Metropolitan Council
Environmental Services

2011 SAC Work Group
Final Report

Metropolitan Council Environmental Services
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Metropolitan Council
Environmental Services

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Metropolitan Council Members

The mission of the Metropolitan Council is to develop, in cooperation with local communities, a comprehensive regional planning framework, focusing on wastewater, transportation, parks and aviation systems, which guide the efficient growth of the metropolitan area. The Council operates wastewater and transit services and administers housing and other grant programs.

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Purpose of the Work Group

The primary focus of the Work Group was the "SAC surprise" that many small businesses have encountered. In recent years, some small businesses have indicated that the Sewer Availability Charge (SAC) was unexpected and created a hardship for them when trying to start their new business. Some City personnel also indicated that MCES community review (a review of a community's compliance with SAC procedures) findings are an adverse, and often acrimonious, surprise as they are passed on to small businesses. Metro Cities took an informal survey of approximately 60 cities. Twenty responded; some addressed the issue of small business expansions and others addressed the issue of the level of SAC fees generally. (City staff stated that businesses think the SAC rate is too high).

The SAC surprise for small businesses was of concern to Senator Jungbauer who introduced a bill in the 2011 legislative session to mitigate the surprise but withdrew it in consultation with Council and Metro Cities' staff, in deference to the commitment to convene this work group. Office of Legislative Auditor also had SAC on its possible audit list during the 2011 session due to the interest/complaints of several businesses.

At the request of Metro Cities, a second issue examined was the loss of SAC "net credits" which were eliminated at the beginning of 2010. Also, minor issues about the SAC criteria were raised during the meetings.

Summary of Recommendations

The following recommendations were made by the SAC Work Group:

1. Develop a private sector outreach program emphasizing agencies who work with small business owners.
2. Continue to better educate cities about SAC and provide materials they can use to educate the public.
3. There was no support for the implementation of Met Council loan program to the cities.
4. There was no recommendation regarding the current net credit rules. However, MetroCities requested the Met Council continue to look at options.
5. MCES staff should examine the existing SAC criteria for conference rooms within office spaces, as well as LEED certified buildings.

MCES Loan Idea

Several work group members said that SAC charges are not always included and sometimes not includable in the customers' loan package, and funds to pay SAC may be difficult to procure after a determination has been made. MCES staff discussed the idea that MCES funds could be loaned to cities to allow them the funding to spread out the charges to the businesses. The loan would have been voluntary for cities and voluntary for businesses in paying their SAC to the City. MCES staff thought the

Council had legal authority for such a loan pursuant to M.S. 473.517 subd. 6. More information on the idea is attached as Appendix A at the end of this memo.

Members of the work group were not excited about the extra administrative effort and complexity this would add. Moreover, it was thought that if small businesses knew about the fee in advance they likely could get it included in a small business loan.

SAC Outreach

Thus, the primary recommendation of the group was to make a new effort to reach private sector groups and associations involved in new business development, as sometimes they are not aware of this fee until coming to a City for a building permit.

MCES compiled a list of potential small business association contacts and created a generic presentation, both are attached as appendices to this memo. To date, MCES has presented to four different small business groups. A brochure has also been drafted that will be made available to cities and other groups on SAC information. MCES has begun a more comprehensive outreach campaign with help from RA Communications. The target for this extended campaign will be private sector groups; as well as City staff and officials; Chambers and Business Associations in affected cities; and the general public.

Net Credit Options

A Net Credit is the decrease in wastewater capacity demand from the previous demand on a site. In 2005/2006, a different work group met with Metro Cities and developed new SAC Credit rules that were adopted in 2006 and implemented January 1, 2010 that eliminated Net Credits. For example, a 10-SAC restaurant is remodeled into a 2-SAC retail space. The Net Credit is 8 units.

The reasons for the 2010 SAC credit rule change included:

1) The Council did not want to reward deintensification of water use where the infrastructure was already in place;
2) Fewer Net Credits means more paid SAC which (slightly) reduces the pressure on the SAC rate; and
3) SAC can be seen as buying into the multi-billion dollar wastewater infrastructure and regular wastewater fees as paying to maintain the system, so if the site is not paying (or paying less) they are not paying to maintain capacity available to the site.

Since Metro Cities has asked Met Council to relook at the Net Credit issue, MCES staff identified 5 different options:

1. Current Net Credit Policy (post 1/1/2010)
2. Previous Net Credit Policy (prior 1/1/2010)
3. Net Credits if SAC paid in Last 10 Years
4. Longer Look-Back Period

5. Depreciating Value of Credits

MCES staff provided an example how each would work and identified the financial impact of the options, and presented those to the SAC Work Group. See Appendix E.

The Work Group had no opinion on the net credit issue; deferring since many thought this was more of an issue between the cities and Council than for this private sector-focused work group. Metro Cities asked that it continued to be looked at by the Council and them. See Appendix F.

Members

The Work Group was comprised of city officials and representatives from other SAC stakeholder groups. The Work Group was chaired by Metropolitan Council Member Wendy Wulff. Work Group Members include:

- Wendy Wulff, Metropolitan Council Member
- Joe Huss, Blaine
- Harlan Van Wyhe, Maple Grove
- Lisa Cerney, Minneapolis
- Mary Ubl, Minneapolis
- Patricia Nauman, Metro Cities
- Aaron Day, Blue Construction
- John Ryden, CB Richard Ellis
- Christine Renne, Ecolab
- Gary Lally, Hoyt Properties
- Lorrie Louder, St. Paul Port Authority
- Thomas Trutna, Small Business Association
- George Anderson, Vision-Ease Lens
- Jason McCarty, Westwood Professional Services

Various meetings were also attended by special guests:

- John Kimball, Sunrise Community Banks
- Mike Ryan, University of St. Thomas Small Business Development Center
- Steve Wertz, SPEDCO

The Task Force met three times from July through August 2011.

Outcomes

Based on the recommendations from the SAC Work Group, MCES has committed to begin a more comprehensive outreach campaign including getting help from Council Communications. The target for this campaign will be various small business groups as well as architect, developer and builder associations; economic development agencies; and local Chambers. At this time there is no timeline for this campaign.

MCES Technical Services staff will also be looking at the specific conference room and LEED issues, and at SAC criteria in general and developing an approach to update the criteria periodically.

At this time there are no plans for this Work Group to meet again nor will this report be brought before any Met Council committee for approval. Members of the Met Council Environment Committee, however, were briefed on these outcomes on September 13, 2011; that presentation is available in video on the Council's web site at: http://metrocouncil.granicus.com/ViewPublisher.php?view_id=2. This final report will be available to members and the general public in hard copy by request, and at the Council's SAC webpage. Work Group members were thanked for their assistance and invited to check with Council Finance/SAC staff at any time for future developments.

