

# **SATELITE COLLECTION SYSTEMS – THE CONTRACT ALTERNATIVE**

**Christopher M. Westhoff  
Assistant City Attorney**

**Public Works General Counsel,  
City of Los Angeles**

**NACWA Legal Conference  
Palm Springs, Ca. November 2007**

# The City's System



4 Treatment Plants

6700 Miles of Sewers  
(6" to 150")

46 Pump Plants

26 Contract Agencies –  
Including Other Cities,  
Federal Property,  
County

Sanitation Agencies

# WHY CHANGE THE EXISTING CONTRACTS?

- Environmental and Regulatory Changes
- Significant Wastewater System Changes
  - Physical Changes In System
  - Financial Changes
- Outdated Contracts Could Not Handle Modern Regulatory Climate, City's Needs
- Non-Payment And/Or Partial Payment



# Evolution From Old Contracts to New 30 Year Agreement

- Model Contract
- Draft Proposed Contract
- Agency-SSC Approach
- Litigation In Early 1990's
- Settlement

# CITY GOALS

- Prompt and Complete Payment
- Same Charge System As Internal Residents
- Fixed Term Contract
- Maintain Control Over The System
- Surface Water Runoff

# AGENCY GOALS

- Meaningful Input
- Buy-Out Provision
- Have Access To Additional Capacity
- Pay Less
- Dispute Resolution



# COLLECTIVE GOALS

- Comply With Regulations
- Fair And Equitable Charges
- Simpler Charges With Reduced Administration Costs
- Flexible Contract

# NEW SERVICE CONTRACTS – Key Provisions

- Definitions
- Charge System
- Administration
- Discharge Measurement
- Term Of Agreement
- Conflicts

and. . . . .



# CONTRACT ALTERNATIVE CAN PROVIDE: *“REGULATORY PROTECTION”*

- Operation, Maintenance, Regulatory Liability And CWA Compliance --
  - \* Each Contract Agency is Completely Responsible for their Local Collection System!!
  - Pretreatment Program
  - Anything EPA or State Regulators wish to impose

# WHY DOES THIS WORK?

- EPA is struggling to figure out how to regulate Satellite Collection Systems
  - EPA “wants” POTW’s to be Responsible (*Easy way Out!*)
- Formal Contractual Relationship is Difficult to Disrupt . . . What can they do??
- No City, Town etc. wants another Municipal Entity exercising power within its borders

# NEW CONCEPTS

- Amalgamated System
- Proportionate Shares
- Bimonthly Payments
- Agencies Pay The Full Costs Of Service
- Agencies Pay For System Capacity Like Internal Customers



# AMALGAMATED SYSTEM

- Old Contracts - Specific Facilities Used
- New Contracts
  - Agencies Pay For All Treatment Plants
  - Agencies Pay For All Conveyance > 30"
- Agencies Treated Like Internal Customers

# PROPORTIONATE SHARES

- Old Contracts - Flow Only
- New Contracts
  - Treatment - Flow and Strength
  - Conveyance - MGD-miles

# AGENCIES PAY FOR SYSTEM CAPACITY

- Old Contracts - Agencies Pay Only Upgrade Capital Costs
- New Contracts
  - Agencies Pay Both Upgrade And Expansion Costs
  - Agencies Share SFCs
- Agencies Share Risk
- Avoids Arguments Over Upgrade, Expansion Costs



# CAPACITY IS AVAILABLE FOR AGENCY GROWTH

- Consistent With The Agencies Paying Expansion Costs
- Agencies Pay SFCs (hook up charges for new customers' flows or charges for increased flows of existing customers) like Internal Customers

# SURFACE WATER RUNOFF

- Non-Rainy Season
- Flow Limitations
- Dischargers Pay No SFCs, Since They Have Interruptible Service
- Dischargers Pay SSCs

# FLOW AND STRENGTH MONITORING

- LA And The Agencies Will Monitor Flow and Strength At Their Points Of Entry
- Estimation ( $<0.5$  cfs)
- Measurement ( $>0.5$  cfs)
  - Continuous Flow Metering
  - Quarterly Strength Samples



# LA IS THE SOLE OWNER AND OPERATOR OF THE SYSTEM

- Agencies And LA Will Meet Periodically
- Agencies May Meet With The Auditors And Value Engineers
- Regulatory Liability Is Shared With The Agencies

# DISPUTE RESOLUTION

- Old Contracts - Could Withhold Payments With Little Consequence
- New Contracts - Must Pay At Least 85% And Put Remainder Of Bill In Escrow
- Non-Binding Mediation

# CONTRACT TERM

- Old Contract - Perpetual Term
- New Contract
  - 30 Year Term
  - Can Reopen After 10 Years For Changed Conditions
  - Cannot Renegotiate For 10 Years
  - Buy-Out When Leaving The System





*Questions?*