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AGENDA COVER MEMO

AGENDA DATE: May 18, 2005
Memorandum Date: May 10, 2005

TO: LANE COUNTY BOARD OF COMMISSIONERS

DEPARTMENT: LANE COUNTY OFFICE OF LEGAL COUNSEL

PRESENTED BY: Teresa J. Wilson, County Counsel



AGENDA ITEM TITLE:

1. **Ordinance No. 1-05/In the Matter of Creating the Metropolitan Wastewater Management Commission as an Intergovernmental Entity, Declaring an Emergency and Providing an Immediate Effective Date**
2. **Order No. _____/In the Matter of Setting a Public Hearing Regarding the Issuance of Revenue Bonds by the Metropolitan Wastewater Management Commission for June 1, 2005 at 1:30 p.m.**

I. MOTION:

MAY 25TH:

1. I MOVE THE FIRST READING OF ORDINANCE NO. 1-05 REGARDING CREATING THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION AS AN INTERGOVERNMENTAL ENTITY, AND SETTING THE SECOND READING AND PUBLIC HEARING ON JUNE 1, 2005 AT 1:30 P.M.

2. I MOVE TO SET A PUBLIC HEARING REGARDING THE ISSUANCE OF REVENUE BONDS BY THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION FOR JUNE 1, 2005 AT 1:30 P.M.

JUNE 1: I MOVE TO ENACT ORDINANCE NO. 1-05/IN THE MATTER OF CREATING THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION AS AN INTERGOVERNMENTAL ENTITY, DECLARING AN EMERGENCY AND PROVIDING AN IMMEDIATE EFFECTIVE DATE

II. AGENDA ITEM SUMMARY

There are two items before the Board on May 18th.

1. Conducting the first reading and setting a second reading and public hearing on the Metropolitan Wastewater Management Commission (MWMC) intergovernmental agreement (IGA) modifications.

2. Set a public hearing date to consider authorizing MWMC to issue up to \$100,000,000 in revenue bonds.

It is recommended that both hearings be scheduled for June 1, 2005.

On June 1, there will also be two items:

3. The Board will be asked to adopt Ordinance 1-05 creating the MWMC as an Intergovernmental Entity, and authorize the County Administrator to execute the IGA.

4. The Board will receive a subsequent agenda cover memo and Order that address s the second public hearing and authorization for the bonds.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

MWMC was originally formed in 1977 by intergovernmental agreement among Lane County and the Cities of Eugene and Springfield, to construct, operate and maintain the regional sewerage facilities. Rather than repeat much of the history that has been well-stated by others, attached to this packet you will find the Agenda Item Summary regarding the companion ordinances that have been delivered to the Cities of Eugene and Springfield. Springfield had a work session and public hearing on April 18 and adopted its ordinance and bond authorization on May 2. Eugene had a work session on April 11 and will have a public hearing on May 9; it is scheduled to consider action on May 23. Staff from the MWMC will be at the Board meeting at the time of the public hearings and can update you then on actions taken.

In addition to the information contained in the documents referenced above, the matter of the MWMC IGA came before the Lane County Finance and Audit Committee on April 12, 2005, where the Committee reviewed the Pros and Cons of three options for governance models for MWMC, developed by Dave Jewett, attorney for MWMC in response to an initial outline of alternatives proposed by Bill Van Vactor, County Administrator. After review of the three options, the Finance and Audit Committee recommended Option One. (A copy of the report to Finance and Audit is also attached). The actions proposed above are the steps necessary to implement Option One.

B. Policy Issues

The policy issues are discussed in detail in the Agenda Item Summaries to the two city councils, and the April 5 Memo from Dave Jewett to Mike Kelly. In summary they are:

1. Is this the continuation of the present structure of governance of MWMC the desired model by the three parties?

2. If so, is the Board willing to enter into the revised IGA? The IGA strengthens MWMC's ability regarding rates in order to provide a revenue stream that is acceptable to the bond market, on the advice of both MWMC and Lane County's financial advisors and bond counsel. Basically it commits the cities (they are the ones that actually set rates and collect revenues) to adopt rates sufficient to meet bond covenants – i.e., to set rates sufficiently high so as to pay debt service, and operate and maintain the MWMC facilities in prudent fashion and sufficient to maintain an unenhanced credit rating of A for the MWMC bonds.

Note: There have been some changes in the IGA since Finance and Audit reviewed it, specifically in Sections 13 and 16, to address concerns raised at the Eugene work session. The changes in Section 13 provide greater clarity to certain aspects of budget expectations (rates sufficient to meet a target of an unenhanced credit rating of A, rather than simply “maintain adequate bond ratings and reasonable access to the capital market”; identify a process if budget ratification is not achieved by July 1). The changes in Section 16 are a more simply stated cross reference to the Section 13 changes. Similar changes have also been made to Sections 3(e)(1) and 8(c).

Note 2: There are some additional changes in the proposed IGA, in response to concerns raised by Eugene Councilor Bettman at the May 9 evening worksession. Specifically, the changes are to Sections 3(f)(1), 4, and 5. In Section 3(f)(1), language has been added “to achieve full cost recovery”. In Section 3(f)(4) [“Promoting equity between ...”], the initial word “Promoting” has been changed to “Ensuring”. In Section 3(f)(5) [“Promoting equity between...”], likewise the initial word “Promoting” has been changed to “Ensuring.” These changes are reflected in your packet on the two pages (pages 4 & 5) with a header “WITH BETTMAN CHANGES (5/10/05)”, and located after the May 9 Eugene City Council Summary and before the full Restated and Amended Agreement

C. Board Goals

This proposal is consistent with the Board's Strategic Plan Goals (2001-2005), specifically with the overall goal relating to appropriate community development. There the Board provided that one of its overall goals is: “Contribute to **appropriate community development** in the areas of transportation and telecommunications infrastructure, housing, growth management, and land development.” The MWMC proposal is designed to position the entity to be able to move forward with its adopted Facilities Plan and to obtain the necessary financing, while addressing the object of accountability back to the governing bodies.

D. Financial and/or Resource Considerations

See discussions in attached documents.

E. Analysis

See discussions in attached documents.

F. Alternatives/Options

The alternatives are best described in the April 5 Memo from Dave Jewett to Mike Kelly. These were actively discussed by the Finance and Audit Committee, which concluded that the best choice was Option 1.

IV. TIMING/IMPLEMENTATION

MWMC desires to go to the revenue bond market for an issuance of about \$35 million in bonds by September (and subsequent issues over the next 5 years) in order to have the financing necessary for planned improvements outlined in the 2004 Facilities Plan. In order to do so, timely approval of the updated IGA is necessary to stay on a reasonable schedule to accomplish that goal.

V. RECOMMENDATION

The Finance and Audit Committee recommended proceeding with approval of the revised IGA, which would involve enacting the proposed Ordinance.

VI. FOLLOW-UP

Assuming the Ordinance is approved, a public hearing is recommended to be scheduled to immediately the Ordinance adoption. The second hearing would be authorizing MWMC to issue up to \$100,000,000 in revenue bonds.

VII. ATTACHMENTS

April 5, 2005 Memorandum from Dave Jewett to Mike Kelly

April 18 Springfield City Council Agenda Item Summary – re: Modifications to the MWMC IGA

April 18 Springfield City Council Agenda Item Summary – re: Authorize the MWMC to Issue Revenue Bonds

May 9 Eugene City Council Agenda Item Summary- re: Work Session on Ordinance Creating the MWMC as an Intergovernmental Entity & Approving Issuance of Bonds

May 9 Eugene City Council Agenda Item Summary- re: Public Hearing on Ordinance Creating the MWMC as an Intergovernmental Entity & Approving Issuance of Bonds (without attachments)

Pages 4-5 "With Bettman Changes (5/10/05)" of Restated and Amended Agreement
Restated and Amended Agreement – redlined version showing changes proposed
Ordinance 1-05 with attached Exhibit A, the Restated and Amended Agreement
Order Setting Public Hearing Regarding Issuance of Revenue Bonds

G. David Jewett

1011 HARLOW ROAD, SUITE 300
SPRINGFIELD, OREGON 97477
PHONE: (541) 747-3354
FAX: (541) 747-3367

E-MAIL ADDRESS:
djewett@thorp-purdy.com

MARVIN O. SANDERS (1912-1977)
JACK B. LIVELY (1923-1979)
JILL E. GOLDEN (1951-1991)

MEMORANDUM

DATE: April 5, 2005

TO: Mike Kelly
City of Springfield Manager

FROM: Dave Jewett

SUBJECT: Summary of Pros and Cons to Bill Vanvactor's memo on three governance models for MWMC.

I. Background

For several years we have been discussing changes that should be made to the MWMC IGA to update it to be consistent with current terminology in other documents like the Metro Plan and with current operational practices. Then, along came the MWMC 2004 Facilities Plan (Facilities Plan) that provides for \$144 million in capital improvements to the regional sewerage system so the regional system can meet increasingly stringent NPDES Permit requirements and provide for growth over the next twenty years.

The Facility Plan and MWMC's 2003 Financial Plan assume that the capital improvements will be financed with SDCs, user charges and the proceeds from revenue bonds to be issued by MWMC. As a result, MWMC's financial advisor and bond counsel recommended additional changes to the IGA. To say the least, those recommendations have lead to some consternation among the Governing Bodies.

After consulting bond counsel, Bill Vanvactor outlined three alternate proposals for the issuance of the revenue bonds and the governance of MWMC. This memo restates the alternatives and summarizes some of the considerations applicable to each one. The description of each alternative was provided by Bill. The summary of advantages and disadvantages is based on those he listed as modified by me after talking with him about his suggestion. Alternative Two-A was added by me for food for thought.

II.

Option One –Governing Body Control:

Under this option, the three governments make MWMC a 'legal entity". The three governments must pass ordinances setting this process up and hold a public hearing on each revenue bond issue.

Clarification:

Bond counsel states that one approval from Governing Bodies will authorize the sale of bonds up to the approved amount even if the bonds are sold in multiple issuances.

Advantages:

- Ready to go. Uses draft developed after much time and expense by staff and bond counsel.
- Continues existing governance structure.
- Continues existing MWMC budget and CIP approval process.
- Continues existing roles for providing administrative services, operation and maintenance.
- Continues MWMC's role in recommending user rates, SDCs, and expansion of regional system.
- Continues MWMC's role of providing service only to Governing Bodies.
- Preserves Governing Bodies as sole direct interface with users.
- Preserves Governing Bodies preeminence in land use matters.
- No change in permittees on NPDES Permit.
- Preserves existing MPC dispute resolution process.
- No additional staffing required.
- No delay in constructing needed capital improvements.
- Eliminates need for CSD and related staffing.

Disadvantages:

- Requires each Governing Body to approve MWMC entity status and use of revenue bonds.
- Requires bond referral period when MWMC authorizes bond issuance under URBA.
- Commits Cities to adopting user rates sufficient to meet bond covenants and maintain adequate bond ratings.
- Dispute resolution through MPC.

III.

Option Two- MWMC Control:

Under this option, we add to the duties of MWMC, which now has responsibility for "construction, operation, maintenance" and add "financing". Technically both the CSD and the

three governments would need to agree to this additional duty by executing appropriate intergovernmental agreements. Under this scenario, MWMC sets the rates. MWMC would be acting through the authority of the CSD. The cities agree to collect the rates. The intergovernmental agreements would not authorize changes in MWMC's authority except by mutual agreement.

Advantages:

- No need to have Governing Bodies approve MWMC's entity status or approve issuance of bonds by MWMC.
- Continues same general structure of MWMC.
- MWMC has complete control over setting user rates, SDCs, and annual budget.
- Simplifies process for approving rates, budget and CIPs by eliminating role of Governing Bodies.
- More stable rate setting process.
- No need for dispute resolution process as MWMC is in control.
- Bonds sold by CSD and revenue remitted to MWMC.

