

**CONTRACT RESULTING FROM REQUEST FOR PROPOSAL NUMBER 10089761-21-V, Strength Based Billing Consultant Rebid**

This Contract (Contract) is entered into by and between the City of San Diego, a municipal corporation (City), and the successful proposer to Request for Proposal (RFP) # 10089761-21-V, Strength Based Billing Consultant Rebid (Contractor).

**RECITALS**

On or about 5/13/2021, City issued an RFP to prospective proposers on services to be provided to the City. The RFP and any addenda and exhibits thereto are collectively referred to as the "RFP." The RFP is attached hereto as Exhibit A.

City has determined that Contractor has the expertise, experience, and personnel necessary to provide the services.

City wishes to retain Contractor to provide strength-based billing consultant services as further described in the Scope of Work, attached hereto as Exhibit B. (Services).

For good and valuable consideration, the sufficiency of which is acknowledged, City and Contractor agree as follows:

**ARTICLE I  
CONTRACTOR SERVICES**

**1.1 Scope of Work.** Contractor shall provide the Services to City as described in Exhibit B which is incorporated herein by reference. Contractor will submit all required forms and information described in Exhibit A to the Purchasing Agent before providing Services.

**1.2 General Contract Terms and Provisions.** This Contract incorporates by reference the General Contract Terms and Provisions, attached hereto as Exhibit C.

**1.3 Contract Administrator.** The Public Utilities Department (Department) is the Contract Administrator for this Agreement. Contractor shall provide the Services under the direction of a designated representative of the Department as follows:

Edgar Patino, Supervising Management Analyst  
9192 Topaz Way, San Diego, CA 92123  
(858) 292-6321  
EPatino@sandiego.gov

**ARTICLE II  
DURATION OF CONTRACT**

**2.1 Term.** This Contract shall be for a period beginning on the Effective Date until completion of the Scope of Services. The term of this Contract shall not exceed five years unless approved by the City Council by ordinance.

**2.2 Effective Date.** This Contract shall be effective on the date it is executed by the last Party to sign the Contract, and approved by the City Attorney in accordance with San Diego Charter Section 40.

**ARTICLE III  
COMPENSATION**

**3.1 Amount of Compensation.** City shall pay Contractor for performance of all Services rendered in accordance with this Contract in an amount not to exceed \$249,900.00.

**ARTICLE IV  
WAGE REQUIREMENTS**

**4.1** Reserved.

**ARTICLE V  
CONTRACT DOCUMENTS**

**5.1 Contract Documents.** The following documents comprise the Contract between the City and Contractor: this Contract and all exhibits thereto, the RFP; the Notice to Proceed; and the City's written acceptance of exceptions or clarifications to the RFP, if any.

**5.2 Contract Interpretation.** The Contract Documents completely describe the Services to be provided. Contractor will provide any Services that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result whether or not specifically called for or identified in the Contract Documents. Words or phrases which have a well-known technical or construction industry or trade meaning and are used to describe Services will be interpreted in accordance with that meaning unless a definition has been provided in the Contract Documents.

**5.3 Precedence.** In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the Parties will use the order of precedence as set forth below. The 1<sup>st</sup> document has the highest priority. Inconsistent provisions in the Contract Documents that address the same subject, are consistent, and have different degrees of specificity, are not in conflict and the more specific language will control. The order of precedence from highest to lowest is as follows:

- 1<sup>st</sup> Any properly executed written amendment to the Contract
- 2<sup>nd</sup> The Contract
- 3<sup>rd</sup> The RFP and the City's written acceptance of any exceptions or clarifications to the RFP, if any
- 4<sup>th</sup> Contractor's Pricing

**5.4 Counterparts.** This Contract may be executed in counterparts which, when taken together, shall constitute a single signed original as though all Parties had executed the same page.

**5.5 Public Agencies.** Other public agencies, as defined by California Government Code section 6500, may choose to use the terms of this Contract, subject to Contractor's

acceptance. The City is not liable or responsible for any obligations related to a subsequent Contract between Contractor and another public agency.

IN WITNESS WHEREOF, this Contract is executed by City and Contractor acting by and through their authorized officers.

CONTRACTOR

Stantec Consulting Services Inc.

Proposer

777 South Harbour Island Blvd. #600

Street Address

Tampa FL 33602

City

813-223-9500

Telephone No.

andrew.burnham@stantec.com

E-Mail

BY:



Signature of  
Proposer's Authorized  
Representative

Andrew Burnham

Print Name

Vice President

Title

6/22/2021

Date

CITY OF SAN DIEGO  
A Municipal Corporation

BY:



Print Name:

Claudia C. Abarca

Director, Purchasing & Contracting Department

October 4, 2021

Date Signed

Approved as to form this 9<sup>th</sup> day of

December, 2021.  
MARA W. ELLIOTT, City Attorney

BY:

  
Deputy City Attorney

**EXHIBIT A  
PROPOSAL SUBMISSION AND REQUIREMENTS**

**A. PROPOSAL SUBMISSION**

**1. Timely Proposal Submittal.** Proposals must be submitted as described herein to the Purchasing & Contracting Department (P&C).

**1.1 Confidentiality.** In order to avoid any appearance of or actual conflict of interest, the City may require execution of a Non-Disclosure Agreement in the form of that included here as Exhibit D.

**1.2 Paper Proposals.** The City will accept paper proposals in lieu of eProposals. Paper proposals must be submitted in a sealed envelope to the Purchasing & Contracting Department (P&C) located at 1200 Third Avenue, Suite 200, San Diego, CA 92101. The Solicitation Number and Closing Date must be referenced in the lower left-hand corner of the outside of the envelope. Faxed proposals will not be accepted.

**1.3 Proposal Due Date.** Proposals must be submitted prior to the Closing Date indicated on the eBidding System. E-mailed and/or faxed proposals will not be accepted.

**1.4 Pre-Proposal Conference.** No pre-proposal conference will be held for RFP.

**1.4.1 Reserved.**

**1.5 Questions and Comments.** Written questions and comments must be submitted electronically via the eBidding System no later than the date specified on the eBidding System. Only written communications relative to the procurement shall be considered. The City's eBidding System is the only acceptable method for submission of questions. All questions will be answered in writing. The City will distribute questions and answers without identification of the inquirer(s) to all proposers who are on record as having received this RFP, via its eBidding System. No oral communications can be relied upon for this RFP. Addenda will be issued addressing questions or comments that are determined by the City to cause a change to any part of this RFP.

**1.6 Contact with City Staff.** Unless otherwise authorized herein, proposers who are considering submitting a proposal in response to this RFP, or who submit a proposal in response to this RFP, are prohibited from communicating with City staff about this RFP from the date this RFP is issued until a contract is awarded.

**2. Proposal Format and Organization.** Unless electronically submitted, all proposals should be securely bound and must include the following completed and executed forms and information presented in the manner indicated below:

**Tab A - Submission of Information and Forms.**

**2.1 Completed and signed Contract Signature Page.** If any addenda are issued, the latest Addendum Contract Signature Page is required.

2.2 Exceptions requested by proposer, if any. The proposer must present written factual or legal justification for any exception requested to the Scope of Work, the Contract, or the Exhibits thereto. Any exceptions to the Contract that have not been accepted by the City in writing are deemed rejected. The City, in its sole discretion, may accept some or all of proposer's exceptions, reject proposer's exceptions, and deem the proposal non-responsive, or award the Contract without proposer's proposed exceptions. The City will not consider exceptions addressed elsewhere in the proposal.

2.3 The Contractor Standards Pledge of Compliance Form.

2.4 Equal Opportunity Contracting forms including the Work Force Report and Contractors Certification of Pending Actions.

2.5 Reserved.

2.6 Licenses as required in Exhibit B.

2.7 Reserved.

2.8 Additional Information as required in Exhibit B.

2.9 Reserved.

**Tab B - Executive Summary and Responses to Specifications.**

2.10 A title page.

2.11 A table of contents.

2.12 An executive summary, limited to one typewritten page, that provides a high-level description of the proposer's ability to meet the requirements of the RFP and the reasons the proposer believes itself to be best qualified to provide the identified services.

2.13 Proposer's response to the RFP.

**Tab C - Cost/Price Proposal (if applicable).** Proposers shall submit a cost proposal in the form and format described herein. Failure to provide cost(s) in the form and format requested may result in proposal being declared non-responsive and rejected.

**3. Proposal Review.** Proposers are responsible for carefully examining the RFP, the Specifications, this Contract, and all documents incorporated into the Contract by reference before submitting a proposal. If selected for award of contract, proposer shall be bound by same unless the City has accepted proposer's exceptions, if any, in writing.

**4. Addenda.** The City may issue addenda to this RFP as necessary. All addenda are incorporated into the Contract. The proposer is responsible for determining whether addenda were issued prior to a proposal submission. Failure to respond to or properly address addenda may result in rejection of a proposal.

**5. Quantities.** The estimated quantities provided by the City are not guaranteed. These quantities are listed for informational purposes only. Quantities vary depending on the

demands of the City. Any variations from the estimated quantities shall not entitle the proposer to an adjustment in the unit price or any additional compensation.

**6. Quality.** Unless otherwise required, all goods furnished shall be new and the best of their kind.

**6.1 Items Offered.** Proposer shall state the applicable trade name, brand, catalog, manufacturer, and/or product number of the required good, if any, in the proposal.

**6.2 Brand Names.** Any reference to a specific brand name in a solicitation is illustrative only and describes a component best meeting the specific operational, design, performance, maintenance, quality, or reliability standards and requirements of the City. Proposer may offer an equivalent or equal in response to a brand name referenced (Proposed Equivalent). The City may consider the Proposed Equivalent after it is subjected to testing and evaluation which must be completed prior to the award of contract. If the proposer offers an item of a manufacturer or vendor other than that specified, the proposer must identify the maker, brand, quality, manufacturer number, product number, catalog number, or other trade designation. The City has complete discretion in determining if a Proposed Equivalent will satisfy its requirements. It is the proposer's responsibility to provide, at their expense, any product information, test data, or other information or documents the City requests to properly evaluate or demonstrate the acceptability of the Proposed Equivalent, including independent testing, evaluation at qualified test facilities, or destructive testing.

**7. Modifications, Withdrawals, or Mistakes.** Proposer is responsible for verifying all prices and extensions before submitting a proposal.

**7.1 Modification or Withdrawal of Proposal Before Proposal Opening.** Prior to the Closing Date, the proposer or proposer's authorized representative may modify or withdraw the proposal by providing written notice of the proposal modification or withdrawal to the City Contact via the eBidding System. E-mail or telephonic withdrawals or modifications are not permissible.

**7.2 Proposal Modification or Withdrawal of Proposal After Proposal Opening.** Any proposer who seeks to modify or withdraw a proposal because of the proposer's inadvertent computational error affecting the proposal price shall notify the City Contact identified on the eBidding System no later than three working days following the Closing Date. The proposer shall provide worksheets and such other information as may be required by the City to substantiate the claim of inadvertent error. Failure to do so may bar relief and allow the City recourse from the bid surety. The burden is upon the proposer to prove the inadvertent error. If, as a result of a proposal modification, the proposer is no longer the apparent successful proposer, the City will award to the newly established apparent successful proposer. The City's decision is final.

**8. Incurred Expenses.** The City is not responsible for any expenses incurred by proposers in participating in this solicitation process.

**9. Public Records.** By submitting a proposal, the proposer acknowledges that any information submitted in response to this RFP is a public record subject to disclosure unless the City determines that a specific exemption in the California Public Records Act (CPRA) applies. If the proposer submits information clearly marked confidential or proprietary, the City may protect such information and treat it with confidentiality to the extent permitted by

law. However, it will be the responsibility of the proposer to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the CPRA should the City choose to withhold such information. General references to sections of the CPRA will not suffice. Rather, the proposer must provide a specific and detailed legal basis, including applicable case law, that clearly establishes the requested information is exempt from the disclosure under the CPRA. If the proposer does not provide a specific and detailed legal basis for requesting the City to withhold proposer's confidential or proprietary information at the time of proposal submittal, City will release the information as required by the CPRA and proposer will hold the City, its elected officials, officers, and employees harmless for release of this information. It will be the proposer's obligation to defend, at proposer's expense, any legal actions or challenges seeking to obtain from the City any information requested under the CPRA withheld by the City at the proposer's request. Furthermore, the proposer shall indemnify and hold harmless the City, its elected officials, officers, and employees from and against any claim or liability, and defend any action brought against the City, resulting from the City's refusal to release information requested under the CPRA which was withheld at proposer's request. Nothing in the Contract resulting from this proposal creates any obligation on the part of the City to notify the proposer or obtain the proposer's approval or consent before releasing information subject to disclosure under the CPRA.

**10. Right to Audit.** The City Auditor may access proposer's records as described in San Diego Charter section 39.2 to confirm contract compliance.

**B. PRICING**

**1. Fixed Price.** All prices shall be firm, fixed, fully burdened, FOB destination, and include any applicable delivery or freight charges, and any other costs required to provide the requirements as specified in this RFP. The lowest total estimated contract price of all the proposals that meet the requirements of this RFP will receive the maximum assigned points to this category as set forth in this RFP. The other price schedules will be scored based on how much higher their total estimated contract prices compare with the lowest:

$$(1 - \frac{(\text{contract price} - \text{lowest price})}{\text{lowest price}}) \times \text{maximum points} = \text{points received}$$

For example, if the lowest total estimated contract price of all proposals is \$100, that proposal would receive the maximum allowable points for the price category. If the total estimated contract price of another proposal is \$105 and the maximum allowable points is 60 points, then that proposal would receive  $(1 - ((105 - 100) / 100)) \times 60 = 57$  points, or 95% of the maximum points. The lowest score a proposal can receive for this category is zero points (the score cannot be a negative number). The City will perform this calculation for each Proposal.

**2. Taxes and Fees.** Taxes and applicable local, state, and federal regulatory fees should not be included in the price proposal. Applicable taxes and regulatory fees will be added to the net amount invoiced. The City is liable for state, city, and county sales taxes but is exempt from Federal Excise Tax and will furnish exemption certificates upon request. All or any portion of the City sales tax returned to the City will be considered in the evaluation of proposals.

**3. Escalation.** An escalation factor is not allowed unless called for in this RFP. If escalation is allowed, proposer must notify the City in writing in the event of a decline in market price(s) below the proposal price. At that time, the City will make an adjustment in the Contract or may elect to re-solicit.

**4. Unit Price.** Unless the proposer clearly indicates that the price is based on consideration of being awarded the entire lot and that an adjustment to the price was made based on receiving the entire proposal, any difference between the unit price correctly extended and the total price shown for all items shall be offered shall be resolved in favor of the unit price.

## **C. EVALUATION OF PROPOSALS**

**1. Award.** The City shall evaluate each responsive proposal to determine which proposal offers the City the best value consistent with the evaluation criteria set forth herein. The proposer offering the lowest overall price will not necessarily be awarded a contract.

**2. Sustainable Materials.** Consistent with Council Policy 100-14, the City encourages use of readily recyclable submittal materials that contain post-consumer recycled content.

### **3. Evaluation Process.**

**3.1 Process for Award.** A City-designated evaluation committee (Evaluation Committee) will evaluate and score all responsive proposals. The Evaluation Committee may require proposer to provide additional written or oral information to clarify responses. Upon completion of the evaluation process, the Evaluation Committee will recommend to the Purchasing Agent that award be made to the proposer with the highest scoring proposal.

#### **3.2 Reserved.**

**3.3 Mandatory Interview/Oral Presentation.** The City will require only the top three (3) proposers with the highest scoring proposal to interview and/or make an oral presentation. Interviews and/or oral presentations will be made to the Evaluation Committee in order to clarify the proposals and to answer any questions. The interviews and/or oral presentations will be scored as part of the selection process. The City will complete all reference checks prior to any oral interview. Additionally, the Evaluation Committee may require proposer's key personnel to interview. Interviews may be by telephone and/or in person. Multiple interviews may be required. Proposers are required to complete their oral presentation and/or interviews within seven (7) workdays after the City's request. Proposers should be prepared to discuss and substantiate any of the areas of the proposal submitted, as well as proposer's qualifications to furnish the subject goods and services. Proposer is responsible for any costs incurred for the oral presentation and interview of the key personnel.

**3.4 Discussions/Negotiations.** The City has the right to accept the proposal that serves the best interest of the City, as submitted, without discussion or negotiation. Contractors should, therefore, not rely on having a chance to discuss, negotiate, and adjust their proposals. The City may negotiate the terms of a contract with the winning proposer based on the RFP and the proposer's proposal, or award the contract without further negotiation.



**3.5 Inspection.** The City reserves the right to inspect the proposer’s equipment and facilities to determine if the proposer is capable of fulfilling this Contract. Inspection will include, but not limited to, survey of proposer’s physical assets and financial capability. Proposer, by signing the proposal agrees to the City’s right of access to physical assets and financial records for the sole purpose of determining proposer’s capability to perform the Contract. Should the City conduct this inspection, the City reserves the right to disqualify a proposer who does not, in the City’s judgment, exhibit the sufficient physical and financial resources to perform this Contract.

**3.6 Evaluation Criteria.** The following elements represent the evaluation criteria that will be considered during the evaluation process:

	MAXIMUM EVALUATION POINTS
<b>A. Responsiveness to the RFP.</b>	<b>20</b>
1. Requested information included and thoroughness of response.	
2. Understanding of the project and ability to deliver as exhibited in the Executive Summary.	
3. Technical Aspects	
<b>B. Staffing Plan.</b>	<b>25</b>
1. Qualifications of personnel adequate for requirement.	
2. Availability/Geographical location of personnel for required tasks.	
3. Clearly defined Roles/Responsibilities of personnel.	
<b>C. Firm's Capability to provide the services and expertise and Past Performance.</b>	<b>35</b>
1. Proven record of producing functional allocations for regional wastewater system capital facilities based on engineering review.	
2. Demonstrated previous experience in providing the services requested, and proposer’s approach to the proposed project.	
3. Ability to demonstrate a thorough understanding of multi-agency regional wastewater treatment systems, and past experience working with such systems to determine how agencies are billed Joint Powers Authorities.	
4. Other pertinent experience.	
5. Past/Prior Performance.	
6. Capacity/Capability to meet The City of San Diego needs in a timely manner	
7. Reference checks.	
<b>D. Price.</b>	<b>10</b>
<b>E. Mandatory Demonstration/Presentation.</b>	<b>10</b>
1. Proposer’s presentation and materials are relevant, concise, detailed and organized to represent the proposer’s ability to successfully complete the Scope of Work pursuant to information provided in the RFP and the proposer’s response	
2. Proposer’s team members answer the Evaluation Committee’s questions in a relevant, concise, detailed, and organized manner to represent the proposer’s ability to successfully complete the Scope of Work	

	MAXIMUM EVALUATION POINTS
SUB TOTAL MAXIMUM EVALUATION POINTS:	<b>100</b>
<b>F. Participation by Small Local Business Enterprise (SLBE) or Emerging Local Business Enterprise (ELBE) Firms*</b>	<b>12</b>
FINAL MAXIMUM EVALUATION POINTS INCLUDING SLBE/ELBE:	<b>112</b>

\*The City shall apply a maximum of an additional 12 percentage points to the proposer’s final score for SLBE OR ELBE participation. Refer to Equal Opportunity Contracting Form, Section V.

**D. ANNOUNCEMENT OF AWARD**

**1. Award of Contract.** The City will inform all proposers of its intent to award a Contract in writing.

**2. Obtaining Proposal Results.** No solicitation results can be obtained until the City announces the proposal or proposals best meeting the City’s requirements. Proposal results may be obtained by: (1) e-mailing a request to the City Contact identified on the eBidding System or (2) visiting the P&C eBidding System to review the proposal results. To ensure an accurate response, requests should reference the Solicitation Number. Proposal results will not be released over the phone.

**3. Multiple Awards.** City may award more than one contract by awarding separate items or groups of items to various proposers. Awards will be made for items, or combinations of items, which result in the lowest aggregate price and/or best meet the City’s requirements. The additional administrative costs associated with awarding more than one Contract will be considered in the determination.

**E. PROTESTS.** The City’s protest procedures are codified in Chapter 2, Article 2, Division 30 of the San Diego Municipal Code (SDMC). These procedures provide unsuccessful proposers with the opportunity to challenge the City’s determination on legal and factual grounds. The City will not consider or otherwise act upon an untimely protest.

**F. SUBMITTALS REQUIRED UPON NOTICE TO PROCEED.** The successful proposer is required to submit the following documents to P&C **within ten (10) business days** from the date on the Notice to Proceed letter:

**1. Insurance Documents.** Evidence of all required insurance, including all required endorsements, as specified in Article VII of the General Contract Terms and Provisions.

**2. Taxpayer Identification Number.** Internal Revenue Service (IRS) regulations require the City to have the correct name, address, and Taxpayer Identification Number (TIN) or Social Security Number (SSN) on file for businesses or persons who provide goods or services to the City. This information is necessary to complete Form 1099 at the end of each tax year. To comply with IRS regulations, the City requires each Contractor to provide a Form W-9 prior to the award of a Contract.

**3. Business Tax Certificate.** Unless the City Treasurer determines a business is exempt, all businesses that contract with the City must have a current business tax certificate.

**4. Reserved.**

**5. Reserved.**

The City may find the proposer to be non-responsive and award the Contract to the next highest scoring responsible and responsive proposer if the apparent successful proposer fails to timely provide the required information or documents.

## **EXHIBIT B SCOPE OF WORK**

### **A. BACKGROUND**

The City's Wastewater System owns and operates wastewater treatment plants that serve the City as well as other agencies of other cities and districts outside San Diego City boundaries (Participating Agencies). The treatment of wastewater is covered under the City's Metropolitan Wastewater System (Metro System). The terms that govern the Participating Agencies' use of the City's wastewater treatment system are provided for in a Regional Wastewater Disposal Agreement between the City and the Participating Agencies. The City charges the Participating Agencies for use of its wastewater treatment facilities to recover the operating and capital costs associated with that use, and those charges are based on the strength and flow of wastewater from each Participating Agency. Capital expenses are allocated through a functional design method that allocates facilities' capital costs to the strength and flow characteristics according to their function. At present, annual charges to Participating Agencies are entirely based on the amount and characteristics of wastewater that they send to the City for treatment.

The City is also implementing the Pure Water Program, which will allow for the treatment of wastewater to potable levels to allow for beneficial reuse. Several Participating Agencies are implementing similar programs as well, and this may impact the strength and flow of wastewater they send to the City for treatment.

The City and the Participating Agencies are adopting an Amended and Restated Regional Wastewater Disposal Agreement, which calls for the City to consider in good faith alternative billing methodologies for Metro System Costs (see section 2.9.1.2 of the attached Attachment 1 – Amended and Restated Agreement).

The City is therefore requesting the services of a qualified consultant to: (1) review and update, as and if appropriate, the allocation factors used in the current functional-design approach for existing and planned capital wastewater facilities, and (2) review the existing billing system (in excel that includes fixed charges) for appropriateness, and propose potential alternative billing systems that include fixed charges to Participating Agencies for ongoing and future use or capacity rights to the City's Metro System.

### **B. SPECIFICATIONS**

The Consultant will perform the following:

1. **Review of Functional-Design Allocations.** The consultant will review the cost allocation factors for existing capital facilities and new/proposed facilities, and determine if allocations currently in place for flow, suspended solids, and biological oxygen demand are appropriate or need to be updated. Allocation amounts should be based on a thorough engineering and technical review of existing facilities' functions based on the current fixed assets of the Metro System, and assumptions must be clearly described and defensible. The consultant will be expected to work with City staff and technical advisors from the Participating Agencies, and to present conclusions and recommendations (in a report format) to the City and the Metro JPA.

2. **Propose Potential Alternate Billing Structures.** After a thorough review of the City's existing strength-based billing method and of anticipated operational and capital changes in the City and in the Participating Agencies due to implementation of the Pure Water Program, the Consultant will propose potential adjustments to the existing billing method. While the existing billing system charges Participating Agencies based entirely on the volume and strength of wastewater they send to the City for treatment, projects planned by the City and by various Participating Agencies that allow for potable water reuse may significantly change the flow and strength of wastewater from Participating Agencies in the future. As the Metro System was constructed without contemplating these changes, and as it must remain available to treat wastewater from Participating Agencies before that water is discharged to the ocean, a billing structure that considers ongoing maintenance of the Metro System and rights to use of a portion of the Metro System's capacity may be appropriate and ensure ongoing revenue stability. The consultant will be expected to work with City Staff and technical advisors from the Participating Agencies, and to present conclusions and recommendations to the City and the Metro JPA.

### **C. ROLES AND RESPONSIBILITIES**

Consultant shall provide several key duties, including:

1. Initiating a Project Kick-off Meeting. This will include discussion of preliminary objective, ensuring a clear understanding of overall goals, and finalization of a work plan, milestones, and timeline with City and Participating Agency Staff.
2. At the direction of the City, engaging directly with City staff, Participating Agencies, and other technical experts as appropriate to perform the tasks above.
3. Attending meetings of the Metro JPA, the Metro JPA Technical Advisory Committee, and other ad-hoc groups as appropriate.
4. Providing monthly updates and as-needed updates according to City/Consultant determined milestones.
5. Using expertise to provide responsive, accurate, and expert advice, information, and recommendations to the City and the Participating Agencies as related to the tasks above.
6. Assigning a designee to be a Quality Assurance Control Designee who will review work efforts for consistency with standard industry practices and sound billing practices.
7. Presenting findings and recommendations associated with the tasks above to the Metro JPA, the City's Executive Team, the City Council, the Independent Rate Oversight Committee, and other groups as appropriate.

### **D. MINIMUM REQUIREMENTS**

Consultant must have the following qualifications and experience:

1. Technical expertise in evaluating and/or implementing multiple types of billing systems for regional wastewater treatment systems.
2. Engineering and technical expertise in the design and operation of wastewater treatment facilities, and a thorough understanding of wastewater treatment practices and processes.
3. Financial expertise in evaluating ongoing regional wastewater needs and developing fair and sustainable regional funding sources.

4. Possess extraordinary technical, analytical, and communication skills.
5. Demonstrate ability to communicate clearly and accurately orally and in writing with technical, engineering, and financial staff, as well as with elected representatives of the City and the Participating Agencies.
6. Possess experience working with other regional water or wastewater treatment entities that provide service to multiple agencies, and a demonstrated track record of establishing fair, equitable, and sustainable billing systems.
7. Disclose any previous, current, or future representation of any of the Participating Agencies as a rate or financial consultant, including the date range when services were provided.

#### **E. REFERENCES**

Proposer must demonstrate that they are properly equipped to perform the work as specified in this RFP. The City reserves the right to contact references not provided by the Proposer. References shall be provided in accordance with the attached form.

Proposer is required to provide a minimum of three (3) references to demonstrate successful performance for work of similar size and scope as specified in this contract during the past seven (7) years. References shall be submitted on the Contractor Standards Pledge of Compliance form attached to this RFP. Proposer cannot provide a current City of San Diego staff member as a reference. If a City staff member is provided, the Proposer will be required to provide an additional reference.

Proposer is required to state all subcontractors to be used in the performance of the proposed contract, and what portion of work will be assigned to each Subcontractor on the form attached to this RFP.

The City shall rely on references as part of the evaluation process. The City reserves the right to take any or all of the following actions: reject a proposal based on an unsatisfactory reference(s), to contact any person or persons associated with the reference, to request additional references, to contact organizations known to have used in the past or currently using the services supplied by the Proposer or the Proposer's Subcontractors (as listed in Contractor Standards Pledge of Compliance form attached to this RFP), and to contact independent consulting firms for additional information about the Proposer or the Proposer's Subcontractors.

