

of up to \$100,000,000 of revenue bonds to finance regional sewerage facilities pursuant to ORS 190.080(1)(a) and ORS 288.805 to 288.945. By adoption of this Resolution, the City Council hereby approves of the issuance of up to \$100,000,000 of revenue bonds by the Metropolitan Wastewater Management Commission pursuant to ORS 190.080(1)(a) and ORS 288.805 to 288.945 to finance regional sewerage facilities.

**Section 2. Effective Date.** This Resolution shall become effective immediately upon its adoption, or on the date that the Intergovernmental Agreement referred to in Finding E above takes effect, whichever is later.

Adopted by the Common Council of the City of Springfield the \_\_\_\_ day of \_\_\_\_\_, 2005.

ATTEST: \_\_\_\_\_  
Amy Sowa, City Recorder

REVIEWED & APPROVED  
AS TO FORM

  
DATE: 4/12/05  
OFFICE OF CITY ATTORNEY

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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Work Session: An Ordinance Creating the Metropolitan Wastewater Management Commission as an Intergovernmental Entity; and Providing an Immediate Effective Date; and  
A Resolution Approving the Issuance of Revenue Bonds by the Metropolitan Wastewater Management Commission; and Providing an Effective Date

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Meeting Date: May 9, 2005  
Department: Public Works  
[www.ci.eugene.or.us](http://www.ci.eugene.or.us)

Agenda Item Number: C  
Staff Contact: Peter Ruffier  
Contact Telephone Number: 682-8606

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## ISSUE STATEMENT

The regional wastewater program is managed under an intergovernmental agreement (IGA) between Eugene, Springfield, and Lane County. Changes to this agreement are being proposed to align it with operational conditions and public policies that have evolved in the wastewater program over the past 25 years of the agreement, and to incorporate recommendations that will facilitate the issuance of revenue bonds by the Metropolitan Wastewater Management Commission (MWMC) in support of the 2004 Facilities Plan and related capital projects for the regional wastewater program.

## BACKGROUND

The council held an informational work session on this topic on February 9, and another work session on April 11, 2005.

Feedback from the council on February 9 led to some modifications to the proposed amendments to the IGA. The modified IGA was reviewed and discussed by the council during the April 11 work session. In this work session, concern was expressed about the proposed amendments that provide limited recourse to local government in regard to regional wastewater user rates or charges recommended by the MWMC—specifically the vagueness of the grant of authority to MWMC to adopt and impose “any additional amount [of the recommended user charges or systems development charges] that is necessary to maintain adequate bond ratings and reasonable access to the capital market.” Based upon this concern, the definition of MWMC’s authority to adopt rates and amounts above the level necessary to meet bond covenants has been modified to read “...and to achieve and maintain an unenhanced credit rating of A for the Commission’s Bonds from at least one nationally recognized rating agency.” [Note that this language now appears in Section 3.e.1 of the draft IGA and is cross-referenced in sections 8c and 16.] An un-enhanced credit rating represents the rating of the bond issuer in the absence of any additional guarantees for payment of debt service, such as bond insurance. This modified language was reviewed by Bond Counsel for the governing bodies and was determined to meet the objective of ensuring the MWMC would have reasonable access to the bond market for capital financing purposes. Questions were also raised in the work session about what the council’s authority is in the process for

setting the regional wastewater user rates, and what authority the council has in the review and approval of the implementation of the capital projects contained in the 2004 Facilities Plan. The MWMC establishes regional wastewater user rates on an annual basis. These rates are part of the annual regional wastewater program budget, which must be ratified by the governing bodies before they go into effect (see Section 13 of the proposed IGA). The governing bodies, therefore, have approval authority over the annual regional wastewater budget and associated user rates, with the exception of that portion of the user rates necessary to meet bond covenants and to achieve and maintain an un-enhanced credit rating of A for the commission's bonds from at least one nationally recognized rating agency.

The annual review and approval authority of the governing bodies extends to the capital improvement program as well, since the capital projects are listed in, and funded through, the annual regional wastewater budget. Any of the governing bodies may object to the capital projects list in an annual budget for the regional wastewater program, which would require written notification to the commission of the specific reason for the objection and a request for reconsideration. Under Section 13 of the IGA, if a governing body objects to the commission's decision after reconsideration, 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. Furthermore, the draft IGA calls for the MWMC to update the 2004 Facilities Plan on a five-year frequency, with these scheduled updates to be submitted to the governing bodies for review and approval at least 6 months in advance of the anticipated approval date and accompanied by an estimate of the effect the update may have on sewer user charges and system development charges.