Disadvantages:

- Requires negotiation of additional changes to MWMC IGA to clarify MWMC's full control over rate setting.
- Requires negotiation of additional intergovernmental agreements such as between CSD and MWMC for delivery and use of bond sale proceeds.
- Time required to restructure governance would delay construction of needed capital improvements.
- Eliminates or limits annual role of Governing Bodies in approving MWMC's user rates, SDCs, budget and CIP.
- May create perception that Governing Bodies have improperly delegated rate setting control to MWMC.
- Still requires bond referral period when CSD authorizes bond under URBA.
- Delay in bond issuance as CSD gets "up to speed" on URBA.
- Requires additional effort to support CSD budget process and financial transactions.
- Cost of additional staff for CSD.
- Legal authority of MWMC to directly impose user rates is unclear. Bond counsel's February 22, 2005 response to Bill says "an IGA between the two cities and the CSD . . . would obligate the cities to charge rates and fees like the current IGA." (Emphasis added).
- Requires CSD approval of annual CSD budget.
- Requires renegotiation of contracts for collection of user fees or creation of independent system.

IV.

Option Two-A- Interim Approach:

Under this option, the Governing Bodies would adopt Option One on an interim basis. The Governing Bodies would immediately form a task force to review whether there should be a fundamental shift in how the regional sewerage system is administered, operated, maintained and financed. MWMC could issue bonds sufficient to fund construction of the needed improvements for at least the first year or two. In the alternative, MWMC might be able to avoid issuing bonds by borrowing from the State Revolving Loan Fund (SRLF) that is administered by DEQ.

Advantages:

- Needed capital improvements would not be delayed.
- The complicated political and legal questions related to a potential fundamental shift in the relationships between MWMC the Governing Bodies and CSD could be examined thoroughly and carefully with considered input from bond counsel, the Cities' attorneys and County counsel.
- Ready to go.
- Preserves existing governance structure, etc. during interim period.

Disadvantages:

- Requires bond referral period if MWMC issues bonds.
- Commits Cities to adopting user rates sufficient to meet bond covenants and maintain bond ratings or meeting DEQ requirements if SRLF monies are borrowed.
- May complicate process of withdrawing from MWMC if no agreement is reached.

V.

Option Three- Two city control

Under this scenario the termination provisions in the IGA and in the agreement between the CSD and MWMC are exercised. MWMC dies a quite death, mission accomplished. (Regional plant is built, bonds have been paid off.) CSD commences dissolution process with Boundary Commission. Eugene and Springfield create a new entity to run the regional waste water program.

Advantages:

- The Cities assume full responsibility for the regional sewerage system and the County has no further obligations.

Memo to Mike Kelly

April 8, 2005

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Disadvantages:

- Construction of new capital improvements may be substantially delayed.
- The new governance structure for running the regional sewerage system must be worked out.
- Users who live outside the city limits of Eugene or Springfield may not have representation in rate setting and other issues in the operation of the regional sewerage system

GDJ:da

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AGENDA ITEM SUMMARY

Meeting Date: April 18, 2005
Meeting Type: Regular Session
Department: Public Works *SM*
Staff Contact: Susie Smith *SS*
Staff Phone No.: 726-3697
Estimated Time: 10 minutes

**SPRINGFIELD
CITY COUNCIL**

ITEM TITLE: MODIFICATIONS TO THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION (MWMC) INTERGOVERNMENTAL AGREEMENT (IGA)

ACTION REQUESTED: The City Council is requested to conduct a public hearing, discuss the proposed MWMC IGA modifications, and have a first reading of AN ORDINANCE CREATING THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION AS AN INTERGOVERNMENTAL ENTITY; DECLARING AN EMERGENCY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

ISSUE STATEMENT: The attached draft MWMC IGA includes modifications proposed to update the IGA and to enable MWMC to issue revenue bonds and/or other low-cost capital financing tools. Updating the IGA is necessary to support construction of planned regional wastewater facilities improvements at the lowest possible cost to current and future sewer customers.

ATTACHMENTS:

Attachment A:	Council Briefing Memorandum
Attachment B:	Draft MWMC IGA (Legislative Format)
Attachment C:	Draft MWMC IGA (Clean Copy)
Attachment D:	Ordinance

**DISCUSSION/
FINANCIAL IMPACT:** In 2004, MWMC, the Springfield and Eugene City Councils, and the Lane County Commissioners adopted the MWMC Facilities Plan and Twenty Year Project List. Revisions to the IGA are needed to implement the Plan efficiently and cost-effectively. The attached draft IGA represents the collective recommendations of Eugene and Springfield staff and legal counsels, MWMC Legal Counsel and Financial Advisor, and Bond Counsel for MWMC and Eugene. No further revisions have been made since the City Council reviewed this draft on March 21, 2005. The Council is currently scheduled to take action on this matter on May 2, 2005.

MEMORANDUM

City of Springfield

Date: April 13, 2005
To: Mike Kelly, City Manager **COUNCIL**
From: Susie Smith, Environmental Services Manager *SS* **BRIEFING**
Dan Brown, Public Works Director *DB*
Subject: Proposed Modifications to the Metropolitan **MEMORANDUM**
Wastewater Management Commission (MWMC)
Intergovernmental Agreement (IGA)

ISSUE:

The draft MWMC IGA and adopting ordinance, which is before the City Council for a public hearing and consideration on April 18, 2005, implement proposed modifications to update the IGA and to enable MWMC to issue revenue bonds and/or other low-cost capital financing tools. Updating the IGA is necessary to implement the MWMC Facilities Plan in a cost-effective, efficient and prudent manner. This memorandum provides the City Council with background and a summary of the proposed modifications, which were presented at the March 21, 2005 City Council work session.

BACKGROUND AND DISCUSSION:**Historical Context:**

The Regional Wastewater Program is managed by MWMC, which was formed in 1977 under an IGA among Eugene, Springfield, and Lane County. Since MWMC's inception, the IGA has outlined roles and responsibilities of the three partner agencies and MWMC in providing for regional wastewater services, and has included two appendices. "Appendix A" defined the regional sewerage facilities necessary to serve the Eugene-Springfield area, and "Appendix B" set forth the regional wastewater program's financing criteria. A related "Operations, Maintenance, and Administrative Services Agreement" (Service Agreement) was established as a required contract between MWMC and the two Cities for providing all staffing and services on behalf of MWMC.

The IGA and Service Agreement have been amended periodically over the last 25 years to keep them consistent with changes in metropolitan-wide policies, agency practices, and operating conditions. The last amendments to the IGA were approved by the City Managers for Eugene and Springfield and by the Lane County Administrator in 1998. Updates to the Service Agreement were last approved by the City Managers in 2001.

Current IGA Review:

The IGA revisions proposed in Attachment B (which is in legislative format) and Attachment C (which is a clean copy for better readability) are the culmination of several years of work reviewing the agreement. The scope of the review initially only included changes to align the IGA with changes in operational and physical sewerage system conditions and public policies, which have evolved over the past 25 years. With the adoption of the 2004 MWMC Facilities Plan, review of the IGA was necessarily expanded to support implementation of the Facilities Plan and low-cost financing mechanisms needed to serve the metropolitan area for the next twenty years.

While the more routine “update” modifications were developed by Regional Wastewater Program staff, all of the modifications pertaining to MWMC’s and the Cities’ roles in financing new facilities, and ensuring revenue adequacy, were developed at the direction of MWMC’s Financial Advisor in consultation with the Lane County Financial Advisor, and the Bond Counsel for Eugene and now MWMC. The drafting of those changes was facilitated by MWMC Legal Counsel in collaboration with the Legal Counsels for all three partner jurisdictions.

The Springfield City Council reviewed the proposed IGA modifications at the March 21, 2005 Council work session. The draft has not been further revised since the Council’s initial review, and, in its current form, has been reviewed and endorsed by the Eugene and Springfield Public Works Directors and City Managers.

Highlights of Significant Modifications to the IGA:

The majority of the changes proposed in the IGA are related to the need for periodic updates to reflect current operational practices, adopted plans, and metro-wide policy documents. These modifications do not reflect or implement any changes in the relationship or authorities between the governing bodies and the MWMC. The modifications will result in an IGA that is aligned with administrative and operational practices and that is consistent with current regional planning policies and terminologies. Proposed modifications to this end include:

- Updates to the language to reflect adopted Metro Plan terms and policies.
- Updates to the financing guidance by deleting Exhibit B (which predates the 2003 Financial Plan, and has outdated references to Federal construction grants, the County Service District and General Obligation bonding) and replacing it with the 2003 Financial Plan (including the financial policies and revenue bonding strategy), and by moving relevant financial management guidance from Exhibit B to the main body of the IGA.
- Changes to the directive from “compensating” the Cities for the pre-1984 facilities to “facilitating timely transfer of ownership” with the same consideration of funding equity among all sewer users that currently exists.
- Relocation of some sections of text for better organization, without modifying intent.
- Elimination of provisions referencing triggers for planning to expand capacity (section 9 of the IGA), because the 2004 Facilities Plan and its updates replace the need for this provision. As recommended, the changes continue the requirement of obtaining Governing Body approval for the partial and comprehensive Facilities Plan updates that are scheduled at five-year intervals during the planning period. Also as recommended, the changes allow MWMC to make other relatively minor revisions to the Facilities Plan without Governing Body approval. Notwithstanding these recommended changes to the IGA, however, the Governing Bodies will continue their existing role in reviewing such revisions through the annual MWMC budget and Capital Improvements Plan (CIP) ratification process.
- Deletion of the outdated provisions for compensation from the three jurisdictions for “initial expenses.”

Additional modifications to the IGA are being proposed that reflect the recommendations of MWMC’s Financial Advisor, in consultation with Lane County’s Financial Advisor, and the City of Eugene’s Bond Counsel, who now serves as MWMC’s Bond Counsel as well. One of the recommended changes, described in the last bullet point below, limits the individual

Governing Bodies' rights to adopt regional user rates and system development charges (SDCs) less than those recommended by MWMC in certain situations. The language was recommended by the Financial Advisors and the Bond Counsel to strengthen the assurance that adequate rates and fees will be established to cover long-term borrowing by MWMC, and that revenues will be collected and forwarded to MWMC. According to Bond Counsel, adoption of the recommendations is necessary to enable MWMC to issue revenue bonds, or enter into other debt-financing secured by regional wastewater revenues. Proposed modifications to the IGA in this respect include:

- Incorporation of the regional wastewater 2004 Facilities Plan as the basis for planning and improving facilities, and specifying updates that will be submitted for review and approval by the Governing Bodies.
- Deletion of the user charge reference to Federal regulations (40 CFR 35.929) because previous Federal restrictions under the grants no longer apply, and replacing it with language ensuring that sufficient user charges will be established to meet debt service requirements in addition to operations, maintenance, etc.
- Strengthening of the language about collection and remittance of revenues, in response to Financial Advisor and Bond Counsel concerns and the need to satisfy bond rate agencies and bond covenant requirements.
- Removal of the 30-day notice of termination, maintenance of a one year notice requirement, and addition of a further restriction on terminating when outstanding debt requiring long-term commitment of revenues is required unless a provision is made for debt repayment.
- Modification of the dispute resolution process to provide that, after the Metropolitan Policy Committee (MPC) makes its recommendation, MWMC's action takes effect only after all the Governing Bodies agree, *except* that the objecting Governing Body's recourse is limited to submitting the matter to MWMC for reconsideration when the objection is to MWMC's adoption of "sewer user charges or SDCs in the amount necessary to meet bond covenants, together with any additional amount that is necessary to maintain adequate bond ratings and reasonable access to the capital market..."

