infiltration and inflow of surface, ground or stormwaters into its respective wastewater systems.
- 2.6.3 Each Participating Agency will insure that all industrial users of its wastewater system are regulated by an effective industrial pretreatment program that conforms to all to all applicable laws, rules and regulations and that is acceptable to the City. Provided, however, that the City shall not require the Participating Agencies to take any actions beyond that

which is required under applicable laws, rules and regulations that can be taken but are not being taken by the City.

- 2.6.4 The City and the Participating Agencies agree that nothing in this Agreement, including the termination of the existing sewage disposal agreements, shall affect the validity of the Interjurisdictional Pretreatment Agreements, or the separate transportation agreements that are currently in effect between or among the City and the Participating Agencies.
- 2.6.5 Each Participating Agency will not discharge a substantial amount of sewage originating outside its respective boundaries into the Metro System without the approval of the City.
- 2.6.6 Each Participating Agency shall be responsible for the violation of any applicable laws, rules or regulations associated with its respective discharge of wastewater into the Metro System. Nothing in this Agreement shall affect the ability of any Participating Agency to hold third parties responsible for such violations.
- 2.6.7 In the event a regulatory agency imposes any penalty or takes other enforcement action relating to the conveyance, treatment, or disposal of wastewater in or from the Metro System, the City shall determine if the City or a Participating Agency or Agencies caused or contributed to the violation by exceeding its Contract Capacity or by the contents of its wastewater. The City shall allocate the penalty or other relief, including the costs of defense, to the Party or Parties responsible. Each responsible Party, whether a Participating Agency or the City, shall be obligated to pay its share of such penalty or other relief, and any costs of defense. In the event that the City cannot make such an allocation, the cost of such penalty or other relief shall be shared by the Participating Agencies and the City proportionately based on Flow and Strength.

2.7 Right of First Refusal.

- 2.7.1 The City shall not sell or agree to sell the Metro System without first offering it to the Participating Agencies. For the purposes of this section, "Participating Agencies" shall mean a Participating Agency, a group of Participating Agencies, or a third party representing one or more Participating Agencies. The term "sell" shall include any transfer or conveyance of the Metro System or of any individual treatment or reclamation facility or outfall within the Metro System.
- 2.7.2 The City and the Participating Agencies recognize that transfer of ownership of the Metro System is currently restricted by Sections 6.04 and 6.20 of the Installment Purchase Agreement between the City and the Public Facilities Financing Authority of the City, which inter alia restricts the transfer of ownership to the Metropolitan Wastewater Sewage District

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

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

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

2.8 Pure Water San Diego Program.

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

2.8.2 The allocation of Pure Water Program costs pursuant to this Agreement shall be retroactive through the fiscal year ending June 30, 2014, when Pure Water Program costs were first incurred by the Metro System. When conducting the year-end adjustments for the fiscal year in which this Agreement takes effect, the City shall credit or assess such prior costs to the Parties pursuant to this Agreement.

2.9 Future Negotiations and Cooperation.

2.9.1 This Agreement and Exhibit F specifically contemplate Phase I of the Pure Water Program, which consists of new, expanded, or modified Metro System facilities and Water Repurification System facilities designed to produce only up to 30 million gallons per day of Repurified Water (“Phase I”). Within one year of the Effective Date of this Agreement, the Parties intend to meet and negotiate in good faith regarding one or more amendments to this Agreement or its Exhibits to address:

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

2.9.1.2 Alternative billing methodologies for Metro System costs;

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

2.9.1.4 The inclusion of costs for regional, non-Metro System potable reuse projects in calculating the Capital Expense Rate;

2.9.1.5 A sample calculation of Repurified Water Revenue; and

2.9.1.6 The conveyance and treatment of wastewater generated at United States military bases under this Agreement.

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

2.9.2 The City and the Participating Agencies shall cooperate, coordinate, and negotiate in good faith with the Padre Dam Municipal Water District, San Diego County Sanitation District, and City of El Cajon on issues that relate to the East County AWP Program, including, but not limited to, the

potential transfer of the Mission Gorge Pump Station; disposal of residuals; and a source control program.

2.9.3 Following the Effective Date of this Agreement, the Parties intend to meet and negotiate in good faith regarding the disposal, treatment, and/or management of residuals (solids, brine, and centrate) produced at any new non-Metro System secondary, tertiary, or advanced wastewater treatment facilities upstream of any Metro System facilities related to the production of Repurified Water that currently exist or may exist in the future. Such negotiations may result in an amendment to this Agreement, or in one or more separate agreements between the City and the involved Participating Agencies, regarding the disposal, treatment, and/or management of residuals at such non-Metro System facilities.

2.9.3.1 In the event that an amendment to this Agreement, or a separate agreement between the City and the involved Participating Agencies, regarding the disposal, treatment, and/or management of residuals at such non-Metro System facilities, cannot be achieved through direct negotiation, the parties shall use the dispute resolution process in Article IX of this Agreement.

2.9.3.2 Absent an amendment to this Agreement or a separate Agreement between the City and involved Participating Agencies as described above, the involved Participating Agencies shall not dispose of residuals from new non-Metro System secondary, tertiary, or advanced wastewater treatment facilities at any point upstream of a Metro System facility related to the production of Repurified Water that currently exists or may exist in the future.

III. PAYMENT AND MONITORING PROVISIONS

3.1 Payment for Metro System Facilities.

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

3.2 Payment for Additional Metro System Facilities.

Through the system of charges set forth in Article V of this Agreement, each Participating Agency shall pay its share of the costs of acquisition, or planning, design and construction of such facilities in addition to those set forth on Exhibit A as are necessary for the Metro System to maintain compliance with applicable laws, rules and regulations, including the Ocean Pollution Reduction Act of 1994 and its successor(s), present and future waivers of applicable treatment standards at any Metro System treatment facility, and all facilities as are necessary to convey, treat, dispose, and reuse wastewater in the Metro System to provide the Contract Capacity set forth in Exhibit B, to maintain hydraulic capacity and as otherwise

required by sound engineering principles. As a ministerial matter, the City shall amend Exhibit A from time to time to reflect such additional facilities and shall give notice of any amendments to the Participating Agencies. The City shall keep an updated version of Exhibit A on file with the City Public Utilities Department. Exhibit A may be amended to reflect other changes to the Metro System only as expressly provided in this Agreement.

3.3 Payment for Operation and Maintenance.

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

3.4 Charges Based on Flow and Strength; Exception.

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

3.4.2 Notwithstanding section 3.4.1, or any other provision of this Agreement, a Participating Agency's share of Pure Water Program Capital Improvement Costs, Repurified Water Revenue, and Capital Expense Rate attributable to the Metro System under Exhibit F shall be assessed or credited based on the Parties' proportionate share of the Pure Water Capital Melded Percentage stated in Column 12 of Exhibit G. The City shall annually allocate the estimated and actual Pure Water Program Capital Improvement Costs and revenues which are attributable to the Metro System under Exhibit F in proportion to each Party's Pure Water Capital Melded Percentage when estimating quarterly payments and conducting year-end adjustments under Article V.

3.4.3 Each Party recognizes that operation within respective Projected 2050 Strength and Flow Amounts is essential to the accurate allocation of costs and revenues under the Pure Water Program. In recognition of same, the Parties agree as follows:

3.4.3.1 Beginning in the next fiscal year after the effective date of this Agreement, if a Party's Annual Average Daily Flow, annual average pounds per day of COD, or annual average pounds per day of SS exceeds any one of its Party's Projected 2050 Strength and Flow Amounts by more than ten percent (10%) for any two (2) consecutive fiscal years, the City shall prepare an amendment to Exhibit G that adjusts projections of each Party's Projected 2050 Strength and Flow Amounts based on information about such Party's exceedance and other relevant information using sound engineering principles. Upon approval by the City and two-thirds

of the members of the Metro Commission, the City shall, as a ministerial matter, amend Exhibit G (including the Melded Percentages in Column 12 of Exhibit G) to reflect the new Projected 2050 Strength and Flow Amounts for each Party. The City shall keep an updated version of Exhibit G on file with the City Public Utilities Department. If the City and two-thirds of the Metro Commission cannot agree on an amendment to Exhibit G, the matter shall be submitted to dispute resolution pursuant to Article IX.

3.4.3.2 Notwithstanding the amounts set forth in Columns 4, 7, and 10 of Exhibit G, the following Parties will be deemed to have the following Projected 2050 Strength and Flow Amounts until July 1, 2025:

3.4.3.2.1 Padre Dam: 3.2 MGD Flow; 24,730 lb/day COD; 11,900 lb/day SS

3.4.3.2.2 San Diego County Sanitation District: 13.617 MGD Flow; 70,210 lb/day COD; 27,830 lb/day SS

3.4.3.2.3 El Cajon: 7.8 MGD Flow; 41,848 lb/day COD; 16,556 lb/day SS

3.4.3.3 If Exhibit G is amended to update one or more Parties' Projected 2050 Strength and Flow Amounts, the change in Projected 2050 Strength and Flow Amounts and Pure Water Capital Melded Percentages shall be retroactive in effect, and the City shall use the updated amounts in estimating quarterly payments and conducting year-end adjustments for Pure Water Program costs and revenues. Therefore, any Party that underpaid based on prior Pure Water Capital Melded Percentages (which were based on prior Projected 2050 Strength and Flow Amounts) shall pay the retroactive amount due in its quarterly payments the following fiscal year; any Party that overpaid based on previous Pure Water Capital Melded Percentages shall receive a credit in its quarterly payments the following fiscal year. Notwithstanding the preceding sentence, if the retroactive amount due exceeds 20% of a Party's average annual Metro System payments for the previous four (4) years, such Party may elect to pay the retroactive amount due in its quarterly payments over the subsequent four (4) fiscal years, with interest based on the most recent quarterly earnings rate of the Local Agency Investment Fund's Pooled Money Investment Account; any Party that overpaid based on previous Pure Water Capital Melded Percentages shall receive a credit in its quarterly payments the following four (4) fiscal years.

3.4.3.4 If a Participating Agency (other than those specified in Section 3.4.3.2) intends to divert a portion of its Flow from the Metro System pursuant to Section 2.3.2 on or before July 1, 2025, the Participating Agency may provide written notice to the City by December 31, 2019, requesting an adjustment in its Projected 2050 Strength and Flow Amounts and Melded Percentage in Exhibit G. If such notice is timely provided, the City shall prepare an amendment to Exhibit G based on information about such Party's diversion and other relevant information using sound engineering principles. Such amendment shall then be subject to the approval procedures set forth in Section 3.4.3.1, and the retroactivity provisions set forth in Section 3.4.3.3; provided, however, that such an amendment to Exhibit G shall also be subject to an agreement with the City for the Participating Agency to pay its proportionate share of Pure Water Program planning, design, and construction costs incurred to date by the Metro System (based on such Participating Agency's prior Melded Percentage), and any costs for Pure Water Program planning or design changes which are reasonably necessary due to the intended diversion.

3.5 Monitoring Flow and Strength.

- 3.5.1 The City shall monitor wastewater that is discharged into the Metro System for Flow and Strength. The City shall own and operate as part of the Metro System monitoring devices which will measure the amount of daily wastewater discharged into the Metro System. These devices shall be installed at locations appropriate to accurately monitor Flow and Strength. The City may also monitor wastewater Flow and Strength at other locations as it deems appropriate.
- 3.5.2 In measuring Strength, the frequency and nature of the monitoring shall not be more stringent for the Participating Agencies than it is for the City.
- 3.5.3 The City shall, at least once every five (5) years, update and provide its plans for the monitoring system and for the procedures it will use to determine Strength to the Participating Agencies. The Participating Agencies shall have the opportunity to review and comment prior to implementation.
- 3.5.4 The City shall report Flow and Strength data to the Participating Agencies at least quarterly.

IV. CAPACITY RIGHTS

4.1 Contract Capacity.

In consideration of the obligations in this Agreement, each Participating Agency shall have a contractual right to discharge wastewater to the Metro System up to the Contract

Capacity set forth in Exhibit B. Each Party's Projected Metro Flow 2050 stated in Exhibit G, is used solely for the purpose of allocating the Metro System's Pure Water Program Capital Improvement Costs, Repurified Water Revenue, and the Capital Expense Rate under this Agreement, and does not replace or limit Contract Capacity.

4.2 Transfers of Contract Capacity.

The Participating Agencies and the City may buy, sell or exchange all or part of their Contract Capacity among themselves on such terms as they may agree upon. The City shall be notified prior to any transfer. Any transfer shall be first approved by the City. No Contract Capacity may be transferred if the City determines, after consultation with the Participating Agencies involved in the transaction, that said transfer will unbalance, or will otherwise adversely impact the City's ability to operate the Metro System. Provided, however, that the Participating Agency seeking the transfer may offer to cure such imbalance at its own expense. Following the City's consent, as a ministerial matter, the Contract Capacity set forth in Exhibit B shall be adjusted to reflect the approved transfer. If necessary, Projected Metro Flow 2050 set forth in Exhibit G shall also be adjusted to reflect the approved transfer using the process set forth in Section 3.4.3.1, provided, however, that an amendment to Exhibit G due to an approved transfer shall not be retroactive in effect pursuant to Section 3.4.3.3.

4.3 Allocation of Additional Capacity.

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

- 4.3.1 Except as provided in section 4.3.2 below, in the event that the Metro System is rerated so that additional permitted capacity is created, said capacity shall be allocated proportionately based upon the Metro System charges that have been paid since July 1, 1995 to the date of rerating.
- 4.3.2 In the event that the additional permitted capacity is created as the result of the construction of non-Metro System facilities, or as the result of the construction of facilities pursuant to Article VII, such additional capacity shall be allocated proportionately based on the payments made to plan, design and construct such facilities.

4.4 Deductions in Contract Capacity.

The Parties further recognize that the Contract Capacity in Exhibit B and Projected Metro Flow 2050 in Exhibit G may be modified to comply with, or in response to, applicable permit conditions, or related regulatory action, or sound engineering principles. In the event that the capacity of the Metro System is rerated to a level below the total capacity set forth in Exhibit B, the Contract Capacity in Exhibit B and Projected Metro Flow 2050 in Exhibit G shall be reallocated proportionately pending the acquisition or construction of new facilities. The City shall acquire or construct such facilities as necessary to provide the Contract Capacity rights

set forth in Exhibit B, as planning and capacity needs require. The costs of such facilities shall be assessed pursuant to Section 3.2.

4.5 Amendments to Exhibits B and G.

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

4.6 The South Bay Land/Ocean Outfall.

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

V. SYSTEM OF CHARGES

5.1 Charges Authorized.

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

5.1.1 SSC (Sewer System Charge);

5.1.2 NCCC (New Contract Capacity Charge).

5.2 SSC (Sewer System Charge).

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

5.2.1 Metro System Costs

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

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

shall be calculated using accepted accounting practices to reflect the overhead costs of the Metro System.

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

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

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

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

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

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

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

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

5.2.1.2.7 City Water Utility PW Costs.

5.2.2 Metro System Revenues.

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

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

Program, which are specifically addressed in Section 5.2.2.1.8.

- 5.2.2.1.2 All compensation or receipts from the sale or other conveyance or transfer of any Metro System by-products, including, but not limited to gas, electrical energy, sludge products, and Reclaimed Water (excepting therefrom any receipts allocated pursuant to section 5.2.2.1.3).
- 5.2.2.1.3 The distribution of revenue from the sale of Reclaimed Water from the North City Water Reclamation Plant, including incentives for the sale of Reclaimed Water, shall first be used to pay for the cost of the Reclaimed Water Distribution System, then the cost of the Operation and Maintenance of the Tertiary Component of the North City Water Reclamation Plant that can be allocated to the production of Reclaimed Water, and then to the Metro System.
- 5.2.2.1.4 Any portion of an NCCC that constitutes reimbursement of costs pursuant to Section 7.1.4.
- 5.2.2.1.5 Any penalties paid under Section 7.3.
- 5.2.2.1.6 Proceeds from the Capital Expense Rate, as calculated under Exhibit F and allocated among the City and Participating Agencies in the proportions set forth in Column 12 of Exhibit G.
- 5.2.2.1.7 Those portions of Repurified Water Revenue attributable to the Metro System, as calculated under Exhibit F and allocated among the Participating Agencies in the proportions set forth in Column 12 of Exhibit G.
- 5.2.2.1.8 Any grant or loan receipts or any other receipts that are attributable to the Metro System components of the Pure Water Program, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System components of the Pure Water Program. Any proceeds under this section shall be allocated among the City and the Participating Agencies in the proportions set forth in Column 12 of Exhibit G.

5.2.2.2 Excluded Revenue

- 5.2.2.2.1 Capital Improvement Costs for which an NCCC is paid;
- 5.2.2.2.2 Proceeds from the issuance of debt for Metro System projects.
- 5.2.2.2.3 Proceeds from the sale of Reclaimed Water used to pay for the Reclaimed Water Distribution System pursuant to section 5.2.2.1.3 above.

5.2.3 Calculation of SSC Rates.

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

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

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

5.2.4 Estimate and Billing Schedule and Year End Adjustment

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

5.2.4.2 Costs of treating Return Flow for solids handling will be allocated to the Participating Agencies in proportion to their Flow and

Strength. Return Flow will not be counted against the Participating Agencies' Contract Capacity as shown in Exhibit B.

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

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

5.3 NCCC (New Contract Capacity Charge).

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

5.4 Debt Financing.

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

5.5 Allocation of Operating Reserves and Debt Service Coverage.

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

VI. PLANNING

6.1 Projected Flow and Capacity Report.

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

6.2 Other Planning Information.

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

6.3 Ten-Year Capital Improvement Plan.

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

6.4 Notice to Metro Commission.

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

VII. FACILITIES SOLELY FOR NEW CONTRACT CAPACITY

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

7.1 Determination of Need for New Contract Capacity.

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

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

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

- 7.1.3 The Participating Agencies shall have six months from the date of notice of the determination within which to comment on or challenge all or part of the City's determination regarding New Contract Capacity, or to agree thereto or to commit, in writing, to obtain New Capacity outside of the Metro System. Any Participating Agency objecting to the City's determination shall have the burden to commence and diligently pursue the formal dispute resolution procedures of this Agreement within said six month period. The City's determination shall become final at the close of the six month comment and objection period. The City's determination shall remain valid notwithstanding commencement of dispute resolution unless and until otherwise agreed to pursuant to the dispute resolution process in Article IX, or pursuant to a final court order.
- 7.1.4 The City and the Participating Agency or Agencies which need New Contract Capacity shall thereafter enter into an agreement specifying the terms and conditions pursuant to which the New Contract Capacity will be provided, including the amount of capacity and the New Contract Capacity. Each Party obtaining New Contract Capacity shall reimburse the Metro System for the costs of acquisition, planning, design, and construction of facilities necessary to provide the New Contract Capacity that have been paid by other Parties under Section 7.2.3.
- 7.1.5 The Parties recognize that the City may acquire and plan, design and construct facilities that are authorized pursuant to both Article III and Article VII of this Agreement. Under such circumstances, the City shall allocate the costs and capacity of such facilities pursuant to Article III and Section 7.1.1 as applicable.

7.2 Charges for Facilities Providing New Contract Capacity

- 7.2.1 The expense of acquisition, planning, design, and construction of New Contract Capacity shall be borne by the City or the Participating Agency or Agencies in need of such New Contract Capacity.
- 7.2.2 Notwithstanding any provision in this Agreement, the City and the Participating Agencies shall pay for the Operation and Maintenance Costs of all facilities pursuant to the payment provisions of Article III, including those facilities acquired and constructed to provide New Contract Capacity in the Metro System.
- 7.2.3 Charges for the acquisition, planning, design and construction of facilities solely to provide New Contract Capacity shall be paid for by the

Participating Agencies and the City pursuant to the payment provisions in Article III of this Agreement until an agreement is reached under Section 7.1.4. or pending the resolution of any dispute relating to the City's determination with respect to New Contract Capacity.

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

7.3 Liquidated Damages.

7.3.1 The Parties recognize that appropriate capacity and long term planning for same are essential to the proper provision of sewerage service. In recognition of same, the Parties agree that discharge beyond Contract Capacity will result in damages that are difficult to determine. Therefore, the damages are being liquidated in an amount estimated to the actual damage that will be incurred by the City, and is not a penalty. In the event that a Participating Agency exceeds its Contract Capacity after the City has given notice that New Capacity is required, said Participating Agency shall be assessed and pay a liquidated damages until such time as the Participating Agency obtains the required New Capacity. The liquidated damages shall be one dollar (\$1) for each gallon of Flow which exceeds the Participating Agency's Contract Capacity for each quarter in which any exceedance occurs. The amount of liquidated damages shall be adjusted each fiscal year to reflect the annual percentage change in the Engineering News Record – Los Angeles construction cost index.

7.3.2 In the event that a Participating Agency fails to pay the charges imposed under this Article after the City has given notice that payment is required, said Participating Agency shall be assessed and shall pay liquidated damages which shall be determined by multiplying the most recent quarterly earnings rate of the Local Agency Investment Fund's Pooled Money Investment Account times the total outstanding charges. The Participating Agency shall pay such liquidated damages each quarter until the outstanding charges are paid in full.

VIII. THE METRO COMMISSION

8.1 Membership.

The Metro Commission shall consist of one representative from each Participating Agency. Each Participating Agency shall have the right to appoint a representative of its choice to the Metro Commission. If a Participating Agency is a dependent district whose governing body is that of another independent public agency that Participating Agency shall be represented

on the Metro Commission by a representative appointed by the governing body which shall have no more than one representative no matter how many Participating Agencies it governs. Each member has one vote in any matter considered by the Metro Commission. The Metro Commission shall establish its own meeting schedule and rules of conduct. The City may participate in the Metro Commission on an ex officio, non-voting basis.