Finally, during the work session a question was asked whether SDCs will fund the new capacity necessary to serve growth in the service area. The 2004 Facilities Plan estimates a total of \$144 million (in 2004 dollars) in capital improvement needs over the next 20 years. According to CH<sub>2</sub>M Hill, \$57.8 million of this total is related to projects needed to serve projected growth in the service area during the planning period. The rates derived from the adopted SDC methodology were calculated to raise this amount of funding. For informational purposes, Attachment E includes a project list from the 2004 Facilities Plan which identifies the funding allocation for each project based upon the percentage of the project that is attributed to growth versus the percentage to be funded by existing users.

The council is now scheduled to hold public hearings on the ordinance and resolution related to the amendments to the IGA and issuance of revenue bonds by MWMC, respectively. Final action on both the ordinance and the resolution is scheduled for May 23, 2005.

#### Financial and/or Resource Considerations

The regional wastewater program is supported by user fees, which are established annually by the MWMC and reviewed and ratified by the city councils of Eugene and Springfield, and the Lane County Board of Commissioners. Capital projects are also supported by revenue from systems development charges (SDCs). The proposed changes to the IGA do not directly affect these rates, but they improve and strengthen the agreement for the bond market and give the MWMC the ability to offer revenue bonds that will be competitive in the market. The most cost-effective financing for the regional wastewater projects is a combination of user fees, SDCs, and bond proceeds. Without the ability to obtain competitive bond rates, the commission would have to consider raising user rates in the next fiscal year, possibly by as much as 65%, to generate the necessary revenues.

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 MWMC to maintain compliance with the current discharge permit and anticipated future needs of the Eugene/Springfield communities. Adhering to the Facilities Plan construction schedule for the next five years is crucial if the MWMC is to comply with a deadline of 2010 set by the Oregon Department of Environmental Quality (DEQ) to prevent wastewater overflows during specified storm events. Delays in the construction schedule will result in any or all of the following consequences: 1) increased costs of construction; 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 projected in the next few years but will be controlled by constructing the planned improvements according to the plan schedule; 5) the establishment of a potential requirement that significant industrial users reduce or curtail their discharges during times of peak flows at the plant; and 6) the potential denial of new connections based on inadequate wastewater treatment capacity within regulatory guidelines.

### Timing

The timing of required capital improvements to the regional wastewater facilities is set forth in the 2004 Facilities Plan. The CIP schedule starts in 2005 and includes an extensive list of projects and activities that must be undertaken to meet the objectives for regulatory compliance. A draft resolution has been prepared (Attachment D) authorizing MWMC to issue bonds so that, if approved, a total amount not to exceed \$100,000,000 in revenue bonds could be issued by the commission. This would be approximately the amount needed to finance the first five years of construction projects, as included in the Facilities Plan, taking into account inflation. 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 established by MWMC to cover operations, capital improvements and debt service is proposed to increase by 6% in fiscal year 2005-2006, an increase which equates to about 70 cents per month on an average residential sewer bill. Without the timely issuance of revenue bonds it would require at least a 65% increase in user rates to generate sufficient funds to support the CIP, which equates to an increase of over \$7.00 per month on the average residential user's monthly bill.

The proposed amendments to the intergovernmental agreement for the Metropolitan Wastewater Management Commission are presented in Attachment A (which is in legislative format) and Attachment B (which is a clean copy for improved readability). These amendments are the culmination of several years of work reviewing the agreement. The scope of the review initially included only 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 enable the use of low-cost financing mechanisms needed to serve the metropolitan area for the next twenty years.

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 agreement 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:

- Update the language to reflect adopted Metro Plan terms and policies.
- Update the financing guidance by deleting Exhibit B (which refers to the 1992 Financial Plan, the County Service District and General Obligation bonding) and replace it with MWMC's 2003 Financial Plan (including the financial policies and revenue bonding strategy). Move relevant financial management guidance from Exhibit B into the main body of the IGA.
- Change the directive from "compensating" the cities for the regional facilities to "facilitating timely transfer of ownership," with the same consideration of funding equity among all sewer users that currently exists.
- Eliminate 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 facility plan updates that are scheduled at five-year intervals during the planning period. The recommended changes also allow MWMC to make other relatively minor revisions to the facility plan, such as the annual updates to the regional CIP, 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 adoption process.
- Delete the outdated provisions for compensation from the three jurisdictions for "initial expenses."
- Move some sections of text for better organization, without modifying intent.