#### **F. TIMELINE**

The services pursuant to this Contract are estimated to be performed over an elapsed period of no more than twenty-six (26) weeks from the Effective Date. Proposer shall provide a proposed timeline with the bid identifying goals for each week proposed.

#### **G. PROJECT TEAM**

Consultant shall propose a team to perform the services pursuant to this Contract as part of their proposal. Consultant shall submit a resume for each proposed team member and identify the position and level of involvement for each member.

#### **H. TRAVEL EXPENSES**

The City will provide the following in-person travel expenses for national firms:

- Mileage reimbursement rate will be at current City of San Diego mileage rate (mileage log required).
- Travel expenses for the lowest cost-effective Air Fare, Train, and/or Car Rental, will be reimbursed at actual costs (receipts required).
- Lodging and Per Diem will be reimbursed at actual costs (receipts required) up to the maximum allowance for the San Diego area as published/posted on the U.S. General Services Administration website (<http://www.gsa.gov/portal/category/100120>).

**I. TECHNICAL REPRESENTATIVE**

The Technical Representative for this Contract is identified in the notice of award and is responsible for overseeing and monitoring this Contract.

**J. COMPENSATION/INVOICING**

Consultant shall provide a total project cost for all services identified herein. Invoicing shall include all project-related costs and be submitted to the City in accordance with the City's General Contract Terms and Provisions, Article 3.2.2, Service Contracts.

See following attached Tab C. Cost/Price Proposal

<b>Hourly Rate</b>	\$ _____ per hr.
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<b>Proposed Project Timeline</b>	_____ weeks
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# Tab C. Cost/Price Proposal

We have presented our cost/price information in the format required by the request for proposals and have included additional details thereafter including hourly rates and a detailed work plan.

## Compensation Schedule

<b>Hourly Rate</b>	<u>    \$250    </u> per hour
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*Note: This is a blended rate for all services and personnel. See detailed rate table below for specific rates by person.*

<b>Proposed Project Timeline</b>	<u>    26    </u> weeks
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## Total Proposed Not-to-Exceed Fee

<b>Proposed Fee</b>	<u>    \$249,900    </u>
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*Note: See detailed work plan on the following pages.*

## Detailed Hourly Rates

Staff Member	Classification / Expertise	Hourly Rate
William Zieburtz	Director / Expert Panelist	\$325
Andrew Burnham	Vice President / Project Director	\$350
Carol Malesky	Principal / Expert Panelist	\$275
Benjamin Stewart	Managing Consultant / Project Manager	\$250
Matthew Freiberg	Consultant / Lead Consultant	\$200
Jim Borchardt	Senior Engineer / Lead Engineer	\$325
Michael Adelman	Environmental Engineer / Project Engineer	\$225



Project Tasks	Estimated Labor-Hours								Totals
	Project Director	Project Manager	Project Consultant	Lead Engineer	Project Engineer	Technical Advisor	QC Reviewer	Admin	
	Zieburz	Stewart	Freiberg	Borchardt	Adelman	Burnham	Malesky	Various	
Hourly Rates →	\$325	\$250	\$200	\$325	\$225	\$350	\$275	\$95	
<b>Task 1 Project Initiation &amp; Stakeholder Meetings</b>	<b>71</b>	<b>76</b>	<b>36</b>	<b>37</b>	<b>38</b>	<b>22</b>	<b>12</b>	<b>2</b>	<b>294</b>
1.1 Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.	1	2	2	1	2	1	0	2	11
1.2 Conduct kick-off web meeting to review project objectives, schedule, key issues, approach, available data, and key assumptions with PUD.	2	2	4	2	2	2	0	0	14
1.3 Bi-weekly progress calls with City PUD team	12	12	6	6	6	0	0	0	42
1.4 Prepare for and participate in Metro JPA meetings (2 meetings over 6 months)	8	8	4	4	4	4	2	0	34
1.5 Prepare for and participate in Metro JPA TAC meetings (3 meetings over 6 months)	12	12	6	6	6	6	3	0	51
1.6 Prepare for and participate in Metro ad hoc committee meetings (6 meetings over 6 months)	12	12	4	4	4	2	1	0	39
1.7 Prepare for and facilitate two workshops with Participating Agencies to solicit input, review preliminary analyses, and gather feedback	12	12	6	6	6	3	2	0	47
1.8 Present to JPA, City Executive Team, City Council and IROC (assume 1 meeting for each group)	12	16	4	8	8	4	4		56
<b>Task 2 Review Fixed Assets and Develop Functional Design Allocation Methodology</b>	<b>53</b>	<b>68</b>	<b>67</b>	<b>45</b>	<b>74</b>	<b>9</b>	<b>4</b>	<b>1</b>	<b>321</b>
2.1 Review wastewater financial plan and COS model for current projections of Metro revenue requirements	2	4	8	1	0	0	0	1	16
2.2 Apply agreement terms to Metro revenue requirements to calibrate understanding of current agreement	2	4	8	1	0	1	0	0	16
2.3 Review last 3-5 years of revenue requirements, flow and sampling data, and cost allocations	4	4	4	2	4	0	0	0	18
2.4 Review fixed assets and quantify allocation parameters for asset classes	8	4	4	8	16	0	0	0	40
2.5 Review operations and O&M expenditures and discuss with City staff to evaluate allocation parameters	4	4	4	8	12	0	0	0	32
2.6 Develop fixed asset and operations allocation parameters based on review of existing system	2	4	4	4	8	2	0	0	24
2.7 Conduct detailed evaluation of sampling data from each participating agency, including flow, concentration & loading data	8	8	4	6	12	0	0	0	38
2.8 Review sampling data analysis with City staff and revise as appropriate	4	8	1	2	3	0	0	0	18
2.9 Combine asset and operations allocations with sampling analysis to form cost-of-service allocation to PAs	4	4	4	1	4	2	0	0	19
2.10 Compare sampling data analysis to historical flow and loading summaries	2	4	3	1	3	0	0	0	13
2.11 Develop draft allocation factors and summarize for City discussions	2	2	4	2	2	1	4	0	17
2.12 Develop comparison to existing allocation percentages and total costs	2	2	3	1	1	1	0	0	10
2.13 Provide preliminary allocations to City for review with Staff, and hold internal work session to address changes	2	2	4	2	2	1	0	0	13
2.14 Update allocations based on City feedback and develop recommendations for workshop with PAs	2	4	2	2	2	0	0	0	12
2.15 Facilitate workshop with City and PAs to review and discuss potential modifications to asset allocations (see Task 1.7)	2	4	4	2	2	1	0	0	15
2.16 Revisit allocations with City and update as appropriate based on workshop	2	4	1	2	0	0	0	0	13
2.17 Compile summary technical memorandum to document recommended cost allocation structure	1	2	2	1	1	0	0	0	7
<b>Task 3 Propose Potential Alternate Billing Structures</b>	<b>19</b>	<b>34</b>	<b>44</b>	<b>14</b>	<b>15</b>	<b>14</b>	<b>4</b>	<b>1</b>	<b>145</b>
3.1 Incorporate results from functional design allocation and sampling data analysis into rate structure model	1	4	8	2	2	2	0	1	20
3.2 Work with City staff to evaluate potential changes to flows and strength due to City's Pure Water program	2	4	2	2	2	0	0	0	12
3.3 Work with PA engineers to understand potential timing and magnitude of other recycled water programs	2	4	2	2	2	0	0	0	12
3.4 Incorporate City and PA Pure Water program impacts into billing structure analysis	1	2	2	2	2	1	0	0	10
3.5 Develop 3 to 5 alternative billing structures to address current and future flow and strength characteristics	2	4	8	2	4	6	4	0	30
3.6 Review structure alternatives and determine recommendation(s) with City and modify as appropriate	2	2	6	2	2	1	0	0	15
3.7 Develop materials to present recommended approach to JPA during workshop	2	4	6	2	1	1	0	0	16
3.8 Facilitate workshop with City and PAs to review and discuss recommended billing structure (see Task 1.7)	1	2	2	0	0	1	0	0	6
3.9 Revise and update billing structure alternatives based on workshop feedback	2	4	4	0	0	0	0	0	10
3.10 Revisit billing structure alternatives with City	2	2	2	0	0	1	0	0	7
3.11 Present recommended billing structure to JPA/JPATAC (See Task 1.4 & 1.5)	2	2	2	0	0	1	0	0	7
<b>Task 4 Report</b>	<b>16</b>	<b>34</b>	<b>18</b>	<b>15</b>	<b>18</b>	<b>6</b>	<b>6</b>	<b>2</b>	<b>115</b>
4.1 Summarize process, analysis, recommendations, and cost allocation framework in draft summary report and provide to City for review	8	16	8	6	8	2	4	1	53
4.2 Review Draft Report with the City	2	2	2	2	2	2	0	0	12
4.3 Incorporate edits into final report as appropriate	4	8	4	3	4	1	1	0	25
4.4 Provide summary slide deck for use by City and PAs as appropriate	1	4	2	2	2	1	1	0	13
4.5 Provide support to City and PAs as necessary to update terms of agreement based on new cost allocation and billing structure	1	4	2	2	2	0	0	1	12
<b>Total Estimated Labor Hours</b>	<b>159</b>	<b>212</b>	<b>165</b>	<b>111</b>	<b>145</b>	<b>51</b>	<b>26</b>	<b>6</b>	<b>875</b>
Total Estimated Fee	\$51,675	\$53,000	\$33,000	\$36,075	\$32,625	\$17,850	\$7,150	\$570	\$231,945
Total Estimated Expenses	\$12,500	\$2,500	\$0	\$1,500	\$1,500	\$0	\$0	\$0	\$18,000
<b>Total Estimated Project Cost</b>									<b>\$249,945</b>

**EXHIBIT C**



**THE CITY OF SAN DIEGO**  
**GENERAL CONTRACT TERMS AND PROVISIONS**  
**APPLICABLE TO GOODS, SERVICES, AND CONSULTANT CONTRACTS**

**ARTICLE I**  
**SCOPE AND TERM OF CONTRACT**

**1.1 Scope of Contract.** The scope of contract between the City and a provider of goods and/or services (Contractor) is described in the Contract Documents. The Contract Documents are comprised of the Request for Proposal, Invitation to Bid, or other solicitation document (Solicitation); the successful bid or proposal; the letter awarding the contract to Contractor; the City's written acceptance of exceptions or clarifications to the Solicitation, if any; and these General Contract Terms and Provisions.

**1.2 Effective Date.** A contract between the City and Contractor (Contract) is effective on the last date that the contract is signed by the parties and approved by the City Attorney in accordance with Charter section 40. Unless otherwise terminated, this Contract is effective until it is completed or as otherwise agreed upon in writing by the parties, whichever is the earliest. A Contract term cannot exceed five (5) years unless approved by the City Council by ordinance.

**1.3 Contract Extension.** The City may, in its sole discretion, unilaterally exercise an option to extend the Contract as described in the Contract Documents. In addition, the City may, in its sole discretion, unilaterally extend the Contract on a month-to-month basis following contract expiration if authorized under Charter section 99 and the Contract Documents. Contractor shall not increase its pricing in excess of the percentage increase described in the Contract.

**ARTICLE II**  
**CONTRACT ADMINISTRATOR**

**2.1 Contract Administrator.** The Purchasing Agent or designee is the Contract Administrator for purposes of this Contract, and has the responsibilities described in this Contract, in the San Diego Charter, and in Chapter 2, Article 2, Divisions 5, 30, and 32.

**2.1.1 Contractor Performance Evaluations.** The Contract Administrator will evaluate Contractor's performance as often as the Contract Administrator deems necessary throughout the term of the contract. This evaluation will be based on criteria including the quality of goods or services, the timeliness of performance, and adherence to applicable laws, including prevailing wage and living wage. City will provide Contractors who receive an unsatisfactory rating with a copy of the evaluation and an opportunity to respond. City may consider final evaluations, including Contractor's response, in evaluating future proposals and bids for contract award.

**2.2 Notices.** Unless otherwise specified, in all cases where written notice is required under this Contract, service shall be deemed sufficient if the notice is personally delivered or deposited in the United States mail, with first class postage paid, attention to the Purchasing Agent. Proper notice is effective on the date of personal delivery or five (5) days after deposit in a United States postal mailbox unless provided otherwise in the Contract. Notices to the City shall be sent to:

Purchasing Agent  
City of San Diego, Purchasing and Contracting Division  
1200 3rd Avenue, Suite 200  
San Diego, CA 92101-4195

### ARTICLE III COMPENSATION

**3.1 Manner of Payment.** Contractor will be paid monthly, in arrears, for goods and/or services provided in accordance with the terms and provisions specified in the Contract.

**3.2 Invoices.**

**3.2.1 Invoice Detail.** Contractor's invoice must be on Contractor's stationary with Contractor's name, address, and remittance address if different. Contractor's invoice must have a date, an invoice number, a purchase order number, a description of the goods or services provided, and an amount due.

**3.2.2 Service Contracts.** Contractor must submit invoices for services to City by the 10<sup>th</sup> of the month following the month in which Contractor provided services. Invoices must include the address of the location where services were performed and the dates in which services were provided.

**3.2.3 Goods Contracts.** Contractor must submit invoices for goods to City within seven days of the shipment. Invoices must describe the goods provided.

**3.2.4 Parts Contracts.** Contractor must submit invoices for parts to City within seven calendar (7) days of the date the parts are shipped. Invoices must include the manufacturer of the part, manufacturer's published list price, percentage discount applied in accordance with Pricing Page(s), the net price to City, and an item description, quantity, and extension.

**3.2.5 Extraordinary Work.** City will not pay Contractor for extraordinary work unless Contractor receives prior written authorization from the Contract Administrator. Failure to do so will result in payment being withheld for services. If approved, Contractor will include an invoice that describes the work performed and the location where the work was performed, and a copy of the Contract Administrator's written authorization.

**3.2.6 Reporting Requirements.** Contractor must submit the following reports using the City's web-based contract compliance portal. Incomplete and/or delinquent reports may cause payment delays, non-payment of invoice, or both. For questions, please view the City's online tutorials on how to utilize the City's web-based contract compliance portal.

**3.2.6.1 Monthly Employment Utilization Reports.** Contractor and Contractor's subcontractors and suppliers must submit Monthly Employment Utilization Reports by the fifth (5<sup>th</sup>) day of the subsequent month.

**3.2.6.2 Monthly Invoicing and Payments.** Contractor and Contractor's subcontractors and suppliers must submit Monthly Invoicing and Payment Reports by the fifth (5<sup>th</sup>) day of the subsequent month.

**3.3 Annual Appropriation of Funds.** Contractor acknowledges that the Contract term may extend over multiple City fiscal years, and that work and compensation under this Contract is contingent on the City Council appropriating funding for and authorizing such work and compensation for those fiscal years. This Contract may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. City is not obligated to pay Contractor for any amounts not duly appropriated and authorized by City Council.

**3.4 Price Adjustments.** Based on Contractor's written request and justification, the City may approve an increase in unit prices on Contractor's pricing pages consistent with the amount requested in the justification in an amount not to exceed the increase in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U) as published by the Bureau of Labor Statistics, or 5.0%, whichever is less, during the preceding one year term. If the CPI-U is a negative number, then the unit prices shall not be adjusted for that option year (the unit prices will not be decreased). A negative CPI-U shall be counted against any subsequent increases in the CPI-U when calculating the unit prices for later option years. Contractor must provide such written request and justification no less than sixty days before the date in which City may exercise the option to renew the contract, or sixty days before the anniversary date of the Contract. Justification in support of the written request must include a description of the basis for the adjustment, the proposed effective date and reasons for said date, and the amount of the adjustment requested with documentation to support the requested change (e.g. CPI-U or 5.0%, whichever is less). City's approval of this request must be in writing.

## **ARTICLE IV SUSPENSION AND TERMINATION**

**4.1 City's Right to Suspend for Convenience.** City may suspend all or any portion of Contractor's performance under this Contract at its sole option and for its convenience for a reasonable period of time not to exceed six (6) months. City must first give ten (10) days' written notice to Contractor of such suspension. City will pay to Contractor a sum equivalent to the reasonable value of the goods and/or services satisfactorily provided up to the date of suspension. City may rescind the suspension prior to or at six (6) months by providing Contractor with written notice of the rescission, at which time Contractor would be required to resume performance in compliance with the terms and provisions of this Contract. Contractor will be entitled to an extension of time to complete performance under the Contract equal to the length of the suspension unless otherwise agreed to in writing by the Parties.

**4.2 City's Right to Terminate for Convenience.** City may, at its sole option and for its convenience, terminate all or any portion of this Contract by giving thirty (30) days' written notice of such termination to Contractor. The termination of the Contract shall be effective upon receipt of the notice by Contractor. After termination of all or any portion of the Contract, Contractor shall: (1) immediately discontinue all affected performance (unless the notice directs otherwise); and (2) complete any and all additional work necessary for the orderly filing of

documents and closing of Contractor's affected performance under the Contract. After filing of documents and completion of performance, Contractor shall deliver to City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials created or received by Contractor in performing this Contract, whether completed or in process. By accepting payment for completion, filing, and delivering documents as called for in this section, Contractor discharges City of all of City's payment obligations and liabilities under this Contract with regard to the affected performance.

**4.3 City's Right to Terminate for Default.** Contractor's failure to satisfactorily perform any obligation required by this Contract constitutes a default. Examples of default include a determination by City that Contractor has: (1) failed to deliver goods and/or perform the services of the required quality or within the time specified; (2) failed to perform any of the obligations of this Contract; and (3) failed to make sufficient progress in performance which may jeopardize full performance.

**4.3.1** If Contractor fails to satisfactorily cure a default within ten (10) calendar days of receiving written notice from City specifying the nature of the default, City may immediately cancel and/or terminate this Contract, and terminate each and every right of Contractor, and any person claiming any rights by or through Contractor under this Contract.

**4.3.2** If City terminates this Contract, in whole or in part, City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, equivalent goods or services and Contractor shall be liable to City for any excess costs. Contractor shall also continue performance to the extent not terminated.

**4.4 Termination for Bankruptcy or Assignment for the Benefit of Creditors.** If Contractor files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to, or demand upon Contractor, terminate this Contract, and terminate each and every right of Contractor, and any person claiming rights by and through Contractor under this Contract.

**4.5 Contractor's Right to Payment Following Contract Termination.**

**4.5.1 Termination for Convenience.** If the termination is for the convenience of City an equitable adjustment in the Contract price shall be made. No amount shall be allowed for anticipated profit on unperformed services, and no amount shall be paid for an as needed contract beyond the Contract termination date.

**4.5.2 Termination for Default.** If, after City gives notice of termination for failure to fulfill Contract obligations to Contractor, it is determined that Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of City. In such event, adjustment in the Contract price shall be made as provided in Section 4.3.2. City's rights and remedies are in addition to any other rights and remedies provided by law or under this Contract.

**4.6 Remedies Cumulative.** City's remedies are cumulative and are not intended to be exclusive of any other remedies or means of redress to which City may be lawfully entitled in case of any breach or threatened breach of any provision of this Contract.

## **ARTICLE V ADDITIONAL CONTRACTOR OBLIGATIONS**

**5.1 Inspection and Acceptance.** The City will inspect and accept goods provided under this Contract at the shipment destination unless specified otherwise. Inspection will be made and acceptance will be determined by the City department shown in the shipping address of the Purchase Order or other duly authorized representative of City.

**5.2 Responsibility for Lost or Damaged Shipments.** Contractor bears the risk of loss or damage to goods prior to the time of their receipt and acceptance by City. City has no obligation to accept damaged shipments and reserves the right to return damaged goods, at Contractor's sole expense, even if the damage was not apparent or discovered until after receipt.

**5.3 Responsibility for Damages.** Contractor is responsible for all damage that occurs as a result of Contractor's fault or negligence or that of its' employees, agents, or representatives in connection with the performance of this Contract. Contractor shall immediately report any such damage to people and/or property to the Contract Administrator.

**5.4 Delivery.** Delivery shall be made on the delivery day specified in the Contract Documents. The City, in its sole discretion, may extend the time for delivery. The City may order, in writing, the suspension, delay or interruption of delivery of goods and/or services.

**5.5 Delay.** Unless otherwise specified herein, time is of the essence for each and every provision of the Contract. Contractor must immediately notify City in writing if there is, or it is anticipated that there will be, a delay in performance. The written notice must explain the cause for the delay and provide a reasonable estimate of the length of the delay. City may terminate this Contract as provided herein if City, in its sole discretion, determines the delay is material.

**5.5.1** If a delay in performance is caused by any unforeseen event(s) beyond the control of the parties, City may allow Contractor to a reasonable extension of time to complete performance, but Contractor will not be entitled to damages or additional compensation. Any such extension of time must be approved in writing by City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the performance; inability to obtain materials, equipment or labor; or other specific reasons agreed to between City and Contractor. This provision does not apply to a delay caused by Contractor's acts or omissions. Contractor is not entitled to an extension of time to perform if a delay is caused by Contractor's inability to obtain materials, equipment, or labor unless City has received, in a timely manner, documentary proof satisfactory to City of Contractor's inability to obtain materials, equipment, or labor, in which case City's approval must be in writing.

**5.6 Restrictions and Regulations Requiring Contract Modification.** Contractor shall immediately notify City in writing of any regulations or restrictions that may or will require Contractor to alter the material, quality, workmanship, or performance of the goods and/or services to be provided. City reserves the right to accept any such alteration, including any resulting reasonable price adjustments, or to cancel the Contract at no expense to the City.

**5.7 Warranties.** All goods and/or services provided under the Contract must be warranted by Contractor or manufacturer for at least twelve (12) months after acceptance by City, except automotive equipment. Automotive equipment must be warranted for a minimum of 12,000 miles or 12 months, whichever occurs first, unless otherwise stated in the Contract. Contractor is responsible to City for all warranty service, parts, and labor. Contractor is required to ensure that warranty work is performed at a facility acceptable to City and that services, parts, and labor are available and provided to meet City's schedules and deadlines. Contractor may establish a warranty service contract with an agency satisfactory to City instead of performing the warranty service itself. If Contractor is not an authorized service center and causes any damage to equipment being serviced, which results in the existing warranty being voided, Contractor will be liable for all costs of repairs to the equipment, or the costs of replacing the equipment with new equipment that meets City's operational needs.

**5.8 Industry Standards.** Contractor shall provide goods and/or services acceptable to City in strict conformance with the Contract. Contractor shall also provide goods and/or services in accordance with the standards customarily adhered to by an experienced and competent provider of the goods and/or services called for under this Contract using the degree of care and skill ordinarily exercised by reputable providers of such goods and/or services. Where approval by City, the Mayor, or other representative of City is required, it is understood to be general approval only and does not relieve Contractor of responsibility for complying with all applicable laws, codes, policies, regulations, and good business practices.

**5.9 Records Retention and Examination.** Contractor shall retain, protect, and maintain in an accessible location all records and documents, including paper, electronic, and computer records, relating to this Contract for five (5) years after receipt of final payment by City under this Contract. Contractor shall make all such records and documents available for inspection, copying, or other reproduction, and auditing by authorized representatives of City, including the Purchasing Agent or designee. Contractor shall make available all requested data and records at reasonable locations within City or County of San Diego at any time during normal business hours, and as often as City deems necessary. If records are not made available within the City or County of San Diego, Contractor shall pay City's travel costs to the location where the records are maintained and shall pay for all related travel expenses. Failure to make requested records available for inspection, copying, or other reproduction, or auditing by the date requested may result in termination of the Contract. Contractor must include this provision in all subcontracts made in connection with this Contract.



**5.9.1** Contractor shall maintain records of all subcontracts entered into with all firms, all project invoices received from Subcontractors and Suppliers, all purchases of materials and services from Suppliers, and all joint venture participation. Records shall show name, telephone number including area code, and business address of each Subcontractor and Supplier, and joint venture partner, and the total amount actually paid to each firm. Project relevant records, regardless of tier, may be periodically reviewed by the City.

**5.10 Quality Assurance Meetings.** Upon City's request, Contractor shall schedule one or more quality assurance meetings with City's Contract Administrator to discuss Contractor's performance. If requested, Contractor shall schedule the first quality assurance meeting no later than eight (8) weeks from the date of commencement of work under the Contract. At the quality assurance meeting(s), City's Contract Administrator will provide Contractor with feedback, will note any deficiencies in Contract performance, and provide Contractor with an opportunity to address and correct such deficiencies. The total number of quality assurance meetings that may be required by City will depend upon Contractor's performance.

**5.11 Duty to Cooperate with Auditor.** The City Auditor may, in his sole discretion, at no cost to the City, and for purposes of performing his responsibilities under Charter section 39.2, review Contractor's records to confirm contract compliance. Contractor shall make reasonable efforts to cooperate with Auditor's requests.

**5.12 Safety Data Sheets.** If specified by City in the solicitation or otherwise required by this Contract, Contractor must send with each shipment one (1) copy of the Safety Data Sheet (SDS) for each item shipped. Failure to comply with this procedure will be cause for immediate termination of the Contract for violation of safety procedures.

**5.13 Project Personnel.** Except as formally approved by the City, the key personnel identified in Contractor's bid or proposal shall be the individuals who will actually complete the work. Changes in staffing must be reported in writing and approved by the City.

**5.13.1 Criminal Background Certification.** Contractor certifies that all employees working on this Contract have had a criminal background check and that said employees are clear of any sexual and drug related convictions. Contractor further certifies that all employees hired by Contractor or a subcontractor shall be free from any felony convictions.

**5.13.2 Photo Identification Badge.** Contractor shall provide a company photo identification badge to any individual assigned by Contractor or subcontractor to perform services or deliver goods on City premises. Such badge must be worn at all times while on City premises. City reserves the right to require Contractor to pay fingerprinting fees for personnel assigned to work in sensitive areas. All employees shall turn in their photo identification badges to Contractor upon completion of services and prior to final payment of invoice.

**5.14 Standards of Conduct.** Contractor is responsible for maintaining standards of employee competence, conduct, courtesy, appearance, honesty, and integrity satisfactory to the City.

**5.14.1 Supervision.** Contractor shall provide adequate and competent supervision at all times during the Contract term. Contractor shall be readily available to meet with the City. Contractor shall provide the telephone numbers where its representative(s) can be reached.

**5.14.2 City Premises.** Contractor's employees and agents shall comply with all City rules and regulations while on City premises.

**5.14.3 Removal of Employees.** City may request Contractor immediately remove from assignment to the City any employee found unfit to perform duties at the City. Contractor shall comply with all such requests.

**5.15 Licenses and Permits.** Contractor shall, without additional expense to the City, be responsible for obtaining any necessary licenses, permits, certifications, accreditations, fees and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to Contract performance. This includes, but is not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.

**5.16 Contractor and Subcontractor Registration Requirements.** Prior to the award of the Contract or Task Order, Contractor and Contractor's subcontractors and suppliers must register with the City's web-based vendor registration and bid management system. The City may not award the Contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified by the City, the City reserves the right to rescind the Contract award and to make the award to the next responsive and responsible proposer of bidder.