Appendix A

Primary Purpose of SAC Work Group: *7/6/11*

To mitigate a possible barrier to small business and job growth, the work group is asked to identify method(s) to avoid a SAC surprise (a substantial SAC due with building permit) for a small business remodeling an existing space into a more water intensive business use.

MCES Loan Idea…
Initiation: A City (voluntarily) makes a request to Council to set up a “SAC Deferral line-of-credit” for loans deferring eligible SAC payments and execute the standard form.

Implementation: When a city wants to be able to implement a loan (as opposed to paying for the capacity in full) they note “Loan” on their monthly SAC reporting and the loan will be effective as of the first of that month (e.g. April building permit, reported in May, loan will be as of May 1st).

Proposed Loan Terms: A standard SAC deferral loan agreement between the Council and City will be provided with some City-specific flexibility allowed. Key terms may include:

1. MCES would provide such loans contingent on the City agreeing to pass through the loan terms (or better) to the property owner or responsible SAC party.
2. Loan amounts: Up to 80% of SAC due, with a maximum individual loan of $25,000.
3. Principal: Can be amortized like a mortgage with fixed payments.
4. Interest: Each year Council will determine the average rate on its wastewater bonds and all new SAC deferment loans entered into that year will get that rate - fixed - for the duration of the loan.
5. Term of loans: 5 year maximum. Cities may want to make the loans with MCES consistent with assessment terms provided for property owner assessed under their ordinances.
6. Payment timing: Cities must make payments to MCES at least annually. They may want to make semi-annual payments to correspond to collections from assessments or more frequent payments to correspond to payments by the property owner.
7. Default: If a City does not make the entire stream of payments required by the loan, the site will *not* be credited with the additional wastewater capacity (for future SAC determinations). Also, no payments will be refunded. The City does have the option of finishing the payments regardless of default by the property owner.
8. Late Payments: If a City payment is late an additional administrative charge of 2% per month plus interest as allowed by law will be applied.

Availability of Loan Funding: Typically the Council will be able to use internal funds and reserves to fund the deferred payments. However, the Council will reserve the right to stop making additional SAC deferral loans available if cash flows become problematic.

Council Authority for SAC loans to Cities: M.S. 473.517 subd.6

The council may provide for the deferment of payment of all or part of the allocated costs which are allocated by the council to a local government unit in any year pursuant to subdivision 3, repayable at such time or times as the council shall specify, with interest at the approximate average annual rate borne by council bonds outstanding at the time of the deferment, as determined by the council. Such deferred costs shall be allocated to and paid by all local government units in the metropolitan area which will discharge sewage, directly or indirectly, into the metropolitan disposal system in the budget year for which the deferment is granted, in the same manner and proportions as costs are allocated under subdivision 1.

Appendix B

Meeting Title: **SAC Work Group Meeting #1**

Date: July 11, 2011 **Time: 8:30 – 10:00 AM** **Room: League of MN Cities**

Members in Attendance: Wendy Wulff, Metropolitan Council Member; Joe Huss, Blaine; Harlan Van Wyhe, Maple Grove; Mary Ubl, Minneapolis; Patricia Nauman, MetroCities; George Anderson, Vision-Ease Lens; Aaron Day, Blue Construction; Gary Lally, Hoyt Properties; Lorrie Louder, St. Paul Port Authority; Thomas Trutna, Small Business Association

Members Absent: Noel Graczyk, Chaska; Bryan Bear, Hugo; Lisa Cerney, Minneapolis; Bruce Loney, Shakopee; Christine Renne, Ecolab; Jason McCarty, Westwood Professional Services; John Ryden, CB Richard Ellis

Staff in Attendance: Jason Willett, MCES; Dan Schueller, MCES; Jessie Nye, MCES; Kelly Barnebey, MCES

Meeting Notes:

Item	Notes
1. Welcome & Introductions	*Note: MCES staff provided background information on the Sewer Availability Charge (SAC) Program to a few that came up to one hour early.* Council Member Wendy Wulff asked participants to introduce themselves and state why they came to the meeting. Patty Nauman with MetroCities was thanked for hosting it.
2. Opening Statements from Participants	A member stated that SAC issues have arisen for him when existing buildings are being “re-tenanted.” The mistaken assumption is that since SAC was paid with the shell construction or because there are existing bathrooms, nothing should be due. A member stated that record of the previous use or credits that are undocumented has been a particular issue for his community, and he hopes by attending these meetings relevant records can be improved. It was also stated that occasionally permit applicants have already signed a lease prior to coming to the City, and they find themselves in a difficult position when SAC is due. The City encourages applicants to be educated on potential SAC costs as part of the application process. The member further stated the “SAC surprise” can come years after the fact, specifically after an MCES Community Review where the City has to pay when SAC was missed when the business opened. A related issue was that where this later SAC surprise occurred, if the responsible business was not willing to make a payment plan with the City, it is assessed to the property owner (who were not originally the responsible party and may be surprised as well).

3. Definition of Problem(s)	Jason Willett, MCES Finance Director, indicated the primary focus of today's meeting was the "SAC surprise" that many small businesses are encountering. At the request of MetroCities, a second issue to be examined is "net credits" (which were eliminated at the beginning of 2010). Rather than defining a small business in terms of employees or revenue, it seemed germane to consider it in terms of the hardship caused by SAC. One member mentioned this could be on a charge as small as a few thousand dollars. A member asked if there is a connection between the 2010 credit rule changes and the "SAC surprise." If net credits were still allowed, it could have been used as a tool to help businesses. However, prior to the credit changes, many cities opted to take net credits city wide instead of leaving them on site for future tenants.
4. Brainstorming Related to Small Business Issues	Thomas Trutna from the Small Business Association (SBA) stressed that the SBA does not make direct loans to businesses. Instead loans are obtained through intermediaries (micro lenders, 504s, local neighborhood associations, and banks). SBA provides intermediary help to narrow down the best loan options for the applicant from a large menu, which he distributed in this meeting. Mr. Trutna indicated that certain microloan programs, such as WomenVenture and the NDC, could offer $5000-$50,000 toward SAC charges. Municipal fees would fall under the scope if it were bundled with other startup costs. SAC cannot however be added to the loan after the agreement is finalized, i.e. if there were a "SAC surprise." A member indicated her community does not enter in loan entanglements with business owners as policy. In the rare cases that SAC charges were captured in an MCES Community Review, the City extended a payment plan for 1 year. She asked Mr. Trutna what happens if the person defaults on his/her loan with one of the many lenders – who does the bank go after? The answer was the party who signed the note. Another member said SAC is included in all his bid proposals, which can be good and bad. Good: business owners are not taken off guard by unexpected fees. Bad: the SAC charges can result in a higher bid that takes away from his competitiveness (where competitors just footnote that SAC is not included). Being caught off guard by SAC later is a result of lack of education about SAC and lack of due diligence. He stressed there needs to be emphasis on educating architects, contractors, loan agencies, etc. Mr. Trutna stated in his experience it is likely that the SCORE offices and the St. Thomas Development Centers do not know about SAC or discuss it in their workshops. Other members gave ideas of agencies for SAC outreach - Jason asked them to email potential contacts to Kelly Barnebey, SAC Assistant so we can compile a master outreach list. It was mentioned that there is a distinction between tenant improvements/remodels vs. new construction:

	• With new construction the SAC charges can be added to the permit cost and is not difficult to procure as part of the loan agreement. • With remodels or expansion the issue becomes complicated. A member used laundromat projects as an example. SAC charges supposedly accounted for more than 25% of the entire project cost, and since SAC cannot usually be collateralized, it is nearly impossible to obtain a loan for it. Apparently, sometimes such soft costs can be collateralized but within (ratio) limits. It was decided to pursue additional information on this from loan officers. • ACTION ITEM: Invite loan officer(s) to next meeting. A member suggested that the criterion for laundromats be examined. The maximum use is 8 cycles/day, but he said the actual maximum use even for large successful laundromats rarely exceeds 5-6 cycles/day. The member noted knowing a consultant who has research showing use. Staff emphasized that all SAC criteria is based on *maximum potential*, not actual use, but that we would have our engineers re-look at that criterion. It was mentioned that this needs to be consistent and if laundromats pay less, others will pay more. Council Member Wulff asked that MCES review the criterion to assure it accurately reflects the cost of service, where this service is the maximum daily capacity available to the business. ACTION ITEM: MCES Engineering to be asked to investigate the laundromat criterion. Mary Ubl offered a Minneapolis brochure as input to the outreach effort. Prior to adjournment, members were asked their preferences on dates and times for Meeting #2. Most preferred meeting over the lunch hour instead of early morning. Jason planned to coordinate where/when with Patty. The MCES loan idea discussion will be deferred to that next meeting.
5. Adjournment	10:05 AM

Meeting Title: **SAC Work Group Meeting #2**

Date: July 25, 2011 Time: 12:00 – 1:30 PM Room: Metro 94 / MCES Conf Rooms

Members in Attendance: Wendy Wulff, Metropolitan Council Member; Harlan Van Wyhe, Maple Grove; Lisa Cerney, Minneapolis; Mary Ubl, Minneapolis; Patricia Nauman, MetroCities; George Anderson, Vision-Ease Lens; Jason McCarty, Westwood Professional Services; Gary Lally, Hoyt Properties; John Ryden, CB Richard Ellis; Lorrie Louder, St. Paul Port Authority; Thomas Trutna, Small Business Association. **Special Guests**: John Kimball, Sunrise Community Banks; Mike Ryan, Univ. of St. Thomas Small Business Development Center; Steve Wertz, SPEDCO

Members Absent: Joe Huss, Blaine; Noel Graczyk, Chaska; Bryan Bear, Hugo; Bruce Loney, Shakopee; Christine Renne, Ecolab; Aaron Day, Blue Construction

Staff in Attendance: Jason Willett, MCES; Dan Schueller, MCES; Bob Pohlman, MCES; Jessie Nye, MCES; Kelly Barnebey, MCES

Meeting Notes:

Item	Notes
1. Welcome & Review of July 11 Minutes	Council Member Wendy Wulff asked participants to introduce themselves. There were no changes requested to the draft of the July 11 Minutes.
2. SAC Outreach ACTION ITEM	In the previous meeting there was discussion about greater outreach in the community regarding the Sewer Availability Charge (SAC) Program, particularly for those who may experience a "SAC surprise." Members were asked to send potential outreach contacts to Kelly Barnebey, SAC Assistant. Those names were compiled in a list that was distributed at this meeting. Staff encouraged members to contribute more relevant names of organizations that might be interested. Mary Ubl indicated she was putting together a list from the recent Minneapolis Business Advisory meeting, and will pass it along to Kelly. Jason Willett, MCES Finance Director, pointed to the 1-page SAC handout in the packet. It summarizes the determination process and provides contact information. Cities are asked to give it to customers who submit for SAC determinations. A member asked if the handout can be improved. Jason answered that staff would review it and bring it to the work group for feedback. It was also asked to what extent the cities are educated about SAC. In 2009 and 2010 multiple training sessions were held for cities, and planning is under way for the 2011 sessions.

3. Continuation of Collateralization Discussion	John Kimball with Sunrise Community Banks said that in his experience customers do not understand how SAC charges are funneled to the communities and to MCES. He has worked with many clients who wish to open laundromats and is familiar with the high SAC fees associated with that type of (water intensive) business. SAC is typically added in the project costs for the loan. When there is no collateral, clients will utilize the Small Business Association (SBA) programs. In addition to insufficient collateral, the other issue is lack of a strong cash flow. Jason asked if there are soft cost limits to which Steve Wertz with SPEDCO answered that soft costs are usually includable in the overall project costs. The collateral can be the building (even though the loan is for a leasehold improvement within the building). A member asked the guests if they know the percentage of loan applicants who do and do not use SBA financing. They could not give an exact figure but approximated 20-25% of start-up loans are funded. A member said it was helpful for lay people to understand what SAC pays for, and that it is not another form of taxation. If they realize it goes directly to the cost of service, there is less negativity toward SAC. Some point out that the grocery store down the street paid less in SAC than the new restaurant that is opening. They do not understand the concept of SAC criteria or the credit system. Another member asked if customers are not educated about SAC at the cities, when do they learn about it? Usually at the building permit phase, and that could be too late in the sense the customer has already committed to the project and signed a lease. Thomas Trutna with the SBA said there are many useful resources that do not mention SAC. For example the State has a 300-page booklet for starting a business in Minnesota. He mentioned workshops that could use this information and suggested something like a CD that can be shown to customers.
ACTION ITEM	Jason indicated that staff would look into Thomas' suggestion. A member said that even when people are aware of SAC, they cannot readily receive estimates of the charge. He used the example of a 40,000 sq. ft. office space that will have some configuration for conference rooms. Staff emphasized that estimates are given on a daily basis to customers. It is helpful if the customer knows the intended uses of the space but when he/she does not, the criteria is given so that the person can plug the numbers in when the information is available. To that point, another member said commercial brokers should know the square footage breakdown of office, storage, conference, etc.
4. MCES Loan Idea	In advance of this meeting members were given an "MCES Loan Idea" document for consideration. Note the Council has not seen or approved the idea as yet. Jason Willett briefly summarized it and emphasized that under this idea, the Metropolitan Council would provide the cash flow and take the default risk for cities who wished to extend a loan for SAC charges; however, cities would have to administer the loans. He posed to members whether