Changes also are proposed to Appendix A of the IGA to reflect a revised definition of "regional" wastewater facility. This revision shifts the current definition from an arbitrary pipe size to a consistently applied concept of "shared flows." The new language establishes a logical ownership pattern whereby components of the overall wastewater collection and conveyance system that only serve Eugene or Springfield are owned and maintained by the appropriate agency. Components that transport or treat wastewater from both Eugene and Springfield are defined as part of the regional MWMC system.

This revision reflects the actual practices used by the Cities' local sewer programs and the Regional Wastewater Program for years. For example, when Springfield assumed jurisdiction over the Glenwood area, Springfield paid a share of the costs of the Glenwood Pump Station and the interceptor that crosses the Willamette River rather than paying for the full value of the facilities. These facilities then became "regional facilities" at the point where Springfield and Eugene wastewater flows combine and travel through the same system.

The City of Eugene convened a work session to discuss the IGA and adopting ordinance on April 11, and is scheduled to conduct a public hearing on May 9. The Lane County Finance and

Audit Committee reviewed this matter on March 15 and April 12 and voted to forward the draft IGA to the full Board for consideration. Dates have not yet been set for review of this matter by the Board of County Commissioners as a whole but we anticipate that it will be scheduled soon.

The final position of the Eugene City Council and the Board of County Commissioners on amending the IGA is somewhat uncertain at this time. Amending the IGA requires consensus of all parties to the agreement. If one or more Governing Bodies do not accept the amendments, the IGA remains as it is currently written. In this eventuality, the MWMC would not be able to utilize revenue bonds as the most cost-effective mechanism for raising the revenue necessary to implement the 2004 Facilities Plan and would have to turn to higher cost options, which include substantial user rate increases and higher interest borrowing (if available). It is unclear, given the out-of-date nature of the IGA and potential intergovernmental conflicts, whether any external borrowing (even at higher interest rates) would be possible.

FINANCIAL IMPACT AND TIMING CONSIDERATIONS:

The Regional Wastewater Program operations are supported by user fees, which are established annually by MWMC and adopted and implemented by the City Councils of Eugene and Springfield. Regional wastewater capital projects are supported in part by user charges and in part by SDC revenues, which are adopted and implemented similarly. The proposed changes to the IGA do not directly affect these rates. However, they will improve and strengthen the regional wastewater partnership's ability to: 1) access low-cost financing for long-term capital improvements, which will minimize the overall rate impact to both current and future system users; 2) administer the CIP and financing in a cost-effective and efficient manner; 3) avoid significant user rate increases over the next few years; and 4) avoid added costs that will be incurred if capital project construction is delayed.

Timely approval of the updated IGA is necessary to continue with the scheduled pace of construction and issuance of approximately \$35,000,000 in revenue bonds in September of 2005. The regional wastewater sewer user rate increase planned by MWMC to cover operations, capital improvements and debt service in fiscal year 2005-2006 is 6%, which will equate to about 70 cents per month on an average residential sewer bill. Alternatively, without the timely issuance of revenue bonds, the rate increase needed to generate sufficient funds would be 65%, which would equate to over \$7.00 per month.

The 2004 Facilities Plan outlines a schedule for construction of the capital improvements necessary to maintain the needed wastewater treatment capacity and capability. This schedule, if followed, allows us to maintain compliance with our current discharge permit and anticipated future needs of the community. Adhering to the Facilities Plan construction schedule for the next five years is crucial if we are to comply with a deadline of 2010 set by the Oregon Department of Environmental Quality (DEQ) to prevent wastewater overflows during specified storm events. Anything that delays the construction schedule will result in any or all of the following consequences: 1) increased costs due to construction delays; 2) increased costs due to enforcement actions taken by the DEQ or the Environmental Protection Agency (EPA) or both; 3) increased costs from defending MWMC and the partner agencies from regulatory enforcement actions and/or third party law suits; 4) threats to public health and safety caused by sewer overflows, which are imminent but will be eliminated by constructing the planned

improvements according to the Plan schedule; 5) potential requirement that significant industrial users reduce or curtail their discharges during times of peak flows at the plant; and 6) potential denial of new connections based on inadequate wastewater treatment capacity within regulatory guidelines.

RECOMMENDED ACTION:

The IGA revisions proposed in Attachments B and C are the culmination of several years of work reviewing the agreement and determining appropriate changes needed to align it with operational conditions and public policies that have evolved over the past 25 years. The proposed changes have been developed by the Regional Wastewater Program staff, MWMC Legal Counsel, the MWMC and Lane County Financial Advisors, and the City of Eugene and MWMC Bond Counsel. They have been reviewed by Legal Counsel for all three partner jurisdictions. They have been reviewed and endorsed by the Public Works Directors and the City Managers of Eugene and Springfield.

According to Bond Counsel, in order for MWMC to be granted appropriate status under the Oregon Revised Statutes as an Intergovernmental Entity for the purposes of issuing debt, the Governing Bodies must adopt the IGA by ordinance following a public hearing. Timely notice of a such a public hearing, scheduled for April 18th, was provided in the Springfield News and the Register Guard. Therefore, it is recommended that the Springfield City Council conduct a public hearing to review the IGA and the ordinance included as Attachment D. A related public hearing on a resolution that would authorize the sale of revenue bonds also has been scheduled for April 18. Council action on these matters is currently scheduled for May 2, 2005.

RESTATED AND AMENDED AGREEMENT

METROPOLITAN WASTEWATER MANAGEMENT COMMISSION

THIS RESTATED AND AMENDED AGREEMENT was entered into the 9th day of February, 1977, 2005 by the City of SPRINGFIELD and the eCity of EUGENE, municipal corporations of the State of Oregon, and LANE COUNTY, a political subdivision of the State of Oregon, herein referred to as Governing Bodies. The original Agreement dated February 9, 1977, was previously amended January 4, 1978, February 16, 1982, and July 19, 1991, and April 3, 1998 which amendments have been incorporated herein.

RECITALS:

1. The Governing Bodies have adopted the plan of land use development known as the 1990 General Eugene/Springfield Metropolitan Area General Plan and have designated in the plan a ~~projected an Urban Growth Boundary within which~~ urban services may be provided. The ~~Urban Growth Boundary -area which~~ includes the two eCities (urban lands) and certain unincorporated areas surrounding the eCities and which lies entirely within the eCounty (urbanizable land).
2. The ~~projected area within the uUrban service area~~ Growth Boundary, as now or hereafter designated, is a metropolitan area because of its urban character and the close interrelationship between the two eCities and all parts of the area.
3. The urban character of the area makes high quality sewage treatment necessary.
4. Federal funding policy requires sewage treatment and disposal in the projected urban service area to be provided on a unified, metropolitan basis.
5. In order to plan for sewerage on a unified basis ~~within the projected uUrban Growth Boundary service area~~, the eCities and the eCounty entered into an agreement January 8, 1974, establishing the Metropolitan Sewer Advisory Commission.
6. ~~The Eugene-Springfield Metropolitan Area Waste Treatment Management Alternatives Plan, which has been prepared for the Lane Council of Governments under Environmental Protection Act Section 208 provisions, shall serve as a basis for developing a unified sewerage system within the projected urban service area.~~
7. The eCities have the authority under their eCharters to provide for all aspects of sewerage, are providing it presently for parties within their respective boundaries, and are concerned that it be provided adequately in their environs so as to prevent health hazards.
8. The eCounty, while not presently providing sewerage, has the authority under its eCharter to do so, has extensive duties under state laws regarding public sanitation, and is concerned about hazards to public health that arise from inadequate sewerage in the area.

98. Under their Charters and the Oregon Revised Statutes, the eCities and eCounty may cooperate in providing sewerage and may enter into contracts to carry on that function jointly or by transferring the function to one of the governmental units.

409. The eCities and the eCounty are determined to provide sewerage on a unified basis in the projected urban service area.

4410. In the parties' opinions, it is not convenient or desirable for any one of them singly to assume or be granted the responsibility for providing sewerage to the projected urban service area Growth Boundary. The parties do believe that a separate commission should be established for that purpose.

11. The parties adopt this Agreement in compliance with ORS 190.010 and 190.085 to create an intergovernmental entity with the powers described in ORS 190.080.

DEFINITIONS:

1. Projected Urban Service Area. The projected urban service area is the estimated geographic area within which a full range of urban services will need to be extended or provided to accommodate urban development at any future point in time (such as 1990). (1990 General Plan, Page 12). Bonds, notes, loans and other borrowings of the Commission that assist the Commission in carrying out the Facilities Plan.

2. CIP. The list of capital improvement projects that is included in the Commission's annual budget and approved annually by the Governing Bodies.

3. Facilities Plan. The Commission's 2004 Facilities Plan as periodically updated pursuant to Section 3.n of this Agreement.

4. Financial Plan. The Commission's 2003 Financial Plan as periodically updated pursuant to Section 3.f of this Agreement.

5. Local Sewerage Facilities. All other publicly owned sewerage facilities within the urban growth boundary.

6. Metro Plan. The Eugene/Springfield Metropolitan Area General Plan as amended from time-to-time.

7. Regional Sewerage Facilities. That part of the sewerage system, as defined in Appendix "A" of this Agreement, as it may subsequently be modified with the concurrence of the Governing Bodies. The Commission has responsibility for the Regional Sewerage Facilities.

8. Sewage: The contents of a sewer.

29. Sewer. A conduit to carry off water and wastewater.

3. Sewage: The contents of a sewer.

4.10. Sewerage. All or part of a system used for the collection, transmission, treatment and disposal of sewage.

~~5. Regional Sewerage Facilities. That part of the sewerage system, as defined in Appendix "A" of this Agreement, for which a regional entity has responsibility.~~

~~6. Local Sewerage Facilities. All other publicly owner sewerage facilities in the projected urban service area.~~

~~7. Equivalent Dwelling Unit. The average sewage load contributed by a single family dwelling. The sewage load for commercial, industrial or other connections may be expressed in terms of equivalent dwelling units.~~

11. Urban Growth Boundary. The urban growth boundary is the projected geographic area within which a full range of urban services will need to be extended or provided to accommodate urban development as set forth in the Metro Plan.

AGREEMENTS:

1. Commission: The Metropolitan Wastewater Management Commission, herein referred to as Commission, is hereby established as an intergovernmental entity pursuant to ORS 190.010, 190.080 and 190.085 to function under the authority of this Agreement. The Commission shall replace the Metropolitan Sewer Advisory Commission (MSAC) effective February 9, 1977.

2. General Function: The Commission shall construct, operate and maintain the ~~Regional Sewerage Facilities as described in Appendix "A" of this Agreement, or as subsequently modified with the concurrence of the Governing Bodies.~~ The Commission shall finance these facilities in accordance with ~~an adopted financing plan based on the financing criteria described in Appendix "B" of this Agreement or as subsequently modified with the concurrence of the Governing Bodies.~~ the Commission's Financial Plan. The Commission shall have all the powers allowed to an intergovernmental entity under ORS Chapter 190, as it may be amended from time to time, and any other statute that grants powers to such intergovernmental entities for purposes of carrying out the Specific Functions set forth in Section 3 of this Agreement.