## **ARTICLE VI INTELLECTUAL PROPERTY RIGHTS**

**6.1 Rights in Data.** If, in connection with the services performed under this Contract, Contractor or its employees, agents, or subcontractors, create artwork, audio recordings, blueprints, designs, diagrams, documentation, photographs, plans, reports, software, source code, specifications, surveys, system designs, video recordings, or any other original works of authorship, whether written or readable by machine (Deliverable Materials), all rights of Contractor or its subcontractors in the Deliverable Materials, including, but not limited to publication, and registration of copyrights, and trademarks in the Deliverable Materials, are the sole property of City. Contractor, including its employees, agents, and subcontractors, may not use any Deliverable Material for purposes unrelated to Contractor's work on behalf of the City without prior written consent of City. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City, without the prior written consent of the City.

**6.2 Intellectual Property Rights Assignment.** For no additional compensation, Contractor hereby assigns to City all of Contractor's rights, title, and interest in and to the content of the Deliverable Materials created by Contractor or its employees, agents, or subcontractors, including copyrights, in connection with the services performed under this Contract. Contractor

shall promptly execute and deliver, and shall cause its employees, agents, and subcontractors to promptly execute and deliver, upon request by the City or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the City, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials. Contractor also shall cooperate and assist in the prosecution of any action or opposition proceeding involving such intellectual property rights and any adjudication of those rights.

**6.3 Contractor Works.** Contractor Works means tangible and intangible information and material that: (a) had already been conceived, invented, created, developed or acquired by Contractor prior to the effective date of this Contract; or (b) were conceived, invented, created, or developed by Contractor after the effective date of this Contract, but only to the extent such information and material do not constitute part or all of the Deliverable Materials called for in this Contract. All Contractor Works, and all modifications or derivatives of such Contractor Works, including all intellectual property rights in or pertaining to the same, shall be owned solely and exclusively by Contractor.

**6.4 Subcontracting.** In the event that Contractor utilizes a subcontractor(s) for any portion of the work that comprises the whole or part of the specified Deliverable Materials to the City, the agreement between Contractor and the subcontractor shall include a statement that identifies the Deliverable Materials as a “works for hire” as described in the United States Copyright Act of 1976, as amended, and that all intellectual property rights in the Deliverable Materials, whether arising in copyright, trademark, service mark or other forms of intellectual property rights, belong to and shall vest solely with the City. Further, the agreement between Contractor and its subcontractor shall require that the subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to City, all titles, rights and interests in and to the Deliverable Materials, including all copyrights, trademarks and other intellectual property rights. City shall have the right to review any such agreement for compliance with this provision.

**6.5 Intellectual Property Warranty and Indemnification.** Contractor represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this Contract are either original, or not encumbered, and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Contractor to produce, at Contractor’s own expense, new non-infringing materials, deliverables or works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Contractor further agrees to indemnify, defend, and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages, of any type, alleging or threatening that any Deliverable Materials, supplies, equipment, services or works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claim of Infringement). If a Third Party Claim

of Infringement is threatened or made before Contractor receives payment under this Contract, City shall be entitled, upon written notice to Contractor, to withhold some or all of such payment.

**6.6 Software Licensing.** Contractor represents and warrants that the software, if any, as delivered to City, does not contain any program code, virus, worm, trap door, back door, time or clock that would erase data or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of licensor-selected conditions or manually on command. Contractor further represents and warrants that all third party software, delivered to City or used by Contractor in the performance of the Contract, is fully licensed by the appropriate licensor.

**6.7 Publication.** Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City without prior written consent from the City.

**6.8 Royalties, Licenses, and Patents.** Unless otherwise specified, Contractor shall pay all royalties, license, and patent fees associated with the goods that are the subject of this solicitation. Contractor warrants that the goods, materials, supplies, and equipment to be supplied do not infringe upon any patent, trademark, or copyright, and further agrees to defend any and all suits, actions and claims for infringement that are brought against the City, and to defend, indemnify and hold harmless the City, its elected officials, officers, and employees from all liability, loss and damages, whether general, exemplary or punitive, suffered as a result of any actual or claimed infringement asserted against the City, Contractor, or those furnishing goods, materials, supplies, or equipment to Contractor under the Contract.

## **ARTICLE VII INDEMNIFICATION AND INSURANCE**

**7.1 Indemnification.** To the fullest extent permitted by law, Contractor shall defend (with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City and its elected officials, officers, employees, agents, and representatives (Indemnified Parties) from and against any and all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Contractor or its subcontractors), expense, and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, and litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any goods provided or performance of services under this Contract by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or anyone that either of them control. Contractor's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or willful misconduct of the Indemnified Parties.

**7.2 Insurance.** Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or

in connection with the performance of the work hereunder and the results of that work by Contractor, his agents, representatives, employees or subcontractors.

Contractor shall provide, at a minimum, the following:

**7.2.1 Commercial General Liability.** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

**7.2.2 Commercial Automobile Liability.** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) or, if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

**7.2.3 Workers' Compensation.** Insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

**7.2.4 Professional Liability (Errors and Omissions).** For consultant contracts, insurance appropriate to Consultant’s profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

**7.2.5 Other Insurance Provisions.** The insurance policies are to contain, or be endorsed to contain, the following provisions:

**7.2.5.1 Additional Insured Status.** The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

**7.2.5.2 Primary Coverage.** For any claims related to this contract, Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

**7.2.5.3 Notice of Cancellation.** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

**7.2.5.4 Waiver of Subrogation.** Contractor hereby grants to City a waiver of any right to subrogation which the Workers' Compensation insurer of said Contractor may acquire against City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

**7.2.5.5 Claims Made Policies (applicable only to professional liability).** The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

**7.3 Self Insured Retentions.** Self-insured retentions must be declared to and approved by City. City may require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

**7.4 Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VI, unless otherwise acceptable to City.

City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

**7.5 Verification of Coverage.** Contractor shall furnish City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**7.6 Special Risks or Circumstances.** City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**7.7 Additional Insurance.** Contractor may obtain additional insurance not required by this Contract.

**7.8 Excess Insurance.** All policies providing excess coverage to City shall follow the form of the primary policy or policies including but not limited to all endorsements.

**7.9 Subcontractors.** Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as the CG 20 38 04 13 endorsement.

## **ARTICLE VIII BONDS**

**8.1 Payment and Performance Bond.** Prior to the execution of this Contract, City may require Contractor to post a payment and performance bond (Bond). The Bond shall guarantee Contractor's faithful performance of this Contract and assure payment to contractors, subcontractors, and to persons furnishing goods and/or services under this Contract.

**8.1.1 Bond Amount.** The Bond shall be in a sum equal to twenty-five percent (25%) of the Contract amount, unless otherwise stated in the Specifications. City may file a claim against the Bond if Contractor fails or refuses to fulfill the terms and provisions of the Contract.

**8.1.2 Bond Term.** The Bond shall remain in full force and effect at least until complete performance of this Contract and payment of all claims for materials and labor, at which time it will convert to a ten percent (10%) warranty bond, which shall remain in place until the end of the warranty periods set forth in this Contract. The Bond shall be renewed annually, at least sixty (60) days in advance of its expiration, and Contractor shall provide timely proof of annual renewal to City.

**8.1.3 Bond Surety.** The Bond must be furnished by a company authorized by the State of California Department of Insurance to transact surety business in the State of California and which has a current A.M. Best rating of at least "A-, VIII."

**8.1.4 Non-Renewal or Cancellation.** The Bond must provide that City and Contractor shall be provided with sixty (60) days' advance written notice in the event of non-renewal, cancellation, or material change to its terms. In the event of non-renewal, cancellation, or material change to the Bond terms, Contractor shall provide City with evidence of the new source of surety within twenty-one (21) calendar days after the date of the notice of non-renewal, cancellation, or material change. Failure to maintain the Bond, as required herein, in full force

and effect as required under this Contract, will be a material breach of the Contract subject to termination of the Contract.

**8.2 Alternate Security.** City may, at its sole discretion, accept alternate security in the form of an endorsed certificate of deposit, a money order, a certified check drawn on a solvent bank, or other security acceptable to the Purchasing Agent in an amount equal to the required Bond.

## **ARTICLE IX CITY-MANDATED CLAUSES AND REQUIREMENTS**

**9.1 Contractor Certification of Compliance.** By signing this Contract, Contractor certifies that Contractor is aware of, and will comply with, these City-mandated clauses throughout the duration of the Contract.

**9.1.1 Drug-Free Workplace Certification.** Contractor shall comply with City's Drug-Free Workplace requirements set forth in Council Policy 100-17, which is incorporated into the Contract by this reference.

**9.1.2 Contractor Certification for Americans with Disabilities Act (ADA) and State Access Laws and Regulations:** Contractor shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Contractor shall comply with the most restrictive requirement (i.e., that which provides the most access). Contractor also shall comply with the City's ADA Compliance/City Contractors requirements as set forth in Council Policy 100-04, which is incorporated into this Contract by reference. Contractor warrants and certifies compliance with all federal and state access laws and regulations and further certifies that any subcontract agreement for this contract contains language which indicates the subcontractor's agreement to abide by the provisions of the City's Council Policy and any applicable access laws and regulations.

### **9.1.3 Non-Discrimination Requirements.**

**9.1.3.1 Compliance with City's Equal Opportunity Contracting Program (EOCP).** Contractor shall comply with City's EOCP Requirements. Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Prime Contractors shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Prime Contractor liable for any discriminatory practice of its subcontractors.

**9.1.3.2 Non-Discrimination Ordinance.** Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result



in Contract termination, debarment, or other sanctions. Contractor shall ensure that this language is included in contracts between Contractor and any subcontractors, vendors and suppliers.

**9.1.3.3 Compliance Investigations.** Upon City's request, Contractor agrees to provide to City, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Contractor for each subcontract or supply contract. Contractor further agrees to fully cooperate in any investigation conducted by City pursuant to City's Nondiscrimination in Contracting Ordinance. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

**9.1.4 Equal Benefits Ordinance Certification.** Unless an exception applies, Contractor shall comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code (SDMC). Failure to maintain equal benefits is a material breach of the Contract.

**9.1.5 Contractor Standards.** Contractor shall comply with Contractor Standards provisions codified in the SDMC. Contractor understands and agrees that violation of Contractor Standards may be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

**9.1.6 Noise Abatement.** Contractor shall operate, conduct, or construct without violating the City's Noise Abatement Ordinance codified in the SDMC.

**9.1.7 Storm Water Pollution Prevention Program.** Contractor shall comply with the City's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the SDMC, as may be amended, and any and all applicable Best Management Practice guidelines and pollution elimination requirements in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of City regardless of location.

Contractor shall comply with the City's Jurisdictional Urban Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within City boundaries as adopted by the City Council on January 22, 2008, via Resolution No. 303351, as may be amended.

Contractor shall comply with each City facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

**9.1.8 Service Worker Retention Ordinance.** If applicable, Contractor shall comply with the Service Worker Retention Ordinance (SWRO) codified in the SDMC.

**9.1.9 Product Endorsement.** Contractor shall comply with Council Policy 000-41 which requires that other than listing the City as a client and other limited endorsements, any advertisements, social media, promotions or other marketing referring to the City as a user of a product or service will require prior written approval of the Mayor or designee. Use of the City Seal or City logos is prohibited.

**9.1.10 Business Tax Certificate.** Unless the City Treasurer determines in writing that a contractor is exempt from the payment of business tax, any contractor doing business with the City of San Diego is required to obtain a Business Tax Certificate (BTC) and to provide a copy of its BTC to the City before a Contract is executed.

**9.1.11 Equal Pay Ordinance.** Unless an exception applies, Contractor shall comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. Contractor shall certify in writing that it will comply with the requirements of the EPO.

**9.1.11.1 Contractor and Subcontract Requirement.** The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of a Contractor to the same extent as it would apply to that Contractor. Any Contractor subject to the Equal Pay Ordinance shall require all of its subcontractors to certify compliance with the Equal Pay Ordinance in its written subcontracts.

## **ARTICLE X CONFLICT OF INTEREST AND VIOLATIONS OF LAW**

**10.1 Conflict of Interest Laws.** Contractor is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices including, but not limited to, California Government Code sections 1090, *et. seq.* and 81000, *et. seq.*, and the Ethics Ordinance, codified in the SDMC. City may determine that Contractor must complete one or more statements of economic interest disclosing relevant financial interests. Upon City's request, Contractor shall submit the necessary documents to City.

**10.2 Contractor's Responsibility for Employees and Agents.** Contractor is required to establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business or other relationships.

**10.3 Contractor's Financial or Organizational Interests.** In connection with any task, Contractor shall not recommend or specify any product, supplier, or contractor with whom Contractor has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

**10.4 Certification of Non-Collusion.** Contractor certifies that: (1) Contractor's bid or proposal was not made in the interest of or on behalf of any person, firm, or corporation not identified; (2) Contractor did not directly or indirectly induce or solicit any other bidder or proposer to put in a sham bid or proposal; (3) Contractor did not directly or indirectly induce or

solicit any other person, firm or corporation to refrain from bidding; and (4) Contractor did not seek by collusion to secure any advantage over the other bidders or proposers.

**10.5 Hiring City Employees.** This Contract shall be unilaterally and immediately terminated by City if Contractor employs an individual who within the twelve (12) months immediately preceding such employment did in his/her capacity as a City officer or employee participate in negotiations with or otherwise have an influence on the selection of Contractor.

## **ARTICLE XI DISPUTE RESOLUTION**

**11.1 Mediation.** If a dispute arises out of or relates to this Contract and cannot be settled through normal contract negotiations, Contractor and City shall use mandatory non-binding mediation before having recourse in a court of law.

**11.2 Selection of Mediator.** A single mediator that is acceptable to both parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Contract, if possible.

**11.3 Expenses.** The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, 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 borne equally by the parties, unless they agree otherwise.

**11.4 Conduct of Mediation Sessions.** Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code sections 1115 through 1128) 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. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.

**11.5 Mediation Results.** Any agreements resulting from mediation shall be memorialized 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.

## **ARTICLE XII MANDATORY ASSISTANCE**

**12.1 Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the services provided to the City under a Contract, Contractor, its agents, officers, and employees agree to assist in resolving the dispute or litigation upon City's request. Contractor's assistance includes, but is not limited to, providing professional consultations,

attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

**12.2 Compensation for Mandatory Assistance.** City will compensate Contractor for fees incurred for providing Mandatory Assistance. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of Contractor, its agents, officers, and employees, Contractor shall reimburse City for all fees paid to Contractor, its agents, officers, and employees for Mandatory Assistance.

**12.3 Attorneys' Fees Related to Mandatory Assistance.** In providing City with dispute or litigation assistance, Contractor or its agents, officers, and employees may incur expenses and/or costs. Contractor agrees that any attorney fees it may incur as a result of assistance provided under Section 12.2 are not reimbursable.

### **ARTICLE XIII MISCELLANEOUS**

**13.1 Headings.** All headings are for convenience only and shall not affect the interpretation of this Contract.

**13.2 Non-Assignment.** Contractor may not assign the obligations under this Contract, whether by express assignment or by sale of the company, nor any monies due or to become due under this Contract, without City's prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Contract at the City's sole discretion. In no event shall any putative assignment create a contractual relationship between City and any putative assignee.

**13.3 Independent Contractors.** Contractor and any subcontractors employed by Contractor are independent contractors and not agents of City. Any provisions of this Contract that may appear to give City any right to direct Contractor concerning the details of performing or providing the goods and/or services, or to exercise any control over performance of the Contract, shall mean only that Contractor shall follow the direction of City concerning the end results of the performance.

**13.4 Subcontractors.** All persons assigned to perform any work related to this Contract, including any subcontractors, are deemed to be employees of Contractor, and Contractor shall be directly responsible for their work.

**13.5 Covenants and Conditions.** All provisions of this Contract expressed as either covenants or conditions on the part of City or Contractor shall be deemed to be both covenants and conditions.

**13.6 Compliance with Controlling Law.** Contractor shall comply with all applicable local, state, and federal laws, regulations, and policies. Contractor's act or omission in violation of applicable local, state, and federal laws, regulations, and policies is grounds for contract

termination. In addition to all other remedies or damages allowed by law, Contractor is liable to City for all damages, including costs for substitute performance, sustained as a result of the violation. In addition, Contractor may be subject to suspension, debarment, or both.

**13.7 Governing Law.** The Contract shall be deemed to be made under, construed in accordance with, and governed by the laws of the State of California without regard to the conflicts or choice of law provisions thereof.

**13.8 Venue.** The venue for any suit concerning solicitations or the Contract, the interpretation of application of any of its terms and conditions, or any related disputes shall be in the County of San Diego, State of California.

**13.9 Successors in Interest.** This Contract and all rights and obligations created by this Contract shall be in force and effect whether or not any parties to the Contract have been succeeded by another entity, and all rights and obligations created by this Contract shall be vested and binding on any party's successor in interest.

**13.10 No Waiver.** No failure of either City or Contractor to insist upon the strict performance by the other of any covenant, term or condition of this Contract, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Contract, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Contract, and each and every covenant, condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.

**13.11 Severability.** The unenforceability, invalidity, or illegality of any provision of this Contract shall not render any other provision of this Contract unenforceable, invalid, or illegal.

**13.12 Drafting Ambiguities.** The parties acknowledge that they have the right to be advised by legal counsel with respect to the negotiations, terms and conditions of this Contract, and the decision of whether to seek advice of legal counsel with respect to this Contract is the sole responsibility of each party. This Contract shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Contract.

**13.13 Amendments.** Neither this Contract nor any provision hereof may be changed, modified, amended or waived except by a written agreement executed by duly authorized representatives of City and Contractor. Any alleged oral amendments have no force or effect. The Purchasing Agent must sign all Contract amendments.

**13.14 Conflicts Between Terms.** If this Contract conflicts with an applicable local, state, or federal law, regulation, or court order, applicable local, state, or federal law, regulation, or court order shall control. Varying degrees of stringency among the main body of this Contract, the exhibits or attachments, and laws, regulations, or orders are not deemed conflicts, and the most stringent requirement shall control. Each party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Contract.

**13.15 Survival of Obligations.** All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Contract, as well as all continuing obligations indicated in this Contract, shall survive, completion and acceptance of performance and termination, expiration or completion of the Contract.

**13.16 Confidentiality of Services.** All services performed by Contractor, and any sub-contractor(s) if applicable, including but not limited to all drafts, data, information, correspondence, proposals, reports of any nature, estimates compiled or composed by Contractor, are for the sole use of City, its agents, and employees. Neither the documents nor their contents shall be released by Contractor or any subcontractor to any third party without the prior written consent of City. This provision does not apply to information that: (1) was publicly known, or otherwise known to Contractor, at the time it was disclosed to Contractor by City; (2) subsequently becomes publicly known through no act or omission of Contractor; or (3) otherwise becomes known to Contractor other than through disclosure by City.

**13.17 Insolvency.** If Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the Contract, written notification of the bankruptcy to the Purchasing Agent and the Contract Administrator responsible for administering the Contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of City contract numbers and contracting offices for all City contracts against which final payment has not been made. This obligation remains in effect until final payment is made under this Contract.

**13.18 No Third Party Beneficiaries.** Except as may be specifically set forth in this Contract, none of the provisions of this Contract are intended to benefit any third party not specifically referenced herein. No party other than City and Contractor shall have the right to enforce any of the provisions of this Contract.

**13.19 Actions of City in its Governmental Capacity.** Nothing in this Contract shall be interpreted as limiting the rights and obligations of City in its governmental or regulatory capacity.

## EXHIBIT D

### Confidentiality and Non-Disclosure Agreement

During the term of that certain [Agreement/Cooperative Procurement Contract] dated as of \_\_\_\_\_, 20\_\_, between the City of San Diego, a municipal corporation (City) and \_\_\_\_\_, a \_\_\_\_\_ [corporation/LLC] (Contractor) for the provision of \_\_\_\_\_ [describe services] (Contract), City and Contractor (hereinafter each referred to individually as a “Party” and collectively as the “Parties”) may be exposed to important business or technical information which is the property of the other Party. The unauthorized use or disclosure of this information could harm the business of the owner of the information. For this reason, and in consideration of the mutual covenants contained in this Confidentiality and Non-Disclosure Agreement (Agreement) and the mutual disclosure of confidential information to each other, the Parties agree as follows:

#### **1. Confidential Information.**

(a) Confidential Information is information disclosed by the Disclosing Party (Disclosing Party) to the Receiving Party (Receiving Party) which is non-public, proprietary or confidential in nature, whether provided in writing, orally, visually, electronically or by other means. Confidential Information includes, but is not limited to the following: (i) know-how, trade secrets, tools, methods, methodologies, techniques, designs, specifications, computer source code, customer lists, customer information, marketing plans, personnel information, financial information, business strategies, and information relating to released or unreleased software, hardware or technology; (ii) information received by the Disclosing Party from third parties under confidential conditions which information is identified by the Disclosing Party as being subject to such conditions, and (iii) the Disclosing Party’s Trade Secrets. Trade Secrets means information which: (a) derives economic value, actual or potential, from not being generally known to, or readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and which is the subject of efforts that are reasonable under the circumstances to maintain its secrecy, or (b) is otherwise a Trade Secret as defined by California law. Confidential Information disclosed to the Receiving Party by any Disclosing Party subsidiary, affiliate, or agent is covered by this Agreement.

(b) Confidential Information does not include any information that: (i) is or subsequently becomes publicly available without the Receiving Party or its Representative’s (as defined below) breach of any obligation owed the Disclosing Party; (ii) became known to the Receiving Party prior to the Disclosing Party’s disclosure of such information to the Receiving Party; (iii) became known to the Receiving Party from a source other than the Disclosing Party or its affiliates or advisors other than by the breach of an obligation of confidentiality owed to the Disclosing Party; or (iv) is independently developed by the Receiving Party or its Representatives without violating any of their obligations under this Agreement. Notwithstanding anything herein, the obligations of confidentiality imposed by this Agreement do not apply to any Confidential Information which is required to be disclosed pursuant to operation of law or legal process, governmental regulation or court order. Nothing in this Agreement shall prohibit City from disclosing information that qualifies as a “public record” (as that term is defined in the California Public Records Act, codified in California Government Code sections 6250 through 6270) and which is not otherwise exempt from release under the provisions of the California Public Records Act.

## **2. Obligations.**

(a) The Parties shall each keep in confidence, and shall cause their respective Representatives to keep in confidence, all Confidential Information disclosed to either of them by the other and shall use such Confidential Information only for the mutually agreed upon objectives of the discussions between the Parties.

(b) Receiving Party shall exercise reasonable care to prevent the disclosure of Confidential Information to any third party, and in any event not less than the same precautions used by the Receiving Party to protect its own Confidential Information. Dissemination of Confidential Information shall be limited to the directors, officers, employees and advisors (including legal, accounting and financial advisors) of the Receiving Party (collectively, the “Representatives”), whose duties justify their need to know such information and then only on the basis of a clear understanding by these Representatives of their obligation to maintain the confidential status of the information and to restrict the use of the information solely to the use granted under this Agreement. The Receiving Party shall be responsible for any breach of this Agreement by its Representatives.

(c) All Confidential Information, including all tangible embodiments, copies, reproductions and summaries thereof, and any other information and materials provided by the Disclosing Party to the Receiving Party, shall remain the sole and exclusive property of the Disclosing Party.

(d) Receiving Party shall immediately report to the Disclosing Party any attempt by the Receiving Party's Representatives to disclose any portion of the Confidential Information without authorization from the Disclosing Party, and shall cooperate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of the Confidential Information and prevent its further unauthorized use.

(e) At the Disclosing Party's request, to the extent legally permissible, the Receiving Party shall return all originals, copies, reproductions and summaries of Confidential Information in the possession of the Receiving Party or its Representatives.

## **3. Duration.**

This Agreement shall be effective as of the date that it is executed by the last Party to sign the Agreement, and approved by the City Attorney (Effective Date) and will survive for a period of three (3) years after the Effective Date. For Confidential Information that constitutes a Trade Secret, the restrictions set forth in this Agreement shall continue in effect for so long as such information remains a Trade Secret. This Agreement shall inure to the benefit of, and be binding upon, the Parties, their successors, and assigns.

## **4. Miscellaneous.**

(a) This Agreement shall be construed and controlled by laws of the State of California without reference to the provisions governing conflict of laws. Any action or suit brought by the Parties relating to this Agreement shall be brought and conducted solely and exclusively in the State and federal courts having jurisdiction in the County of San Diego. BY EXECUTION OF THIS AGREEMENT, EACH PARTY HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SUCH COURT, WAIVES ANY OBJECTION TO VENUE IN SUCH COURT, AND WAIVES



ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM.

(b) This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement. It shall not be modified except by a written agreement dated after the date of this Agreement and signed by both Parties. None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of Disclosing Party, its agents, or employees, but only by an instrument in writing signed by an authorized officer of Disclosing Party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

(c) Subject to the limitations set forth in this Agreement, this Agreement shall inure to the benefit of and be binding upon the Parties, their successors and assigns.

(d) This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

IN WITNESS WHEREOF, this Agreement is executed by the Parties acting by and through their authorized officers.

**CONTRACTOR**

**CITY**

\_\_\_\_\_

**City of San Diego**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form this \_\_ day of \_\_\_\_\_, 20\_\_.

MARA W. ELLIOTT, City Attorney

By: \_\_\_\_\_  
Deputy City Attorney

\_\_\_\_\_  
Print Name

**ATTACHMENT 1**

AMENDED AND RESTATED  
REGIONAL WASTEWATER DISPOSAL AGREEMENT

BETWEEN

THE CITY OF SAN DIEGO

AND

THE PARTICIPATING AGENCIES

IN

THE METROPOLITAN SEWERAGE SYSTEM

AMENDED AND RESTATED  
REGIONAL WASTEWATER DISPOSAL AGREEMENT

TABLE OF CONTENTS

	<u>Page</u>
I. DEFINITIONS.....	2
II. OWNERSHIP AND OPERATION OF THE METRO SYSTEM.....	6
III. PAYMENT AND MONITORING PROVISIONS .....	12
IV. CAPACITY RIGHTS .....	15
V. SYSTEM OF CHARGES .....	17
VI. PLANNING .....	21
VII. FACILITIES SOLELY FOR NEW CONTRACT CAPACITY .....	22
VIII. THE METRO COMMISSION .....	24
IX. DISPUTE RESOLUTION .....	25
X. INSURANCE AND INDEMNITY .....	26
XI. INTERRUPTION OF SERVICE.....	27
XII. NOTICES REQUIRED UNDER AGREEMENT .....	27
XIII. EFFECTIVE DATE AND TERMINATION .....	27
XIV. GENERAL.....	28

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 three (3) 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.

**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 Outfall<sup>1</sup>  
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

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<sup>1</sup> 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 B

### CONTRACT CAPACITIES

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%
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/ 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 <sup>1</sup>	New Contract Capacity <sup>2</sup>	Transferred Contract Capacity <sup>3</sup>	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%

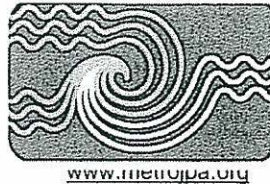
\* Indicates a sub-area of the San Diego County Sanitation District.