8.2 Advisory Responsibilities of Metro Commission.

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

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

IX. DISPUTE RESOLUTION

This Section governs all disputes arising out of this Agreement.

9.1 Mandatory Non-Binding Mediation.

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

9.2 Selection of Mediator.

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

9.3 Mediation Expenses.

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

9.4 Conduct of Mediation.

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

9.5 Mediation Results.

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

9.6 Performance Required During Dispute.

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

9.7 Offers to Compromise

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

X. INSURANCE AND INDEMNITY

10.1 City Shall Maintain All Required Insurance.

10.1.1 Throughout the term of this Agreement the City shall procure and maintain in effect liability insurance covering Metro System assets and operations in the same manner, and to the same extent, as the City insures similar assets and operations of the City. Such insurance may be provided through separate policies for the Metro System, or by consolidating the Metro System with other City assets and operations for insurance purposes. If the Metro System is insured separately, policy limits, deductibles, and self-insured retentions shall be equivalent to what the City procures for other similar City assets and operations. The City shall maintain all insurance required by law, including workers' compensation insurance, and may self-insure for certain losses when allowed by law.

The proportionate cost of insurance for the Metro System shall be included in the computation of the SSC.

10.1.2 If the Metro System is insured separately, any policy or policies of liability insurance carried by the City for the Metro System shall name the Participating Agencies as additional insureds with evidence of same supplied to each upon request.

10.1.3 Upon request by the Metro Commission or a Participating Agency, the City shall promptly provide written coverage and policy information, including, but not limited to, the scope of coverage, policy limits, deductibles, and self-insured retentions, including information on any claims made against the policies and remaining limits and deductibles.

10.2 Substantially Equivalent Coverage.

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

XI. INTERRUPTION OF SERVICE

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

XII. NOTICES REQUIRED UNDER AGREEMENT

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

XIII. EFFECTIVE DATE AND EXPIRATION

13.1 Effective Date.

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

13.2 Expiration.

Subject to the rights and obligations set forth in Section 13.4, this Agreement shall expire on December 31, 2065. This Agreement is subject to extension by agreement of the Parties. The Parties shall commence discussions on an agreement to provide wastewater treatment services beyond the year 2065 on or before December 31, 2055, or at such time, if any, that the Point Loma WTP is required to be upgraded to secondary treatment.

13.3 Contract Capacity Rights Survive Expiration.

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

13.4 Capital Expense Rate Beyond Expiration.

The Capital Expense Rate, as further described in Exhibit F, shall continue until the cost difference between (a) the actual sum of Pure Water Program Capital Improvement Costs and associated debt attributable to the Metro System under Exhibit F and/or the costs to upgrade the Point Loma WTP and (b) \$1.8 billion (as adjusted for inflation), has been fully paid, or the Agreement expires, whichever is sooner. Notwithstanding, it is the express intent and desire of the City and the Participating Agencies that if the Agreement expires before the cost difference has been paid through the Capital Expense Rate, that the Capital Expense Rate continue in any extension of this Agreement negotiated by the Parties pursuant to Section 13.2 until the cost difference has been fully paid.

13.5 Abandonment.

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

XIV. GENERAL

14.1 Exhibits.

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

| | |
|-----------|--|
| Exhibit A | Metro Facilities; |
| Exhibit B | Contract Capacities; |
| Exhibit C | Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies; |
| Exhibit D | Notice Listing; |
| Exhibit E | Reclaimed Water Distribution System; |
| Exhibit F | Pure Water Cost Allocation and Revenues; and |
| Exhibit G | Pure Water Capital Billing Table |

14.2 Amendment of Agreement.

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

14.3 Construction of Agreement.

14.3.1 Drafting of Agreement

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

14.3.2 Entire Agreement

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

14.3.3 Agreement Binding on All; No Third Party Beneficiaries

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

14.3.4 Severability

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

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

14.3.4.3 Should a state or federal agency provide a final, written determination that the method of allocating Pure Water Program Capital Improvement Costs under this Agreement violates the requirements of state or federal grants or loans which are, or will be, used to fund the wastewater components of the Pure Water Program, such allocation method will no longer be of any force or effect. In such an event, the Parties agree that the allocation of Pure Water Program Capital Improvement Costs attributable to the Metro System will be based on Strength and Flow as set forth in Section 3.4.1, and the allocation of Repurified Water Revenue and the Capital Expense Rate will be based on the Parties' actual payments to fund the Pure Water Program Capital Improvement Costs attributable to the Metro System. The City and the Participating Agencies shall also promptly meet to negotiate an alternative cost allocation method that would comply with such grant or loan funding requirements.

14.3.5 Choice of Law

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

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

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

14.4 Declarations Re: Agreement.

14.4.1 Understanding of Intent and Effect of Agreement

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

14.4.2 Warranty Regarding Obligation and Authority to Enter Into This Agreement

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

14.5 Restrictions on Veto of Transfers and Acquisitions of Capacity

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

14.6 Right to Make Other Agreements

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

14.7 Limitation of Claims

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

14.8 Counterparts

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

SIGNATURES ON FOLLOWING PAGES

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

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SAN DIEGO COUNTY SANITATION DISTRICT

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EXHIBIT A

METRO FACILITIES AS OF 6/27/18

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Pt. Loma Ocean Outfall
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Digested Sludge Pipeline
North City Water Reclamation Plant
Metro Biosolids Center (NCWR Plant Related Facilities)
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Centrate Pipeline
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Second Rose Canyon Trunk Sewer
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Centrate Treatment Facility at Metropolitan Biosolids Center
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Additional Metro Facilities

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

South Bay Sludge Processing Facility

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

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

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

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

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

Expansion of North City Water Reclamation Plant
Morena Pump Station

EXHIBIT A

EXHIBIT B

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Annual Average Daily Flow in Millions of Gallons Per Day

| Metro Agency | Original Contract Capacity | Additional Contract Capacity | New Contract Capacity | Transferred Contract Capacity | Total Contract Capacity | Percent of Total |
|-------------------------------|----------------------------|------------------------------|-----------------------|-------------------------------|-------------------------|------------------|
| Chula Vista | 19.843 | 1.021 | 0.000 | 0.000 | 20.864 | 8.182% |
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| Del Mar | 0.821 | 0.055 | 0.000 | 0.000 | 0.876 | 0.344% |
| East Otay Mesa* | 0.000 | 0.000 | 0.000 | 1.000 | 1.000 | 0.392% |
| El Cajon | 10.260 | 0.655 | 0.000 | 0.000 | 10.915 | 4.280% |
| Imperial Beach | 3.591 | 0.164 | 0.000 | 0.000 | 3.755 | 1.473% |
| La Mesa | 6.464 | 0.359 | 0.000 | 0.170 | 6.993 | 2.742% |
| Lakeside-Alpine* | 4.586 | 0.255 | 0.000 | 0.000 | 4.841 | 1.898% |
| Lemon Grove | 2.873 | 0.154 | 0.000 | 0.000 | 3.027 | 1.187% |
| National City | 7.141 | 0.346 | 0.000 | 0.000 | 7.487 | 2.936% |
| Otay | 1.231 | 0.056 | 0.000 | 0.000 | 1.287 | 0.505% |
| Padre Dam | 6.382 | 0.343 | 0.000 | (0.500) | 6.225 | 2.441% |
| Poway | 5.130 | 0.264 | 0.000 | 0.500 | 5.894 | 2.312% |
| Spring Valley/ Otay Ranch* | 10.978 | 0.545 | 0.000 | (1.170) | 10.353 | 4.060% |
| Wintergardens* | 1.241 | 0.068 | 0.000 | 0.000 | 1.309 | 0.513% |
| Subtotal | 83.619 | 4.459 | 0.000 | 0.000 | 88.078 | 34.540% |

EXHIBIT B

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

* Indicates a sub-area of the San Diego County Sanitation District.

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

EXHIBIT B

EXHIBIT C

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

EXHIBIT C

EXHIBIT D

NOTICE LISTING

City Manager
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91919
Phone: (619) 691-5031
Fax: (619) 585-5612

City Manager
City of La Mesa
8130 Allison Avenue
La Mesa, CA 91942
Phone: (619) 667-1101
Fax: (619) 462-7528

Chief Operating Officer
City of San Diego
202 "C" Street
San Diego, CA 92101
Phone: (619) 236-5949
Fax: (619) 236-6067

City Manager
City of Coronado
1825 Strand Way
Coronado, CA 92113
Phone: (619) 522-7335
Fax: (619) 522-7846

City Manager
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945
Phone: (619) 464-6934
Fax: (619) 460-3716

Chief Administrative Officer
County of San Diego
1600 Pacific Highway, Rm. 209
San Diego, CA 92101
Phone: (619) 531-5250
Fax: (619) 557-4060

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

City Manager
City of National City
1243 National City Blvd.
National City, CA 91950
Phone: (619) 336-4240
Fax: (619) 336-4327

General Manager
Otay Water District
2554 Sweetwater Springs Blvd.
Spring Valley, CA 91977
Phone: (619) 670-2210
Fax: (619) 670-2258

City Manager
City of El Cajon
200 Civic Center Way
El Cajon, CA 92020
Phone: (619) 441-1716
Fax: (619) 441-1770

City Manager
City of Poway
13325 Civic Center Drive
Poway, CA 92064
Phone: (858) 679-4200
Fax: (858) 679-4226

General Manager
Padre Dam Municipal Water
District
9300 Fanita Pkwy
Santee, CA 92071
Phone: (619) 258-4610
Fax: (619) 258-4794

City Manager
City of Imperial Beach
825 Imperial Beach Blvd.
Imperial Beach, CA 91932
Phone: (619) 423-8300 ext. 7
Fax: (619) 429-9770

EXHIBIT D

EXHIBIT E

RECLAIMED WATER DISTRIBUTION SYSTEM

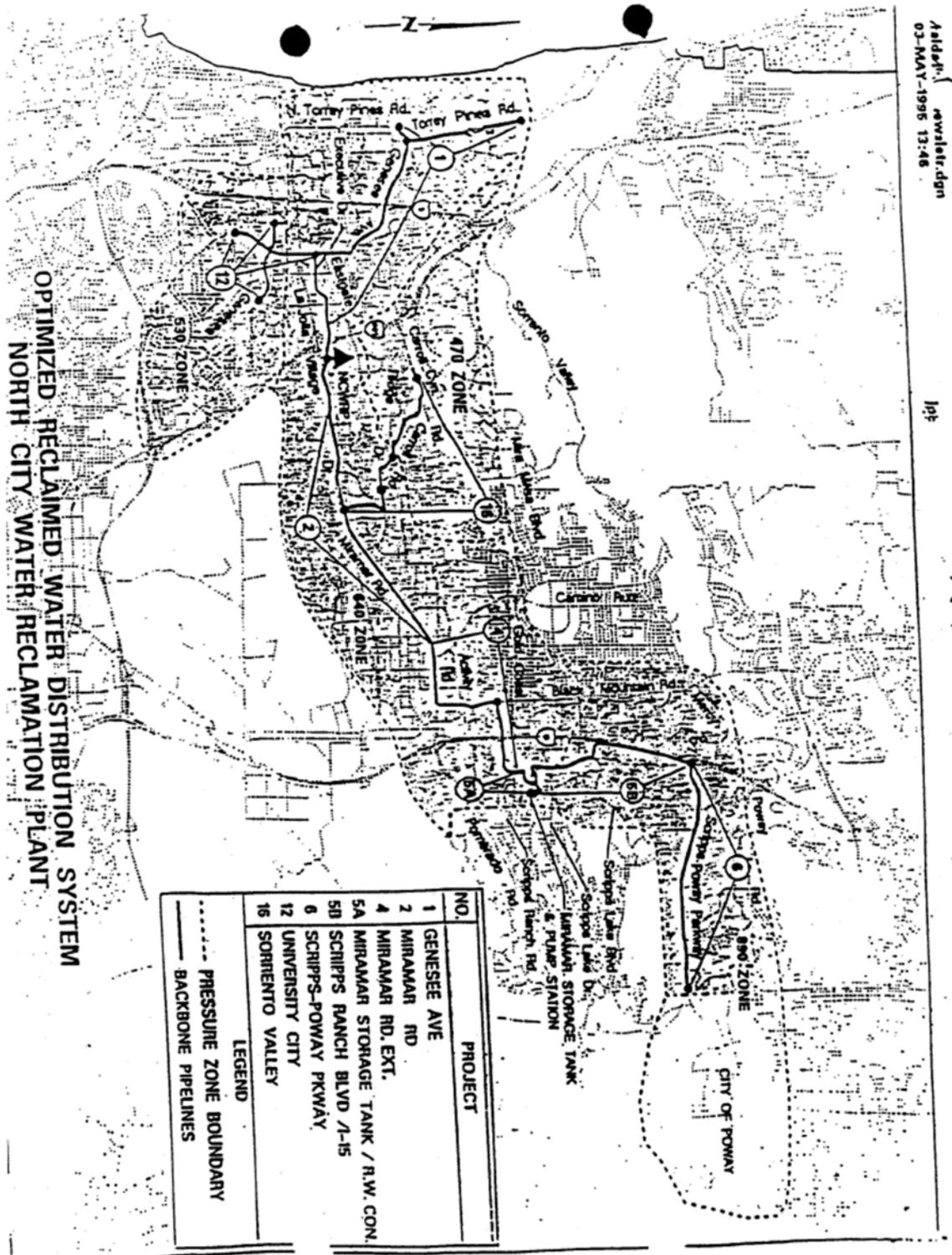


EXHIBIT E

EXHIBIT F

PURE WATER COST ALLOCATION AND REVENUES

EXHIBIT F

EXHIBIT G PURE WATER CAPITAL BILLING TABLE

| 1 Agency | 2 Estimated Average Daily Flow (MGD) | 3 Net Offload For Padre Dam Project (MGD) | 4 Projected Metro Flow 2050 (MGD) | | 5 % | 6 COD Applied to 2050 Flows (mg/l) | 7 COD Applied to 2050 Flows (lb/day) | 8 Percent COD Contributed | 9 SS Applied to 2050 Flows (mg/l) | 10 SS Applied to 2050 Flows (lb/day) | 11 Percent SS Contributed | 12 Pure Water Capital Milled Percentage ³ |
|---------------------------------------|---|--|--------------------------------------|--|---------|---------------------------------------|---|------------------------------|--------------------------------------|---|------------------------------|---|
| | | | Flow | | | | | | | | | |
| Chula Vista | 18.33 | 0 | 18.33 | | 11.601% | 701.947 | 107377.684 | 11.889% | 250.011 | 38244.530 | 11.701% | 11.699% |
| Coronado | 1.9 | 0 | 1.9 | | 1.202% | 587.457 | 9314.884 | 1.031% | 241.493 | 3829.176 | 1.172% | 1.152% |
| Del Mar | 0.031 | 0 | 0.031 | | 0.020% | 542.195 | 140.270 | 0.016% | 305.112 | 78.935 | 0.024% | 0.020% |
| East Otay Mesa (County) ¹ | 1.788 | 0 | 1.788 | | 1.132% | 621.049 | 9267.041 | 1.026% | 240.016 | 3581.421 | 1.096% | 1.096% |
| El Cajon | 7.8 | 7.0 | 0.805 | | 0.510% | 650.914 | 4373.460 | 0.484% | 236.265 | 1587.450 | 0.486% | 0.497% |
| Imperial Beach | 2.473 | 0 | 2.473 | | 1.565% | 540.757 | 11160.249 | 1.236% | 205.193 | 4234.820 | 1.296% | 1.411% |
| La Mesa | 5.03 | 0 | 5.03 | | 3.183% | 523.099 | 21958.348 | 2.431% | 197.537 | 8292.107 | 2.537% | 2.823% |
| Lakeside/Alpine (County) ¹ | 4.619 | 4.4 | 0.260 | | 0.165% | 638.686 | 1387.995 | 0.154% | 197.667 | 429.570 | 0.131% | 0.153% |
| Lemon Grove | 2.4 | 0 | 2.4 | | 1.519% | 593.836 | 11893.920 | 1.317% | 203.567 | 4077.236 | 1.247% | 1.395% |
| National City | 4.65 | 0 | 4.65 | | 2.943% | 685.192 | 26589.642 | 2.944% | 219.881 | 8532.740 | 2.611% | 2.852% |
| Otay Water District | 0.38 | 0 | 0.38 | | 0.240% | 1442.632 | 4574.952 | 0.507% | 818.053 | 2594.253 | 0.794% | 0.457% |
| Padre Dam | 2.486 | 1.8 | 0.696 | | 0.441% | 696.892 | 4049.236 | 0.448% | 251.288 | 1460.088 | 0.447% | 0.444% |
| Poway | 3.101 | 0 | 3.101 | | 1.963% | 563.551 | 14584.185 | 1.615% | 243.460 | 6300.522 | 1.928% | 1.869% |
| Spring Valley (County) ² | 6.231 | 0 | 6.231 | | 3.944% | 597.292 | 31059.332 | 3.439% | 235.079 | 12224.151 | 3.740% | 3.765% |
| Wintergardens (County) ¹ | 0.979 | 0 | 0.074 | | 0.047% | 633.136 | 392.817 | 0.043% | 208.768 | 129.526 | 0.040% | 0.044% |
| San Diego | 109.855 | 0 | 109.855 | | 69.526% | 703.556 | 645009.168 | 71.419% | 252.229 | 231239.253 | 70.751% | 70.323% |
| Total | 172.053 | 14.048 | 158.005 | | 100% | 10722.190 | 903133.183 | 100% | 4305.618 | 326835.778 | 100% | 100% |

¹ Subareas of the San Diego County Sanitation District
² Includes Otay Ranch (0.87 mgd) and Spring Valley (5.361 mgd). Flow from Otay Ranch that would flow to Metro through Chula Vista pipelines.
³ These fractions used to calculate the milled percentage: (Based on 5 year average and not subject to change except by agreement of the parties.)

FLOW SS COD
 0.482 0.275 0.243

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EXHIBIT A

METRO FACILITIES AS OF 6/27/18

Existing Facilities

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Pt. Loma Ocean Outfall
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Pump Station #2
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North Metro Interceptor
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| National City | 7.141 | 0.346 | 0.000 | 0.000 | 7.487 | 2.936% |
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| Padre Dam | 6.382 | 0.343 | 0.000 | (0.500) | 6.225 | 2.441% |
| Poway | 5.130 | 0.264 | 0.000 | 0.500 | 5.894 | 2.312% |
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| Total | 240.000 | 15.000 | 0.000 | 0.000 | 255.000 | 100.00% |

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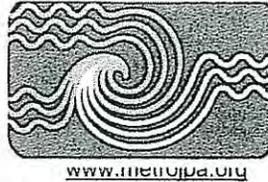
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EXHIBIT B

EXHIBIT C

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

EXHIBIT C



April 19, 2010

Rod Greek
Public Utilities Deputy Director
City of San Diego, Metropolitan Wastewater
9192 Topaz Way
San Diego, CA 92123

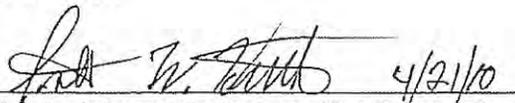
Re: Administrative Protocol on Allocation of Operating Reserves and Debt Service
Coverage to Participating Agencies

Dear Mr. Greek:

This letter is intended to memorialize the attached Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies ("Protocol") negotiated between the City of San Diego and Metro TAC/ Metro JPA/ Metro Commission, on behalf of the Participating Agencies under the Regional Wastewater Disposal Agreement. Your signature will indicate acceptance of the Protocol on behalf of the City.

By countersigning this letter, the City of San Diego and Metro TAC/ Metro JPA/ Metro Commission acknowledge and agree to the terms and conditions contained in the attached Protocol.

Sincerely,


for the Metro TAC/ Metro JPA/ Metro Commission

Enclosure

The Protocol is accepted by the City of San Diego pursuant to the terms and conditions set forth in the attachment hereto:

Date: 4/19/10


Rod Greek, Public Utilities Deputy Director

The Protocol is accepted by Metro TAC/ Metro JPA/ Metro Commission on behalf of the Participating Agencies pursuant to the terms and conditions set forth in the attachment hereto:

Date: 5/6/10



The Joint Powers Authority Proactively Addressing Regional Wastewater Issues

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

BACKGROUND:

In early 2008 the MetroTAC formed a working group in response to the City of San Diego's request for \$20 million in funding in FYE 2009 from the Participating Agencies ("PAs") for operating reserves and debt service coverage. The working group continued to meet with City of San Diego staff regarding the establishment of a mutually agreed upon protocol through early February 2010. A summary of the City of San Diego's 2008 proposal and the negotiated 2010 protocol is included as Attachment A.

At its regular meeting of February 17, 2010, the MetroTAC approved the following recommendations to move to the Finance Committee of the Metro Wastewater JPA and thereafter to the Metro Commission/ Metro Wastewater JPA for discussion and action:

- Proceed with PAs funding a 1.2 debt service ratio coverage
- Proceed with PAs funding a 45 day operating reserves
- The PAs will fund no other reserves
- FY07 and FY08 refund monies will be used to fund the operating reserves
- Interest accrual on operating reserves and undesignated accounts will start with FY10 (beginning on July 1, 2009)

The Finance Committee of the Metro Wastewater JPA, at its February 24, 2010 meeting, took action to recommend approval of the above, by the Metro Commission/ Metro Wastewater JPA. At its March 4, 2010 meeting, the Metro Commission/ Metro Wastewater JPA, comprised of representatives of the PAs, approved the components of the negotiated policy, with the understanding that any such policy would serve as an administrative protocol regarding the allocation of debt service coverage to the PAs and funding of operating reserves by the PAs.

