Subject: PFAS Monitoring Expenses

Good Afternoon Directors,

In follow up to Director Davenport's question at the January Board meeting regarding the cost of monitoring PFAS effluent and influent, Jennifer Robinett has prepared the following response:

New Biosolids PFAS monitoring requirements

Metro is required to collect three samples quarterly for RWHTF and one sample quarterly for NTP. This equates to 12 samples per year for RWHTF and four samples per year for NTP. **The total annual cost analysis of these 16 samples is $5,920.** This is still new in January 2023, so we do not yet know if we will have analytical issues that will require us to conduct repeat monitoring events.

Liquid Stream PFAS monitoring requirements

For RWHTF, Metro's permit requires that we conduct one effluent monitoring event for PFAS every month – so 12 effluent monitoring events each year. Each of the PFAS samples are analyzed for 25 different PFAS compounds. If any of the 25 PFAS compounds are detected (level measured is above the method detection limit) in an effluent sample, the permit requires that Metro conduct a minimum of five influent monitoring events for the detected PFAS compounds throughout that same calendar year. There is no difference in cost for analyzing all 25 compounds or less than 25 compounds. The influent and effluent streams at RWHTF are configured differently than most wastewater facilities. That is, the RWHTF has two influent and two effluent streams from which we have to collect samples, so our analytical costs are essentially double what they would be if we had single influent and single effluent streams. Each sampling "event" at the influent and effluent is comprised of 11 total samples; eight compliance samples (four from the north and four from the south) and three total Quality Control samples, which are required per the method.

The **monthly effluent cost is $3,630, which results in a minimum total of $43,560 per year**. If there are any quality control issues that the analytical lab identifies, the monitoring event is not valid and we have to conduct an additional monitoring event for that month. We've generally had to conduct two repeat monitoring events per year.

For the influent, cost per event is $3,630. With five events required per year, **annual influent cost is $18,150.**

We do not currently have any influent or effluent monitoring requirements for NTP, just the new PFAS monitoring required for biosolids at both plants.

Please let me know if you have any questions or need any other information on this. Thank you, Ruth

METRO WATER RECOVERY

RUTH KEDZIOR
Assistant to the CEO
O: 303-286-3306 C: 303-204-8439
MetroWaterRecovery.com

METRO WATER RECOVERY

Board of Directors Meeting

Tuesday, January 17, 2023

The regular monthly meeting of the Board of Directors of Metro Water Recovery will be held Tuesday, January 17, 2023 at 5:30 p.m. in the Administration Building Boardroom.

The **Agenda** will be as follows:

1. ROLL CALL

2. PUBLIC COMMENT

3. APPROVAL OF MINUTES

Minutes of the Board of Directors Meeting on December 20, 2022 *(Tab No. 1)*

4. PROGRESS AND PROJECTION REPORTS

4.a Report by Chief Executive Officer *(Tab No. 2)*

4.b Report by General Counsel *(Tab No. 3)*

5. REPORTS OF OFFICERS AND COMMITTEES

6. NEW BUSINESS

<u>Consent Agenda</u>

6.a **Consideration of Designation of Place for Posting Meeting Notices** [Recommended O/F/E] *(Tab No. 4)*

6.b **Consideration of North Secondary Upgrades and Intensification Project (PAR 1411) Preconstruction Services Agreement and Appropriation** [Recommended O/F/E] *(Tab No. 5)*

6.c **Consideration of Rules and Regulations Significant Industrial User Definition Update** [Recommended O/F/E] *(Tab No. 6)*

<u>Roll Call Agenda</u>

6.d **Consideration of Sludge Holding Tank Cleaning Services Contract** [Recommended O/F/E] *(Tab No. 7)*

7. INDIVIDUAL DIRECTOR COMMENTS

8. OTHER INFORMATION

9. ADJOURNMENT

Andrew Johnston
Chair

Committee Meeting Minutes in Chronological Order *(Tab No. 8)*.

MC:rak/lmn

METRO WATER RECOVERY

Board of Directors Meeting
January 17, 2023

Action Items—Committee Recommendations

1. Consideration of Designation of Place for Posting Meeting Notices

Operations : Unanimously recommended approval.
Finance : Unanimously recommended approval.
Executive : Unanimously recommended approval.

2. Consideration of North Secondary Upgrades and Intensification Project (PAR 1411) Preconstruction Services Agreement and Appropriation

Operations : Unanimously recommended approval.
Finance : Unanimously recommended approval.
Executive : Unanimously recommended approval.

3. Consideration of Rules and Regulations Significant Industrial User Definition Update

Operations : Unanimously recommended approval.
Finance : Unanimously recommended approval.
Executive : Unanimously recommended approval.

4. Consideration of Sludge Holding Tank Cleaning

Operations : Unanimously recommended approval.
Finance : Unanimously recommended approval.
Executive : Unanimously recommended approval.

MC:rk/lmn

METRO WATER RECOVERY

Minutes of the Regular Meeting of the Board of Directors

December 20, 2022

The Board of Directors of Metro Water Recovery, in the Counties of Adams, Arapahoe, Douglas, Jefferson, and Weld, and the City and County of Denver, State of Colorado, met in regular session at 6450 York Street, Denver, Colorado, Tuesday, December 20, 2022 at 5:30 p.m. in the Boardroom.

Chair Johnston called the meeting to order.

1. OATH OF OFFICE

The following Director has been appointed by his Member Municipality to complete a two-year term of office expiring June 30, 2023.

Appointed Director	Member Municipality
Kim Schoen	City of Brighton

2. ROLL CALL

Secretary Giddings called the roll.

Officers Present:

Andrew Johnston, Denver	Chair
Sarah Niyork, South Adams	Chair Pro Tem
Jo Ann Giddings, Aurora	Secretary
Del Smith, Bancroft-Clover	Treasurer

Directors Present:

Curt Aldstadt, Westminster	Bob LeGare, Aurora
Peter Baertlein, Denver	Charles Long, Thornton
Greg Baker, Aurora	Martin Majors, Fruitdale*
Phil Burgi, Wheat Ridge*	Charlie Miller, Fort Lupton*
Nadine Caldwell, Aurora	Jamie Miller, North Table Mountain
John Chavez, Berkeley	Steve Pott, Applewood
David Councilman, Pleasant View	Bill Ray, Arvada
Deborah Crisp, East Lakewood	Bob Roth, Aurora*
Clark Davenport, Northwest Lakewood	Kim Schoen, Brighton*
James DeHerrera, Aurora	Greg Sekera, Lakewood
Mary Gearhart, Denver	Peter Spanberger, Denver
Joan Iler, Westridge	Mary Beth Susman, Denver
Janet Kieler, Denver	Amerigo Svaldi, North Washington Street
Craig Kocian, Arvada	Dennis Towndrow, North Pecos
Laura Kroeger, Lakewood	Scott Twombly, Thornton
Kathy Laurienti, Crestview*	Jennifer Williams, Denver
Doug Lazure, Denver*	Ronald Younger, Denver

Directors Absent:
Robert Duncanson, Denver

Others Present:

Mickey Conway	Chief Executive Officer (CEO)
Emily Jackson	General Counsel
Liam Cavanaugh	Deputy CEO/Chief Operating Officer (COO)
Molly Kostelecky	Chief Financial Officer
Sherman Papke	Chief Technical Officer
Dawn Ambrosio	Director of Strategy and Communication
Colleen Dempsey	Director of Human Resources
Andy Nelson	Director of Engineering
Jennifer Robinett	Director of Environmental Services
Pat Stanley	Director of Resource Recovery and Reuse
Orren West	Director of Maintenance
Blair Wisdom	Director of Technology and Innovation
Norma Arnwine	Benefits Administrator
Matt Duncan	Senior Treatment Plant Engineering Manager
Dan Freedman	Senior Wastewater Process Engineering Manager
Kelsey Gedge	Senior Transmission Systems Engineering Manager
Brian Haggerty	Senior Compensation and Benefits Manager
Jack Hennes	Communications Specialist Senior
Dawn Hoffman	Administrative Assistant Senior
Muzit Kiflai	Senior Continuous Improvement Manager
Yvonne Kohlmeier	Senior Administrative Assistant
Jim Nickolette	Operations Work Planner Senior
Lydia Nkem	Executive Assistant
Miracle Ott	HRIS and Compensation Analyst
Jordan Parman	Water Quality Scientist Senior
Brittany Peshek	Administrative Analyst
Eugene Taylor	Operations Work Planner Senior
Brandon Tymkovich	Equipment and Transportation Technician II
Lance Wenholz	Transmission Operations Supervisor
Rob White	Fleet Maintenance Manager

*Attended virtually

3. PUBLIC COMMENT

There was no comment.

4. RECOGNITION OF METRO WATER RECOVERY EMPLOYEE REPRESENTATIVES

CEO Conway recognized employee teams who had noteworthy contributions and accomplishments in 2022.

5. RECOGNITION OF THE 2022 BOARD CHAIR AWARD RECIPIENT

Chair Johnston announced the 2022 Board Chair Award Winner, Equipment and Transportation Technician II Brandon Tymkovich, and expressed appreciation for his incredible work ethic, innovating thinking in handling issues, and leadership.

Mr. Stanley expressed appreciation for Mr. Tymkovich's problem solving abilities, being a self-starter, and strong character.

The Board gave a standing ovation for Mr. Tymkovich.

6. APPROVAL OF MINUTES

6.a Minutes of the Board of Directors Meeting on November 15, 2022

Chair Johnston asked if there were any corrections, deletions, or additions to the minutes of the Regular Meeting of the Board of Directors held November 15, 2022.

Director Twombly moved and Director Younger seconded the motion to approve the minutes of the Regular Meeting of the Board of Directors held November 15, 2022.

The motion carried unanimously.

7. PROGRESS AND PROJECTION REPORTS

7.a Report by CEO

CEO Conway reviewed his written report, highlighting the two National Association of Clean Waters (NACWA) 2023 National Environmental Achievement Awards (NEAA) Metro Water Recovery won for the *How We Transform Wastewater Website* and the *South Platte River Aquatic Life/Habitat Improvements Project* and the return of Connector presentations with a visit to North Table Mountain Water and Sanitation District. He also noted Connectors should inform staff if they are interested in a presentation. [Note: Interested Directors can email Ruth Kedzior at rkedzior@metrowaterrecovery.com to schedule a Connector presentation.]

7.b Report by General Counsel

General Counsel Jackson expressed appreciation for the Board's feedback to expand the content in the General Counsel report and reviewed this month's highlights.

