

# Metropolitan Wastewater MANAGEMENT COMMISSION



partners in wastewater management

## MWMC MEETING AGENDA

Friday, July 12, 2024, 7:30 AM – 9:30 AM (PDT)

The MWMC Meeting will be held in-person at Springfield City Hall, 225 Fifth Street, Springfield, OR 97477 in Jesse Maine Room, remotely or via phone.

**To attend virtually, registration is required:** Webinar ID: **875 2483 7092**

Register for Zoom Meeting: [https://us06web.zoom.us/webinar/register/WN\\_xlfNFY2TRcimcKz1m9u07g](https://us06web.zoom.us/webinar/register/WN_xlfNFY2TRcimcKz1m9u07g)

To join the Zoom meeting by phone dial: **877.853.5247**

- 7:30 – 7:35    **I. ROLL CALL:** Commissioner Farr, Commissioner Hazen, Commissioner Inge, Commissioner Keeler, Commissioner Pishioneri, Commissioner Ruffier, Commissioner Yeh
- 7:35 – 7:40    **II. CONSENT CALENDAR**  
a. MWMC 6/14/24 Minutes  
**Action Requested:** By motion, approve the Consent Calendar
- 7:40 – 7:45    **III. PUBLIC COMMENT:** Public comment can be submitted by email to [Minman@springfield-or.gov](mailto:Minman@springfield-or.gov) or by phone 541-726-3694 by 5 PM July 11, 2024 or made at the meeting. All public comments need to include your full name, address, if you are representing yourself or an organization (name of organization), and topic.
- 7:45 – 8:00    **IV. BRAND NAME SPECIFICATIONS**.....Barry Mays  
**Action Requested:** By motion, approve Resolution 24- 07
- 8:00 – 8:10    **V. STATE REVOLVING FUNDING AUTHORITY**.....Bryan Robinson  
**Action Requested:** By motion, approve Resolution 24- 08
- 8:10 – 8:25    **VI. DIGESTER #1 DOME COATING**.....James McClendon  
**Action Requested:** Informational and Discussion
- 8:25 – 8:50    **VII. NPDES PERMIT AND REGULATORY UPDATE**.....Todd Miller and Bryan Robinson  
**Action Requested:** Informational and Discussion
- 8:50 – 9:20    **VIII. EXECUTIVE SESSION**.....Matt Stouder and Kristin Denmark  
**Action Requested:** The Metropolitan Wastewater Management Commission will now hold an executive session. The session is for the purpose of consulting with legal counsel about information or records exempt from public disclosure because they are subject to attorney-client privilege. The executive session is being held pursuant to ORS 192.660 (2)(f): To consider information or records that are exempt by law from public inspection. **Note:** Memos presented in the Executive Session are confidential.
- 9:20 – 9:30    **IX. BUSINESS FROM COMMISSION, GENERAL MANAGER, & WASTEWATER DIRECTOR**

**THE FULL PACKET IS POSTED ON THE WEBSITE**

[www.mwmcpartners.org](http://www.mwmcpartners.org)

9:30

**X. ADJOURNMENT**

The meeting location is ADA Accessible. For hearing impaired, an interpreter can be provided with 48 hours' notice prior to meeting. To arrange services, call 541-726-3694.

# Metropolitan Wastewater MANAGEMENT COMMISSION



*partners in wastewater management*

## **MWMC MEETING MINUTES**

Friday, June 14, 2024 at 7:30 a.m.

The MWMC Meeting was held remotely via computer, phone, and in person.  
The meeting was video recorded.

Commissioner Yeh opened the meeting at 7:31 a.m. Roll call was taken by Misty Inman.

### **ROLL CALL**

*Commissioner Present In-Person:* Christopher Hazen, Pat Farr, Bill Inge, Doug Keeler, Peter Ruffier, and Jennifer Yeh

*Commissioners Present Remotely:* None

*Commissioner Absent:* Joe Pishioneri

*Staff Present In-Person:* Steve Barnhardt, Thomas Gray, Jamie Iboa (joined in-person for Insurance Renewal presentation), Misty Inman, Shawn Krueger, Troy McAllister, Michelle Miranda, Bryan Robinson, Loralyn Spiro, Matt Stouder, Kevin Vanderwall and Greg Watkins

*Staff Present Remotely:* Carrie Holmes, Jamie Iboa, Yashara Lund, Karen May, Robert Murray, Nick Thrasher and Mark Van Eeckhout

*Guests Present In-Person:* Geoff Sinclair

*Guests Present Remotely:* John Quetzalcoatl Murray

*Legal Counsel Present In-Person:* Kristin Denmark (Thorp, Purdy Jewett, Urness & Wilkinson, PC)

### **CONSENT CALENDAR**

- a. MWMC 5/10/24 Minutes
- b. Budget & CIP Ratification

MOTION: IT WAS MOVED BY COMMISSIONER **KEELER** WITH A SECOND BY COMMISSIONER **HAZEN** TO APPROVE THE CONSENT CALENDAR. THE **MOTION PASSED** UNANIMOUSLY 6/0 WITH COMMISSIONER PISHIONERI ABSENT.

### **PUBLIC COMMENT**

There was no public comment.

### **SUPPLEMENTAL BUDGET #3**

Kevin Vanderwall, MWMC Accountant, presented Supplemental Budget # 3 (SB3) to increase the Eugene Wastewater Operations Budget by \$600,000 and requested Resolution 24-06 approval. After Supplemental Budget #2 (SB2) in January 2024, expenses were trending higher than normal, and the budget could not absorb the increases and stay within the fiscal year (FY) 2023-24 budget for planned operating expenses. At the time of the deadline for supplemental budget submissions to the City of Springfield Council, staff estimated that the need would be \$600,000. However, since receiving May and June's numbers for actual expenses, the current forecast is that only a fraction of the \$600,000 will be needed. The request is still for \$600,000 due to the Springfield City Council's SB submission process. Any money spent will be for the Eugene Wastewater Operations Budget to the end of the FY 2023-24 budget year (i.e., June 30, 2024) and any money unspent will roll back into the Operating Reserve in the FY 2024-25 budget year.

Three primary factors caused an increase in Eugene operating expenses in the FY 2023-24 timeframe with the biggest factor being how the City of Eugene has incorporated its internal charges (i.e., Internal Service Fund rates, or ISFs). In the past, the information and technology charges were incorporated into the "Indirect" charges, and starting with the FY 2023-24 budget year, they were separated out into a dedicated ISF rate (i.e., direct charges based on a rate model). The second factor was an increase of ~\$218,000 in process chemicals, owing both to higher prices and higher volume of usage. Due to order timing, there were three dry polymer purchases at the Biosolids Management Facility (BMF) instead of the normal two, and that was also combined with higher unit prices for hypochlorite, bisulfate, and polymers. The third increase has been from utilities increasing by ~\$123,000 due to rate increases and higher usage. Renewable Natural Gas (RNG) production uses 5% to 10% of total plant electricity each month, with an increase in uptime since January 2024 now trending at 85 to 90%. The overall result of approving Resolution 24-06 is a change in the Operating Reserve by \$600,000, decreasing from \$5.9 million (M) to \$5.3 M.

Matt Stouder, MWMC Executive Officer, said that the MWMC budget goes through the City of Springfield budget as MWMC's operating agent. The information that was submitted for the supplemental budget was \$600,000. As additional information came forth in May-June, staff were not able to go back and revise the SB request amount. Any money not spent will go back into MWMC's budget. When the City of Eugene's internal charges are discussed, it is not the Eugene Wastewater Division generating those fees and deciding what should be assessed. The internal charges are for the City of Eugene's entire organizational staff support and the central services they provide. In this case, similar to the City's direct charges expensed to Eugene wastewater division at the Water Pollution Control Facility (WPCF), there are internal charges at City of Springfield for the Environmental Services division assigned to the Regional Wastewater Program (re: MWMC)

Commissioner **Ruffier** said that he is confused about the internal service charges and could staff provide more explanation.

James McClendon, the Eugene Wastewater Finance and Administrative Manager, said every year when the budget development occurs, there is a range of internal service funds (ISFs) planned into the budget, which are direct charges for City services based on rate models. In the FY 2023-24 MWMC budget, you'll see that staff listed out a specific line item for Fleet charges, as that's how it's been shown in the budget historically. Fleet charges is one of the ISFs (i.e., direct charges based on a rate model). And there are other internal

charges (ISFs) that are not shown as specific line items in the Eugene portion of the MWMC budget such as for copier/printer and courier services, City Attorney and Recorder services, information and network services, and so on. When preparing the FY 2023-24 budget, what was not clearly explained at the time by the ISF fund managers at City of Eugene is how the indirect charges were going to be decreased, and specifically how the network services were pulled out of the indirect charges and placed into a direct rate model (i.e., "IT Network Rates ISF"), and the impact of the change. Only after July 1, 2023, and several months into the FY 2023-24 budget year, did Eugene/Springfield staff for MWMC begin to realize why the direct charges were trending higher by ~\$200,000 to ~\$300,000. It was only after the actual expenses were posted several months into the year that staff realized the indirect expenses were decreasing and the direct charges increasing.