	the cities would be open to this. A member asked how the underwriting process would be. MCES would offer a line of credit; we would essentially be the banker using Council funds. It was also asked where the cash would come from – the Municipal Wastewater Charge (MWC)? No, it would come from general reserves. Several members asked if there are enough issues with the "SAC surprise" to garner implementation of a loan program. Here are some potential drawbacks/concerns: • What happens if City A will extend an MCES loan but City B will not? Would that be an issue of competition? • What about the municipal add-ons? For communities with substantial upcharges, the MCES loan would not cover those. • Given that many communities anticipate Local Government Aid (LGA) cuts, the administrative costs of such a program would be "a nightmare" – both for MCES staff and for City staff. • Customers may say yes to this option without being fully educated or view an MCES loan as a quick fix. Patty Nauman with MetroCities was asked to query among her colleagues and the communities how prevalent the SAC surprise problem has become. Mike Ryan with the UST Small Business Development Center said his center works with 400-500 small businesses annually, and he hears this issue maybe only 2-3 times/year. Several members agreed if SAC is what makes or breaks a business venture, the margin may be too thin anyway.
5. Net Credits	Jessie Nye, SAC Program Administrator, gave background on net credits and the significant changes as of January 1, 2010. In 2005, a work group working with MetroCities recommended the changes, and the Council approved them based on the rationale: 1) The Council did not want to reward a deintensification of water use where the infrastructure is already in place; 2) Fewer net credits means more paid SAC which (slightly) reduces the pressure on the SAC rate (that is, the rate base benefits not MCES); 3) SAC can be seen as buying into the multi-billion wastewater infrastructure and regular wastewater fees as paying to maintain the system, so if the site is not paying (or paying less) they are not paying to maintain the capacity; and 4) Full credit for the prior use is still available on site for 7-8 years. Patty Nauman indicated the City of St. Paul had asked her to bring this issue to the SAC Work Group. Due to the time, the Net Credits discussion will be continued at the next meeting. A member asked how LEED certified projects and the green building

	movement would impact SAC credit. Since LEED does not necessarily impact wastewater demand (it may be mostly about energy conservation) it has not received any kind of a break to date. August 25 was mentioned as a tentative date. Patty and Jason will coordinate where/when and let members know.
5. Adjournment	1:35 PM

Meeting Title: **SAC Work Group Meeting #3**

Date: August 23, 2011 **Time: 12:00 – 1:30 PM** **Room: League of MN Cities**

Members in Attendance: Wendy Wulff, Metropolitan Council Member; Harlan Van Wyhe, Maple Grove; Lisa Cerney, Minneapolis; Christine Renne, Ecolab; Patricia Nauman, MetroCities; George Anderson, Vision-Ease Lens; Aaron Day, Blue Construction; Gary Lally, Hoyt Properties; Thomas Trutna, Small Business Association; **Special Guest**: Steve Wertz, SPEDCO

Members Absent: Joe Huss, Blaine; Noel Graczyk, Chaska; Bryan Bear, Hugo; Mary Ubl, Minneapolis; Bruce Loney, Shakopee; Jason McCarty, Westwood Professional Services; Lorrie Louder, St. Paul Port Authority

Staff in Attendance: Jason Willett, MCES; Dan Schueller, MCES; Bob Pohlman, MCES; Jessie Nye, MCES; Kelly Barnebey, MCES; Michelle Fure, MC Communications

Meeting Notes:

Item	Notes
1. Review of July 25 Minutes	Chair Wulff asked if there were changes needed to the draft of the July 25 Minutes, and there were none. Chair Wulff moved Item #3 (Net Credits) on the agenda up.
2. Net Credit Discussion	This was a continuation of the net credit discussion from July 25. A PowerPoint presentation handout was distributed to members, and Jessie Nye, SAC Program Administrator, gave an overview of the five net credit options identified by staff. 1) Current Net Credit Policy (post 1/1/2010) 2) Previous Net Credit Policy (prior 1/1/2010) 3) Net Credits only when SAC Paid in Last 10 years 4) Longer Look-Back Period (LBP) 5) Depreciating Value of Credits The idea of each option and the pros/cons were described. At the end, a table was shown of the approximate financial impact of the various options - had they been in place in 2010. It was noted that many other options could be created and combinations, and that this was just meant as a discussion starter. Questions were asked about many of the options. Jason Willett, MCES Finance Director, described how each option would be applied and the net credits derived in a hypothetical situation (e.g. restaurant being remodeled into a Kinkos print shop). After the discussion members were asked which option they would recommend, if any. There was no preference stated except by Patty Nauman with MetroCities. She indicated a preference for developing Option 3: Net Credits when SAC Paid in the Last 10 years.

	A member raised the idea of restricting the use of potential net credits because most cities will opt to take the credits city wide, which does not benefit businesses at that site. Discussion of various restrictions that could be placed on the use of net credits (if they were reestablished and so cities generate net credit balances) concluded that cities can do these things now, and the group did not recommend restricting cities' flexibility for use of credits. It was also mentioned that with Option 3 – where the financial impact would have caused a SAC rate of approximately $2275 for 2011 instead of $2230 – a $45 difference is not a huge impact and probably not significant to most businesses. More importantly, this member noted that a return to net credits would be better if the policy was more transparent to business owners. In the past when the City took the credits city wide, there could be conflict between the City and the business owner who felt the credits should remain on site. <u>The work group did not make a recommendation related to the net credit rules</u>. However, Patty Nauman asked that the Met Council continue to look at options. She suggested that she wanted to work with MetroCities' policy committees. Jason said that if a written position was received it would be included with the final memo (as a MetroCities, not full work group, request). A member reiterated a request that the Council not charge SAC for a simple office space to conference room remodeling. He also asked if SAC is based on the number of fixtures. Staff said that SAC is charged based on max. potential use (based on codes and studies by business type) and that historically fixtures have not been used as the basis for most of the SAC criteria. *Note: after this meeting another member asked MCES to examine office to conference remodels. Jason has asked Engineering to study a potential revision of the criteria for this situation.*
3. Small Business SAC Discussion	Patty Nauman took an informal survey of approximately 60 communities regarding their experience with the "SAC surprise." Twenty responded; some addressed the issue of small business expansions and others addressed the issue of the level of SAC fees in general. In the survey, the City of Prior Lake staff mentioned prorating or delaying SAC payments and making sure that people are aware of SAC at the beginning of their permit process. Staff passed around a draft outreach brochure (that MCES plans to make available to cities for their permit windows) and asked for members' input. In addition, the mailing included a PowerPoint presentation that was given to Greater MSP as part of beginning the outreach effort, and suggestions for that generic presentation were invited. Michelle Fure from Met Council's Communications department participated in this meeting and is developing an outreach strategy for the public and private sector. A member said it will be a challenge to reach the people who are not contractors, architects, city staff, etc. Another member said there seems to be misunderstanding between the roles of the City vs. roles of MCES for customers.