PROTOCOL REGARDING PA FUNDING OF OPERATING RESERVES:

Background:

Operating reserves are established to provide funding for unforeseen events that might occur during the course of the fiscal year such as unforeseen major maintenance or capital projects. The PAs performed a survey of other regional wholesale agencies and determined that agencies such as the San Diego County Water Authority maintain a 45 day operating reserves. Although the City of San Diego's current policy is to increase operating reserves for its retail customers from 45 to 70 days, the City realizes that if a major maintenance incident should occur it can immediately request payment from the PAs per the Regional Wastewater Disposal Agreement. The City of San Diego's retail customer's rates cannot be immediately increased due to Proposition 218 requirements for noticing and public hearings.

Protocol:

Attachment B is a summary of the funding strategy showing each PAs 2007 and 2008 refunds based on recent City Metro Wastewater Exhibit E audits. The refunds will be used to fund the PAs 45 day operating reserves contribution. In the majority of cases most PAs will see a refund even after they have

fully funded their portion of the operating reserves. PAs that do not have adequate refunds will be billed for their portion of the reserve in the next quarterly 2010 billing. The operating reserves for each fiscal year will be established based on 45 days of operating revenues as determined by the following formula:

$$\frac{\text{Fiscal Year Estimated Operating Expenses (not including CIP and debt service)} \times 45 \text{ days}}{365 \text{ days}}$$

The number of days included in the calculation cannot be changed without prior consent of the PAs.

The operating reserves will be maintained by the City of San Diego and interest will accrue on a monthly basis based on actual interest rates on the City's investments. This interest revenue will be added to the PAs undesignated fund balance for that fiscal year. As part of each year's Exhibit E audit the actual required operating reserves and interest earned on it will be determined and audited by the City of San Diego's external auditors and PA representatives. A summary of the operating reserves balance and interest earned for each PA will be included as a footnote or attachment to the City Metro Wastewater Exhibit E Audit.

PROTOCOL REGARDING ALLOCATION OF DEBT SERVICE COVERAGE TO PAs

Background:

A 1.2 debt service coverage ratio is a requirement for all of the outstanding Metro parity debt. A cash flow prepared by the City of San Diego shows (Attachment C) that if the PAs are billed at the current level (\$65 million annually to cover the PAs portion of operations, pay-go capital, and debt service expense) for the next three to five years that this requirement can be achieved without additional contributions by the PAs. This provides the PAs a stable projected annual Metro contribution for the next three to five years.

Protocol:

The PAs will maintain through annual contributions and use of PA undesignated fund balance a positive cash flow not to exceed 1.2 times the PA share of the required annual debt service on Metro Debt. The debt service coverage ratio of 1.2 cannot be changed without prior consent of the PAs.

The undesignated fund balance will be maintained by the City of San Diego and interest will accrue on a monthly basis based on actual interest rates on the City's investments. This interest revenue will be added to the PAs undesignated fund balance for that fiscal year.

As part of each year's Exhibit E audit the actual required reserve coverage and interest earned on the undesignated fund balance will be determined and audited by the City of San Diego's external auditors and PA representatives. A summary of the debt service coverage requirement and portion of interest earned on the undesignated fund balance for each PA will be included as a footnote or attachment to the City Metro Wastewater Exhibit E Audit.

If the cash flow in any year does not provide the required 1.2 debt service coverage the PAs will be billed the additional required revenue including interest.

Attachment A
Original San Diego Proposal

Draft

FY 2009, and prospective years, Participating Agency funding process for the allocation of the MWWD Debt Service Coverage requirement:

Year 1

On October 1, 2008

1. Obtain the FY 2009 total MWWD debt service amount including SRF debt from the Administrative Services, Budget Section.
2. Calculate the debt service coverage dollar amount greater than 100%. The target debt service coverage percentage of 1.56 is the average debt service coverage ratio found in the current rate case model. The formula is: ([Current Debt Service Amount], $\$94,306,351 * .56 = \$52,811,557$).
3. Allocate the total debt service coverage amount between the Municipal and Metropolitan Systems using their respective debt service percentages of 77.91% for the Metropolitan System and 22.09% for the Municipal System.
4. Obtain final FY 2009 projected flow-based billing percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
5. Allocate the Metropolitan System portion of the debt service coverage amount to the City of San Diego and the 15 Participating Agencies using final FY 2009 projected flow-based billing percentages.
6. Update the Participating Agency Debt Coverage Payment Schedule.

On October 4, 2008

1. Forward the Participating Agency Debt Coverage Payment Schedule to the Admin Services, Agency Contracts Section, (Peggy Merino).

On November 1, 2008

1. Admin Services, Agency Contracts Section, (Peggy Merino) sends FY 2009 second quarter invoices to include as a second item, the debt service coverage amounts. The due date is December 1, 2008. (no interest will be applied to these accounts due to the mid year payment approach)

On December 1, 2008

1. Recognize the Participating Agencies debt service coverage payments as new revenues and update the Participating Agency Debt Coverage Payment Schedule.
2. Inform Admin Services, Agency Contracts Section, (Peggy Merino) to reduce the Participating Agencies FY 2010 CIP expense allocation by the FY 2009 Participating Agencies debt service coverage payments.
3. Obtain the preliminary FY 2010 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
4. Calculate a preliminary FY 2010 debt service coverage schedule and forward to the Admin Services, Agency Contracts Section, (Peggy Merino)

On January 1, 2009

1. Admin Services, Agency Contracts Section, (Peggy Merino), informs the Participating Agencies of the FY 2010 projected debt service coverage amounts for budgeting purposes.

On July 1, 2009

1. Apply the FY 2009 Participating Agencies debt service coverage payments towards the cash requirement for the FY 2010 Metro based CIP Project budget. Any residual amounts will be applied to the O&M budget.

Year 2 (Prospective Years)

On October 1, 2009

1. Obtain the Fiscal Year 2010 total MWWD debt service amount including SRF debt from the Administrative Services, Budget Section.
2. Calculate the debt service coverage dollar amount greater than 100%. The target debt service coverage percentage of 1.56 is the average debt service coverage ratio found in the current rate case model. The formula is: ([Current Debt Service Amount], $\$xxx,xxx,xxx * .56 = \xxx,xxx,xxx)
3. Allocate the total debt service coverage amount between the Municipal and Metropolitan Systems using their respective debt service coverage percentages of xx.xx% for the Municipal System and xx.xx% for the Metropolitan System.
4. Obtain the final FY 2010 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
5. Allocate the Metropolitan System portion of the debt service coverage amount to the City of San Diego and the 15 Participating Agencies using the preliminary FY 2010 projected flow-based percentages.
6. Update the Participating Agency Debt Coverage Payment Schedule.

On October 4, 2009

1. Forward the Participating Agency Debt Coverage Payment Schedule to the Admin Services, Agency Contracts Section, (Peggy Merino) for invoicing purposes.

On November 1, 2009

1. Admin Services, Agency Contracts Section, (Peggy Merino) sends FY 2009 second quarter invoices to include as a second item, the debt service coverage amounts. The due date is December 1, 2009. (no interest will be applied to these accounts due to the mid year payment approach)

On December 1, 2009

1. Recognize the Participating Agencies debt service coverage payments as new revenues and update the Participating Agency Debt Coverage Payment Schedule.
2. Inform Admin Services, Agency Contracts Section, (Peggy Merino) to reduce the Participating Agencies FY 2011 CIP expense allocation by the FY 2010 Participating Agencies debt service coverage payments.
3. Obtain the preliminary FY 2011 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
4. Calculate a preliminary FY 2011 debt service coverage schedule and forward to the Admin Services, Agency Contracts Section, (Peggy Merino)

On January 1, 2010

1. Admin Services, Agency Contracts Section, (Peggy Merino), informs the Participating Agencies of the FY 2011 projected debt service coverage amounts for budgeting purposes.

On July 1, 2010

1. Apply the FY 2010 Participating Agencies debt service coverage payments towards the cash requirement for the FY 2011 Metro based CIP Project budget. Any residual amounts will be applied to the O&M budget.

Attachment B
Operating Reserve Funding Strategy

FY07-FY08 Operating Reserve Rate Stabilization
Based on 2008 Flows
FINAL

| Agency | EXHIBIT E AUDIT ADJUSTMENTS | | | 2008 FLOWS & LOADS | | |
|-----------------|-----------------------------|----------------------|-----------------------|--------------------|--------------------|--------------------------|
| | FY 2007 | FY 2008 | TOTAL | 2008 FLOWS & LOADS | OPERATING RESERVE | NET |
| CHULA VISTA | (\$1,837,010) | (\$2,100,751) | (\$3,937,761) | 28.083% | \$1,202,374 | (\$2,735,387) |
| CORONADO | (\$189,910) | (\$366,858) | (\$556,768) | 3.356% | \$143,693 | (\$413,075) |
| DEL MAR | (\$87,785) | (\$103,913) | (\$191,698) | 1.029% | \$44,061 | (\$147,637) |
| EL CAJON | (\$290,369) | \$66,888 | (\$223,481) | 15.270% | \$653,789 | \$430,308 |
| IMPERIAL BEACH | (\$132,300) | (\$130,153) | (\$262,453) | 3.652% | \$156,373 | (\$106,080) |
| LA MESA | (\$99,793) | (\$40,190) | (\$139,983) | 8.842% | \$378,561 | \$238,578 |
| LAKESIDE/ALPINE | (\$293,313) | (\$243,206) | (\$536,519) | 5.357% | \$229,368 | (\$307,151) |
| LEMON GROVE | (\$147,034) | (\$195,043) | (\$342,077) | 3.611% | \$154,615 | (\$187,462) |
| NATIONAL CITY | (\$637,379) | (\$947,043) | (\$1,584,422) | 7.572% | \$324,211 | (\$1,260,211) |
| OTAY | \$123,792 | (\$138,545) | (\$14,753) | 0.459% | \$19,668 | \$4,915 |
| PADRE DAM | (\$789,976) | (\$1,752,218) | (\$2,542,194) | 5.198% | \$222,537 | (\$2,319,657) |
| POWAY | (\$683,251) | \$130,168 | (\$553,083) | 5.770% | \$247,021 | (\$306,062) |
| SPRING VALLEY | (\$611,093) | (\$667,539) | (\$1,278,632) | 10.316% | \$441,691 | (\$836,941) |
| WINTERGARDENS | (\$71,984) | (\$56,162) | (\$128,146) | 1.482% | \$63,470 | (\$64,676) |
| TOTAL | (\$5,747,405) | (\$6,544,565) | (\$12,291,970) | 100% | \$4,281,432 | \$ (8,010,538.00) |

Attachment C
Debt Service Coverage Funding Strategy

Attachment C

Schedule of Participating Agency Contributions to Operations Reserve and Debt Service Coverage Cash Flow FY 2007-2011

HOW TO READ CASH FLOW SPREADSHEET:

Blue font = data inputted directly into spreadsheet

Green font = data imported from another spreadsheet in workbook

Black font = Calculation; see legend to determine calculation

| Line # | Cash Flow Component | Legend | Foot-note # |
|--------|---------------------------------------|-----------------------------|-------------|
| 1 | Current Projected Revenue Stream | Input | |
| 2 | Annual Refund After Exhibit E Audit | Line 21-Prior Year | |
| 3 | Transfer (to)/from Operating Reserve | Line 17 X Interest Rate | (1) |
| 4 | Undesignated Fund Balance Interest | Calculated Off-Line | (2) |
| 5 | Operating Reserve Interest | Sum(Line 1,Line 5) | |
| 6 | Gross PA System Revenue | | |
| 7 | Less: | | |
| 8 | PA Estimated Total Operating Expenses | Prior year X 1.01 | (3) |
| 9 | | Line 6 - Line 8 | |
| 10 | Net PA System Revenue | | |
| 11 | PA Annual Debt Service Payment | Calculated Off-Line | |
| 12 | CIP Pay Go - 20% of Projected CIP | Input | |
| 13 | Total CIP and Debt Service | Line 12 + 13 | (4) |
| 14 | | | |
| 15 | Net Income after CIP and Debt Service | Line 10 - 14 | |
| 16 | PA Undesignated Fund Balance | Line 16 + Prior Year | |
| 17 | Calculated Debt Service Ratio | Line 10/Line 12 | (5) |
| 18 | Operating Reserve (45 days) | (Line 8/365 days) X 45 days | |
| 19 | | | |
| 20 | | | |
| 21 | | | |

| | AUDITED | | PROJECTED | | | | | | |
|----|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 |
| 1 | \$54,007,596 | \$63,231,038 | \$57,249,960 | \$54,487,408 | \$65,000,000 | \$65,000,000 | \$65,000,000 | \$65,000,000 | \$65,000,000 |
| 2 | | | | | (1,500,000) | (9,000,000) | (2,500,000) | (2,100,000) | (1,800,000) |
| 3 | | | | (4,281,432) | (42,814) | (43,242) | (43,675) | (44,112) | (44,553) |
| 4 | | | | 79,990 | 258,156 | 225,608 | 113,282 | 62,579 | 58,899 |
| 5 | | | | 164,514 | 156,159 | 167,821 | 169,494 | 171,154 | 172,900 |
| 6 | \$54,007,596 | \$63,231,038 | \$57,249,960 | \$52,241,049 | \$63,881,500 | \$62,350,187 | \$62,739,106 | \$63,089,661 | \$63,387,252 |
| 7 | | | | | | | | | |
| 8 | \$32,304,238 | \$37,150,044 | \$34,727,170 | \$34,727,170 | \$35,074,442 | \$35,425,186 | \$35,779,438 | \$36,137,232 | \$36,498,605 |
| 9 | \$21,703,358 | \$26,080,996 | \$22,522,790 | \$17,513,879 | \$28,807,059 | \$26,925,001 | \$26,959,668 | \$26,952,429 | \$26,888,647 |
| 10 | \$20,373,393 | \$19,850,051 | \$20,441,069 | \$24,099,989 | \$14,043,890 | \$21,929,039 | \$21,479,266 | \$22,478,075 | \$22,478,730 |
| 11 | (4,417,502) | (512,512) | | 1,318,048 | 5,610,210 | 7,369,218 | 5,800,940 | 4,570,129 | 4,655,009 |
| 12 | 15,955,891 | 19,337,539 | 20,441,069 | 25,368,037 | 29,654,090 | 29,848,257 | 28,279,206 | 27,048,704 | 27,133,739 |
| 13 | \$5,747,407 | \$6,743,457 | \$2,081,721 | (57,854,157) | (5847,032) | (52,923,257) | (51,319,537) | (595,775) | (5245,092) |
| 14 | \$5,747,407 | \$12,490,864 | \$14,572,585 | \$6,718,428 | \$5,871,396 | \$2,948,139 | \$1,628,602 | \$1,532,827 | \$1,287,735 |
| 15 | | | | 0.73 | 1.20 | 1.20 | 1.20 | 1.20 | 1.20 |
| 16 | | | | \$4,281,432 | \$4,324,246 | \$4,367,489 | \$4,411,164 | \$4,455,275 | \$4,499,828 |

FY10 Operating Reserve Calc:
 PA Operating Expenses: \$34,727,170
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve Interest Calc:
 PA Operating Expenses: \$4,281,432
 Times ave monthly LAIF Interest Rate: 0.038425 (range from 3.18% to 4.53% per month)
 FY10 Estimated Interest Earned: \$164,514

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve:
 PA Operating Expenses: \$4,281,432
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

EXHIBIT D

NOTICE LISTING

City Manager
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91919
Phone: (619) 691-5031
Fax: (619) 585-5612

City Manager
City of La Mesa
8130 Allison Avenue
La Mesa, CA 91942
Phone: (619) 667-1101
Fax: (619) 462-7528

Chief Operating Officer
City of San Diego
202 "C" Street
San Diego, CA 92101
Phone: (619) 236-5949
Fax: (619) 236-6067

City Manager
City of Coronado
1825 Strand Way
Coronado, CA 92113
Phone: (619) 522-7335
Fax: (619) 522-7846

City Manager
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945
Phone: (619) 464-6934
Fax: (619) 460-3716

Chief Administrative Officer
County of San Diego
1600 Pacific Highway, Rm. 209
San Diego, CA 92101
Phone: (619) 531-5250
Fax: (619) 557-4060

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

City Manager
City of National City
1243 National City Blvd.
National City, CA 91950
Phone: (619) 336-4240
Fax: (619) 336-4327

General Manager
Otay Water District
2554 Sweetwater Springs Blvd.
Spring Valley, CA 91977
Phone: (619) 670-2210
Fax: (619) 670-2258

City Manager
City of El Cajon
200 Civic Center Way
El Cajon, CA 92020
Phone: (619) 441-1716
Fax: (619) 441-1770

City Manager
City of Poway
13325 Civic Center Drive
Poway, CA 92064
Phone: (858) 679-4200
Fax: (858) 679-4226

General Manager
Padre Dam Municipal Water
District
9300 Fanita Pkwy
Santee, CA 92071
Phone: (619) 258-4610
Fax: (619) 258-4794

City Manager
City of Imperial Beach
825 Imperial Beach Blvd.
Imperial Beach, CA 91932
Phone: (619) 423-8300 ext. 7
Fax: (619) 429-9770