Mr. Vanderwall said that the indirect charges did not go back down significantly and the change was absorbed by other expense items. There should have been a one-to-one transfer, from indirect to internals (ISF direct charges), but salary increases made up the gap by a significant portion. In addition, the internal (ISF) rate model for the network charges was not entirely finished until after the MWMC budget development was completed.

Mr. McClendon said the timing of the indirect to internal charges (ISFs) was an issue as well.

Mr. Stouder said that the City of Springfield staff met with the City of Eugene staff in late May to discuss and better understand the internal charges. Eugene staff did a good job explaining the rationale behind the changes and enough information to provide context for today's discussion. Eugene staff did offer to provide additional information and conversation to the Commission if there are further concerns after today's meeting.

Commissioner **Ruffier** asked if the internal service charges are consistent across the City of Eugene or if wastewater was treated differently.

Mr. McClendon said that all departments pay into the internal service charges. Many of the rates depend on the number of FTE in the department/division, and Eugene Wastewater added a total of 4.5 FTE over the past two budget years. The combined impact of the FTE additions and the change in the rate model was not clear when preparing the Eugene portion of the MWMC budget.

Mr. Vanderwall said that there are other factors involved like the number of computers or operating systems. How many invoices or purchase orders are processed is also measured in the rate models to determine the magnitude of services used by Eugene Wastewater for Regional WW/MWMC. The internal service charges (ISFs) are programmed across the entire City of Eugene organization.

Commissioner **Farr** asked how much notice was given to staff on this.

Mr. McClendon said that the Eugene Wastewater portion of the FY 2023-24 MWMC budget was prepared in November-December 2022 and January-February 2023. The budget numbers from Eugene Wastewater need to be finalized and delivered to the City of Springfield by late February each year because Springfield's budget development process runs 4 to 6 weeks ahead of the City of Eugene's budget deadlines. At the time the Eugene Wastewater budget was delivered to Springfield staff, the internal service fund rates were not entirely completed yet on the Eugene side and therefore staff provided the best numbers available at the time knowing that some adjustments might be needed after the fact.

Commissioner Keeler said that he and other Commissioners have concerns. He is prepared to make a motion knowing that there will likely be more of a discussion.

MOTION: IT WAS MOVED BY COMMISSIONER **KEELER** WITH A SECOND BY COMMISSIONER **FARR** TO APPROVE THE SUPPLEMENTAL BUDGET #3. THE **MOTION PASSED** UNANIMOUSLY 6/0 WITH COMMISSIONER PISHONERI ABSENT.

Commissioner **Inge** said that he would like clarification on who they are.

Mr. McClendon said that for the direct rate models (ISFs), each internal service fund has a fund manager. The City of Eugene ISF managers develop the rates and collaborate with a rate model committee until finalization and approval. When referring to they, he meant the ISF rate managers and the rate model committees.

Commissioner **Inge** said is the internal service fund all IT-related.

Mr. Vanderwall said that most of the increased costs related to IT are network charges with several different categories of charges within that specific internal fund.

Commissioner **Inge** said that Mr. Vanderwall and Mr. McClendon are confident that the budget is now accurate. Moving forward, does this issue go away?

Mr. Stouder said he is uncertain about the FY 2024-25 budget, but moving forward staff will be looking at this with more scrutiny. Staff have a year to review spending and to avoid coming back to the commission asking for additional money for the internal service fund charges. This was not realized until nearly the end of the fiscal year (April-May 2024) that this was going to be a needed ask. Staff has budgeted conservatively to avoid a budget violation. When there is 8% to 10% still left in the budget, staff have been asked to tighten up the budget. Staff do not want to ask for too much but recognize that whatever money remains will roll into the next budget year.

Commissioner **Inge** said that he does not completely understand what is going on but has complete confidence in Mr. Stouder and the budget staff with the knowledge of SB #3 and the process. The thing that is missing that he would like to see is the details behind the decision and how the accounting worked. It is less about the Commission's confidence in staff and more about the understanding of the process.

Commissioner **Hazen** said that the RNG had higher uptimes and that is driving a higher utility bill, but does that not also correlate with additional revenue?

Mr. McClendon said yes, there is additional revenue.

Commissioner **Hazen** said that he is interested if other Commissioners are hearing this the same way that the internal service fund was presented by the City of Eugene as a transfer of funds from one account to another, but the original account did not go down.

Mr. Vanderwall said that it should have been a one-to-one ratio, but the indirect charges were moved to the internal charge and the indirect charges were filled with a \$280,000 increase from personnel.

Mr. McClendon said that it was an existing internal service fund that the indirects were transferred to but the rate model also was changed (re: the IT Network Rates ISF).

Mr. Vanderwall said direct charges as an internal service fund (ISF) is more transparent overall, but Springfield/MWMC staff did receive the information late due to the City of Eugene developing its first-ever biennial budget (i.e., the City's first 2-year budget). At the time, he did not realize at that level how the changes would affect the Springfield/MWMC budget.

Commissioner **Hazen** said that he is happy to move ahead with Commissioner Keeler, but the presentation of information could have been made clearer.

Mr. Vanderwall said that this memo was tough to write and kept it at a level of not being too technical.

Mr. McClendon said that looking at the actual expenses posted as of June 13 and projecting out for the remainder of FY 2023-24, he's estimating that the budget might be roughly \$18,000 under budget. There is a possibility that the \$600,000 will not be spent and go back into the Operating Reserves on MWMC's SB #1 in the fall. The purpose of the \$600,000 supplemental request is a backstop to prevent a budget violation.

Commissioner **Ruffier** said that since the City of Eugene has a two-year budget cycle, these changes will hold in effect for the next budget year as well.

Mr. McClendon said that for the next budget year, he will have more information for the commission in December. Staff will have to analyze expenses through the second quarter of the fiscal year to have a better idea. To his knowledge, all of the expenses have been programmed in and should be in the budget.

Commissioner **Ruffier** said that the rate model is not going to change.

Mr. McClendon said that the rate model is locked in because of the City of Eugene's two two-year budget process.

Commissioner **Ruffier** said that he would echo Commissioner Inge with the request for more clarification. He realizes this is a very complex subject and difficult to deal with, but it would be helpful with another memo or more information.

Mr. Stouder said that additional information could be provided. He asked lots of questions to the Eugene staff because he knew he would get lots of questions today. He feels confident that MWMC is not being charged for items that we should not be charged for.

Commissioner **Ruffier** said with the additional information of an explanation he'd like to know the rationale for moving from indirect to internal service charges. His understanding is that the indirects have a requirement in terms of how they are structured, and an internal service fund does not.

Mr. Vanderwall said that the indirects were moved to the internal service charges to have better representation of each department and be more transparent.

Commissioner **Ruffier** said that there were some other requirements related to indirects and how they were charged for services like the wastewater division. Whereas the internal service fund has much more flexibility in how to deal with it and that it is done properly.

Mr. Stouder said that he would reach out to Susan at the City of Eugene for more information. She has a PowerPoint presentation, and he can get her assistance with the follow-up memo.

Commissioner **Inge** said that the City of Eugene changed the rate model for the internal service fund and that MWMC does not have any approval process for the rate model changes.

Mr. McClendon said it is strictly operating expenses and within the City of Eugene's budget.

Commissioner **Inge** said that the City of Eugene can make a change that affects MWMC, and we have no abilities to appeal this.

Mr. Stouder said that the indirect rate is similar to personnel. It is negotiated and wages set but MWMC does not make any decision in that.

Commissioner **Inge** asked did MWMC get notification of the rate model change prior.

Mr. McClendon said we did, but it was not complete information due to the work happening to develop the City of Eugene's first ever two-year budget. There is an opportunity at the executive level where Michelle Miranda, as the City of Eugene Wastewater Division Director, could communicate concerns to the City of Eugene Public Works Director, who then communicates with the Executive Committee in decision-making about the internal service fund charges regarding rates (i.e., the ISFs). Generally, based on his experience, the rates are set. These are robust rate models for how the direct charges will be expensed and allocated across all departments in the entire City organization.

Commissioner **Farr** said that the City of Eugene is short on its budget and trying to find money to patch a budget hole as part of its process. His takeaway is in Mr. Stouder's confidence that MWMC is not paying for something that we should not be. That gives him confidence and he has trust in the MWMC administration.

### **PROPERTY INSURANCE RENEWAL**

Mr. Stouder said there have been previous conversations with the Commission about possible insurance options. Geoff Sinclair, Vice President/Public Sector Practice Leader with Brown & Brown is here today to present insurance renewal options to the Commission.