	It was asked if city staff is trained on SAC. MCES staff is available to conduct trainings by request, and since 2009 there have been many training sessions with cities and groups of cities. Also, the SAC web pages are updated regularly. Thomas Trutna with the Small Business Association said it may be beneficial to send letters to the heads of small business loan departments at metro banks so that they are aware of SAC and can educate their clients. Staff said they will be added to the growing outreach contacts list and once again invited any other outreach ideas be sent to Kelly Barnebey, SAC Assistant. <u>The consensus on the MCES Loan (to cities) and other mitigation ideas was not to implement one</u>. No members indicated a desire to pursue such an option. Note, cities can do this now if they have the financial resources and are willing (e.g. Anoka is doing so). The proposed private outreach initiative is the primary recommendation of this group at this time. It reflects the consensus of the city and business representatives who participated in these discussions. In the previous meeting a member mentioned LEED-certified projects and the green building movement. Staff said that since LEED certification does not necessarily impact wastewater demand (enough points can be received without water conservation), it has not received any kind of break to date. One member said that the point system is only one part of LEEDs and that actually there is a commitment to a significant water reduction to even begin the process. MCES staff noted if requests are received on this issue (or others around the SAC criteria) that we typically ask our engineering staff to examine and if appropriate (based on demand) improve the criteria. When technical data and analysis shows a change is warranted MCES staff will implement it in the next annual SAC Procedure Manual. (This sort of technical improvement is authorized and does not need a public process or Council's board approval.)
4. Other?/Wrap-up	Jason Willett concluded by asking if there were other topics or issues to discuss. The consensus was no, and that we did not need to hold additional work group meetings. In conclusion, here are the next steps: • MCES & Communications will begin a more comprehensive outreach campaign; • A draft memo of recommendations will be emailed to members for comment; • Staff will finalize the work group's recommendation and if provided include MetroCities' written position; • Staff will present info on this work group to the Council's Environment Committee on September 13 Members were also encouraged to send Kelly any other comments to become part of the final record for the work group.

5. Adjournment	1:35 PM

Appendix C

Potential Outreach Contacts

Beverly Hauschild-Baron Executive Vice President American Institute of Architects (AIA) MN 275 Market Street, Suite 54 Minneapolis, MN 55405 612-338-6763 hauschild@aia-mn.org	John Kimball Vice President/SBA Lending Manager Sunrise Community Banks 651-523-7829 john@sunrisebanks.com
Kaye Rakow Director of Public Policy NAIOP 4248 Park Glen Road Minneapolis, MN 55416 952-928-7461 kayerakow@harringtoncompany.com ***SAC presentation May 5, 2011***	Mike Ryan Director, Univ. of St. Thomas Small Business Development Center (SBDC) 1000 LaSalle Avenue Minneapolis, MN 55403 651-962-4505 mpryan@stthomas.edu
Dave Semerad CEO Association of General Contractors 525 Park Street St. Louis Park, MN 651-796-2182 dsemerad@agcmn.org	Gene Goddard Director of Business Investment Greater MSP 400 N. Robert Street, Suite 1520 St. Paul, MN 55101 651-287-1366 gene.goddard@greatermsp.org ***SAC presentation August 11, 2011***
Steve Wertz Loan Officer SPEDCO 3900 Northwoods Drive, Suite 225 Arden Hills, MN 55112 651-631-4900 steve.wertz@spedco.com	Jeremy Lacroix State Program Administrative Coordinator DEED 332 Minnesota Street, Suite E-200 St. Paul, MN 55101 651-259-7457 jeremy.lacroix@state.mn.us ***SAC presentation August 11, 2011***
Dara Rudick Executive Officer MNCAR 6800 France Avenue #760 Edina, MN 55435 952-908-1787 dara@mncar.org	(need contact person) MN Commercial Real Estate Women 4248 Park Glen Road Minneapolis, MN 55416 952-928-4669 info@mncrew.org

Eric Ewald Executive Director Economic Development Association of MN 1000 Westgate Drive, Suite 252 St. Paul, MN 55114 651-290-6296 erice@ewald.com	Joel Akason Executive Director Capital City Partnership 2490 Wells Fargo Place 30 E. 7th Street St. Paul, MN 55101 651-291-5601 joel@capcitypartnership.com ***SAC presentation August 11, 2011***

Contacted Kaye Rakow for contact person for the following:

- MN Restaurant Association
- Shopping Center Association

Appendix D

Sewer Availability Charge (SAC) Background & Changes

For Greater MSP Group

Jason Willett, MCES Finance Director
(651) 602-1196

Metropolitan Council Environmental Services

August 11, 2011

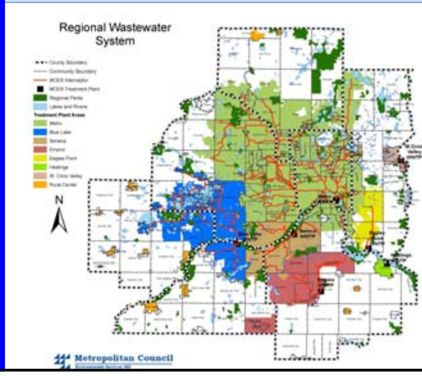
MCES A Clean Water Agency

Agenda

1) MCES Overview
2) SAC Background
3) SAC Determination Example
4) Recent Changes
   - Outdoor Spaces Discount
   - 2010 Credit Rule Implementation
   - 2010 SAC Task Force
   - 2011 SAC Work Group

MCES: Wastewater System

- Seven Treatment Plants
- 600 miles of Regional Interceptors
- Estimated $4 Billion Replacement Value
- Capacity to treat 372 million gallons per day of Wastewater Flow
- 105 Communities Connected



MCES: Metropolitan Plant

MCES A Clean Water Agency

MCES: Performance Awards

- National Association of Clean Water Agencies (NACWA) recognition of compliance with clean water discharge permits
  - Platinum Award: Seneca (6 years), St. Croix Valley (15 years), and Hastings Plants (16 years)
  - Gold Award: Metropolitan, Rosemount, Blue Lake, and Eagles Point Plants
  - Silver Award: Empire Plant
- Additional recognition
  - Certificates of Commendation for outstanding operation, maintenance and management: Blue Lake, Eagles Point, Hastings, Metropolitan, Rosemount, St. Croix Valley, and Seneca Plants

