



Subject: Foothills Discussion	
Meeting Date: March 19, 2019	Staff Members: Scott Lazenby, City Manager, and Anthony Hooper, Deputy City Manager Department: City Manager’s Office
Action Required <input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda	Advisory Board/Commission Recommendation <input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable Comments:
Staff Recommendation: None	
Recommended Language for Motion: Not applicable	
Project / Issue Relates To:	
<input checked="" type="checkbox"/> Council Goals/Priorities <input type="checkbox"/> Adopted Master Plan(s) <input type="checkbox"/> Not Applicable	

ISSUE BEFORE COUNCIL

An opportunity to talk about the Foothills area.

EXECUTIVE SUMMARY

There are no pending or imminent decisions relating to the Foothills sewer plant or redevelopment, although there may be some in the future.

BACKGROUND

The City Council has adopted a goal to “work with private partners on the implementation of the Foothills Master Plan.” Staff provided an issue paper on issues related to the possible future redevelopment of the Foothills industrial area on [February 19](#). Based on Council direction on [December 18](#), we have issued a Request for Qualifications to ascertain whether there are

potential private partners who would be willing to finance, design, build, operate and maintain a wastewater treatment plant that would be more compatible with redevelopment of the area. We are also working with the City of Portland (Bureau of Environmental Services) on an *interim* agreement on the exploration of an alternative treatment plant design. This may or may not result in an amendment to the existing (1984) intergovernmental agreement on wastewater treatment.

DISCUSSION

Future Issues

While there are no immediate decisions before the City Council, there are many decision points and off-ramps related to the elements of Foothills redevelopment (wastewater plant, IGA with Portland, urban renewal, and a redevelopment agreement). Here is a summary of these decisions:

Wastewater Treatment Plant

Lake Oswego City Council

- Does at least one of the P3 proposals meet the financial (affordability) target?
- Is the P3 proposal technically feasible, and does the firm(s) have demonstrated capability to build and operate a plant?
- Which is the best proposal?
- Are the terms of a P3 agreement acceptable?

City of Portland

- Does one or more P3 proposal meet the financial (affordability) target?
- Is the P3 proposal technically feasible, and does the firm(s) have demonstrated capability to build and operate a plant?

Intergovernmental Agreement with Portland

- **If** there is a mutual agreement to proceed with the alternate plant design (and P3 approach) **then** both governments need to approve an amended intergovernmental agreement.

Urban Renewal District

Lake Oswego City Council

- Should the City create (or reinstate) a Foothills Urban Renewal District?
- Approval of plan, project list, boundary, and debt limit.

Redevelopment Plan

Private developer/property owner(s)

- Does a decision to proceed with redevelopment depend on an alternate treatment plant design? Or on creation of an urban renewal district?
- Is redevelopment financially and practically feasible?
 - Flood plain issues
 - Traffic

- Limits on building heights
- Etc.
- Are the terms of a development agreement acceptable?

City Council

- Are the terms of a development agreement acceptable?

Request for Qualifications

As noted above, we have issued a Request for Qualifications (RFQ) with a due date of April 9, 2019. We anticipate selecting the top three firms (or teams) based on criteria spelled out in the RFQ, and inviting those firms to submit a proposal, with the Request for Proposals (RFP). The RFP is anticipated to be released in Mid-May, but there is a chance that the release date will need to be moved to mid-June depending on how long it will take to develop the legal agreements that will be attached to the RFP. As part of the RFP, the firms will also complete a 30% design for their proposed wastewater treatment plant. The type of technology used in the plant is left entirely up to the proposers.

Ultimately, the public-private partnership approach is being explored because there is the possibility that a new Wastewater Treatment Plant will cost the same as upgrading and operating the existing Tryon Creek Wastewater Treatment Plant while also decreasing the overall footprint from approximately 14 acres down to 4 acres. In addition, the treated water being discharged to the Willamette River is anticipated to be cleaner.

Here are some questions and answers relating to the procurement (RFQ and RFP) process:

Since the City is working on an interim Intergovernmental Agreement (IGA) with Portland, does that mean that the City will be committed to a “go” decision if this IGA is authorized by the City Council?