Additional modifications to the IGA are being proposed that reflect the recommendations 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. One of the recommended changes, described in the last bullet point below, limits the individual governing bodies' right to adopt regional user rates and systems development charges less than those recommended by the commission in certain situations. The language was recommended by the Financial Advisor and the Bond Counsel to strengthen the assurance that adequate rates and fees will be established to cover long-term borrowing by the commission, and that revenues will be collected and forwarded to MWMC. Adoption of the recommendations is necessary to satisfy the concerns of the bond market and position the MWMC to attract bidders and sell revenue bonds at the lowest cost to the regional sewer customers. Proposed modifications to the IGA in this respect include:

- Incorporate the regional wastewater 2004 Facilities Plan as the basis for planning and improving facilities, and specify that updates that will be submitted for review and approval by the governing bodies.
- Delete the user charge reference to federal regulations (40 CFR 35.929), because previous federal restrictions under the grants no longer apply, and replace it with language ensuring that sufficient user charges will be established to meet debt service requirements in addition to operations, maintenance, etc.

- Strengthen language about collection and remittance of revenues, in response to Financial Advisor concerns and the need to satisfy bond rating agencies.
- Remove 30-day notice of termination; leave one-year notice requirement, and further restrict Eugene and Springfield from terminating when there is outstanding debt requiring long-term commitment of revenues, unless a provision is made for debt repayment.
- Modify the dispute resolution process to provide that, after the Metropolitan Policy Committee makes its recommendation, the commission'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 the commission for reconsideration when: 1) The objection is to the commission's determination of rates and amounts pursuant to Section 3.e.1. Note that the current IGA contains a comparable clause that committed the governing bodies to adopt rates and connection charges that were sufficient to comply with the wastewater grant requirements of the CFR.
- Provisions were also added to Section 13 to facilitate adoption of the MWMC budget by the start of the fiscal year (July 1).

Changes also are proposed to Appendix A of the intergovernmental agreement 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 serve only 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 many years.

The City Council of Springfield held a work session on the proposed amendments to the IGA on March 21, and an additional meeting on April 18, 2005, for the first reading and public hearing on the ordinance related to the proposed amendments to the IGA and the related issuance of the revenue bonds. Two members of the public spoke at the public hearing, and the council maintained its schedule for final action on May 2, 2005.

The Lane County Finance and Audit Committee first discussed the proposed amendments to the IGA on March 15, 2005. This committee is comprised of Commissioners Anna Morrison and Bill Dwyer, and staffed by County Administrator Bill Van Vactor and County Tax Assessor Jim Gangle. A follow-up meeting of the Finance and Audit Committee was held on April 11, at which time the committee voted to forward the proposed amendments to the full Board of Commissioners for consideration. The first reading of the ordinance approving the updated IGA is scheduled for May 18, 2005, with a second reading and public hearing on June 1, 2005.

Amending the IGA requires consensus of all parties to the agreement; therefore, if any one jurisdiction does 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 Facility Plan and would have to turn to higher cost options, which include substantial increases in user rates or borrowing at significantly higher interest rates. It is unclear, given the out-of-date nature of the IGA and potential conflicts among the governing bodies, whether any external borrowing (even at higher interest rates) would be possible. Should the governing bodies not universally agree on the need and language for amending the IGA, any of the parties to the

agreement have the option of terminating their participation in the agreement, by providing one year's advance notice of termination to the other governing bodies. If the County Board of Commissioners was willing to withdraw from the MWMC, the change could be handled as an amendment to the existing IGA and potentially could happen fairly quickly. If the County were not a willing partner in such a change, the dissolution of MWMC and subsequent reformation of an agreement for management of the regional wastewater program could take one year or longer. It is uncertain what the budget/fiscal status of the regional wastewater program would be during the process of reformulating the agreement.

### **COUNCIL OPTIONS**

Following the public hearing on this item, the council has the option to:

1. Approve the recommended changes to the intergovernmental agreement between Eugene, Springfield, and Lane County for the regional wastewater program, the related ordinance for the IGA and the resolution to approve issuance of revenue bonds by MWMC;
2. Direct staff to modify the proposed changes to the IGA and return with a modified proposal for City Council approval; or
3. Take no action on the proposed changes to the IGA.

### **CITY MANAGER'S RECOMMENDATION**

The City Manager recommends adoption of the proposed changes to the regional wastewater IGA and approval of issuance of the revenue bonds by MWMC.

### **SUGGESTED MOTION**

None; this is a work session only.