3. Specific Functions: The specific functions of the Commission shall be to:

a. ~~Recommend the boundaries of the County Service District to the Lane County Commissioners.~~

ba. Construct, maintain and operate the Regional Sewerage Facilities.

c. ~~Compensate the cities for existing sewerage facilities as defined in Appendix "A".~~ Facilitate the completion of the process of transferring ownership to the Commission of the Existing Sewerage Facilities as defined in Appendix "A" Section VI. The transfer of ownership process shall proceed in a timely manner as determined by

the mutual agreement of the Commission and the Cities of Eugene and Springfield.
The transfer of ownership process shall include consideration of the following factors:

1. Original source of funds for acquisitions, construction, maintenance, equipment replacement, and major rehabilitation; and

2. Achieving equity among regional sewer users within the Urban Growth Boundary.

dc. Salvage abandoned sewerage facilities.

ed. ~~Implement a financing plan,~~ the Financial Plan and annual budget and annual financial statement for the regional sewerage facilities.

fe. ~~Adopt a schedule of sewer user charges and connection fees for regional sewer services. The Commission's adopted user charges shall separately set forth the amount necessary to recover operation, maintenance and replacement costs as required by 40 CFR 35.929 during the 20-year design life of the regional sewerage facilities. Connection fees are to be established pursuant to Appendix "B".~~ Recommend to the Governing bodies a schedule of sewer user charges and system development charges for regional sewer services. The Commission's recommendation shall separately set forth:

1. The amount that is necessary to meet Bond covenants, together with any additional amount that is necessary to maintain adequate bond ratings and reasonable access to the capital markets; and

2. Such additional amounts that the Commission determines is appropriate to adequately fund the actions necessary to perform the Commission's functions under this Agreement.

f. Update the Financial Plan, as necessary from time to time, so as to provide guidance for the generation of revenue sufficient for the Commission to fulfill its functions under the Agreement. Any update of the Financial Plan shall be designed to promote the following objectives:

1. Establishing revenue adequacy to provide for long-term health and stability of the regional sewerage facilities through a program of monthly sewer user charges and system development charges that are imposed uniformly throughout the service area;

2. Fully funding the needs for equipment replacement and major rehabilitation to address the long-term preservation of the Regional Sewerage Facilities capital assets;

3. Fully funding a program of capital improvements to address capacity, regulatory and efficiency/effectiveness needs;

4. Promoting equity between newly connected and previously connected users for their total contributions toward the Regional Sewerage Facilities; ;

5. Promoting equity between various classes of users based on the volume, strength and flow rate characteristics of their discharges together with any other relevant factors identified by the Commission;

6. Ensuring efficient and cost-effective financial administration of the Regional Sewerage Facilities; and

7. Complying with applicable laws and regulations including those governing the establishment of user charges and the establishment of system development charges pursuant to ORS 223.297 et seq.

g. Establish billing and collection systems, if necessary, in locations where such systems are not provided by others.

h. Contract with the Governing Bodies as appropriate for operation and maintenance of the Regional Sewerage Facilities, administrative services for the Commission and for other services as necessary.

i. Contract for consultant services.

j. Provide service only to the Governing Bodies.

k. Comply with state and federal standards.

l. Adopt minimum uniform standards for pretreatment requirements for industrial and other wastes as necessary.

m. Adopt minimum standards for construction and maintenance of local sewage collection systems.

n. Plan and make recommendations to the Governing Bodies for expansion and improvement of Improve the Regional Sewerage Facilities pursuant to the Commission's Facilities Plan. Changes in the Facilities Plan made by the Commission that result from what are described as the Partial or Comprehensive updates scheduled for 2010, 2015, 2020 and 2025 in the 20-Year Project List, will be submitted to the Governing Bodies for review and approval. The scheduled updates shall be submitted at least 6 months in advance of the anticipated approval date and shall be accompanied by an estimate of the effect the update may have on sewer user charges and system development charges. All other changes to the Facilities Plan may be made by the Commission without referral to the Governing Bodies unless the Commission estimates that they will increase either sewer user charges or system development charges by 5% or more. In that event, the proposed change to the Facilities Plan shall be submitted to the Governing Bodies for review and approval in accordance with the above procedure for scheduled updates except that the proposed change shall be submitted at least 90 days in advance of the anticipated approval date.

o. Take any action necessary or convenient to perform the above functions or other duties as specified elsewhere in this Agreement. No powers or duties related to local annexation or growth policies are granted to the Commission.

p. Issue Bonds as provided in ORS 190.080 or as otherwise allowed under state law, and enter into covenants regarding the operation of the Regional Sewerage Facilities and the imposition of sewer user charges and system development charges that are intended to secure favorable interest rates and other terms for the Bonds.

4. Membership: The Commission shall consist of seven (7) voting members:

a. Each Governing Body shall appoint to the Commission one (1) elected official of that Governing Body:

b. The City Council of Eugene, shall appoint two (2) additional members to the Commission. The City Council of Springfield and the Lane County Commissioners shall each appoint one additional member to the Commission.

c. Members of the Commission shall serve for the term set by the Commission in its bylaws and at the pleasure of the Governing Body appointing that member.

d. A quorum of the Commission shall be five (5) members providing at least one member appointed by each Governing Body is present. Decisions of the Commission shall require a majority vote of the entire membership unless otherwise provided in this Agreement.

5. Bylaws: The Commission shall adopt a set of bylaws governing its conduct. The bylaws shall:

a. Establish times and places of meetings.

b. Establish a central office for the Commission which shall have a mailing address, a telephone and a complete set of records of the Commission, be the main place where information about the Commission can be obtained, and be under the charge of the designated agent of the Commission.

c. Prescribe officers of the Commission, including president and other officers to be elected by the Commission from among its members. The president shall see that meetings of the Commission are conducted in accordance with the bylaws.

6. Meetings: Meetings of the Commission shall be held regularly at times and places designated in the bylaws.

7. Functions of Governing Bodies: The Governing Bodies shall continue to perform the following functions:

a. Billing and collection of sewer user charges and system development charges. User charges will be billed and collected monthly. System development

charges will be billed and collected by Eugene and Springfield in accordance with state law.

b. Provide local sewage collection (sewers beyond those specified in Appendix "A".)

c. Provide customer contact.

d. Establish local annexation and growth policies.

8. Obligations of Governing Bodies: The Governing Bodies shall assume the following obligations:

a. Forward to the Commission its share of revenues as specified in the adopted financing plan. Each month remit to the Commission all revenues that are collected by the Governing Body on behalf of the Commission. Efforts to collect delinquent accounts will be consistent with the policies and practices for the collection of delinquent accounts for other utility charges due to the Eugene Water and Electric Board for such revenues collected by Eugene and the Springfield Utility Board for such revenues collected by Springfield. If Lane County collects revenue on behalf of the Commission, Lane County will use delinquent account collection policies and practices that are similar to those used by the Eugene Water and Electric Board and the Springfield Utility Board.

b. Adopt, as a minimum, the Commission's standards for construction and maintenance of sewage collection systems and for pretreatment requirements for industrial and other wastes.

c. Adopt sewer user charges required by 40 CFR 35.929 in an amount not less than adopted by the Commission, and system development charges and impose those charges on behalf of the Commission in amounts not less than those recommended by the Commission to the extent that such charges are necessary to meet Bond covenants together with any additional amount that is necessary to maintain adequate bond ratings and reasonable access to the capital markets. Any objection to the amount of such sewer user charges or system development charges shall be resolved pursuant to the third paragraph of Section 16 of this Agreement. Additional sewer user charges and system development charges may be adopted as deemed reasonable by the Governing Bodies.

d. Provide the Commission with an annual regular periodic reports of revenues and expenses related to Regional Sewerage Facilities.

e. Establish service area boundaries and provide for adjustment thereto as necessary to ensure that service is provided only to areas within the taxing district/city limits of Eugene and Springfield (City Limits); to users currently being served or to whom contractual service commitments have been made who are outside the taxing district/City Limits; and to any other areas outside the taxing district/City Limits to which service may be extended in conformity with Fundamental Principle B Growth Management in the Urban Service Area (Pages:

~~II B-1 through II B-9) and Public Utilities Services and Facilities, Element G (Pages: III G-1 through III G-7) of the Metropolitan Area General Plan, the Growth Management provisions in Chapter II of the Metro Plan and the Public Facilities and Services Element provisions in Chapter III of the Metro Plan, as amended.~~

f. The Governing Bodies will make commitments necessary to assist the Commission in obtaining favorable interest rates and other terms for Bonds approved by the Governing Bodies under ORS 190.080(1).

9. Capacity Commission's Liabilities: ~~The initial capacity for the sewage treatment plant shall be based on the established population equivalent estimates for the entire metropolitan area. When the sewage loading into the treatment plant becomes 85% of the initial design capacity, the Commission shall institute a program to expand and/or upgrade the treatment system beyond the initial design capacity. The Governing Bodies shall be obligated to impose, collect and remit to the Commission sewer user charges and system development charges and to comply with the obligations specifically imposed on the Governing Bodies by this Agreement. Except as provided in the preceding sentence, the Governing Bodies shall not be liable for the debts, liabilities or obligations of the Commission.~~

10. Grants and Loans Bonds: ~~The Commission shall apply for grants and loans for funds issue Bonds to achieve the objectives of this Agreement and to carry out an adequate program of sewerage for within the projected uUrban service area Growth Boundary.~~

11. Contracts: The Commission may enter into contracts for technical assistance and for construction of facilities to achieve the objectives of this Agreement and to provide necessary sewerage in the area.

12. Hearings: The Commission may conduct hearings on complaints from any rate payer who is aggrieved by rules of the Commission, by sewerage rules, regulations, policies, or practices of the Governing Bodies, or by any aspect of the sewerage operations of the Governing Bodies. "Rate payer" means any person or entity responsible for the payment of any charge or fee imposed on behalf of the Commission. The Commission shall provide in its bylaws for advance notice and for conduct of the hearings. After the hearing, the Commission shall submit to the Governing Bodies and to the complainant its findings and recommendations regarding the complaint.

~~13. Initial Expenses: The administrative or other expenses of the Commission prior to the adoption of the financial plan and receipt of revenues therefrom shall be borne 63% by Eugene, 24% by Springfield, and 13% by Lane County, subject to budgetary limitations of the Governing Bodies.~~

4413. Annual Budget and Capital Improvement Program: The Commission shall prepare an annual and any necessary supplemental budgets and CIP in accordance with its bylaws. The Commission may make expenditures or incur obligations only within limits set by the budget and CIP. Except for expenditures required to meet Bond covenants and maintain adequate bond ratings and reasonable access to the capital markets, the Commission budgets shall not make any expenditures until the

Commission's budget and CIP be effective until have been ratified by the Governing Bodies.

4514. Recommendations: Upon recommendation of the Commission, the Governing Bodies shall:

a. Establish sewerage policies.

b. Provide the personnel and services necessary for the operation and maintenance of the regional sewerage system at the expense of the Commission.

c. ~~Adopt a system of sewer user charges and connection fees. In the case of user charges required by 40 CFR 35.929, the charges adopted shall be not less than those recommended by the Commission.~~ system development charges as required by Section 8.c of this Agreement.

d. Levy and collect the charges severally.

e. ~~Apportion funds that the Governing Bodies receives for sewerage in accordance with the Commission's adopted financial plan~~ between the Governing Body and the Commission in direct proportion to the total charges that are imposed by the Governing Body for sewerage on behalf of the Commission and the Governing Body.

f. ~~Provide funds for capital improvements to the sewerage system in accordance with the Commission's adopted financial plan.~~

4615. Modification and Termination: This Agreement shall continue until modified by unanimous consent of the Governing Bodies. A Governing Body may terminate its participation in the Agreement by ~~30 days written notice at any time prior to bond authorization providing. Thereafter, one year's advance notice of termination must be provided to the other Governing Bodies.~~ If the parties are unable to agree on the division of assets and liabilities between the parties, the dispute shall be referred to a board of arbitration for its decision concerning the division. The board shall have five members; a judge of the Circuit Court of Lane County to be selected by the chief judge of the Court, a representative of the State Department of Environmental Quality to be selected by the director of the Department, and one representative who has not served on the Commission from each ~~Governing Body~~ Governing Body to be selected by the respective Governing Bodies. Notwithstanding the preceding language in this Section, a Governing Body that is obligated to collect revenue on behalf of the Commission may not terminate its participation in this Agreement unless all Bonds have been paid or defeased.