Ms. Jackson answered a question regarding the difference between finding of fact and a deposition in a legal case.

8. REPORTS OF OFFICERS AND COMMITTEES

8.a Strategic Plan Committee:

Director Kroeger gave an update on the Strategic Plan refresh, noting the Committee heard from the employee Values Group and the next Committee meeting is a workshop scheduled for January 31, 2023.

8.b Meeting Minutes:

There were no additions to the following meeting minutes:

Defined Benefit Plan Retirement Board August 25, 2022

Defined Contribution Plan Retirement Board	August 25, 2022
Operations Committee	December 6, 2022
Finance Committee	December 8, 2022
Executive Committee	December 13, 2022

9. NEW BUSINESS

Consent Agenda

9.a Consideration of Rescinding Unexpended Appropriations

Director Baertlein moved and Director Ray seconded the motion to adopt the following resolution:

WHEREAS, a number of projects of Metro Water Recovery, hereinafter referred to as "Metro," have been completed and it is now necessary certain unexpended appropriations be rescinded; and

WHEREAS, the total of the unexpended appropriations is as follows:

General Fund Capital Project Account	$295,765.48
Fixed Asset Replacement Fund	744,031.78
Acquisition and Construction Fund	1,500,000.00
Total Unexpended Appropriations	$2,539,797.26; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend such appropriations be rescinded; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the unexpended balances of the appropriations set forth in the attached Schedule of Appropriations To Be Rescinded—December 2022 be and hereby are rescinded.

The motion carried unanimously.

Roll Call Agenda

9.b Consideration of Sludge Processing Improvements Project (PAR 1244) Contract Dewatering Services Agreements

Director Younger moved and Director Iler seconded the motion to adopt the following resolution:

WHEREAS, it is in the best interest of Metro Water Recovery, hereinafter referred to as "Metro," to enter into an Agreement to provide contract dewatering services to supplement the existing Sludge Processing Facility; and

WHEREAS, due to delays associated with the Sludge Processing Improvements Project (PAR 1244) (Project), the extended run time on the existing dewatering equipment at the Robert W. Hite Treatment Facility has presented operational difficulties, specifically concerns related to the existing dewatering equipment being able to meet wintertime biosolids dewatering needs; and

WHEREAS, a contract with an external firm is required for additional dewatering capacity to ensure Metro is able to continue removing solids from the site as Metro enters the high solids loading period this winter; and

WHEREAS, pursuant to Metro's *Purchasing and Contracting Policies*, Metro staff contacted three firms capable of providing contract dewatering operations and two firms provided proposals; and

WHEREAS, a Selection Committee comprised of Metro staff evaluated the proposals and determined P&H Senesac, Inc. provided the best value to Metro; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into an Agreement with P&H Senesac, Inc. to provide contract dewatering services to supplement the existing Sludge Processing Facility at a rate of $167,000 per month and up to $70,000 for administrative costs; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the Chief Executive Officer be and hereby is authorized to enter into an Agreement with P&H Senesac, Inc. to provide contract dewatering services to supplement the existing Sludge Processing Facility at a rate of $167,000 per month and up to $70,000 for administrative costs.

Chair Johnston called for a roll call vote which carried with 38 Directors voting Yes:

Curt Aldstadt	Andrew Johnston	Bill Ray
Peter Baertlein	Janet Kieler	Bob Roth
Greg Baker	Craig Kocian	Kim Schoen
Phil Burgi	Laura Kroeger	Greg Sekera
Nadine Caldwell	Kathy Laurienti	Del Smith
John Chavez	Doug Lazure	Peter Spanberger
David Councilman	Bob LeGare	Mary Beth Susman
Deborah Crisp	Charles Long	Amerigo Svaldi
Clark Davenport	Martin Majors	Dennis Towndrow
James DeHerrera	Charlie Miller	Scott Twombly
Mary Gearhart	Jamie Miller	Jennifer Williams
Jo Ann Giddings	Sarah Niyork	Ronald Younger
Joan Iler	Steve Pott	

10. INDIVIDUAL DIRECTOR COMMENTS

Chair Johnston expressed appreciation to staff for the clear and thorough work done on the memos and Board packets.

Director Younger expressed appreciation to CEO Conway, Ms. Jackson, and staff for the tremendous work done this past year in the face of various challenges.

11. OTHER INFORMATION

There was none.

12. ADJOURNMENT

Chair Johnston adjourned the meeting at 5:58 p.m.

MC\rak\lmn

METRO WATER RECOVERY

MEMORANDUM

TO: Board of Directors **DATE:** January 12, 2023

FROM: Mickey Conway, Chief Executive Officer

RE: Chief Executive Officer's Report

1. Acknowledgement of Board of Directors Ethical Standards/Expense Vouchers

If you have not yet submitted your Acknowledgement of Board of Directors Ethical Standard/Code of Conduct form or the expense voucher for your July to December 2022 attendance and mileage, please mail or email the completed information to the Office of the CEO by the Board meeting on Tuesday, January 17, 2023. Directors with questions regarding the expense vouchers are asked to contact Yvonne Kohlmeier at 303.286.3358 or ykohlmeier@metrowaterrecovery.com.

2. Mileage Reimbursement

Directors report mileage on the meeting expense voucher completed each January and July and are reimbursed for their mileage to attend all Board of Directors and Committee meetings, workshops, and events. The Internal Revenue Service (IRS) announced the standard business mileage rate for transportation expenses paid or incurred beginning January 1, 2023 will be 65.5 cents per mile. To be consistent with the IRS allowance, Metro Water Recovery reimbursement for use of non-Metro automobiles on Metro business is 65.5 cents per mile, effective January 1, 2023.

3. Type 1 Connections/Special Connector Expansion Requests

Under *Metro Water Recovery Rules and Regulations Governing Operation, Use and Services of the System* *(Rules and Regulations or Rules)*, the Chief Executive Officer (CEO) is authorized to approve new Type 1 connections to Metro's interceptor system and Special Connector Service Area expansion requests in cases where the projected ultimate wastewater flow is equal to or less than ten million gallons per year (MGY). The CEO is required to report to the Board on an annual basis of all such approvals.

The CEO did not approve any Type 1 Connections or Special Connector requests for Service Area expansion in 2022.

4. Interim Strategic Goals

Attached is a list of the Strategic Goals and tactics which will be continuing to guide the organization until the refresh to the Strategic Plan is approved in May 2023. These goals are a continuation of the goals we have been focusing on for the past few years and are guiding our priorities in this new year.

5. Metro Water Recovery Project Follow Up

The attached report includes information regarding the Electrical Transmission Service Substation Project (PAR 1265) Construction Contract, Engineering Services Amendment, Xcel Energy Agreements, and Appropriation.

6. Connector Annual Charge Presentation

Staff will offer a webinar covering the Annual Charge calculation process for Connectors on the following dates:

- Tuesday, February 7, 2023 at 2 p.m.
- Wednesday, March 8, 2023 at 9 a.m.

Connector members interested in attending the presentations should contact Dawn Ambrosio at dambrosio@metrowaterrecovery.com.

7. *Metro Talks* for Employees

This past year, *Metro Talks* was created as an internal communications program to engage employees in topics relevant to the wastewater sector and the complex operations of Metro Water Recovery. The response has been highly successful. Through this platform, I held a financial "lunch and learn" in November to explain how Metro brings in revenue and how the revenue is allocated to operations and capital projects. Because the interest level was so high, I did a repeat of this session in early January. It is rewarding for me to see a high level of employee engagement and I look forward to hosting more "lunch and learns" this year on different topics.

8. Polar Vortex Crews

Several Metro Water Recovery employees went the extra mile to protect Metro equipment and facilities from the latest Polar Vortex. One team traveled miles to keep Metro's METROGRO Farm equipment running 24/7 when temperatures dropped below zero last month. The following Fleet Maintenance employees worked 12-hour shifts on a private farm close to Wiggins, where biosolids were being applied:

Kirk Davidsmeyer
Chris Ernst
Dallas Gavito
Pat Moncrief
Zack Rauschenberger

Fleet Maintenance Supervisor Rob White reported in subzero cold the team has to keep the equipment running all night, so it won't freeze. It makes for a long night sitting in a truck listening to the equipment sputter when the diesel fuel starts to gel, and we appreciate the dedication of this team.

Since 1987, Metro Water Recovery has had standard operating procedures in place to maintain equipment properly in frigid temperatures. Crew members are by themselves, except for two hours in the morning and three hours in the evening, when the shifts overlap. They are in a big service truck, which is heated, and are provided insulated coveralls, coats, and other gear. Every hour, they move the equipment around to prevent freezing. This approach ensures Metro's biosolids land application equipment is well maintained and ready to work when the thaw comes.

Fleet Maintenance crew with StratComm team members

9. Upcoming Events

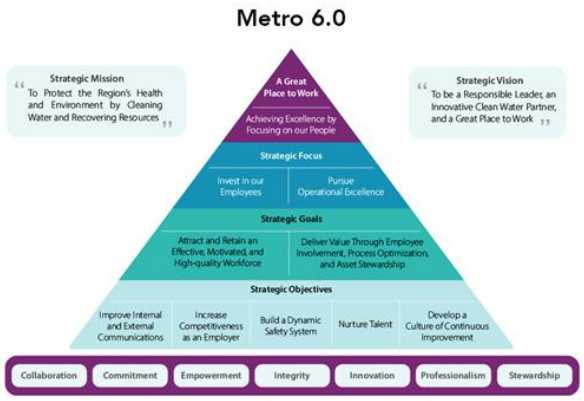
Directors are asked to add applicable meeting dates to their calendars.