1. Additional Contract Capacity is capacity allocated pursuant to Section 4.3.1 of the Agreement.
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 B

**EXHIBIT C**

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



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

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# 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

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

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	166,159	167,811	169,499	171,194	172,906
6	Gross PA System Revenue	Sum(Line1:Line5)		\$54,007,596	\$63,231,038	\$57,249,960	\$52,241,049	\$63,881,500	\$62,350,187	\$62,739,106	\$63,089,661	\$63,387,252
7	Less:											
8	PA Estimated Total Operating Expenses	Prior year X 1.01	(3)	\$32,304,298	\$37,150,042	\$34,727,170	\$34,727,170	\$35,074,442	\$35,425,186	\$35,779,438	\$36,137,232	\$36,498,605
9												
10	Net PA System Revenue	Line 6 - Line 8		\$21,703,298	\$26,080,996	\$22,522,790	\$17,513,879	\$28,807,059	\$26,925,001	\$26,959,668	\$26,952,429	\$26,888,647
11												
12	PA Annual Debt Service Payment	Calculated Off-Line		\$20,373,393	\$19,850,051	\$20,441,069	\$24,049,969	\$24,043,880	\$22,479,039	\$22,478,266	\$22,478,075	\$22,478,730
13	CIP Pay Go -- 20% of Projected CIP	Input	(4)	(4,417,502)	(512,512)	-	1,318,048	5,610,210	7,369,218	5,860,940	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: (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

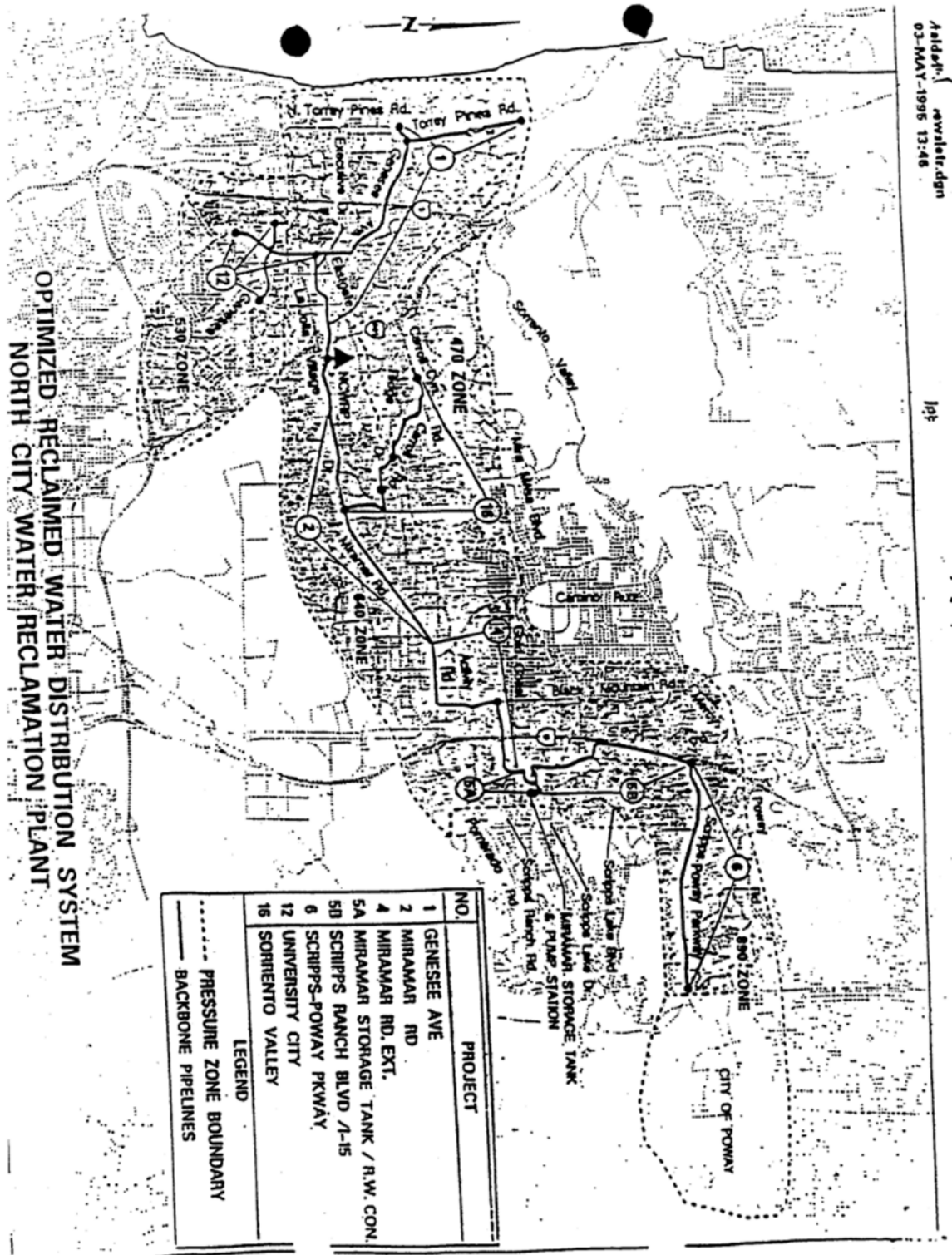
City Manager  
City of Poway  
13325 Civic Center Drive  
Poway, CA 92064  
Phone: (858) 679-4200  
Fax: (858) 679-4226

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 E

## RECLAIMED WATER DISTRIBUTION SYSTEM



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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 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. The estimate of \$1.8 billion is based on the net present value of the capital cost to develop 180 MGD of secondary treatment at Point Loma WTP as of November 15, 2018.

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
<b>Wastewater:</b>		
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	
<b>Total Wastewater</b>	<b>\$ 545,989,678.00</b>	<b>39%</b>
<b>Water:</b>		
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	
<b>Total Water</b>	<b>\$ 841,851,602.00</b>	<b>61%</b>
<b>Total Project</b>	<b>\$ 1,387,841,280.00</b>	
<b>Shared Projects Cost Allocations:</b>		
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	
<b>Planning and Environmental Cost Allocation Based on Capital Cost Split:</b>		
Wastewater		39%
Water		61%

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

**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)		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 Merged Percentage <sup>3</sup>
			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) <sup>1</sup>	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) <sup>1</sup>	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) <sup>2</sup>	6.231	0	6.231	3.944%	597.292	31059.332	3.439%	235.079	12224.151	3.740%	3.765%
Wintergardens (County) <sup>1</sup>	0.979	0.9	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%
<b>Total</b>	<b>172.053</b>	<b>14.048</b>	<b>158.005</b>	<b>100%</b>	<b>10722.190</b>	<b>903133.183</b>	<b>100%</b>	<b>4305.618</b>	<b>326835.778</b>	<b>100%</b>	<b>100%</b>

<sup>1</sup> Subareas of the San Diego County Sanitation District

<sup>2</sup> 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.

<sup>3</sup> These fractions used to calculate the melded 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 G**

City of San Diego  
Solicitation No. 10089761-21-V

# Proposal for Strength Based Billing Consultant Rebid

June 25, 2021





# Tab A:

## Submission of Information and Forms

# Tab A. Submission of Information and Forms

## **Contract Signature Page**

The required contract signature page, from addendum A, is presented in this section.

## **Exceptions to RFP/Contract**

We have reviewed your proposed RFP/contract terms and believe that should we be selected for this assignment, we will be able to conclude a mutually satisfactory contract with you.

## **Contractor Standards Pledge of Compliance Form**

The required Contract Standards Pledge of Compliance Form is included in this section.

## **Equal Opportunity Contracting Forms**

The required Equal Opportunity Contracting forms, including the Work Force Report and Contractors Certification of Pending Actions, are included in this section.

**City of San Diego**  
**CONTRACTOR STANDARDS**  
**Pledge of Compliance**

The City of San Diego has adopted a Contractor Standards Ordinance (CSO) codified in section 22.3004 of the San Diego Municipal Code (SDMC). The City of San Diego uses the criteria set forth in the CSO to determine whether a contractor (bidder or proposer) has the capacity to fully perform the contract requirements and the business integrity to justify the award of public funds. This completed Pledge of Compliance signed under penalty of perjury must be submitted with each bid and proposal. If an informal solicitation process is used, the bidder must submit this completed Pledge of Compliance to the City prior to execution of the contract. All responses must be typewritten or printed in ink. If an explanation is requested or additional space is required, Contractors must provide responses on Attachment A to the Pledge of Compliance and sign each page. Failure to submit a signed and completed Pledge of Compliance may render a bid or proposal non-responsive. In the case of an informal solicitation or cooperative procurement, the contract will not be awarded unless a signed and completed Pledge of Compliance is submitted. A submitted Pledge of Compliance is a public record and information contained within will be available for public review except to the extent that such information is exempt from disclosure pursuant to applicable law.

By signing and submitting this form, the contractor is certifying, to the best of their knowledge, that the contractor and any of its Principals have not within a five (5) year period – preceding this offer, been convicted of or had a civil judgement rendered against them for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) contract or subcontract.

“Principal” means an officer, director, owner, partner or a person having primary management or supervisory responsibilities within the firm. The Contractor shall provide immediate written notice to the Procurement Contracting Officer handling the solicitation, at any time prior to award should they learn that this Representations and Certifications was inaccurate or incomplete.

**This form contains 10 pages, additional information may be submitted as part of *Attachment A*.**

**A. BID/PROPOSAL/SOLICITATION TITLE:**

Solicitation No: 10089583-20-A

Request for Proposals (RFP) Consulting Services for Independent Review of Water & Wastewater Cost of Service Studies and Rate Design

**B. BIDDER/PROPOSER INFORMATION:**

Stantec Consulting Services Inc.

Legal Name	DBA
777 S. Harbour Island Blvd., Suite 600	Tampa FL 33602
Street Address	City State Zip
Andrew Burnham, Vice President	(813) 223-9500 (813) 223-0009
Contact Person, Title	Phone Fax

Provide the name, identity, and precise nature of the interest\* of all persons who are directly or indirectly involved\*\* in this proposed transaction (SDMC § 21.0103). Use additional pages if necessary.

\* The precise nature of the interest includes:

- the percentage ownership interest in a party to the transaction,
- the percentage ownership interest in any firm, corporation, or partnership that will receive funds from the transaction,
- the value of any financial interest in the transaction,
- any contingent interest in the transaction and the value of such interest should the contingency be satisfied, and
- any philanthropic, scientific, artistic, or property interest in the transaction.

\*\* Directly or indirectly involved means pursuing the transaction by:

- communicating or negotiating with City officers or employees,
- submitting or preparing applications, bids, proposals or other documents for purposes of contracting with the City, or
- directing or supervising the actions of persons engaged in the above activity.

N/A

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	
Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	
Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	
Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	
Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	
Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	
Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	
Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

**C. OWNERSHIP AND NAME CHANGES:**

1. In the past five ten (5) years, has your firm changed its name?  
 Yes       No

If **Yes**, use Attachment A to list all prior legal and DBA names, addresses, and dates each firm name was used. Explain the specific reasons for each name change.

2. Is your firm a non-profit?  
 Yes       No

If **Yes**, attach proof of status to this submission.

3. In the past five (5) years, has a firm owner, partner, or officer operated a similar business?  
 Yes       No

If **Yes**, use Attachment A to list names and addresses of all businesses and the person who operated the business. Include information about a similar business only if an owner, partner, or officer of your firm holds or has held a similar position in another firm.

**D. BUSINESS ORGANIZATION/STRUCTURE:**

Indicate the organizational structure of your firm. Fill in only one section on this page. Use Attachment A if more space is required.

**Corporation** Date incorporated: 08/27/1929 State of incorporation: New York

List corporation's current officers: President: See Attachment A for full listing of current officers  
Vice Pres: \_\_\_\_\_  
Secretary: \_\_\_\_\_  
Treasurer: \_\_\_\_\_

Type of corporation: C  Subchapter S

Is the corporation authorized to do business in California:  **Yes**       **No**

If **Yes**, after what date: 11/18/2009

Is your firm a publicly traded corporation?  Yes  No

If **Yes**, how and where is the stock traded? \_\_\_\_\_

If **Yes**, list the name, title and address of those who own ten percent (10 %) or more of the corporation's stocks:

Stantec Consulting Services Inc. is a subsidiary of Stantec, Inc., a publicly traded company which trades on the NYSE and TSX under the ticker symbol "STN".

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do the President, Vice President, Secretary and/or Treasurer of your corporation have a third party interest or other financial interests in a business/enterprise that performs similar work, services or provides similar goods?  Yes  No

If **Yes**, please use Attachment A to disclose.

Please list the following:	Authorized	Issued	Outstanding
a. Number of voting shares:	_____	_____	_____
b. Number of nonvoting shares:	_____	_____	_____
c. Number of shareholders:			_____
d. Value per share of common stock:		Par	\$ _____
		Book	\$ _____
		Market	\$ _____

**Limited Liability Company** Date formed: \_\_\_\_\_ State of formation: \_\_\_\_\_

List the name, title and address of members who own ten percent (10%) or more of the company:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Partnership** Date formed: \_\_\_\_\_ State of formation: \_\_\_\_\_

List names of all firm partners:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Sole Proprietorship** Date started: \_\_\_\_\_

List all firms you have been an owner, partner or officer with during the past five (5) years. Do not include ownership of stock in a publicly traded company:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Joint Venture** Date formed: \_\_\_\_\_

List each firm in the joint venture and its percentage of ownership:

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**Note:** To be responsive, each member of a Joint Venture or Partnership must complete a separate *Contractor Standards form*.

**E. FINANCIAL RESOURCES AND RESPONSIBILITY:**

1. Is your firm preparing to be sold, in the process of being sold, or in negotiations to be sold?

Yes  No

If **Yes**, use Attachment A to explain the circumstances, including the buyer's name and principal contact information.

2. In the past five (5) years, has your firm been denied bonding?

Yes  No

If **Yes**, use Attachment A to explain specific circumstances; include bonding company name.

3. In the past five (5) years, has a bonding company made any payments to satisfy claims made against a bond issued on your firm's behalf or a firm where you were the principal?

Yes  No

If **Yes**, use Attachment A to explain specific circumstances.

4. In the past five (5) years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

Yes  No

If **Yes**, use Attachment A to explain specific circumstances.

5. Within the last five years, has your firm filed a voluntary petition in bankruptcy, been adjudicated bankrupt, or made a general assignment for the benefit of creditors?

Yes  No

If **Yes**, use Attachment A to explain specific circumstances.

6. Are there any claims, liens or judgements that are outstanding against your firm?

Yes  No

If **Yes**, please use Attachment A to provide detailed information on the action.

7. Please provide the name of your principal financial institution for financial reference. By submitting a response to this Solicitation Contractor authorizes a release of credit information for verification of financial responsibility.

Name of Bank: Bank of America

Point of Contact: Frank Ayala

Address: 200 Clayton Road, Building D, Concord, CA 94520-2425

Phone Number: (888) 715-1000

8. By submitting a response to a City solicitation, Contractor certifies that he or she has sufficient operating capital and/or financial reserves to properly fund the requirements identified in the solicitation. At City's request, Contractor will promptly provide to City

a copy of Contractor's most recent balance sheet and/or other necessary financial statements to substantiate financial ability to perform.

9. In order to do business in the City of San Diego, a current Business Tax Certificate is required. Business Tax Certificates are issued by the City Treasurer's Office. If you do not have one at the time of submission, one must be obtained prior to award.

Business Tax Certificate No.: B2015037034 Year Issued: 2021

**F. PERFORMANCE HISTORY:**

1. In the past five (5) years, has your firm been found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for defaulting or breaching a contract with a government agency?

Yes  No

If **Yes**, use Attachment A to explain specific circumstances.

2. In the past five (5) years, has a public entity terminated your firm's contract for cause prior to contract completion?

Yes  No

If **Yes**, use Attachment A to explain specific circumstances and provide principal contact information.

3. In the past five (5) years, has your firm entered into any settlement agreement for any lawsuit that alleged contract default, breach of contract, or fraud with or against a public entity?

Yes  No

If **Yes**, use Attachment A to explain specific circumstances.

4. Is your firm currently involved in any lawsuit with a government agency in which it is alleged that your firm has defaulted on a contract, breached a contract, or committed fraud?

Yes  No

If **Yes**, use Attachment A to explain specific circumstances.

5. In the past five (5) years, has your firm, or any firm with which any of your firm's owners, partners, or officers is or was associated, been debarred, disqualified, removed, or otherwise prevented from bidding on or completing any government or public agency contract for any reason?

Yes  No

If **Yes**, use *Attachment A* to explain specific circumstances.

6. In the past five (5) years, has your firm received a notice to cure or a notice of default on a contract with any public agency?

Yes  No

If **Yes**, use Attachment A to explain specific circumstances and how the matter resolved.

7. Performance References:

Please provide a minimum of three (3) references familiar with work performed by your firm which was of a similar size and nature to the subject solicitation within the last five (5) years.

Please note that any references required as part of your bid/proposal submittal are in addition to those references required as part of this form.

Company Name: Northeast Ohio Regional Sewer District, Ohio



Contact Name and Phone Number: Mr. Ken Duplay, Director of Finance | 216.227.2018  
Contact Email: duplayk@neorsd.org  
Address: 3900 Euclid Avenue, Cleveland, OH 44115  
Contract Date: 2015 - Present  
Contract Amount: \$590,580 (multi-year contract)  
Requirements of Contract: Cost of Service Rate Study, Affordability Analysis and Other Financial Services

Company Name: South Platte Water Renewal Partners  
Contact Name and Phone Number: Pieter Van Ry, Director | 303.762.2602  
Contact Email: pvanry@englewoodco.gov  
Address: 2900 S. Platte River Drive, Englewood, CO 80110  
Contract Date: 2019 - 2020  
Contract Amount: \$108,990  
Requirements of Contract: Cost of Service, Treatment Rate and Fee Development Study

Company Name: Harpeth Valley Utility District, Tennessee  
Contact Name and Phone Number: Ms. Beth Finney, Chief Fiscal Officer | 615.354.8581  
Contact Email: bfinney@hvud.com  
Address: 5838 River Road, Nashville, TN 37209  
Contract Date: 2015 - Present  
Contract Amount: Continuing Services of approximately \$60,000 per year.  
Requirements of Contract: Water and Sewer Rate, Cost of Service and Financial Planning Services

**G. COMPLIANCE:**

1. In the past five (5) years, has your firm or any firm owner, partner, officer, executive, or manager been criminally penalized or found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for violating any federal, state, or local law in performance of a contract, including but not limited to, laws regarding health and safety, labor and employment, permitting, and licensing laws?  
 Yes       No

If **Yes**, use Attachment A to explain specific circumstances surrounding each instance. Include the name of the entity involved, the specific infraction(s) or violation(s), dates of instances, and outcome with current status.

2. In the past five (5) years, has your firm been determined to be non-responsible by a public entity?  
 Yes       No

If **Yes**, use Attachment A to explain specific circumstances of each instance. Include the name of the entity involved, the specific infraction, dates, and outcome.

**H. BUSINESS INTEGRITY:**

1. In the past five (5) years, has your firm been convicted of or found liable in a civil suit for making a false claim or material misrepresentation to a private or public entity?

Yes No

If **Yes**, use Attachment A to explain specific circumstances of each instance. Include the entity involved, specific violation(s), dates, outcome and current status.

2. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a crime, including misdemeanors, or been found liable in a civil suit involving the bidding, awarding, or performance of a government contract?

Yes No

If **Yes**, use Attachment A to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

3. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a federal, state, or local crime of fraud, theft, or any other act of dishonesty?

Yes No

If **Yes**, use Attachment A to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

4. Do any of the Principals of your firm have relatives that are either currently employed by the City or were employed by the City in the past five (5) years?

Yes No

If **Yes**, please disclose the names of those relatives in Attachment A.

**I. BUSINESS REPRESENTATION:**

1. Are you a local business with a physical address within the County of San Diego?

Yes No

2. Are you a certified Small and Local Business Enterprise certified by the City of San Diego?

Yes No

Certification # \_\_\_\_\_

3. Are you certified as any of the following:

- a. Disabled Veteran Business Enterprise Certification # \_\_\_\_\_
- b. Woman or Minority Owned Business Enterprise Certification # \_\_\_\_\_
- c. Disadvantaged Business Enterprise Certification # \_\_\_\_\_

**J. WAGE COMPLIANCE:**

In the past five (5) years, has your firm been required to pay back wages or penalties for failure to comply with the federal, state or local **prevailing, minimum, or living wage laws**? Yes No If **Yes**, use Attachment A to explain the specific circumstances of each instance. Include the entity involved, the specific infraction(s), dates, outcome, and current status.

By signing this Pledge of Compliance, your firm is certifying to the City that you will comply with the requirements of the Equal Pay Ordinance set forth in SDMC sections 22.4801 through 22.4809.

**K. STATEMENT OF SUBCONTRACTORS & SUPPLIERS:**

Please provide the names and information for all subcontractors and suppliers used in the performance of the proposed contract, and what portion of work will be assigned to each subcontractor. Subcontractors may not be substituted without the written consent of the City. Use Attachment A if additional pages are necessary. If no subcontractors or suppliers will be used, please write "Not Applicable."

Company Name: Not Applicable

Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Contractor License No.: \_\_\_\_\_ DIR Registration No.: \_\_\_\_\_

Sub-Contract Dollar Amount: \$\_\_\_\_\_ (per year) \$\_\_\_\_\_ (total contract term)

Scope of work subcontractor will perform: \_\_\_\_\_

Identify whether company is a subcontractor or supplier: \_\_\_\_\_

Certification type (check all that apply): DBE DVBE ELBE MBE SLBE WBE Not Certified

Contractor must provide valid proof of certification with the response to the bid or proposal to receive participation credit.

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Contractor License No.: \_\_\_\_\_ DIR Registration No.: \_\_\_\_\_

Sub-Contract Dollar Amount: \$\_\_\_\_\_ (per year) \$\_\_\_\_\_ (total contract term)

Scope of work subcontractor will perform: \_\_\_\_\_

Identify whether company is a subcontractor or supplier: \_\_\_\_\_

Certification type (check all that apply): DBE DVBE ELBE MBE SLBE WBE Not Certified

Contractor must provide valid proof of certification with the response to the bid or proposal to receive participation credit.

**L. STATEMENT OF AVAILABLE EQUIPMENT:**

A full inventoried list of all necessary equipment to complete the work specified may be a requirement of the bid/proposal submission.

\*Not applicable to this contract

By signing and submitting this form, the Contractor certifies that all required equipment included in this bid or proposal will be made available one week (7 days) before work shall commence. In instances where the required equipment is not owned by the Contractor, Contractor shall explain how the equipment will be made available before the commencement of work. The City of San

Diego reserves the right to reject any response, in its opinion, if the Contractor has not demonstrated he or she will be properly equipped to perform the work in an efficient, effective matter for the duration of the contract period.

**M. TYPE OF SUBMISSION:** This document is submitted as:

- Initial submission of *Contractor Standards Pledge of Compliance*
- Initial submission of *Contractor Standards Pledge of Compliance* as part of a Cooperative agreement
- Initial submission of *Contractor Standards Pledge of Compliance* as part of a Sole Source agreement
- Update of prior *Contractor Standards Pledge of Compliance* dated 06/14/2021.

**Complete all questions and sign below.**

Under penalty of perjury under the laws of the State of California, I certify that I have read and understand the questions contained in this Pledge of Compliance, that I am responsible for completeness and accuracy of the responses contained herein, and that all information provided is true, full and complete to the best of my knowledge and belief. I agree to provide written notice to the Purchasing Agent within five (5) business days if, at any time, I learn that any portion of this Pledge of Compliance is inaccurate. Failure to timely provide the Purchasing Agent with written notice is grounds for Contract termination.

I, on behalf of the firm, further certify that I and my firm will comply with the following provisions of SDMC section 22.3004:

(a) I and my firm will comply with all applicable local, State and Federal laws, including health and safety, labor and employment, and licensing laws that affect the employees, worksite or performance of the contract.

(b) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of receiving notice that a government agency has begun an investigation of me or my firm that may result in a finding that I or my firm is or was not in compliance with laws stated in paragraph (a).

(c) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of a finding by a government agency or court of competent jurisdiction of a violation by the Contractor of laws stated in paragraph (a).

(d) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of becoming aware of an investigation or finding by a government agency or court of competent jurisdiction of a violation by a subcontractor of laws stated in paragraph (a).

(e) I and my firm will cooperate fully with the City during any investigation and to respond to a request for information within ten (10) working days.

**Failure to sign and submit this form with the bid/proposal shall make the bid/proposal non-responsive. In the case of an informal solicitation, the contract will not be awarded unless a signed and completed *Pledge of Compliance* is submitted.**

Andrew Burnham, Vice President



June 14, 2021

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**City of San Diego  
CONTRACTOR STANDARDS  
Attachment "A"**

Provide additional information in space below. Use additional Attachment "A" pages as needed. Each page must be signed.  
Print in ink or type responses and indicate question being answered.

President Gordon A. Johnston	Senior Vice President Philip R. Perciavalle
Chief Operating Officer – North America & Executive Vice President Stuart E. Lerner	Senior Vice President Marilynn F. Robinson
Chief Operating Officer – Global & Executive Vice President Catherine Schefer	Senior Vice President Chander K. Sehgal
Chief Business Officer & Executive Vice President Valentino DiManno	Senior Vice President Robert A. Simm
Chief Human Resources Officer & Executive Vice President Asifa Samji	Senior Vice President David Smith
Chief Innovation Officer & Executive Vice President Marshall W. Davert Jr.	Senior Vice President Joseph Russell (Russell) Snow
Chief Practice and Project Officer & Executive Vice President Steve Fleck	Senior Vice President Donald J. Spiegel
Executive Vice President Leonard Castro	Senior Vice President Scott Storlid
Executive Vice President Mario Finis	Senior Vice President Glenn S. Tarbox
Executive Vice President Michael A. Kennedy	Senior Vice President Matthew D. Travers
Executive Vice President Bjorn Morisbak	Senior Vice President Jonathan R. Treen
Executive Vice President Robert Seager	Senior Vice President Arthur Umble
Executive Vice President John Take	Senior Vice President Mike Watson
Executive Vice President Susan Walter	Senior Vice President Christopher Williams
Senior Vice President & CEO - Engineering Brian Larson	Senior Vice President Andrew C. Wilson
Senior Vice President & CIO Chris McDonald	Vice President Frank Aceto
Senior Vice President Paul J.D. Alpern	Vice President Becky Hachenburg
Senior Vice President Richard Andrachek	Vice President Michael Reagan
Senior Vice President Donal J. Bassett	Vice President Alfonso Rodriguez
Senior Vice President David R. Bernier	Vice President Jeffrey P. Stone
Senior Vice President Clayton A. Bock	Senior Principal Scott Buttari
Senior Vice President Patrick G. Corser	Senior Principal Andrew W. Burnett*
Senior Vice President Paul J. DeKeyser	Principal Robert R. Cunningham
Senior Vice President Joseph Geller	Principal Steve Shadix
Senior Vice President Anton Germishuizen	Senior Associate Linda Brown
Senior Vice President Harris J. (Josh) Gould	Senior Associate Jason Schneider
Senior Vice President James Grasty	Senior Associate Kelly VanElders
Senior Vice President John J. Hanula	Associate & CEO – Surveying Jerome Means
Senior Vice President David Haywood	Right of Way Officer Geraldine V. Webb
Senior Vice President David Irvine	Corporate Counsel David Archer
Senior Vice President Jon Lessard	Corporate Counsel Eli Bilek
Senior Vice President John S. Montgomery	Corporate Counsel Donald Blackwell
Senior Vice President Robert Mullins	Corporate Counsel William A. Butler
Senior Vice President Michael Newbery	Corporate Counsel Thomas Curran
Senior Vice President Brian P. Norris	Corporate Counsel William J. Edwards
Senior Vice President James (Jim) R. Obermeyer	Corporate Counsel Cate Hite
Senior Vice President Dean Palumbo	Corporate Counsel Katharine LaFrance
	Corporate Counsel Christy J. Leonard
	Corporate Counsel Amy Oygen
	Corporate Counsel Robert J. Ray
	Corporate Counsel Charles B. (Chad) Rogers II
	Corporate Counsel Corey Sanchez
	Corporate Counsel Matthew Storey
	Secretary Christopher O. Heisler
	Assistant Secretary Jeffrey P. Stone
	Treasurer Theresa Jang

I have read the matters and statements made in this Contractor Standards Pledge of Compliance and attachments thereto and I know the same to be true of my own knowledge, except as to those matters stated upon information or belief and as to such matters, I believe the same to be true. I certify under penalty of perjury that the foregoing is true and correct.