EXHIBIT D

EXHIBIT E

RECLAIMED WATER DISTRIBUTION SYSTEM

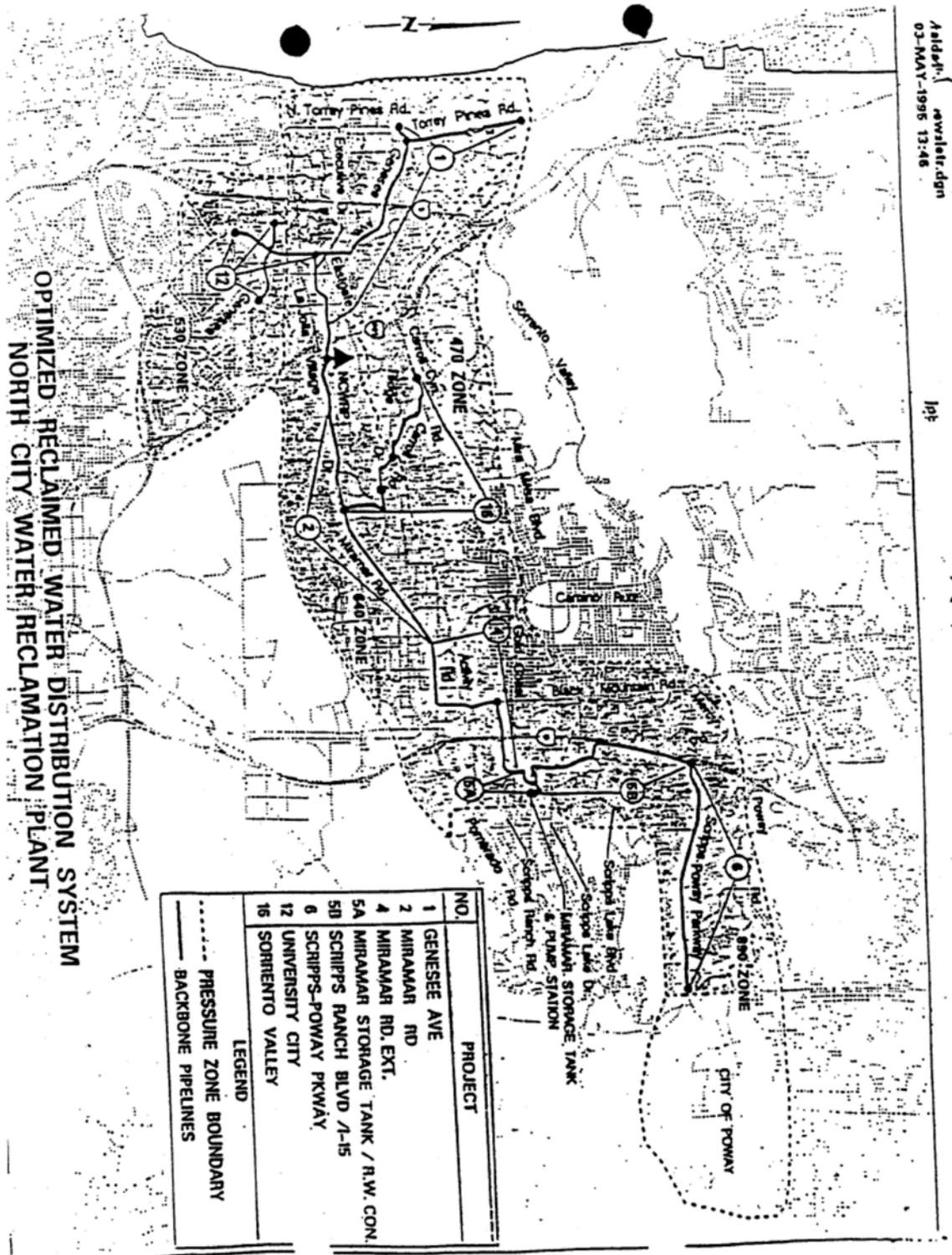


EXHIBIT E

EXHIBIT F

PURE WATER COST ALLOCATION AND REVENUES

EXHIBIT F

EXHIBIT G PURE WATER CAPITAL BILLING TABLE

| 1 Agency | 2 Estimated Average Daily Flow (MGD) | 3 Net Offload For Padre Dam Project (MGD) | 4 Projected Metro Flow 2050 (MGD) | | 5 % | 6 COD Applied to 2050 Flows (mg/l) | 7 COD Applied to 2050 Flows (lb/day) | 8 Percent COD Contributed | 9 SS Applied to 2050 Flows (mg/l) | 10 SS Applied to 2050 Flows (lb/day) | 11 Percent SS Contributed | 12 Pure Water Capital Milled Percentage ³ |
|---------------------------------------|---|--|--------------------------------------|--|---------|---------------------------------------|---|------------------------------|--------------------------------------|---|------------------------------|---|
| | | | Flow | | | | | | | | | |
| Chula Vista | 18.33 | 0 | 18.33 | | 11.601% | 701.947 | 107377.684 | 11.889% | 250.011 | 38244.530 | 11.701% | 11.699% |
| Coronado | 1.9 | 0 | 1.9 | | 1.202% | 587.457 | 9314.884 | 1.031% | 241.493 | 3829.176 | 1.172% | 1.152% |
| Del Mar | 0.031 | 0 | 0.031 | | 0.020% | 542.195 | 140.270 | 0.016% | 305.112 | 78.935 | 0.024% | 0.020% |
| East Otay Mesa (County) ¹ | 1.788 | 0 | 1.788 | | 1.132% | 621.049 | 9267.041 | 1.026% | 240.016 | 3581.421 | 1.096% | 1.096% |
| El Cajon | 7.8 | 7.0 | 0.805 | | 0.510% | 650.914 | 4373.460 | 0.484% | 236.265 | 1587.450 | 0.486% | 0.497% |
| Imperial Beach | 2.473 | 0 | 2.473 | | 1.565% | 540.757 | 11160.249 | 1.236% | 205.193 | 4234.820 | 1.296% | 1.411% |
| La Mesa | 5.03 | 0 | 5.03 | | 3.183% | 523.099 | 21958.348 | 2.431% | 197.537 | 8292.107 | 2.537% | 2.823% |
| Lakeside/Alpine (County) ¹ | 4.619 | 4.4 | 0.260 | | 0.165% | 638.686 | 1387.995 | 0.154% | 197.667 | 429.570 | 0.131% | 0.153% |
| Lemon Grove | 2.4 | 0 | 2.4 | | 1.519% | 593.836 | 11893.920 | 1.317% | 203.567 | 4077.236 | 1.247% | 1.395% |
| National City | 4.65 | 0 | 4.65 | | 2.943% | 685.192 | 26589.642 | 2.944% | 219.881 | 8532.740 | 2.611% | 2.852% |
| Otay Water District | 0.38 | 0 | 0.38 | | 0.240% | 1442.632 | 4574.952 | 0.507% | 818.053 | 2594.253 | 0.794% | 0.457% |
| Padre Dam | 2.486 | 1.8 | 0.696 | | 0.441% | 696.892 | 4049.236 | 0.448% | 251.288 | 1460.088 | 0.447% | 0.444% |
| Poway | 3.101 | 0 | 3.101 | | 1.963% | 563.551 | 14584.185 | 1.615% | 243.460 | 6300.522 | 1.928% | 1.869% |
| Spring Valley (County) ² | 6.231 | 0 | 6.231 | | 3.944% | 597.292 | 31059.332 | 3.439% | 235.079 | 12224.151 | 3.740% | 3.765% |
| Wintergardens (County) ¹ | 0.979 | 0 | 0.074 | | 0.047% | 633.136 | 392.817 | 0.043% | 208.768 | 129.526 | 0.040% | 0.044% |
| San Diego | 109.855 | 0 | 109.855 | | 69.526% | 703.556 | 645009.168 | 71.419% | 252.229 | 231239.253 | 70.751% | 70.323% |
| Total | 172.053 | 14.048 | 158.005 | | 100% | 10722.190 | 903133.183 | 100% | 4305.618 | 326835.778 | 100% | 100% |

¹ Subareas of the San Diego County Sanitation District
² Includes Otay Ranch (0.87 mgd) and Spring Valley (5.361 mgd). Flow from Otay Ranch that would flow to Metro through Chula Vista pipelines.
³ These fractions used to calculate the milled percentage: (Based on 5 year average and not subject to change except by agreement of the parties.)

FLOW SS COD
 0.482 0.275 0.243

EXHIBIT F

PURE WATER PROGRAM COST ALLOCATION AND REVENUES

As part of the Pure Water Program, the City intends to modify the North City Water Reclamation Plant (a Metro System facility) and expand its capacity to 52 mgd. In addition, the City intends to construct the North City Pure Water Facility on a nearby site to produce Repurified Water. This Exhibit F sets forth the costs and revenues associated with the Pure Water Program which are, or are not, attributable to the Metro System.

I. Costs Excluded from Metro System Costs

All of the following Pure Water Program costs, including Capital Improvement Costs, Operation and Maintenance Costs, and other related costs (including administration, insurance, claims, and overhead) are excluded as Metro System Costs for purposes of calculating the annual Sewer System Charge, and shall be the responsibility of City's water utility ("**City Water Utility PW Costs**"), unless otherwise expressly agreed to pursuant to an amendment to this Exhibit F:

1.1 General Exclusions.

1.1.1 Costs of the Water Repurification System and any Metro System facilities to the extent constructed, modified, expanded, or used for the purpose of treating water beyond secondary treatment (ocean discharge standard under current law). This shall include costs for preliminary treatment, primary treatment, and secondary treatment to the extent such costs are higher than they would otherwise be due to the production of Repurified Water.

1.1.2 Costs for fail-safe disposal, if necessary, for design capacity for Repurified Water, including, but not limited to, any costs associated with the reservation of capacity at the Point Loma Wastewater Treatment Plant.

1.1.3 Costs for the demolition or replacement of existing Metro System facilities with similar facilities for the purpose of making space available for Water Repurification System facilities. Such costs may take into account the current asset value or market value of the existing Metro System facility.

1.2 Cost Exclusions Specific to North City Water Reclamation Plant Improvements.

1.2.1 Costs for increased aeration tank volume to the extent the new volume exceeds the amount necessary to provide 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.

1.2.2 Costs for the methanol feed system.

1.2.3 Costs for brine disposal, including, but not limited to, pump stations, pipelines, retreatment, ocean outfall, and monitoring.

1.2.4 Costs for the use of existing tertiary water filters for Repurified Water purposes. Such costs may take into account the depreciated value of such filters, or use such other appropriate valuation method as agreed by the City and authorized representatives of the Metro Commission. (Costs under this section shall be reimbursed or credited by City's water utility to the Metro System.)

II. **North City Water Reclamation Plant Improvement Costs Included as Metro System Costs**

Notwithstanding the above exclusions, the City and the Participating Agencies have specifically agreed that the following Capital Improvement Costs and Operation and Maintenance Costs related to North City Water Reclamation Plant improvements shall be included as Metro System Costs for purposes of calculating the annual Sewer System Charge (and therefore not qualify as City Water Utility PW Costs):

2.1 Costs for chemically enhanced primary treatment for up to 52 mgd capacity.

2.2 Costs for primary effluent equalization for up to 52 mgd capacity.

2.3 Costs for increased volume of aeration tanks that will provide up to, but not exceeding, 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.

2.4 Costs to add secondary clarifier tanks sufficient for up to 52 mgd capacity.

2.5 Costs for wastewater conveyance facilities to provide wastewater for replacement of centrate flows that cannot be treated at the North City Water Reclamation Plant due to the production of Repurified Water.

2.6 Costs for treatment and conveyance of all return flows (micro-filtration and tertiary backwash) based on Flow, COD, and SS.

III. **Cost Allocation Example**

Attachment 1 is an example of the City's Pure Water Phase I Cost Estimate (based on 60% design), and indicates which costs are City Water Utility PW Costs and which costs are attributable to the Metro System. The Parties agree that Attachment 1 is an illustrative document to assist the Parties in the future and is not a comprehensive list of all such costs. If there is any conflict between this Exhibit F and Attachment 1, or if a specific cost is not addressed in Attachment 1, this Exhibit F shall control.

IV. **Revenue Sharing for Repurified Water**

4.1 **Background.** Initially, the parties anticipate that the cost per acre foot associated with the production of Repurified Water will be more expensive than the cost per acre foot of untreated imported water. However, it is anticipated that Repurified Water produced under the Pure Water Program will be less expensive than untreated imported water sometime in the future. Once Repurified Water produced under the Pure Water Program becomes less expensive

than the cost of untreated imported water, the parties agree that there will be revenue from the Pure Water Program.

4.2 **Calculation.** Revenue sharing shall occur in each fiscal year during which the annual cost per acre foot associated with the production of Repurified Water is less than the cost of untreated water per acre foot from the San Diego County Water Authority (“CWA”). The annual cost difference shall be known as “**Repurified Water Revenue.**” Repurified Water Revenue shall be determined as follows:

| |
|--|
| <p>Annual cost per acre foot of CWA untreated water purchased by the City for delivery at Miramar Reservoir (which shall be determined based on the total of certain fixed and variable costs for water actually billed to the City by CWA for water delivered at Miramar Reservoir in a fiscal year, divided by the number of acre-feet of CWA water delivered at Miramar Reservoir that year)</p> <p style="text-align: center;"><u>less</u></p> <p>Annual cost per acre foot of City Water Utility PW Costs (which shall be determined based on total annual City Water Utility PW Costs divided by the number of acre-feet of Repurified Water actually produced in that year)</p> <p style="text-align: center;"><u>multiplied by</u></p> <p>The number of acre feet of Repurified Water produced by Pure Water Program facilities during the applicable fiscal year.</p> |
|--|

Attachment 2 is a summary of billings from CWA showing fixed and variable costs for untreated water. The Parties agree that Attachment 2 shall be referred to by the Parties in the future in determining how costs for water delivered at Miramar Reservoir are calculated. If no untreated water is delivered at Miramar Reservoir in a given year, then the closest point of delivery of untreated water to the City shall be used.

The City shall estimate whether there will be Repurified Water Revenue in the upcoming fiscal year prior to January 15 of each year, and the estimated amount of Repurified Water Revenue shall be effective on July 1 of the upcoming fiscal year.

4.3 **Revenue Sharing.** Repurified Water Revenue shall initially be shared based on the relative actual Capital Improvement Costs for the Pure Water Program contributed by City’s Water Utility and the Metro System. Such Capital Improvement Cost contributions are currently estimated as (61% City Water Utility and 39% Metro System) until the debt attributable to the Metro System is fully paid.

Following full payment of debt attributable to the Metro System, Repurified Water Revenue shall be shared based on the relative actual Operation and Maintenance Costs for Pure Water Program facilities contributed by City’s Water Utility and the Metro System, calculated

annually. Such Operation and Maintenance Costs are currently estimated as (76% City Water Utility and 24% Metro System) on an annual basis.

4.4 **Year-End Adjustment.** At the end of each fiscal year during which there is Repurified Water Revenue, the City shall determine the actual cost per acre foot of CWA untreated water purchased by the City, the actual cost per acre foot of City Water Utility PW costs, and the actual amount of Repurified Water produced at Pure Water Program facilities.

Based on the actual cost and production information, the City will recalculate the Repurified Water Revenue for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

4.5 **Change in Potable Reuse Method.** The parties acknowledge that the Pure Water Program will initially use the surface water augmentation method of potable reuse. The use of CWA untreated water costs in calculating Repurified Water Revenue is intended to provide an appropriate point of comparison to costs for producing Repurified Water that will be introduced into surface water. The parties agree that if the City implements direct potable reuse (in which Repurified Water is introduced directly into a water supply pipeline or facility), the parties shall meet and negotiate in good faith regarding an amendment to this Exhibit F to appropriately update the formula for Repurified Water Revenue.

V. **Capital Expense Rate**

5.1 **Background.** The Point Loma Wastewater Treatment Plant operates under a National Pollutant Discharge Elimination System (“NPDES”) permit modified under section 301(h) & (j)(5) of the Clean Water Act. If such modified permit were ever revoked or not renewed, the parties agree that, under current law, the City would have an obligation to upgrade the Point Loma WTP to secondary treatment. The parties further agree that \$1.8 billion is a fair and comprehensive estimation of the costs that could be incurred by the Metro System to meet the legal requirements related to the Metro System under current law.

Therefore, the parties agree that \$1.8 billion represents the maximum amount of Capital Improvement Costs that the Metro System should be obligated to contribute to the Pure Water Program, the purpose of which is not solely the disposal of wastewater, but also the production of Repurified Water. The parties agree that this \$1.8 billion maximum contribution should apply whether or not the Point Loma WTP is actually upgraded to secondary treatment to meet legal requirements in the future because, as of the date of the Agreement, the parties have the option of upgrading the Point Loma WTP to full secondary treatment for the cost of approximately \$1.8 billion.

In light of the above, the parties have agreed that if Metro System costs related to the Pure Water Program exceed the \$1.8 billion, City’s Water Utility will pay a charge for each acre foot of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water.

5.2 **Capital Expense Rate.** Under the circumstances described below, City’s Water Utility shall pay a charge (“**Capital Expense Rate**”) for each acre-foot of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water.

City's Water Utility shall pay the Capital Expense Rate if the following costs alone, or in combination, exceed \$1.8 billion (which amount shall be adjusted for inflation):

(a) the sum of all Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F; and/or

(b) the sum of all Capital Improvement Costs and associated debt for the full or partial upgrading of the Point Loma Wastewater Treatment Plant to secondary treatment.

Notwithstanding the above, the Capital Expense Rate shall not apply if the Point Loma WTP is actually upgraded to secondary treatment (or beyond) due to: (a) a change in federal or state statutory law making it necessary to upgrade the Point Loma WTP to comply with such new discharge standard; or (b) a final decision by a state or federal court or a federal administrative agency of competent jurisdiction that an NPDES permit modified under section 301(h) & (j)(5) of the Clean Water Act is thereby revoked or denied renewal due to a finding that the discharge from the Point Loma WTP violates anti-degradation rules or regulations promulgated under section 403 of the Clean Water Act.

5.3 Calculation of Capital Expense Rate. The amount per acre-foot of the Capital Expense Rate shall be determined as follows:

The sum of all Capital Improvement Costs and associated debt attributable to (i) the Metro System components of the Pure Water Program under this Exhibit F and (ii) upgrading of the Point Loma WTP to secondary treatment (if any)

less

\$1.8 billion, as adjusted for inflation each July 1 (starting on July 1, 2019) to reflect the annual percentage change in the Engineering News Record – Los Angeles construction cost index

multiplied by

1.42 (which estimates the total interest on a 30-year State Revolving Fund loan with an interest rate of 2.5%)

and divided by

The total number of acre feet per year of secondary treated effluent that is expected to be produced by Metro System facilities for the production of Repurified Water over a period of thirty (30) years.

The City shall estimate whether the Capital Expense Rate shall apply to the upcoming fiscal year (and its amount) prior to January 15 of each year, and the estimated amount of the Capital Expense Rate shall be effective on July 1 of the upcoming fiscal year.

For purposes of this Article V of Exhibit F, Capital Improvement Costs and associated debt shall include such costs incurred by the Metro System prior to the effective date of the

Agreement.

5.4 Year-End Adjustment

At the end of each fiscal year during which the Capital Expense Rate applies, the City shall determine the actual Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F and any upgrading of the Point Loma WTP to secondary treatment, the then-applicable interest amount for outstanding loans for the Metro System components of the Pure Water Program and Point Loma WTP upgrades, and the actual amount of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water.

Based on the actual cost, interest, and effluent information, the City will recalculate the Capital Expense Rate for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

5.5 Duration; Expiration

The duration and expiration of the Capital Expense Rate is set forth in Section 13.4 of the Agreement.

ATTACHMENT 1 – PURE WATER PHASE I COST ESTIMATE

| | Total | Percent |
|--|----------------------------|------------|
| Wastewater: | | |
| Morena Pump Station WW Force Main and Brine Conveyance | \$ 324,712,285.00 | |
| North City Renewable Energy | \$ 33,794,784.00 | |
| North City MBC Improvements | \$ 7,310,835.00 | |
| North City WRP Expansion and PWF Influent Conveyance | \$ 176,882,842.00 | |
| SDG&E | \$ 3,288,932.00 | |
| Total Wastewater | \$ 545,989,678.00 | 39% |
| Water: | | |
| Morena Pump Station WW Force Main and Brine Conveyance | \$ 46,504,958.00 | |
| North City Renewable Energy | \$ 94,020,128.00 | |
| Miramar WTP Pump and Plant Improvements | \$ 4,555,811.00 | |
| North City Pure Water Facility | \$ 521,652,285.00 | |
| North City WRP Expansion and PWF Influent Conveyance | \$ 45,236,959.00 | |
| North City Pure Water Pipeline | \$ 109,411,952.00 | |
| North City Pure Water Pump Station | \$ 20,469,509.00 | |
| Total Water | \$ 841,851,602.00 | 61% |
| Total Project | \$ 1,387,841,280.00 | |
| Shared Projects Cost Allocations: | | |
| Morena Pump Station WW Force Main and Brine Conveyance | | |
| Wastewater | \$ 324,712,285.00 | 87% |
| Water | \$ 46,504,958.00 | 13% |
| | \$ 371,217,243.00 | |
| North City Renewable Energy | | |
| Wastewater | \$ 33,794,784.00 | 26% |
| Water | \$ 94,020,128.00 | 74% |
| | \$ 127,814,912.00 | |
| North City WRP Expansion and PWF Influent Conveyance | | |
| Wastewater | \$ 176,882,842.00 | 80% |
| Water | \$ 45,236,959.00 | 20% |
| | \$ 222,119,801.00 | |
| Planning and Environmental Cost Allocation Based on Capital Cost Split: | | |
| Wastewater | | 39% |
| Water | | 61% |

Note: The above estimates are based on 60% design of Phase I of the Pure Water Program.

ATTACHMENT 2 - SUMMARY OF CWA BILLINGS

**Components of SDCWA and MWD Rates and Charges Representing Cost of SD Cost of Untreated Water
Based Upon City of San Diego Projected Budgeted Costs and Acre Feet**

166,078 AFY (a)

Example = Calendar Year (CY) 2019 (See Note 1)

| | CY 2019 | Total Dollars | |
|--|-----------------|----------------|-------|
| Volumetric Rates | | | |
| 1 SDCWA Melded Supply Rate (volumetric per AF) | \$ 909 | \$ 150,964,902 | |
| 2 SDCWA Transportation Rate (volumetric per AF) | \$ 120 | \$ 19,929,360 | |
| Subtotal | | \$ 170,894,262 | |
| Offsetting Non-Commodity Revenues | | | |
| 3 SDCWA Infrastructure Access Charge (San Diego Portion Only) | | \$ 14,190,396 | |
| 4 Balance of Offsetting SDCWA Non-Commodity Revenues Applied to All but Treatment (\$/Year) Per SDCWA COSS | | | |
| 4a Total CWA Offsetting Revenues | \$ 85,400,000 | | |
| 4b Less Treatment Capacity Charge | \$ 3,400,000 | | |
| 4c Less Infrastructure Access Charge | \$ 33,253,356 | | |
| 4d Total Offsetting SDCWA Non-Commodity Revenues | \$ 48,746,644 | \$ 20,181,111 | 41.4% |
| Subtotal | | \$ 34,371,507 | (b) |
| Fixed Charges | | | |
| 5 MWD Capacity Charge (\$/Year) | | \$ 2,759,346 | |
| 6 MWD Readiness-to-Serve Charge (\$/Year) | | \$ 6,384,213 | |
| 7 SDCWA Customer Service Charge (\$/Year) | | \$ 9,952,332 | |
| 8 SDCWA Emergency Storage Charge (\$/Year) | | \$ 27,456,015 | |
| 9 SDCWA Supply Reliability Charge (\$/Year) | | \$ 12,515,654 | |
| Subtotal | | \$ 59,067,560 | |
| Total Projected City of San Diego Cost for CY 2019 & Cost per Acre Foot (in Red) | \$ 1,592 | \$ 264,333,329 | |

(a) Projected City of San Diego CY 2019 SDCWA Purchase (AFY). See Note 2.

(b) Percentage = 5 year rolling average (Same as SDCWA Supply Reliability Charge). See Note 3 for explanation.

Footnotes:

Note 1: Please note that these calculations are at a point in time and are an example. Any additions or changes in either the SDCWA or MWD billing structure would be added when approved by the SDCWA or MWD Boards.

Note 2: the number of AF actually sold will be trued up at the end of each fiscal year and reconciled during the annual audit process.

Note 3: In CY 2019, the City will pay 41.4% of the Water Authority's Supply Reliability Charge, which is based on a 5-year rolling average of each retail agency's proportional water purchases from SDCWA. Since the Pure Water program will reduce the City's proportional purchases from SDCWA, this percentage is expected to decrease over time even though the City's contribution to Offsetting Revenues through property taxes, etc. remains at approximately 41.4%. Therefore, it is proposed that a surrogate percentage of 41.4% be permanently assigned to this apportionment of the balance of Offsetting SDCWA Non-Commodity Revenues, less treatment.

