

**CITY OF COOS BAY CITY COUNCIL**  
**Agenda Staff Report**

MEETING DATE September 6, 2016	AGENDA ITEM NUMBER
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TO: Mayor Shoji and City Councilors

FROM: Jennifer Wirsing, Wastewater Project Engineer

THROUGH: Rodger Craddock, City Manager  
Jim Hossley, Public Works Director

ISSUE: Next Steps for the Plant 2 in Regards to the Treatment Evaluation and the Zero Cost Contract with Mortenson construction

**BACKGROUND:**

While the Council is still considering its options in regards to the building of Wastewater Treatment Plant 2 (WWTP2), the Council has authorized the following tasks/projects:

- The WWTP2 related piping project along S Empire Blvd.
- The bidding of the DEQ approved plan site work.
- The hiring of an engineering consultant to conduct a cost-benefit analysis of the SBR and MBR treatment processes and Class A and Class B Biosolids analysis
- Zero Cost Contract with Mortenson Construction to bid the DEQ approved plans for Plant 2

**Status of the Council Approved Tasks/Projects:**

**Piping Project S. Empire Blvd**

On May 3, 2016, Council approved the piping work associated with Plant 2 along S. Empire Boulevard. This piping work will need to be constructed regardless of what type of treatment (Sequencing Batch Reactor, SBR, or Membrane Bio Reactor, MBR) is chosen by Council.

Project Task	Schedule/Deadline
Opened Bids for Piping Along S. Empire	July 21, 2016
Commence Construction of Piping Work	September 12, 2016
Complete Construction of Piping Work	November 23, 2016/Same as MAO Deadline

**Bidding of Site Work**

On August 16, 2016, Council approved bidding the site work in accordance with the approved DEQ plans for Plant 2 (SBR). This approval was only for bidding (not award of contract) and it was a step that Council chose to do in an effort to reduce and/or eliminate MAO fines associated with the interim construction deadlines should Council elect to move forward on the SBR plant.

<b>Project Task</b>	<b>Schedule/Deadline</b>
Bid Site Work	August 25, 2016
Open Bids for Site Work	September 22, 2016
Tentative Award of Site Work	October 18, 2016
Tentative Commencement Date for Site Work	December 7, 2016 (Exceeds MAO Deadline)

**If the Council elects to continue with the SBR construction but waits until the October 18th, the date that the Treatment Evaluation will be presented, to award the Site Work then the breaking ground deadline will be missed by approximately 2 weeks.**

### **Treatment Evaluation**

On August 16, 2016, Council approved the hiring of an engineering consultant to conduct a treatment evaluation for the proposed Plant 2 project. As a result, staff prepared a Request for Proposals (RFP) and advertised the RFP the following week. Additionally, staff has reached out to 10 widely known engineering firms that have no affiliation with this project or DB Western Texas, and requested that they submit a proposal.

<b>Project Task</b>	<b>Schedule/Deadline</b>
Council Approved RFP for Treatment Evaluation	August 16, 2016
Staff Advertised RFP	August 24 & 26, 2016
Proposals Due for Treatment Evaluation	September 8, 2016
Select Consultant for Treatment Evaluation	September 12, 2016 (Special Council Meeting)
Treatment Evaluation Report Due	October 13, 2016
Treatment Evaluation Presentation to Council	October 18, 2016

### **Next Steps for Council:**

#### **Piping Project S. Empire Blvd**

No additional action is required from Council.

#### **Bidding of Site Work**

No action required unless Council decides to move forward with DEQ approved SBR treatment for Wastewater Treatment Plant #2. Then Council will review bids and consider approving on October 18, 2016.

### **Treatment Evaluation**

Staff is recommending Council take two actions: 1) Conduct a Special Council Meeting on September 12 and 2) Appoint two Councilors tonight to sit on the Treatment Evaluation Proposal Recommendation Committee. The committee will consist of two Councilors (preferably one from each side of the issue related to Wastewater Treatment Plant #2 project), Jim Hossley, Jennifer Wirsing, Jan Kerbo and Nate McClintock. The committee will meet 2 p.m. September 9, 2016.

### **Consider Other MAO Deadlines**

As mentioned previously, the recent MAO amendments have added additional deadlines related to interim construction milestones. Council has taken steps and approved the tasks identified above in an effort to meet the first MAO deadline of November 23, 2016 (associated with the piping work along S. Empire and the Site Work).