4716. Reconsideration and Mediation: If one or more of the Governing Bodies objects to any action proposed or taken by the Commission, including any action taken pursuant to Appendix "B" update or implement the Financial Plan or the Facilities Plan, the Governing Body objecting to the action shall request that the Commission reconsider such action by delivering a written request therefor to the Commission. The Commission shall put such action on its agenda for reconsideration at any Commission meeting within 45 days after receipt of the request for reconsideration. Except as

provided below, if a Governing Body objects to the Commission's action after reconsideration by the Commission, the Governing Body may refer the matter to the General Membership of the Metropolitan Policy Committee (MPC) for mediation in accordance with any procedure adopted by MPC.

If a resolution of the matter has not been reached previously, MPC shall, within 45 days after referral of the matter to MPC, make a written recommendation for resolution of the matter to the Governing Bodies for their consideration. MPC's recommendation shall be advisory only and shall not be binding on the Governing Bodies. Except as provided below, the Commission's action shall take effect only after all Governing Bodies are in agreement.

-If the action objected to is the Commission's adoption of user rates required by 40 CFR 35.929 recommended sewer user charges or system development charges in the amount necessary to meet Bond covenants, together with any additional amount that is necessary to maintain adequate bond ratings and reasonable access to the capital market, the recourse of an objecting Governing Body is limited to submitting the matter to the Commission for reconsideration within 30 days after the Commission's recommendation is made. The Commission's decision on reconsideration of such sewer user charges or system development charges shall be final.

IN WITNESS WHEREOF, the undersigned, by authority of their respective Governing Bodies, have executed the within Agreement.

DATE:

CITY OF SPRINGFIELD, a Municipal Corporation of the State of Oregon

By: _____
Title: City Manager

DATE:

CITY OF EUGENE, a Municipal Corporation of the State of Oregon

By: _____
Title: City Manager

DATE:

LANE COUNTY, a Political Subdivision Of the State of Oregon

By: _____
Title: County Administration

APPENDIX "A"

EUGENE-SPRINGFIELD METROPOLITAN REGIONAL SEWERAGE MASTER PLAN FACILITIES DEFINITION

I. Background.

This Appendix defines the regional sewerage facilities necessary to provide for the shared wastewater transportation, treatment and disposal needs of the Eugene-Springfield metropolitan area.

Service shall be provided only within the projected-urban growth boundary service-area. Facilities shall be designed and constructed to that end, but may be constructed either inside or outside the projected-urban growth boundary service-area.

The Regional Sewerage Facilities shall be an integrated with the Eugene and Springfield local collection and transportation systems. The combination of regional and local sewerage facilities, including associated real property which in its entirety will comprises the regional entire sewerage system for the Eugene-Springfield metropolitan area. The Regional Sewerage Facilities consist of permanent facilities and temporarily shared facilities. Permanent Regional Facilities generally support the transportation, treatment, re-use, and disposal of wastewater and biosolids generated in areas served by Eugene and Springfield. Temporary Regional Facilities are those which do not meet the definition for Permanent Regional Facilities (Section II.A below), and were funded, in part, by Federal construction grant funds. Effective July 1, 2005, the Temporary Regional Facilities will be owned and operated by the municipality which has planning authority for the area in which they are located. The ownership interest in such facilities will remain subject to the security interest of the Federal Government until it expires by its terms on December 31, 2006.

II. Regional Sewerage Facilities.

The Regional Sewerage Facilities system and related activities shall include only the following:

4A. New Permanent Regional Facilities.

A1. The Eugene-Springfield Regional Water Pollution Control Facilities (WPCF) a regional sewage treatment facility that are located at: 410 River Avenue, Eugene, Oregon, 97404 and the wet weather control facility located immediately southwest of the intersection of Walnut and Aspen Streets, Springfield, Oregon.

2. The Eugene-Springfield Regional Biosolids Management Facilities (BMF) that are located at 29689 Awbrey Lane, Eugene, Oregon.

3. The Seasonal Industrial Waste Facilities (SIWF) that are located at 91199 Prairie Road, Junction City, Oregon.

4. The Biocycle Farm Facilities (BFF) that are located at 29689 Awbrey Lane adjacent to BMF.

5.B. All sewers, 24 inches and larger in diameter, regardless of size or type which, as of the Effective Date, are required to transport wastewater to the regional sewage treatment facility, including: WPCF, BMF, BFF or SIWF from the points at which wastewater flows are combined from areas served by Eugene and Springfield together with:

1a. The entire "East Bank Interceptor".

2. The "River Road/Santa Clara Interceptors".

3. (Other 24 inch lines or larger, to be defined.) b. The Glenwood River Crossing and the portions of the Glenwood collection system that convey combined wastewater flows from Eugene and Springfield service areas.

G6. Major pump stations, pressure mains and other facilities associated with the Regional sewer system Sewerage Facilities described in Sections 4-BII.A 1-5 above, including, but not limited to:

2. Existing Sewer Facilities, a. The Willakenzie Pump Station – located at 3050 Goodpasture Lakes Loop, Eugene.

b. The Old Springfield plant Pump Station – located at Aspen & Walnut, Springfield.

c. The Glenwood Pump Station – located at 3580 Franklin Blvd., Eugene.

d. The Irvington Pump Station – located at 1248 Irvington Drive, Eugene.

e. The pressure main from the WPCF to the BMF.

f. The pressure main from the BMF to the Irvington Pump Station.

g. The pressure main from its current point of origin approximately 250 feet north of Eighth Avenue on Mill Street in Eugene to the SIWF.

h. The pressure main from the WPCF to the BFF.

7. All other sewerage facilities that are not Temporary Regional Facilities and which, before or after the Effective Date, have been or are acquired or constructed and maintained by the Metropolitan Wastewater Management Commission for the purposes of conveying, treating, reusing or disposing wastewater or wastewater treatment byproducts for sewer users within the Projected Urban Service Area.

B. Temporary Regional Sewerage Facilities.

The pump stations, pressure mains and gravity sewers, together with other facilities directly related thereto consisting of:

1. The Beverly Park -- Don Street relief interceptor, Springfield.
2. The Terry Street Pump Station -- located at 5190 Barger Drive, Eugene.
3. The West Irwin Pump Station -- located at 2525 West Irwin Way, Eugene.
4. The Filmore Pump Station -- located at 1405 E. Briarcliff Lane, Eugene.

III. Conveyance of Ownership of Temporary Regional Facilities.

Promptly after the Effective Date, the Temporary Regional Facilities shall be transferred to the local jurisdiction in which they are located.

IV. Effective Date.

~~A. The existing sewage treatment facilities owned by the cities of Eugene and Springfield.~~

~~B. The existing gravity sewers, pump stations, pressure mains and other appurtenances owned by the cities of Eugene and Springfield, from the points at which the sewer lines first become 24 inches or larger in diameter to the existing treatment facilities described in Section II-A above.~~

~~III. Related Activities.~~

~~The definition of regional sewerage facilities set forth herein shall be effective on July 1, 2005.~~

V. No Change Without Redesignation.

Permanent Regional Sewerage Facilities shall remain regional sewerage facilities notwithstanding any change in their function or purpose unless and until MWMC, in coordination with the affected Governing Body, redesignates them, in whole or part, as nonregional sewerage facilities. The need therefor shall be reviewed by MWMC annually in conjunction with the preparation of the MWMC budget.

VI: Original Definition of Existing Sewer Facilities.

A. The existing sewage treatment facilities owned by the Cities of Eugene and Springfield.

B. The existing gravity sewers, pump stations, pressure mains and other appurtenances owned by the Cities of Eugene and Springfield, from the points at which the sewer lines first become 24 inches or larger in diameter to the existing treatment facilities described in Section VI A above.

~~The cost effective sewer rehabilitation of the existing collection systems as defined by the sewer system evaluation surveys.~~

APPENDIX "B"
EUGENE-SPRINGFIELD METROPOLITAN
SEWERAGE FINANCING CRITERIA

~~The Commission shall finance its functions as follows:~~

~~A. The non-federal share of capital costs associated with the implementation of the sewerage master plan set forth in Appendix "A" shall be financed by a capital construction bond authorization.~~

~~The capital construction bond shall be authorized by a district-wide bond election through the use of a County Service District. Bonds sold shall be repaid by a uniform district-wide tax. The Governing Bodies agree specifically that the County Service District shall be authorized and established to provide regional sewerage facilities by contracting with the Commission to construct, maintain and operate such facilities as set forth in the Agreement.~~

~~Bond sale proceeds may also be advanced to the Commission to provide interim financing of the federal share of such capital costs when an Environmental Protection Agency grant has been awarded to the Commission to cover such costs; the work associated with such costs has been completed and payment to the contractor therefor has been approved by the Commission; a request for reimbursement of the federal share of such costs has been submitted to the Environmental Protection Agency and timely payment to the Commission's construction contractor would be prevented due to a temporary delay in the availability of federal funds.~~

~~B. Administrative, operational and maintenance expenses related to regional sewerage facilities shall be financed through a uniform district-wide monthly fee to be levied on all users.~~

~~C. Outstanding bonded indebtedness for existing facilities of the City of Eugene and Springfield described in Appendix "A" shall continue to be amortized by the respective cities. The Commission shall provide funds to one or both cities for retiring bonds in order to establish equality between all users of the regional sewerage facilities. At such time as the outstanding bonded indebtedness of the cities for existing facilities is satisfied, and equality is established, the ownership of such facilities shall revert to the Commission.~~

~~D. Connection fees, considering different types of usage, shall be levied on all new service connections following the date specified in the detailed financial plan developed by the Commission. The fee will be calculated annually and will be based upon obtaining equality between the newly connected users and the previously connected users for their total contributions toward the regional treatment facilities. Revenue from the fee shall be used in the manner provided in the detailed financial plan developed by the Commission.~~

~~E. If current users are outside the taxing boundaries of the County Service District, each shall pay, through a user charge or other method, amounts equivalent to that paid by properties within the taxing district for the regional sewerage system.~~

~~F. Connection fees, as previously described in "D", for the regional sewerage facilities shall be charged uniformly throughout the service area.~~

~~G. The Commission may develop other revenue generating techniques with approval of the Governing Bodies.~~

~~H. excess revenue generated from fees shall be used to pay expenses and debts of the Commission. In addition, with the approval of the Governing Bodies, the Commission may use excess revenues to establish a reconstruction fund. The Commission shall develop and implement the fee system as soon as practical. The fee structure, anticipated revenues and estimated expenses for the 20 year design life of the regional sewerage facilities shall be adopted by the Commission as the financial plan.~~

RESTATED AND AMENDED AGREEMENT

METROPOLITAN WASTEWATER MANAGEMENT COMMISSION

THIS RESTATED AND AMENDED AGREEMENT was entered into the _____ day of _____, 2005 by the City of SPRINGFIELD and the City of EUGENE, municipal corporations of the State of Oregon, and LANE COUNTY, a political subdivision of the State of Oregon, herein referred to as Governing Bodies. The original Agreement dated February 9, 1977, was previously amended January 4, 1978, February 16, 1982, July 19, 1991 and April 3, 1998 which amendments have been incorporated herein.