### **ATTACHMENTS**

*Please refer to the attachments that are included with the Agenda Item Summary for the May 9, 2005, Public Hearing on this item.*

### **FOR MORE INFORMATION**

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Telephone: 682-8606  
Staff E-Mail: [peter.j.ruffier@ci.eugene.or.us](mailto:peter.j.ruffier@ci.eugene.or.us)

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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Public Hearing: An Ordinance Creating the Metropolitan Wastewater Management Commission as an Intergovernmental Entity; and Providing an Immediate Effective Date; and  
A Resolution Approving the Issuance of Revenue Bonds by the Metropolitan Wastewater Management Commission; and Providing an Effective Date

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Meeting Date: May 9, 2005  
Department: Public Works  
[www.ci.eugene.or.us](http://www.ci.eugene.or.us)

Agenda Item Number: 3  
Staff Contact: Peter Ruffier  
Contact Telephone Number: 682-8606

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## ISSUE STATEMENT

The regional wastewater program is managed under an intergovernmental agreement between Eugene, Springfield, and Lane County. Changes to this agreement are being proposed to align it with operational conditions and public policies that have evolved in the wastewater program over the past 25 years of the agreement, and to incorporate recommendations that will facilitate the issuance of revenue bonds by the Metropolitan Wastewater Management Commission in support of the 2004 Facilities Plan and related capital projects for the regional wastewater program.

## BACKGROUND

The Metropolitan Wastewater Management Commission (MWMC) was established in 1977 by intergovernmental agreement (IGA) between Springfield, Eugene, and Lane County. The IGA outlined the roles and responsibilities of the three partner agencies and the MWMC in providing for regional wastewater services, and included two appendices. Appendix A defined the regional sewerage facilities necessary to serve the wastewater treatment and disposal needs of the Eugene-Springfield area, and Appendix B set forth the regional program's financing criteria. A related Operations, Maintenance, and Administrative Services Agreement defined the scope and responsibilities of Eugene and Springfield for operating and maintaining the regional sewerage facilities, and providing administrative services to the MWMC (including financing and capital program management).

The IGA and Operations, Maintenance, and Administrative Services Agreement have previously been amended, the last amendment being in April 2001.

The council held an informational work session on this topic on February 9, and another work session on April 11, 2005.

Feedback from the council on February 9 led to some modifications to the proposed amendments to the IGA. The modified IGA was reviewed and discussed by the council during the April 11 work session. In this work session, concern was expressed about the proposed amendments that provide limited



recourse to local government in regard to regional wastewater user rates or charges recommended by the MWMC—specifically the vagueness of the grant of authority to MWMC to adopt and impose “any additional amount [of the recommended user charges or system development charges] that is necessary to maintain adequate bond ratings and reasonable access to the capital market.” Based upon this concern, the definition of MWMC’s authority to adopt rates and amounts above the level necessary to meet bond covenants has been modified to read “...and to achieve and maintain an unenhanced credit rating of A for the Commission’s Bonds from at least one nationally recognized rating agency.” [Note that this language now appears in Section 3.e.1 of the draft IGA and is cross-referenced in sections 8c and 16] An un-enhanced credit rating represents the rating of the bond issuer in the absence of any additional guarantees for payment of debt service, such as bond insurance. This modified language was reviewed by Bond Counsel for the governing bodies and determined to meet the objective of ensuring the MWMC would have reasonable access to the bond market for capital financing purposes.

Questions were also raised in the work session about what the council’s authority is in the process for setting the regional wastewater user rates, and what authority the council has in the review and approval of the implementation of the capital projects contained in the 2004 Facilities Plan. The MWMC establishes regional wastewater user rates on an annual basis. These rates are part of the annual regional wastewater program budget, which must be ratified by the governing bodies before they go into effect (see Section 13 of the proposed IGA). The governing bodies, therefore, have approval authority over the annual regional wastewater budget and associated user rates, with the exception of that portion of the user rates necessary to meet bond covenants and to achieve and maintain an un-enhanced credit rating of A for the commission’s bonds from at least one nationally recognized rating agency.

The annual review and approval authority of the governing bodies extends to the capital improvement program as well, since the capital projects are listed in, and funded through, the annual regional wastewater budget. Any of the governing bodies may object to the capital projects list in an annual budget for the regional wastewater program, which would require written notification to the commission of the specific reason for the objection and a request for reconsideration. Under Section 13 of the IGA, if a governing body objects to the commission’s decision after reconsideration, 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. Furthermore, the draft IGA calls for the MWMC to update the 2004 Facilities Plan on a five-year frequency, with these scheduled updates to be submitted to the governing bodies for review and approval at least six months in advance of the anticipated approval date and accompanied by an estimate of the effect the update may have on sewer user charges and system development charges.

Finally, during the work session a question was asked whether SDCs will fund the new capacity necessary to serve growth in the service area. The 2004 Facilities Plan estimates a total of \$144 million (in 2004 dollars) in capital improvement needs over the next 20 years. According to CH<sub>2</sub>M Hill, \$57.8 million of this total is related to projects needed to serve projected growth in the service area during the planning period. The rates derived from the adopted SDC methodology were calculated to raise this amount of funding. For informational purposes, Attachment E includes a project list from the 2004 Facilities Plan which identifies the funding allocation for each project based upon the percentage of the project that is attributed to growth versus the percentage to be funded by existing users.