<b>Tasks/Projects</b>	<b>Deadline</b>
MAO Deadline to Commence Site Work	Nov. 23, 2016
MAO Deadline to Complete Empire Piping Work	Nov. 23, 2016
MAO Deadline to Commence Construction of SBR	January 18, 2017
MAO Deadline to Complete Construction of SBR	July 31, 2017
MAO Deadline to Complete Construction of UV	March 20, 2018
MAO Deadline to have Plant 2 Online	June 16, 2018

The interim deadlines that occur after November 23, 2016 will be very difficult to meet should Council elect to move forward with the current approved DEQ plans for Plant 2 (SBR). However, there is a solution to minimize the impact of potential DEQ fines. On March 15, 2016 Council approved a Zero Cost contract with Mortenson Construction to bid the Plant 2 project so that Council could see the bid results prior to award. However, due to the June 21, 2016 Council decision to stop work on the proposed Plant 2, Staff issued a stop work order to Mortenson and as a result, the bidding of the entire project has not occurred. Council could take one more action to help reduce and/or eliminate the potential risk of DEQ fines and penalties by directing Mortenson to move forward with the Zero Cost contract and bid the entire project. This action only allows Mortenson to bid the project. Upon completion of the bids, staff will bring the results back to Council for approval should Council decide to move forward with the SBR plant. In order to move forward with the bidding process and in accordance with Council Rules, a motion would need to be made by one of the four Councilors (Councilors Daily, Brick, Vaughan or Leahy) who voted in favor of stopping all work on the DEQ approved plan. Staff has worked with Mortenson construction to develop the following schedule in an effort to abide by the DEQ interim construction deadlines.

<b>Tasks/Projects</b>	<b>Deadlines/Dates</b>
Council Approves Zero Cost Contract	March 15, 2016
Council Stopped Work on Plant 2 (SBR)	June 21, 2016
Request Council Approve Modification to Stop Work <sup>(1)</sup>	September 6, 2016
Commence with the Preparation of the Bid Packages	September 7, 2016
Open Bids	November/December 2016
Present Guaranteed Maximum Price to Council	November/December 2016

(1) Allow Mortenson to work under the Zero Cost Contract and bid entire project

### **ADVANTAGES:**

#### **Treatment Evaluation**

Conducting a special Council meeting will allow for more time for the successful proposer to prepare the final treatment evaluation report. Allowing a longer timeframe for this deliverable may make it more enticing to engineering firms to submit a proposal. A special meeting will also hold the deliverable dates so that no further delays are incurred.

Appointing two Council members to the Recommendation Committee will add the Council's perspective when selecting an engineer to conduct the treatment evaluation. Appointing a Councilor that is in favor of SBR treatment and MBR treatment will represent both sides of the Council on this issue.

#### **Zero Cost Contract**

Moving forward with the Zero Cost contract with Mortenson and bidding the entire project would allow the City the best opportunity to meet the interim MAO deadlines or at least to limit the time the City would be in violation and thus possibly eliminate or reduce potential fines and penalties.

Moving forward with bidding may also be advantageous in working with DEQ and avoiding lawsuits. By moving forward on the bid packages, it shows that the City is willing to work with DEQ, while still exploring other options for their ratepayers (privatization and treatment comparisons). Currently the MAO provides the City "legal coverage" with the understanding that the City is meeting the parameters of the MAO. If the City were to not meet the conditions of the MAO, there may be penalties and the City could be subject to a third party lawsuit.

Lastly, allowing the bidding of the DEQ approved plans for Plant 2 does not limit the Council from continuing to explore privatization of the plants or moving forward on the engineering evaluation of SBR and MBR treatment.

### **DISADVANTAGES:**

Should Council decided to not move forward with the DEQ approved plans for Plant 2, there will be costs incurred by Mortenson that would have been otherwise covered in the general conditions for the project. The contractor may attempt to recover these costs.

### **BUDGET IMPLICATIONS:**

#### **Treatment Evaluation**

There are no budget implications for this phase. Cost will be determined during evaluation of proposals.

#### **Zero Cost Contract**

Bidding the entire project will require some staff time and there are costs associated with the bidding and advertising process. Additionally, some time will also need to be spent by the City's consultant and General Contractor. However, those costs are minimal compared to the costs of the stipulated fines for violations of the MAO deadline and any potential legal fees that may occur.

### **ACTION REQUESTED:**

There are several actions that Council may want to take. They have been itemized below:

1. If it pleases the Council, move to approve a Special Council meeting on September 12 for a time of Council's choosing to select and award a contract to a consultant to perform the Treatment Evaluation.
2. If it pleases the Council move to approve appointing two members to the Recommendation Committee.

In order to move forward with the bidding process and in accordance with Council Rules, a motion can only be made by one of the four Councilors (Councilors Daily, Brick, Vaughan or Leahy) who voted in favor of stopping all work on the DEQ approved plan.

3. If it pleases Council, consider modifying its decision to stop work on the DEQ approved WWTP 2 plan and allow for Mortenson Construction to commence forward with the bidding process for the entire project in accordance with their Zero Cost Contract with the understanding that award of the bids must be brought back to Council for approval.