Mr. Sinclair said the insurance renewal is a large process and he wanted to thank Mr. Stouder and staff for their time. This is a trust and verification exercise he wanted to validate that the charges being levied by premiums for Starr Tech and the coverages were appropriate. The rapid increase in premiums has been from global events and not just events locally in Lane County. The key market that MWMC is not in is the liability insurance market with the Special Districts Association of Oregon's Trust called Special District Insurance Services Trust (SDIS). MWMC has SDIS coverage for liability and crime with a renewal every January. SDIS coverage is from January to December and Starr Tech is from July 1<sup>st</sup> to June 30<sup>th</sup>. The SDIS quote is a one-year quote but is good for 6 months since they annualize it. A large variable in the SDIS quote is that they would quickly appraise all MWMC's properties. As of January 1<sup>st</sup>, SDIS would have



confidence in MWMC's total insured values; usually, the values do not decrease. Mr. Stouder has been extremely concerned about the insured values moving forward.

## Premium Summary

Line of Business	Expiring Premium (Inception)	Renewal Premium	SDIS Quote
Carrier	Starr Surplus Lines Insurance Company	Starr Surplus Lines Insurance Company	Special Districts Insurance Services Trust
Admitted/AM Best	Non-Admitted/A XV	Non-Admitted/A XV	Admitted/Not Rated
Property	\$446,040.00	\$500,947.00	\$523,795.00
Loss Control Engineering Inspection Fee	\$4,000.00	\$4,000.00	n/a
OR Surplus Lines Tax	\$9,000.08	\$10,098.94	n/a
Stamping Fee	\$10.00	\$10.00	n/a
Fire Marshal Tax	\$1,350.12	\$1,514.84	n/a
<b>Total Package Premium</b>	<b>\$460,400.20</b>	<b>\$516,570.78</b>	<b>\$523,795.00</b>
Broker Service Fee	\$29,240.00	\$30,118.00	\$30,118.00
<b>Grand Total</b>	<b>\$489,640.92</b>	<b>\$546,688.78</b>	<b>\$553,913.00</b>

He was expecting Starr Tech to be a larger quote, and why Mr. Stouder wanted this insurance options exercise. Although it is an increase, it is nowhere near what is in the marketplace.

Commissioner **Inge** asked what is admitted and non-admitted.

Mr. Sinclair said non-admitted is a non-Oregon-based insurance company and the Oregon Insurance Guarantee Association (OIGA) does not back up non-admitted. Since SDIS is an insurance pool and not an insurance company, they went through the State of Oregon to get approved, but they are not covered by OIGA. SDIS is considered admitted since it is Oregon-based.

Commissioner **Inge** said one option has a backup and the other does not.

Mr. Sinclair said that there is not a backup for either insurance option. It is where the insurance company is from. Admitted is presented to the Oregon Insurance Commission every year with rates and coverage for the year. Specifically, difficult unwritten coverage is not allowed under an admitted rating.

Commissioner **Inge** said there is no value in whether insurance coverage is admitted or non-admitted.

Mr. Sinclair said that is correct. If you look at the coverage comparison to see the difference per occurrence.

### Coverage Side-by-Side

Carrier	Starr Surplus Lines Insurance Company (Incumbent)	Special Districts Insurance Services Trust
Premium	\$516,570.78	\$523,795.00
Admitted/Non Admitted	Non Admitted	Admitted
A.M. Best Rating	A XV	Not Rated by AM Best
Policy Dates	07/01/2024 - 07/01/2025	01/01/2024 - 01/01/2025
<b>COVERAGES</b>		
Total Policy Loss Limit	\$100,000,000	\$300,000,000
Building & Personal Property	\$100,000,000 per occurrence	\$420,480,720
Equipment	\$100,000,000 per occurrence	\$2,837,781
Earthquake	\$50,000,000	\$10,000,000
Flood	\$100,000,000	\$10,000,000
Zones A & V Sublimit	\$10,000,000	
Sewer Pipes	\$10,000,000	\$87,914,920
Owosso Pedestrian/Bike Bridge	\$2,500,000	\$3,500,000
Trees, Shrubs, Plants	\$250,000 \$1,000 per item (Including Poplar Grove)	Poplar Grove excluded
Total Insured Values	\$432,850,920 *TIV includes Autos	\$423,318,501 *TIV does not include Autos
Perils	Risks of Direct Physical Loss - subject to policy terms and conditions	Risks of Direct Physical Loss - Subject to policy terms and conditions
Boiler and Machinery/Equipment Breakdown	Included	\$100,000,000
Business Interruption	No coverage	\$1,000,000
Contingent Business interruption	No coverage	Not Stated
Debris Removal	\$10,000,000	\$5,000,000
Errors & Omissions	\$2,500,000	Not Stated
Expediting Expenses	\$1,000,000	\$10,000,000
Course of Construction	\$15,000,000	\$2,000,000
Newly Acquired Property	\$10,000,000	\$500,000
<b>VALUATION</b>		
Real and BPP	Agreed Value	Replacement Cost
Mobile Equipment	Actual Cash Value	Stated Value
<b>DEDUCTIBLES</b>		
Property / BPP	\$250,000	\$150,000
Mobile Equipment	Included	\$10,000
Earth Movement	2% / \$250,000 minimum	2% / \$150,000
Flood	\$250,000 / \$500,000	2% / \$150,000
Sewer Pipes	\$500,000	\$150,000

It is an important factor to discuss the SDIS shared limit. The SDIS purchased about \$550 M of insurance for the pool with about 930 Oregon members. In a storm event damaging multiple buildings, Starr Tech has a \$100M limit per occurrence and SDIS has a \$420 M limit. SDIS is shared and monies could be diminished if other entities are damaged or destroyed within Lane County. It is an important factor in the idea of insurance pooling versus dedicated.

Commissioner **Ruffier** asked how many other entities are under special districts in Lane County.

Mr. Sinclair said he is unsure, but Springfield Utility Board (SUB) and Willamalane Park and Recreation are under a special district in Lane County. It typically is a couple of large regions like MWMC and many smaller districts. Of the 930 special districts, 60% have a budget of \$100,000 or less.

Commissioner **Ruffier** said that regarding the shared pool and a local event, other entities might be affected and need to draw from the shared pool.

Mr. Sinclair said that SUB and Willamalane are in the same area as MWMC with substantial resources at risk.

With SDIS, the earthquake coverage is \$10 M with \$400 M worth of assets. It is already underinsured with Starr Tech’s earthquake coverage of \$50 M but is healthy and reasonable. Earthquake coverage is expensive to purchase. For every \$10 M coverage, it is \$100,000 spent. It would be millions of additional dollars in addition to what MWMC is already paying to insure the total asset values. The same applies to floods. Flood zones A and V are the high-hazard flood zones, previously called the 100-year flood. The \$100 M in flood coverage from Starr Tech is substantially more than SDIS's \$10M in coverage. The Poplar Farm would not

be covered under SDIS but with MWMC's deductible being \$250,000, it would not be a big difference. If multiple assets were damaged, the \$250,000 would not be realized. Errors and omissions are covered with SDIS on MWMC's liability documents.

Commissioner **Keeler** said can you explain how errors and omissions work.

Mr. Sinclair said that SDIS is MWMC's liability insurance provider. They do not have separate policies but rather one big package policy. In a commercial liability policy, there are endorsements and exclusions. If you are a participant who has alleged to have done negligent action or something wrong, they shall indemnify you for those actions that are within the course and scope of your duties under the direction and control of the MWMC.

The deductibles for flood and earthquake are more with Starr Tech but provide more coverage. With SDIS most of the money gets paid in premiums with more than 50% going to the reinsurance market. SDIS does not manage deductibles well because all the money is in the global marketplace. There will not be an increase in earthquakes and flood coverage with SDIS because they have too many customers and cannot purchase more than \$450 M for the entire pool. Right now, for a cheaper price, and better coverage with a slightly higher deductible, Starr Tech is who he believes makes the most sense for MWMC's risks.

Commissioner **Hazen** said the equipment line for SDIS has an interesting amount (\$2,837,781) with a detailed breakdown and to elaborate on that. Starr has no coverage for business interruption. How significant is that?

Mr. Sinclair said on the top of the side-by-side page, the equipment listed is for mobile equipment, like mowers. Equipment that is inside buildings is called contents or personal property like HVAC systems, pressure vessels, or boilers.

Commissioner **Hazen** said that the equipment coverage for Starr is \$100M per occurrence and SDIS is covering \$2.8 M for a different definition for terms of equipment.

Mr. Sinclair said the equipment is a part of their total insurance per occurrence limit. Starr does not differentiate between the total per occurrence of \$100 M. SDIS has separate limits that they apply and the amount for the full equipment value.

Commissioner **Hazen** said that the equipment coverage and approach by Starr disregards any stated values and provides coverage in their \$100 M total policy.

Mr. Sinclair that is correct.

Commissioner **Hazen** asked how the equipment limit breakdown relates to SDIS.

Mr. Sinclair said the equipment breakdown is the equipment within a building that may fail and is in addition to the property insurance and is usually linked together. It covers the same items but for different loss types. SDIS and Starr talk about equipment coverage differently. SDIS is a model as a policy to fit especially for special districts and Starr is a commercial liability policy. The business interruption coverage of \$1M with SDIS if there is a covered cost of loss resulting in the loss of business income. There is no business interruption coverage through Starr.

