



<p>Subject: Request Authorization to Spend an Additional \$392,000 on the Public-Private Partnership (P3) Project to Build, Design, Finance, Operate, and Maintain (DBFOM) a New Wastewater Treatment Plant in the Foothills Area.</p>	
<p>Meeting Date: November 17, 2020</p>	<p>Staff Member: Anthony Hooper, Deputy City Manager/Public Works Director</p> <p>Department: City Manager’s Office</p>
<p>Action Required</p> <p><input checked="" type="checkbox"/> Motion</p> <p><input type="checkbox"/> Public Hearing</p> <p><input type="checkbox"/> Ordinance</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Information Only</p> <p><input type="checkbox"/> Council Direction</p> <p><input type="checkbox"/> Consent Agenda</p>	<p>Advisory Board/Commission Recommendation</p> <p><input checked="" type="checkbox"/> Approval</p> <p><input type="checkbox"/> Denial</p> <p><input type="checkbox"/> None Forwarded</p> <p><input type="checkbox"/> Not Applicable</p> <p>Comments:</p>
<p>Staff Recommendation: Provide authorization to staff to spend an additional \$392,000 in consulting services to move forward with the next five months of work and to secure a Preliminary Development Agreement (PDA) with the selected public-private partnership team to design, build, finance, operate, and maintain a new wastewater treatment plant in lieu of upgrading the Tryon Creek Wastewater Treatment Plant.</p>	
<p>Recommended Language for Motion: N/A</p>	
<p>Project / Issue Relates To:</p> <p><input checked="" type="checkbox"/> Council Goals/Priorities <input type="checkbox"/> Adopted Master Plan(s) <input type="checkbox"/> Not Applicable</p>	

ISSUE BEFORE COUNCIL

Decide whether to keep moving forward on investigating whether it is in the City’s interest to build a brand new Wastewater Treatment Plant that is ultimately owned by Lake Oswego through a P3 partner and spend the necessary consultant money to aid in that effort.

EXECUTIVE SUMMARY

The City has released the Request for Proposal (RFP) package and has a signed interim IGA. There is a lot of back and forth collaboration required between the consultants, the cities, and the bidders over the next five months as proposals are completed, submitted, evaluated, and an

agreement is negotiated for preliminary services. To do all this work, it will take an estimated \$392,000 in consulting services to get to mid-April 2021. These cost will not be borne by Lake Oswego alone, since Portland has agreed to divide all costs incurred after October 26, 2020. The cost split will be 50/50 if the project doesn't work out, but if it does work out then the costs will be divvied up according to how much sewage each city sends to the new plant.

BACKGROUND

The City, in partnership with Portland, is in the process of exploring whether it is more financially beneficial to build a new wastewater treatment plant in the Foothills area through a Public-Private Partnership or to continue with the existing arrangement with the City of Portland by investing in the 1965 wastewater treatment plant in order to meet necessary DEQ requirements.

In January 2020, Council gave authorization to staff to spend \$450,000 in consulting fees to get to the RFP release date. The RFP was released on October 16. As of this writing, the City has been invoiced for \$422,000 since the authorization in January.

On September 15, 2020, the City Council authorized the City Manager to Sign an Interim Intergovernmental Agreement (IGA) with the City of Portland, which was fully executed on October 26, 2020. The IGA stipulates that all consulting costs starting on or after October 26, 2020 will be split 50/50 if the project does not occur. If the project does occur, then the consulting costs will still be shared but the interim IGA stipulates that it will be based upon the comparison between how much sewage is treated by both cities in the new plant.

There is a lot of work that needs to take place between now and April 2021, when the City expects to have a Preliminary Development Agreement (PDA) with a Public Private Partnership to start work on a series of deliverables (i.e. design work). The plan is to bring this PDA to the Council for approval on April 20, 2021, which necessitates spending an estimated \$392,000 total in consulting costs to get to that date. As a result of the collaborative nature of the procurement process, there is a lot of back and forth between the bidders and City. The consultants are critical in making prudent decisions from a legal, financial, and technical perspective. Table 1 shows the next steps.