Definitions of San Diego County Water Authority (SDCWA) & Metropolitan Water District (MWD) Charges

| Agency | Name of Rate or Charge | Definition | Source | |
|--------|------------------------|--|--|--|
| 1 | SDCWA | Melded Supply Rate | Volumetric charge per Acre Foot of water purchased. | |
| 2 | SDCWA | Transportation Rate | Volumetric charge per Acre Foot of water purchased. | |
| 3 | SDCWA | Infrastructure Access Charge | The intent of the IAC is to provide the Water Authority with a more appropriate balance of fixed and commodity revenues. Prior to the implementation of the IAC, the Water Authority had a greater dependency on variable revenues that fluctuated with demand and did not adequately align with the existing cost structure. As such, the IAC was designed to be independent of commodity sales and the new business development cycle and generate a minimum of 25 percent ratio of fixed revenues to fixed expenditures. | www.sdcwa.org/sites/default/files/2018-05/COS%20draft%200518.pdf |
| 4 | SDCWA | Offsetting Non-Commodity Revenues | Balance of Offsetting SDCWA Non-Commodity Revenues Applied to All but Treatment (\$/Year) Per SDCWA COSS. See Table 4.4 from SDCWA website on page 3 of 3 of the definitions for details. | www.sdcwa.org/sites/default/files/2016-12/Board/2018_Agendas/2018_06_28FormalBoardPacketSEC.pdf . Pages 62 and 63 of the Board Packet |
| 5 | MWD | Capacity Charge | MWD's Capacity Charge provides a price signal to encourage member agencies to reduce peak day demands on the system and to shift demands that occur during the May 1 through September 30 period into the October 1 through April 30 period. This is meant to result in more efficient utilization of Metropolitan's existing infrastructure and defers capacity expansion costs. Each member agency (SDCWA) pays the Capacity Charge based on a three-year trailing maximum peak day flow. Due to accepted certifications and error corrections, peak day flows may change for up to three years after the month of delivery. Therefore, the Three Year Trailing Max Peak Day is calculated with a one-year lag. | www.mwdh2o.com/PDF_Who_We_Are/FY18-19_Rates_Handbook_Overview.pdf |

Definitions of San Diego County Water Authority (SDCWA) & Metropolitan Water District (MWD) Charges

| Agency | Name of Rate or Charge | Definition | Source | |
|--------|------------------------|----------------------------------|--|--|
| 6 | MWD | Readiness-to-Serve Charge | MWD's Readiness-to-Serve ("RTS") Charge recovers the costs of providing emergency storage capacity and available capacity to meet outages and hydrologic variability. The RTS Charge is a fixed charge that is allocated among the member agencies based on each agency's proportional share of a ten-fiscal year rolling average of all firm demands, including water exchanges and transfers (such as wheeling) that use Metropolitan system capacity. Firm demands include: <ul style="list-style-type: none"> • Tier 1 sales • Tier 2 sales • Seasonal Storage Service – Shift deliveries • Conjunctive Use deliveries • Cyclic Storage deliveries • Water transfers (such as wheeling) • Water exchanges | www.mwdh2o.com/PDF_Who_We_Are/FY18-19_Rates_Handbook_Overview.pdf |
| 7 | SDCWA | Customer Service Charge | The Customer Service charge is a commodity-based fixed charge set to recover costs that are necessary to support the functions of the Water Authority, to develop policies and to implement system-wide programs. | www.sdcwa.org/sites/default/files/2018-05/COS%20draft%200518.pdf |
| 8 | SDCWA | Emergency Storage Charge | The Storage charge is a commodity-based fixed charge set to recover costs associated with SDCWA's Emergency Storage Program (ESP) and Carryover Storage Program (CSP). The ESP and CSP are a system of reservoirs, interconnected pipelines, and pumping stations designed to make water available to the San Diego region in the event of an interruption in imported water deliveries and, in the case of the CSP, to provide operational flexibility and drought protection. | www.sdcwa.org/sites/default/files/2018-05/COS%20draft%200518.pdf |
| 9 | SDCWA | Supply Reliability Charge | The Supply Reliability Charge is a commodity-based fixed charge established to recover a portion of the Carlsbad Desalination Plant and the IID transfer water costs. The charge is set equal to the difference between the supply cost of reliable local sources and a like amount of water purchased at the MWD Tier 1 rate multiplied by 25 percent and proportioned according to a five-year rolling average of water purchases. | www.sdcwa.org/sites/default/files/2018-05/COS%20draft%200518.pdf |

Definitions of SDCWA & MWD Charges

Page 3 of 3

Table 4.4 Offsetting Revenues (in \$ millions)

| | Total Revenue Offsets | Customer Service | Storage | Supply | Transportation | Treatment |
|-----------------------------|-----------------------|------------------|---------------|--------------|----------------|--------------|
| Capital Offset | | | | | | |
| System Capacity Charge | \$16.4 | \$1.6 | \$7.6 | \$1.4 | \$5.9 | \$- |
| Standby Availability Charge | 11.1 | 1.0 | 4.8 | 0.9 | 3.8 | 0.6 |
| Treatment Capacity Charge | 0.4 | - | - | - | - | 0.4 |
| PAYGO Earnings | 1.0 | 0.1 | 0.4 | 0.1 | 0.3 | 0.1 |
| Operating Offsets | | | | | | |
| Property Tax | \$13.6 | \$2.2 | \$5.1 | \$1.3 | \$4.4 | \$0.6 |
| IAC | 33.3 | 5.5 | 12.4 | 3.3 | 10.7 | 1.5 |
| Interest Earnings | 3.8 | 0.6 | 1.4 | 0.4 | 1.2 | 0.2 |
| General Misc. Revenue | 0.8 | 0.1 | 0.3 | 0.1 | 0.3 | 0.0 |
| Specific Revenues | 4.9 | 3.5 | - | 0.1 | 1.3 | - |
| Total Offsets | \$85.4 | \$14.6 | \$32.0 | \$7.6 | \$27.80 | \$3.4 |

Operating revenue offsets include property taxes, IAC revenue, interest earnings, and miscellaneous revenues. The Water Authority also accounts for system capacity charge revenue, water standby availability charges, and interest earning on PAYGO reserves. These capital related offsets are allocated to the Water Authority's customer service, storage, supply, transportation, and treatment rate components based on its respective share of the total capital expenditures for the two-year budget period. System capacity charge revenue continues to exclude treatment as no treatment costs are recovered in this charge. Finally, treatment capacity charges are allocated directly to the Water Authority's treatment rate category as a reimbursement for treatment-related capital expenditures.

Some non-rate revenues are directly attributable to a specific function. These specific revenues are thus directly allocated to the function that is receiving the direct benefit or provided the upfront capital outlay to complete the project. This includes, but is not limited to, the Twin Oak Reimbursement, Hydroelectric revenues, and desalination reimbursements.

**LEMON GROVE SANITATION DISTRICT
AGENDA ITEM SUMMARY**

Item No. 2
Mtg. Date October 2, 2018
Dept. Public Works

Item Title: **Amended and Restated Wastewater Disposal Agreement**

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Recommendation:

Adopt a resolution (**Attachment B**) approving the amended and restated wastewater disposal agreement, provide direction to the Metro Commission/Metro JPA Representative to support the agreement, and authorize the Chair to sign the agreement.]

Item Summary:

The purpose of this report is to provide the District Board with information to decide on whether or not to approve an amended and restated wastewater disposal agreement between the City of San Diego and the Lemon Grove Sanitation District.

If the District Board chooses to approve the agreement, it is recommended that the Board direct the Metro JPA representative (Vice Chair Jones) to support the agreement at future Metro JPA meetings, and authorize the Chair to sign the agreement.

Fiscal Impact:

None

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution

LEMON GROVE SANITATION DISTRICT STAFF REPORT

Item No. 2

Mtg. Date October 2, 2018

Item Title: **Amended and Restated Wastewater Disposal Agreement**

Staff Contact: Mike James, Assistant City Manager / Public Works Director

Background:

The Point Loma Wastewater Treatment Plant (Point Loma), constructed in 1963, is the backbone of the Metro System and where Lemon Grove's two million gallons a day of wastewater are treated. Lemon Grove is one of twelve participating agencies (PAs) that convey wastewater to the Metro System for treatment.

The federal Clean Water Act, passed in 1972, required that all wastewater treatment plants be permitted with a National Pollutant Discharge Elimination System (NPDES) permit. The Clean Water Act required wastewater treatment plants to treat wastewater to at least a secondary level. The permitting process in California involves the Environmental Protection Agency (EPA), the Regional Water Quality Control Board, the State Water Resources Control Board and the California Coastal Commission.

Several years after the Clean Water Act was enacted, it was amended to allow a modified permit (waiver of secondary treatment) if the discharger could demonstrate the safe discharge of wastewater to the receiving water (lake, river or ocean). Initially, the City of San Diego (San Diego) applied for a modified permit for Point Loma, but later withdrew the application and began planning to convert Point Loma to secondary treatment. During this time, the window for applying for modified permits closed and San Diego had not begun the construction to convert Point Loma. Subsequently, the EPA and several environmental groups sued San Diego for not being at the secondary treatment level.

In 1994, the Ocean Pollution Reduction Act (OPRA) was passed by the Federal government modifying the Clean Water Act. OPRA re-opened the window and gave San Diego the opportunity again to apply for a modified permit for Point Loma. In return for support from the environmental community, San Diego agreed to construct a treatment plant with a 45 million gallons per day of reclaimed water capacity. This resulted in the construction of the North City Water Reclamation Plant, the South Bay Water Reclamation Plant and the South Bay Ocean Outfall. San Diego was granted a modified permit for Point Loma in 1994 with environmental stakeholder support because of the development of reclaimed water capacity.

During this time, there was a significant discontent between the City of San Diego and the participating agencies. The PAs felt that San Diego was operating the Metro System and making large financial decisions without their input or consideration at a cost to their ratepayers. The disputes led to the creation of the 1998 Regional Wastewater Disposal Agreement and the formation of the Metropolitan Wastewater Commission.

The Metropolitan Wastewater Commission (Metro Commission) was formed in 1998 pursuant to the terms of the Regional Wastewater Disposal Agreement between the PAs and the City of San Diego. The Regional Wastewater Disposal Agreement stipulated that the City of San

Attachment A

Diego is the owner of the Metropolitan Wastewater System and that all decisions with respect to the planning, design, construction, operation and maintenance shall rest with the City of San Diego in consultation with the Metro Commission, made up of member agencies.

Point Loma operates under a National Pollutant Discharge Elimination System Permit (NPDES) from the EPA. Each permit is good for a five-year period following issuance. The Point Loma plant is currently discharging approximately 150 million-gallon-per-day (mgd) of treated wastewater effluent and that effluent meets most of the criteria required of a secondary plant. Even though Point Loma is operating within the current law and has demonstrated through 20 years of extensive ocean monitoring that there is no harm to the environment, there has been consistent political pressure to convert Point Loma from an advanced primary wastewater treatment plant to a secondary wastewater treatment plant. Both the California Coastal Commission and environmental stakeholders have threatened or sued San Diego over previous and potential waiver applications. All of this uncertainty creates a significant amount of risk and instability for not only San Diego but also all twelve participating agencies in the Metro System. This past political pressure has led to a number of projects that San Diego has agreed to implement in return for permit support from the environmental community.

Pure Water and Secondary Equivalency:

In an attempt to avoid spending billions of dollars on a conversion to secondary, a strategy was developed using the improvements proposed in the 2012 San Diego Recycled Water Study. This strategy was called Pure Water San Diego. The strategy allows achievement of equivalent treatment to secondary within the Metro System. Flows would be offloaded from Point Loma to other facilities within the system thus reducing the discharges at Point Loma to levels below that required by secondary wastewater treatment. The result of this would be that Point Loma would no longer have to apply for a waiver but would instead apply for a more traditional NPDES permit every 5 years. In addition, there is proven technology available to convert these offloaded flows into potable drinking water. This means the offloaded flows from Point Loma could be used as a new water source for San Diego.

Pursuing the Pure Water program still requires a significant financial investment from wastewater ratepayers. To commit to this investment, the PAs needed something in return for their support and financial commitment. It was thought that Federal legislation could be passed defining secondary equivalency for Point Loma and allowing Point Loma to remain at the advanced primary treatment level. In 2014 representatives from the PAs, the City of San Diego and environmental stakeholders (Surfrider, Coastkeeper, Audubon Society and Coastal Environmental Rights Foundation) agreed on proposed language to enable secondary equivalency legislation and titled it the Ocean Pollution Reduction Act (OPRA) II. An agreement was also prepared between the City of San Diego and the environmental stakeholders that assured environmental stakeholder support for NPDES permits at Point Loma as well as OPRA II.

The City of San Diego included the concept of secondary equivalency and a program of facility construction within the 2015 NPDES permit for Point Loma. The concept included offloading 83 million gallons a day of wastewater from Point Loma and turning it into drinking water by 2035. The key to this strategy was securing secondary equivalency legislation and ratepayer protection from having to construct secondary treatment at Point Loma. Instead of investing in secondary treatment facilities at Point Loma, which offered minimal benefit, the investment would be in the Pure Water program that would have an equivalent benefit to the environment

Attachment A

but the added benefit of creating a local drinking water supply. The District and the Metro Commission supported the City of San Diego's NPDES permit that was submitted in 2015.

Staff from the City of San Diego and from the participating agencies have been meeting since 2014 to discuss how to implement the Pure Water program. The first phase of Pure Water is to be constructed at the North City Water Reclamation plant and will develop 30 million gallons a day of potable drinking water from secondary treated wastewater. Construction of phase 1 is scheduled to begin in 2019. The primary discussion point was allocation of costs. The challenge with Pure Water cost allocation is to fairly apportion costs between the water customer and the wastewater customer. A series of deal points have been agreed to that define the cost allocation principals.

Consideration was also given to how to memorialize the cost allocation and deal points. The logical mechanism was to use the 1998 Agreement, but it was quickly realized that the 1998 Agreement was going to need significant changes to accommodate the complexities of the Pure Water program. This led to the development of the Amended and Restated Agreement, included as Exhibit 1 to the attached draft Resolution (Attachment B)

The basis for financial discussions began with the cost of converting Point Loma to secondary treatment. This was the assumed worst-case scenario for the sewer ratepayer. Because this was the worst-case scenario, a financial cap is included in the Amended and Restated Agreement that limits future sewer ratepayer financial exposure.

The current cost estimate to convert Point Loma to secondary treatment is \$1.8 billion. The cost estimate for Pure Water Phase 1 is currently \$1.388 billion and is split between \$546 million in wastewater costs (39%) and \$842 million in water costs (61%). Lemon Grove's portion of the wastewater cost is approximately 1.338% or \$7.3 million. In the Amended and Restated Agreement limits the District's Pure Water program financial exposure will be capped at a not to exceed amount.

Also, included in the amended and restated agreement is a future revenue sharing component for wastewater customers. This revenue sharing is an additional incentive for participating agencies to support the Pure Water program and to provide a mechanism to recover ratepayer investments. The following describes how revenue sharing works. The initial cost to produce Pure Water will be more expensive than the cost of imported water, much the same way that desalinated water is currently more expensive than imported water. However, the cost of imported water is projected to increase faster than the cost to produce Pure Water and will eventually exceed the cost of Pure Water. When the cost of imported water exceeds the cost of Pure Water there will be revenue. The revenue will be credited back to the wastewater and water customer based on their capital investment in the Pure Water program. Once the capital debt is paid off, the credit will be based on proportional share of operation and maintenance costs for Pure Water.

Now, secondary equivalency legislation (OPRA II) has not yet been submitted for consideration at the Federal government. Staff from the City of San Diego has been working with Congressman Scott Peter's office and Congressman Duncan Hunter's office on sponsoring the legislation. The lack of secondary equivalency legislation approval reinforces the need and importance of having a financial cap for wastewater rate payers.

Attachment A

Next Steps:

At the August 2018 Metro Commission/Metro JPA meeting all 12 PA's supported the Amended and Restated Agreement. Currently, there are two agencies, City of Coronado and the Padre Dam Municipal Water District that generally supported the Agreement as presented but have specific concerns that are directly related to each entity. The support from Metro was forwarded to the City of San Diego for its consideration. San Diego City staff has asked the City of San Diego City Council to approve the Agreement either prior to or at the same time as it considers authorization to proceed with the construction for Pure Water Phase 1.

The City of San Diego would like to get authority from its City Council for the Mayor of San Diego to award the entire \$1.388 billion Pure Water program at one time. The Mayor would then award individual phases and construction packages for the project of which there are many. The schedule for Pure Water construction authorization approval was not available at the time of this report. Staff will provide it at the time of the City Council presentation.

Financial Considerations:

The primary purpose of the Amended and Restated Agreement is to address the complexities of the upcoming Pure Water San Diego construction program. The Agreement contains long-term financial protections for wastewater ratepayers by defining cost allocation for the planned Pure Water facilities. The Agreement also includes a financial cap on future Pure Water construction spending. Additionally, the Agreement includes a future revenue sharing component that is expected to pay back wastewater ratepayers over time for their investment in Pure Water. |

Conclusion:

| That the Lemon Grove Sanitation District Board adopts a Resolution (Attachment B) approving the Amended and Restated Wastewater Disposal Agreement, provide direction to the Metro Commission/Metro JPA Representative to support the agreement, and authorize the District Chair to sign the agreement.

Attachment B

RESOLUTION NO. 2018 -

RESOLUTION OF THE DISTRICT BOARD OF THE LEMON GROVE SANITATION DISTRICT APPROVING THE AMENDED AND RESTATED WASTEWATER DISPOSAL AGREEMENT, DIRECTING THE METRO COMMISSION/METRO JPA REPRESENTATIVE TO SUPPORT THE AGREEMENT, AND AUTHORIZE THE DISTRICT CHAIR TO SIGN THE AGREEMENT

WHEREAS, Lemon Grove Sanitation District strives to provide and improve on high quality municipal services; and

WHEREAS, the NPDES permit for the Point Loma Wastewater Treatment Plant submitted in 2015 included a goal of offloading 83 million gallons a day of wastewater and turning it into potable drinking water by 2035. This project is titled Pure Water San Diego; and

WHEREAS, the Point Loma offloading as planned will bring the solids discharged from the plant down to a level that would be equivalent to that of converting the plant to secondary treatment; and

WHEREAS, wording for Federal legislation to protect Point Loma from having to convert to the secondary treatment level has been agreed to by local stakeholders including environmental groups, but has not yet been approved at the Federal level; and

WHEREAS, the 1998 Regional Wastewater Disposal Agreement between the City of San Diego and the participating agencies governs the planning, capacity rights and cost allocation of wastewater facilities in the Metropolitan Wastewater System; and

WHEREAS, the 1998 Agreement did not contemplate the complexities of the Pure Water program and needs to be amended to adequately address the proposed facilities, allocation of costs and long-term financial protection of wastewater rate payers; and

WHEREAS, staff from the City of San Diego and the participating agencies have been working since 2014 on deal points for the Pure Water program and those deal points have been incorporated into an Amended and Restated Wastewater Disposal Agreement; and

NOW, THEREFORE, BE IT RESOLVED that the District Board of the Lemon Grove Sanitation District hereby:

1. Directs the Metro Commission/Metro JPA representative to support the amended and restated wastewater disposal agreement (*Exhibit 1*); and
2. Authorizes the District Chair to sign the agreement.

BE IT FURTHER RESOLVED, should the agreement be modified and if the modifications are non-substantive changes and do not impact the Lemon Grove Sanitation District then the District Chair is authorized to sign such a modified agreement at the discretion of the City Manager or her designee.

/////
/////

7/16/18 Version

AMENDED AND RESTATED
REGIONAL WASTEWATER DISPOSAL AGREEMENT
BETWEEN
THE CITY OF SAN DIEGO
AND
THE PARTICIPATING AGENCIES
IN
THE METROPOLITAN SEWERAGE SYSTEM

AMENDED AND RESTATED
REGIONAL WASTEWATER DISPOSAL AGREEMENT

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Exhibits

- A. Metro Facilities
- B. Contract Capacities
- C. Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies
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- E. Reclaimed Water Distribution System
- F. Pure Water Cost Allocation and Revenues
- G. 2050 Flow Projections

AMENDED AND RESTATED REGIONAL WASTEWATER DISPOSAL AGREEMENT

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

RECITALS

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

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

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

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

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

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

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

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

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

I. DEFINITIONS

- A. **Annual Average Daily Flow** is the number, in millions of gallons of wastewater per day ("MGD"), calculated by dividing total Flow on a fiscal year basis by 365 days.
- B. **Brine** is a waste byproduct of the demineralization process at an upstream Water Repurification System facility or a Reclaimed Water facility.
- C. **Capital Expense Rate** is the cost per acre foot that will apply if the Metro System's Capital Improvement Costs for the Pure Water Program and/or upgrading of the Point Loma WTP to secondary treatment exceed \$1.8 billion, as further described in Exhibit F.

- D. **Capital Improvement Costs** are costs associated with the planning, design, financing, construction, or reconstruction of facilities.
- E. **Chemical Oxygen Demand or "COD"** means the measure of the chemically decomposable material in wastewater, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination for Water and Wastewater," or any successor publication which establishes the industry standard.
- F. **City Water Utility PW Costs** are those Pure Water Program costs allocated to the City's water utility and therefore excluded as Metro System costs under Exhibit F.
- G. **Contract Capacity** is the contractual right possessed by each Participating Agency to discharge wastewater into the Metro System pursuant to this Agreement up to the limit set forth in Exhibit B attached hereto. Contract Capacity is stated in terms of Annual Average Daily Flow.
- H. **Flow** is the amount of wastewater discharged by the City and each Participating Agency.
- I. **Functional-Design Methodology** shall mean the process of allocating Operation and Maintenance Costs and Capital Improvement Costs to Flow and Strength parameters recognizing the benefits of both the design criteria and the primary function of a unit process.
- J. **Metro Commission** is the advisory body created under Section VIII.
- K. **Metro System Costs** are those costs set forth in Section 5.2.1.
- L. **Metro System Revenues** are those revenues set forth in Section 5.2.2.
- M. **Metropolitan Sewerage System or Metro System** shall mean and consist of those facilities and contract rights to facilities which are shown and/or described in Exhibit A attached hereto and incorporated by this reference, including any amendments thereto authorized by this Agreement.
- N. **Municipal System** shall mean the City's wastewater collection system, which consists of pipelines and pump stations, that collects wastewater within the City of San Diego and conveys it to the Metropolitan Sewerage System for treatment and disposal.
- O. **New Capacity** is the capacity to discharge wastewater outside the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.
- P. **New Contract Capacity** is the capacity to discharge wastewater into the Metro System, above the Contract Capacity set forth in Exhibit B attached hereto.