No. The interim IGA is a brief document that supplements the current 1984 IGA with Portland and is intended to create stability for potential proposers. The interim IGA essentially creates ground rules that Portland and Lake Oswego would reopen IGA negotiations to transfer ownership of wastewater treatment to Lake Oswego if the cost of the selected Public-Private Partnership (P3) proposal allows Portland to stay within their projected rate increases already slated for their existing plant upgrades and that Lake Oswego promises to serve their portion of customers while meeting DEQ requirements.

We would also need the proposals to pencil out for Lake Oswego and would need the proposed wastewater treatment plant designs to be determined as acceptable to the City. There isn't a need to make the final decision until the selected proposer completes a 60% design of the new treatment plant and the Guaranteed Maximum Price can be established.

The Request for Proposals (RFP) is anticipated to be released in mid-May and we would like to have the interim IGA in place at that time. Lastly, the interim IGA is important because the City

is asking firms to invest hundreds of thousands of dollars of their own money to complete 30% designs as part of their proposals without being reimbursed for this cost. In summary, the City is doing what it can to reduce risk for firms by using the IGA tool to establish the ground rules that both cities will use to determine their “go” or “no go” decision.

What is the dollar amount that proposers must meet for capital and on-going costs for this P3 proposal to pencil out?

The City of Portland is currently working on this number. Once we get this number, the City of Lake Oswego can input it into our working model that was created by FCS Consultants. We plan to have this number when we release the RFP in mid-May. Note: lifecycle costs can be reduced to a single net present value dollar amount for comparison purposes. But both cities are also concerned with cash flow; and in particular, we don’t want a disproportionate cost burden on current—as opposed to future—ratepayers. So the “affordability” measure will be in the form of a long term payment schedule.

If a P3 agreement is approved by Council in the fall, does that mean that the City will have to pay the entire cost of the new Wastewater Treatment Plant upfront?

No. The City intends to structure the agreement with the selected firm so that payments are made over approximately 30 years.

If a P3 agreement is approved, does that mean that rates will have to be increased more than anticipated?

The crux of the decision to do the P3 is contingent upon Lake Oswego’s rates not going up more than they would have anyway for the upgrades that must be made to the existing Tryon Creek Wastewater Treatment Plant.

What Consultants are on the City’s Team?

For a P3, it is standard for a city to hire an owner’s representative consultant, a financial advisor, a technical advisor, and a legal firm. The City has hired or is in the process of hiring the following consultants:

- JLL Consultants is onboard for an on-call contract not to exceed \$75,000. JLL Consultants has been the City’s owner representative. Specifically, JLL has helped the City to effectively structure the Private-Public Partnership terms, aided in the development of the RFQ, and provided market legitimacy through outreach efforts. JLL may also serve as our financial consultant, but this would necessitate increasing the “not to exceed price” of the contract.
- West Coast Infrastructure Exchange (WCX) has been hired for \$10,000. WCX is a non-profit that specializes in providing cost-effective technical advice. WCX was hired to help

the City prepare a number of RFQ and RFP elements as well as aid in answering the myriad of technical questions from firms.

- We are in the early stages of procuring an engineering firm to be the City's technical advisor. This engineering firm will be instrumental in helping the City vet the submitted designs from the proposers.
- Lastly, we are in the process of selecting a legal firm to assist the City in writing an agreement that will be attached to the RFP. The agreement will take a considerable amount of time to complete, which is beyond the staff capacity of our City Attorney's Office. The legal firm will also help us in drafting pieces of the RFP and will be at the forefront of negotiations with the selected firm if Council gives this P3 the "go ahead" this fall. Hiring a legal consultant will be the most expensive piece of the puzzle, but this service is necessary in saving time and money on the backend by having a well-vetted agreement.

Where can I read more information on this project?

The City has a new project page that is available at:

<https://www.ci.oswego.or.us/publicworks/tryon-creek-wastewater-treatment-plant-project> .

This page also includes the full PERC Water feasibility study. More documents will be attached as they become available.

FISCAL IMPACT

The only costs at this point are associated with the owner's representative, legal, financial, and technical consultant costs to produce a RFQ, RFP, and template agreement. There are multiple future off-ramps before making the decision as to whether the proposed P3 is cost-neutral compared to the cost to upgrade and operate the existing Tryon Creek Wastewater Treatment Plant.

RECOMMENDATION

Not applicable; no action needed at this time.