RECITALS:

1. The Governing Bodies have adopted the plan of land use development known as the Eugene/Springfield Metropolitan Area General Plan and have designated in the plan an Urban Growth Boundary within which urban services may be provided. The Urban Growth Boundary includes the two Cities (urban lands) and certain unincorporated areas surrounding the Cities which lies entirely within the County (urbanizable land).
2. The area within the Urban Growth Boundary, as now or hereafter designated, is a metropolitan area because of its urban character and the close interrelationship between the two Cities and all parts of the area.
3. The urban character of the area makes high quality sewage treatment necessary.
4. Federal funding policy requires sewage treatment and disposal in the projected urban service area to be provided on a unified, metropolitan basis.
5. In order to plan for sewerage on a unified basis within the Urban Growth Boundary, the Cities and the County entered into an agreement January 8, 1974, establishing the Metropolitan Sewer Advisory Commission.
6. The Cities have the authority under their charters to provide for all aspects of sewerage, are providing it presently for parties within their respective boundaries, and are concerned that it be provided adequately in their environs so as to prevent health hazards.
7. The County, while not presently providing sewerage, has the authority under its charter to do so, has extensive duties under state laws regarding public sanitation, and is concerned about hazards to public health that arise from inadequate sewerage in the area.
8. Under their Charters and the Oregon Revised Statutes, the Cities and County may cooperate in providing sewerage and may enter into contracts to carry on that function jointly or by transferring the function to one of the governmental units.
9. The Cities and the County are determined to provide sewerage on a unified basis in the projected urban service area.

10. In the parties' opinions, it is not convenient or desirable for any one of them singly to assume or be granted the responsibility for providing sewerage within the Urban Growth Boundary. The parties do believe that a separate commission should be established for that purpose.

11. The parties adopt this Agreement in compliance with ORS 190.010 and 190.085 to create an intergovernmental entity with the powers described in ORS 190.080.

DEFINITIONS:

1. Bonds. Bonds, notes, loans and other borrowings of the Commission that assist the Commission in carrying out the Facilities Plan.
2. CIP. The list of capital improvement projects that is included in the Commission's annual budget and approved annually by the Governing Bodies.
3. Facilities Plan. The Commission's 2004 Facilities Plan as periodically updated pursuant to Section 3.n of this Agreement.
4. Financial Plan. The Commission's 2003 Financial Plan as periodically updated pursuant to Section 3.f of this Agreement.
5. Local Sewerage Facilities. All other publicly owned sewerage facilities within the urban growth boundary.
6. Metro Plan. The Eugene/Springfield Metropolitan Area General Plan as amended from time-to-time.
7. Regional Sewerage Facilities. That part of the sewerage system, as defined in Appendix "A" of this Agreement, as it may subsequently be modified with the concurrence of the Governing Bodies. The Commission has responsibility for the Regional Sewerage Facilities.
8. Sewage. The contents of a sewer.
9. Sewer. A conduit to carry off water and wastewater.
10. Sewerage. All or part of a system used for the collection, transmission, treatment and disposal of sewage.
11. Urban Growth Boundary. The urban growth boundary is the projected geographic area within which a full range of urban services will need to be extended or provided to accommodate urban development as set forth in the Metro Plan.

AGREEMENTS:

1. **Commission:** The Metropolitan Wastewater Management Commission, herein referred to as Commission, is hereby established as an intergovernmental entity pursuant to ORS 190.010, 190.080 and 190.085 to function under the authority of this Agreement. The Commission replaced the Metropolitan Sewer Advisory Commission effective February 9, 1977.

2. **General Function:** The Commission shall construct, operate and maintain the Regional Sewerage Facilities. The Commission shall finance these facilities in accordance with the Commission's Financial Plan. The Commission shall have all the powers allowed to an intergovernmental entity under ORS Chapter 190, as it may be amended from time to time, and any other statute that grants powers to such intergovernmental entities for purposes of carrying out the Specific Functions set forth in Section 3 of this Agreement.

3. **Specific Functions:** The specific functions of the Commission shall be to:
 - a. Construct, maintain and operate the Regional Sewerage Facilities.

 - b. Facilitate the completion of the process of transferring ownership to the Commission of the Existing Sewerage Facilities as defined in Appendix "A" Section VI. The transfer of ownership process shall proceed in a timely manner as determined by the mutual agreement of the Commission and the Cities of Eugene and Springfield. The transfer of ownership process shall include consideration of the following factors:
 1. Original source of funds for acquisitions, construction, maintenance, equipment replacement, and major rehabilitation; and
 2. Achieving equity among regional sewer users within the Urban Growth Boundary.

 - c. Salvage abandoned sewerage facilities.

 - d. Implement the Financial Plan and annual budget for the Regional Sewerage Facilities.

 - e. Recommend to the Governing bodies a schedule of sewer user charges and system development charges for regional sewer services. The Commission's recommendation shall separately set forth:
 1. The amount that is necessary to meet Bond covenants, together with any additional amount that is necessary to maintain adequate bond ratings and reasonable access to the capital markets; and
 2. Such additional amounts that the Commission determines is appropriate to adequately fund the actions necessary to perform the Commission's functions under this Agreement.

f. Update the Financial Plan, as necessary from time to time, so as to provide guidance for the generation of revenue sufficient for the Commission to fulfill its functions under the Agreement. Any update of the Financial Plan shall be designed to promote the following objectives:

1. Establishing revenue adequacy to provide for long-term health and stability of the Regional Sewerage Facilities through a program of monthly sewer user charges and system development charges that are imposed uniformly throughout the service area;
 2. Fully funding the needs for equipment replacement and major rehabilitation to address the long-term preservation of the Regional Sewerage Facilities capital assets;
 3. Fully funding a program of capital improvements to address capacity, regulatory and efficiency/effectiveness needs;
 4. Promoting equity between newly connected and previously connected users for their total contributions toward the Regional Sewerage Facilities;
 5. Promoting equity between various classes of users based on the volume, strength and flow rate characteristics of their discharges together with any other relevant factors identified by the Commission;
 6. Ensuring efficient and cost-effective financial administration of the Regional Sewerage Facilities; and
 7. Complying with applicable laws and regulations including those governing the establishment of user charges and the establishment of system development charges pursuant to ORS 223.297 et seq.
- g. Establish billing and collection systems, if necessary, in locations where such systems are not provided by others.
- h. Contract with the Governing Bodies as appropriate for operation and maintenance of the Regional Sewerage Facilities, administrative services for the Commission and for other services as necessary.
- i. Contract for consultant services.
 - j. Provide service only to the Governing Bodies.
 - k. Comply with state and federal standards.
 - l. Adopt minimum uniform standards for pretreatment requirements for industrial and other wastes as necessary.

m. Adopt minimum standards for construction and maintenance of local sewage collection systems.

n. Improve the Regional Sewerage Facilities pursuant to the Commission's Facilities Plan. Changes in the Facilities Plan made by the Commission that result from what are described as the Partial or Comprehensive updates scheduled for 2010, 2015, 2020 and 2025 in the 20-Year Project List, will be submitted to the Governing Bodies for review and approval. The scheduled updates shall be submitted at least 6 months in advance of the anticipated approval date and shall be accompanied by an estimate of the effect the update may have on sewer user charges and system development charges. All other changes to the Facilities Plan may be made by the Commission without referral to the Governing Bodies unless the Commission estimates that they will increase either sewer user charges or system development charges by 5% or more. In that event, the proposed change to the Facilities Plan shall be submitted to the Governing Bodies for review and approval in accordance with the above procedure for scheduled updates except that the proposed change shall be submitted at least 90 days in advance of the anticipated approval date.

o. Take any action necessary or convenient to perform the above functions or other duties as specified elsewhere in this Agreement. No powers or duties related to local annexation or growth policies are granted to the Commission.

p. Issue Bonds as provided in ORS 190.080 or as otherwise allowed under state law, and enter into covenants regarding the operation of the Regional Sewerage Facilities and the imposition of sewer user charges and system development charges that are intended to secure favorable interest rates and other terms for the Bonds.

4. Membership: The Commission shall consist of seven (7) voting members:

a. Each Governing Body shall appoint to the Commission one (1) elected official of that Governing Body.

b. The City Council of Eugene, shall appoint two (2) additional members to the Commission. The City Council of Springfield and the Lane County Commissioners shall each appoint one additional member to the Commission.

c. Members of the Commission shall serve for the term set by the Commission in its bylaws and at the pleasure of the Governing Body appointing that member.

d. A quorum of the Commission shall be five (5) members providing at least one member appointed by each Governing Body is present. Decisions of the Commission shall require a majority vote of the entire membership unless otherwise provided in this Agreement.

5. Bylaws: The Commission shall adopt a set of bylaws governing its conduct. The bylaws shall:

a. Establish times and places of meetings.

b. Establish a central office for the Commission which shall have a mailing address, a telephone and a complete set of records of the Commission, be the main place where information about the Commission can be obtained, and be under the charge of the designated agent of the Commission.

c. Prescribe officers of the Commission, including president and other officers to be elected by the Commission from among its members. The president shall see that meetings of the Commission are conducted in accordance with the bylaws.

6. Meetings: Meetings of the Commission shall be held regularly at times and places designated in the bylaws.

7. Functions of Governing Bodies: The Governing Bodies shall continue to perform the following functions:

a. Billing and collection of sewer user charges and system development charges. User charges will be billed and collected monthly. System development charges will be billed and collected by Eugene and Springfield in accordance with state law.

b. Provide local sewage collection (sewers beyond those specified in Appendix "A".)

c. Provide customer contact.

d. Establish local annexation and growth policies.

8. Obligations of Governing Bodies: The Governing Bodies shall assume the following obligations:

a. Each month remit to the Commission all revenues that are collected by the Governing Body on behalf of the Commission. Efforts to collect delinquent accounts will be consistent with the policies and practices for the collection of delinquent accounts for other utility charges due to the Eugene Water and Electric Board for such revenues collected by Eugene and the Springfield Utility Board for such revenues collected by Springfield. If Lane County collects revenue on behalf of the Commission, Lane County will use delinquent account collection policies and practices that are similar to those used by the Eugene Water and Electric Board and the Springfield Utility Board.

b. Adopt, as a minimum, the Commission's standards for construction and maintenance of sewage collection systems and for pretreatment requirements for industrial and other wastes.

c. Adopt sewer user charges and system development charges and impose those charges on behalf of the Commission in amounts not less than those recommended by the Commission to the extent that such charges are necessary to meet Bond covenants together with any additional amount that is necessary to maintain adequate bond ratings and reasonable access to the capital markets. Any objection to the amount of such

sewer user charges or system development charges shall be resolved pursuant to the third paragraph of Section 16 of this Agreement. Additional sewer user charges and system development charges may be adopted as deemed reasonable by the Governing Bodies.

d. Provide the Commission with regular periodic reports of revenues and expenses related to Regional Sewerage Facilities.

e. Establish service area boundaries and provide for adjustment thereto as necessary to ensure that service is provided only to areas within the city limits of Eugene and Springfield (City Limits); to users currently being served or to whom contractual service commitments have been made who are outside the City Limits; and to any other areas outside the City Limits to which service may be extended in conformity with the Growth Management provisions in Chapter II of the Metro Plan and the Public Facilities and Services Element provisions in Chapter III of the Metro Plan, as amended.

f. The Governing Bodies will make commitments necessary to assist the Commission in obtaining favorable interest rates and other terms for Bonds approved by the Governing Bodies under ORS 190.080(1).

9. Commission's Liabilities: The Governing Bodies shall be obligated to impose, collect and remit to the Commission sewer user charges and system development charges and to comply with the obligations specifically imposed on the Governing Bodies by this Agreement. Except as provided in the preceding sentence, the Governing Bodies shall not be liable for the debts, liabilities or obligations of the Commission.

10. Grants and Bonds: The Commission shall apply for grants and issue Bonds to achieve the objectives of this Agreement and to carry out an adequate program of sewerage within the Urban Growth Boundary.

11. Contracts: The Commission may enter into contracts for technical assistance and for construction of facilities to achieve the objectives of this Agreement and to provide necessary sewerage in the area.

12. Hearings: The Commission may conduct hearings on complaints from any rate payer who is aggrieved by rules of the Commission, by sewerage rules, regulations, policies, or practices of the Governing Bodies, or by any aspect of the sewerage operations of the Governing Bodies. "Rate payer" means any person or entity responsible for the payment of any charge or fee imposed on behalf of the Commission. The Commission shall provide in its bylaws for advance notice and for conduct of the hearings. After the hearing, the Commission shall submit to the Governing Bodies and to the complainant its findings and recommendations regarding the complaint.