Date	Event/Location
Thursday, February 23, 2023 7:30 a.m. (breakfast served at 7 a.m.)	Defined Benefit Plan Retirement Board Boardroom
Thursday, February 23, 2023 12:30 p.m. (lunch served at noon)	Defined Contribution Plan Retirement Board Boardroom
Thursday, March 9, 2023 Immediately following Finance Committee	Finance Committee Budget Workshop Boardroom
Thursday, April 6, 2023 9 a.m. or directly following Finance	Audit Committee Boardroom
Thursday, April 13, 2023 8 a.m. (breakfast served at 7 a.m.)	Spring Board Workshop Northern Treatment Plant Visitor Center Presentation Room
Wednesday, April 19, 2023 TBD	Wastewater Worker Recognition TBD
Thursday, May 18, 2023 7:30 a.m. (breakfast served at 7 a.m.)	Defined Benefit Plan Retirement Board Boardroom
Thursday, May 18, 2023 12:30 p.m. (lunch served at noon)	Defined Contribution Plan Retirement Board Boardroom

Date	**Event/Location**
Friday, May 19, 2023 TBD	Bike to Work Day TBD
Wednesday, June 14, 2023 TBD	Spring Metro 6.0 Town Hall/Field Day TBD
Thursday, July 20, 2023 ***7 a.m. – 2:30 p.m.***	METROGRO Farm Tour ***Meet at Administration Building***
Thursday, July 6, 2023 7:30 a.m. (breakfast served at 7 a.m.)	Joint Operations / Finance Committee Boardroom
Monday, August 21, 2023 TBD	New Director Orientation Boardroom
Thursday, August 24, 2023 7:30 a.m. (breakfast served at 7 a.m.)	Defined Benefit Plan Retirement Board Boardroom
Thursday, August 24, 2023 12:30 p.m. (lunch served at noon)	Defined Contribution Plan Retirement Board Boardroom
Thursday, October 26, 2023 8 a.m. (breakfast served at 7 a.m.)	Fall Board Workshop TBD
Thursday, November 9, 2023 9 a.m. or directly following Finance	Audit Committee Boardroom
Wednesday, November 15, 2023 TBD	Fall Metro 6.0 Town Hall TBD
Thursday, November 30, 2023 7:30 a.m. (breakfast served at 7 a.m.)	Defined Benefit Plan Retirement Board Boardroom
Thursday, November 30, 2023 12:30 p.m. (lunch served at noon)	Defined Contribution Plan Retirement Board Boardroom
Tuesday, December 19, 2023 4:45 p.m.	Annual Employee Recognition Reception Prior to Board of Directors Meeting

MC:rak/lmn/ts

2023 Strategic Goals



Implementation of Strategic Plan

In 2017, Metro Water Recovery began to implement the 2016 Strategic Plan (Plan), which identified more than 60 tactics designed to support its mission, "To protect the region's health and environment by cleaning water and recovering resources."

In 2022, the Board of Directors started a Committee to update the Plan. The update is expected to be completed in the second quarter of 2023. With that in mind, Metro Water Recovery staff continues the work of executing tactics identified in the 2016 Plan. These tactics are expected to be completed in 2023 or expanded upon in the Plan update.

A high-level summary of the goals, objectives, and active associated tactics is as follows:

Employer of Choice

Objective: Increase Competitiveness as an Employer

Tactic: Develop Strategic Employment Branding

Operational Excellence

Objective: Improve Internal and External Communications

Tactic: Develop and Implement Communication Plan

Tactic: Brand Enhancement

Objective: Develop a Culture of Continuous Improvement

Tactic: Asset Management Program Implementation

Tactic: Develop and Implement a Culture of Continuous Improvement Program

Tactic: Develop and Implement Information Technology Master Plan

Tactic: Enhance Data Management and Usage

Electric Transmission-Level Service Substation Project (PAR 1265)
Prepared by Ben Ruder, Principal Engineer

Background

Electrical supply to the Robert W. Hite Treatment Facility (RWHTF) during original construction in the 1960s included two medium voltage feeders at 13.2 kilovolt (kV) from Xcel Energy (Xcel), formerly Public Service Company of Colorado. The electrical supply and distribution system at the RWHTF has since experienced extensive modifications required to support a significant increase in electrical demand correlating to increased wastewater treatment, both in quantity and standards since the 1960s.

Currently, there are five major and four minor medium voltage Xcel feeders providing electrical service to the RWHTF. In addition to the Xcel feeders, Metro Water Recovery produces between four megawatts (MW) and five MW of power via the Cogeneration Facility using a combination of biogas produced in the anaerobic digesters and natural gas. The five major feeders are currently connected to three Automatic Transfer Operation (ATO) medium voltage switchgear. A fourth medium voltage ATO, the Southeast ATO, is installed in a standalone electrical building. The Southeast ATO is connected to the other three ATOs and provides the capability for bi-directional power flow. Electrical power generated from the Cogeneration Facility is connected to this switchgear and is distributed to various loads around the site.

The four minor feeds to the RWHTF are connected to four Xcel-owned transformers located at the following four buildings on the RWHTF site: Transmission, Administration, Resource Recovery and Reuse (RR&R) Biosolids & Fleet Services (RBFS), and South Guard House.

The RWHTF currently experiences several power outages per year on the five main Xcel feeders. These outages can occur at any time without notice and can extend for several hours per outage. The outages can be caused by inclement weather, overhead line damage, rodent intrusion, other Xcel customers, and Xcel repair and maintenance operations. These outages cause operational hurdles and can lead to major disruptions in treatment activities. Metro Water Recovery has added distribution-level services to the plant as increased capacity has been required. Metro is one of the region's single largest customers on distribution-level service and future capacity increases at the RWHTF will be difficult and costly to implement by Xcel. This Project was initiated in July 2015 as a small project study phase to evaluate transitioning from Xcel's 13.2 kV distribution-level service to Xcel's 115 kV transmission-level service. Metro entered into an Engineering and Procurement (E&P) Agreement with Xcel, and completed preliminary siting, engineering, and design for this new service. Metro contracted with NEI Electric Power Engineering, Inc. (NEI), acting as Owner's advisor for negotiation of the E&P and to complete the Study Phase Report, and with Jacobs Engineering Group Inc. (Jacobs) to perform surveying services on the parcel of land identified for siting the proposed Xcel switchyard and distribution switchgear. The study phase was completed in October 2020.

Contract Status and Scope of Work

In May 2021, the Board of Directors authorized a Professional Services Agreement with NEI for $2,511,500 and appropriated $2,927,500 for the Project, following a competitive selection process. For additional information the memo is linked here. The Notice to Proceed was issued on June 7, 2021.

In a memo dated December 8, 2021, the Board authorized a Preconstruction Services Agreement with PCL Construction, Inc. (PCL) for $330,000 and appropriated an additional $374,000 for the Project, following a competitive selection process. In a memo dated June 21, 2022, the Board authorized a Construction Services Contract with PCL for $9,650,000 for early procurement of equipment and materials and an increase to the Professional Services Agreement with NEI for $75,000. Notice to Proceed for construction of Work Package 1 (WP1) was issued on September 15, 2022. In July of 2022, the Board also authorized $19,2000,000 associated with Xcel's portion of the work, to design, build and operate the Switchyard. Metro Water Recovery and Xcel are in the process of negotiating and executing an Electric

Service Agreement (ESA), defining the long-term operation of Xcel's and Metro's high and medium voltage facilities, and have executed a Construction Services Agreement (CSA) in October of 2022 to engineer, design, procure, and construct Xcel's facilities.

Since the last update, provided in the July 2022 Report by the Chief Executive Officer, NEI has completed the following deliverables: Delivered the 90 percent design of the Medium Voltage Distribution (under Work Package #2) work south of the South Platte River; performed construction phase services in support of PCL during the construction phase of Site Improvements and Early Procurement Equipment (Work Package #1); supported PCL to finalize the Storm Water, Floodplain Use, Grading, and Inert Fill permits; and resubmitted the 1041 permit to Adams County for final approval. The 90 percent design of the Substation work north of the South Platte River will be delivered January 26, 2023 (under Work Package #2).

Since the last update, PCL has completed the following deliverables: Additional early potholing activities, investigation/scoping of existing electrical conduit, 60 percent price model for overall project, executed the Construction Contract for Work Package #1, began construction activities associated with Work Package #1, assisted with the selection of Virginia Transformers for early procurement of equipment, conducted two value engineering workshops, and developed and maintained the project risk matrix.

The project team has decided to cross the South Platte River via a utility/cart bridge in lieu of tunneling under the river. This decision was made after thorough consideration and investigation. Due to existing utilities and soil conditions several alternatives were eliminated. The utility/cart bridge was determined to be the most cost-effective solution, have the lowest environmental impact, and provide benefit to Metro Water Recovery staff, providing a safer access route for pedestrian and cart traffic.

Importing Fill Material

First Lift of Fill Material

Conditioning Import Material to Achieve Optimal Moisture Content and Compaction

METRO WATER RECOVERY

MEMORANDUM

TO: Board of Directors **DATE:** January 9, 2023

FROM: Emily Jackson, General Counsel

RE: General Counsel Report

ONGOING BUSINESS

LEGISLATIVE SESSION PREVIEW

On January 4, 2023, Metro Water Recovery staff members Reed Koenig, Dawn Ambrosio, and Erin Bertoli attended the 2023 Business Legislative Preview, hosted by the Denver Metro Chamber of Commerce and the Colorado Competitive Council. During the preview, General Assembly majority and minority leaders discussed their plans and priorities in the coming legislative session. The General Assembly will convene the next regular session on January 9, 2023.

OGC Monthly Numbers

- ✓ 4 Resolutions Drafted
- ✓ 5 Contracts Reviewed
- ✓ 5 Total Requests Completed
- ✓ 1 Engineering Issue Resolved

PAR 1244 SOLIDS PROCESSING BUILDING IMPROVEMENTS PROJECT UPDATES

On January 5, 2023, MWH Constructors (MWHC), submitted a letter offering an extended warranty of the Centrifuge Vendor system, including faulty components such as broken tiles and stated MWHC believes the building is ready to proceed to operational testing. On January 6, 2023, Metro Water Recovery accepted the extended warranty through a field order and, together with its engineer, issued a work change directive to add a 20-calendar day Initial Operational Test to the contract during which time the entire system will be used to process biosolids. This will give additional time to evaluate the entire system. This Initial Operation Test will precede the preexisting ten-calendar day continuous process Operational Test. MWHC needs to address a few items related to the storage bin relays and centrifuge 4-1 vibration module (conditioning monitoring hardware) before the Initial Operational Test can begin, which Metro hopes will start the third week of January.

SUBMITTED PERMIT MODIFICATION

On December 30, 2022, Metro Water Recovery submitted a request to modify its water quality discharge permit for the Robert W. Hite Treatment Facility (RWHTF). The timing of the request is six months before the RWHTF permit is scheduled to end, and the Water Quality Control Division (Division) will have 180 days to review and process the request. Metro is requesting the compliance schedule associated with attaining compliance with the temperature effluent limits be extended to allow Metro to improve the quality of its effluent and install additional power, both of which are necessary to support cooling towers. Metro staff had discussed the permit modification with Division staff prior to submitting the request.