Commissioner **Hazen** said MWMC would need to be self-insured.

Commissioner **Ruffier** asked if there is any coverage for cyber security.

Mr. Sinclair said that cyber security coverage would be in MWMC's liability policy which gets renewed every January. Today's discussion is just for property insurance renewal.

Commissioner **Hazen** asked who the internal subject matter expert on the insurance renewal process is.

Mr. Stouder said that Katherine Bishop was the internal staff. She has retired and he is in the process of recruiting for her position. Lou Allocco has absorbed some knowledge and has information. Jamie Iboa, Risk Manager for the City of Springfield and previously with the City of Eugene has assisted with the insurance renewal process.

Commissioner **Hazen** asked to hear comments from Mr. Allocco and Ms. Iboa.

Mr. Allocco said that the increase in premiums reflects the market and staff try to budget as close to that as possible. Before the budget cycle ends, he is only \$6,000 short which is good. Staff have been good working with Brown & Brown. In the future, staff will dial in on a list of equipment with the statement of values working with the capital improvement team, Troy McAllister, and his staff. This will avoid over or under-insuring of equipment at the WPCF.

Commissioner **Farr** said that high-profile incidents such as cyber, civil rights violations, and natural disasters have raised the stakes with the comprehensive coverage of public entities. Understandably, insurance rates increase as property values go up.

Mr. Stouder said that Ms. Iboa joined the meeting from online to in person. The replacement value of MWMC's assets is about \$400 M to \$550 M. He thinks significantly more assets for replacement value are probably in the billions. The insurance market has been looking at probable losses. The main driver for premium increases is damage from a major event and assets are undervalued.

Jamie Iboa, the City of Springfield Risk Manager said that she worked for the City of Eugene for 18 years and with the City of Springfield for 1 ½ years. All her years with the City of Eugene, she worked with Brown & Brown and worked on some MWMC issues. She agrees with Mr. Stouder on MWMC's undervalued assets. She walked the properties with Mr. McAllister, and she thinks the assets are undervalued and the possibility that some items do not need to be insured. She has experience working on insurance renewals and is happy to help.

Troy McAllister, Managing Civil Engineer said that MWMC was able to get a multiple-year agreement with Starr and asked if there is an opportunity to do that again.

Mr. Sinclair said there was a multiple-year agreement in the past, but no insurance companies are doing multiple-year agreements for anything property-related. The insurance companies would do monthly if MWMC allowed it because the market has that much movement. For excess compensation for self-insurance, there can be a two-year agreement. He apologized that the information was provided in time to be included in the MWMC Commission packet. He and Mr. Stouder made all efforts, but SDIS would not release their numbers until they reviewed all the data. There have been significant improvements in

providing data, and they will do a better job for the next year. The marketplace is better than what it was during COVID but still difficult.

Mr. Stouder said he is hopeful that the Commission is ready to decide. Two options, Starr Tech and SDIS insurance preview have been provided today. Looking towards the future and the increasing cost, staff can look at the values, some items that might not need to be insured, and possibly increasing insurance reserves. Six or seven years ago, staff looked at different providers and determined that the size and unique nature of MWMC, Starr Tech has been a good fit. SDIS would be a good fit for MWMC as well. There are not many companies that would work for MWMC. It is a limited market.

Commissioner **Inge** said that his concern about insurance coverage is the per occurrence. He noticed that Starr Tech had per occurrence, but SDIS did not. Is there a definition of what is a per occurrence? If there was an earthquake with aftershocks two or three days later, is that one occurrence or two?

Mr. Sinclair said that the definition of an occurrence is specific to every insurer. An example would be a winter storm. A storm system brings an inch of ice and snow then a day later the same storm system brings more ice and snow causing damage that would be one occurrence. If there are breaks in weather or activity, then it would be considered two occurrences. There are pros and cons to a per occurrence.

Commissioner **Inge** said that an occurrence is well-defined.

Mr. Sinclair said it is well defined and can be argued because weather can be a flow. In his experience, it would be agreed upon that it is the same weather system.

Mr. Stouder said it was discussed last month that if MWMC had a \$100 M loss then there would most likely be other losses in the region and a federal disaster declared with federal funds available. The most likely scenario would be an earthquake causing dam failure and that would be one occurrence.

Commissioner **Keeler** said there is no resolution with the insurance renewal.

Mr. Stouder said there is no resolution, but he is looking for a motion to authorize him to go into an agreement.

MOTION: IT WAS MOVED BY COMMISSIONER **KEELER** WITH A SECOND BY COMMISSIONER **HAZEN** TO APPROVE THE EXECUTIVE DIRECTOR TO ACCEPT THE BROWN & BROWN RECOMMENDATION AND TO NEGOTIATE WITH STARR TECH FOR PROPERTY INSURANCE FOR THE FOLLOWING YEAR. THE **MOTION PASSED** UNANIMOUSLY 6/0 WITH COMMISSIONER PISHIONERI ABSENT.

Commissioner **Inge** asked if the commission could spend additional time discussing raising the reserve amount for insurance. It is a guess that insurance rates will continue to increase. The more that MWMC can self-insure, the more that saves on premiums.

### **INSURANCE DEFENSE - POLITICAL VS LEGAL REALITY FOR COMMISSIONERS**

Mr. Stouder said that Mr. Sinclair is also here to provide training that resulted from a previous MWMC meeting request with Commissioner Pishioneri regarding the level of insurance coverage for Commissioners.

Mr. Sinclair said Brown & Brown is your insurance agent and Special District Insurance Services Trust is who provides ethics coverage. If there was an Oregon Government Ethics Complaint (OGEC) about an improper executive session, conflict of interest, etc., how does that apply and when is a Commissioner under the umbrella of insurance coverage. The City and County representatives are another factor since you have dual roles. The Oregon Tort Claims Act (OTCA) is the protection, limitation, discrepancy, and declaration of a public servant, employee, volunteer, or commission member.

Commissioner **Inge** asked for the Oregon Tort Claims Act definition to be sent to Commissioners.

Mr. Sinclair said a tort is a duty owed, a breach of duty, damages, and the connection between them. A duty owed is that a sidewalk needs to be flat. The duty is breached because the sidewalk is not flat, and a person trips over the sidewalk, hurting their leg, then that is a tort. If a person trips over the sidewalk but does not hurt themselves but could have been hurt, then that is not a tort. Anyone who is within their duties, the direction and control of MWMC is covered (employees, volunteers, board members, commission members, and council members). It is important to know when you are under the umbrella of coverage. With limited damages, Oregon Claims Act limits were \$200,000 per occurrence and \$50,000 per property. Due to lawsuits from 2009 and 2010, the limit goes up every year based on the Consumer Price Index. Currently, the limits are \$855,000 per occurrence per person for general liability if one person were to be injured. If more than one person is injured, then the limit is \$1.7 M. The OTCA is special for Oregon and other states, the same loss or issue can be 5 to 10 times as much. He recommends \$2 M per occurrence and \$3 M in the annual aggregate, but the Commission could choose to not require any coverage. Federal cases do not have any limits and the OTCA does not apply to federal cases.

Kristen Denmark, MWMC legal counsel said a breach of contract claims is not included. This is limited to torts, but not to contracts.

Commissioner **Keeler** said the definition of tort is when a party suffers harm.

Ms. Denmark said that OTCA would not cover contract claims. The OTCA applies to the limit of MWMC damages and if MWMC were sued as an entity, then this would apply. It does not happen often but sometimes people are individually named. This is why this applies personally and why it is important to know what the coverage is because a commissioner could be named in a lawsuit.

Mr. Sinclair said he is seeing more individuals being named. The reason to care about this is that the public entity shall defend and indemnify you if you are within the course of the scope of your duties, under the direction and control of the public agency.

Commissioner **Inge** said can you define the course of scope, direction, and control.

Mr. Sinclair said that the Commission is under the umbrella of coverage at the MWMC meetings but would not be covered if a Commissioner did something that was not pre-approved by the Commission. If a Commissioner goes to a conference that was not agreed upon then you may not be covered. This is more for a rouge board member. If a commissioner was assigned to a Committee, then you would be under the umbrella of coverage.

Ms. Denmark said when board members want to get involved with daily operations and provide direction to employees then you would not be covered because that is not in your scope of authority.

Mr. Sinclair said that the only employee that the Commission has is Mr. Stouder and to provide guidance, oversight, and budget issues, but not day-to-day operations.

Commissioner **Farr** asked what if he was not satisfied with the amount of coverage that was available to him.

Mr. Sinclair said that there is an option to purchase more but it is hard to find more limits for the type of errors and omissions coverage that MWMC has. If a commissioner feels they were wronged and interpreted wrong, a lawsuit can be filed, and you can ask to be defended and indemnified with the OTCA. Some people will use the OEC as a weapon to put financial pressure on MWMC. The OTCA covers participants acting under the direction and control of MWMC and within the course and scope of their duties such as directors, executive officers, employees, agents of the name participants, and volunteers.

Commissioner **Keeler** said that under the umbrella of participant coverage, some of the Commissioners are volunteers and some are paid as elected officials. Where does that show up in the participant list?