- Q. **North City Water Reclamation Plant** or **North City WRP** is the 30 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 4949 Eastgate Mall in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.
- R. **Operation and Maintenance Costs** are the costs of those items and activities required by sound engineering and management practices to keep the conveyance, disposal, treatment, and reuse facilities functioning in accordance with all applicable laws, rules, and regulations.
- S. **Point Loma Wastewater Treatment Plant** or **Point Loma WTP** is the 240 million gallons per day (as of the date of this Agreement) advanced primary treatment plant which includes four major processes: screening, grit removal, sedimentation, and digestion.
- T. **Pure Water Program** is the City's phased, multi-year program designed to produce at least 83 million gallons per day of Repurified Water using new, expanded, or modified facilities, some of which will include Metro System facilities.
- U. **Reclaimed Water (or Recycled Water)** shall have the definition set forth in Title 22, Division 4 of the California Code of Regulations and shall mean water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or a controlled use that otherwise could not occur.
- V. **Reclaimed Water (or Recycled Water) Distribution System** shall mean and consist of those eight (8) reclaimed water projects listed in Attachment B of the Stipulated Final Order for Injunctive Relief approved by the U.S. District Court on June 6, 1997 in *U.S.A. v. City of San Diego*, Case No. 88-1101-B, and attached hereto as Exhibit E.
- W. **Repurified Water** shall mean water which, as a result of advanced treatment of Reclaimed Water, is suitable for use as a source of domestic (or potable) water supply.
- X. **Repurified Water Revenue** is the cost savings that will be realized when the City water utility's annual costs per-acre foot for Repurified Water are less than the purchase costs per-acre foot for comparable water from the San Diego County Water Authority, as further described in Exhibit F.
- Y. **Return Flow** shall mean the effluent created by the dewatering of digested biosolids, which includes centrate.
- Z. **Reuse** shall mean to use again, such as water which has been reclaimed or repurified, or sludge that has been converted to biosolids for beneficial use.
- AA. **South Bay Land/Ocean Outfall** is the facility that is jointly owned by the International Boundary & Water Commission (U.S. Section IBWC) and the City

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

- BB. **South Bay Water Reclamation Plant** is the 15 million gallons per day (as of the date of this Agreement) wastewater treatment facility located at 2411 Dairy Mart Road in San Diego, which includes four major processes: primary treatment, secondary treatment, tertiary treatment, and disinfection.
- CC. **Strength** means the measurement of Suspended Solids (SS) and Chemical Oxygen Demand (COD) within the wastewater Flow and any other measurement required by law after the date of this Agreement.
- DD. **Suspended Solids** or **SS** means the insoluble solid matter in wastewater that is separable by laboratory filtration, as determined by the procedures specified in the most current edition of "Standard Methods for the Examination of Water and Wastewater," or any successor publication which establishes the industry standard.
- EE. **Tertiary Component** is that portion of the wastewater treatment process that currently filters the secondary treated wastewater effluent through fine sand and/or anthracite coal to remove fine Suspended Solids and disinfects it to meet the requirements of the California Administrative Code, Title 22, or its successor for filtered and disinfected wastewater.
- FF. **Water Repurification System** shall mean any facilities, including treatment and conveyance facilities, the purpose of which is the production or conveyance of Repurified Water. Water Repurification System includes, but is not limited to: the Tertiary Component of the North City Water Reclamation Plant to the extent being used to produce Repurified Water, the North City Advanced Water Purification Facility to be located across the street from the North City Water Reclamation Plant ("North City AWP Facility"); the Repurified Water conveyance system, which will transport Repurified Water from the North City AWP Facility and/or other facilities to the Miramar Reservoir or other alternative location(s) as determined by the City; and any other Repurified Water treatment or conveyance facilities which are part of the Pure Water Program.
- GG. **Wet Weather Flow** is Flow entering the Metro System during rainy weather.

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

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

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

II. OWNERSHIP AND OPERATION OF THE METRO SYSTEM

2.1 Rights of the Parties.

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

2.2 Metro System Services.

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

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

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

2.3 Flow Commitment.

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

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

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

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

2.4 Funding Obligations.

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

2.5 Financial Statements.

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

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

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

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

2.6 Limitations on Types and Condition of Wastewater.

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

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

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

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

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

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

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

2.7 Right of First Refusal.

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

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

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

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

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

2.8 Pure Water San Diego Program.

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

2.9 Future Negotiations and Cooperation.

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

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

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

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

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

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

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

III. PAYMENT AND MONITORING PROVISIONS

3.1 Payment for Metro System Facilities.

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

3.2 Payment for Additional Metro System Facilities.

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

3.3 Payment for Operation and Maintenance.

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

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

3.4 Charges Based on Flow and Strength; Exception.

- 3.4.1 Except as otherwise described in this Section 3.4, a Participating Agency's share of the charges in this Article III shall be assessed pursuant to Article V of this Agreement based on its proportionate Flow in the Metro System and the Strength of its wastewater.
- 3.4.2 Notwithstanding section 3.4.1, or any other provision of this Agreement, a Participating Agency's share of Pure Water Program Capital Improvement Costs and Pure Water Program revenues attributable to the Metro System under Exhibit F shall be assessed or credited based on the parties' proportionate share of Wet Weather Flow Rights. Wet Weather Flow Rights are based on projections of each party's 10-year average of Wet Weather Flow in the year 2050 as set forth in Column 7 of Exhibit G, which is attached hereto and incorporated herein. The City shall annually allocate the estimated and actual Pure Water Program Capital Improvement Costs and revenues which are attributable to the Metro System under Exhibit F in proportion to each party's share of Wet Weather Flow Rights (Column 8 of Exhibit G) when estimating quarterly payments and conducting year-end adjustments under Article V.
- 3.4.3 Each party recognizes that operation within respective Wet Weather Flow Rights is essential to the accurate allocation of costs and revenues under the Pure Water Program. In recognition of same, the parties agree as follows:
- 3.4.3.1 Beginning in the next fiscal year after the effective date of this Agreement, if any party's Annual Average Daily Flow exceeds its Wet Weather Flow Rights for any two (2) consecutive fiscal years, the City shall prepare an amendment to Exhibit G that adjusts projections of each party's 10-year average of Wet Weather Flow in 2050 based on information about such party's exceedance and other relevant information. Upon approval by a majority of the Metro Commission, the City shall, as a ministerial matter, amend the Wet Weather Flow Rights in Column 7 of Exhibit G (and the percentages in Column 8 of Exhibit G) to reflect the new projections of 10-year average of Wet Weather Flow. The City shall keep an updated version of Exhibit G on file with the City Public Utilities Department. If the City and the Metro Commission cannot agree on an amendment to Exhibit G, the matter shall be submitted to dispute resolution pursuant to Article IX.

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

3.4.3.2.1 Padre Dam: 2.797 MGD

3.4.3.2.2 San Diego County Sanitation District: 22.844 MGD

3.4.3.2.3 El Cajon: 8.542 MGD

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

3.5 Monitoring Flow and Strength.

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

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

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

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

IV. CAPACITY RIGHTS

4.1 Contract Capacity.

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

4.2 Transfers of Contract Capacity.

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

4.3 Allocation of Additional Capacity.

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

- 4.3.1 Except as provided in section 4.3.2 below, in the event that the Metro System is rerated so that additional permitted capacity is created, said capacity shall be allocated proportionately based upon the Metro System charges that have been paid since July 1, 1995 to the date of rerating.
- 4.3.2 In the event that the additional permitted capacity is created as the result of the construction of non-Metro System facilities, or as the result of the construction of facilities pursuant to Article VII, such additional capacity shall be allocated proportionately based on the payments made to plan, design and construct such facilities.

4.4 Deductions in Contract Capacity.

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

4.5 Amendments to Exhibits B and C.

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

4.6 The South Bay Land/Ocean Outfall.

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

V. **SYSTEM OF CHARGES**

5.1 Charges Authorized.

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

5.1.1 SSC (Sewer System Charge);

5.1.2 NCCC (New Contract Capacity Charge).

5.2 SSC (Sewer System Charge).

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

5.2.1 Metro System Costs

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

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

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

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

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

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

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

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

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

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

5.2.1.2.7 City Water Utility PW Costs.

5.2.2 Metro System Revenues.

- 5.2.2.1 The following revenues shall be at a minimum considered Metro System Revenues for purposes of determining the annual SSC:
- 5.2.2.1.1 Any grant or loan receipts or any other receipts that are attributable to the Metro System, including, but not limited to, all compensation or receipts from the sale, lease, or other conveyance or transfer of any asset of the Metro System; provided, however, that this shall not include any grant, loan, or other receipts attributable to the Metro System components of the Pure Water Program, which are specifically addressed in Section 5.2.2.1.8.
 - 5.2.2.1.2 All compensation or receipts from the sale or other conveyance or transfer of any Metro System by-products, including, but not limited to gas, electrical energy, sludge products, and Reclaimed Water (excepting therefrom any receipts allocated pursuant to section 5.2.2.1.3).
 - 5.2.2.1.3 The distribution of revenue from the sale of Reclaimed Water from the North City Water Reclamation Plant, including incentives for the sale of Reclaimed Water, shall first be used to pay for the cost of the Reclaimed Water Distribution System, then the cost of the Operation and Maintenance of the Tertiary Component of the North City Water Reclamation Plant that can be allocated to the production of Reclaimed Water, and then to the Metro System.
 - 5.2.2.1.4 Any portion of an NCCC that constitutes reimbursement of costs pursuant to Section 7.1.4.
 - 5.2.2.1.5 Any penalties paid under Section 7.3.
 - 5.2.2.1.6 Proceeds from the Capital Expense Rate, as calculated under Exhibit F and allocated among the City and Participating Agencies in the proportions set forth in Column 8 of Exhibit G.
 - 5.2.2.1.7 Those portions of Repurified Water Revenue attributable to the Metro System, as calculated under Exhibit F and allocated among the Participating Agencies in the proportions set forth in Column 8 of Exhibit G.
 - 5.2.2.1.8 Any grant or loan receipts or any other receipts that are attributable to the Metro System components of the

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

5.2.2.2 Excluded Revenue

- 5.2.2.2.1 Capital Improvement Costs for which an NCCC is paid;
- 5.2.2.2.2 Proceeds from the issuance of debt for Metro System projects.
- 5.2.2.2.3 Proceeds from the sale of Reclaimed Water used to pay for the Reclaimed Water Distribution System pursuant to section 5.2.2.1.3 above.

5.2.3 Calculation of SSC Rates.

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

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

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

5.2.4 Estimate and Billing Schedule and Year End Adjustment

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

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

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

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

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

5.3 NCCC (New Contract Capacity Charge).

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

5.4 Debt Financing.

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

5.5 Allocation of Operating Reserves and Debt Service Coverage.

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

VI. PLANNING

6.1 Projected Flow and Capacity Report.

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

6.2 Other Planning Information.

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

6.3 Ten-Year Capital Improvement Plan.

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

6.4 Notice to Metro Commission.

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

VII. FACILITIES SOLELY FOR NEW CONTRACT CAPACITY

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

7.1 Determination of Need for New Contract Capacity.

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

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

- 7.1.2 The City or Participating Agency or Agencies in need of New Contract Capacity as determined by the City pursuant to section 7.1.1 above, may choose, in their sole discretion, to obtain New Capacity outside of the Metro System in lieu of New Contract Capacity. Under such circumstances, the Participating Agency or Agencies shall commit to the City in writing their intent to obtain such New Capacity. Upon such commitment, the City shall not be required to provide New Contract Capacity to such Agency or Agencies as otherwise required under this Agreement.
- 7.1.3 The Participating Agencies shall have six months from the date of notice of the determination within which to comment on or challenge all or part of the City's determination regarding New Contract Capacity, or to agree thereto or to commit, in writing, to obtain New Capacity outside of the Metro System. Any Participating Agency objecting to the City's determination shall have the burden to commence and diligently pursue the formal dispute resolution procedures of this Agreement within said six month period. The City's determination shall become final at the close of the six month comment and objection period. The City's determination shall remain valid notwithstanding commencement of dispute resolution unless and until otherwise agreed to pursuant to the dispute resolution process in Article IX, or pursuant to a final court order.
- 7.1.4 The City and the Participating Agency or Agencies which need New Contract Capacity shall thereafter enter into an agreement specifying the terms and conditions pursuant to which the New Contract Capacity will be provided, including the amount of capacity and the New Contract Capacity. Each party obtaining New Contract Capacity shall reimburse the Metro System for the costs of acquisition, planning, design, and construction of facilities necessary to provide the New Contract Capacity that have been paid by other parties under Section 7.2.3.
- 7.1.5 The parties recognize that the City may acquire and plan, design and construct facilities that are authorized pursuant to both Article III and Article VII of this Agreement. Under such circumstances, the City shall allocate the costs and capacity of such facilities pursuant to Article III and Section 7.1.1 as applicable.

7.2 Charges for Facilities Providing New Contract Capacity

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

- 7.2.2 Notwithstanding any provision in this Agreement, the City and the Participating Agencies shall pay for the Operation and Maintenance Costs of all facilities pursuant to the payment provisions of Article III, including those facilities acquired and constructed to provide New Contract Capacity in the Metro System.
- 7.2.3 Charges for the acquisition, planning, design and construction of facilities solely to provide New Contract Capacity shall be paid for by the Participating Agencies and the City pursuant to the payment provisions in Article III of this Agreement until an agreement is reached under Section 7.1.4. or pending the resolution of any dispute relating to the City's determination with respect to New Contract Capacity.
- 7.2.4 As a ministerial matter, the City shall prepare amendments to Exhibits A and B to reflect the acquisition or construction of facilities to provide New Contract Capacity pursuant to this Article. The City shall give notice of the Amendments to the Participating Agencies, and shall provide copies of the Amendments with the notice.

7.3 Liquidated Damages.

- 7.3.1 The parties recognize that appropriate capacity and long term planning for same are essential to the proper provision of sewerage service. In recognition of same, the parties agree that discharge beyond Contract Capacity will result in damages that are difficult to determine. Therefore, the damages are being liquidated in an amount estimated to the actual damage that will be incurred by the City, and is not a penalty. In the event that a Participating Agency exceeds its Contract Capacity after the City has given notice that New Capacity is required, said Participating Agency shall be assessed and pay a liquidated damages until such time as the Participating Agency obtains the required New Capacity. The liquidated damages shall be fifteen percent (15%) of the quarterly charges authorized pursuant to this Agreement times the amount of Flow which exceeds the Participating Agency's Contract Capacity for the each quarter in which any exceedance occurs.
- 7.3.2 In the event that a Participating Agency fails to pay the charges imposed under this Article after the City has given notice that payment is required, said Participating Agency shall be assessed and shall pay liquidated damages of ten percent (10%) of the total outstanding charges each quarter until said charges are paid in full.

VIII. THE METRO COMMISSION

8.1 Membership.

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

8.2 Advisory Responsibilities of Metro Commission.

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

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

IX. DISPUTE RESOLUTION

This Section governs all disputes arising out of this Agreement.

9.1 Mandatory Non-Binding Mediation.

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

9.2 Selection of Mediator.

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

9.3 Mediation Expenses.

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

9.4 Conduct of Mediation.

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

9.5 Mediation Results.

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

9.6 Performance Required During Dispute.

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

9.7 Offers to Compromise

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

X. INSURANCE AND INDEMNITY

10.1 City Shall Maintain All Required Insurance.

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

- 10.1.2 Throughout the term of this Agreement the City shall procure and maintain in effect liability insurance covering, to the extent reasonably available, any and all liability of the City, the Metro System and the Participating Agencies, including their respective officers, directors, agents, and employees, if any, with respect to or arising out of the ownership, maintenance, operation, use and/or occupancy of the Metro System and all operations incidental thereto, including but not limited to structural alterations, new construction and demolition, including coverage for those hazards generally known in the insurance industry as exploding, collapse and underground property damage.
- 10.1.3 Said insurance shall name the City, and its respective officers, employees, and agents, and shall have a limit of not less than \$24,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage suffered by any person. Said insurance may provide for a deduction from coverage, which deductible shall not be more than \$1,000,000. Said limits and/or deductible may be adjusted from time to time. Said insurance may be evidenced by a policy or policies covering only the Metro System or by endorsement to bring the same within a blanket policy or policies held by the City covering other properties in which the City has an interest provided the policy or policies have a location aggregate provision. The City may satisfy the first \$1,000,000 per occurrence with a self-insurance retention program for public liability claims. The policy or policies shall name the Participating Agencies as additional insureds with evidence of same supplied to each. Insurance premiums, claims payments and claims administration costs shall be included in the computation of the SSC.

10.2 Substantially Equivalent Coverage.

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

XI. INTERRUPTION OF SERVICE

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

XII. NOTICES REQUIRED UNDER AGREEMENT

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

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

XIII. EFFECTIVE DATE AND EXPIRATION

13.1 Effective Date.

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

13.2 Expiration.

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

13.3 Contract Capacity Rights Survive Expiration.

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

13.4 Abandonment.

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

XIV. GENERAL

14.1 Exhibits.

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

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

14.2 Amendment of Agreement.

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

14.3 Construction of Agreement.

14.3.1 Drafting of Agreement

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

14.3.2 Entire Agreement

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

14.3.3 Agreement Binding on All

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

14.3.4 Severability

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

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

14.3.5 Choice of Law

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

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

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

14.4 Declarations Re: Agreement.

14.4.1 Understanding of Intent and Effect of Agreement

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

14.4.2 Warranty Regarding Obligation and Authority to Enter Into This Agreement

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

14.5 Restrictions on Veto of Transfers and Acquisitions of Capacity

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

14.6 Right to Make Other Agreements

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

14.7 Limitation of Claims

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

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

14.8 Counterparts

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

14.9 No Third Party Beneficiaries

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

SIGNATURES ON FOLLOWING PAGES

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

CITY OF CHULA VISTA

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF CORONADO

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF DEL MAR

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF EL CAJON

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF IMPERIAL BEACH

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF LA MESA

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

LEMON GROVE SANITATION DISTRICT

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

CITY OF NATIONAL CITY

Approved as to Form:

Name: _____
Title: _____

Name: _____
Title: _____

OTAY WATER DISTRICT

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

PADRE DAM MUNICIPAL WATER DISTRICT

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

CITY OF POWAY

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

CITY OF SAN DIEGO

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

SAN DIEGO COUNTY SANITATION DISTRICT

Name: _____
Title: _____

Approved as to Form:

Name: _____
Title: _____

EXHIBIT A**METRO FACILITIES AS OF 6/27/18**Existing Facilities

Pt. Loma Wastewater Treatment Plant
 Pt. Loma Ocean Outfall
 Pump Station #1
 Pump Station #2
 South Metro Interceptor
 North Metro Interceptor
 Metro Force Mains 1 & 2
 Digested Sludge Pipeline
 North City Water Reclamation Plant
 Metro Biosolids Center (NCWR Plant Related Facilities)
 North City Tunnel Connector
 North City Raw Sludge Pipeline
 Centrate Pipeline
 Rose Canyon Parallel Trunk Sewer
 Second Rose Canyon Trunk Sewer
 East Mission Bay Trunk Sewer
 Morena Blvd. Interceptor
 South Bay Water Reclamation-Plant
 Dairy Mart Road & Bridge Rehab
 Grove Avenue Pump Station
 Grove Avenue Pump Station Sewer Pipeline
 South Bay Raw Sludge Pipeline
 South Bay Land/Ocean Outfall¹
 Environmental Monitoring & Technical Services Laboratory
 Centrate Treatment Facility at Metropolitan Biosolids Center
 Metro Operations Center (Iv10C) Complex (based on annual facilities allocation)

Additional Metro Facilities

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

South Bay Sludge Processing Facility

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

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

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

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

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

Expansion of North City Water Reclamation Plant
Morena Pump Station

EXHIBIT B
CONTRACT CAPACITIES

Annual Average Daily Flow
in
Millions of Gallons Per Day

| <u>Metro Agency</u> | <u>Original Contract Capacity</u> | <u>Additional Contract Capacity¹</u> | <u>New Contract Capacity²</u> | <u>Transferred Contract Capacity³</u> | <u>Total Contract Capacity</u> | <u>Percent of Total</u> |
|---------------------|---|---|--|--|--|---------------------------------|
| Chula Vista | 19.843 | 1.021 | 0.000 | 0.000 | 20.864 | 8.182% |
| Coronado | 3.078 | 0.172 | 0.000 | 0.000 | 3.250 | 1.275% |
| Del Mar | 0.821 | 0.055 | 0.000 | 0.000 | 0.876 | 0.344% |
| East Otay Mesa | 0.000 | 0.000 | 0.000 | 1.000 | 1.000 | 0.392% |
| El Cajon | 10.260 | 0.655 | 0.000 | 0.000 | 10.915 | 4.280% |
| Imperial Beach | 3.591 | 0.164 | 0.000 | 0.000 | 3.755 | 1.473% |
| La Mesa | 6.464 | 0.359 | 0.000 | 0.170 | 6.993 | 2.742% |
| Lakeside-Alpine | 4.586 | 0.255 | 0.000 | 0.000 | 4.841 | 1.898% |
| Lemon Grove | 2.873 | 0.154 | 0.000 | 0.000 | 3.027 | 1.187% |
| National City | 7.141 | 0.346 | 0.000 | 0.000 | 7.487 | 2.936% |
| Otay | 1.231 | 0.056 | 0.000 | 0.000 | 1.287 | 0.505% |
| Padre Dam | 6.382 | 0.343 | 0.000 | (0.500) | 6.225 | 2.441% |
| Poway | 5.130 | 0.264 | 0.000 | 0.500 | 5.894 | 2.312% |
| Spring Valley | 10.978 | 0.545 | 0.000 | (1.170) | 10.353 | 4.060% |
| Wintergardens | <u>1.241</u> | <u>0.068</u> | <u>0.000</u> | <u>0.000</u> | <u>1.309</u> | <u>0.513%</u> |
| Subtotal | 83.619 | 4.459 | 0.000 | 0.000 | 88.078 | 34.540% |

Revised 04-21-2010

EXHIBIT B

| <u>Metro Agency</u> | <u>Original Contract Capacity</u> | <u>Additional Contract Capacity¹</u> | <u>New Contract Capacity²</u> | <u>Transferred Contract Capacity³</u> | <u>Total Contract Capacity</u> | <u>Percent of Total</u> |
|---------------------|-----------------------------------|---|--|--|--------------------------------|-------------------------|
| San Diego | <u>156.381</u> | <u>10.541</u> | <u>0.000</u> | <u>0.000</u> | <u>166.922</u> | <u>65.460%</u> |
| Total | 240.000 | 15.000 | 0.000 | 0.000 | 255.000 | 100.00% |

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

EXHIBIT C

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

METRO WASTEWATER JPA



276 Fourth Avenue Chula Vista, CA 91950 619-476-2557

Ernest Ewin, Chairman

April 19, 2010

Rod Greek
Public Utilities Deputy Director
City of San Diego, Metropolitan Wastewater
9192 Topaz Way
San Diego, CA 92123

Re: Administrative Protocol on Allocation of Operating Reserves and Debt Service
Coverage to Participating Agencies

Dear Mr. Greek:

This letter is intended to memorialize the attached Administrative Protocol on Allocation of Operating Reserves and Debt Service Coverage to Participating Agencies ("Protocol") negotiated between the City of San Diego and Metro TAC/ Metro JPA/ Metro Commission, on behalf of the Participating Agencies under the Regional Wastewater Disposal Agreement. Your signature will indicate acceptance of the Protocol on behalf of the City.