PFAS AND BIOSOLIDS AND STARTING TO SAMPLE

On December 19, 2022, Metro Water Recovery received correspondence from the Division which stated, starting January 2023, Metro will be required to commence sampling biosolids for 40 per- and polyfluoroalkyl substances (PFAS) constiuents using the draft Environmental Protection Agency (EPA) 1633 method. The frequency is based on the size of a facility. Because of Metro's size, Metro is required to collect 12 samples/year, specifcally three samples each quarter, and report the results to the Division. If a perfluorooctane sulfonic acid (PFOS) sample exceeds the trigger level of 50 µg/kg or greater, the Division recommends contacting the Division and developing and implementing a Source Control Program.

LITIGATION

New developments since last month's report are shown in **bold**.

MWH CONSTRUCTORS LITIGATION

On August 26, 2022, MWH Contractors (MWHC or Plaintiff) filed a civil action (2022cv32466) in Denver County District Court against Metro Water Recovery concerning the Solids Processing Building Improvements Project (PAR 1244) (Project). The action requests declaratory judgment related to the following allegations-implied warranty, a duty to disclose superior knowledge, mutual mistake, and MWHC is not responsible for delays and damages caused by KWS Manufacturing Company (KWS), as well as alleging breach of contract. The claims relate to issues arising from the gates supplied by KWS. The gates release biosolids from the four storage bins to the METROGRO trucks. Metro does not have a contractual relationship with KWS; MWHC holds the contract with KWS. MWHC filed the complaint in the wrong venue, Denver District Court rather than Adams County District Court. Metro filed a Motion to Change Venue. Denver District Court issued an order to move the venue, and the Courts worked through the process of moving the venue, so the case is now in Adams County District Court. Metro filed its Answer on November 17, 2022. Metro disputes the allegations in the Complaint and the relief sought.

On December 22, 2022, Metro Water Recovery filed a Motion for Judgment on the Pleadings, which is a form of a dispositive motion under Rule 12(b)(5) of the Rules of Civil Procedure, similar to a motion to dismiss. In the motion, Metro contends Counts I-IV in MWHC's complaint should be dismissed for a variety of reasons including a Supreme Court doctrine called the *Sperian* doctrine which does not apply to MWHC's implied warrant claim, the express warranties render *Sperian* inapplicable, and *Sperian* is inapposite to the KWS Relationship; the superior knowledge doctrine fails because the contract placed a duty of inquiry on MWHC; the allegation of mutual mistake fails because the mistake alleged was a future expectation not a present condition existing at the time the contract was executed; and the economic loss doctrine precludes MWHC from alleging a tort claim of negligence. MWHC has not filed a response yet. Once the parties brief the motion, the court will consider the arguments and does not have a deadline to issue an order.

On January 5, 2023, the parties exchanged initial disclosures.

Metro Water Recovery has employed outside legal counsel to assist with this matter. Outside counsel for Metro is Laurin Quiat with BakerHostetler.

DITCH COMPANIES LITIGATION

On March 15, 2021, the Farmers Reservoir and Irrigation Company, Burlington Ditch Reservoir and Land Company, and Henrylyn Irrigation District (collectively, Plaintiffs) filed a civil action (Case Number 2021CV30324) in Adams County District Court against Metro Water Recovery. The action asserts breach of contract, declaratory judgment, and promissory estoppel claims arising out of an alleged breach of a 1968 Agreement (Agreement) between Metro, City and County of Denver acting through the Board of Water Commissioners (Denver Water), and Plaintiffs. Among other relief, Plaintiffs seek a court order requiring Metro obtain a water quality discharge permit for an outfall to the Burlington Canal which is currently not in operation due to a lack of connecting infrastructure.

Metro Water Recovery disputes the allegations in the Complaint and the relief sought. On May 10, 2021, Metro filed a Motion to Dismiss, arguing Plaintiffs' claims should be dismissed pursuant to C.R.C.P. 12(b)(1) and 12(h)(3) for lack of subject matter jurisdiction and pursuant to C.R.C.P 12(b)(5) for failure to state a claim. The Plaintiffs responded to the motion, and Metro replied. On February 15, 2022, the Court denied the Metro's Motion to Dismiss. Metro submitted its answer including counterclaims on March 18, 2022. The trial has been set for December 4, 2023.

Metro Water Recovery has employed outside legal counsel to assist with this matter. Outside counsel for Metro is Colin Deihl with Polsinelli.

DONALD TEMPLES LITIGATION

On June 2, 2021, Donald Temples, a tanker truck driver who delivered polymer to Metro Water Recovery, filed a civil action (Case Number 2021CV31691) in Denver District Court against Metro and John Doe Construction Company, and subsequently amended its complaint three times to name PCL Construction and the concrete subcontractor Blue Ribbon Concrete, Inc as defendants. The action asserts premises liability arising out of an alleged slip and fall accident. Additionally, the workers' compensation insurance company for Mr. Temples' employer filed a complaint in intervention seeking subrogation for the benefits paid to or on behalf of Mr. Temples as well as motion to intervene.

On June 22, 2021, Metro Water Recovery filed a motion for stay of proceedings and for leave to conduct limited discovery for purposes of determining sovereign immunity pursuant to C.R.S. § 24-10-108. On July 27, 2021, Metro filed its answers to the complaints disputing the allegations and the relief sought. On September 14, 2021, the Court issued an order granting Metro's motion, thereby staying the proceeding. During this period the parties were allowed to conduct discovery limited to the issue of sovereign immunity. On January 27, 2022, Metro filed a Motion to Dismiss outlining the undisputed facts gained during the discovery period and providing the legal arguments why Plaintiff's claims are barred by the Colorado Governmental Immunities Act. The motions practice has concluded on the Motion to Dismiss. On September 30, 2022, the Court issued an order to set a hearing on Metro's Motion to Dismiss to resolve remaining factual disputes. The court set the hearing for Tuesday, November 22, 2022.

The hearing on the Motion to Dismiss occurred on Tuesday, November 22, 2022. Three Metro staff and Donald Temples were called as witnesses. The judge did not issue an order from the bench. She directed both parties to draft Findings of Fact and Conclusions of Law for her consideration, **which the parties filed on December 20, 2022. On December 27, 2022, the judge issued an order denying Metro's motion to dismiss.**

Through the Colorado Special Districts Property and Liability Pool, with which Metro Water

Recovery carries general liability insurance, Metro has employed outside legal counsel to assist with this matter. Outside counsel for Metro is Marni Nathan Kloster with Nathan Dumm & Mayer, P.C.

0123-B6.a

RESOLUTION
BOARD OF DIRECTORS
METRO WATER RECOVERY
January 17, 2023

WHEREAS, the Colorado Open Meetings Law, C.R.S. § 24-6-402(2)(c), requires Metro Water Recovery, hereinafter referred to as "Metro," to designate the public place for posting meeting notices at its first regular meeting of each calendar year; and

WHEREAS, Metro staff recommends the lighted, glass-enclosed bulletin board located at the turnaround outside of the security guard house at the main entrance to the Metro facility located at 6450 York Street, Denver, Colorado, be designated as the public place for posting meeting notices; and

WHEREAS, the Operations, Finance, and Executive committees, after having reviewed the matter, concur in the recommendation of staff;

NOW, THEREFORE, BE IT RESOLVED the lighted, glass-enclosed bulletin board located at the turnaround outside of the security guard house at the main entrance to the Metro Water Recovery facility located at 6450 York Street, Denver, Colorado, be and hereby is designated as the public place for posting meeting notices.

0123-B6.b

RESOLUTION
BOARD OF DIRECTORS
METRO WATER RECOVERY
January 17, 2023

WHEREAS, it is necessary Metro Water Recovery, hereinafter referred to as "Metro," enter into an Agreement for preconstruction phase services for the North Secondary Upgrades and Intensification Project (PAR 1411) (Project); and

WHEREAS, the North Secondary Complex (NSEC) was part of the original "Central Treatment Plant" construction in the mid-1960s and is approaching its process capacity; and

WHEREAS, to address the capacity issue in the NSEC, it is necessary to replace aging fixed assets in the NSEC and implement the densified activated sludge (DAS) process, also referred to as "densification", to increase the NSEC treatment capacity without constructing additional aeration basins and clarifiers; and

WHEREAS, on September 26, 2022, Metro posted a Request for Proposals on the Rocky Mountain E-Purchasing site (*BidNet*) for the preconstruction phase services for the Project, and received four proposals on November 4, 2022; and

WHEREAS, through a standard Construction Manager-At-Risk selection process, the proposals were reviewed by Metro staff, and two firms were invited to participate in interviews on December 7, 2022, with a Selection Committee of Metro staff and Board Directors; and

WHEREAS, the Selection Committee recommended selecting PCL Construction, Inc. (PCL) to provide preconstruction phase services for the Project and, on behalf of the Board of Directors, Directors on the Selection Committee instructed staff to negotiate an agreement; and

WHEREAS, Metro staff has negotiated an agreement with PCL in the amount of $1,459,000 to provide preconstruction phase services for the Project; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into an Agreement with PCL in the amount of $1,459,000 to provide preconstruction phase services for the Project; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the Chief Executive Officer be and hereby is authorized to enter into an Agreement with PCL Construction, Inc. in the amount of $1,459,000 to provide preconstruction phase services for the North Secondary Upgrades and Intensification Project (PAR 1411); and

BE IT FURTHER RESOLVED the sum of $1,615,000 be and hereby is appropriated for this Project, 90 percent from the Fixed Asset Replacement Fund Capital Project Account and ten percent from the General Fund Capital Project Account.

0123-B6.c

RESOLUTION
BOARD OF DIRECTORS
METRO WATER RECOVERY
January 17, 2023

WHEREAS, it is necessary Metro Water Recovery, hereinafter referred to as "Metro," update the Significant Industrial User (SIU) definition in *Metro Water Recovery's Rules and Regulations Governing the Operation, Use, and Services of the System* (*Rules and Regulations*); and

WHEREAS, through implementation of the Pretreatment Program, Metro staff discovered its definition of SIU in its *Rules and Regulations* does not match the federal definition, and to remain consistent with federal program, the *Rules and Regulations* must be updated; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to update the definition of SIU in the *Rules and Regulations* to match the federal definition; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED amendments to Section 2 of *Metro Water Recovery's Rules and Regulations Governing the Operation, Use, and Services of the System (Rules and Regulations)* attached hereto be and hereby are adopted and incorporated into the *Rules and Regulations* of Metro; and

BE IT FURTHER RESOLVED the amendments for Section 2 of Metro's *Rules and Regulations* be and hereby shall be effective upon U.S. Environmental Protection Agency approval.