Andrew Burnham, Vice President



June 14, 2021

Print Name, Title

Signature

Date

**EQUAL OPPORTUNITY CONTRACTING (EOC)**

1200 Third Avenue, Suite 200 • San Diego, CA 92101  
Phone: (619) 236-6000 • Fax: (619) 236-5904

**WORK FORCE REPORT**

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

**NO OTHER FORMS WILL BE ACCEPTED  
CONTRACTOR IDENTIFICATION**

Type of Contractor:  Construction  Vendor/Supplier  Financial Institution  Lessee/Lessor  
 Consultant  Grant Recipient  Insurance Company  Other

Name of Company: Stantec Consulting Services Inc.

ADA/DBA: Stantec Consulting Services Inc.

Address (Corporate Headquarters, where applicable): 10220-103 Avenue NW , Suite 400

City: Edmonton County: Alberta State: Canada Zip: T5J 0K4

Telephone Number: (780) 917-7000 Fax Number: n/a

Name of Company CEO: Gord Johnston

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 3301 C Street, Suite 1900

City: Sacramento County: Sacramento State: CA Zip: 95816

Telephone Number: (916) 924-8844 Fax Number: (916) 924-9102 Email: benjamin.a.stewart@stantec.com

Type of Business: Corporation Type of License: Business

The Company has appointed: Mia Talavera

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 400-10220 103 Ave NW, Edmonton, Alberta, Canada T5J 0K4

Telephone Number: (780) 917-6951 Fax Number: n/a Email: mia.talavera@stantec.com

- One San Diego County (or Most Local County) Work Force - Mandatory  
 Branch Work Force \*  
 Managing Office Work Force

*Check the box above that applies to this WFR.*

*\*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of Stantec Consulting Services Inc.

(Firm Name)

Hillsborough, Florida hereby certify that information provided  
(County) (State)

herein is true and correct. This document was executed on this 2nd day of June, 2021

  
(Authorized Signature)

Andrew Burnham  
(Print Authorized Signature Name)

**WORK FORCE REPORT – Page 2**

NAME OF FIRM: Stantec Consulting Services Inc. DATE: 06/02/2021

OFFICE(S) or BRANCH(ES): Sacramento, CA COUNTY: Sacramento

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black or African-American
- (2) Hispanic or Latino
- (3) Asian
- (4) American Indian or Alaska Native
- (5) Native Hawaiian or Pacific Islander
- (6) White
- (7) Other race/ethnicity; not falling into other groups

Definitions of the race and ethnicity categories can be found on Page 4

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black or African American		(2) Hispanic or Latino		(3) Asian		(4) American Indian/ Nat. Alaskan		(5) Pacific Islander		(6) White		(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial											3	1		
Professional	1	1	1	1	1						7	10	2	
A&E, Science, Computer	1	1	6		5	3					23	10	1	
Technical		1									1	2		
Sales														
Administrative Support				2						2	2	2		
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

\*Construction laborers and other field employees are not to be included on this page

Totals Each Column	2	3	7	3	6	3	0	0	0	2	36	25	3	0
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**Grand Total All Employees**

**90**

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
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Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														



**WORK FORCE REPORT – Page 3**

NAME OF FIRM: Stantec Consulting Services Inc.

DATE: 06/02/2021

OFFICE(S) or BRANCH(ES): Sacramento, CA

COUNTY: Sacramento

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (3) Asian
- (4) American Indian or Alaska Native
- (5) Native Hawaiian or Pacific Islander
- (6) White
- (7) Other race/ethnicity; not falling into other groups

Definitions of the race and ethnicity categories can be found on Page 4

TRADE OCCUPATIONAL CATEGORY	(1) Black or African American		(2) Hispanic or Latino		(3) Asian		(4) American Indian/ Nat. Alaskan		(5) Pacific Islander		(6) White		(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
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**Grand Total All Employees** 0

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
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**EQUAL OPPORTUNITY CONTRACTING (EOC)**

1200 Third Avenue, Suite 200 • San Diego, CA 92101  
Phone: (619) 236-6000 • Fax: (619) 236-5904

**WORK FORCE REPORT**

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

**NO OTHER FORMS WILL BE ACCEPTED  
CONTRACTOR IDENTIFICATION**

Type of Contractor:  Construction  Vendor/Supplier  Financial Institution  Lessee/Lessor  
 Consultant  Grant Recipient  Insurance Company  Other

Name of Company: Stantec Consulting Services Inc.

ADA/DBA: Stantec Consulting Services Inc.

Address (Corporate Headquarters, where applicable): 10220-103 Avenue NW , Suite 400

City: Edmonton County: Alberta State: Canada Zip: T5J 0K4

Telephone Number: (780) 917-7000 Fax Number: n/a

Name of Company CEO: Gord Johnston

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 777 South Harbour Island Blvd., Suite 600

City: Tampa County: Hillsborough State: Florida Zip: 33602

Telephone Number: (813) 223-9500 Fax Number: (813) 223-0009 Email: andrew.burnham@stantec.com

Type of Business: Corporation Type of License: Business

The Company has appointed: Mia Talavera

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 400-10220 103 Ave NW, Edmonton, Alberta, Canada T5J 0K4

Telephone Number: (780) 917-6951 Fax Number: n/a Email: mia.talavera@stantec.com

- One San Diego County (or Most Local County) Work Force – Mandatory  
 Branch Work Force \*  
 Managing Office Work Force

*Check the box above that applies to this WFR.*

*\*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of Stantec Consulting Services Inc.

(Firm Name)

Hillsborough, Florida hereby certify that information provided  
(County) (State)

herein is true and correct. This document was executed on this 2nd day of June, 2021

  
(Authorized Signature)

Andrew Burnham  
(Print Authorized Signature Name)

**WORK FORCE REPORT – Page 2**

NAME OF FIRM: Stantec Consulting Services Inc. DATE: 06/02/2021

OFFICE(S) or BRANCH(ES): Tampa, FL COUNTY: Hillsborough

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black or African-American
- (2) Hispanic or Latino
- (3) Asian
- (4) American Indian or Alaska Native
- (5) Native Hawaiian or Pacific Islander
- (6) White
- (7) Other race/ethnicity; not falling into other groups

Definitions of the race and ethnicity categories can be found on Page 4

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black or African American		(2) Hispanic or Latino		(3) Asian		(4) American Indian/ Nat. Alaskan		(5) Pacific Islander		(6) White		(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial			1									4		
Professional	1		5	2	2						29	11	1	1
A&E, Science, Computer	1		4	1	1	1					22	6		
Technical	1		1			1					17	1	1	
Sales														
Administrative Support				1					1			4		
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

\*Construction laborers and other field employees are not to be included on this page

Totals Each Column	3		11	4	3	2		1			68	26	2	1
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**Grand Total All Employees**

**121**

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
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Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

**WORK FORCE REPORT – Page 3**

NAME OF FIRM: Stantec Consulting Services Inc.

DATE: 06/02/2021

OFFICE(S) or BRANCH(ES): Tampa, FL

COUNTY: Hillsborough

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (3) Asian
- (4) American Indian or Alaska Native
- (5) Native Hawaiian or Pacific Islander
- (6) White
- (7) Other race/ethnicity; not falling into other groups

Definitions of the race and ethnicity categories can be found on Page 4

TRADE OCCUPATIONAL CATEGORY	(1) Black or African American		(2) Hispanic or Latino		(3) Asian		(4) American Indian/ Nat. Alaskan		(5) Pacific Islander		(6) White		(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

**Grand Total All Employees** 0

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

**EQUAL OPPORTUNITY CONTRACTING (EOC)**

1200 Third Avenue, Suite 200 • San Diego, CA 92101  
Phone: (619) 236-6000 • Fax: (619) 236-5904

**WORK FORCE REPORT**

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

**NO OTHER FORMS WILL BE ACCEPTED  
CONTRACTOR IDENTIFICATION**

Type of Contractor:  Construction  Vendor/Supplier  Financial Institution  Lessee/Lessor  
 Consultant  Grant Recipient  Insurance Company  Other

Name of Company: Stantec Consulting Services Inc.

ADA/DBA: Stantec Consulting Services Inc.

Address (Corporate Headquarters, where applicable): 10220-103 Avenue NW , Suite 400

City: Edmonton County: Alberta State: Canada Zip: T5J 0K4

Telephone Number: (780) 917-7000 Fax Number: n/a

Name of Company CEO: Gord Johnston

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 1340 Treat Boulevard, Suite 300

City: Walnut Creek County: Contra Costa State: CA Zip: 94597

Telephone Number: (925) 941-1400 Fax Number: n/a Email: matthew.freiberg@stantec.com

Type of Business: Corporation Type of License: Business

The Company has appointed: Mia Talavera

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 400-10220 103 Ave NW, Edmonton, Alberta, Canada T5J 0K4

Telephone Number: (780) 917-6951 Fax Number: n/a Email: mia.talavera@stantec.com

- One San Diego County (or Most Local County) Work Force - Mandatory  
 Branch Work Force \*  
 Managing Office Work Force

*Check the box above that applies to this WFR.*

*\*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of Stantec Consulting Services Inc.

(Firm Name)

Hillsborough, Florida hereby certify that information provided  
(County) (State)

herein is true and correct. This document was executed on this 2nd day of June, 2021

  
(Authorized Signature)

Andrew Burnham  
(Print Authorized Signature Name)

**WORK FORCE REPORT – Page 2**

NAME OF FIRM: Stantec Consulting Services Inc. DATE: 06/02/2021

OFFICE(S) or BRANCH(ES): Walnut Creek, CA COUNTY: Contra Costa

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black or African-American
- (2) Hispanic or Latino
- (3) Asian
- (4) American Indian or Alaska Native
- (5) Native Hawaiian or Pacific Islander
- (6) White
- (7) Other race/ethnicity; not falling into other groups

Definitions of the race and ethnicity categories can be found on Page 4

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black or African American		(2) Hispanic or Latino		(3) Asian		(4) American Indian/ Nat. Alaskan		(5) Pacific Islander		(6) White		(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial					1						3			
Professional			2	2	3	4					15	14	1	1
A&E, Science, Computer		1	2	1	10	8					32	18	1	
Technical					1	1					4	2		
Sales														
Administrative Support		2		1		1						2		
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

\*Construction laborers and other field employees are not to be included on this page

Totals Each Column		3	4	4	15	14					54	36	2	1
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**Grand Total All Employees**

**133**

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
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Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

**WORK FORCE REPORT – Page 3**

NAME OF FIRM: Stantec Consulting Services Inc.

DATE: 06/02/2021

OFFICE(S) or BRANCH(ES): Walnut Creek, CA

COUNTY: Contra Costa

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (6) White
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TRADE OCCUPATIONAL CATEGORY	(1) Black or African American		(2) Hispanic or Latino		(3) Asian		(4) American Indian/ Nat. Alaskan		(5) Pacific Islander		(6) White		(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

**Grand Total All Employees** 0

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

**EQUAL OPPORTUNITY CONTRACTING (EOC)**

1200 Third Avenue, Suite 200 • San Diego, CA 92101  
Phone: (619) 236-6000 • Fax: (619) 236-5904

**WORK FORCE REPORT**

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**NO OTHER FORMS WILL BE ACCEPTED  
CONTRACTOR IDENTIFICATION**

Type of Contractor:  Construction  Vendor/Supplier  Financial Institution  Lessee/Lessor  
 Consultant  Grant Recipient  Insurance Company  Other

Name of Company: Stantec Consulting Services Inc.

ADA/DBA: Stantec Consulting Services Inc.

Address (Corporate Headquarters, where applicable): 10220-103 Avenue NW , Suite 400

City: Edmonton County: Alberta State: Canada Zip: T5J 0K4

Telephone Number: (780) 917-7000 Fax Number: n/a

Name of Company CEO: Gord Johnston

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above): Address: 229 Peachtree Street NE Suite 1900

City: Atlanta County: Fulton State: GA Zip: 30303

Telephone Number: (404) 348-2128 Fax Number: n/a Email: isalah.barnes@stantec.com

Type of Business: Corporation Type of License: Business

The Company has appointed: Mia Talavera

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 400-10220 103 Ave NW, Edmonton, Alberta, Canada T5J 0K4

Telephone Number: (780) 917-6951 Fax Number: n/a Email: mia.talavera@stantec.com

- One San Diego County (or Most Local County) Work Force - Mandatory  
 Branch Work Force \*  
 Managing Office Work Force

*Check the box above that applies to this WFR.*

*\*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of Stantec Consulting Services Inc.

(Firm Name)

Hillsborough, Florida hereby certify that information provided  
(County) (State)

herein is true and correct. This document was executed on this 2nd day of June, 2021

  
(Authorized Signature)

Andrew Burnham  
(Print Authorized Signature Name)



**WORK FORCE REPORT – Page 2**

NAME OF FIRM: Stantec Consulting Services Inc. DATE: 06/02/2021

OFFICE(S) or BRANCH(ES): Atlanta, GA COUNTY: Fulton

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (2) Hispanic or Latino
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- (5) Native Hawaiian or Pacific Islander
- (6) White
- (7) Other race/ethnicity; not falling into other groups

Definitions of the race and ethnicity categories can be found on Page 4

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black or African American		(2) Hispanic or Latino		(3) Asian		(4) American Indian/ Nat. Alaskan		(5) Pacific Islander		(6) White		(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial											4	1		
Professional	3	7		2	1	2					7	4		
A&E, Science, Computer	2		2	1	1	1					15	3	1	
Technical	1		1									3		
Sales														
Administrative Support		1								1				
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

\*Construction laborers and other field employees are not to be included on this page

Totals Each Column	6	8	3	3	2	3				1	26	11	1	
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**Grand Total All Employees** 64

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled											1	1		
----------	--	--	--	--	--	--	--	--	--	--	---	---	--	--

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

**WORK FORCE REPORT – Page 3**

NAME OF FIRM: Stantec Consulting Services Inc. DATE: 06/02/2021

OFFICE(S) or BRANCH(ES): Atlanta, Georgia COUNTY: Fulton

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (3) Asian
- (4) American Indian or Alaska Native
- (5) Native Hawaiian or Pacific Islander
- (6) White
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Definitions of the race and ethnicity categories can be found on Page 4

TRADE OCCUPATIONAL CATEGORY	(1) Black or African American		(2) Hispanic or Latino		(3) Asian		(4) American Indian/ Nat. Alaskan		(5) Pacific Islander		(6) White		(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

**Grand Total All Employees** 0

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
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**AA. CONTRACTORS CERTIFICATION OF PENDING ACTIONS**

As part of this Contract, the Contractor must provide to the City a list of all instances within the past 10 years where a complaint was filed or pending against the Contractor in a legal or administrative proceeding alleging that Contractor discriminated against its employees, subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.


CHECK ONE BOX ONLY.

- The undersigned certifies that within the past 10 years the Contractor has NOT been the subject of a complaint or pending action in a legal administrative proceeding alleging that Contractor discriminated against its employees, subcontractors, vendors or suppliers.
  
- The undersigned certifies that within the past 10 years the Contractor has been the subject of a complaint or pending action in a legal administrative proceeding alleging that Contractor discriminated against its employees, subcontractors, vendors or suppliers. A description of the status or resolution of that complaint, including any remedial action taken and the applicable dates is as follows:

DATE OF CLAIM	LOCATION	DESCRIPTION OF CLAIM	LITIGATION (Y/N)	STATUS	RESOLUTION/ REMEDIAL ACTION TAKEN

Contractor Name: Stantec Consulting Services Inc.

Certified By Andrew Burnham Title Vice President

Name  
  
 Signature

Date 06/02/2021



# Tab B:

## Executive Summary & Responses to Specifications

# Tab B: Executive Summary and Responses to Specifications

## **Title Page**

City of San Diego

**Solicitation Number:** 10089761-21-V

Request for Proposals (RFP):

**Strength Based Billing Consultant Rebid**

**Closing Date:** June 25, 2021 @ 2:00 p.m. PST

**Submitted by:**



**Contact:** Andrew Burnham  
Vice President  
777 S. Harbour Island Blvd., Suite 600  
Tampa FL 33602  
(904) 631-5109  
andrew.burnham@stantec.com

# Table of Contents

<b>Tab A. Submission of Information and Forms .....</b>	<b>1</b>
Contract Signature Page .....	1
Exceptions to RFP/Contract .....	1
Contractor Standards Pledge of Compliance Form .....	1
Equal Opportunity Contracting Forms .....	1
<b>Tab B: Executive Summary and Responses to Specifications .....</b>	<b>28</b>
Title Page .....	28
Table of Contents .....	29
Executive Summary .....	30
A. Responsiveness to RFP .....	28
Project Understanding .....	28
Technical Aspects .....	29
B. Staffing Plan .....	30
1. Qualifications of Personnel .....	30
2. Availability/Geographical Location of Personnel .....	50
3. Roles and Responsibilities .....	50
C. Firm’s Capability and Past Performance .....	51
1. Track Record Producing Functional Allocations for Regional Sewer System Capital Facilities Based on Engineering Review .....	51
2. Demonstrated Experience .....	52
3. Understanding Multi-Agency Regional Wastewater Treatment Systems .....	52
4. Other Pertinent Experience .....	54
5. Past/Prior Performance .....	54
6. Capacity/Capability to Meet City’s Needs in Timely Manner .....	61
7. Reference Checks .....	61
<b>Tab C. Cost/Price Proposal .....</b>	<b>62</b>
Compensation Schedule .....	62
Total Proposed Not-to-Exceed Fee .....	62
Detailed Hourly Rates .....	62

# Executive Summary

The purpose of the Regional Wastewater Disposal Agreement between the City of San Diego and the Participating Agencies is to provide a basis for the appropriate allocation of costs of the Metropolitan Sewerage System. The 1988 agreement provided for contract rights to capacity in the Metro System, and established cost allocation and billing procedures that relied on volumetric flows and wastewater strength characteristics to achieve equity in cost recovery.

Recent developments related to the City's investment in facilities to produce repurified water for the benefit of the City and the Participating Agencies, as well as the potential for additional investment by some Participating Agencies in additional projects to produce potable water triggered a recognition of the need for an updated analysis of the original approaches to the allocation of costs and the development of a basis of billing for participants.

Stantec understands that **this project is not just about updating cost allocations and recognizing the impacts of reclaimed water investments**. San Diego and the Participating Agencies seek the advice of a consulting team to update cost allocation factors, review the existing rate design (billing system), develop alternative rate design and billing approaches including fixed charges for future use or capacity rights, and facilitate the selection of the best rate structure and billing approach to recognize current costs and cost patterns, the impacts of flow volumes, strengths, and capacity needs, and the need to manage future cost allocation and billing activities efficiently and effectively.

Stantec brings deep technical knowledge in the fields required to accomplish this objective, a focus on complex cost allocation and successful cost sharing techniques, and a personal commitment from our project team to yours to help you update and improve your processes.

## Deep Technical Knowledge

Stantec brings deep technical knowledge in **wastewater engineering, treatment, and operations**, as well as in the **economic and financial analysis** required to establish fair and efficient utility rates and contracts. Both of these technical areas are deeply complex and worthy of the effort of an entire career. Our includes professionals who have dedicated their careers to both sides of the analysis required for this project.

## Specialized Expertise in Complex Situations

We embrace the challenges facing our clients, including the special challenges associated with providing inter-jurisdictional service, particularly in an environment of rapid technological change. Our enthusiasm is highest for projects that offer us a chance to assist water professionals in managing such projects, and in appropriately recognizing costs, cost drivers, and differing roles and responsibilities of partner agencies.

## We commit to:

- ✓ Engage the important questions of this project genuinely and thoughtfully,
- ✓ Apply the energies of our most well-suited team,
- ✓ Think creatively, employing no canned or mechanistic strategies,
- ✓ Seek strategies that achieve the highest levels of fairness in cost recovery among the participants,
- ✓ Recognize cost drivers related both to capacity and use,
- ✓ Keep the ultimate objective of successful and cost-effective implementation in mind throughout the project.

# A. Responsiveness to RFP

## Project Understanding

San Diego and the Participating Agencies are served by the City's Metropolitan Wastewater System, the costs of which are allocated according to the terms of a Regional Wastewater Disposal Agreement. Costs are allocated reflecting both functional and design considerations, and charges are based on the strength and volumes of wastewater received from each agency. It is recognized that the City's Pure Water Program has and will have multiple impacts on the Metro System, and that similar investments by other participating agencies may also have implications for Metro System operations and cost allocations.

As a result of these and possibly other factors, the City and Participating Agencies are adopting an Amended and Restated Regional Wastewater Disposal Agreement which calls for the City to consider alternative billing methodologies for Metro System Costs. Solicitation Number 10089761-21-V seeks consulting support to provide a review and update of the functional-design allocation factors and to propose potential alternative rate designs (billing systems) that include fixed charges for ongoing and future use or capacity rights to the Metro System.

One of the key concepts differentiating public utilities from other enterprises is the necessity of providing ongoing access to capacity for all participants. Because the need of the Participating Agencies for effective wastewater treatment services represents a permanent requirement, the Metro System must be operated in a way that is both economically and financially sustainable.

Such sustainability requires periodic reviews of cost allocation processes, especially when significant investment in alternative technologies and processes occurs, as with the Pure Water Program. Resulting in part from this and similar programs, but also from the increasingly dynamic world facing utility managers, capacity considerations must also be considered with care. The needs of the parties for wastewater capacity are permanent, but the magnitude of various types of capacities may be variable, especially over longer periods.

As such, this project provides for an independent review of existing cost allocation processes, a review of the specific implications of the Pure Water Program and similar programs, and the development of alternative rate design and billing programs with the potential to improve equity in cost recovery and enhance the long-term sustainability of the Metro System.





## Technical Aspects

The 1998 Agreement implemented rested on a Functional-Design cost allocation methodology to recognize both design and functional interpretations of cost causation regarding key wastewater treatment unit processes.

The design focus is relevant because some types of costs are heavily influenced by the most important criteria influencing the design of certain assets or processes. An example might be a clarifier, which regardless of function might need to be sized to handle the volume of water needing to be held for an appropriate period. As the size of the clarifier drives costs, and as size is dependent on this volume of water, the design basis recognizes this key cost determinant by associating the cost of this asset with the volume of water being treated.

A functional focus may seem somewhat more straightforward in that key assets and the costs of key processes are allocated according to the function being performed by that asset or through that process. An aeration basin operated to reduce BOD would therefore be allocated to the BOD component of rates, and ultimately apportioned among users according to their percentage of total or planned BOD loading.

Recognizing both design and functional interpretations of cost drivers is important in comprehensive cost of service studies because cost causation is not one dimensional and must reflect an interpretation of local conditions, loading patterns, regulatory limits, and environmental conditions, each of which manifest themselves in the assets and operating parameters being employed. Considering both design and functional perspectives contributes also to maintain some stability in cost allocations over time as treatment processes and other conditions may change.

San Diego's Pure Water Program and other similar programs within the region have a variety of potential implications for the process, including the appropriate level of recognition of costs directly related to wastewater treatment, the implications of any diversion of flows from the Metro System, and alternative ways of recognizing the various benefits of such programs. These changes provide a perfect opportunity to consider cost allocations more broadly and to be sure that cost allocations and cost sharing processes are structured to be as forward-looking as practicable.

The cost allocation practices adopted in the regional wastewater disposal agreement provided a workable and entirely reasonable cost allocation approach that has served the participants well. While the explicit recognition of differing capacity needs was sometimes incorporated in past agreement, many agreements focused solely on volumetric flows and strength characteristics. The logic of this simplifying approach rested on the essential commonality of need and situation among participating partners, and the substantial success of this approach in San Diego and other communities testifies to its rationality, especially for large regionally focused agencies.

But in recent years, many utilities are finding it important to recognize capacity considerations through explicit cost allocation and billing steps. Cost considerations related to reuse and repurification projects are only one change factor leading to this situation, with increasing diversity in service characteristics, changes in economic and demographic factors, and variability in management of collection system dynamics all tending to create more system diversity than was previously common.

The result is an increasing need to analyze differences in capacity requirements among participants in a regional wastewater program, and to recognize these differences through cost allocations and billing procedures. The near-term implications for equity in cost recovery are potentially important, and the implications for long term economic viability of the regional program as participants may change their demand patterns over time are potentially significant. The change need not be tremendously disruptive, but the risks of ignoring capacity considerations are high enough to warrant a serious analysis now.

# B. Staffing Plan

## 1. Qualifications of Personnel

Stantec is uniquely qualified to perform the requested services because of the long history of experience in financial services focused on utilities and local government. Our team has **helped nearly 300 communities – including over 30 in California.** It may be useful to note that while we are a dedicated financial services practice, we are part of a larger water group in Stantec that supports the operations and design of water, wastewater, and stormwater utilities. We have a global engineering firm as a resource for any technical support needed during the study. That being said, Stantec’s Financial Services Practice covers a broad range of financial issues for our clients, including:



### Rate Studies

- Water & Wastewater
- Solid Waste & Recycling
- Reclaimed Water
- Stormwater
- Electric / Gas
- General Government Services

### Cost-of-Service Analysis

- Wholesale/Outside-City rates
- Functionalized cost allocation
- Custom cost allocation modeling
- Regional cost-sharing models
- Customer class determinations
- Asset/rate base allocation

### Long-Term Financial & Capital Plans

- Setting financial goals and KPI's
- Managing reserve levels
- Bond feasibility plans
- CPI/Regulatory Compliance/AMP Integration
- Live scenario and sensitivity analysis
- Bond rating improvement plans

### System Development Fees/Capacity Fees

- Legal compliance evaluation
- Buy-in fee development
- Incremental fee development
- Expert witness assistance
- Hybrid fee approaches
- Developer reimbursement plans

### Benchmarking

- Proprietary U.S. database
- 100 data points per record
- 50,000 financial metrics (current)
- Audited financial statements
- 1, 3, & 5-year industry averages
- Custom group comparisons

### Affordability

- Innovative approach (WARi®)
- Industry-changing technique
- Multi-year affordability metrics
- Output to high-definition maps
- Regulatory case support
- Customer assistance programs

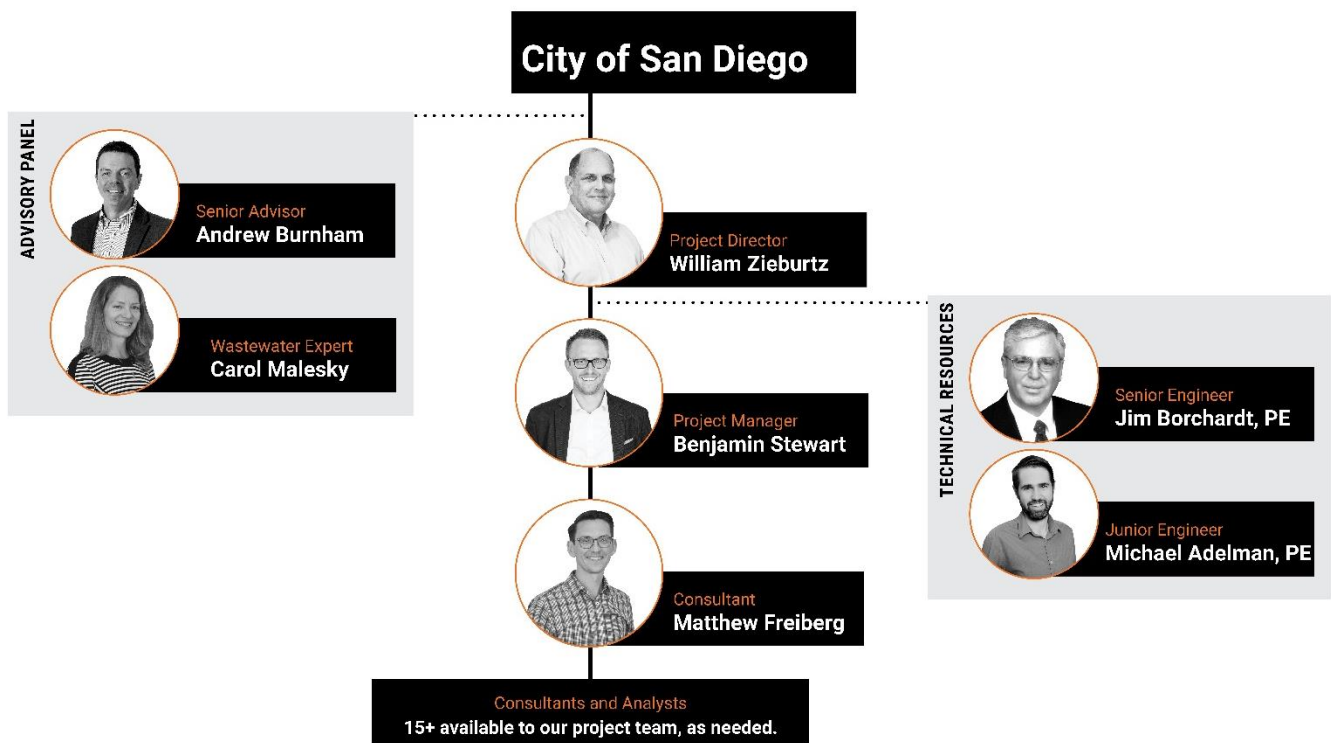
### Special Assessments

- Finding of Benefit
- Cost apportionment methodology
- Assessment methodology
- Public outreach
- Public notices
- Assessment administration

We have developed a project team of recognized industry experts to best serve the City of San Diego, as depicted on the organization chart.