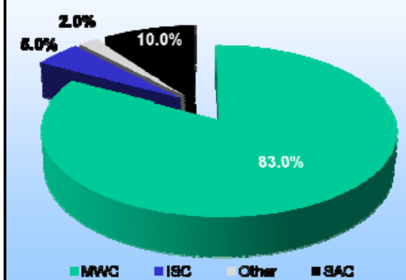
MCES A Clean Water Agency

MCES: Additional Awards

- MCES/Xcel Energy collaboration:
  - (2009) Efficiency Partner Award from Xcel Energy
  - (2008) Minnesota Environment Initiative Awards finalists for Energy Partnership
- Inflow/Infiltration (I/I) program:
  - (2009) NACWA Operations Award for Environmental Achievement
- Metropolitan Plant Solids Management:
  - (2007) Governor's MnGreat Award for pollution protection
  - (2006) MN Chapter of Public Works Association Project of the Year Award
  - (2006) NACWA National Environmental Achievement Award/Operations Category

MCES: Budget - Sources

- Wastewater costs are 100% user-fee funded; no taxes



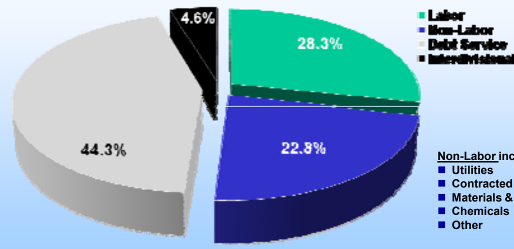
MWC = Municipal Wastewater Charge (flow volume)

SAC = Sewer Availability Charge (capacity demand)

ISC = Industry Specific Charges

Based on 2011 budget of $209 million

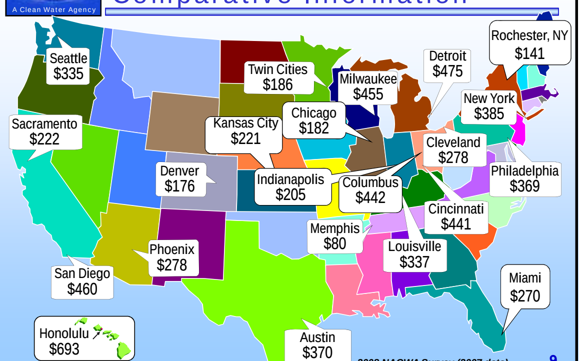
MCES: Budget - Uses



Non-Labor includes:
- Utilities
- Contracted Services
- Materials & Supplies
- Chemicals
- Other

Based on 2011 budget of $209 million

MCES: Regional Retail Rates Comparative Information



2008 NACWA Survey (2007 data)

Topic 2: SAC Background

- **History**
  - — Reserve Capacity originally assessed to developing cities as lump sum
  - — SAC program instituted January 1, 1973
  - — SAC is payment for Reserve Capacity (i.e., capacity intended for future users)
  - — District Court ruling, later upheld by the MN Supreme Court

SAC: Source of Funds

- Charged to municipalities ("wholesale charge")
  - — SAC revenue reduces volume charges to cities
- For new connections or increased demand (capacity) to the Metropolitan Disposal System (MDS)
- 1 SAC Unit charged per 274 gallons of maximum daily wastewater flow availability
- Availability ≠ Treatment "capacity we stand ready to serve"

SAC: 2011 Rate

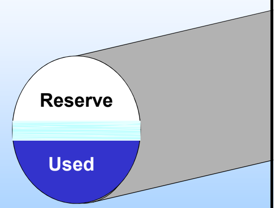
Urban* Base Fee: Dwelling Units:	$2,230 1 unit each
- Apartments (without individual laundry facilities)	20% discount
- Multi-Dwelling Public Housing (without garbage disposals nor dishwashers)	25% discount
Commercial & Institutional: Base fee times number of residential equivalent capacity (RECs) units. The number of RECs is based on estimated maximum potential flow by type of use.	
- Qualified Outdoor Spaces	75% discount
Industrial Process Flow: Base fee times number of RECs where the number of RECs is based on maximum normal flow volume measured.	
*"Rural Growth Centers" (RGCs): Elko New Market, East Bethel, and New Germany have higher SAC base rates set by contract.	

SAC: List of Top 10 payers in 2010

COMMUNITY	2010 SAC	PERCENTAGE
MINNEAPOLIS	$3,016,957.25	17.35%
WOODBURY	$1,264,032.00	7.27%
ST.PAUL	$1,204,266.00	6.92%
BLAINE	$983,126.50	5.65%
BLOOMINGTON	$837,837.00	4.82%
MINNETONKA	$756,781.25	4.35%
MAPLE GROVE	$744,122.00	4.28%
APPLE VALLEY	$467,775.00	2.69%
EDINA	$351,584.76	2.02%
LAKEVILLE	$340,956.00	1.96%

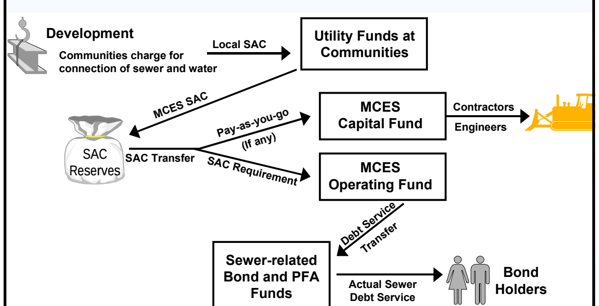
SAC: Use of Funds

- Pays a portion of the capital or debt service (payments) on MCES debt
  - Portion paid is based on the “reserve capacity”
- Pays for administrative costs of SAC program



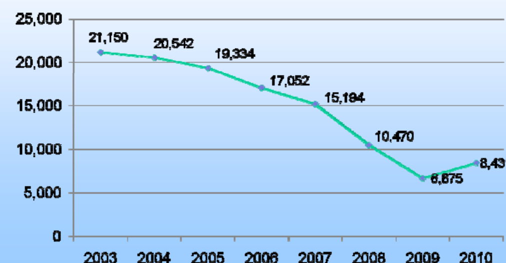
Per MN Statute 473.517 subd (3)