By countersigning this letter, the City of San Diego and Metro TAC/ Metro JPA/ Metro Commission acknowledge and agree to the terms and conditions contained in the attached Protocol.

Sincerely,


for the Metro TAC/ Metro JPA/ Metro Commission

Enclosure

The Protocol is accepted by the City of San Diego pursuant to the terms and conditions set forth in the attachment hereto:

Date: 4/19/10


Rod Greek, Public Utilities Deputy Director

The Protocol is accepted by Metro TAC/ Metro JPA/ Metro Commission on behalf of the Participating Agencies pursuant to the terms and conditions set forth in the attachment hereto:

Date: 5/6/10



The Joint Powers Authority Proactively Addressing Regional Wastewater Issues

Chula Vista • Coronado • Del Mar • Imperial Beach • La Mesa • Lemon Grove Sanitation District
National City • Otay Water District • Poway • Padre Dam Municipal Water District
County of San Diego, representing East Otay, Lakeside/Alpine, Spring Valley & Winter Gardens Sanitation Districts

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

BACKGROUND:

In early 2008 the MetroTAC formed a working group in response to the City of San Diego's request for \$20 million in funding in FYE 2009 from the Participating Agencies ("PAs") for operating reserves and debt service coverage. The working group continued to meet with City of San Diego staff regarding the establishment of a mutually agreed upon protocol through early February 2010. A summary of the City of San Diego's 2008 proposal and the negotiated 2010 protocol is included as Attachment A.

At its regular meeting of February 17, 2010, the MetroTAC approved the following recommendations to move to the Finance Committee of the Metro Wastewater JPA and thereafter to the Metro Commission/ Metro Wastewater JPA for discussion and action:

- Proceed with PAs funding a 1.2 debt service ratio coverage
- Proceed with PAs funding a 45 day operating reserves
- The PAs will fund no other reserves
- FY07 and FY08 refund monies will be used to fund the operating reserves
- Interest accrual on operating reserves and undesignated accounts will start with FY10 (beginning on July 1, 2009)

The Finance Committee of the Metro Wastewater JPA, at its February 24, 2010 meeting, took action to recommend approval of the above, by the Metro Commission/ Metro Wastewater JPA. At its March 4, 2010 meeting, the Metro Commission/ Metro Wastewater JPA, comprised of representatives of the PAs, approved the components of the negotiated policy, with the understanding that any such policy would serve as an administrative protocol regarding the allocation of debt service coverage to the PAs and funding of operating reserves by the PAs.

PROTOCOL REGARDING PA FUNDING OF OPERATING RESERVES:

Background:

Operating reserves are established to provide funding for unforeseen events that might occur during the course of the fiscal year such as unforeseen major maintenance or capital projects. The PAs performed a survey of other regional wholesale agencies and determined that agencies such as the San Diego County Water Authority maintain a 45 day operating reserves. Although the City of San Diego's current policy is to increase operating reserves for its retail customers from 45 to 70 days, the City realizes that if a major maintenance incident should occur it can immediately request payment from the PAs per the Regional Wastewater Disposal Agreement. The City of San Diego's retail customer's rates cannot be immediately increased due to Proposition 218 requirements for noticing and public hearings.

Protocol:

Attachment B is a summary of the funding strategy showing each PAs 2007 and 2008 refunds based on recent City Metro Wastewater Exhibit E audits. The refunds will be used to fund the PAs 45 day operating reserves contribution. In the majority of cases most PAs will see a refund even after they have

fully funded their portion of the operating reserves. PAs that do not have adequate refunds will be billed for their portion of the reserve in the next quarterly 2010 billing. The operating reserves for each fiscal year will be established based on 45 days of operating revenues as determined by the following formula:

$$\frac{\text{Fiscal Year Estimated Operating Expenses (not including CIP and debt service)}}{365 \text{ days}} \times 45 \text{ days}$$

The number of days included in the calculation cannot be changed without prior consent of the PAs.

The operating reserves will be maintained by the City of San Diego and interest will accrue on a monthly basis based on actual interest rates on the City's investments. This interest revenue will be added to the PAs undesignated fund balance for that fiscal year. As part of each year's Exhibit E audit the actual required operating reserves and interest earned on it will be determined and audited by the City of San Diego's external auditors and PA representatives. A summary of the operating reserves balance and interest earned for each PA will be included as a footnote or attachment to the City Metro Wastewater Exhibit E Audit.

PROTOCOL REGARDING ALLOCATION OF DEBT SERVICE COVERAGE TO PAs

Background:

A 1.2 debt service coverage ratio is a requirement for all of the outstanding Metro parity debt. A cash flow prepared by the City of San Diego shows (Attachment C) that if the PAs are billed at the current level (\$65 million annually to cover the PAs portion of operations, pay-go capital, and debt service expense) for the next three to five years that this requirement can be achieved without additional contributions by the PAs. This provides the PAs a stable projected annual Metro contribution for the next three to five years.

Protocol:

The PAs will maintain through annual contributions and use of PA undesignated fund balance a positive cash flow not to exceed 1.2 times the PA share of the required annual debt service on Metro Debt. The debt service coverage ratio of 1.2 cannot be changed without prior consent of the PAs.

The undesignated fund balance will be maintained by the City of San Diego and interest will accrue on a monthly basis based on actual interest rates on the City's investments. This interest revenue will be added to the PAs undesignated fund balance for that fiscal year.

As part of each year's Exhibit E audit the actual required reserve coverage and interest earned on the undesignated fund balance will be determined and audited by the City of San Diego's external auditors and PA representatives. A summary of the debt service coverage requirement and portion of interest earned on the undesignated fund balance for each PA will be included as a footnote or attachment to the City Metro Wastewater Exhibit E Audit.

If the cash flow in any year does not provide the required 1.2 debt service coverage the PAs will be billed the additional required revenue including interest.

Attachment A
Original San Diego Proposal

Draft

FY 2009, and prospective years, Participating Agency funding process for the allocation of the MWWD Debt Service Coverage requirement:

Year 1

On October 1, 2008

1. Obtain the FY 2009 total MWWD debt service amount including SRF debt from the Administrative Services, Budget Section.
2. Calculate the debt service coverage dollar amount greater than 100%. The target debt service coverage percentage of 1.56 is the average debt service coverage ratio found in the current rate case model. The formula is: ([Current Debt Service Amount], $\$94,306,351 * .56 = \$52,811,557$).
3. Allocate the total debt service coverage amount between the Municipal and Metropolitan Systems using their respective debt service percentages of 77.91% for the Metropolitan System and 22.09% for the Municipal System.
4. Obtain final FY 2009 projected flow-based billing percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
5. Allocate the Metropolitan System portion of the debt service coverage amount to the City of San Diego and the 15 Participating Agencies using final FY 2009 projected flow-based billing percentages.
6. Update the Participating Agency Debt Coverage Payment Schedule.

On October 4, 2008

1. Forward the Participating Agency Debt Coverage Payment Schedule to the Admin Services, Agency Contracts Section, (Peggy Merino).

On November 1, 2008

1. Admin Services, Agency Contracts Section, (Peggy Merino) sends FY 2009 second quarter invoices to include as a second item, the debt service coverage amounts. The due date is December 1, 2008. (no interest will be applied to these accounts due to the mid year payment approach)

On December 1, 2008

1. Recognize the Participating Agencies debt service coverage payments as new revenues and update the Participating Agency Debt Coverage Payment Schedule.
2. Inform Admin Services, Agency Contracts Section, (Peggy Merino) to reduce the Participating Agencies FY 2010 CIP expense allocation by the FY 2009 Participating Agencies debt service coverage payments.
3. Obtain the preliminary FY 2010 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
4. Calculate a preliminary FY 2010 debt service coverage schedule and forward to the Admin Services, Agency Contracts Section, (Peggy Merino)

On January 1, 2009

1. Admin Services, Agency Contracts Section, (Peggy Merino), informs the Participating Agencies of the FY 2010 projected debt service coverage amounts for budgeting purposes.

On July 1, 2009

1. Apply the FY 2009 Participating Agencies debt service coverage payments towards the cash requirement for the FY 2010 Metro based CIP Project budget. Any residual amounts will be applied to the O&M budget.

Year 2 (Prospective Years)**On October 1, 2009**

1. Obtain the Fiscal Year 2010 total MWWD debt service amount including SRF debt from the Administrative Services, Budget Section.
2. Calculate the debt service coverage dollar amount greater than 100%. The target debt service coverage percentage of 1.56 is the average debt service coverage ratio found in the current rate case model. The formula is: ([Current Debt Service Amount], $\$xxx,xxx,xxx * .56 = \xxx,xxx,xxx)
3. Allocate the total debt service coverage amount between the Municipal and Metropolitan Systems using their respective debt service coverage percentages of xx.xx% for the Municipal System and xx.xx% for the Metropolitan System.
4. Obtain the final FY 2010 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
5. Allocate the Metropolitan System portion of the debt service coverage amount to the City of San Diego and the 15 Participating Agencies using the preliminary FY 2010 projected flow-based percentages.
6. Update the Participating Agency Debt Coverage Payment Schedule.

On October 4, 2009

1. Forward the Participating Agency Debt Coverage Payment Schedule to the Admin Services, Agency Contracts Section, (Peggy Merino) for invoicing purposes.

On November 1, 2009

1. Admin Services, Agency Contracts Section, (Peggy Merino) sends FY 2009 second quarter invoices to include as a second item, the debt service coverage amounts. The due date is December 1, 2009. (no interest will be applied to these accounts due to the mid year payment approach)

On December 1, 2009

1. Recognize the Participating Agencies debt service coverage payments as new revenues and update the Participating Agency Debt Coverage Payment Schedule.
2. Inform Admin Services, Agency Contracts Section, (Peggy Merino) to reduce the Participating Agencies FY 2011 CIP expense allocation by the FY 2010 Participating Agencies debt service coverage payments.
3. Obtain the preliminary FY 2011 projected flow-based percentages for the Participating Agencies from Admin Services, Agency Contracts Section, (Peggy Merino).
4. Calculate a preliminary FY 2011 debt service coverage schedule and forward to the Admin Services, Agency Contracts Section, (Peggy Merino)

On January 1, 2010

1. Admin Services, Agency Contracts Section, (Peggy Merino), informs the Participating Agencies of the FY 2011 projected debt service coverage amounts for budgeting purposes.

On July 1, 2010

1. Apply the FY 2010 Participating Agencies debt service coverage payments towards the cash requirement for the FY 2011 Metro based CIP Project budget. Any residual amounts will be applied to the O&M budget.

Attachment B
Operating Reserve Funding Strategy

FY07-FY08 Operating Reserve Rate Stabilization
Based on 2008 Flows
FINAL

| Agency | EXHIBIT E AUDIT ADJUSTMENTS | | | 2008 FLOWS & LOADS | | |
|-----------------|-----------------------------|----------------------|-----------------------|-----------------------|----------------------|--------------------------|
| | FY 2007 | FY 2008 | TOTAL | 2008 FLOWS & LOADS | OPERATING RESERVE | NET |
| CHULA VISTA | (\$1,837,010) | (\$2,100,751) | (\$3,937,761) | 28.083% | \$1,202,374 | (\$2,735,387) |
| CORONADO | (\$189,910) | (\$366,858) | (\$556,768) | 3.356% | \$143,693 | (\$413,075) |
| DEL MAR | (\$87,785) | (\$103,913) | (\$191,698) | 1.029% | \$44,061 | (\$147,637) |
| EL CAJON | (\$290,369) | \$66,888 | (\$223,481) | 15.270% | \$653,789 | \$430,308 |
| IMPERIAL BEACH | (\$132,300) | (\$130,153) | (\$262,453) | 3.652% | \$156,373 | (\$106,080) |
| LA MESA | (\$99,793) | (\$40,190) | (\$139,983) | 8.842% | \$378,561 | \$238,578 |
| LAKESIDE/ALPINE | (\$293,313) | (\$243,206) | (\$536,519) | 5.357% | \$229,368 | (\$307,151) |
| LEMON GROVE | (\$147,034) | (\$195,043) | (\$342,077) | 3.611% | \$154,615 | (\$187,462) |
| NATIONAL CITY | (\$637,379) | (\$947,043) | (\$1,584,422) | 7.572% | \$324,211 | (\$1,260,211) |
| OTAY | \$123,792 | (\$138,545) | (\$14,753) | 0.459% | \$19,668 | \$4,915 |
| PADRE DAM | (\$789,976) | (\$1,752,218) | (\$2,542,194) | 5.198% | \$222,537 | (\$2,319,657) |
| POWAY | (\$683,251) | \$130,168 | (\$553,083) | 5.770% | \$247,021 | (\$306,062) |
| SPRING VALLEY | (\$611,093) | (\$667,539) | (\$1,278,632) | 10.316% | \$441,691 | (\$836,941) |
| WINTERGARDENS | (\$71,984) | (\$56,162) | (\$128,146) | 1.482% | \$63,470 | (\$64,676) |
| TOTAL | (\$5,747,405) | (\$6,544,565) | (\$12,291,970) | 100% | \$4,281,432 | \$ (8,010,538.00) |

Attachment C
Debt Service Coverage Funding Strategy

Attachment C

Schedule of Participating Agency Contributions to Operations Reserve and Debt Service Coverage Cash flow FY 2007-2011
Prepared on: February 23, 2010

HOW TO READ CASH FLOW SPREADSHEET:

Blue font = data inputted directly into spreadsheet
Green font = data imported from another spreadsheet in workbook
Black font = Calculation; see legend to determine calculation

| Line # | Cash flow Component | Legend | Foot-note # | AUDITED | | PROJECTED | | | | | | |
|--------|---------------------------------------|-----------------------------|-------------|--------------|--------------|--------------|---------------|--------------|---------------|---------------|--------------|--------------|
| | | | | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | FY13 | FY14 | FY15 |
| 1 | Current Projected Revenue Stream | Input | | \$54,007,596 | \$63,231,038 | \$57,249,960 | \$64,487,408 | \$65,000,000 | \$65,000,000 | \$65,000,000 | \$65,000,000 | \$65,000,000 |
| 2 | Annual Refund After Exhibit E Audit | Input | | | | | | (1,500,000) | (3,000,000) | (2,500,000) | (2,100,000) | (1,800,000) |
| 3 | Transfer (to)/from Operating Reserve | Line 21-Prior Year | | | | - | (4,281,432) | (42,814) | (43,242) | (43,675) | (44,112) | (44,553) |
| 4 | Undesignated Fund Balance Interest | Line 17 X Interest Rate | (1) | | | | 79,990 | 258,156 | 225,608 | 113,282 | 62,579 | 58,899 |
| 5 | Operating Reserve Interest | Calculated Off-Line | (2) | | | | 164,514 | 186,158 | 167,821 | 169,498 | 171,194 | 172,906 |
| 6 | Gross PA System Revenue | Sum(Line1:Line5) | | \$54,007,596 | \$63,231,038 | \$57,249,960 | \$52,241,049 | \$63,881,500 | \$62,350,187 | \$62,739,106 | \$63,089,661 | \$63,387,252 |
| 7 | Less: | | | | | | | | | | | |
| 8 | PA Estimated Total Operating Expenses | Prior year X 1.01 | (3) | \$32,304,298 | \$37,150,042 | \$34,727,170 | \$34,727,170 | \$35,074,442 | \$35,425,186 | \$35,779,438 | \$36,137,232 | \$36,498,605 |
| 9 | | | | | | | | | | | | |
| 10 | Net PA System Revenue | Line 6 - Line 8 | | \$21,703,298 | \$26,080,996 | \$22,522,790 | \$17,513,879 | \$28,807,059 | \$26,925,001 | \$26,959,668 | \$26,952,429 | \$26,888,647 |
| 11 | | | | | | | | | | | | |
| 12 | PA Annual Debt Service Payment | Calculated Off-Line | | \$20,373,393 | \$19,950,051 | \$20,441,069 | \$20,049,964 | \$20,043,880 | \$22,479,045 | \$22,478,266 | \$22,478,075 | \$22,478,140 |
| 13 | CIP Pay Go - 20% of Projected CIP | Input | (4) | (4,417,502) | (512,512) | - | 1,318,048 | 5,610,210 | 7,369,218 | 5,800,940 | 4,570,129 | 4,655,009 |
| 14 | Total CIP and Debt Service | Line 12 + 13 | | 15,955,891 | 19,337,539 | 20,441,069 | 25,368,037 | 29,654,090 | 29,848,257 | 28,279,206 | 27,048,204 | 27,133,739 |
| 15 | | | | | | | | | | | | |
| 16 | Net Income after CIP and Debt Service | Line 10 - 14 | | \$5,747,407 | \$6,743,457 | \$2,081,721 | (\$7,854,157) | (\$847,032) | (\$2,923,257) | (\$1,319,537) | (\$95,775) | (\$245,092) |
| 17 | PA Undesignated Fund Balance | Line 16 + Prior Year | | \$5,747,407 | \$12,490,864 | \$14,572,585 | \$6,718,428 | \$5,871,396 | \$2,948,139 | \$1,628,602 | \$1,532,827 | \$1,287,735 |
| 18 | | | | | | | | | | | | |
| 19 | Calculated Debt Service Ratio | Line 10/Line 12 | (5) | | | | 0.73 | 1.20 | 1.20 | 1.20 | 1.20 | 1.20 |
| 20 | | | | | | | | | | | | |
| 21 | Operating Reserve (45 days) | (Line 8/365 days) X 45 days | | | | | \$4,281,432 | \$4,324,246 | \$4,367,489 | \$4,411,164 | \$4,455,275 | \$4,499,828 |

Footnotes:

- (1) average of current year ending balance + prior year ending balance times 3.2%
- (2) average monthly balance times LAIF rate (first year calculated at half year interest)
- (3) FY09 based on average of FY07 & FY08 then 1% inflation
- (4) 20% of projected Metro CIP
- (5) Minimum coverage requirement 1.2 time annual Metro debt service

FY10 Operating Reserve Calc:
 PA Operating Expenses: \$34,727,170
 divided by: 365
 Equals: \$95,143
 Times: 45
 45 day Operating Reserve: \$4,281,432

FY10 Operating Reserve Interest Calc:
 PA Operating Expenses: \$4,281,432
 Times ave monthly LAIF Interest Rate: 0.038425 (range from 3.18% to 4.53% per month)
 FY10 Estimated Interest Earned: \$164,514