- Our senior advisors, William Zieburz and Carol Malesky, have a history of working smoothly together, addressing issues in a consistent mutually supporting fashion. Our diverse experience allows us to react usefully to virtually any issue or consideration that might arise.
- Our project director, Andrew Burnham, is a recognized expert in water, sewer, and recycled water pricing strategies, and financial planning and reserve policies. Andy has extensive experience analyzing, implementing and explaining rate-setting decisions to meet stakeholder objectives and promote buy-in.
- Our project manager, Benjamin Stewart, based in Sacramento, CA, is the process driver – communicating with the Independent Budget Analyst, Independent Rates Oversight Committee City, or others as appropriate; deploying forces; monitoring progress. He is an experienced consultant with a diverse background helping communities analyze complex issues such as detailed affordability analyses.
- Our lead consultant, Matthew Freiberg, located in Oakland, CA, along with the supporting consultants and analysts available to him are experienced in working as collaborative teams and capable of addressing any necessary data or computational tasks.

Together, we will be fully engaged and completely responsive.



Additionally, please note that our designated San Diego project team is supported by a “deep bench” of talent at all levels, including analysts, consultants, and senior professionals. Further, because our professionals work collaboratively on multiple project teams, we are able to step in and provide backup support to one another promptly and cost effectively. Our full consulting team communicates and cooperates, preventing the creation of any siloed approaches or other barriers to collaboration.

Moreover, our senior advisors (Andrew Burnham and Carol Malesky) are backed up by two more of our most experienced professionals who will be available to step in to address any issues that align with their particular

talents, experience, and skill sets. Our senior team members each bring unique talents and perspectives related to public communication, rate setting, regulatory processes, cost of service questions, and other relevant issues.



**Jim Bearman** served for 35 years in the utility rate department of a Michigan-based electric and gas utility that served over 3 million customers and was responsible for building rate case documentation and coordinating with all classes and types of intervenors. His expertise in meticulous rate case documentation, organization, and communication will be available to the team if needed.



**Dave Hyder** has over 20 years of utility rate experience, including completion of over 200 cost-of-service and rate studies including several in California. He also serves on the AWWA Rates and Charges Committee and contributed to recent editions of AWWA Manual M1 – Principles of Water Rates, Fees and Charges. We will turn to Dave’s experience in implementing local government utility rate solutions and legal compliance issues as needed during the review.

Our resources represent a true value to the City and the Participating Agencies – access to the right experience to address any issue that could develop, all from the same team, all with a demonstrated history of working effectively together.

Resumes for our core team members are presented on the following pages.



## William Zieburtz

Project Director

Mr. Zieburtz is an economist and management consultant experienced in economic, business process, financial planning, and socio-economic issues facing local governments and utilities. His diverse experience includes rate, cost-of-service, rate design, planning, regionalization, impact fee, valuation, optimization, financing and feasibility studies for water, wastewater, stormwater, solid waste, natural gas, and other local government and regional projects; evaluations of funding alternatives; comprehensive planning; projections of population and economic growth; development and negotiation of utility acquisition, merger, and service contracts; economic development planning; and economic impact analyses of policy decisions and capital improvement programs.

Mr. Zieburtz has conducted utility financial and pricing studies in high profile and contested environments, conducted system consolidation studies, helped facilitate multi-utility service agreements, conducted management audits, provided expert witness testimony, and assisted with the development of operating and capital planning budgets. He is past president of the Georgia Association of Water Professionals, past chair of AWWA's Rates and Charges Committee, a contributing author to the last two editions of AWWA's M-1 - Principles of Water Rates, Fees, and Charges. His service to the water industry has been recognized through many awards, including AWWA's George Warren Fuller Award.

### Education

M.A., Economics, University of Georgia, 1985

B.B.A., Economics, University of Georgia, 1982

### Professional Service

Member, American Water Works Association Board of Directors

President, Georgia Association of Water Professionals

Chair, AWWA Rates and Charges Committee

Economics Reviewer, Water Environment Federation Literature Review Committee

Chair, AWWA Audit Committee

### Publications & Presentations

The Answer is Integrity. Published in The Georgia Operator. Spring, 2016.

Implementing and refining affordability programs to enhance public support for rate increases. AWWA's

Annual Conference and Exhibition, Denver, CO. July 2013.

Sustainability versus Affordability – Two Imperatives in Conflict. Presented at IFAT 2008 – The 3rd Joint Specialty Conference during the 14th European Water, Wastewater, and Solid Waste Symposium, Munich, Germany. May, 2008.

Providing Services for Generations to Come. The Utility Executive, Vol. 9, No. 4 July/August 2006. Water Environment Federation.

Rates and Charges for High-Strength Wastes – Time for a New Approach? Presented at the 2003 Specialty Conference for Pretreatment Programs and Industrial Wastes. Held at Hilton Head, South Carolina. September, 2003.

Seven Bad Habits of Highly Defective Utilities. The Utility Executive, Vol. 5, No. 5 September/October 2002. Water Environment Federation.

## Project Experience

### **Town of Lexington, South Carolina**

Bill has assisted the Town with a variety of assignments since 1995, including several water and sewer rate and impact fee studies and extensive analysis of the financial impacts of a number of alternative capital improvement programs to expand the water and sewer service areas. He also performed a system acquisition analysis, conducted a wholesale rate study, assisted in contract negotiations, and provided expert witness testimony in matters regarding the management of the Town's regional sewer system.

### **City of Atlanta, Georgia**

Bill documented the economic importance of Atlanta's water system by calculating the economic impact of a "week without water". His analysis captured the Gross Domestic Product created within the City's water service area as well as areas served by the City through wholesale water supply contracts. The analysis captured employment by economic sector by zip code to distribute GDP by sector spatially and recognized the differing ability of different business functions to withstand the loss of water supply and still create economic value. The study concluded that after a week without water, average daily GDP within the service area would fall from approximately \$275 million to less than \$1 million, essentially representing the cessation of economic activity in Atlanta.

### **Georgia Environmental Finance Authority, Georgia**

Bill led the economic and financial components of a multi-disciplinary effort that produced a report to meet the requirements of the Water System Interconnection, Redundancy and Reliability Act for GEFA. The study analyzed water supply and interconnection options across a 15-county area, including 37 water utilities. Bill analyzed potential methods that could be used by participating utilities to allocate project costs among the participants, developed an annotated matrix of alternative strategies, and provided a decision-tree for potential use by GEFA or participating utilities to determine

which types of costs could appropriately be recovered through these means.

### **City of Tempe, Arizona**

Bill served as a Technical Advisor to our project team on a recent Water and Sewer Rate Study for the City. The study included the development of several alternative multi-year financial plans and corresponding plans of annual rate adjustments that were reviewed on-site with staff in an interactive setting. We also completed a detailed cost-of-service allocation analysis and rate design study, which resulted in recommendations for adjustments to enhance the affordability of existing rates. Finally, we participated in multiple special-purpose presentations with stakeholders to educate the community on the rate study process and the new rate structure.

### **JEA, Jacksonville, Florida**

Bill served as project director providing perspectives and analysis regarding alternative approaches to extending sewer service to neighborhoods currently served by failing septic tanks. Our analysis provided information on alternative business organizations and alternative structures of rates and charges used by wastewater utilities. We explained alternative funding approaches including connection fees, utility revenues, deferred payment plans, outside sources of funds, and liens related to the future sale of properties; and provided guidance regarding the phasing of projects and communication.

### **Athens-Clarke County PUD, Georgia**

Bill has conducted a variety of financial and management consulting engagements for the Athens-Clarke County Public Utilities Department (PUD). He provided support during a conservation rate study, including guiding and advising a citizen's technical advisory committee in the evaluation of alternative rate structures and their effects. Bill also conducted a revenue bond feasibility study including presentations to the three major credit rating agencies in addition to preparing the rating agency personnel for their presentation of the PUD to the rating committee. The transaction was the largest in PUD's history and was successful despite serious

disruption in municipal financial markets at the time of closing. Bill also directed the creation of a new and updated financial planning model, as well as an update of PUD's connection fees and ancillary charges. The financial planning model is customized to reflect PUD's budget procedures and reflects PUD's elaborate capital planning and fund management processes currently in place.

#### **New Jersey American Water, New Jersey**

Bill provided expert witness testimony and conducted a review of wastewater rate and billing practices for Liberty Water, a subsidiary of New Jersey American Water, through the law firm of Cozen O'Connor. Bill evaluated Elizabeth's wastewater rate structure, as well as evaluating the compliance of Liberty's billing procedures with the rates and rate structures adopted by the City. Additionally, Bill reviewed and provided input on several alternative reviews of the City's rates and procedures and provided expert witness services.

#### **Harpeth Valley Utilities District, Tennessee**

Bill has provided senior guidance and strategic support to HVUD, through a series of financial consulting projects. HVUD serves a large portion of metropolitan Nashville, providing water and wastewater services to retail customers and providing wholesale water supply to many neighboring communities. A comprehensive cost-of-service study was conducted as the foundational study to support ongoing efforts to address rate design, to build a modern financial planning model, and to conduct a full-cost connection charge study. The cost-of-service study addressed cost allocation issues related to water and sewer services, as well as analyzing retail versus wholesale demand patterns and retail customer class characteristics. The current rate structure was analyzed considering cost-of-service results, and multiple workshops were held with the Board to share results and obtain policy direction. A full-cost connection charge study is also being conducted to provide an equitable and cost justified basis for new growth to "buy in" to the District's systems.

#### **City of Beijing, China**

Bill served as a Senior Technical Reviewer for an analysis of the feasibility of a comprehensive schedule of capital improvements projects for the City. The projects being funded by the World Bank included natural gas distribution, district heating, and chemical manufacturing. The financial model allowed the analysis of future sales of steam, hot water, natural gas, and chemical compounds to industrial customers, and hot water and natural gas to residential customers. Future market conditions were projected to establish the size of the market for each product. These forecasts were then used to project future sales and financial feasibility.

#### **Cobb County – Marietta Water Authority**

Mr. Ziebertz has provided a variety of rate, financial planning, and consulting services since 2005. The Authority produces approximately 100 mgd and provides potable wholesale water service for all of Cobb County, as well as the all of its cities, significant portions of Paulding County, and several other entities. Mr. Ziebertz managed a comprehensive rate and capital planning analysis for the Authority. The project included evaluations of the Authority's current financial condition, the development of projected customer growth and water sales, and implementing improvements to the Authority's financial planning model to make more explicit certain key assumptions in the projection of costs and revenues. Recommended rate increases were provided, and cost drivers were analyzed and summarized for presentation to the Board of Directors. The project included development of a response from the Authority to new conservation rate requirements established by the Metropolitan North Georgia Water Planning District, and an analysis of the appropriate rate differential to be applied to Outside-County customers. The analysis reflects common factors underlying rate differentials including resource based factors (such as differential use of assets and differentials in investment requirements for provision of like services to the two groups), growth and capacity factors (reflecting the impacts of growth and increasing demands), and the right of the Authority to earn a return on investment.



# Benjamin Stewart

*Project Manager*

Benjamin has used his diverse background to successfully lead clients through the process to develop long term financial plans, design cost-of-service based rates, assess affordability impacts to ratepayers, and improve customer assistance programs. Benjamin has also helped clients structure plans for the future through development of fund reviews and benchmarking studies, comprehensive funding strategies, and business case evaluations and feasibility studies of capital investment alternatives. He is currently Stantec's lead consultant when addressing complex affordability issues with our enhanced WARi™ methodology. His background in engineering and economics provides a well-rounded understanding of utility operations and capital planning that is often integrated into economic evaluations, affordability assessments, and financial planning studies.

## Education

MS – Mineral & Energy Economics, Colorado School of Mines, 2015

MS – Environmental Engineering, University of Nebraska – Lincoln, 2011

BS – Civil Engineering, University of Nebraska – Lincoln, 2009

## Memberships

Graduate Research/Teaching Assistant, Colorado School of Mines, 2013-2015

Graduate Research Assistant, University of Nebraska-Lincoln, 2009-2011

Member – American Water Works Association (AWWA), 2015

## Project Experience

### City of Sacramento, California

Benjamin is responsible for project management of a Department of Utilities Storm Drainage Fund Review, managed by Sacramento's City Auditor's office. The project is intended to provide an independent review of the Storm Drainage Fund's financials in addition to an assessment of their operations, asset valuation, and capital plan. Through benchmarking and a detailed review of the fund's historical and near-term projected financial

performance, the project will produce a financial gap analysis to better understand the drivers of historical shortfalls. Using this information, we will develop a fiscal forecast, incorporating a range of potential funding options, to provide the City with a detailed understanding of the options available to meet their funding needs into the future.

### City of San Diego, California

Benjamin was responsible for project management, research and analysis as Stantec's team, with Tetra Tech stormwater engineers, developed a Stormwater Infrastructure Needs Assessment and Funding Strategy for the City of San Diego. This work consisted of developing a historical funding gap analysis, funding options evaluation, and stormwater funding roadmap to help the City meet its stormwater infrastructure investment needs. Funding options were primarily composed of enhancing internal revenue sources (fees, transfers, parking citations), developing new internal revenue sources (new fees, assessments, special taxes), grants and loans. Benjamin is currently responsible for project management and model development in a subsequent engagement, again partnered with Tetra Benjamin is currently responsible for project management and model development in a subsequent engagement, again partnered with Tetra Tech, to forecast potential funding options (e.g.



grants, loans, alternative revenues, transfers, etc.), in addition to creating a long-term planning and tracking tool that the City can incorporate into its financial and operations planning process. The model will integrate with the City's asset management and financial/account data systems for streamlined updating, tracking of plan vs. actuals, and a central point of contact for operations, capital, and financial reporting.

#### **City of Fullerton, California**

Benjamin developed a comprehensive financial plan, cost-of-service (COS), and rate design study. In addition to the expiration of the City's existing rate ordinance, this project was focused on addressing the City's extensive needs for reinvestment in their buried infrastructure. Development of the 10-year financial forecast focused on providing the ability to evaluate capital planning scenarios, flexing key variables including annual buried pipe replacement, operating and capital reserve development, and a combination of capital financing alternatives. The COS and rate design process enabled the City to eliminate unnecessary or redundant customer classes while ensuring an equitable allocation of costs among customers with differing consumption characteristics

#### **City of Merced, California**

Benjamin oversaw research and analysis of viable in the establishment of a Special Assessment District for the City. Specific work consisted of determining methods of allocating special benefits to parcels within the district in a defensible manner. As the City planned for continued development, a special assessment district was desired to fund capital projects required to provide sewer service to the new parcels. Our guidance helped define the parameters of the District. Benefit apportionment methods compliant with CA Proposition 218 were identified and proposed to assist in the formation of the new district.

#### **City of Whittier, California**

Benjamin was responsible for overseeing modeling and spearheading sewer portion of the rate study as the team worked with the City to develop a politically

viable schedule of rate adjustments, in addition to structural changes to the way the City charges customers, ensuring the City can meet ongoing capital investment needs and introducing a fixed charge component to the City's sewer rate revenue stream. Additional analyses were required to develop a defensible justification for the City's maximum bill level for residential customers, in addition to determining the appropriate level of credit to be applied to customers living in private developments with privately maintained sewer infrastructure.

#### **City of Omaha, Nebraska**

Benjamin served as the lead consultant responsible for developing, updating, and customizing financial planning models. Financial plans were developed to evaluate multiple capital, operating, and financing scenarios within the City's CSO program to assess the impact of debt financing and necessary rate increases. The financial planning model was licensed to the City following a training workshop conducted with City Public Works and Finance Department staff. Benjamin also led in the development of a financial capability assessment (FCA) including a complete WARi™ affordability analysis to analyze affordability impacts to rate payers at the census tract level accounting for low-income assistance programs.

#### **Northeast Ohio Regional Sewer District, Ohio**

Benjamin was responsible for developing and updating financial planning models for the District. Specifically, financial planning models were developed to evaluate multiple capital, operating, and financing scenarios within the District's CSO program to determine the impact on debt financing and necessary rate increases. Benjamin was also responsible for reviewing a cost of service model and developing rate structures. Findings were summarized in technical reports, and multiple presentations were given to inform the District staff and board of the findings of the study. Ultimately, recommended rate increases from the efforts were adopted by the District.



## Carol Malesky

Wastewater Advisor

Ms. Malesky brings over 20 years of expertise assisting water, wastewater, and stormwater utilities with financial analyses. She has managed dozens of utility financial planning, impact fee, and rate studies for utilities ranging from small water companies to large municipalities. She has also successfully facilitated workshops with multiple stakeholder groups. Carol has presented before numerous utility boards and city councils, and has contributed to various rate manuals produced by the AWWA and WEF rate committees, including the WEF green infrastructure implementation manual.

As an economist, Carol strives to apply sound economic principles to management and financial consulting challenges for her water and wastewater industry clients. Working at Stantec focuses her abilities and the abilities of her team to best address clients' specific financial challenges from an economic perspective rather than an engineering perspective. Through that lens, Carol helped pioneer a new approach to evaluate affordability that has subsequently been widely applied throughout the industry as part of financial capability assessments and developing/targeting customer assistance programs. As a result, Carol is routinely asked to present to various industry groups relative to affordability issues.

### Education

MS, Agricultural and Resource Economics, Colorado State University, Fort Collins, Colorado, 1995

BS, Applied Economics and Business Management, Cornell University, Ithaca, New York, 1992

### Memberships

Member, American Water Works Association

Member, Water Environment Federation

### Publications & Presentations

Roth, F., and C. Malesky. Albuquerque Uses Customer Outreach to Gain Deeper Insights into Infrastructure Needs, Conservation and Rate Increases. *Water Finance & Management*, 2017.

All of the Above: Moving from a Passive to an Active Stakeholder Engagement Culture. *Utility Management Conference 2018*, 2018.

Planning for Affordable, Supportable Utility Rates. *One Water Conference*, Ohio, 2018.

Rate Increases, Affordability and Building Political Support. *Water Finance Conference 2015*, 2015.

Addressing Affordability at the Northeast Ohio Regional Sewer District. *Northeast Ohio Lake & Rivers Conference*, 2016.

Finding a Balance: Weighted Average Residential Index Affordability Guide for Akron's Capital Improvement Program Needs. *Utility Management Conference 2016*, 2016.

### Project Experience

#### Albuquerque Bernalillo County Water Utility Authority, New Mexico

Carol led the effort to assist the Authority reach its water conservation goals through the development of a new rate structure. Carol also assisted the Authority in revising its reuse water rates as part of its Water Resources Management Strategy, and developed a long-term financial plan for its water and wastewater utilities. She continues to provide on-going support for developing utility expansion charges and asset valuations, wholesale water rates, and updating the

cost-of-service models for water and wastewater rate development. Recent challenges facing the Authority include funding aging infrastructure needs and communicating the need for increased user rates as a result to the Authority's stakeholders.

#### **Northeast Ohio Regional Sewer District, Ohio**

Carol managed the development of strategies to eliminate, mitigate, and/or avoid the impediments to a plan of continuous future rate adjustments. While user rates were evaluated from a cost-of-service perspective, the largest task was to develop strategies to directly confront the issue of affordability. Carol presented results before numerous senior staff meetings as well as Board workshops to assist the District in its understanding of affordability in tandem with rates. Carol assisted with public focus groups and surveys soliciting customer feedback on preferences for services. She managed the analysis and compilation of observations regarding the research on a better understanding of affordability of wastewater service in Northeast Ohio and the greater Cleveland area.

#### **Puerto Rico Aqueduct and Sanitation Authority (PRASA), Puerto Rico**

Carol managed the assessment of PRASA's affordability of water and wastewater capital improvement programs and potential projects for wastewater CSO compliance. The analyses included a joint water and wastewater affordability assessment and multi-year effect of capital improvements on affordability by income levels. Carol managed the evaluation and analysis of alternative water and wastewater rate designs to recover an additional \$300 million in revenue requirements from rates after a government subsidy ended.

#### **City of Omaha, Nebraska**

Carol assisted in the development of a long-term financial planning model that analyzed the impact of a CSO program on user charges. She analyzed costs of service by customer class and recommended a schedule of rate increases for a four-year period. Carol applied financial sustainability principles to financial planning, including fixed asset inventory updates to improve accuracy of cost projections and impacts on

user charges. She studied alternative affordability programs for wastewater customers, managed the most recent financial capability assessment that was presented to the Nebraska Department of Environmental Quality. The report and trademarked Weighted Average Residential Index (WARI) measure of affordability was used to assist the City in negotiating its long-term control plan (LTCP). She continues to manage on-going financial planning and rate studies for the City.

#### **City of Lancaster, Lancaster, Pennsylvania**

Carol managed the long-term financial analysis and baseline financial capability assessment (FCA) for the City's combined sewer overflow (CSO) consent order requirements. The study was completed in three months and included financial impacts for the City's wholesale sewer authorities. Carol also led the team that prepared the pro forma component of the City's successful application for a WIFIA loan.

#### **Mobile Area Water and Sewer System, Alabama**

Carol managed a comprehensive cost-of-service study for MAWSS in 2016-2017, focusing particularly on wholesale customer rates. She also provided quality control and guidance in preparing a long-term financial planning framework for MAWSS in response to findings of a gap analysis. She assisted the team in workshops with Finance Committee members and MAWSS staff that facilitated long-term financial planning, explicit capital budgeting and reporting, concise reporting, timely Board input into budgeting, and allocations of costs between water and wastewater. Key performance indicators such as percentage reduction in O&M from prior years, revenues versus budgeted revenues by month, actual capital and expenditures versus budget are used to track effectiveness of the framework. She continues to manage analysis of funding options for MAWSS' Master Plan.

#### **Upper Blackstone Water Pollution Abatement District, Massachusetts**

Carol provided quality control and document review for the District's financial planning and affordability assessment for wet weather management costs. As

part of the District and City of Worcester's Integrated Planning process, Carol managed the assessment of affordability for water quality related capital improvements. Work included workshops with the District's member communities, financial planning scenarios of alternative capital improvement plans, and determinations of the impacts on the member communities' customer affordability.

#### **City of Akron, Ohio**

As part of the City of Akron's Integrated Planning Framework for re-evaluating its combined sewer overflow (CSO) long-term control plan (LTCP), Carol managed the assessment of the City's affordability for CSO compliance. Work included meeting with EPA Region 5 and justifying the financial capability assessment data. Work continued with integrated planning scenarios and green infrastructure projects where she determined the impact on the City's customer affordability. Carol also led the team that developed an acceptable wholesale rate methodology for the City's 5 wholesale communities whose intergovernmental agreements had expired.

#### **City of South Bend, South Bend, Indiana**

Carol managed the financial analysis and the revised financial capability assessment (FCA) for the City's negotiations with the Indiana Department of Environmental Management (IDEM) on its combined sewer overflow long-term control plan. The analysis included alternative residential indicators and assessment of financial burden on the City's customers given alternative capital improvement programs.

#### **Mahoning Valley Sanitary District - Meander Water, Niles, Ohio**

Carol managed a long-term financial planning and rate study for the District. The District is unique in that it is a wholesale water provider to the Cities of Youngstown and Niles, Ohio, and the Village of McDonald. The analysis focused on achieving financial policy targets such as days cash on hand, debt service coverage ratios, and percent of capital improvement program funded by cash versus debt.

#### **Plum Creek Water Reclamation Authority, Colorado**

Past assistance for the Authority included a wastewater rate design analysis to determine the cost sharing approach for the regional wastewater authority. Carol also revised the Authority's capital replacement planning model to estimate annual replacement costs and determine annual deposits to the capital replacement fund from user charges. On-going services include providing as-needed services regarding the Authority's rate models and rates.

#### **Metropolitan Sewer District of Greater Cincinnati, Cincinnati, Ohio**

Carol has assisted MSDGC in various rate and fee studies that included a connection fee study based on the equity buy-in approach; analysis of a capacity standby charge for a major industrial user which formed the basis for contract negotiations and standby charges for MSDGC; and system valuation based on replacement costs of existing assets. She reviewed industrial surcharges for impacts of across-the-board rate increases, analyzed alternative rates for an outside-District customer, and assisted in drafting a new service agreement. Carol also provided financial consulting services for septic hauler charges, high strength commercial rates, and other miscellaneous fees. She has calculated non-price benefits of a green infrastructure project in one of MSDGC's environmental justice communities.

#### **NEW Water (Green Bay Metropolitan Sewerage District), Green Bay, Wisconsin**

Carol managed stakeholder meetings and development of alternative rate methodologies for determining municipal wholesale customer rates. She provided oversight for the development of a new long-term financial planning model and cost allocation model, including the allocation of costs for NEW Water's new Resource Recovery and Electrical Energy generation system (R2E2). She presented study milestones and results before the Board of Commissioners and assisted in media communications of the results.



## Andrew Burnham

Senior Advisor

Mr. Burnham is the Vice President and Global Practice Leader of Financial Services at Stantec. Andy has extensive experience in conducting as well as overseeing cost-of-service allocations, long-term financial planning analyses, and development of alternative rate structures for a variety of utility systems, including water, wastewater, reclaimed water, stormwater, solid waste, recycling, electric, and natural gas.