13. Annual Budget and Capital Improvement Program: The Commission shall prepare an annual and any necessary supplemental budgets and CIP in accordance with its bylaws. The Commission may make expenditures or incur obligations only within limits

set by the budget and CIP. Except for expenditures required to meet Bond covenants and maintain adequate bond ratings and reasonable access to the capital markets, the Commission shall not make any expenditures until the Commission's budget and CIP have been ratified by the Governing Bodies.

14. Recommendations: Upon recommendation of the Commission, the Governing Bodies shall:

- a. Establish sewerage policies.
- b. Provide the personnel and services necessary for the operation and maintenance of the regional sewerage system at the expense of the Commission.
- c. Adopt a system of sewer user charges and system development charges as required by Section 8.c of this Agreement.
- d. Levy and collect the charges.
- e. Apportion funds that the Governing Body receives for sewerage between the Governing Body and the Commission in direct proportion to the total charges that are imposed by the Governing Body for sewerage on behalf of the Commission and the Governing Body.

15. Modification and Termination: This Agreement shall continue until modified by unanimous consent of the Governing Bodies. A Governing Body may terminate its participation in the Agreement by providing one year's advance notice of termination to the other Governing Bodies. If the parties are unable to agree on the division of assets and liabilities between the parties, the dispute shall be referred to a board of arbitration for its decision concerning the division. The board shall have five members: a judge of the Circuit Court of Lane County to be selected by the chief judge of the Court, a representative of the State Department of Environmental Quality to be selected by the director of the Department, and one representative who has not served on the Commission from each Governing Body to be selected by the respective Governing Bodies. Notwithstanding the preceding language in this Section, a Governing Body that is obligated to collect revenue on behalf of the Commission may not terminate its participation in this Agreement unless all Bonds have been paid or defeased.

16. Reconsideration and Mediation: If one or more of the Governing Bodies objects to any action proposed or taken by the Commission, including any action taken to update or implement the Financial Plan or the Facilities Plan, the Governing Body objecting to the action shall request that the Commission reconsider such action by delivering a written request therefor to the Commission. The Commission shall put such action on its agenda for reconsideration at any Commission meeting within 45 days after receipt of the request for reconsideration. Except as provided below, if a Governing Body objects to the Commission's action after reconsideration by the Commission, the Governing Body may refer the matter to the General Membership of the Metropolitan Policy Committee (MPC) for mediation in accordance with any procedure adopted by MPC.

If a resolution of the matter has not been reached previously, MPC shall, within 45 days after referral of the matter to MPC, make a written recommendation for resolution of the matter to the Governing Bodies for their consideration. MPC's recommendation shall be advisory only and shall not be binding on the Governing Bodies. Except as provided below, the Commission's action shall take effect only after all Governing Bodies are in agreement.

If the action objected to is the Commission's recommended sewer user charges or system development charges in the amount necessary to meet Bond covenants, together with any additional amount that is necessary to maintain adequate bond ratings and reasonable access to the capital market, the recourse of an objecting Governing Body is limited to submitting the matter to the Commission for reconsideration within 30 days after the Commission's recommendation is made. The Commission's decision on reconsideration of such sewer user charges or system development charges shall be final.

IN WITNESS WHEREOF, the undersigned, by authority of their respective Governing Bodies, have executed the within Agreement.

DATE: CITY OF SPRINGFIELD, a Municipal Corporation of the State of Oregon

By: _____
Title: City Manager

DATE: CITY OF EUGENE, a Municipal Corporation of the State of Oregon

By: _____
Title: City Manager

DATE: LANE COUNTY, a Political Subdivision Of the State of Oregon

By: _____
Title: County Administration

APPENDIX "A"

EUGENE-SPRINGFIELD REGIONAL SEWERAGE FACILITIES DEFINITION

I. Background.

This Appendix defines the Regional Sewerage Facilities necessary to provide for the shared wastewater transportation, treatment and disposal needs of the Eugene-Springfield metropolitan area.

Service shall be provided only within the urban growth boundary. Facilities shall be designed and constructed to that end, but may be constructed either inside or outside the urban growth boundary.

The Regional Sewerage Facilities shall be integrated with the Eugene and Springfield local collection and transportation systems. The combination of regional and local sewerage facilities, including associated real property comprises the entire sewerage system for the Eugene-Springfield metropolitan area. The Regional Sewerage Facilities consist of permanent facilities and temporarily shared facilities. Permanent Regional Facilities generally support the transportation, treatment, re-use, and disposal of wastewater and biosolids generated in areas served by Eugene and Springfield. Temporary Regional Facilities are those which do not meet the definition for Permanent Regional Facilities (Section II.A below), and were funded, in part, by Federal construction grant funds. Effective July 1, 2005, the Temporary Regional Facilities will be owned and operated by the municipality which has planning authority for the area in which they are located. The ownership interest in such facilities will remain subject to the security interest of the Federal Government until it expires by its terms on December 31, 2006.

II. Regional Sewerage Facilities.

The Regional Sewerage Facilities include the following:

A. Permanent Regional Facilities.

1. The Eugene-Springfield Regional Water Pollution Control Facilities (WPCF) that are located at: 410 River Avenue, Eugene, Oregon, and the wet weather control facility located immediately southwest of the intersection of Walnut and Aspen Streets, Springfield, Oregon.
2. The Eugene-Springfield Regional Biosolids Management Facilities (BMF) that are located at 29689 Awbrey Lane, Eugene, Oregon.
3. The Seasonal Industrial Waste Facilities (SIWF) that are located at 91199 Prairie Road, Junction City, Oregon.

4. The Biocycle Farm Facilities (BFF) that are located at 29689 Awbrey Lane adjacent to BMF.

5. All sewers, regardless of size or type which, as of the Effective Date, are required to transport wastewater to the WPCF, BMF, BFF or SIWF from the points at which wastewater flows are combined from areas served by Eugene and Springfield together with:

a. The entire "East Bank Interceptor".

b. The Glenwood River Crossing and the portions of the Glenwood collection system that convey combined wastewater flows from Eugene and Springfield service areas.

6. Major pump stations, pressure mains and other facilities associated with the Regional Sewerage Facilities described in Sections II.A. 1-5 above, including, but not limited to:

a. The Willakenzie Pump Station – located at 3050 Goodpasture Lakes Loop, Eugene.

b. The Old Springfield plant Pump Station – located at Aspen & Walnut, Springfield.

c. The Glenwood Pump Station – located at 3580 Franklin Blvd., Eugene.

d. The Irvington Pump Station – located at 1248 Irvington Drive, Eugene.

e. The pressure main from the WPCF to the BMF.

f. The pressure main from the BMF to the Irvington Pump Station.

g. The pressure main from its current point of origin approximately 250 feet north of Eighth Avenue on Mill Street in Eugene to the SIWF.

h. The pressure main from the WPCF to the BFF.

7. All other sewerage facilities that are not Temporary Regional Facilities and which, before or after the Effective Date, have been or are acquired or constructed and maintained by the Metropolitan Wastewater Management Commission for the purposes of conveying, treating, reusing or disposing wastewater or wastewater treatment byproducts for sewer users within the Projected Urban Service Area.

B. Temporary Regional Sewerage Facilities.

The pump stations, pressure mains and gravity sewers, together with other facilities directly related thereto consisting of:

1. The Beverly Park -- Don Street relief interceptor, Springfield.
2. The Terry Street Pump Station -- located at 5190 Barger Drive, Eugene.
3. The West Irwin Pump Station -- located at 2525 West Irwin Way, Eugene.
4. The Filmore Pump Station -- located at 1405 E. Briarcliff Lane, Eugene.

III. Conveyance of Ownership of Temporary Regional Facilities.

Promptly after the Effective Date, the Temporary Regional Facilities shall be transferred to the local jurisdiction in which they are located.

IV. Effective Date.

The definition of Regional Sewerage Facilities set forth herein shall be effective on July 1, 2005.

V. No Change Without Redesignation.

Permanent Regional Sewerage Facilities shall remain Regional Sewerage Facilities notwithstanding any change in their function or purpose unless and until MWMC, in coordination with the affected Governing Body, redesignates them, in whole or part, as nonregional sewerage facilities. The need therefor shall be reviewed by MWMC annually in conjunction with the preparation of the MWMC budget.

VI. Original Definition of Existing Sewer Facilities.

A. The existing sewage treatment facilities owned by the Cities of Eugene and Springfield.

B. The existing gravity sewers, pump stations, pressure mains and other appurtenances owned by the Cities of Eugene and Springfield, from the points at which the sewer lines first become 24 inches or larger in diameter to the existing treatment facilities described in Section VI.A. above.

ORDINANCE NO. _____

AN ORDINANCE CREATING THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION AS AN INTERGOVERNMENTAL ENTITY; DECLARING AN EMERGENCY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, pursuant to ORS Chapter 190, the Cities of Springfield and Eugene and Lane County (Governing Bodies) entered into an intergovernmental agreement (Agreement) on February 9, 1977 establishing the Metropolitan Wastewater Management Commission (Commission) to construct, operate, and maintain Regional Sewerage Facilities to service the Eugene-Springfield Metropolitan area (Metro Area).

WHEREAS, the original Regional Sewerage Facilities were constructed in the early 1980s with a planned design capacity to serve the Metro Area through 2004.

WHEREAS, the Commission and the Governing Bodies have approved the 2004 MWMC Facilities Plan and 20-Year Project List, which includes capital projects with an estimated cost of \$144,000,000 (in 2004 dollars) necessary to meet the sewage treatment needs of the Metro Area through the year 2025.

WHEREAS, ORS 190.085(1) provides that intergovernmental entities may be created by intergovernmental agreements.

WHEREAS, the cities of Springfield and Eugene, Oregon and Lane County, Oregon desire to create the Metropolitan Wastewater Management Commission as an intergovernmental entity pursuant to the provisions of ORS 190.010, 190.080 and 190.085 ("Intergovernmental Entity").

WHEREAS, the cities of Springfield and Eugene and Lane County, Oregon propose to create the Intergovernmental Entity by executing a restated and amended intergovernmental agreement in substantially the form that is attached to this Ordinance as Exhibit A ("Intergovernmental Agreement").

NOW, THEREFORE, the Common Council of the City of Springfield does ordain as follows:

Section 1. Declaration of Intent. The City Council hereby declares its intent to create the Metropolitan Wastewater Management Commission as an Intergovernmental Entity by executing the Intergovernmental Agreement in substantially the form attached as Exhibit A.

Section 2. Effective Date of Intergovernmental Agreement. The effective date of the Intergovernmental Agreement shall be the latest of the effective dates of the ordinances enacted by the governing bodies of the three parties to the Intergovernmental Agreement, approving and ratifying the creation of the Metropolitan Wastewater Management Commission as an Intergovernmental Entity.

Section 3. Public Purposes of the Metropolitan Wastewater Management Commission. The Metropolitan Wastewater Management Commission is created as an Intergovernmental Entity for the public purposes of constructing, operating, maintaining and financing regional sewerage facilities as provided in the Intergovernmental Agreement.

Section 4. Powers, Duties and Functions. The Metropolitan Wastewater Management Commission, as an Intergovernmental Entity, shall have the powers, duties and functions specified for it in the Intergovernmental Agreement, as that Intergovernmental Agreement may be amended from time to time in accordance with its terms.

Section 5. Approval, Ratification and Filing. The City Council hereby approves and ratifies the creation of the Metropolitan Wastewater Management Commission as an Intergovernmental Entity and the terms of the Intergovernmental Agreement. The City Manager is hereby authorized to execute the Intergovernmental Agreement on behalf of the City of Eugene. A copy of this Ordinance and the corresponding ordinances enacted by the governing bodies of the other two parties to the Intergovernmental Agreement, together with the statement described in ORS 190.085(2), shall be filed with the Secretary of State as required by ORS 190.085(2).