Activity	Date
Proposal Submittal Date	January 11, 2021
Proposal Due Date Extension (<i>has not been issued, but is likely</i>)	Late January/Early February 2021
Council Tour of Existing Wastewater Treatment Plant & Wastewater 101	February 2021
Announcement of Selected Proposer	March 2021
Study Session with Council on the Project	March 16, 2021
Council Meeting to Request PDA Authorization	April 20, 2021

DISCUSSION

On November 5 and 6, 2020, the City had two-hour long confidential meetings with each shortlisted bidder. Based upon the overall feedback, the City believes that the project has the potential to be feasible. In addition, the City believes there is enough potential for the new plant to have a wastewater rate impact to the City of 3.9% per year, which is what it is for the status quo of staying with the existing 1965 Tryon Creek Wastewater Plant. Since there are additional benefits of reducing the footprint, improving aesthetics, and providing positive environmental impacts, the City urges the Council to give staff the authorization to spend \$392,000 (to be shared with Portland) to continue looking into this P3 project.

FISCAL IMPACT

As of November 9, 2020, the City has been invoiced for \$422,000 of the \$450,000 that was authorized by the City so as to develop the interim IGA and to complete the RFP package, which was successfully released. The City estimates that it will need \$392,000 total to get to the April 20, 2021 Council Meeting, where staff anticipates asking the Council to consider approving a Preliminary Services Agreement with the selected P3 team. The City would not be on the hook for the entire \$392,000 since the interim IGA stipulates cost sharing with the City of Portland. The Portland interim IGA stipulates splitting all costs 50/50 starting on October 26, 2020 should the project not work out. If the project does work out, then these costs will be split according to the percentage share that Portland uses of the new plant. At the Council meeting in April 2021, an additional amount of money will be requested to bring the City further along into the project.

Table 2: Consultant Invoices as of November 9, 2020

Consultant	Function	Total Contract Amount	Total Invoiced Since Council's \$450,000 Authorization (as of 11-9-20)	Total Invoiced Since the Start of Project	Total Needed until Mid-April 2021
Jones Lang LaSalle (Jill Jamieson): <i>The contract has been terminated.</i>	Primary Owner's Rep & Financing Advisor	\$100,000	\$16,000	\$88,000	
Illuminati Infrastructure Advisors (Jill Jamieson)	Primary Owner's Rep & Financing Advisor	\$110,000	\$67,000	\$67,000	\$76,000
WCX (<i>No longer in Business</i>)	Owner's Rep	\$10,000	\$0	\$4,000	
Carollo Engineers	Technical Advisor	\$88,000	\$54,000	\$54,000	\$92,000
Hawkins, Delafield & Wood	Legal Advisor	\$594,000	\$277,000	\$317,000	\$224,000
Argent Management (<i>Done</i>)	2018 Study	\$150,000	\$0	\$150,000	
FCS Consulting	Wastewater Rate Model	\$8,000	\$8,000	\$8,000	
	Total	\$1,060,000	\$422,000	\$688,000	\$392,000

The Council has already approved the legal services contract for Hawkins, Delafield & Wood and the spending falls within the contract amount. There will likely need to be an amendment down the road for Hawkins, but not for the next 5 months. The contracts for Illuminati Infrastructure Advisors will likely need to be amended by about \$25,000 and the contract for Carollo Engineers will likely need to be amended by about \$58,000 to get through the next 5 months of work. The contracts may need to be amended further if the Council decides to keep proceeding on the project at the tentatively scheduled April 20, 2021 Council Meeting.

RECOMMENDATION

Provide authorization to staff to spend an additional \$392,000 in consulting services to move forward with the next five months of work and to secure a Preliminary Development Agreement (PDA) with the selected public-private partnership team to design, build, finance, operate, and maintain a new wastewater treatment plant in lieu of upgrading the Tryon Creek Wastewater Treatment Plant.