He has been recognized as an industry expert as part of providing testimony in utility rate-related regulatory proceedings in multiple states and territories (including Florida, Michigan, Arizona, and the United States Virgin Islands), as well as before the Federal Energy Regulatory Commission. He has led well over 500 studies for 150+ local governments and has supported our clients in the issuance of \$1 billion of bonds for projects in the past 5 years.

Mr. Burnham is currently serving on multiple AWWA and WEF Committees and was actively involved in the recent update to AWWA Manual M1 – Principles of Water Rates, Fees and Charges, notably in regard to outside-city retail rates, wholesale rates, and reuse rates. In addition, Andy led the development of the Cash Reserve Policy Guidelines Report recently published by the AWWA, and was recently an instructor at the Michigan State University Institute of Public Utilities Advanced Ratemaking Program focused on complex water resources issues.

### Education

Bachelor of Business Administration, Lake Superior State University, Sault Ste. Marie, Michigan, 2000

### Memberships

Rates and Charges Committee, American Water Works Association

Financial Accounting & Management Controls Committee, American Water Works Association

Management Committee, Water Environment Federation

Government Finance Officers Association, Florida Section

Utility Resource Management Committee, National Association of Clean Water Agencies

### Publications & Presentations

Money Matters - Utility Cash Reserves, Journal AWWA, 2018 (co-author)

Paying for Stormwater - Engaging the Community, American Public Works Association Annual Conference (PWX), Orlando, FL, 2017.

Can Conservation Rates be Tied to the Cost to Serve?, American Water Works Association Annual Conference & Exposition, Philadelphia, PA, 2017.

Reclaimed Water Expansion: An Approach that Makes Sense, AWWA Annual Conference & Exposition, Philadelphia, PA, 2017.

Cost-of Service Based Conservation Rates, Evolving from Art to Science, Utility Management Conference, Tampa, FL, 2017.

## Project Experience

### **Western Area Water Authority, North Dakota**

Andy is serving as the Project Manager on a financial feasibility study for the Authority as required by the 2017 legislature. As part of the study, our team quantified the amount of excess capacity available on a locational basis to evaluate the potential of firm and interruptible service offerings that would effectively change the Authority's primary role to more of a pure wholesaler of water to local private water companies. The study incorporated potential revenue from a new concession-based business model, with the intent of stabilizing cash flows and achieving financial sustainability to support continued domestic rural water supply in the region.

### **Pinellas County, Florida**

Andy has served as the Project Manager for the County for nearly ten years, including a comprehensive Water, Wastewater and Solid Waste Rate Study and several annual updates. During these studies, Andy has used our FAMS-XL model to develop ten-year financial plans for the water, sewer and solid waste enterprise funds. He has also conducted a benchmarking analysis, assisted County staff in evaluating the underlying cost of operations, and conducted detailed cost allocation and overhead studies for the Utilities Department.

### **Brunswick-Glynn County Joint Water & Sewer Commission, Georgia**

Andy has 1) developed annual ten-year financial management plans for the water and sewer systems within the JWSC's two districts, 2) prepared loan and bond feasibility reports, 3) calculated updated water and sewer capital tap fees (impact fees) for each district, 4) calculated public and private fire protection charges, 5) developed a uniform conservation rate structure for its two service districts, and 6) prepared a detailed rate manual that explains the purpose, intent, and structure of all its rates and charges.

### **Town of Gilbert, Arizona**

Andy served as the Project Manager for a

comprehensive Water, Sewer, Reclaimed Water, Environmental Services (Sanitation), and Stormwater Rate Study (Study) for the Town. As part of the study, for each utility system, we performed a revenue sufficiency analysis, detailed cost-of-service allocation, and rate structure analysis. We developed several modifications to the Town's existing rate structures, notably including a new inclining block water rate structure. He also completed a cost allocation study for the wastewater system and a stormwater rate program feasibility study.

### **City of Olathe, Kansas**

Andy served as the Project Director for a Comprehensive Utility Rate Study for the City. For each service – including Solid Waste, Water, Sewer, and Stormwater – we developed customized financial models including ten-year financial plans and identification of alternative plans of rate adjustments, reviews of alternative capital spending and operational scenarios, and other sensitivity analyses. Andy provided guidance to support the detailed cost allocation analyses for each fund and developed alternative rate structures to ensure fair and equitable rates for each service.

### **City of Greenfield, California**

Andy served as Project Manager during the conduct of a long-overdue comprehensive water and wastewater rate study for Greenfield. Rates were designed to fund the utility's projected costs of providing service while proportionally allocating costs among customers, providing a reasonable and prudent balance of revenue stability, and complying with the substantive requirements of California Constitution Article XIII D, Section 6 (Prop 218).

### **City of Denton, Texas**

Andy led a comprehensive cost-of-service and rate design study for the City's water and sewer utilities. The study included the development of a ten-year financial management plan, including identification of annual rate increases, amount and timing of required borrowing to fund the capital improvement program, establishment of proper reserve levels,

and maintenance of adequate debt service coverage levels. An important component in the study was a rate stabilization reserve to address the issue of revenue volatility due to weather conditions and demand reductions.

#### **James City Service Authority, Virginia**

Andy was the Project Manager for a comprehensive rate study for the Authority. He led the development of rate structure modifications that ensured the Authority's rates conformed to accepted industry practice and reflected the appropriate distribution of system costs, while achieving its policy objectives, of fiscal stability, affordability, and conservation. In light of declining demands, the Authority had significant concerns relative to its ability to recover a portion of the fixed costs of the system, so we developed a two-part rate structure inclusive of a fixed monthly readiness-to-serve charge and inclining block water conservation rates. We also evaluated the Authority's system and local facilities charges to ensure they recovered the initial cost of capacity for infrastructure utilized to serve new connections in the future.

#### **TOHO Water Authority, Florida**

Andy recently served as Project Director for a reclaimed water cost-of-service and rate design for the Authority. The study included a detailed cost allocation analysis that evaluated the current level of cost recovery from existing rates and examined alternative rate designs for the Authority, including the resulting impacts to retail and bulk customers. The Authority adopted the recommendations developed during the study, which included modifications to provide a consistent level of cost recovery amongst all customer classes and a modified retail reclaimed water rate structure that is consistent with its potable water rate structure.

#### **City of Manistee, Michigan**

Andy served as Project Manager for a comprehensive water and sewer cost-of-service rate study for the City (which had no record of having ever conducted a formal rate study). A detailed cost-of-service allocation to determine the proper allocation of costs between 1) the water and sewer systems, and 2) the users of each system located within and outside of the City (which ultimately reflected the use of the utility basis of ratemaking for outside city users) was conducted. Multiple presentations were made to various customer groups (notably outside City users).

#### **Orange Water & Sewer Authority, North Carolina**

Andy has served as Project Manager for OWASA for water, wastewater, and reclaimed water financial consulting services for nearly ten years. He has conducted several studies including several long-term financial plans, detailed cost allocation to support rate design, evaluation of affordability for low-income users, and bond feasibility studies.

#### **City of Columbia, Missouri**

Andy managed a comprehensive stormwater and sewer cost-of-service rate studies for the City. He performed a revenue sufficiency analysis to develop a multi-year plan of rate revenue increases to satisfy the annual operating, debt service, and capital requirements of each utility as well as maintain adequate operating reserves. He then reviewed the rate structure (including evaluation of rates for wholesale users) and developed recommended modifications to ensure that the rates conformed to accepted industry practice and reflect a fair and equitable distribution of system costs.



## Matthew Freiberg

Consultant

Matthew Freiberg is a Financial Consultant with Stantec's Financial Services Practice in its San Francisco Bay Area office. Mr. Freiberg came to Stantec with an interdisciplinary background in water resources management, green infrastructure design and management, and climate change planning. He blends his environmental science background with his experience in stakeholder engagement, data management, and economic and policy analysis to deliver high quality consulting services to a wide range of clientele.

As a financial consultant, Mr. Freiberg has developed Financial Plans, Cost of Service Analyses, Rate Studies, Affordability Analyses, and System Development Analyses for water, sewer, recycled water, stormwater, and solid waste utilities across the United States. He has experience in Proposition 218 and California's legal requirements regarding utility rate-setting.

### Education

MESM, University of California Santa Barbara,  
Environmental Science and Management -  
Water Resources Management

### Memberships

Member, American Water Works Association,  
2017

### Project Experience

#### City of San Diego, California

Stantec was contracted as part of a joint partnership with TetraTech to develop a Stormwater Infrastructure Needs Assessment and Funding Strategy for the City of San Diego. Mr. Freiberg serves as the lead consultant for the financial component of the project. The financial scope of work includes a comprehensive evaluation of funding options (including enhancement of existing fees, development of new fees, evaluation of internal revenue generation, grants, and debt/loan financing), evaluation of the sustainability of the Stormwater Program's existing fee structure, a cost of service study, and the development of a public engagement strategy.

#### City of Berkeley, California

Stantec supported the City of Berkeley with gap analysis of the City's Storm Water Fund and developed comprehensive list of storm water financing options available to the City, including the multiple paths to establishing a stormwater fee or tax, grant funding opportunities, and debt/loan financing options for capital projects. The findings of our report were integrated into the City's resilience plan.

#### City of Sacramento, California

Mr. Freiberg currently serves as a consultant evaluating the fiscal policies and procedures of the Storm Drainage Fund, perform financial benchmarking of the City's fund against other similar utilities in California and nationwide, and developing a long-term financial evaluation to determine the stability of the Storm Drainage Fund.

#### City of San Diego, California

Mr. Freiberg is a consultant supporting the Stormwater Infrastructure Needs Assessment and Funding Strategy for the City of San Diego. Mr. Freiberg is supporting the development a funding gap analysis, evaluation of Prop 218 compliant funding options, and drafting a stormwater funding



roadmap to help the City meet its desired stormwater level of service.

#### **City of Somerville, Massachusetts**

Development of a storm water utility feasibility study for the City of Somerville. The primary activities included evaluation of the current program spending levels (working with staff to identify the stormwater specific capital and operating spending), evaluation of multiple funding strategies that are available to the City, conducting an Impervious Area Analysis and providing recommendations for needed improvements to the impervious area database, development of a preliminary fee structure and rates, and drafting a summary of the feasibility of implementing a stormwater enterprise.

#### **City of Annapolis, Maryland**

Developed a storm water financial plan and rate design study for the City of Annapolis. The study included the development of various storm water levels of service and the corresponding financial plans necessary to fund each level. In addition, the study evaluated the current structure of the City's storm water fees (a flat fee per utility account) and included the development of alternative fee assessment approaches to more equitably recover the cost of providing storm water service throughout the City bases on the results of an Impervious Area Analysis.

#### **Coachella Valley Water District, California**

Mr. Freiberg served as a consultant, conducting for the District. He completed a water and wastewater revenue sufficiency analysis, cost of service analysis, and rate setting that complies with the legal requirements of California's Proposition 2018.

#### **City of Port Orange, Florida**

Developed a storm water financial plan and rate design study for the City of Port Orange. The study included the development of a comprehensive 10-year financial plan, an update to the rate structure, and an update to the stormwater fee credit system. The stormwater rate structure update required an update of the impervious area update (using county assessor data) and establishment of a new rate structure that provided greater equity in cost recovery from rate payers.

#### **City of Whittier, California**

Consultant responsible for the development of a comprehensive financial plan, cost of service (COS), and rate design study. Water and Recycled Water Rate Study for the City of Whittier's water and recycled water enterprises. Our team reviewed the City's current financial management strategies and customer programs to bring them into compliance with Proposition 218, we also worked with the City to develop a Capital Plan execution timeline that allowed the City to meet its desired level of service from their Water and Sewer Master Plans, allowed the City to maximize the use of cash financing of capital projects, and limited the impacts on rate payers. In addition to the Rate Study, a System Development Fee Analysis was conducted for the Water and Sewer Enterprises, to establish update fees for new water and sewer connections to the City's system.

#### **City of Brighton, Colorado**

Stantec was contracted to conduct a comprehensive utility rate study for the City of Brighton's Water, Wastewater, and Storm Drainage enterprises. Mr. Freiberg serves as the lead consultant delivering the Storm Drainage portion of the Study. The scope of work includes the development of a 10-year Financial Plan, a Cost-of-Service Analysis by customer class, recommendations for updated rates and fee structures, and a rate survey benchmarking the existing and proposed rates to similar and surrounding communities.



## Jim Borchardt, PE

Senior Engineer

Jim has 42 years of experience in project management and engineering for water treatment, conveyance, and storage facilities. He is an award-winning water treatment expert and contributing author of the MWH Water Treatment Principles and Design Text Book (3rd Edition) that is used to teach water treatment in universities across the country. Jim has managed water quality studies, bench and pilot scale testing, facility planning and design, process evaluation, site development, hydraulic analysis, treatment plant design, construction management, and startup and operation on more than 125 treatment facilities. Jim has also served as technical advisor on more than 250 other treatment projects.

### Education

Bachelor of Science, Civil Engineering, Colorado State University, Fort Collins, Colorado, 1976

Master of Science, Environmental Engineering, University of North Carolina, Chapel Hill, North Carolina, 1979

### Registrations

Professional Engineer #21603, State of Nevada

Registered Civil Engineer #17847, State of Colorado

Registered Civil Engineer #35819, State of California

### Project Experience

#### **San Fernando Groundwater Remediation Project | Los Angeles Department of Water and Power, California | 2019-2021 | Design Manager**

Jim served as design manager for the design of two groundwater treatment facilities and well collector piping on this \$460M progressive design-build project. Work involves detailed planning, design, procurement, and construction and commissioning support of well connections, purge facilities, strainers, UV/AOP facilities, GAC contactors, waste disposal, and disinfection system to provide remediation of contaminants in the San Fernando Valley groundwater basin.

#### **Public Utilities Department | Pure Water San Diego Program | San Diego, California, United States | 2016-2018 | Design Lead**

As part of the overall \$3B Pure Water Program, Jim served as the process-mechanical and instrumentation and control design lead engineer for this groundbreaking facility. The work included completion of two concurrent 30% design efforts for 30 mgd of Potable Reuse, using Title 22 effluent from the City's North City Water Reclamation Facility. Processes include ozonation, biologically activated carbon filtration, MF/UF membrane filtration, 3-stage reverse osmosis, advanced oxidation with UV/Cl<sub>2</sub>, chemical stabilization with lime and CO<sub>2</sub>, and chlorine disinfection.

#### **Metropolitan Water District of Southern California (MWD) and the Los Angeles County Sanitation Districts | Advanced Water Treatment Demonstration Facility (AWTDF) | Los Angeles, California | 2016-Ongoing | Project Manager**

Jim served as project manager and On-Call Contract Administrator for the 0.5 mgd Advanced Water Treatment Demonstration Facility, completed as a partnership between the Metropolitan Water District of Southern California and the Los Angeles County Sanitation Districts. The AWTDF provides biological Ndn treatment with MBR, followed by traditional RO-UV/AOP treatment on secondary effluent from the 400-MG Joint Water Pollution Control Plant, to investigate treatment needs for indirect potable

reuse. The goal of the project is to obtain DDW approval of the process for design of full-scale facilities. In related studies, facilities of up to 340-mgd have been modeled and cost estimates prepared to support the Regional Recycled Water Supply Project.

**City of Santa Monica | Sustainable Water Infrastructure Project (SWIP) | Santa Monica, California | 2016-2019 | Project Manager**

Jim managed the planning and conceptual design of the SWIP project and led Stantec's team as Owner's Agent on this progressive design-build project. SWIP was created to help the City achieve its long-term goal of water sustainability and drought resilience by using all its local water resources, including stormwater runoff, recycled municipal wastewater, and brackish groundwater. The SWIP combines each of these sources to produce approximately 1,680 AFY of advanced treated water for City use in lieu of imported water supply. The SWIP will produce water of advanced treated quality that, when properly permitted, will be acceptable for potable reuse via replenishment of the City's natural groundwater aquifers. Until final permits are obtained, the SWIP water will be used to meet existing recycled water demands, such as irrigation, street cleaning, and toilet flushing. The SWIP elements are all designed to operate as a cohesive and integrated system for the harvesting, treatment and conjunctive reuse of nonconventional water resources.

**Water Treatment Plant Expansion and Disinfection-By-Product Control Project, Antelope Valley, California (Project Manager), 2004-2010**

Jim led the planning and pilot studies, through detailed design services, construction support, and start-up for the expansion and upgrade of four WTPs. These plants ranged in size from 4 to 90 mgd. The four treatment plants (Quartz Hill, Eastside, Acton, and Rosamond) were upgraded to include intermediate ozonation, deep-bed GAC filtration, and chloramines. The work required coordination of three main contractors and more

than a dozen equipment suppliers. The project emphasis on schedule control was critical to allow coordinated conversion of the distribution system residual. Standby disinfection was also provided with the addition of chlorine contact basins. In addition, the largest treatment plant was expanded to 90 mgd by the addition of plate settler modules and new sludge removal mechanisms to the existing sedimentation basins. Jim also provided final start-up and commissioning services.

**Weymouth WTP Filter Rehabilitation Design and Construction, Los Angeles, California (Project Manager), 2007-2017**

The Weymouth WTP is a 520-mgd plant with 48 dual-media gravity filters. Initially, Jim oversaw the rehabilitation of four filters, each with an individually different filter design. The four filters were studied for two years to determine the best design for long-term performance. After the optimum design was determined, all 48 plant filters were rehabilitated in a \$35M construction project. The design included media and underdrain replacement, and new surface wash and wash troughs, raising the concrete gullet walls, hatch and connection replacement, handrails, and instrumentation.

**Green River Filtration Facility, Tacoma, Washington (Principal-in-Charge), 2012-2016**

Jim was the principal-in-charge of this \$180 million new treatment plant project. The facility is constructed on the site of the existing Green River Headworks and treats water from both the Green River and groundwater supplies delivered from the North Fork Wellfield. The initial maximum filtration capacity of the new facilities is 150 mgd with an ultimate filtration capacity of 168 mgd. The Green River Filtration Facility is a hybrid facility, with a capacity of 90 mgd operating in conventional treatment mode (with clarification preceding the filters), and full capacity operating in direct filtration mode. The solids treatment facilities include mechanical dewatering to provide reliable, year-round ability to process solids in preparation for final disposal.



## Michael Adelman, PE

Environmental Engineer

Michael works in the Process group at the Pasadena office. He is interested in the intersection of theory and practice, and he works on both conventional and advanced treatment process engineering. His work includes experiments at bench-, pilot-, and plant-scale along with water quality modeling; conceptual analysis; process selection and sizing; process design; and engineering support of construction and operation. He has significant experience in all aspects of advanced water treatment including both the treatment processes themselves and the system-wide implications of potable reuse.

### Education

Master of Science, Environmental Engineering, Cornell University, Ithaca, New York, 2012

Bachelor of Science, Civil Engineering, Lafayette College, New York, New York, 2012

### Registrations

Registered Civil Engineer #82999, State of California, 2014-2020

### Memberships

Member, American Water Works Association

Member, WaterReuse Association

Member, Southwest Membrane Operator Association

### Awards

2015 Rudolph Hering Medal from ASCE Journal of Environmental Engineering

### Project Experience

#### **Sustainable Water Infrastructure Project | City of Santa Monica | Santa Monica, California**

Stantec helped define the City of Santa Monica's innovative Sustainable Water Infrastructure Project to increase local water supply through a variety of local sources. The Stantec team did planning and conceptual design work to define a suite of new projects to add local stormwater, brackish water, and reclaimed water to the City supplies, and is currently serving as the owner's engineer for the design-build

procurement of the facilities. Michael provided process engineering support throughout this project. He defined treatment process concepts and worked on RO models and sizing calculations, and he reviewed final design drawings, specifications, and vendor equipment submittals.

#### **Broadway Road Water Campus Pilot Study and Design, City of Buckeye, AZ | Process Lead**

The City of Buckeye is developing new water supplies through a major design-build project. The City's groundwater is brackish and there is widespread contamination with both nitrate and arsenic. As the treatment process lead, Michael developed and evaluated options to achieve acceptable water quality and defined the concept for a treatment system that will include blended product from RO and arsenic removal filters. Michael led a RO pilot study to achieve a very high recovery (>90%) and minimize brine flow, and he is coordinating the preliminary and final design of the treatment systems as part of a design-build effort. This design work includes the treatment facility as a whole and several pre-procurement packages.

#### **One Water LA Studies | Los Angeles Bureau of Sanitation | Los Angeles, CA**

The City of Los Angeles has an ambitious plan to expand water reuse through the One Water LA 2040 Plan. Stantec worked on planning and modeling for full-scale potable reuse concepts and is part of the

team designing the MBR-RO demonstration plant at Hyperion and the advanced water treatment facility for LAX airport. Michael has provided process engineering support for this program. He developed treatment process options; built and reviewed treatment process models for biological treatment and RO; evaluated RO equipment sizing; and worked on cost estimates.

#### **Pure Water San Diego Program | San Diego, California | Process Engineer**

Pure Water San Diego is an ambitious and transformative potable reuse program. Michael was part of the team for the design of the 30-mgd North City Pure Water Treatment Facility (NCPWTF) at the North City Water Reclamation Plant. He coordinated the process sizing, layout, equipment selection, performance modeling, and hydraulics for the reverse osmosis (RO) and biological activated carbon (BAC) systems. He developed novel design methods to address water chemistry issues at the system level, considering everything from the upstream wastewater plant to the receiving reservoir and drinking water system, and he built models to serve as the basis for this design. He also led a suite of novel bench-, pilot, and demo-scale studies to address these system-level issues and operational concerns. The Stantec Team is providing program management services for the \$3 billion Pure Water San Diego Program—a phased, multi-year program that uses proven technology to produce a safe, reliable, and cost-effective water supply for the City.

#### **Design and Operation of Demonstration Facility, Potential Regional Recycled Water Supply Program | Metropolitan Water District of Southern California | Carson, California**

The Metropolitan Water District of Southern California and the Los Angeles County Sanitation Districts are partnering for one on the largest proposed water reuse projects in the world. The Joint Water Pollution Control Plant (JWPCP) is a low-SRT, non-nitrifying plant that creates unique challenges for full advanced treatment, and a demonstration-scale facility will be used to study the MBR, RO, and AOP processes and develop a treatment concept for full implementation. Michael

worked on treatment process and hydraulic design for this demonstration plant. He provided engineering support during construction and startup and is part of the team to operate the demonstration study and analyze the data. This groundbreaking study will advance understanding options to treat non-nitrified wastewater for potable reuse and evaluate pathogen removal by MBR.

#### **Westside Recycled Water Project | San Francisco Public Utilities Commission | San Francisco, CA | Process Engineer**

The Westside Enhanced Water Recycling Project is a component of SFPUC's Local Water Program that diversifies water sources by creating a new recycled water supply to use for non-drinking purposes. The project includes construction of a new recycled water treatment facility that will be located within the limits of the SFPUC's Oceanside Wastewater Treatment Plant and the construction of almost 8 miles of new recycled water pipelines to bring recycled water to the City's westside for irrigation, lake fill, and other uses. Effluent from the Oceanside plant is treated by MF, RO, and UV disinfection. Michael developed RO array and scaling models to meet the intended recovery and nitrogen removal goals across the range of water quality conditions. He also reviewed RO system submittals.

#### **Camrosa Water Reclamation Facility Disinfection Study | Camrosa Water District, California**

The Camrosa Water Reclamation Facility is a municipal wastewater plant that recycles water to meet significant local agricultural demand. The owner was interested in re-rating the existing chlorine contactor to accommodate higher flows. Michael helped develop a testing protocol for re-rating this basin under Title 22 reclaimed water standards, which involved tracer studies, chlorine demand studies, and MS-2 bacteriophage seeding studies all at full scale. He coordinated experiments at the plant, worked with plant staff, and documented test results for regulatory review. This innovative study produced a novel dataset of disinfection kinetics at full-scale and gained the approval of the California regulators to operate the disinfection process at a higher flow rate.

## 2. Availability/Geographical Location of Personnel

Team Member	Office Location	Availability
William Ziebertz	Atlanta, Georgia	15%
Benjamin Stewart, PE	Sacramento, California	25%
Andrew Burnham	Tampa, Florida	10%
Carol Malesky	Cleveland, Ohio	10%
Matthew Freiberg	Walnut Creek, California	50%
Jim Borchardt	Pasadena, California	20%
Michael Adelman	Pasadena, California	20%

## 3. Roles and Responsibilities

Team Member	Project Role	Role in the Project
William Ziebertz	Project Director	Bill will provide overall technical direction for the study and use his expertise in the wastewater industry to advise the team on appropriate methodologies for cost allocations, rate design, and billing processes.
Benjamin Stewart, PE	Project Manager	Ben will be responsible for day to day operations and management aspects of the project and will facilitate on-time and within budget completion of the requested services.
Andrew Burnham	Senior Advisor	Andy will offer his 20 years of experience to our team in an advisory capacity. He will meet with the team periodically to advise on the appropriate methodologies.
Carol Malesky	Wastewater Advisor	Carol brings her 20 years of wastewater cost allocation experience to our team in an advisory capacity, specific to her expertise in Wastewater rate making.
Matthew Freiberg	Consultant	Matt will be responsible for leading the model customization, data entry, and preparation of work products. He will work at the direction of the project manager.
Jim Borchardt	Lead Engineer	Jim will be responsible for the engineering analyses required to update the cost allocation framework and use his expertise in engineering and the wastewater industry to guide specific analyses regarding both functional and design cost drivers relative to wastewater treatment.
Michael Adelman	Project Engineer	Michael will be responsible for coordinating and conducting engineering-led analyses of wastewater capacity, volumetric, and strength-driven costs and cost allocations.

# C. Firm's Capability and Past Performance

## 1. Track Record Producing Functional Allocations for Regional Sewer System Capital Facilities Based on Engineering Review

Stantec is experienced in bringing engineering and financial professionals together to serve communities facing complex cost allocation problems. Our ability to bring appropriately skilled and locally relevant engineering professionals to bear is one of the reasons our financial and management consulting team is so effective in conducting cost of service studies in such a wide variety of circumstances.

One example of this pattern is a current project in Tempe Arizona. Stantec conducted our first cost of service study for Tempe five years ago. Tempe participates in a regional wastewater treatment partnership known as the Sub-Regional Operating Group, (SROG), which also serves Phoenix, Glendale, Mesa, and Scottsdale, processing wastewater for approximately 2.5 million people in total. Tempe is responsible for charging strength-based surcharges to its own customers, and is subject to strength-based charges from the SROG for its combined flows. Stantec's initial cost-of-service analysis for Tempe considered the cost allocations from the SROG as well as developing cost allocation recommendations for Tempe's other wastewater treatment assets, but we recommended waiting to change the customer class allocations driving rate design (billing) processes until after more and more usable class-based loading information could be compiled. Our recommendation was for an increased level of testing with a focus on several key customer types such as dairies and different types of residential development. Stantec is now assisting Tempe in the development of that enhanced testing program, with initial samples scheduled for this Summer, and anticipating the use of the enhanced data in the 2022 cost of service update. This engineering-led project will empower the next cost allocation study to better differentiate among customer groups and allow the refinement of existing cost-based rates.

Our attention to technical detail also benefited JEA, formerly the Jacksonville Electric Authority, a combined water, wastewater, and electric utility serving over 1.5 million people. JEA's main wastewater treatment plant processes large volumes and proportions of industrial flows, including both direct piped industrial flows as well as significant volumes of hauled wastes. The City's largest landfill delivers large volumes of leachate for treatment, and these volumes were impacting both UV disinfection and solids management processes. Stantec's extended cost allocation analyses documented abnormally high cost impacts related to leachate, including development of cost-based rates necessary for full cost recovery if deliveries were to continue unchanged. JEA was able to use Stantec's analysis to trigger successful negotiations with the City, leading to the City's adoption of a change in leachate management processes to reduce wastewater cost impacts.