78. **Sewage** or **Wastewater** means liquid wastes, solid wastes, night soil, industrial wastes, and any other substance, whether it be liquid, solid, in suspension, or in solution, in a Municipal Sewer System or in the Metro Water Recovery System, or in both such systems.

79. **Sewer Connection** means any physical connection to the Metro Water Recovery System or Municipal Sewer System, whether direct or indirect, through which Flow does or may enter into the Metro System. A "stub-in" made for the convenience of construction shall not be considered a physical connection until it is connected to a building or structure.

80. **Sewer Connection Charge** means the charge set by the Board of Directors for each Single Family Residential Equivalent connection.

81. **Sewer Connection Charges** or **Total Sewer Connection Charges** means the sum total of charges due from a Connector or Special Connector in a quarter or a year pursuant to the Sewer Connection Charge.

82. **Sewer Connection Permit** means any document or permit, including but not limited to a building permit, sewer connection permit, inspection certificate, certificate of occupancy, or other document issued by a Connecting Muncipality or Special Connector which authorizes for a specific address(es) the use of a Municipal Sewer System or the Metro Water Recovery System for a new or altered connection and requires payment of a Sewer Connection Charge to the Connecting Municipality or Special Connector. The Sewer Connection Permit shall be designated by a Connecting Municipality or Special Connector and filed with Metro and shall be consistently used by the Connecting Municipality or Special Connector such that Metro can audit the Sewer Connection Charge payments accurately. Any document described above may be designated as a Sewer Connection Permit, but in no case can a Sewer Connection Permit be issued after a User is actually connected to and using the Municipal Sewer System or the Metro System or after a certificate of occupancy is issued for the address(es) associated with the new or altered connection.

83. **Significant Industrial User** (SIU) means:

(a) Except as provided in paragraphs (b)~~v)(2)~~ and (c)~~v)(3)~~ of this section, the term Significant Industrial User means:

i. All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

ii. Any other Industrial User that:

1. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

2. Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or

3. Is designated as such by ~~the Control Authority~~Metro Water Recovery on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

~~(a)~~(b) Upon a finding that an Industrial User meeting the criteria in paragraph (a) above never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standards) Metro Water Recovery may determine the Industrial User a Nonsignficant CIU if the following conditions are met:

i. the Industrial User, prior to Metro's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

~~i.~~

ii. the Industrial User annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and

~~i.~~

~~ii.~~iii. the Industrial User never discharges any untreated concentrated Wastewater.

~~(b)~~(c) Upon a finding that an Industrial User meeting the criteria in paragraphs ~~(b), (c), or (d)~~ (a)(ii)(1-3) above has no reasonable potential for adversely affecting Metro Water Recovery's operation or for violating any Pretreatment Standard or Requirement, Metro may at any time, on its own initiative or in response to a petition received from a Municipality or Industrial User, determine that such Industrial User is not a SIU.

84. **Single Family Residential Equivalent (SFRE)** means the capacity of sewer service or water service necessary for a single family household.

85. **Slug Discharge** means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge which has a reasonable potential to cause Interference or Pass Through, or in any other way violates Metro Water Recovery's *Rules and Regulations*, local limits, or permit conditions.

86. **Special Connector** means a Municipality which receives service from Metro Water Recovery by contract and is not a Member but is directly connected with an Interceptor of Metro.

87. **Special Connectors Agreement** means the standard form of contract which Metro Water Recovery enters into with Special Connectors.

88. **Staff** means the staff of Metro.

SECTION 2

DEFINITION OF TERMS

The terms used in these *Rules and Regulations*, except where the context clearly implies otherwise, shall have the meanings herein specified.

1. **Act** means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq*.

2. **Administrator** means the Administrator of the U.S. Environmental Protection Agency (EPA).

3. **Altered Sewer Connection** or **Altered Connection** means any direct or indirect Sewer Connection which serves a building or structure in which the number of single family units (as defined in Section 7.4.1) is increased, single family units are converted to other than single family units, or where there is an increase in the size of the Water Service Tap.

4. **Amalgam** means an alloy of mercury with various metals used by dentists to fill cavities in teeth.

5. **Amalgam Separator** means a device designed to remove Amalgam from a Dental Facility's Wastewater before it discharges to a sanitary sewer system.

6. **Amalgam Waste** means any waste from a Dental Facility containing Amalgam. This includes any Amalgam generated or collected by chair side traps, screens, filters, vacuum system filters, Amalgam Separators, and Amalgam that may have accumulated in the plumbing system.

   (a) "Non-contact amalgam" includes scrap or excess Amalgam after the procedure is complete, as well as pre-encapsulated dental Amalgam capsules and the remaining Amalgam capsule.

   (b) "Contact amalgam" means Amalgam that has come into contact with the patient or body fluids, including but not limited to, extracted teeth with dental Amalgam and scrap collected chair side and by chair side traps and vacuum pump filters or other Amalgam capture devices.

7. **Annual Charges** or **Annual Charges for Service** means the sums paid or becoming payable to Metro Water Recovery pursuant to the Service Contract or a Special Connectors Agreement and pursuant to any agreement supplemental thereto.

8. **Approval Authority** means the Regional Administrator of the EPA Region VIII or, if the State has an approved state pretreatment program, the Director of the Water Quality Control Division of the Colorado Department of Public Health and Environment (CDPHE).

9. **Associated Municipality** means a Member Municipality, as herein defined, which is not a Connecting Municipality, as herein defined. (An Associated Municipality is a member of Metro Water Recovery which indirectly receives service through a Connecting Municipality.)

10. **Authorized Representative of Industrial User** means

(a) a responsible officer if the Industrial User is a corporation, specifically the president, secretary, treasurer, or vice president in charge of principal business activity or any other person who performs similar policy or decision-making functions for the corporation, or the manager of one or more manufacturing, production or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(b) a general partner if the Industrial User is a partnership, or the proprietor if the Industrial User is a sole proprietorship;

(c) a duly authorized representative of the individual designated in (a) or (b) having overall responsibility for the facility from which the Wastewater discharge originates if the authorization is made in writing.

(d) a specific individual or position having responsibility for the overall operation of the facility or overall responsibility for environmental matters for the facility if the Industrial User is a governmental facility.

(e) If an authorization under (c) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of (c) must be submitted to Metro Water Recovery prior to or together with any reports to be signed by an authorized representative.

11. **Best Management Practices or BMP** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. As a form of Local Limit, BMPs are considered to be Pretreatment Standards.

12. **BOD** means 5-day biochemical oxygen demand. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard **laboratory** procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

13. **Board of Directors** or **Board** means the Board of Directors of Metro Water Recovery.

14. **Capital Recovery Charge** means the charge assessed in lieu of a Sewer Connection Charge for the discharge of waste not required to be accepted by Metro Water Recovery under the conditions of the Service Contract, Special Connectors Agreement, or these *Rules and Regulations*.

15. **Categorical Industrial User (CIU)** means an Industrial User subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N.

16. **Categorical Standard** or **Categorical Pretreatment Standard** or **National Categorical Pretreatment Standard** means any regulation containing Pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of Industrial Users and that appear in 40 CFR Chapter I, Subchapter N.

17. **Chemical Oxygen Demand (COD)** means a measure of the dissolved oxygen-consuming capacity of inorganic and organic matter present in water or Wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand.

18. **Chief Executive Officer or CEO** means Chief Executive Officer or CEO of Metro Water Recovery.

19. **Colorado Discharge Permit System (CDPS) Permit or CDPS Permit** means a National Pollutant Discharge Elimination System permit (NPDES permit) that is issued by the State through its NPDES permit program approved pursuant to section 402(b) of the Federal Water Pollution Control Act, 33 USC 1251 et. seq and/or pursuant to the Colorado Water Quality Control Act, CRS 25-8-101 et. seq.

20. **Connecting Municipality** means a Member Municipality, as herein defined, all or any part of the Municipal Sewer System of which, for the disposition of Sewage therefrom, is directly connected with an Interceptor of Metro Water Recovery which terminates at a sewage treatment and disposal plant of Metro.

21. **Connector** means a Member Municipality or Special Connector or Corporate Connector, as herein defined.

22. **Construction** or **Initiation of Construction** means documentation of the first inspection of concrete pouring by the appropriate regulatory agency for purposes related to Section 7.

23. **Contracting Municipality** means a Municipality, as herein defined, which is not a member of Metro Water Recovery but receives service indirectly by right of contract with either a Connecting Municipality, an Associated Municipality, or a Special Connector by discharging sewage into the Municipal Sewer System of such entity.

24. **Corporate Connector** means a corporate entity having a service agreement with Metro Water Recovery appertaining to the acquisition of any site for sewage disposal facilities or sewage treatment plant.

25. **Customer Equivalent Connection Unit (CECU)** means the value assigned to each metering, sampling, and estimating location.

26. **Date of Connection** means the date that a building, structure, or premise is physically attached such that sewage flow may enter the Municipal Sewer System. For the purposes of payment of Sewer Connection Charges under Section 7, a Municipality may select the date of sewer inspection, the date a certificate of occupancy is issued, the water meter set date, or the date evidenced by any equivalent documentation to represent the Date of Connection. The Date of Connection for an altered sewer connection shall be when the additional single family units are completed and available for use or when the enlarged water service tap is installed, whichever is appropriate. Each Municipality shall select one method of determining the Date of Connection and use it consistently.

27. **Dental Facility** means any facility that practices dentistry including, but not limited to, dental clinics, dental labs, offices, hospitals, and schools.

28. **Direct Connector** means a connecting Municipality or Special Connector which receives sewage service from Metro Water Recovery through a direct connection to an Interceptor of Metro.

29. **Environmental Protection Agency** or the **EPA** means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said Agency.

30. **Existing Source** means any source of discharge that is not a New Source.

31. **Existing Source Dental Facility** or **Existing Dental Facility** means a Dental Facility that is not a New Source Dental Facility or New Dental Facility.

32. **Expected Service Area** means the geographical area which Metro Water Recovery has anticipated providing Wastewater service. This Expected Service Area is normally evidenced by and defined in an approved facility plan or facility report which shows the area which Metro has planned to be able to serve. Other Board-approved Metro documents may be used where appropriate to make the determination of Expected Service Area. Expected Service Area is used solely for the purpose of determining whether additional service areas requested by special connectors are within the area Metro has planned to serve.