SAC: Flow of Funds



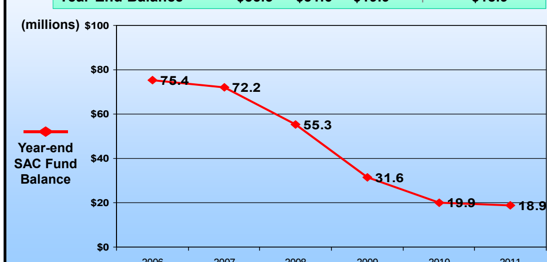
SAC: Collection by Units

- Decreasing SAC units causing pressure on SAC reserve fund balance & rates



SAC: Reserve Fund

	Actual			Projected
	2008	2009	2010	2011
Year-End Balance	$55.3	$31.6	$19.9	$18.9



SAC: Responses to recession

- Tightened SAC credit rules
- 2009 improvement to “Reserve Capacity Methodology”
- Almost 25% CIP reduction (deferred growth projects)
- SAC Task Force
- 2010 SAC legislation allowing “SAC shift” to Municipal Wastewater Charge (MWC)

SAC: Key Concept Summary

- SAC is required by statute to fund part of MCES capital costs
- Availability of capacity is a separate service from use (volume of sewage treated)
- SAC at retail level is a City charge (retail rate & rules are often different than MCES's)
- SAC provides some inter-city equity (roughly growth pays for growth)
- SAC receipts and reserves are way down due to recession

Topic 3: SAC Determinations

SAC Determination Required

- **Anytime a new use occurs on the site.**
  - New development or business use
  - Remodeled use that changes the previous use
- Cities can determine commercial/industrial projects or request MCES review the plan on their behalf
- Cities are responsible for determining residential projects

Determination Example

SAC Charge:

Restaurant

Indoor Seating (fixed)		
12 seats @ 10 seats/SAC	=	1.20
Indoor Seating (non-fixed)		
595 sq. ft. @ 15 sq. ft./seat @ 10 seats/SAC	=	3.97
Outdoor Seating (non-fixed)		
350 sq. ft. @ 15 sq. ft./seat @ 10 seats/SAC x 25%	=	0.58
Bar		
19 feet @ 1.5 feet/seat @ 23 seats/SAC	=	0.55
	Total Charge:	6.30

SAC Credit:

Retail

1950 sq. ft. @ 3000 sq. ft./SAC	=	0.65

Net Charge: 5.65 or 6 SAC

Topic 4: Recent Changes

- **SAC Basis for Outdoor Spaces**
  - **Maximum demand anticipated on "peak control" (i.e. wet weather) days**
  - **Criteria based on same architectural, engineering, plumbing, building code and water studies**
  - **Discount for outdoor spaces that will be used less on peak control days**
  - **Implemented October 1, 2009**

Changes: Outdoor Spaces

- **The Council adopted a 75% discount for charged spaces with outdoor uncovered areas:**
  - **Food and drink establishment outdoor seating areas without fixed roofs**
  - **Golf courses and driving ranges**
  - **Outdoor pools and water parks**
  - **Park shelters**
  - **Outdoor tennis courts**
  - **Drive-in Restaurants and Theaters**
  - **Zoos (public areas)**

Changes: 2010 Credit Rules

- **2005: P**ublic meetings were held regarding proposed credit rule changes. MetroCities and various communities convened to come up with alternative ideas.
- **2006:** Further review and comments. Compromise was decided and approved. Credit changes presented at customer budget/forum meetings.
- **2010:** Implementation to allow cities time to prepare.

Changes: 2010 Credit Rules

Significant Changes

- Net credits above the amount needed for the property's new use do not occur.
- Credits will be granted using a Look-Back Period of 7+ years.
- Phased redevelopment is given 10 years to use credits on the planned site.

Changes: SAC Task Force

- Meeting Schedule
  - Dec. 1, 2009
  - Feb. 2, 2010
  - April 6, 2010
  - May 4, 2010
  - June 1, 2010
  - Aug. 3, 2010
  - Sept. 7, 2010
- Members
  - Peggy Leppik, Council Member & Chair
  - Roger Scherer, Council Member
  - Joe Huss, Blaine
  - Karl Keel, Bloomington
  - Noel Graczyk, Chaska
  - Harlan Van Wyhe, Maple Grove
  - Lisa Cerney, Minneapolis
  - Andy Brotzler, Rosemount
  - Mike Kassan, St. Paul
  - Bruce Loney, Shakopee
  - Christine Renne, Ecolab
  - Patricia Nauman, MetroCities
  - Rick Breezee, Metropolitan Airport Commission
  - Dave Siegel, Restaurant Association
  - Mark Stutrud, Summit Brewing
  - George Anderson, Vision-Ease Lens
  - Jason McCarty, Westwood Professional Services

Changes: SAC Task Force Recommendations

- M.S. 473.517 subd. 3 should be amended to clearly state that the capital costs to provide additional capacity in the regional wastewater system be paid by SAC, based on the principle growth pays for growth.
- If the statute is not so amended during the 2011-2012 Legislature, the Council should adopt a reserve capacity determination method that reasonably matches the intent of Recommendation #1.
- The 2010 statutory amendment that allows a temporary shift of debt service costs from SAC to municipal wastewater charges should remain in effect as written.

Changes: SAC Task Force Recommendations (cont.)

- SAC criteria should have a technical basis to the extent reasonably feasible.
- A new charge for the temporary rental of capacity should be developed in lieu of charging SAC for permanent capacity.
- Unless there is new technical information, SAC for restaurants should be based on a single criterion of 10 seats/SAC Unit regardless of the restaurant business model.
- SAC should be based on the square footage for all daycare determinations, instead of daycare licenses.

Changes: SAC Task Force Recommendations (cont.)

- The current SAC criteria for speculative office/warehouse, fitness centers, and the outdoor spaces discounts were discussed but not recommended for change.
- The Metropolitan Council should review the tools available to it (including sewer fees) to determine if they can reasonably enhance the Council's goals.

2011 SAC Work Group

- Comprised of volunteer members from the 2010 SAC Task Force as well as the NAIOP, the St. Paul Port Authority, the Minneapolis Chamber of Commerce and the Small Business Association (SBA)
- Issues discussed
  - "SAC surprise" for small businesses
  - Potential loan options
  - SAC outreach
  - Net credits

Questions

www.metrocouncil.org/environment/RatesBilling/SAC_Program.htm

- **SAC Procedure Manual**
- **Frequently Asked Questions**
- **SAC Rates**
- **SAC Task Force Final Report**
- **Staff Contact Information**

Appendix E

Net Credits Options Summary

The SAC Work Group, at the request of Metro Cities, looked at the current net credit rules and identified five options that were discussed. Here is a summary:

1. Current Net Credit Policy (post 1/1/2010)

No net credits are generated. The City still gets actual credits for what is needed on the site. Net credits used to be incremental credits beyond what is needed for a current redevelopment on a site.