Mr. Sinclair said that it would be as a Commissioner and there would be coverage as well with your employer as an elected official. It would not be doubled coverage but side-by-side. Both may have a duty to cover you, but it depends on the circumstances.

Commissioner **Inge** said that the MWMC Commissioner is covered under the umbrella, but could there be a rational reason why a Commissioner would just be named in the coverage as opposed to just covered?

Mr. Sinclair said that if an individual Commissioner is named then that creates opportunities for error. If there is not a list, then it is broader. The reality is that you are a Commissioner 24 hours, 7 days a week, but legally you are very limited when you have the umbrella over you as a Commissioner. Commissioners are empowered only during sanctioned MWMC meetings where a quorum is present or where the Commission has designated specific duties such as committee appointments, or to attend a conference and report back or provide the Commission wishes as their emissary. Otherwise, you are not a participant. These are very finite, specific times when a Commissioner is legally under the umbrella of the OTCA for coverage. If a Commissioner says or writes a statement that the commission explicitly told you not to do, then you are most likely are your own and not covered. Sometimes a board chair can get special rights because of being authorized to do something with staff assistance.

Commissioner **Ruffier** said there is an annual conference that Commissioners are allowed to attend but it is typically in an email from the Executive Officer and not a commission decision. Is that covered?

Mr. Sinclair said that if an event is normally offered and sent to the commission by Mr. Stouder then yes. It becomes more of a problem when a Commissioner attends on their own without the history and the intent of the board/commission. Some examples of the reality of always being a commissioner are when you are at Fred Meyers shopping, and someone comes up to complain. You gather their name and number and then pass it on to Mr. Stouder, MWMC Executive Officer. Be courteous and kind, but do not engage. You can follow up about the complaint, but MWMC would need to follow up, not a single commissioner. Another example is responding to criticism on Facebook. It is not your job as a Commissioner to respond.

Commissioner **Ruffier** asked what is the possible outcome of doing that.

Mr. Sinclair said that it could be slander and then a lawsuit was filed against you and the Commission. The commission would be defended and covered but the individual commissioner might not be covered.

While driving your vehicle to the Commission meeting, are you covered? No, but a commissioner would be covered with auto liability and general liability if there was an annual meeting offsite or in a different location. This also applies to attending conferences. If there was an accident in your vehicle, then the auto insurance is secondary to your insurance.

Commissioner **Ruffier** said that if a commissioner is at an approved conference and attends a social event, getting a little loose and saying something that could be offensive, would you be covered?

Mr. Sinclair said as a Commissioner you are under the umbrella the entire time that you are attending a conference. The only caveat is when there is independent frolic. This is when you attend a conference but visit someone half an hour away between conference hours. That is not part of the conference, and you would not be covered. Alcohol conception is not excluded. If you travel for a conference, it's best to stay in Oregon since the OTCA does not apply in other states.

Commissioner **Farr** said that with alcohol being legal, a Commissioner would be covered.

Mr. Sinclair said that there is no exclusion for alcohol, drugs, driving with a DUI or not having a license. It is if you are within the course of your duties and under the direction of MWMC. The coverage is meant to be broad, and a pool can provide that. If MWMC was self-insured, then there would be a lot of exclusions and many hoops to jump through.

Volunteers are considered unpaid employees who should have a job description and not to perform tasks that are not approved. Does MWMC have volunteers?

Mr. Stouder said MWMC has a few volunteers with the possibility of more depending on future events.

Mr. Sinclair said he is seeing budget-challenged organizations have an increase in volunteers due to layoffs that have been in the past paid positions.

Commissioner **Ruffier** said does this cover interns.

Mr. Sinclair said yes. A volunteer example would be a volunteer pulling weeds every Saturday and the next week they bring a riding mower and weed trimmer that kicks up a rock and hits a passerby in the eye. There is a claim that may not be covered because the volunteer was not within the tasks that were discussed.

Mr. McClendon said that every year MWMC hosts an event, Clean Water University at the WPCF for fifth graders where there are volunteer chaperones who are not always in control of the kids and luckily there has never been an incident. But should something occur, would that be the chaperone and school, or is it MWMC's responsibility?

Mr. Sinclair said the idea is to be intentional and to have an agreement beforehand. If something were to happen with the kids or chaperones, then it is the school district's responsibility but if MWMC is negligent and causing a situation then it would be on MWMC. MWMC is not in charge of the kids but offers



opportunities to learn and understand what it is we do. If a child were to trip and get injured, then the general liability coverage would apply.

The coverage is \$2,500 per official and \$5,000 per member/year individually as a commissioner. If there is an OEC against a Commissioner, you would need to notify Mr. Stouder and he would notify Brown & Brown to talk to SDIS. A Commissioner could hire an attorney with approval from SDIS and then go through the process of defending yourself. If you are found guilty then no money is paid to this. If you prevail, they will provide up to \$2,500 per person and \$5,000 per entity per year. This coverage is for when your commission position is weaponized, and people are going after you for something that you did not do. The coverage limit is low, and he has asked to get it doubled or tripled. They are considering a possible increase next year.

Commissioner **Hazen** asked what he knows about personal umbrella liability policies and could a Commissioner be covered by personal coverage.

Mr. Sinclair said that you should talk to your agent of record and let them know that you are a Commissioner with MWMC, and they can help craft a way for you to be covered, but make sure to read the policy and exclusions.

Commissioner **Farr** said that he appreciated his presentation. It has been one of the clearest and easiest presentation on this topic.

### **BUSINESS FROM COMMISSION**

Commissioner **Ruffier** said he wanted to acknowledge the RNG operational update memo in the communication packet from Steve Barnhardt and Michelle Miranda. He also wanted to give kudos for the 831% increase in interest income for the Capital Program.

### **BUSINESS FROM GENERAL MANAGER**

Mr. Stouder said he wanted to give kudos to the budget staff, Lou Allocco, James McClendon, and Katherine Bishop for the significant amount of effort that went into this year's budget. It was ratified this morning by the Commission.

The administration building improvement project went out to bid and there will be a pre-bid mandatory meeting for general contractors on June 26.

Goshen and the City of Creswell's possible connections to MWMC have surfaced again. He received an update from Dan Hurley, Lane County Public Works Director that their consultant is doing additional work. Lane County staff is working on a draft agreement for review and addressing concerns that were brought up during the land use process with the two councils. Walt Meyers, reached out to him in his role with Creswell that he is working on several capacity issues. The City of Creswell has expressed interest in partnering with Lane County.

He emailed an article to the Commission from the Capital Press on recycled water. He thanked Todd Miller, Thomas Gray, and other staff who provided information to Capital Press and the article reflected well for MWMC.

He thanked the Commission for relocating the commission meetings for the summer months during the city manager's office renovation. If the Jesse Maine Room is too small, then the Council Chambers is an option.

Lastly, Richard Heard with Heard Farms met with Eugene wastewater staff about his facility by the airport that accepts Fats, Oil, and Grease (FOG). He has indicated that he cannot accept grease due to some challenges at his Roseburg site and asked MWMC to sign a non-compete agreement. He would like a franchise agreement for the City of Eugene to accept all the septage and FOG. He needs to work through him and the commission. He has been directed to contact him and be able to put his request in writing. The WPCF can accept FOG and currently does accept septage. The issue for the WPCF is that it has been several years since grease was accepted. There is currently no one registered to bring grease into the plant. There is an issue with the RNG project and Renewable Identification Numbers (RINs). The value of the D3 RINs is much higher than the value of D5 RINs. If the plant accepts a load of grease it renders through this complex Environmental Protection Agency (EPA) requirement and renders all our D3 RINs as D5 RINs and essentially the RNG revenue would be about a 6<sup>th</sup> of what it is currently.

Commissioner **Ruffier** asked if there are FOG requirements for restaurants and other entities and is the assumption that they are taking it to Heard Farms or somewhere else.

Michelle Miranda, City of Eugene Wastewater Division Director said in 2022, permits were no longer issued to haulers to bring more FOG but could approve septage. That discussion was brought and approved by the Commission. Haulers were not bringing FOG to the plants but to Heard Farms. There is a program and a manifest system in place to verify that.

Commissioner **Ruffier** said he would be concerned if the permittees are put in a difficult position if Heard Farms goes out of business or refuses to accept FOG.

Mr. Stouder said that is why he is bringing this issue up today. Mr. Heard has indicated that he may not accept FOG. He closed his facility for a day, and staff received calls. FOG can be handled through the Pretreatment Program and indoor hauling, or the WPCF accepts FOG. There are multiple options however he does not know what the end outcome will be.

Commissioner **Hazen** asked what the precedent around Oregon is on how FOG is handled within other jurisdictions.

Trail Smith, City of Eugene Regulatory Services Supervisor said that in the last five years, when looking at RIN credits, there were only four authorized pumpers to be able to come to the plant to bring FOG. That was part of the decision that the staff brought to the Commission. If WPCF does not accept FOG then there are three facilities, one being in Portland. The City of Medford is looking at adding a FOG facility and there are a couple of other municipalities. Throughout Oregon, there are issues around FOG as the requirements are changing and municipalities are figuring out a way to provide services.