33. **Flow** means the quantity of Sewage measured in gallons received from a Connector.

34. **Hauled Waste** means Sewage or Wastewater that is transported and discharged to a publicly owned treatment works (POTW) by truck or rail.

35. **Inactive Connection** means a Sewer Connection through which no flow has been discharged for more than ten years. A Sewer Connection shall be considered to have been inactive when records of the water supply agency serving the building or

premises show that no measurable water was supplied to the building or premises during that time, regardless of whether any payment for water was made during or after the ten years. The date of reactivation shall be the date the water supply agency resumes water service.

36. **Indirect Connector** means an Associated Municipality or Contracting Municipality which receives sewage service indirectly from Metro Water Recovery through a connection to a Municipal Sewer System of a Connecting Municipality or Special Connector.

37. **Industrial User** (IU) means any non-domestic source discharging or with a potential to discharge Pollutants into a Publicly Owned Treatment Works under Section 307(b), (c), or (d) of the Act.

38. **Initiation of Construction** or **Construction** means documentation of the first inspection of concrete pouring by the appropriate regulatory agency for purposes related to Section 7.

39. **Interference** means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

    (a) Inhibits or disrupts Metro Water Recovery's treatment processes or operations, or its sludge processes, use, or disposal; and

    (b) Therefore is a cause of a violation of any requirement of Metro Water Recovery's NPDES/CDPS Permit(s) (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

40. **ISO 11143** means the International Organization of Standardization's current standard for dental equipment – Amalgam Separators.

41. **Loadings** means the amount of Biochemical Oxygen Demand (BOD), Suspended Solids (SS), and Total Kjeldahl Nitrogen (TKN) in the Wastewater.

42. **Local Limit** means a specific discharge limit developed and enforced by Metro Water Recovery upon Industrial Users to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b) and these *Rules and Regulations*. A Local Limit is a Pretreatment Standard.

43. **Member Municipality** or **Member** means a member of Metro Water Recovery.

44. **Metro Water Recovery or Metro** means the Metro Water Recovery. Wherever approval of, or correspondence with Metro is referred to, it shall mean CEO unless otherwise specified.

45. **Metro Interceptor** or Interceptor means any one of the intercepting sanitary sewers, outfalls, or force mains owned and operated by Metro Water Recovery.

46. **Metro Interceptor System** means the system owned by Metro Water Recovery associated with conveyance or collection of sewage, including intercepting sanitary sewers, outfalls, force mains, pump stations, siphon structures, and all related appurtenances.

47. **Metro Standards** means those commonly used construction standards of Metro Water Recovery. If standards have not been previously established by Metro for particular construction materials or methods, this term shall include those materials or methods subsequently approved by the CEO.

48. **Metro System** means the sanitary sewer and other sanitation facilities owned, constructed, installed, or otherwise acquired, initially and as thereafter modified, by Metro Water Recovery, including the Metro Interceptor System. This definition shall have the same meaning as "Sewage Disposal System" or "System" as defined in the Service Contract.

49. **MG** means million gallons.

50. **MGD** means million gallons per day.

51. **MGY** means million gallons per year.

52. **Mobile Dental Facility** means a specialized mobile self-contained van, trailer, or equipment used in providing dentistry services at multiple locations.

53. **Municipal Sewer System** means a system provided by a Municipality to provide sewer service to its inhabitants by the collection of Sewage arising within its corporate limits and to the extent determined by its governing body without its corporate limits. This definition shall have the same meaning as "Sewer System" as defined in the Service Contract.

54. **Municipal Water System** means a water supply system which is open to potential users in a specific category (such as property owners in a geographical area). A Municipal Water System does not have to be governmentally owned.

55. **Municipality** means any city, city and county, incorporated town, sanitation district, water and sanitation district, or any other political subdivision or public entity heretofore or hereafter created under the laws of the State of Colorado having specific boundaries within which it is authorized or empowered to provide sewer service for the area within its boundaries.

56. **National Pollutant Discharge Elimination System Permit** or **NPDES Permit** means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

57. **National Pretreatment Standard, Pretreatment Program Standard**, **Pretreatment Standard,** or **Standard** means any regulation containing Pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established

pursuant to 403.5 and the Categorical Standards established pursuant to Section 403.6.

58. **New Sewer or New Connection** means any direct or indirect Sewer Connection serving any building or structure which was not physically attached to the Municipal Sewer System of a Servicing Municipality.

59. **New Source** means any building, structure, facility, or installation from which there is or may be a discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source, if such standards are thereafter promulgated in accordance with that Section, provided that:

    (a) the building, structure, facility, or installation is constructed at a site at which no other source is located; or

    (b) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

    (c) the production of Wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

    Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment. Construction of a New Source as defined under this Section has commenced if the owner or operator has:

    (a) begun, or caused to begin, as part of a continuous onsite construction program

        (i) any placement, assembly, or installation of facilities or equipment; or

        (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or

    (b) entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

60. **New Source Dental Facility** or **New Dental Facility** means a Dental Facility whose first date of discharge to a Metro Water Recovery Publicly Owned Treatment Works is after July 14, 2017.

61. **Pass Through** means a discharge which exits the facilities of Metro Water Recovery into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of Metro's NPDES/CDPS Permit(s) (including an increase in the magnitude or duration of a violation).

62. **Period Represented** means the period of time over which the results of a sampling period are applied for the determination of Annual Charges.

63. **Period Sampled** means the period of time, normally seven (7) days, during which the Flow from a particular Connector is sampled for the purpose of computing Annual Charges.

64. **Person** means not only a natural person, corporation, or other legal entity, but also two or more natural persons, corporations, or other legal entities acting jointly as a firm, partnership, unincorporated association, joint venture, joint stock company, trust, estate, governmental entity (federal, state, and local), or any other legal entity; or their legal representatives, agents, or assigns.

65. **pH** means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution. It is a measure of the acidity or alkalinity of a solution, expressed in standard units.

66. **Pollutant** means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, an excess of heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, agricultural waste, and certain characteristics of wastewater [e.g., pH, Lower Explosive Limit (LEL), temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor].

67. **POTW** or **Publicly Owned Treatment Works** means a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by Metro Water Recovery. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Sewage and any sewers that convey Wastewater to a Metro treatment plant. For the purposes of these *Rules and Regulations*, POTW shall also include any sewers that convey Wastewater to the POTW from Persons outside Metro who are Users of Metro's POTW. The term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such treatment works,

68. **POTW Treatment Plant** means that portion of the POTW designed to provide treatment of municipal sewage and industrial waste.

69. **Pretreatment** or **Treatment** means the reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such Pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or by other means, except as prohibited by 40 CFR §403.6(d).

70. **Pretreatment Program** or **Program** means Metro Water Recovery's program, approved by the Approval Authority in accordance with §403.11 of the Federal Pretreatment Regulations, that implements the federal Pretreatment Standards and Requirements and all other Pretreatment Requirements and Metro's associated legal authority included in Sections 5, 6, and 10 of these *Rules and Regulations*.

71. **Pretreatment Program Responsibilities** means all responsibilities associated with implementation of Metro Water Recovery's Pretreatment Program.

72. **Pretreatment Program Requirement** or **Pretreatment Requirement** or **Requirement** means any substantive or procedural requirement related to pretreatment other than a National Pretreatment Standard imposed on an Industrial User.

73. **Program** or **Pretreatment Program** means Metro Water Recovery's program, approved in accordance with §403.11 of the Federal Pretreatment Regulations, that implements the federal Pretreatment Standards and Requirements and all other Pretreatment Requirements and Metro's associated legal authority included in Sections 5, 6, and 10 of these *Rules and Regulations*.

74. **Publicly Owned Treatment Works** or **POTW** means a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by Metro Water Recovery. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Sewage and any sewers that convey Wastewater to a Metro treatment plant. For the purposes of these *Rules and Regulations*, POTW shall also include any sewers that convey Wastewater to the POTW from Persons outside Metro who are Users of Metro's POTW. The term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such treatment works.

75. **SS** means suspended solids or total suspended solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, Wastewater, or other liquid, and that is removable by laboratory filtering.

76. **Service Contract** means the Sewage Treatment and Disposal Agreement between Metro Water Recovery and each Member Municipality for the interception and treatment of Sewage from the Member Municipality. To the extent the obligations in the Service Contract(s) conflict or are inconsistent with any provision of these Rules and Regulations, the terms of the Service Contract will be deemed to control and govern.

77. **Servicing Municipality** means any Municipality having direct responsibility for providing and regulating sewage service to individual customer connections.

78. **Sewage** or **Wastewater** means liquid wastes, solid wastes, night soil, industrial wastes, and any other substance, whether it be liquid, solid, in suspension, or in solution, in a Municipal Sewer System or in the Metro Water Recovery System, or in both such systems.

79. **Sewer Connection** means any physical connection to the Metro Water Recovery System or Municipal Sewer System, whether direct or indirect, through which Flow does or may enter into the Metro System. A "stub-in" made for the convenience of

construction shall not be considered a physical connection until it is connected to a building or structure.

80. **Sewer Connection Charge** means the charge set by the Board of Directors for each Single Family Residential Equivalent connection.

81. **Sewer Connection Charges** or **Total Sewer Connection Charges** means the sum total of charges due from a Connector or Special Connector in a quarter or a year pursuant to the Sewer Connection Charge.

82. **Sewer Connection Permit** means any document or permit, including but not limited to a building permit, sewer connection permit, inspection certificate, certificate of occupancy, or other document issued by a Connecting Muncipality or Special Connector which authorizes for a specific address(es) the use of a Municipal Sewer System or the Metro Water Recovery System for a new or altered connection and requires payment of a Sewer Connection Charge to the Connecting Municipality or Special Connector. The Sewer Connection Permit shall be designated by a Connecting Municipality or Special Connector and filed with Metro and shall be consistently used by the Connecting Municipality or Special Connector such that Metro can audit the Sewer Connection Charge payments accurately. Any document described above may be designated as a Sewer Connection Permit, but in no case can a Sewer Connection Permit be issued after a User is actually connected to and using the Municipal Sewer System or the Metro System or after a certificate of occupancy is issued for the address(es) associated with the new or altered connection.