Section 6. Emergency. The Metropolitan Wastewater Management Commission must be created as an Intergovernmental Entity before the Metropolitan Wastewater Management Commission may borrow money to finance regional sewerage facilities. Because delays in that borrowing may increase project costs and interest rates, an emergency is hereby declared to exist and this Ordinance shall become effective immediately upon its passage by the City Council and approval by the Mayor, retention by the Mayor for more than ten days, or readoption over a Mayoral veto by two-thirds of all members of the City Council.

Adopted by the Common Council of the City of Springfield this ____ day of ____, 2005 by a vote of ____ in favor and ____ against.

Approved by the Mayor of the City of Springfield this ____ day of ____, 2005.

Mayor

ATTEST: _____
City Recorder

REVIEWED & APPROVED
AS TO FORM
[Signature]
DATE: 4/12/05
OFFICE OF CITY ATTORNEY

ATTACHMENT D
Page 2 of 2

AGENDA ITEM SUMMARY

Meeting Date: April 18, 2005
Meeting Type: Regular Session
Department: Public Works *243*
Staff Contact: Susie Smith *ES*
Staff Phone No.: 726-3697
Estimated Time: 10 minutes

**SPRINGFIELD
CITY COUNCIL**

ITEM TITLE: PROPOSAL TO AUTHORIZE THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION (MWMC) TO ISSUE REVENUE BONDS.

ACTION REQUESTED: The City Council is requested to conduct a public hearing, discuss the proposed resolution authorizing the MWMC to issue revenue bonds, and have a first reading of a RESOLUTION OF THE CITY OF SPRINGFIELD COMMON COUNCIL APPROVING THE ISSUANCE OF REVENUE BONDS BY THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION; AND PROVIDING AN EFFECTIVE DATE.

ISSUE STATEMENT: The MWMC seeks to issue revenue bonds to provide funding for construction of regional wastewater facilities improvements at the lowest possible cost to current and future sewer customers. Oregon statutes allow intergovernmental entities (such as MWMC) to issue revenue bonds if the parties to the intergovernmental agreement approve the issuance of revenue bonds after a public hearing.

ATTACHMENTS:

Attachment A:	Council Briefing Memorandum
Attachment B:	Resolution

DISCUSSION/

FINANCIAL IMPACT: In 2004, MWMC, the Springfield and Eugene City Councils, and the Lane County Commissioners adopted the MWMC Facilities Plan and 20-Year Project List. The Plan includes capital projects with an estimated cost of \$144,000,000 (in 2004 dollars) needed to meet the sewage treatment needs of the Eugene-Springfield metropolitan area through 2025. The Plan also includes a cost-effective financing strategy, which relies on revenue bonds to fund significant portions of the facilities improvements. MWMC intends to issue up to \$100,000,000 in bonds over the next five years, with the first issuance of about \$35,000,000 scheduled to occur in September, 2005.

This planned bond sale has been included in MWMC's user rate-setting assumptions since 2004, and will require a 6% increase on the regional (MWMC) sewer user fees for fiscal year (FY) 2005-06. Alternatively, if the MWMC fails to issue bonds and must rely on user fee revenues to support the capital improvements, the rate increase required would be about 65% for FY 05-06. A public hearing to review the resolution authorizing MWMC to issue bonds is scheduled for April 18, 2005. Timely public notice has been provided in the Springfield News and the Register Guard. The Council is scheduled to take action on this matter on May 2, 2005.

MEMORANDUM

City of Springfield

Date: April 13, 2005
To: Mike Kelly, City Manager **COUNCIL**
From: Susie Smith, Environmental Services Manager *SS* **BRIEFING**
Dan Brown, Public Works Director *DB*
Subject: Metropolitan Wastewater Management Commission **MEMORANDUM**
(MWMC)—Revenue Bond Authorization

ISSUE:

The MWMC seeks to issue revenue bonds to fund construction of regional wastewater facilities improvements at the lowest possible cost to current and future sewer customers. This financing strategy is consistent with the 2004 MWMC Facilities Plan (Facilities Plan), which was adopted by the governing bodies of Springfield, Eugene and Lane County (Governing Bodies) in June, 2004. Oregon statutes allow intergovernmental entities (such as MWMC) to issue revenue bonds if the parties to the intergovernmental agreement authorize the issuance by adopting a resolution following a public hearing. The Springfield City Council is scheduled to conduct the required public hearing on April 18, 2005.

BACKGROUND AND DISCUSSION:

In 2004, MWMC and the three Governing Bodies adopted a regional wastewater Facilities Plan, which includes capital projects with an estimated cost of \$144,000,000 (in 2004 dollars) necessary to meet the sewage treatment needs of the Eugene-Springfield metropolitan area through the year 2025. Approximately \$105,000,000 of capital projects are scheduled for design and construction within the first five years. Although MWMC currently enjoys the position of being debt-free, its cash-on-hand (i.e. capital reserves) and revenues from user rates and system development charges (SDCs) are insufficient to fund the magnitude of this capital improvement program (CIP).

In 2002, MWMC anticipated this capital funding need, and conducted an evaluation of MWMC's financial policies and funding strategies. The evaluation resulted in adoption of the 2003 MWMC Financial Plan, which includes financial planning and asset management policies, along with preferred capital funding strategies. The Financial Plan and the Facilities Plan reflect the strategy to fund the CIP in part by issuing revenue bonds. This industry standard, fiscally prudent approach will enable MWMC to meet financial planning objectives that are consistent with the intent of the MWMC intergovernmental agreement (IGA).

MWMC has contracted with a professional Financial Advisor and Bond Counsel to review the MWMC IGA and the Commission's financial policies, and to provide guidance in moving forward with long-term borrowing. This review has resulted in two significant actions that are currently before the Governing Bodies for consideration. First, in order to enable MWMC to issue revenue bonds, the IGA needed updating and expanding to include language necessary to meet bond sales covenants and Oregon's statutory requirements (ORS 190.080(1)) for intergovernmental entities that issue revenue bonds. The updated IGA is currently under review by the Governing Bodies as a separate matter.

Second, the statutory requirements guiding issuance of bonds under the Uniform Revenue Bond

Act require that the Governing Bodies adopt a resolution authorizing the bond sale following a public hearing (ORS 288.805 to 288.945). The proposed resolution (see Attachment B to the Agenda Item Summary) and the public hearing scheduled for April 18, 2005, are intended to meet Springfield's obligations under the applicable statutes. Timely notice of the public hearing was published in the Springfield News and the Register Guard.

FINANCIAL IMPACT AND TIMING CONSIDERATIONS:

The Regional Wastewater Program operations are supported by user fees, which are established annually by MWMC and adopted and implemented by the City Councils of Eugene and Springfield. Regional wastewater capital projects are supported in part by user charges and in part by SDC revenues, which are adopted and implemented similarly. The proposed resolution would not directly affect these rates. However, enacting a resolution to authorize MWMC's sale of revenue bonds would improve and strengthen the regional wastewater partnership's ability to: 1) access low-cost financing for long-term capital improvements, which would minimize the overall rate impact to both current and future system users; 2) administer the CIP and financing in a cost-effective and efficient manner; 3) avoid significant user rate increases over the next few years; and 4) avoid added costs that would be incurred if capital project construction is delayed.

Regional Wastewater Program staff and advisors have prepared the draft resolution so that, if approved, a total amount not to exceed \$100,000,000 in revenue bonds could be issued by MWMC. This would be approximately the amount needed to finance the first five years of construction projects, as included in the Facilities Plan. The first issuance of approximately \$35,000,000 in revenue bonds, is planned for September, 2005. Subsequent issuances would occur over approximately a five-year period, and would be planned strategically under the advisement of MWMC's Financial Advisor.

The regional wastewater sewer user rate increase planned by MWMC to cover operations, capital improvements and debt service in fiscal year (FY) 2005-2006 is 6%, which will equate to about 70 cents per month on an average residential sewer bill. This increase is part of a multi-year schedule of planned 6% rate increases the Commission has initiated to fund the long-term capital needs. This approach is consistent with MWMC financial planning policies. In particular, this approach spreads the rate impacts out over time, avoiding "rate shock," and, it promotes equity among current and future users.

Alternatively, without the timely issuance of revenue bonds, the rate increase needed to generate sufficient funds would be 65%, which would equate to over \$7.00 per month. The latter increase would result in sufficient revenue to enable a pay-as-you-go approach. While this approach would avoid the costs of debt service, it would more heavily burden current sewer users for these long-lived facilities, and would result in significant up-front rate impacts. This approach is not consistent with MWMC's financial planning policies or the multi-year schedule of moderate user rate increases the Commission began in FY 04-05.

RECOMMENDED ACTION:

According to Bond Counsel, prior to issuance of revenue bonds by MWMC, the Governing Bodies must first approve the issuance by adopting a resolution following a public hearing. Timely notice of such a public hearing, scheduled for April 18th, was provided in the Springfield News and the Register Guard. Therefore, it is recommended that the Springfield City Council conduct a public hearing to review the proposed resolution, which is included as Attachment B of the Agenda Item Summary. Council action on this matter is currently scheduled for May 2, 2005.

The Eugene City Council is scheduled to conduct a public hearing on this matter on May 9, and is scheduled to take action on May 23, 2005. This matter also has been forwarded to Lane County for consideration, and we anticipate that the Board of Commissioners will conduct a public hearing and take action in the near future.

**RESOLUTION
NO. _____**

**A RESOLUTION OF THE CITY OF SPRINGFIELD
COMMON COUNCIL APPROVING THE ISSUANCE OF
REVENUE BONDS BY THE METROPOLITAN
WASTEWATER MANAGEMENT COMMISSION; AND
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, pursuant to ORS Chapter 190, the Cities of Springfield and Eugene and Lane County (Governing Bodies) entered into an intergovernmental agreement (Agreement) on February 9, 1977 establishing the Metropolitan Wastewater Management Commission (Commission) to construct, operate, and maintain Regional Sewerage Facilities to service the Eugene-Springfield Metropolitan area (Metro Area).

WHEREAS, the original Regional Sewerage Facilities were constructed in the early 1980s with a planned design capacity to serve the Metro Area through 2004.

WHEREAS, the Commission and the Governing Bodies have approved the 2004 MWMC Facilities Plan and 20-Year Project List, which includes capital projects with an estimated cost of \$144,000,000 (in 2004 dollars) necessary to meet the sewage treatment needs of the Metro Area through the year 2025.

WHEREAS, the Commission and its financial advisor conducted an evaluation of funding options, and concluded that revenue bonds are the best available financing tool and that approximately \$100,000,000 in revenue bonds should be issued between 2005 and 2010 to fund the capital projects on the 20-Year Project List.

WHEREAS, pursuant to Ordinance No. _____ adopted _____ 2005, the City Council adopted a restated and amended intergovernmental agreement that, in part, created the Metropolitan Wastewater Management Commission as an intergovernmental entity pursuant to the provisions of ORS 190.010 and 190.085.

WHEREAS, ORS 190.080(1) provides that intergovernmental entities may issue revenue bonds if the parties to the agreement approve the issuance of the revenue bonds after a public hearing.

WHEREAS, The cities of Springfield and Eugene, Oregon and Lane County, Oregon desire to authorize the Metropolitan Wastewater Management Commission to issue revenue bonds under ORS 288.805 to 288.945.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRINGFIELD, a Municipal Corporation of the State of Oregon, as follows:

Section 1. Approval of Bonds. A public hearing was held before the City Council on May 9, 2005 regarding the issuance by the Metropolitan Wastewater Management Commission