Mr. Stouder said it is not common for facilities to accept FOG. There are options and we need to do what is in the public's best interest and not have doors closing with no way to dispose of FOG.

Commissioner **Hazen** said that the options would be a higher cost to people who are disposing of FOG.

Mr. Stouder said that Heard Farms would either close and haulers go to Portland with an increased travel price or stay open with a substantial price increase.

Mr. Smith said that the City of Salem does not take FOG, but recently built a new mobile waste hauling facility. The City of Gresham just put in a FOG receiving station. Along the I-5 corridor haulers are taking FOG to the Portland facility.

Commissioner **Hazen** asked does that falls under Veolia.

Mr. Smith said that Veolia is the contract operator of the facility but still falls under the City of Gresham.

**BUSINESS FROM WASTEWATER DIRECTOR**

Ms. Miranda said the WPCF received the National Association of Clean Water Agencies (ACWA) Platinum Peak Performance Award for the 17<sup>th</sup> year in a row. This annual awards program recognizes excellence in wastewater treatment as measured by operational performance and compliance.

Commissioner **Yeh** adjourned the meeting at 9:26 am.



# Metropolitan Wastewater MANAGEMENT COMMISSION



*partners in wastewater management*

## MEMORANDUM

**DATE:** July 3, 2024

**TO:** Metropolitan Wastewater Management Commission (MWMC)

**FROM:** Barry Mays, Design and Construction Coordinator

**SUBJECT:** Resolution 24-07, Granting an Exemption Under ORS 279C.345(2) to Establish Brand Name Specifications for Upcoming Public Improvement Contracts

**ACTION REQUESTED:** Approval of Resolution 24-07

### **ISSUE**

Staff requests the Commission approve Resolution 24-07, which authorizes use of brand name specifications for specified goods in future contracts for public improvement projects.

### **BACKGROUND**

Generally, specifications for public improvement contracts may not expressly or implicitly require any product by brand name, nor the product of any particular manufacturer or seller unless the local contract review board authorizes an exemption to allow brand name specifications. Pursuant to ORS 279C.345 (2), a local contract review board may exempt certain products or classes of products and establish a brand name specification upon adoption of **any** of the following findings:

1. It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition;
2. The specification of a product by brand name, or the product of a particular manufacturer or seller, would result in cost savings to MWMC;
3. There is only one manufacturer or seller of the product of the quality required; **or**
4. Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

### **DISCUSSION**

Staff has identified five brand names that qualify for an exemption under ORS 279C.345 (1) to establish brand name specifications, which would be advantageous to MWMC: Neuros Turbo Blowers, Auma Actuators, ABB Variable Frequency Drives, Siemens Ultrasonic Level Transmitters and Flygt Pumps.

#### Neuros Turbo Blowers:

MWMC has one (1) Neuros Blower in operation. This blower was installed in 2012 and has proven to be very

# Memo: Establishing Brand Name Specifications for Future Construction Contracts

July 3, 2024

Page 2 of 2

reliable, easy and cost effective to maintain, and energy efficient to operate, resulting in substantial cost saving in electrical and maintenance costs. An MWMC design consultant has determined that the compatibility, functionality and efficiency in the utilization of the existing Neuros Blower requires that additional blower equipment be the Neuros brand and model. No other brand exists which is compatible with the existing system.

## Auma Valve Actuators:

Valve actuators are used for remote and automatic operation of medium and large size flow control gates and valves throughout the regional wastewater treatment facilities. Facility maintenance staff have had reliability issues with the existing Rotork actuators over the past few years. Due to reliability concerns, long lead times in securing parts, actuators and technical support, staff has been replacing failing Rotork actuators with Auma actuators. Further, the MWMC is transitioning from Profibus communication to ProfiNet, and Auma actuators are compatible with both Profibus and ProfiNet (unlike the existing Rotork actuators, which are not compatible with ProfiNet). This makes Auma a compatible integration in transition from the Profibus to ProfiNet communication system. There are approximately 50 actuators throughout MWMC facilities. Brand standardization of Auma actuators provides reduced maintenance costs, cost savings in actuator replacement parts and compatibility with both Profibus and ProfiNet communication systems.

## ABB Variable Frequency Drives (VFD):

VFDs are used for speed control and operational control parameters for numerous equipment applications at the MWMC facilities. There are currently about 45 VFDs throughout regional and locally owned facilities. Maintenance over the past few years have had reliability issues with the Allen Bradley VFDs. Due to a lack of reliability and failures of Allen Bradley VFDs, maintenance has been replacing failing VFDs with ABB VFDs. ABB VFDs have proven to be more reliable and cost less than the Allen Bradley VFDs. Brand standardization of ABB VFDs provides for reliability, reduced maintenance costs and cost savings in procurement of VFDs. The City of Eugene has a sole source agreement for ABB VFDs.

## Siemens Ultrasonic level Transmitter:

The use of Siemens Ultrasonic level Transmitters provides for efficient utilization and compatibility with the ProfiNet system. Currently, Siemens is the only ProfiNet compatible and ProfiNet certified Ultrasonic level Transmitter on the market. The MWMC has several Siemens Ultrasonic level Transmitters, also known as Hydro Rangers, in use with proven reliability and success.

## Flygt Pumps:

Flygt are currently used throughout regional and locally owned facilities. Over many years of using Flygt pumps, Flygt pumps have a proven performance record of operating in difficult applications with very few maintenance issues compared to other pumps. Spare parts are readily available, and many parts are interchangeable among different size pumps. Brand standard of Flygt pumps provides for reliability, reduced maintenance costs, reduced parts inventory and are competitively priced compared to brands of similar design. The City of Eugene has a sole source agreement for Flygt pumps.

## **ACTION REQUESTED**

Staff requests that the Commission approve Resolution 24-07 (attached) granting an exemption under ORS 279C.345 (2) to establish brand name specifications for upcoming public improvement projects.

## **ATTACHMENTS**

- 1) Resolution 24-07

# Metropolitan Wastewater MANAGEMENT COMMISSION



*partners in wastewater management*

---

## METROPOLITAN WASTEWATER MANAGEMENT COMMISSION

**RESOLUTION 24-07** ) **IN THE MATTER OF GRANTING**  
) **AN EXEMPTION UNDER ORS 279C.345(2)**  
) **TO ESTABLISH BRAND NAME**  
) **SPECIFICATIONS FOR UPCOMING**  
) **PUBLIC IMPROVEMENT CONTRACTS**

**WHEREAS**, the Metropolitan Wastewater Management Commission (“MWMC”) has adopted the 2004 MWMC Facilities Plan (“Facilities Plan”) along with yearly budgeting of projects;

**WHEREAS**, the Facilities Plan identifies capital improvement projects to expand and enhance the Regional Wastewater System to serve the wastewater needs of Eugene and Springfield through year 2025 with active efforts to update the Facilities Plan;

**WHEREAS**, MWMC is committed to implementing the Facilities Plan in the most cost-effective way possible;

**WHEREAS**, previous procurements using the competitive bidding process have resulted in the use of the following products throughout MWMC’s Wastewater Pollution Control Facility (“WPCF”): Neuros Turbo Blowers manufactured by Neuros; Actuators manufactured by Auma; Variable Frequency Drives manufactured by ABB; Ultrasonic Lever Transmitters manufactured by Siemens; Flygt Pumps manufactured by Xylem (collectively, the “Products”);

**WHEREAS**, MWMC’s WPCF maintains an extensive inventory of spare parts;

**WHEREAS**, pursuant to ORS 279C.345 (1), specifications for public improvement contracts may not expressly or implicitly require any product by brand name or mark nor the product of any particular manufacturer or seller unless the product is exempt under ORS 279C.345 (2);

**WHEREAS**, the Commission, acting as the local contract review board, may exempt certain products or classes of products from the requirements of ORS 279C.345 (1) upon certain findings;

**WHEREAS**, the specification of a product by brand name, or the product of a particular manufacturer or seller, would result in substantial cost savings to the MWMC as it would provide efficiencies in the following areas: staff training, computerized control of spare parts inventory, and maintenance requirements;

**WHEREAS**, the efficient utilization of the Products already installed at the WPCF requires the acquisition of compatible goods or services;

**METROPOLITAN WASTEWATER MANAGEMENT COMMISSION**

**Resolution 24-07**

**WHEREAS**, no other brand of Turbo Blowers is compatible with the Neuros Turbo Blower currently in use at the WPCF; and

**WHEREAS**, to achieve maximum efficiency and cost savings, the brand name specifications for the Products must be effective for all applicable public improvement projects (the "Class of Solicitations").

**NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION THAT:**

1. The specific "findings of fact" set forth above are hereby adopted;
2. Based on the adopted findings, an exemption to the requirements of ORS 279C.345 (1) is hereby granted and a brand name specification for the Class of Solicitations described above is hereby established for the following Products:

Neuros Turbo Blowers manufactured by Neuros  
Actuators manufactured by Auma  
Variable Frequency Drives manufactured by ABB  
Ultrasonic Lever Transmitters by Siemens  
Flygt Pumps by Xylem

**ADOPTED BY THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION ON THE 12TH DAY OF JULY 2024.**

Digital Signature:

\_\_\_\_\_  
Jennifer Yeh, MWMC President

Digital Signature:

Approved as to form: \_\_\_\_\_  
Kristin Denmark, MWMC Legal Counsel

Digital Signature:

Attest: \_\_\_\_\_  
Misty Inman, MWMC Secretary



# Metropolitan Wastewater MANAGEMENT COMMISSION



*partners in wastewater management*

---

## MEMORANDUM

**DATE:** July 3, 2024

**TO:** Metropolitan Wastewater Management Commission (MWMC)

**FROM:** Bryan Robinson, Environmental Management Analyst

**SUBJECT:** MWMC Project P80098 – Class A Disinfection Facilities Project Funding and Clean Water State Revolving Fund (CWSRF) Loan Application

**ACTION REQUESTED:** Approve Resolution 24-08

---

### **ISSUE**

Staff is currently finalizing funding for MWMC Project P80098 - Class A Disinfection Facilities. A resolution authorizing the signing of loan agreement and establishing a loan reserve account for the Oregon Department of Environmental Quality (DEQ) Clean Water State Revolving Fund (CWSRF) funds is required prior to the award of funding.

### **BACKGROUND**

The MWMC Class A Disinfection Facilities design engineering services contract with Kennedy/Jenks was approved by the Commission through Resolution 20-01 on October 9, 2020. This project will result in construction of Class A recycled water production, storage, and distribution to launch community uses of recycled water. Staff presented updates to the Commission in 2022 and 2023 outlining construction details including project implementation drivers, the funding outlook, and possible construction schedule.

To fulfill the funding objectives identified to launch the project, staff pursued multiple funding sources and grants. The DEQ CWSRF green project loan program and the Bureau of Reclamation (BOR) WaterSMART drought response grant program emerged as viable, complementary funding sources, together bringing in \$6,000,000 of grant and incentive funding toward the project construction. The MWMC submitted a CWSRF loan application to the DEQ on April 8, 2022. The MWMC Class A Recycled Water Construction Aggregate and Public Greenspace Use project was first listed as a new loan applicant (#64840-23) by DEQ in the 2022 CWSRF Intended Use Plan (IUP) Update #1. The MWMC funding applications identify both the scope of facilities construction (under P80098) and the recycled water demonstration project end uses (under P80099).

The Commission approved Resolution 23-12 on October 13, 2023, to complete the WaterSMART re-application package for the BOR 2024 Drought Response Program.

The P80098 project Class A Recycled Water Conceptual Design Report produced by Kennedy/Jenks was approved by DEQ on January 3, 2023. The CWSRF P80098 final project design approval from DEQ was received on November 15, 2023.

On May 6, 2024, the MWMC received notification from BOR the 2024 WaterSMART grant application was funded in the amount of \$4,000,000. Grant agreement negotiations between the BOR and MWMC begin in July 2024.

### **DISCUSSION**

DEQ's current proposed CWSRF 2025 IUP identifies the MWMC Class A Recycled Water Project and ranks the project priority as #5. The project is listed as qualifying for \$2,000,000 of principal forgiveness as an eligible green project.

The DEQ financial review requirement of the CWSRF loan application package requires Commission action to provide 'Authority to undertake project'. A similar requirement to the BOR WaterSMART Grant Program was fulfilled by MWMC Resolution 23-12. Below is the requirement as listed in the DEQ Loan Agreement Checklist:

- *Authority to undertake project: Provide a loan approval resolution or similar authorization for signing a loan agreement and establishing a loan reserve account.*

An official MWMC resolution meeting the requirements set forth above is mandatory before an award of funding will be made by DEQ under the CWSRF program.

At the July 2024 MWMC public meeting, staff will briefly review P80098 funding needs, grant and loan positioning, and request approval of Resolution 24-08.

### **ACTION REQUESTED**

Approval of Resolution 24-08.

### **ATTACHMENTS**

- 1) Attachment 1 – Resolution 24-08

# Metropolitan Wastewater MANAGEMENT COMMISSION



*partners in wastewater management*

---

## METROPOLITAN WASTEWATER MANAGEMENT COMMISSION

**RESOLUTION 24-08** ) **IN THE MATTER OF LOAN APPLICATION**  
 ) **FOR EUGENE CONSTRUCTION**  
 } **AGGREGATE AND PUBLIC GREENSPACE**  
 } **CLASS A RECYCLED WATER FACILITIES**  
 } **PROJECT (P80098)**

**WHEREAS**, the Metropolitan Wastewater Management Commission ("MWMC") submitted a Loan Application to the Oregon Department of Environmental Quality (DEQ) Clean Water State Revolving Fund (CWSRF) Loan Program in the amount of \$7,790,395.00 on April 8, 2022 to support financing the Eugene Construction Aggregate and Public Greenspace Class A Recycled Water Facilities Project (P80098) (the "Project"); and

**WHEREAS**, in support of the MWMC's Loan Application, a resolution adopted by the Commission approving the submittal of the Loan Application and committing the MWMC to the obligations associated with receipt of the financial assistance must be provided; and

**WHEREAS**, the total maximum estimated cost of the construction project is \$8,395,000.00; and

**WHEREAS**, the MWMC has allocated \$8,000,000 in the Capital Improvement Budget for the Recycled Water Disinfection Facilities Project of which an unspent amount of \$6,790,000.00 is allocated in the current fiscal year and is sufficient to meet the 50% local match required of the Loan Application; and

**WHEREAS**, MWMC is an intergovernmental entity created under ORS Ch. 190 with authority to collect and pledge the revenue offered as repayment and to ensure ongoing operation and maintenance of the proposed project; and

**WHEREAS**, MWMC has appointed a duly authorized Executive Officer for efficient execution of the day-to-day administration of MWMC business and the Executive Officer may name an authorized designee.

**NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION:**

**METROPOLITAN WASTEWATER MANAGEMENT COMMISSION**

**Resolution 24-08**

1. The duly authorized Executive Officer of the MWMC, or his/her authorized designee, has authority to enter into a Loan Agreement and establish a loan reserve account, should any such loan be awarded to the MWMC;
2. The MWMC Executive Officer has reviewed the Loan Application requirements and hereby supports the submittal of the Loan Application;
3. The MWMC has the capability to contribute funding to support the Project on the terms outlined above; and
4. The MWMC will work in good faith with the DEQ to meet established deadlines pursuant to the Loan Agreement.

**ADOPTED BY THE METROPOLITAN WASTEWATER MANAGEMENT COMMISSION ON THE 12TH DAY OF July 2024.**

Digital Signature:

\_\_\_\_\_  
Jennifer Yeh, MWMC President

Digital Signature:

Approved as to form: \_\_\_\_\_  
MWMC Legal Counsel

Digital Signature:

Attest: \_\_\_\_\_  
Misty Inman, MWMC Secretary

# Metropolitan Wastewater MANAGEMENT COMMISSION



*partners in wastewater management*

---

## MEMORANDUM

**DATE:** July 3, 2024

**TO:** Metropolitan Wastewater Management Commission (MWMC)

**FROM:** James McClendon, WW Finance and Administrative Manager  
Greg Watkins, WW Maintenance Manager

**SUBJECT:** Digester #1 Dome Coating

**ACTION  
REQUESTED:** Information and Discussion

---

### **ISSUE**

This memo is an update regarding an AMCP project listed in the fiscal year (FY) 2022-23 MWMC Budget for Interior Dome Recoating of Digester #1.

### **BACKGROUND**

The upper portion of the anaerobic digesters is used to contain biogas until it is drawn off for reuse. Biogas is very corrosive to concrete, which is why an industrial coating is used to protect the concrete dome and extend its useful life.

The coating on Digester #1 dome was applied in the early 2000s (est. 2001), and when specialists from Jacobs Engineering conducted an inspection in March 2024, their analysis determined the current coating is delaminating and approaching failure within 2-5 years. The Jacobs team also inspected the interior of Sludge Holding Tank #2 (SHT) and concluded its dome coating has significantly failed and recommends immediate rehabilitation. While not directly inspected, the coating of SHT #1 is likely in similar condition and will need to be repaired next year.

Upon adopting the FY 2023-24 budget on June 9, 2023, the Commission approved a \$280,000 appropriation request for recoating the interior dome of Digester #1. Project work was unable to be started by June 30, 2023, and the \$280,000 appropriation was carried forward during the Supplemental Budget #1 process (SB#1) held on September 8, 2023, effectively moving the project budget into FY 2023-24 through Resolution 23-10. Given the fiscal-year timing, the \$280,000 project appropriation will need to be carried forward again, this time through the FY 2024-25 supplemental budget slated for September 2024.