83. **Significant Industrial User** (SIU) means:

(a) Except as provided in paragraphs (b) and (c) of this section, the term Significant Industrial User means:

i. All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

ii. Any other Industrial User that:

1. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

2. Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or

3. Is designated as such by Metro Water Recovery on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(b) Upon a finding that an Industrial User meeting the criteria in paragraph (a) above never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler

blowdown wastewater, unless specifically included in the Pretreatment Standards) Metro Water Recovery may determine the Industrial User a Nonsignficant CIU if the following conditions are met:

i. the Industrial User, prior to Metro's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

ii. the Industrial User annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and

iii. the Industrial User never discharges any untreated concentrated Wastewater.

(c) Upon a finding that an Industrial User meeting the criteria in paragraphs (a)(ii)(1-3) above has no reasonable potential for adversely affecting Metro Water Recovery's operation or for violating any Pretreatment Standard or Requirement, Metro may at any time, on its own initiative or in response to a petition received from a Municipality or Industrial User, determine that such Industrial User is not a SIU.

84. **Single Family Residential Equivalent (SFRE)** means the capacity of sewer service or water service necessary for a single family household.

85. **Slug Discharge** means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge which has a reasonable potential to cause Interference or Pass Through, or in any other way violates Metro Water Recovery's *Rules and Regulations*, local limits, or permit conditions.

86. **Special Connector** means a Municipality which receives service from Metro Water Recovery by contract and is not a Member but is directly connected with an Interceptor of Metro.

87. **Special Connectors Agreement** means the standard form of contract which Metro Water Recovery enters into with Special Connectors.

88. **Staff** means the staff of Metro.

89. **Stub-in** means the physical connection to a Municipal Sewer System or Metro Water Recovery System using sewer pipe or similar device which, until a future time, shall be capped in a manner to not allow sewage to be discharged to the system. When service is required, the cap can be removed to allow the physical connection to the Metro System or Municipal Sewer System.

90. **Summary of Period Represented** means the determination of quantity, quality, and characteristics of Sewage which is sent to each Connector showing the results of a sampling period including the computation of the total flow, BOD, SS, and TKN for each period represented.

91. **Total Kjeldahl Nitrogen (TKN)** means the sum, expressed in parts per million (ppm) or milligrams per liter (mg/L), of free-ammonia nitrogen and organic nitrogen compounds which are converted to ammonia under digestion conditions specified by the Kjeldahl Nitrogen test method

92. **Total Sewer Connection Charges** or **Sewer Connection Charges** means the sum total of charges due from a Connector or Special Connector in a quarter of a year pursuant to the Sewer Connection Charge.

93. **Toxic Pollutant** means, but is not limited to, any Pollutant or combination of Pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of Section 307(a) of The Act or other acts.

94. **Treatment** or **Pretreatment** means the reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such Pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or by other means, except as prohibited by 40 CFR § 403.6(d).

95. **User** means any Person who contributes, causes, or permits the contribution of Wastewater into Metro Water Recovery's POTW.

96. **Wastewater** or **Sewage** means liquid wastes, solid wastes, night soil, industrial wastes, and any other substance, whether it be liquid, solid, in suspension, or in solution, in a Municipal Sewer System or in the Metro Water Recovery System, or in both such systems.

97. **Water Service Tap** or **Tap** means the meter attached to a Municipal Water System through which water may enter a building or structure, or the pipe directly attached to the the Municipal Water System if there is no meter.

Revisions	01/93	03/94	04/96	04/99	03/01	04/03	06/06	01/08	09/10	10/13	06/14	07/18
	XX/23											

0123-B6.d

RESOLUTION
BOARD OF DIRECTORS
METRO WATER RECOVERY
January 17, 2023

WHEREAS, it is in the best interest for Metro Water Recovery, hereinafter referred to as "Metro," to amend the Agreement with P&H Senesac, Inc. (Senesac), which provides contract cleaning of Sludge Holding Tank #3 (SHT-3); and

WHEREAS, due to delays in the contractor completing the Solids Processing Building Improvements Project (PAR 1244), SHT-3 needed to be cleaned in the fall of 2022 to meet wintertime biosolids dewatering needs, including contract dewatering; and

WHEREAS, Metro does not have the in-house capabilities to clean SHT-3 due to the several-year accumulation of solids in the tank, and

WHEREAS, three firms were contacted having previous experience with Metro and capability of cold weather biosolids tank cleaning; and

WHEREAS, on October 19 and 20, 2022, Metro hosted each of the three firms separately on site to discuss the cleaning needs and timing, walk the area where their equipment would be located, discuss logistics, and field any questions; and

WHEREAS, proposals were subsequently received from the three companies and evaluated on both projected cost and ability to meet the cleaning schedule, with Senesac selected as the lowest cost, most responsive proposer; and

WHEREAS, based on past experience Metro estimated 50 dry tons of solids would be present in SHT-3 and executed a contract within the Chief Executive Officer's authority based on the estimate; and

WHEREAS, Senesac began cleaning SHT-3 on December 13, 2022 and throughout cleaning, the solids content of the biosolids contained far greater amounts of grit, sand, and phosphorus-rich material than originally estimated, pushing the contract value beyond $250,000; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to amend the Short Form Agreement with Senesac to provide contract cleaning of SHT-3 as follows:

1. Modify the rate of $1,855 per dry ton of sludge removed to apply to only the first 100 dry tons and add a rate of $1,575 per dry ton of sludge removed to apply after the first 100 tons;

2. Increase the not-to-exceed amount of the agreement to $450,000; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the Chief Executive Officer be and hereby is authorized to amend the Short Form Agreement with P&H Senesac, Inc. to provide contract cleaning of Sludge Holding Tank #3 (SHT-3) as follows:

1. Modify the rate of $1,855 per dry ton of sludge removed to apply to only the first 100 dry tons and add a rate of $1,575 per dry ton of sludge removed to apply after the first 100 tons;

2. Increase the not-to-exceed amount of the agreement to $450,000.

METRO WATER RECOVERY

Operations Committee Meeting Minutes

Tuesday, January 3, 2023

The meeting of the Operations Committee of Metro Water Recovery was held Tuesday, January 3, 2023 at 11:30 a.m., in the Boardroom.

Roll Call

Chair Williams called the roll.

Members Present	Members Absent	Others Present
Jennifer Williams, Chair	John Chavez	Mickey Conway
Bill Ray, Vice Chair	Martin Majors	Emily Jackson
Nadine Caldwell		Liam Cavanaugh
David Councilman		Martin Alvis
Clark Davenport		Dawn Ambrosio
James DeHerrera		Kim Cowan
Robert Duncanson*		Colleen Dempsey
Mary Gearhart*		Shawn Fredrickson
Joan Iler		Perry Holland
Bob LeGare		Ruth Kedzior
Jamie Miller*		Molly Kostelecky
Steve Pott*		Andy Nelson
Kim Schoen		Sherman Papke
Greg Sekera		Jennifer Robinett
Mary Beth Susman		Orren West
Amerigo Svaldi		Blair Wisdom
Dennis Towndrow		Reed Koenig
Scott Twombly		Yvonne Kohlmeier
		AD Norford
		Brittany Peshek

*Attended virtually

Public Comment

There was none.

Action Items

Chief Executive Officer (CEO) Conway reviewed the following Action Items, and he and Metro Water Recovery staff answered Directors' questions.

1. **Consideration of Designation of Place for Posting Meeting Notices**

   Director Ray moved and Director Susman seconded the motion to recommend adopting a resolution designating a public place for posting notices of public meetings, pursuant to C.R.S. § 24-6-402(2)(c).

CEO Conway noted the physical location for posting meeting notices and stated agendas and minutes are posted on the website even though it is not a statutory requirement.

The motion carried unanimously.

2. **Consideration of North Secondary Upgrades and Intensification Project (PAR 1411) Preconstruction Services Agreement and Appropriation**

Director Caldwell moved and Director Davenport seconded the motion to recommend:

1. Authorizing the CEO to enter into an Agreement for Preconstruction Services with PCL Construction, Inc. in the amount of $1,459,000 to provide preconstruction phase services for the North Secondary Upgrades and Intensification Project (PAR 1411) (Project).

2. Appropriating $1,615,000 for this purpose. 90 percent will be funded from the Fixed Asset Replacement Fund Capital Project Account and ten percent from the General Fund Capital Project Account.

Mr. Nelson answered questions on the permits process and the decision to select PCL Construction, Inc.

The motion carried unanimously.

3. **Consideration of Rules and Regulations Significant Industrial User Definition Update**

Director Sekera moved and Director DeHerrera seconded the motion to recommend authorizing the CEO to update the definition of Significant Industrial User in *Metro Water Recovery's Rules and Regulations Governing the Operation, Use, and Services of the System* to match the federal definition.

General Counsel Jackson gave an overview of the updates being done and answered a question on the definition for the acronym CIU (Categorical Industrial User).

Ms. Robinett answered questions on if the federal definition of a Significant Industrial User impacts Metro Water Recovery and existing users.

The motion carried unanimously.

4. **Consideration of Sludge Holding Tank Cleaning**

Director Twombly moved and Director Iler seconded the motion to recommend authorizing the CEO to amend the Short Form Agreement with P&H Senesac, Inc. to provide contract cleaning of Sludge Holding Tank #3 as follows:

1. Modify the rate of $1,855 per dry ton of sludge removed to apply to only the first 100 dry tons and add a rate of $1,575 per dry ton of sludge removed to apply after the first 100 tons;

2. Increase the not-to-exceed amount of the agreement to $450,000.

CEO Conway answered a question on the likelihood similar issues will be brought to the attention of the Board as a result of contractor delays.

The motion carried unanimously.

Information Items

The Operations Committee reviewed the following Information Items.

1. Annual Charges Presentation

   Ms. Kostelecky gave an Annual Charges for Service overview.

   Ms. Kostelecky answered questions regarding the notification protocols for sampling, sampling frequency, and request for real-time data.

   Director Davenport asked who is receiving the flow and sampling results, and Ms. Kostelecky stated this information will be provided by Ms. Kedzior.

   Ms. Kostelecky explained the allocation model for deciding unit charges and stated she would produce a summary of how it works for Directors.

   Director Ray encouraged providing accurate information as early as possible and continuing to improve Connector relations. CEO Conway responded Metro Water recovery staff has taken a number of steps recently to provide education to Connector staff on the sampling process and will continue to communicate information to them.

   Ms. Kostelecky mentioned the Board can always make adjustments, and there have been past discussions about how annual charges are calculated. She noted while the current process for calculations works, flows and loading were more consistent pre-COVID-19.