The council is now scheduled to hold public hearings on the ordinance and resolution related to the amendments to the IGA and issuance of revenue bonds by MWMC, respectively. Final action on both

the ordinance and the resolution is scheduled for May 23, 2005.

#### Financial and/or Resource Considerations

The regional wastewater program is supported by user fees, which are established annually by the MWMC and reviewed and ratified by the city councils of Eugene and Springfield, and the Lane County Board of Commissioners. Capital projects are also supported by revenue from systems development charges (SDCs). The proposed changes to the IGA do not directly affect these rates, but they improve and strengthen the agreement for the bond market and give the MWMC the ability to offer revenue bonds that will be competitive in the market. The most cost-effective financing for the regional wastewater projects is a combination of user fees, SDCs, and bond proceeds. Without the ability to obtain competitive bond rates, the commission would have to consider raising user rates in the next fiscal year, possibly by as much as 65%, to generate the necessary revenues.

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 MWMC to maintain compliance with the current discharge permit and anticipated future needs of the Eugene/Springfield communities. Adhering to the Facilities Plan construction schedule for the next five years is crucial if the MWMC is to comply with a deadline of 2010 set by the Oregon Department of Environmental Quality (DEQ) to prevent wastewater overflows during specified storm events. Delays in the construction schedule will result in any or all of the following consequences: 1) increased costs of construction; 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 projected in the next few years but will be controlled by constructing the planned improvements according to the Plan schedule; 5) the establishment of a potential requirement that significant industrial users reduce or curtail their discharges during times of peak flows at the plant; and 6) the potential denial of new connections based on inadequate wastewater treatment capacity within regulatory guidelines.

#### Timing

The timing of required capital improvements to the regional wastewater facilities is set forth in the 2004 Facilities Plan. The CIP schedule starts in 2005 and includes an extensive list of projects and activities that must be undertaken to meet the objectives for regulatory compliance. A draft resolution has been prepared (Attachment D) authorizing MWMC to issue bonds so that, if approved, a total amount not to exceed \$100,000,000 in revenue bonds could be issued by the commission. This would be approximately the amount needed to finance the first five years of construction projects, as included in the Facilities Plan, taking into account inflation. 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 established by MWMC to cover operations, capital improvements and debt service is proposed to increase by 6% in fiscal year 2005-2006, an increase which equates to about 70 cents per month on an average residential sewer bill. Without the timely issuance of revenue bonds it would require at least a 65% increase in user rates to generate sufficient funds to support the CIP, which equates to an increase of over \$7.00 per month on the average residential user's monthly bill.

### Council Goals

The proposed amendments to the regional wastewater IGA are supported by, and promote progress towards achievement of, several of the council's goals:

*HEALTHY NATURAL AND BUILT ENVIRONMENT:* The regional wastewater program protects public health and the environment through the efficient collection and treatment of wastewater generated by the community. Changes are proposed that are necessary to enable the issuance of revenue bonds that are needed to support the 2004 Facilities Plan capital improvement projects. The Facilities Plan identified the capital needs necessary to maintain protection of public health and the environment, to prevent wastewater overflows, and to provide adequate treatment to comply with Federal and State pollution control limitations. An inability to raise revenues necessary to implement the 2004 Facilities Plan, as approved by the Eugene City Council as well as the elected officials of Springfield and Lane County, will result in a high likelihood of environmental impacts and threats to public health.

*SUSTAINABLE COMMUNITY DEVELOPMENT:* Wastewater collection and treatment are essential community services, and the ability of a community to grow and prosper depends upon adequate treatment capacity and capability. The projects contained in the approved Facilities Plan are necessary to ensure that there continues to be adequate capacity to handle the wastewater flows, and sufficient capability to control pollutants, for the anticipated future growth and development needs of the community.

*EFFECTIVE, ACCOUNTABLE MUNICIPAL GOVERNMENT;* and *FAIR, STABLE AND ADEQUATE FINANCIAL RESOURCES:* The intergovernmental agreement for the regional wastewater program has operated effectively for over 25 years, and the proposed amendments will help the program to continue to be a model of effective, cooperative efforts among the local governments for provision of this essential service. The changes also give the MWMC the ability to cost-effectively generate the revenues necessary to provide wastewater services that meet the needs of regional sewer users. (MWMC's only customers, however, are the governing bodies.)