EXHIBIT D
NOTICE LISTING

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

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

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

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

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

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

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

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

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

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

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

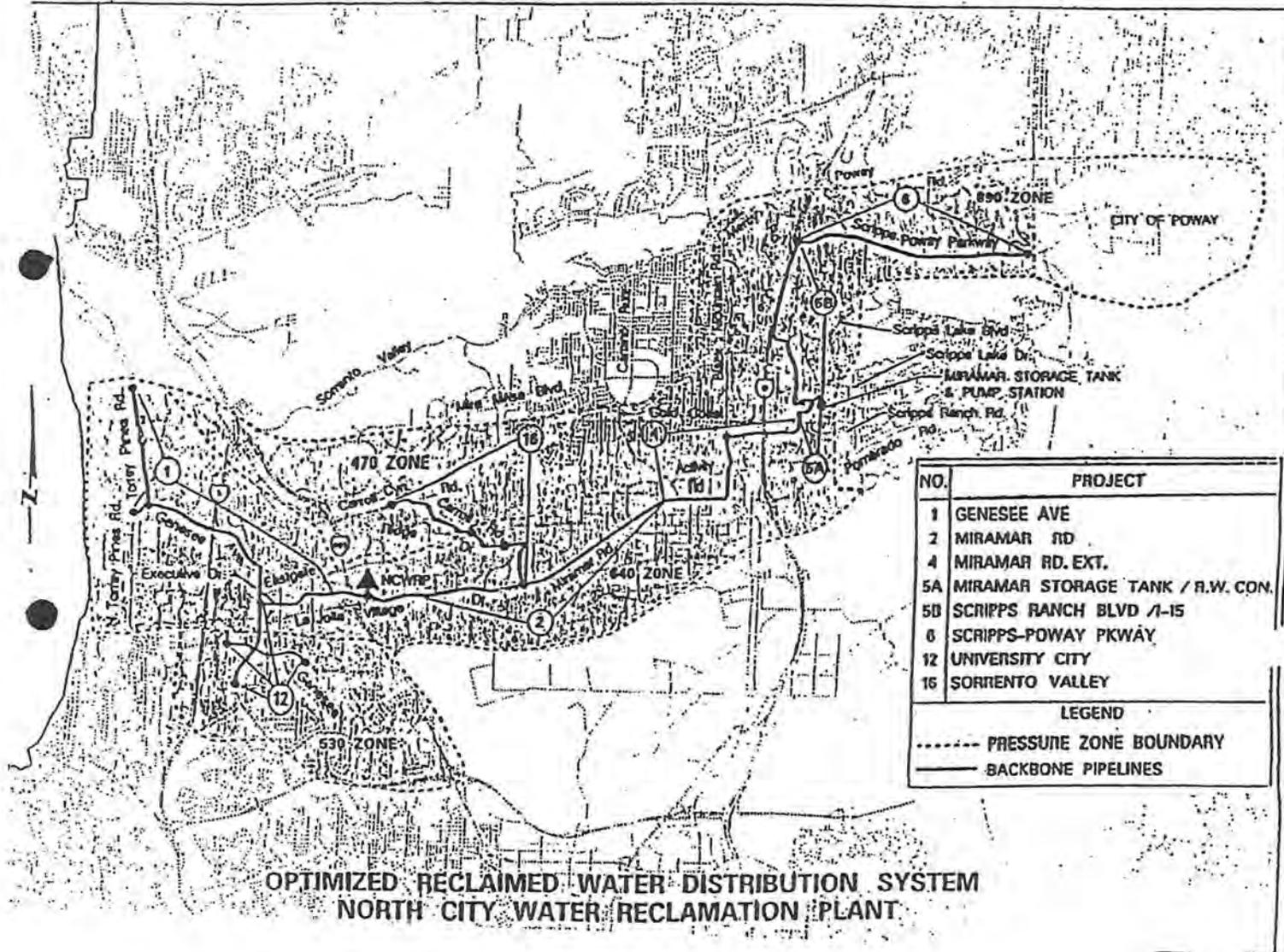
General Manager
Padre Dam Municipal Water
District
9300 Fanita Pkwy
Santee, CA 92071
Phone: 258-4610
Fax: 258-4794

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

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EXHIBIT E
MAP OF RECLAIMED WATER PROJECTS



OPTIMIZED RECLAIMED WATER DISTRIBUTION SYSTEM
NORTH CITY WATER RECLAMATION PLANT

EXHIBIT E

EXHIBIT F
PURE WATER COST ALLOCATION AND REVENUES

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EXHIBIT F**PURE WATER PROGRAM COST ALLOCATION AND REVENUES**

As part of the Pure Water Program, the City intends to modify the North City Water Reclamation Plant (a Metro System facility) and expand its capacity to 52 mgd. In addition, the City intends to construct the North City Advanced Water Purification Facility on a nearby site to produce Repurified Water. This Exhibit F sets forth the costs and revenues associated with the Pure Water Program which are, or are not, attributable to the Metro System.

I. Costs Excluded from Metro System Costs

All of the following Pure Water Program costs, including Capital Improvement Costs, Operation and Maintenance Costs, and other related costs (including administration, insurance, claims, and overhead) are excluded as Metro System Costs for purposes of calculating the annual Sewer System Charge, and shall be the responsibility of City's water utility ("**City Water Utility PW Costs**"), unless otherwise expressly agreed to pursuant to an amendment to this Exhibit F:

1.1 General Exclusions.

1.1.1 Costs of the Water Repurification System and any Metro System facilities to the extent constructed, modified, expanded, or used for the purpose of treating water beyond secondary treatment (ocean discharge standard under current law). This shall include costs for preliminary treatment, primary treatment, and secondary treatment to the extent such costs are higher than they would otherwise be due to the production of Repurified Water.

1.1.2 Costs for fail-safe disposal, if necessary, for design capacity for Repurified Water, including, but not limited to, any costs associated with the reservation of capacity at the Point Loma Wastewater Treatment Plant.

1.1.3 Costs for the demolition or replacement of existing Metro System facilities with similar facilities for the purpose of making space available for Water Repurification System facilities. Such costs may take into account the current asset value or market value of the existing Metro System facility.

1.2 Cost Exclusions Specific to North City Water Reclamation Plant Improvements.

1.2.1 Costs for increased aeration tank volume to the extent the new volume exceeds the amount necessary to provide 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.

1.2.2 Costs for the methanol feed system.

1.2.3 Costs for brine disposal, including, but not limited to, pump stations, pipelines, retreatment, ocean outfall, and monitoring.

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1.2.4 Costs for the use of existing tertiary water filters for Repurified Water purposes, which may take into account depreciated value of such filters. (Such costs shall be reimbursed or credited by City's water utility to the Metro System).

II. North City Water Reclamation Plant Improvement Costs Included as Metro System Costs

Notwithstanding the above exclusions, the City and the Participating Agencies have specifically agreed that the following Capital Improvement Costs and Operation and Maintenance Costs related to North City Water Reclamation Plant improvements shall be included as Metro System Costs for purposes of calculating the annual Sewer System Charge (and therefore not qualify as City Water Utility PW Costs):

- 2.1 Costs for chemically enhanced primary treatment for up to 52 mgd capacity.
- 2.2 Costs for primary effluent equalization for up to 52 mgd capacity.
- 2.3 Costs for increased volume of aeration tanks that will provide up to, but not exceeding, 52 mgd capacity. Determination of sizing to provide 52 mgd capacity shall be based on the current tank volume necessary to provide 30 mgd capacity.
- 2.4 Costs to add secondary clarifier tanks sufficient for up to 52 mgd capacity.
- 2.5 Costs for wastewater conveyance facilities to provide wastewater for replacement of centrate flows that cannot be treated at the North City Water Reclamation Plant due to the production of Repurified Water.
- 2.6 Costs for treatment and conveyance of all return flows (micro-filtration and tertiary backwash) based on Flow, COD, and SS.

III. Cost Allocation Example

Attachment 1 is an example of the City's Pure Water Phase I Cost Estimate (based on 60% design), and indicates which costs are City Water Utility PW Costs and which costs are attributable to the Metro System. The Parties agree that Attachment 1 is an illustrative document to assist the Parties in the future and is not a comprehensive list of all such costs. If there is any conflict between this Exhibit F and Attachment 1, or if a specific cost is not addressed in Attachment 1, this Exhibit F shall control.

IV. Revenue Sharing for Repurified Water

4.1 **Background.** Initially, the parties anticipate that the cost per acre foot associated with the production of Repurified Water will be more expensive than the cost per acre foot of untreated imported water. However, it is anticipated that Repurified Water produced under the Pure Water Program will be less expensive than untreated imported water sometime in the future. Once Repurified Water produced under the Pure Water Program becomes less expensive than the cost of untreated imported water, the parties agree that there will be revenue from the Pure Water Program.

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4.2 **Calculation.** Revenue sharing shall occur in each fiscal year during which the annual cost per acre foot associated with the production of Repurified Water is less than the cost of untreated water per acre foot from the San Diego County Water Authority (“CWA”). The annual cost difference shall be known as “**Repurified Water Revenue.**” Repurified Water Revenue shall be determined as follows:

Annual cost per acre foot of CWA untreated water purchased by the City for delivery at Miramar Reservoir (which shall be determined based on the total of certain fixed and variable costs for water actually billed to the City by CWA for water delivered at Miramar Reservoir in a fiscal year, divided by the number of acre-feet of CWA water delivered at Miramar Reservoir that year)

less

Annual cost per acre foot of City Water Utility PW Costs (which shall be determined based on the total annual City Water Utility PW Costs, as defined above in Section A, divided by the number of acre-feet of Repurified Water actually produced in that year)

multiplied by

The number of acre feet of Repurified Water produced by Pure Water Program facilities during the applicable fiscal year.

Attachment 2 is an example of a bill from CWA showing which fixed and variable costs for untreated water will be used for determining Repurified Water Revenue and the amount of water delivered in a billing period. The Parties agree that Attachment 2 shall be referred to by the Parties in the future in determining how costs for water delivered at Miramar Reservoir are calculated. If no untreated water is delivered at Miramar Reservoir in a given year, then the closest point of delivery of untreated water to the City shall be used.

Attachment 3 is a sample calculation of Repurified Water Revenue.

The City shall estimate whether there will be Repurified Water Revenue in the upcoming fiscal year prior to January 15 of each year, and the estimated amount of Repurified Water Revenue shall be effective on July 1 of the upcoming fiscal year.

4.3 **Revenue Sharing.** Repurified Water Revenue shall initially be shared based on the relative actual Capital Improvement Costs for the Pure Water Program contributed by City’s Water Utility and the Metro System. Such Capital Improvement Cost contributions are currently estimated as (61% City Water Utility and 39% Metro System) until the debt attributable to the Metro System is fully paid.

Following full payment of debt attributable to the Metro System, Repurified Water Revenue shall be shared based on the relative actual Operation and Maintenance Costs for Pure

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Water Program facilities contributed by City's Water Utility and the Metro System, calculated annually. Such Operation and Maintenance Costs are currently estimated as (76% City Water Utility and 24% Metro System) on an annual basis.

4.4 **Year-End Adjustment.** At the end of each fiscal year during which there is Repurified Water Revenue, the City shall determine the actual cost per acre foot of CWA untreated water purchased by the City, the actual cost per acre foot of City water Utility PW costs, and the actual amount of Repurified Water produced at Pure Water Program facilities.

Based on the actual cost and production information, the City will recalculate the Repurified Water Revenue for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

4.5 **Change in Potable Reuse Method.** The parties acknowledge that the Pure Water Program will initially use the surface water augmentation method of potable reuse. The use of CWA untreated water costs in calculating Repurified Water Revenue is intended to provide an appropriate point of comparison to costs for producing Repurified Water that will be introduced into surface water. The parties agree that if the City implements direct potable reuse (in which Repurified Water is introduced directly into a water supply pipeline or facility), the parties shall meet and negotiate in good faith regarding an amendment to this Exhibit F to appropriately update the formula for Repurified Water Revenue.

V. Secondary Effluent Commodity Rate

5.1 **Background.** The Point Loma Wastewater Treatment Plant operates under a National Pollutant Discharge Elimination System ("NPDES") permit modified under section 301(h) & (j)(5) of the Clean Water Act. If such modified permit were ever revoked or not renewed, the parties agree that, under current law, the City would have an obligation to upgrade the Point Loma WTP to secondary treatment. The parties further agree that \$1.8 billion is a fair and comprehensive estimation of the costs that could be incurred by the Metro System to meet the legal requirements related to the Metro System under current law.

Therefore, the parties agree that \$1.8 billion represents the maximum amount of Capital Improvement Costs that the Metro System should be obligated to contribute to the Pure Water Program, the purpose of which is not solely the disposal of wastewater, but also the production of Repurified Water. The parties agree that this \$1.8 billion maximum contribution should apply whether or not the Point Loma WTP is actually upgraded to secondary treatment to meet legal requirements in the future because, as of the date of the Agreement, the parties have the option of upgrading the Point Loma WTP to full secondary treatment for the cost of approximately \$1.8 billion.

In light of the above, the parties have agreed that if Metro System costs related to the Pure Water Program exceed the \$1.8 billion, City's Water Utility will pay a charge for each acre foot of secondary treated effluent produced by Metro System facilities and used for the production of Repurified Water.

5.2 **Capital Expense Rate.** Under the circumstances described below, City's Water Utility shall pay a charge ("**Capital Expense Rate**") for each acre-foot of secondary treated

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effluent produced by Metro System facilities and used for the production of Repurified Water. City's Water Utility shall pay the Capital Expense Rate if the following costs alone, or in combination, exceed \$1.8 billion (which amount shall be adjusted for inflation):

(a) the sum of all Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F; and/or

(b) the sum of all Capital Improvement Costs and associated debt for the full or partial upgrading of the Point Loma Wastewater Treatment Plant to secondary treatment.

Notwithstanding, the Capital Expense Rate shall not apply if the Point Loma WTP is actually upgraded to secondary treatment (or beyond) due to: (a) a change in federal or state statutory law making it necessary to upgrade the Point Loma WTP to comply with such new discharge standard; or (b) a final decision by a state or federal court or a federal administrative agency of competent jurisdiction that an NPDES permit modified under section 301(h) & (j)(5) of the Clean Water Act is thereby revoked or denied renewal due to a finding that the discharge from the Point Loma WTP violates 40 C.F.R. 131.12, State Water Resources Control Board Resolution 68-16, and State Water Resources Control Board Administrative Procedures Update No. 90-004.

5.3 Calculation of Capital Expense Rate . The amount per acre-foot of the Capital Expense Rate shall be determined as follows:

The sum of all Capital Improvement Costs and associated debt attributable to (i) the Metro System components of the Pure Water Program under this Exhibit F and (ii) upgrading of the Point Loma WTP to secondary treatment (if any)

less

\$1.8 billion, as adjusted for inflation each July 1 (starting on July 1, 2019) to reflect the annual percentage change in the Engineering News Record – Los Angeles construction cost index

multiplied by

1.42 (which estimates the total interest on a 30-year State Revolving Fund loan with an interest rate of 2.5%)

and divided by

The total number of acre feet per year of secondary treated effluent that is expected to be produced by Metro System facilities for the production of Repurified Water over a period of thirty (30) years, or the number of years remaining in the term of the Agreement, whichever is shorter.

The City shall estimate whether there the Capital Expense Rate shall apply to the upcoming fiscal year (and its amount) prior to January 15 of each year, and the estimated amount

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of the Capital Expense Rate shall be effective on July 1 of the upcoming fiscal year.

For purposes of this Article V of Exhibit F, Capital Improvement Costs and associated debt shall include such costs incurred by the Metro System prior to the effective date of the Agreement.

5.4 Year-End Adjustment

At the end of each fiscal year during which the Capital Expense Rate applies, the City shall determine the actual Capital Improvement Costs and associated debt attributable to the Metro System components of the Pure Water Program under this Exhibit F and any upgrading of the Point Loma WTP to secondary treatment, the then-applicable interest amount for outstanding loans for the Metro System components of the Pure Water Program and Point Loma WTP upgrades, and the actual amount of Repurified Water produced at Pure Water Program facilities.

Based on the actual cost, interest, and production information, the City will recalculate the Capital Expense Rate for the prior fiscal year. The City will credit any future charges or bill for any additional amounts due the quarter after the prior year costs have been audited.

5.5 Duration; Expiration

The Capital Expense Rate shall continue until the cost difference between (a) the actual sum of the Capital Improvement Costs and associated debt attributable to the Metro System under this Exhibit F and the costs to upgrade the Point Loma WTP and (b) \$1.8 billion (as adjusted for inflation) has been fully repaid.

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ATTACHMENT 1

Pure Water Phase I Cost Estimate

| | Total | % |
|---|----------------------------|------------|
| Wastewater: | | |
| MorenaPump Station WW Force Main and Brine Conveyance | \$ 324,712,285.00 | |
| North City Renewable Energy | \$ 33,794,784.00 | |
| North City MBC Improvements | \$ 7,310,835.00 | |
| North City WRP Expansion and PWF Influent Conveyance | \$ 176,882,842.00 | |
| SDG&E | \$ 3,288,932.00 | |
| Total Wastewater | \$ 545,989,678.00 | 39% |
| Water: | | |
| MorenaPump Station WW Force Main and Brine Conveyance | \$ 46,504,958.00 | |
| North City Renewable Energy | \$ 94,020,128.00 | |
| Miramar WTP Pump and Plant Improvements | \$ 4,555,811.00 | |
| North City Pure Water Facility | \$ 521,652,285.00 | |
| North City WRP Expansion and PWF Influent Conveyance | \$ 45,236,959.00 | |
| North City Pure Water Pipeline | \$ 109,411,952.00 | |
| North City Pure Water Pump Station | \$ 20,469,509.00 | |
| Total Water | \$ 841,851,602.00 | 61% |
| Total Project | \$ 1,387,841,280.00 | |
| Shared Projects: | | |
| MorenaPump Station WW Force Main and Brine Conveyance | | |
| Wastewater | \$ 324,712,285.00 | 87% |
| Water | \$ 46,504,958.00 | 13% |
| | \$ 371,217,243.00 | |
| North City Renewable Energy | | |
| Wastewater | \$ 33,794,784.00 | 26% |
| Water | \$ 94,020,128.00 | 74% |
| | \$ 127,814,912.00 | |
| North City WRP Expansion and PWF Influent Conveyance | | |
| Wastewater | \$ 176,882,842.00 | 80% |
| Water | \$ 45,236,959.00 | 20% |
| | \$ 222,119,801.00 | |

Note: The above estimates are based on 60% design of Phase I of the Pure Water Program.

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ATTACHMENT 2 – SAMPLE CWA BILL

DRAFT

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ATTACHMENT 3 – SAMPLE CALCULATION OF REPURIFIED WATER
REVENUE

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DRAFT

EXHIBIT G
2050 FLOW PROJECTIONS

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

EXHIBIT G

Public Document

----- Forwarded message -----

From: **TERESA ROSIAK-PROFFIT** <teresa.rosiak2018@gmail.com>
Date: Wed, Sep 5, 2018 at 8:48 AM
Subject: Re: Meeting Questions
To: <lromero@lemongrove.ca.gov>

Thank you for your advisement and I will await your responses at your convenience. I want my questions to be shared with all of the candidates as all information is empowering to our campaigns.

Thank you

Teresa Rosiak
619-991-1004

On Tue, Sep 4, 2018 at 5:44 PM Lydia Romero <lromero@lemongrove.ca.gov> wrote:

Ms. Rosiak-Proffit –

Thank you for your email and your time consideration, however it would have been more expedient to have a verbal discussion with you. In light of your request to respond to the questions posed, I will endeavor to send you written responses, it will however take me several days to complete since my calendar is pretty packed with meetings the rest of this week.

Since this is a written request, I am ethically bound to share with the rest of the candidates after I send to you. Since all emails are considered public record, with few exceptions, I need to ensure that I do not appear to be favoring one candidate over another. I do hope you understand.

Thank you,

Lydia

From: TERESA ROSIAK-PROFFIT [mailto:teresa.rosiak2018@gmail.com]
Sent: Tuesday, September 4, 2018 6:43 AM
To: Lydia Romero <lromero@lemongrove.ca.gov>
Subject: Meeting Questions

• Good Morning Lydia,

Thank you for offering to meet with me on a one-on-one basis to ask any specific questions I may have as a candidate regarding the City of Lemon Grove. In light of the current critical financial situation of our City (the annual budget cannot be balanced without taking money from the reserves) and your hourly rate in excess of \$100.00 approx, I believe it is prudent to ask my questions in written form to you. Also, this will allow you to circulate my questions to the proper departments if needed, as well as copy them and your answers to the other candidates in a timely fashion.

1. An organizational chart by department for the city staff. Could I also have one for the Fire Department
2. The amount of the unfunded pension liability an the document to substantiate that figure
3. The plan, if any to pay down the unfunded pension liability. A copy of the resolution if action was taken by the council or the staff report that was agendized for discussion of the unfunded pension liability. If no plan is in place to pay down that debt, when does the current council plan to visit that issue again?
4. A copy of the resolution or staff report or any type of documentation that the city council has either reviewed or adopted to replace the funds taken from the reserve - rainy day fund.
5. A copy of the resolution or the staff report where the council discussed or acted upon the reserve funds and when to set aside funding to keep that fund healthy.
6. The staff report regarding the state of the city finances, state that the belt has been tightened and cuts to on-going expenses have been made and all has been done to cut costs. Unfortunately, there is no documentation to support this statement. Can you please provide the following: (a) what cuts have been made? (b) In what departments have those cuts been made? (c) What are those cost savings to the taxpayer? (d) What financial impact have those cost savings made to the current budget? (e) Please show a cost to the budget "before" the cost savings and "after" the cost savings - be specific - what was cut?

7. Per the City Attorney's current contract can you provide the following: (a) The basic amount of that annual salary, (b) If that salary (for budgeting purposes) is broken down by month, the amount that the contract stipulates will be billed to the City each month, (c) If that monthly or annual financial threshold is reached, what is the hourly figure that is paid the Attorney for those hours in excess of the originally specified charges or hours? (d) Is there a "cap" on those monthly or annual fees? If so, when does the City Council review those expenses/fees? Monthly, quarterly, annually, etc. to authorize additional payments are to be made? (e) what is the start and end date of the City Attorney's current contract with our City? (f) In addition to being paid for legal services rendered to our City, are there any benefits paid to the City attorney? Such as: Pension or retirement benefits? Medical or any health related benefits? If so, what are they?

8. What is the total of the gas tax funds that have been allocated to the City? How much of those funds have been expended? How have they been spent? By what department have they been spent and what services to the citizens/residents have they been spent to enhance? Please be specific.

If the voters decide to repeal the gas taxes, what plan is in place or where will those funds be taken to return them to the State of California?

May I have a copy of the current street repair/pavement plan? Will that plan identify where we are on the plan? Are we on track with the streets and repairs that are projected during this fiscal year? If not, when will that issue be addressed?

9. It was mentioned in the "State of the City Address" that a list of 20 priorities have been set aside and what was the 20 priorities on that list?

Thank you in advance.

Teresa Rosiak

619-991-1004