2. Purchasing and Contracting Policies Update

   Ms. Kostelecky presented the recommended changes to the *Purchasing and Contracting Policy* and stated the recommendations will come to the Board next month as an action item.

   Ms. Jackson answered a question on whether or not Metro Water Recovery was subject to the Taxpayer's Bill of Rights (TABOR).

   CEO Conway explained the reason for changes made in Section 3.

3. Environmental Attributes

   Ms. Wisdom provided an update on selling environmental attributes on the market to a buyer in Europe to serve as an offset in the reduction of their carbon footprint.

4. Director Code of Conduct/Ethical Standards Statements

   CEO Conway stated this is an annual requirement for Directors.

5. Status of Capital Improvement Projects Report

6. Current Activities/Operational Performance Report

7. Financial Reports

8. Upcoming Events

   Chair Williams reminded Directors of upcoming events in 2023.

Other Information

There was none.

Chair Williams adjourned the meeting at 12:47 p.m.

MC:rak\yjk

METRO WATER RECOVERY

Finance Committee Meeting Minutes

Thursday, January 5, 2023

The meeting of the Finance Committee of Metro Water Recovery was held Thursday, January 5, 2023 at 7:30 a.m., in the Boardroom.

Board Chair Johnston chaired the meeting on behalf of Chair Roth.

Roll Call

Chair Johnston called the roll.

Members Present	Members Absent	Others Present
Janet Kieler, Vice Chair*	Bob Roth, Chair	Mickey Conway
Curt Aldstadt	Peter Baertlein	Emily Jackson
Greg Baker	Kathy Laurienti	Liam Cavanaugh
Phil Burgi	Del Smith	Martin Alvis
Deborah Crisp		Kim Cowan
Jo Ann Giddings		Colleen Dempsey
Andrew Johnston		Shawn Fredrickson
Craig Kocian*		Perry Holland
Laura Kroeger		Ruth Kedzior
Doug Lazure*		Molly Kostelecky
Charlie Long		Andy Nelson
Charlie Miller*		Sherman Papke
Sarah Niyork		Jennifer Robinett
Peter Spanberger		Pat Stanley
Ronald Younger		Orren West
		Blair Wisdom
		Yvonne Kohlmeier
		A.D. Norford
		Rienna Nuber
		Brittany Peshek

*Attended virtually

Public Comment

There was none.

Action Items

Chief Executive Officer (CEO) Conway reviewed the following Action Items, and he and Metro Water Recovery staff answered Directors' questions.

1. **Consideration of Designation of Place for Posting Meeting Notices**

   Director Giddings moved and Director Baker seconded the motion to recommend adopting a resolution designating a public place for posting notices of public meetings, pursuant to C.R.S. § 24-6-402(2)(c).

   The motion carried unanimously.

2. **Consideration of North Secondary Upgrades and Intensification Project (PAR 1411) Preconstruction Services Agreement and Appropriation**

   Director Aldstadt moved and Director Younger seconded the motion to recommend:

   1. Authorizing the CEO to enter into an Agreement for Preconstruction Services with PCL Construction, Inc. in the amount of $1,459,000 to provide preconstruction phase services for the North Secondary Upgrades and Intensification Project (PAR 1411) (Project).

   2. Appropriating $1,615,000 for this purpose. 90 percent will be funded from the Fixed Asset Replacement Fund Capital Project Account and ten percent from the General Fund Capital Project Account.

   Mr. Nelson answered questions on the hydraulic capacity, basins, infrastructure footprint, and impact on dewatering.

   The motion carried unanimously.

3. **Consideration of Rules and Regulations Significant Industrial User Definition Update**

   Director Niyork moved and Director Burgi seconded the motion to recommend authorizing the CEO to update the definition of Significant Industrial User in *Metro Water Recovery's Rules and Regulations Governing the Operation, Use, and Services of the System* to match the federal definition.

   General Counsel Jackson and Ms. Robinett answered a question on monitoring and tracking the federal program for changes.

   The motion carried unanimously.

4. **Consideration of Sludge Holding Tank Cleaning**

   Director Burgi moved and Director Younger seconded the motion to recommend authorizing the CEO to amend the Short Form Agreement with P&H Senesac, Inc. to provide contract cleaning of Sludge Holding Tank #3 as follows:

   1. Modify the rate of $1,855 per dry ton of sludge removed to apply to only the first 100 dry tons and add a rate of $1,575 per dry ton of sludge removed to apply after the first 100 tons;

   2. Increase the not-to-exceed amount of the agreement to $450,000.

   Mr. Cavanaugh answered a question on if there was any impact to the dewatering efforts.

   The motion carried unanimously.

<u>Information Items</u>

The Finance Committee reviewed the following Information Items.

1. Annual Charges Presentation

   Ms. Kostelecky gave an Annual Charges for Service overview.

   Ms. Nuber informed the Committee of the two upcoming virtual informational Connector meetings: February 7 at 2 p.m. and March 8 at 9 a.m.

   Ms. Kostelecky answered questions on how Metro Water Recovery compares to other large facilities, future charges and bond issuance, rate details, the 20-year cash flow model, the possibility of expanding the number of categories in the annual charge model, the ability to give Connectors a range of future estimated charges, and Metro's ability to access funding through the Water Infrastructure Finance and Innovation Act (WIFIA).

2. Purchasing and Contracting Policies Update

   Ms. Kostelecky presented the recommended changes to the *Purchasing and Contracting Policy*.

   CEO Conway stated the recommendations will come to the Board next month as an action item.

3. Environmental Attributes

   Ms. Wisdom provided an update on getting certified to sell environmental attributes in the market to serve as an offset in the reduction of buyers' carbon footprints and answered a question on the estimated return.

4. Director Code of Conduct/Ethical Standards Statements

   Chair Johnston stated the completed form is due at the end of the month.

5. Status of Capital Improvement Projects Report

6. Current Activities/Operational Performance Report

7. Financial Reports

8. Upcoming Events

<u>Other Information</u>

There was none.

Chair Johnston adjourned the meeting at 8:36 a.m.

MC:rak\yjk

METRO WATER RECOVERY

Executive Committee Meeting Minutes

Thursday, January 10, 2023

The meeting of the Executive Committee of Metro Water Recovery was held Thursday, January 10, 2023 at 11:30 a.m., in the Boardroom.

Roll Call

Chair Johnston called the roll.

Members Present	Other Directors Present	Others Present
Andrew Johnston, Chair	Peter Baertlein, Advisory	Mickey Conway
Sarah Niyork, Chair Pro Tem	Philip Burgi, Advisory	Emily Jackson
Jo Ann Giddings, Secretary		Liam Cavanagh
Del Smith, Treasurer		Molly Kostelecky
Bob LeGare		Ruth Kedzior
Charles Long		Andy Nelson
Bob Roth*		Sherman Papke
Scott Twombly		Yvonne Kohlmeier
Jennifer Williams		Lydia Nkem
		Brittany Peshek

*Attended virtually

Public Comment

There was none.

Action Items

1. **Consideration of Designation of Place for Posting Meeting Notices**

   Director Baertlein moved and Director Twombly seconded the motion to recommend adopting a resolution designating a public place for posting notices of public meetings, pursuant to C.R.S. § 24-6-402(2)(c).

   The motion carried unanimously.

2. **Consideration of North Secondary Upgrades and Intensification Project (PAR 1411) Preconstruction Services Agreement and Appropriation**

   Director Baertlein moved and Director Twombly seconded the motion to recommend:

   1. Authorizing the Chief Executive Officer (CEO) to enter into an Agreement for Preconstruction Services with PCL Construction, Inc. in the amount of $1,459,000 to provide preconstruction phase services for the North Secondary Upgrades and Intensification Project (PAR 1411) (Project).

2. Appropriating $1,615,000 for this purpose. 90 percent will be funded from the Fixed Asset Replacement Fund Capital Project Account and ten percent from the General Fund Capital Project Account.

The motion carried unanimously.

3. **Consideration of Rules and Regulations Significant Industrial User Definition Update**

Director Baertlein moved and Director Twombly seconded the motion to recommend authorizing the CEO to update the definition of Significant Industrial User in *Metro Water Recovery's Rules and Regulations Governing the Operation, Use, and Services of the System* to match the federal definition.

The motion carried unanimously.

4. **Consideration of Sludge Holding Tank Cleaning**

Director Baertlein moved and Director Twombly seconded the motion to recommend authorizing the CEO to amend the Short Form Agreement with P&H Senesac, Inc. to provide contract cleaning of Sludge Holding Tank #3 as follows:

1. Modify the rate of $1,855 per dry ton of sludge removed to apply to only the first 100 dry tons and add a rate of $1,575 per dry ton of sludge removed to apply after the first 100 tons;

2. Increase the not-to-exceed amount of the agreement to $450,000.

The motion carried unanimously.

<u>Information Items Presented/Discussed at Standing Committees</u>

The Executive Committee reviewed the following Information Items.

1. Annual Charges Presentation

2. Purchasing and Contracting Policies Update

CEO Conway noted both Committees reviewed the proposed updates and had no suggestions for further revisions. He also stated the updates would be an action item next month for Board of Director approval.

3. Environmental Attributes

4. Director Code of Conduct/Ethical Standards Statements

5. Status of Capital Improvement Projects Report

6. Current Activities/Operational Performance Report

7. Financial Reports

8. Upcoming Events

Information Items

1. Capital Projects Update 2023

   Chair Johnston stated, “This discussion will be conducted in executive session as authorized by C.R.S. 24-6-402(4)(b) which authorizes executive sessions for conferences with Metro’s Counsel for the purpose of receiving legal advice on specific legal questions. The matter to be discussed in this executive session is Capital Projects Update 2023. As a reminder, no formal action may be taken in executive session. Additionally, the discussion must be confined to this topic.”

   Director Niyork moved and Director Burgi seconded the motion to enter executive session. The motion carried unanimously, and the Committee entered executive session at 11:34 a.m. No Metro Water Recovery staff left the meeting.

   Chair Johnston reconvened the regular meeting at 12:27 p.m.

2. 2023 Interim Goals

   CEO Conway gave an overview of the item and noted it would be included as an attachment to the January CEO Report.

   Mr. Conway answered questions regarding Metro Water Recovery’s current vacancy rate, who is owning the Culture of Continuous Improvement Program and what process is being used to implement the program, and when the updated Strategic Plan is expected to be completed.

Other Information

There was none.

Chair Johnston adjourned the meeting at 12:34 p.m.

MC:rak\lmn