The proposed amendments to the intergovernmental agreement for the Metropolitan Wastewater Management Commission are presented in Attachment A (which is in legislative format) and Attachment B (which is a clean copy for improved readability). These amendments are the culmination of several years of work reviewing the agreement. The scope of the review initially included only 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 enable the use of low-cost financing mechanisms needed to serve the metropolitan area for the next twenty years.

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 agreement 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:

- Update the language to reflect adopted Metro Plan terms and policies.
- Update the financing guidance by deleting Exhibit B (which refers to the 1992 Financial Plan, the County Service District and General Obligation bonding) and replace it with MWMC's 2003 Financial Plan (including the financial policies and revenue bonding strategy). Move relevant financial management guidance from Exhibit B into the main body of the IGA.
- Change the directive from "compensating" the cities for the regional facilities to "facilitating timely transfer of ownership," with the same consideration of funding equity among all sewer users that currently exists.
- Eliminate 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 facility plan updates that are scheduled at five-year intervals during the planning period. The recommended changes also allow MWMC to make other relatively minor revisions to the facility plan, such as the annual updates to the regional CIP, 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 adoption process.
- Delete the outdated provisions for compensation from the three jurisdictions for "initial expenses."
- Move some sections of text for better organization, without modifying intent.

Additional modifications to the IGA are being proposed that reflect the recommendations 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. One of the recommended changes, described in the last bullet point below, limits the individual governing bodies' right to adopt regional user rates and systems development charges less than those recommended by the commission in certain situations. The language was recommended by the Financial Advisor and the Bond Counsel to strengthen the assurance that adequate rates and fees will be established to cover long-term borrowing by the commission, and that revenues will be collected and forwarded to MWMC. Adoption of the recommendations is necessary to satisfy the concerns of the bond market and position the MWMC to attract bidders and sell revenue bonds at the lowest cost to the regional sewer customers. Proposed modifications to the IGA in this respect include:

- Incorporate the regional wastewater 2004 Facilities Plan as basis for planning and improving facilities, and specify that updates that will be submitted for review and approval by the governing bodies.
- Delete the user charge reference to federal regulations (40 CFR 35.929), because previous federal restrictions under the grants no longer apply, and replace it with language ensuring that sufficient user charges will be established to meet debt service requirements in addition to operations, maintenance, etc.
- Strengthen language about collection and remittance of revenues, in response to Financial Advisor concerns and the need to satisfy bond rating agencies.
- Remove 30-day notice of termination, leave one-year notice requirement, and further restrict Eugene and Springfield from terminating when there is outstanding debt requiring long-term commitment of revenues, unless a provision is made for debt repayment.

- Modify the dispute resolution process to provide that, after the Metropolitan Policy Committee makes its recommendation, the commission'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 the commission for reconsideration when: 1) The objection is to the commission's determination of rates and amounts pursuant to Section 3.e.1. Note that the current IGA contains a comparable clause that committed the Governing Bodies to adopt rates and connection charges that were sufficient to comply with the wastewater grant requirements of the CFR.
- Provisions were also added to Section 13 to facilitate adoption of the MWMC budget by the start of the fiscal year (July 1).

Changes also are proposed to Appendix A of the intergovernmental agreement 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 serve only 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 many years.

The City Council of Springfield held a work session on the proposed amendments to the IGA on March 21, and an additional meeting on April 18, 2005, for the first reading and public hearing on the ordinance related to the proposed amendments to the IGA and the related issuance of the revenue bonds. Two members of the public spoke at the public hearing, and the council maintained its schedule for final action on May 2, 2005.

The Lane County Finance and Audit Committee first discussed the proposed amendments to the IGA on March 15, 2005. This committee is comprised of Commissioners Anna Morrison and Bill Dwyer, and staffed by the County Administrator, Bill Van Vactor, and the County Tax Assessor, Jim Gangle. A follow-up meeting of the Finance and Audit Committee was held on April 11, at which time the committee voted to forward the proposed amendments to the full Board of Commissioners for consideration. The first reading of the ordinance approving the updated IGA is scheduled for May 18, 2005, with a second reading and public hearing on June 1, 2005.

Amending the IGA requires consensus of all parties to the agreement; therefore, if any one jurisdiction does 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 Facility Plan and would have to turn to higher cost options, which include substantial increases in user rates or borrowing at significantly higher interest rates. It is unclear, given the out-of-date nature of the IGA and potential conflicts among the governing bodies, whether any external borrowing (even at higher interest rates) would be possible. Should the governing bodies not universally agree on the need and language for amending the IGA, any of the parties to the agreement have the option of terminating their participation in the agreement, by providing one year's advance notice of termination to the other governing bodies. If the County Board of Commissioners was willing to withdraw from the MWMC, the change could be handled as an amendment to the existing IGA and potentially could happen fairly quickly. If the County was not a willing partner in such a change, the dissolution of MWMC and subsequent reformation of an agreement for management of the

regional wastewater program could take a year or longer. It is uncertain what the budget/fiscal status of the regional wastewater program would be during the process of reformulating the agreement.