For example, a 10-SAC restaurant is remodeled to a 2-SAC print shop. The print shop development generates no SAC from MCES. The potential net 8 credits automatically remain on site for future use up to 8 years.

The discussed Pros of this option:

1) This is the current policy and Cities' staffs are becoming familiar with these rules.
2) The reasons for the policy change in the first place, which included:
    a. The Council did not want to reward deintensification of water use where the infrastructure is in place.
    b. Fewer net credits means more paid SAC to reduce the SAC rate pressure.
    c. No credit when site is not paying to help maintain the system capacity.

The Cons of this option:

1) Cities are unable to take net credits city wide for redevelopment purposes.
2) This option offers less financial flexibility for cities.

2. Previous Net Credit Policy

Prior to January 1, 2010, SAC policy provided that Cities earned net credits and had the choice to leave them site-specific or take them city-wide. Site-specific credits were available only for the use on the site but indefinitely. City-wide credits had to be used by the City to offset its next new SAC charges for other sites.

For example, a 10-SAC restaurant is remodeled to a 2-SAC print shop. The print shop development generates no SAC from MCES. Cities would have the option to leave the net 8 credits on site indefinitely for future use at that site, or to book them for city wide use to offset charges for development elsewhere in the City. Note the credits were a tally of wastewater demand allowed without charge but were not deemed an asset for financial reporting (as the value is contingent on growth in the City and Council rules).

The discussed Pros of this option:

1) This was the historical practice familiar to cities for 20+ years.

2) This offered more financial flexibility for cities since they could collect SAC fees from developers but not need to pay MCES (e.g. may be able to use the revenue for other wastewater or utility purposes).
3) It potentially encouraged redevelopment with credits (they could pass through the credit to the developer potentially anywhere in the city).

The discussed Cons of this option:

1) By allowing net credits, the metropolitan SAC rate pressure increases.
2) Net credits preserve (or likely increase in) value while on the other hand the physical assets (pipes, plants) maintenance is not being supported by fees of any type.

3. Net Credits if SAC Paid in the Last 10 Years

Net credits would arise where there was actual payment of SAC to MCES by the City for the site in the last 10 years. This option would not allow net credits for grandparented properties (pre-1973) or where SAC was never paid. It would also not allow net credit for capacity where SAC was paid more than 10 years ago.

For example, a 10-SAC restaurant for which SAC was paid in the last 10 years is remodeled to a 2-SAC print shop. The print shop development generates no SAC from MCES. The net 8 credits may be taken city wide, or left on site for future use at that site.

The discussed Pros of this option:

1) It is more equitable since SAC has been recently paid for needed system capacity and since the period of the site not financially supporting the maintenance for the capacity is limited.
2) It may result in better acceptance by the SAC payer (business/property owner) who may remember the payment.

The discussed Cons of this option:

1) By allowing net credits, metropolitan SAC rate pressure would increase.
2) This would result in some increase in value of net credits while physical assets maintenance is not supported (i.e. the 10 year period).

4. Longer Look-Back Period (LBP)

The current rules have the Look-Back Period for 7 years (plus a portion of the current year). This option however would increase the LBP term to 10 years plus a portion of the current year (or another term).

For example, a 10-SAC restaurant is remodeled to a 2-SAC print shop. The print shop development generates no SAC from MCES. The potential net 8 credits are left on site for future use there up to 11 years (instead of 8).

One pro of this option would be that it involves no change in the current protocols – only that the term would be extended.

The Cons of this option:

1) Records must be kept longer by the City. Many cities have a 3-5 year record retention schedule.
2) There would be a small metro SAC rate impact with the increase in credits allowed due to the longer LBP.
3) This option does not help the City with businesses at other sites.

5. Depreciating Value of Credits

If SAC was paid to MCES in the last 20 years (this could be 10 years), cities would be allowed to take net credits but at a depreciated value. Net credits depreciated value would be recognized simply at the dollar amount originally paid.

For example, a 10-SAC restaurant for which SAC was paid in 1998 (within the last 20 years) is remodeled to a 2-SAC print shop. This results in 8 net credits. The 1998 rate was $1,000/unit, and so the 8 net credits are worth $8,000. The net credit available to the city is $8,000 (or approx. 3.6 SAC Units in 2011). Note that the 2 credits used are not depreciated but recognized at full current value.

The discussed Pros of this option:

1) Depreciating value of the net credit is more equitable because while the capacity is not being used it needs to be maintained by others.
2) Some credits means more financial flexibility for cities.

A Con of this option is that it is more difficult to explain to administer for MCES and City staff, and more difficult to explain to customers. Also, of course, any additional credits mean some additional rate pressure on the metro SAC rate.

Financial Impact of Identified Net Credit Options (if applied in 2010)

Net Credit Option	Demand in $ Value	Demand in SAC Units	Implied SAC Rate (vs. 2011 Rate $2,230)
1) Current Credit Policy	-0-	-0-	-0-
2) Previous Credit Policy	$1,329,080	596	$2,430
3) If Paid in Last 10 Yrs	$323,350	145	$2,275
4) Longer LBP	not available	not available	not available
5) Depreciating Value	$330,405	257	$2,280

Appendix F

METRO CITIES

Association of Metropolitan Municipalities

October 6, 2011

Mr. Jason Willett
Finance Director
Met Council Environment Services
390 N. Robert Street
St Paul, MN 55101

Dear Jason:

Thank you for the opportunity to serve on the SAC work group regarding issues around SAC fees and small business expansion. I appreciate the consideration by the work group to revisit the issue of SAC "net credits" and the work by MCES staff in providing options for the group's consideration. Metro Cities' policies support the consideration of SAC policy to allow for "banking" SAC credits to use elsewhere within the city. We also recognize that the issue of net credits is one that fell outside the scope of this work group and should be considered separately, perhaps by a separate work group or task force.

Metro Cities worked with MCES in 2005 to establish the new SAC credit rules that went into effect in 2010. However, more recently our policies have been amended to include a reconsideration of the issue of banking SAC credits, in light of the challenging economy and difficulties associated with economic development and redevelopment. To this end, Metro Cities requests that the issue of banking SAC credits be reconsidered by MCES. At this point, we are not recommending a wholesale repeal of the SAC credit structure now in place, but rather the consideration of potential options to increase flexibility around the use of SAC credits.

Metro Cities would appreciate the opportunity to work with you and your staff on these issues, and as always, appreciates the efforts consistently shown by you and your staff to work collaboratively with Metro Cities.

Thank you.

Sincerely,

Patricia Nauman

Patricia A. Nauman
Executive Director

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