Similarly, Stantec has just completed a comprehensive cost of service analysis for the Northeast Ohio Regional Sewer District (NEORS) in Cleveland Ohio. NEORS serves over one million people connected through the City of Cleveland and 61 independent suburban communities, and faces significant and ongoing rate pressures due to consent-order driven capital spending. Metered wastewater flows by sub-district, along with estimates of I/I, flow estimates based on billable water usage, and measured or estimated loadings were balanced to create a cost of service model. Surcharges for high-strength wastes were of particular interest to several industry groups, so Stantec expanded the technical analysis of cost drivers, pulling in engineering and operational expertise from NEORS. The integrated project team reviewed the full range of assets relevant to wastewater treatment and conducted detailed functional-design allocations for both capital related and operating costs. Multiple detailed presentations to the industrial groups validated the cost basis for surcharges, answering their concerns and allowing the Board to move forward by adopting the recommended schedule of rates and charges.

## 2. Demonstrated Experience

More broadly, the Stantec community unites more than 22,000 employees working in over 400 locations across the globe. Our local strength, knowledge, and relationships, coupled with our world-class expertise, have allowed us to go anywhere to meet our clients' needs in more creative and personalized ways. With long-term commitment to the people and places we serve, Stantec has the unique ability to connect to projects on a personal level and advance the quality of life in communities across the globe.

As a multi-disciplinary firm, Stantec has the unique depth of resources and diversity of subject matter expertise to ensure that any unanticipated needs can be met during the analysis. For the requested scope of services, senior members of Stantec's Financial Services Practice will be assigned to our project team. No joint ventures or subcontractors will be utilized on our team.

Stantec's Financial Services Practice is home to an impressive amount of experience and knowledge, including **35+ full-time professional rate consultants** who have completed thousands of financial and rate-related studies for nearly 300 utilities and local governments across the United States. It is this deep bench of experience that brings value to your project, including backup team members should additional resources be required. As a group, we work together and learn from each other's experiences. This combination of diverse backgrounds and experience has made us who we are today – **leaders in providing objective financial management services to local governments and utilities throughout the country.**

## 3. Understanding Multi-Agency Regional Wastewater Treatment Systems

Stantec recognizes that rates involving multiple agencies are particularly sensitive and have the potential to be particularly complex. Relevant institutional relationships, past practices, contractual obligations, past payments, and the evolution of behaviors and expectations all work together to "raise the bar" for almost every aspect of any cost allocation or rate analysis.

Many regions include utilities providing services in complex multi-jurisdiction situations. Sometimes initial investments were made by multiple parties, and other times by a single party; sometimes those investments are aligned with ownership and sometimes not; some relationships are governed by explicit agreements and other times the only agreement is the result of an ongoing pattern of dealing. In many cases, an initial agreement has served the parties well, but as a result of growth or contraction in a service area and technological change, past allocations and rate practices need to be refreshed, reviewed, and re-established. In other words, San Diego and its Participating Agencies are not alone.

Our assistance to Jackson, MI and its participating agencies is a good example of our ability to help that diverse group establish common ground. Past demand patterns and allocation factors, almost certainly logical and appropriate at the times established, had resulted in some inequities in wastewater cost allocations that needed to be addressed. Future investments patterns were different from those of the past, and the relative proportion of retail versus wholesale related investment had to be clearly established. The participants credited the openness of our process for the ultimate success of getting all parties to support a slate of recommended changes.

The regional wastewater treatment facility managed by South Platte Renew (formerly South Platte Renewal Partners, SPWRP) provides another recent example. Operating the third largest wastewater plant in Colorado, this agency serves two partner cities, (Englewood and Littleton), as well as numerous collection districts connected to and served by each city. The review and update of cost allocation procedures was especially challenging in that Englewood operates the facility for the partnership, necessitating careful budgeting and auditing procedures to document distinctions between city-only and shared expenses. Again, Stantec's explicit,



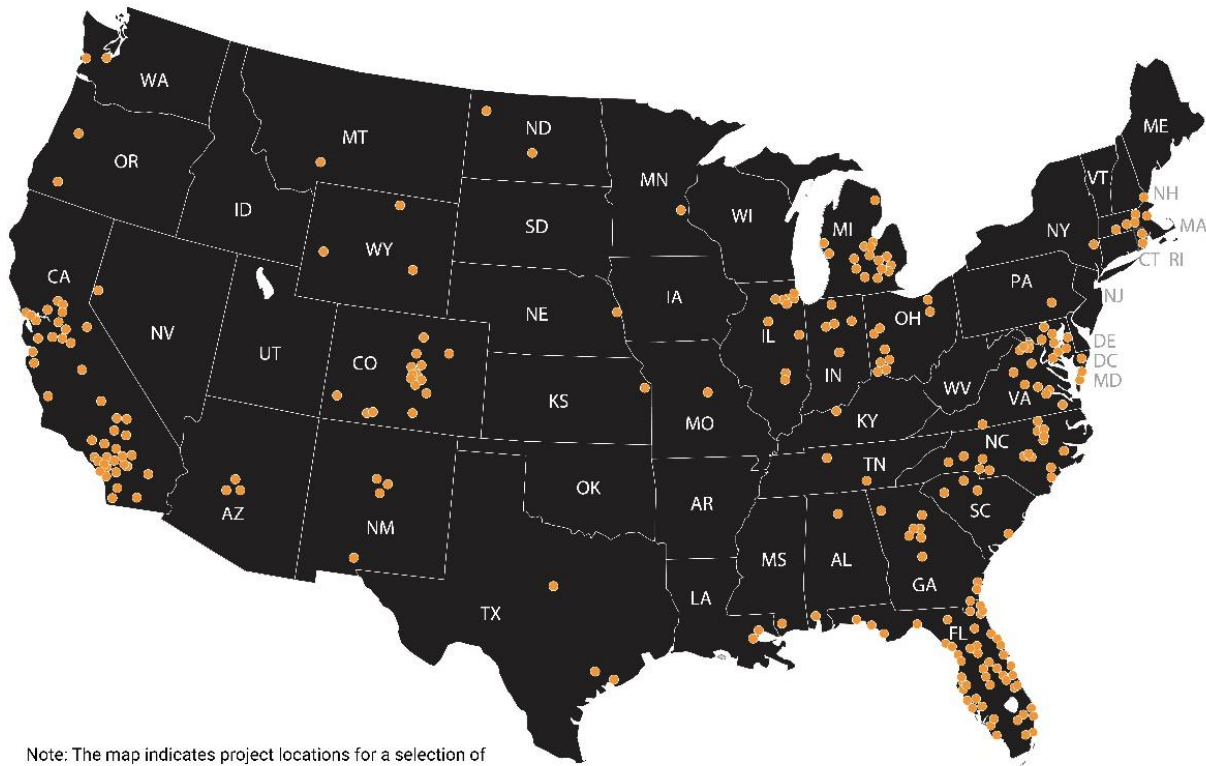
Careful, and completely open cost allocation approach provided the basis for shared understanding and ultimate agreement in an updated cost allocation approach.

We understand that San Diego and its Participating Agencies cope with different and nuanced complexities, so we don't presume to know what should be done before we've started the project. But we are confident of this – whether the issue is water supply or wastewater treatment, and whether the rate paradigm is that of an owner-operator or a joint powers agency, an unbiased focus on cost causation combined with a commitment to clarity in communication offers the best foundation for future collaborative success.



## 4. Other Pertinent Experience

Our **expertise** helped communities across the globe—including over **290+** diverse locations in the US alone.



## 5. Past/Prior Performance

This section presents project descriptions and reference information for recent and relevant work completed for six similar municipal and utility clients within the past seven years. We encourage you to contact each of these references as they can speak to our experience and expertise in providing utility rate-related services as well as our ability to meet project budgeting and scheduling milestones.



**Key Project Team Members:** Carol Malesky, William Zieburtz, Benjamin Stewart

**Client Contact:** Mr. Ken Duplay, Director of Finance; 3900 Euclid Avenue, Cleveland, OH 44115; (216) 227-2018; duplayk@neorsd.org

**Contract Amount:** \$220,000

## Cost of Service Rate Study and Affordability Analysis

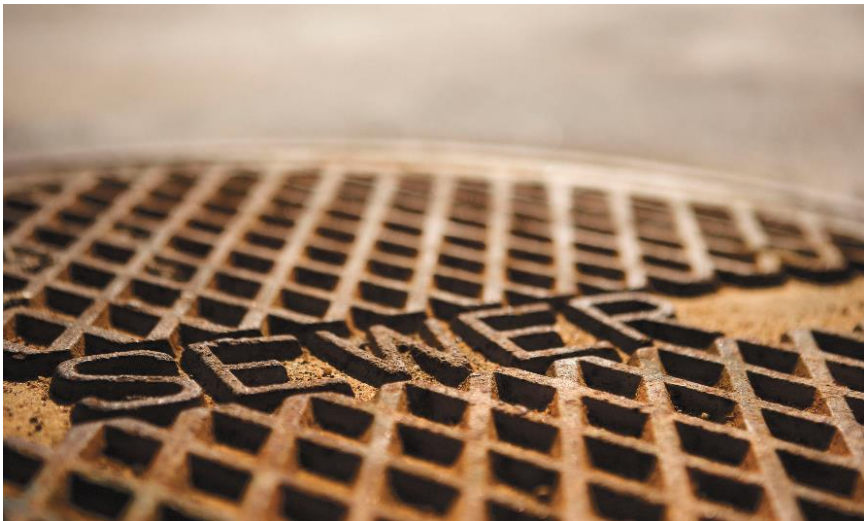
### Northeast Ohio Regional Sewer District, Ohio

The Northeast Ohio Regional Sewer District (District) provides wastewater treatment and disposal services on behalf of most of **the City of Cleveland and 61 suburban communities**, serving a population totaling over 1 million. The District's large service area comes with large capital requirements of \$5 billion over the next 30 years, \$3 billion of which is mandatory per its consent order. The District needs to maintain financial strength through consistent rate increases to allow continued access to capital markets at the lowest cost.

Attempting to maintain and balance revenue predictability, rate stability, sustainability, public acceptance, and achieve enhanced affordability, NEORSD turned to Stantec to develop tools and strategies to mitigate and manage the potential impediments to a continuous process of future rate increases. First, we prepared a functional and District-usable financial planning tool that enables the District to analyze alternative funding scenarios for its large CIP. The financial planning model was adopted by the District and continues to be used since that time.

Next, we evaluated the District's rates from a cost-of-service perspective, recognizing differences in customer class impacts on the District's operating and capital costs. Metered wastewater flows by sub-district, along with estimates of I/I, flow estimates based on billable water usage, and measured or estimated loadings were balanced to create a cost-of-service model. High-strength wastes were having a significant impact on unit costs, and the cost-of-service analysis documented the cost basis for adjustments to the District's surcharges. Unusually detailed analyses were conducted to provide sufficient data and backup in response to concerns from various industry groups regarding cost allocations to traditional wastewater parameters, (flow, BOD, and TSS), versus the costs of meeting nutrient limits for nitrogen and phosphorous.

Additionally, Stantec developed affordability tools required to analyze and understand affordability challenges throughout the service area. Several affordability investigations were conducted including our WARi™ (Weighted Average Residential Index) approach, which enhances understandability of residential affordability by focusing on three key areas that the usual approaches neglect: population details by neighborhoods; the full distribution of income unique to the community; and real rather than hypothetical bills. This understanding of affordability and direct linkage to future rate projections led to discrete modifications to the District's affordability programs and more focused outreach to those that may benefit the most from such programs.



**Dates of Services:** 2019 – ongoing

**Project Team:** Andrew Burnham,  
Benjamin Stewart, Matthew Frieberg

**Client Contact:** Ms. Jordan Sweeney;  
Historic City Hall 915 "I" Street, 2nd  
Floor, Room 219, Sacramento, CA  
95814; (916) 808-2310;  
jpsweeney@cityofsacramento.org

**Contract Amount:** \$110,000

## Storm Drainage Fund Review

### City of Sacramento, California

Like many stormwater utilities in California, Sacramento has not increased its storm drainage charges due to constraints created under Proposition 218. With the last rate increase occurring in 1997, revenues have not kept pace with increasing storm drainage system costs, resulting in deferred infrastructure investments increasing future obligations as a result of ongoing physical depreciation, cost escalation, and declining fund reserves. Although none of this is news to the City's Department of Utilities (DOU), the City Auditor's Office contracted with Stantec to conduct a review of DOU's Storm Drainage Fund to provide an objective and independent evaluation of the fund's financial and operational sustainability.

Stantec's scope of work includes an in-depth review of fiscal policies and procedures, financial benchmarking, valuation of the existing stormwater infrastructure, operational and financial gap analyses, and development of a long-term fiscal forecast of the Storm Drainage Fund. Additionally, Stantec developed a comprehensive set of potential funding options in addition to rate/fee increases to provide a comprehensive set of possible solutions to bridge the current funding gap.

Through the financial benchmarking, and capital and operations review processes we were able to expand the City's current understanding of the existing funding needs and financial gaps. This process has yielded comprehensive findings encompassing additional operational and capital needs, level of service enhancements, projected expenditure efficiencies in budget execution rates, and defensible combined sewer system allocation approaches. Pairing these cost-based findings with the financial benchmarking analysis and long-term fiscal forecast has helped the City frame potential mitigation strategies to meet their true long-term funding needs in the most efficient manner possible. We are currently working with the City to package this analysis into defined scenarios that aim to meet the City's goal of providing a high level of service and establishing a sustainable Storm Drainage Fund while maintaining affordable drainage rates.



**Dates of Services:** 2019 – 2021

**Project Team:** Carol Malesky, William Zieburtz, Benjamin Stewart

**Client Contact:** Mr. Pieter Van Ry;  
SPWRP Director; 303.762.2602;  
pvanry@englewoodco.gov

**Contract Amount:** \$110,000

## Capital, Operational, and Administrative Cost Allocation Studies – South Platte Renew

### Cities of Englewood and Littleton, Colorado

The Cities of Littleton and Englewood Colorado jointly own a wastewater treatment facility known as South Platte Renew, formerly South Platte Water Renewal Partners, (SPWRP). South Platte Renew is the third-largest treatment facility in Colorado, receiving wastewater flows not only from the two cities, but from 9 connector districts that discharge through the two cities into the system. In 2019, SPWRP engaged Stantec to review its costs of service for treatment and provide clear cost allocation results to the City of Littleton, the City of Englewood, and ultimately to the additional 9 connector districts.

Stantec prepared a dynamic long-term financial planning model that forecasts operations and maintenance costs and projects capital improvement projects determined in the Master Plan completed in 2019. As part of the study, Stantec reviewed the 1982 Joint-Use Agreement between the two Cities, and updated the cost allocation framework. The cost analysis reflected current patterns of flow and loadings from the participating agencies, and the upgrade capital asset and operating framework of South Platte Renew.

In addition, our team conducted a detailed analysis of the administrative fee component of the Joint-Use Agreement. As South Platte Renew is operated by the City of Englewood, Littleton and the other participants are keenly interested in the classification of costs between SPWRP and other City of Englewood activities and responsibilities. Most of the direct costs, such as operations staff and capital expenditures are directly allocated to SPWRP, and are relatively easy to verify. By contrast, a large number of indirect cost line items are appropriately shared between Englewood and South Platte Renew, the allocation bases for these items can be harder to establish, and they can in some cases be harder to monitor. Stantec conducted an activity-based costing analysis of administrative and support costs to create a formal basis for current and future allocations. Costs were associated with key cost drivers at the activity level, tying specific budget allocations to a variety of measurements and metrics such as operating or capital budgets, facility size or complexity, employee headcount, cases handled by legal or other teams, or estimated annual time burden for key activities such as Council meetings.

The project provided an opportunity for both partners to participate in detailed cost allocation discussions, and to develop both a familiarity and a comfort with the process being developed. The new cost allocation basis was approved by South Platte Renew and now provides the basis for rates charged to the parties.



**Dates of Services:** 2015 - Present

**Project Team:** Andrew Burnham,  
William Zieburz

**Client Contact:** Ms. Beth Finney, Chief  
Fiscal Officer; 5838 River Road,  
Nashville, TN 37209; (615) 354-8581;  
bfinney@hvud.com

**Contract Amount:** Continuing services  
contract of approx. \$60,000 per year

## Water & Sewer Rate Cost-of-Service & Financial Planning Harpeth Valley Utility District, Tennessee

The Harpeth Valley Utilities District is a public utility providing water services to a large portion of suburban Nashville – **a population of approximately 1.6 million people** – including customers in portions of Davidson, Williamson and Cheatham Counties, Tennessee through retail and several wholesale customer relationships with neighboring utility systems.

Due to rapid and continuing growth in the service area over many years, the District had grown and expanded to the point where it needed to conduct a comprehensive evaluation of its approaches to developing and tracking revenue requirements, and to conducting cost of service, rate structure, and impact fee studies to ensure long-term sustainability based upon current and expected conditions.

Stantec first worked with the District to create an entirely new financial forecasting tool in alignment with current budgeting and fund management processes. HVUD elected to embrace a new model as an ongoing internal planning tool and it continues to be used by HVUD staff. The next project was the development of a wholesale cost allocation framework in response to a potential opportunity to provide wholesale wastewater treatment services to a new jurisdiction. The District's 7 wholesale customers are served under a complex capacity reservation system, and this system needed to be recognized in the development of an appropriate and justifiable allocation of costs between water and wastewater services, between retail and wholesale customers of each service, and between different retail customer classes. The framework was then used to help the District explore alternative potential wholesale contract arrangements to determine the impact of the opportunity to the existing customer base.

A comprehensive cost-of-service study was subsequently conducted to improve the equity underpinning the District's retail rate schedules, and to recognize changes in costs and processes. As with many utilities, the rate structure had evolved over time, and tended to reflect assumed conditions that no longer fully applied. As one example, our analysis documented the need for increases in base charges for customers with larger meters due to their increased demands and provided the rationale and cost justification for the change. Stantec conducted special purpose workshops to the Board to educate them on cost of service and rate structure options, and to prepare them to address questions that were expected to arise because of the proposed rate changes. The District's wholesale customers and their rate consultants reviewed the study and results, and Stantec managed an interactive review session to explain the results and build the support of the wholesale customers.



**Dates of Services:** 2005 – Present

**Project Team:** Eric Grau, Andrew Burnham, William Zieburtz, Patrick Luce

**Client Contact:** Mr. Pat Lehman, Executive Director, 6311 Atrium Drive, Suite 100, Bradenton, FL 34202, (941) 316-1776, fax: (941) 316-1772, peacemana@aol.com

## Financial Planning and Rate Consulting Services

### Peace River/Manasota Regional Water Supply Authority

Our team has provided financial planning and rate consulting services to the Authority for more than 10 years, including the development of a financial projection and cost allocation/ rate model that we update annually on behalf of the Authority as part of its regular budget and rate setting process.

The Authority is an independent special district and a regional water supply authority and was created by interlocal agreement in 1982 by Charlotte County, Sarasota County, DeSoto County, Hardee County, and Manatee County for the purpose of addressing water supply issues in a mutually beneficial manner and defining each county's rights to the water supply within its own boundaries. The Authority's goal is to ensure future water supply within its region and to develop, recover, store, and supply water resources for counties and municipalities in such a manner as will encourage conservation and will minimize adverse environmental effects that can occur when withdrawals and use of water is excessive or improper. The Authority's water system includes various water production, storage, treatment, transmission, and other ancillary facilities, and its customers include the four member Counties as well as the City of North Port.

Among other things, the master water supply contract requires the Authority to use its best efforts to deliver water to each customer in accordance with their respective water allocations as set forth in the agreement. To address the issue that arises from time to time of actual demands occurring differently than projected, the Authority has established a redistribution pool, whereby excess water is credited to the pool and made available for purchase by other water customers short on capacity until overall demands on the system necessitate the next phase of system expansion. Therefore, as part of the financial planning and rate consulting services we provide to the Authority, we annually evaluate the impacts of updated customer demand projections upon overall system capacity, including excess capacity allocated to the redistribution pool, and the resulting scenarios of system expansion requirements. We also regularly assist the Authority to look at different methods of allocating its various types of capital costs, including direct assignment of specific transmission mains, reserved capacity for new plant expansions, and total demand/capacity reservations for certain renewal and replacement projects, and have helped investigate the idea of an upfront capital cost recovery charge that each water customer would impose on new development and remit back to the Authority for funding of future system expansions.



**Key Project Team Members:**

James Bearman, Leticia  
Gaglianone, William Ziebertz

**Professional Fees:** \$34,500

**Client Contact:** Mr. Todd Knepper,  
Director of Public Works, 161 West  
Michigan Avenue, Jackson, MI  
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tknepper@cityofjackson.org

## Wholesale and Retail Cost Allocation Study for Regional Wastewater System

### City of Jackson, MI

The City of Jackson, Michigan provides water and wastewater services to its residents and seven major outside-city wholesale wastewater customers, as well as a major State of Michigan prison complex located just outside Jackson City limits.

The City had not updated its wholesale cost allocation for wastewater rates in some time and engaged our team to assist with this important study. As each of the seven wholesale wastewater customers were asked to participate in all discussions throughout the analysis, it was important to obtain their buy-in of the process and results, despite potential financial impacts to their respective systems.

Stantec completed a revenue sufficiency analysis for the City's wastewater system and developed an equitable cost allocation analysis to assign costs to each of the City's seven wholesale customers and to the City's retail customers. Key cost allocation issues addressed CIP projects benefitting only the retail customers as well as proper allocation of treatment plant investment among the participating agencies.

We used our FAMS-XL model to develop alternative ten-year financial management plans and plans of annual rate adjustments that would be necessary to meet all the utility's financial obligations in each year of the projection period, including appropriate fixed fee recovery by rate mechanism, appropriate reserve levels, and annual capital improvement funding needs. The cost allocation process focused on relative loadings from the participants as well as capacity requirements for future growth.

After several interactive sessions with the City and its wholesale customers, the parties agreed the revenue sufficiency analysis and cost allocation methodology proposed by Stantec was reasonable and appropriate and should form the basis for user charges and connection charges for the wastewater collection and treatment service provided by the City. This cooperative agreement will allow the City to maintain the future sustainability of their wastewater operations and allow the City's system to function as a regional system, despite the City being the sole owner and operator of that system. Since the original study, we have also completed additional rate and connection fee studies for the wastewater system and a water rate analysis, as well as being asked by all parties to return to develop additional surcharges for high-strength loadings from certain customers.

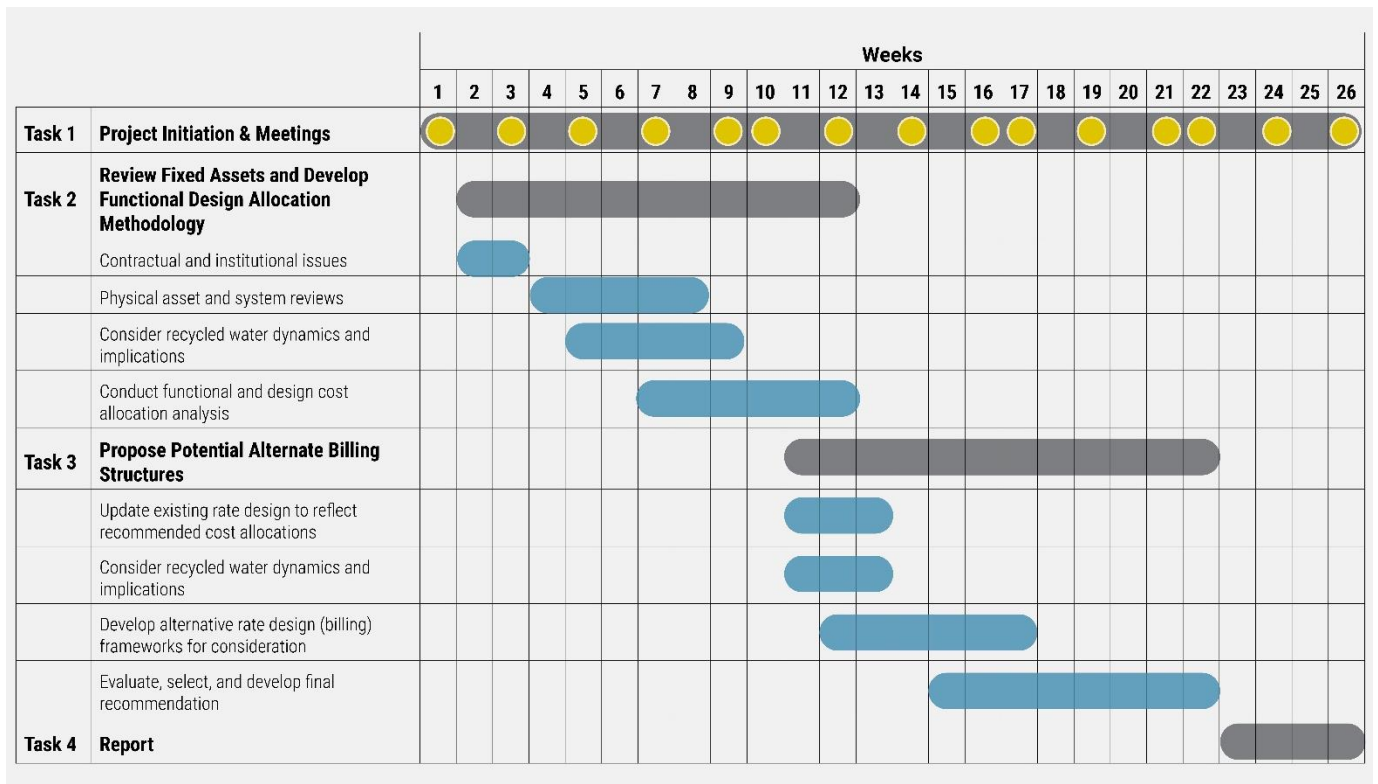


## 6. Capacity/Capability to Meet City’s Needs in Timely Manner

We have dedicated the resources to complete the requested study in a timely manner. We propose to complete the study within the desired **26-week timeline**, as presented in the following schedule.

Presuming the City and Participating Agencies’ ability to provide data, coordinate meetings, and execute reviews according to the schedule we will jointly develop, we will achieve the City’s schedule by:

- **Triggering processes early** – we will provide an initial data request list within one week of notification of our selection so that the City can begin compiling data during the contractual processes;
- **Doing our homework** – we will review publicly available information and other information made available to us in advance of the project kickoff so we will be prepared to ask informed questions about current and historic processes immediately at the start of the project;
- **Front-loading our technical analysis** – we will make time in our schedules to allow us to trigger our detailed technical reviews at the earliest possible point in the project;
- **Focusing on clear alternatives** – especially with regard to the potential alternative rate design (billing) approaches, we will strive to create alternatives that are relevant, distinct, understandable, and implementable;
- **Working toward shared benefits** – we will “keep the end in mind” throughout the process, helping to maintain the successful framework built by the City and Participating Agencies over many years, and supporting the continuation of the mutually beneficial service patterns already established.



● Meeting (Exact Timing, TBD)

## 7. Reference Checks

We encourage you to contact the reference points of contact for each project listed in Section 5. Past/Prior Performance. These individuals can speak to the ability and expertise of our project team.