### **COUNCIL OPTIONS**

The council has the option to:

1. Approve the recommended changes to the intergovernmental agreement between Eugene, Springfield, and Lane County for the regional wastewater program, the related ordinance for the IGA and the resolution to approve issuance of revenue bonds by MWMC;
2. Direct staff to modify the proposed changes to the IGA and return with a modified proposal for Council approval; or
3. Take no action on the proposed changes to the IGA.

### **CITY MANAGER'S RECOMMENDATION**

The City Manager recommends adoption of the proposed changes to the regional wastewater IGA and approval of issuance of the revenue bonds by MWMC.

### **SUGGESTED MOTION**

None; this is a public hearing only.

### **ATTACHMENTS**

- A. Revised IGA in legislative format
- B. Revised IGA, clean copy
- C. Ordinance
- D. Resolution
- E. Summary of 20-Year Project List Allocations for Improvement Fee

### **FOR MORE INFORMATION**

Staff Contact: Peter Ruffier  
Telephone: 682-8606  
Staff E-Mail: [peter.j.ruffier@ci.eugene.or.us](mailto:peter.j.ruffier@ci.eugene.or.us)

WITH BETTMAN CHANGES (5/10/05)

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 rates and amounts that the Commission reasonably determines are necessary to meet Bond covenants, and to achieve and maintain an unenhanced credit rating of A for the Commission's Bonds from at least one nationally recognized rating agency; and

2. Such additional rates and amounts that the Commission determines are 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 to achieve full cost recovery;

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;

WITH BETTMAN CHANGES (5/10/05)

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

5. Ensuring 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.



# RESTATED AND AMENDED AGREEMENT

## METROPOLITAN WASTEWATER MANAGEMENT COMMISSION

THIS RESTATED AND AMENDED AGREEMENT was entered into the 9<sup>th</sup> 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.~~
76. The eCities have the authority under their Ccharters 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.
87. The eCounty, while not presently providing sewerage, has the authority under its Gcharter 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.

4110. 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 within the uUrban 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. 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 replaced the Metropolitan Sewer Advisory Commission (MSAC) effective February 9, 1977.

2. General Function: The Commission shall construct, operate and maintain the ~~rRegional sSewerage fFacilities 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 rRegional sSewerage fFacilities.~~

~~c. Compensate the cities for existing sewerage facilities as defined in Appendix "A".~~ 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.

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 rates and amounts that the Commission reasonably determines are necessary to meet Bond covenants, and to achieve and maintain an unenhanced credit rating of A for the Commission's Bonds from at least one nationally recognized rating agency; and

2. Such additional rates and amounts that the Commission determines are 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 at the rates and in the amounts recommended by the Commission pursuant to Section 3.e.1. Any objection to the rates or amounts of such sewer user charges or system development charges recommended by the Commission pursuant to Section 3.e.1 shall be resolved pursuant to the third paragraph of Section 16 of this Agreement. If the Commission recommends additional rates and amounts pursuant to Section 3.e.2, those additional sewer user charges and system development charges shall only be adopted if they are approved by the Governing Bodies.

d. Provide the Commission with ~~an annual~~regular periodic reports of revenues and expenses related to ~~r~~Regional ~~s~~Sewerage ~~f~~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.~~

14. 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 that the Commission reasonably determines are necessary to meet Bond covenants and achieve and maintain an unenhanced credit rating of A for the Commission's Bonds from at least one



nationally recognized rating agency, ~~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. The Commission shall deliver its recommended budget and CIP, together with its estimate of the rates and amounts that are necessary to fund the recommended budget and CIP, to the Governing Bodies by May 1 of each year. If one of the Governing Bodies objects to the recommended budget, CIP or the rates necessary to fund them, the Governing Body shall make every reasonable attempt to use the reconsideration and mediation process set forth in Section 16 in sufficient time to assure that the Commission has an approved budget by July 1.

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 ~~e~~Department, and one representative who has not served on the Commission from each ~~g~~Governing ~~b~~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~~ determination of rates and amounts pursuant to Section 3.e.1, 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 those rates and amounts 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.

6. 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.~~



IN THE BOARD OF COUNTY COMMISSIONERS  
OF LANE COUNTY, OREGON

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

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

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

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

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

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

WHEREAS, Lane County and the Cities of Eugene and Springfield 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 Board of County Commissioners of Lane County ordains as follows:

1. Declaration of Intent. The Board of County Commissioners 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.

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 creations of the Metropolitan Wastewater Management Commission as an Intergovernmental Entity.