At present, both Digester #1 and SHT #2 are offline and clean, with the dome interiors ready for stripping, surface preparation, and recoating. Public solicitation for the recoating project was conducted in May 2024 after a pre-bidding walkthrough, and sealed bids from contractors were then assessed by staff on June 25, 2024.

**DISCUSSION**

When preparing the public solicitation materials for the project, Eugene WW project managers determined that efficiencies and cost savings could be achieved by bundling the two projects as one package, recoating both the Digester #1 and the SHT #2 dome interiors, with the intent to award a contract to the contractor who could complete the work for both structures within the terms and conditions by a fixed completion date.

Two bids were received, and when unsealed on June 25, revealed the following:

\$702,200 ← lowest bidder  
\$800,000 ← highest bidder

The lowest bidder submitted \$702,200 to complete both tasks outlined in the project as follows:

\$145,700 ← Interior dome coating for SHT #2  
\$556,500 ← Interior dome coating for Digester #1

If staff were to proceed with awarding the contract, there would be an appropriation shortage for the project as follows:

\$702,200 ← total need (i.e., for both Digester #1 and SHT#2 recoating)  
\$280,000 ← current available appropriation  
\$422,200 ← additional need on Supplemental Budget #1 (SB#1)

Since both structures need to have the dome interiors recoated, and because both structures are currently offline and clean, staff recommends awarding the contract now to ensure the work is completed by late September 2024.

At minimum, staff recommend proceeding with recoating the SHT #2 dome interior in the coming months because of its greater level of deterioration. Should it be decided to postpone recoating work for Digester #1 dome interior, and only proceed with the SHT #2 dome interior coating, there is concern the contractor may revise or withdraw their bid for the project.

**ACTION REQUESTED**

This item is informational. Commissioner feedback and discussion is requested.

**ATTACHMENT**

- 1) FY 2022-23 MWMC Budget document page, Major Rehabilitation category
- 2) FY 2023-24 MWMC Budget document page, Major Rehabilitation category

**Electric Carts, Operations and Maintenance** – Replace electric carts that are no longer reliable and require more frequent repairs.

**Discrete Analyzer** – This instrument is used to analyze water quality samples required by the NPDES permit and meet lower detection limits required by a rule change. The instrument is standalone and does not require software or service contracts. \*Note: The SGTHEM equipment planned for FY23 replacement is obsolete and removed from ER schedule; discrete analyzer is recommended instead of SGTHEM.

**Mower, 72” Deck, Zero Turn w/Mulcher** – The twelve year-old mower has electrical wiring problems, plugs, and doesn’t starting reliably.

### **Major Rehabilitation Program - Budget**

The FY 22-23 Capital Programs budget includes \$662,000 for Major Rehabilitation projects that are identified on the table below.

<b>Major Rehabilitation</b>	
<b>Project Description</b>	<b>FY 22-23 Adopted Budget</b>
<b>Interior Dome Recoating, #1 Digester</b>	<b>\$280,000</b>
Roof Replacement, Operations Building, BMF	97,000
Roof Replacement, Willakenzie Pump Station	75,000
Roof Replacement, Welding Shop, Maintenance	55,000
Roof Replacement, Facilities Maintenance Workshop	55,000
Grit Channels, Wood Baffles (x4), Replacement	50,000
Roof Replacement, Clarifiers Pump Room, Primary	35,000
Ops/Maint Building Improvements	15,000
<b>Total</b>	<b>\$662,000</b>

**Interior Dome Recoating, #1 Digester** – An industrial epoxy coating on the interior of the digester dome protects the structural concrete from corrosive hydrogen sulfide gas. The existing coating is delaminating.

**Roof Replacements (x5)** – Perform roof improvements ranging from major repairs to complete replacement. This is following the recommendations of a third-party roof assessment company.

**Grit Channels, Wood Baffles (x4)** – Baffles in the grit channels that assist with separating grit from incoming wastewater. These baffles were made of treated wood and are rotting.

**Ops/Maint Building Improvements** – Budget for unforeseen, larger cost improvements to regional buildings.





**John Deere Tractor, BMF** – The cost of rebuilding the tractor is nearly the same as purchasing new. Staff recommend replacement with a larger tractor capable of lifting the dry polymer totes (each tote about 2,000 lbs) and useful for a wider range of BMF operations work.

**All Terrain Fork Lift, Maintenance** – Replacement with a vehicle that will be used to both load/unload shipping trucks and also move equipment over uneven terrain.

**Flail Mowers (x2), BMF** – After 15 years of rough use at Biocycle Farm and BMF, the main components of the flail mowers are worn out, and complete replacement of both mowers is needed.

**Electric Carts (x2), Maintenance & Operations** – Replacement of electric carts per recommendation from Eugene Fleet Maintenance largely due to the availability of parts.

**Zero Turn Mower with 72” Deck and Mulcher (x2), Facilities** – The 13-year old mower can no longer be operated reliably due to wear and tear and is needing replacement.

**Actuator, Rotork – IPS2 Primary Drive Diversion Gate** – After undergoing several rebuilds, the actuator unit needs to be entirely replaced.

### **Major Rehabilitation Program - Budget**

The FY 23-24 Capital Programs budget includes \$630,000 for Major Rehabilitation projects that are identified on the table below.

<b>Major Rehabilitation</b>	
<b>Project Description</b>	<b>FY 23-24 Adopted Budget</b>
Roof Replacements (x4)	\$300,000
Hypochlorite Delivery and Monitoring Systems Rebuild, Phase 1	150,000
Sludge Holding Tank Wall Repair, Digesters	90,000
Asphalt Resealing, Roadway and Parking Area, BMF	50,000
Masonry Weather Sealing, Operations Building, BMF	20,000
Operations/Maintenance Building Improvements	20,000
<b>Total</b>	<b>\$630,000</b>

**Roof Replacements (x4)** – Condition assessments by staff and contractor have determined that roof replacements are needed for the Centrifuge Building, Maintenance High Bay, Gas Mixing Room #2, and Pretreatment Building.

**Hypochlorite Delivery and Monitoring Systems Rebuild, Phase 1** – The delivery, distribution, and drain piping for the hypochlorite system has become brittle and cracked. The piping is leaking and needs total replacement.

**Sludge Holding Tank Wall Repair, Digesters** – Repair needed on structural wall that was damaged during the construction of #4 anaerobic digester.

**Roadway and Parking Area Resealing, BMF** – Routine crack and resealing work is needed to maximize the longevity of the asphalt roadways and parking areas at the facility.



# Metropolitan Wastewater MANAGEMENT COMMISSION



*partners in wastewater management*

---

## MEMORANDUM

**DATE:** July 3, 2024

**TO:** Metropolitan Wastewater Management Commission (MWMC)

**FROM:** Todd Miller, Environmental Services Supervisor  
Bryan Robinson, Environmental Management Analyst

**SUBJECT:** NPDES Permit and Regulatory Update

**ACTION  
REQUESTED:** Informational and Discussion

---

### **ISSUE**

The MWMC's current effluent discharge permit under the National Pollutant Discharge Elimination System (NPDES) passed the 18-month milestone in May 2024. At the July 12, 2024 MWMC meeting, staff will provide an update on NPDES regulatory tracking status and emerging regulatory issues in advance of the NPDES 5-year permit renewal.

### **BACKGROUND**

The MWMC's current NPDES permit #102486 became effective on November 1, 2022. In the June 2023 MWMC communication packet, staff provided a memo to update the Commission on the first six months of NPDES permit compliance. The memo outlined new and updated monitoring and reporting requirements under the permit and presented a copy of the internal Permit Compliance Guidance Manual staff developed to ensure ongoing reporting milestones are tracked, developed, and submitted on time.

At the December 2023 Commission meeting, staff provided a 12-month update on 2022 NPDES permit compliance. The permit compliance schedule (for thermal load milestones) and reporting requirements were shared, along with information on emerging and evolving regulatory issues that could impact the MWMC's future compliance and reporting requirements.

Issues addressed in these previous updates included:

- Review of DMR, biosolids, groundwater, recycled water, and water quality trading plan compliance submittals completed during the first 12 months of the 2022 NPDES permit.
- Newly adopted electronic data reporting procedures and expanded monitoring and reporting requirements.
- Effluent limit requirements, thermal load compliance schedule, and MWMC readiness to comply.
- MWMC permit compliance reporting practices, correspondence, and record keeping updates.

## **DISCUSSION**

To date, all NPDES permit compliance milestones have been met and staff identifies no concerns with meeting future compliance requirements. Staff will provide updates on the below topics at the July 12, 2024 Commission meeting:

1. NPDES reporting submittals and effluent compliance metrics
2. 2024 legislative and regulatory overview (federal and state)
3. Pertinent issues being tracked for MWMC planning efforts:
  - a. Willamette Basin Temperature TMDL (total maximum daily load) replacement
  - b. PFAS assessments and regulatory trajectories
  - c. Toxics monitoring directives
  - d. Biosolids general permit development
  - e. Oregon recycled water policy review project

## **ACTION REQUESTED**

No action is requested from the Commission. This item is informational only.

## **ATTACHMENTS**

No attachments.