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

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.

5. Approval, Ratification and Filing. The Board of County Commissioners hereby approves and ratifies the creation of the Metropolitan Wastewater Management Commission as an Intergovernmental Entity and the terms of the Intergovernmental Agreement. The County Administrator is hereby authorized to execute the Intergovernmental Agreement on behalf of Lane County. 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).

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 Board of County Commissioners.

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Chair, Lane County Board of  
Commissioners

\_\_\_\_\_  
Recording Secretary for this Meeting of the  
Board

APPROVED AS TO FORM  
Date 5/6/05 In n.s county  
Teresa J. [Signature]  
OFFICE OF LEGAL COUNSEL

IN THE BOARD OF COUNTY COMMISSIONERS  
OF LANE COUNTY, OREGON

ORDER NO. 05-5-18- ) 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.

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

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

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

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, and

WHEREAS, on June 1, Lane County will also consider Ordinance No. 1-05 to create the Metropolitan Wastewater Commission as an intergovernmental entity, and

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, and

WHEREAS, Lane County and the Cities of Eugene and Springfield desire to authorize the Metropolitan Wastewater Management Commission to issue revenue bonds under ORS 288.805 to 288.945 after due consideration of comments that may be received at their respective public hearings

NOW, THEREFORE IT IS HEREBY ORDERED that the Board of County Commissioners will conduct a public hearing on Wednesday June 1 at 1:30 p.m. in the Lane County Public Service Building, 125 E. 8th, Eugene, OR for the purpose of receiving comments on its intent to authorize the Metropolitan Wastewater Management Commission to issue approximately \$100,000 in revenue bonds under ORS 288.805 to 288.945.

DATED this 18th day of May, 2005.

Chair, Lane County Board of  
Commissioners

# 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 rates and amounts that the Commission reasonably determines are necessary to meet Bond covenants, and to achieve and maintain an unenhanced credit rating of A for the Commission's Bonds from at least one nationally recognized rating agency; and
    2. Such additional rates and amounts that the Commission determines are 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 at the rates and in the amounts recommended by the Commission pursuant to Section 3.e.1. Any objection to the rates or amounts of such sewer user charges or system development charges recommended by the Commission pursuant to Section 3.e.1 shall be resolved pursuant to the third paragraph of Section 16 of this Agreement. If the Commission recommends additional rates and amounts pursuant to Section 3.e.2,

those additional sewer user charges and system development charges shall only be adopted if they are approved 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 that the Commission reasonably

determines are necessary to meet Bond covenants and achieve and maintain an unenhanced credit rating of A for the Commission's Bonds from at least one nationally recognized rating agency, the Commission shall not make any expenditures until the Commission's budget and CIP have been ratified by the Governing Bodies. The Commission shall deliver its recommended budget and CIP, together with its estimate of the rates and amounts that are necessary to fund the recommended budget and CIP, to the Governing Bodies by May 1 of each year. If one of the Governing Bodies objects to the recommended budget, CIP or the rates necessary to fund them, the Governing Body shall make every reasonable attempt to use the reconsideration and mediation process set forth in Section 16 in sufficient time to assure that the Commission has an approved budget by July 1.

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 determination of rates and amounts pursuant to Section 3.e.1, 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 those rates and amounts 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.



IN THE BOARD OF COUNTY COMMISSIONERS  
OF LANE COUNTY, OREGON

ORDER NO. 05-5-18-

- ) 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.

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

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

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

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, and

WHEREAS, on June 1, Lane County will also consider Ordinance No. 1-05 to create the Metropolitan Wastewater Commission as an intergovernmental entity, and

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, and

WHEREAS, Lane County and the Cities of Eugene and Springfield desire to authorize the Metropolitan Wastewater Management Commission to issue revenue bonds under ORS 288.805 to 288.945 after due consideration of comments that may be received at their respective public hearings

NOW, THEREFORE IT IS HEREBY ORDERED that the Board of County Commissioners will conduct a public hearing on Wednesday June 1 at 1:30 p.m. in the Lane County Public Service Building, 125 E. 8th, Eugene, OR for the purpose of receiving comments on its intent to authorize the Metropolitan Wastewater Management Commission to issue approximately \$100,000 in revenue bonds under ORS 288.805 to 288.945.

DATED this 18th day of May, 2005.

APPROVED AS TO FORM

Date 5/6/05 Lane County

  
OFFICE OF LEGAL COUNSEL

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Chair, Lane County Board of Commissioners