



191130

Ordinance

Amend Intergovernmental Agreement with the City of Lake Oswego to purchase property for replacement or expansion of the Tryon Creek Wastewater Treatment Plant

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. The Bureau of Environmental Services ("BES") owns and operates the Tryon Creek Wastewater Treatment Plant ("TCWTP") in Lake Oswego, which provides wastewater treatment services to approximately 20,000 Portland residents and roughly 40,000 residents within Lake Oswego.
2. Ordinance 190127, passed by Council on September 16, 2020, authorized BES to execute an Intergovernmental Agreement with the City of Lake Oswego for BES cooperation in Lake Oswego's competitive proposal process for a public-private partnership to design, build, finance, operate, and maintain a new wastewater treatment facility in Lake Oswego to replace the TCWTP.
3. Lake Oswego has identified, and plans to purchase, property for the new treatment plant.
4. Should construction of the new treatment plant not proceed, Council's authority will be sought to enter into a subsequent agreement with Lake Oswego that will enable BES to use or obtain the additional property to upgrade the TCWTP or pursue other options.
5. The established cost is \$5,923,000 in cash, with up to \$5,077,000 of depreciation and assets-in-progress expense owed to Portland from Lake Oswego forgiven, for a maximum of \$11,000,000 in total value. Cash funds are available in the Sewer System Operating Fund contingency, FY 2022-2023 Budget, Bureau of Environmental Services, Cost Center ESBS000001.

NOW, THEREFORE, the Council directs:

- A. The Director of the Bureau of Environmental Services is authorized to execute an amendment to the intergovernmental agreement with the

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Environmental Services](#)

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

January 11, 2023

City of Lake Oswego for TCWTP in a form substantially similar to Exhibit A, provided the amendment has been approved as to form by the City Attorney's Office.

- B. The Mayor and City Auditor are hereby authorized to pay Lake Oswego, under the terms of the amendment, from the Sewer System Operating Fund Budget when demand is presented and approved by the proper authority.

Documents and Exhibits

 [Exhibit A](#) (939.47 Kb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
January 11, 2023

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

The cities of Lake Oswego and Portland have maintained a decades-long relationship regarding a sewage treatment plant (the Tryon Creek Wastewater Treatment Plant, or "TCWTP") located within the City of Lake Oswego, and built, maintained, owned and operated by the City of Portland via the Bureau of Environmental Services ("BES"). TCWTP provides wastewater treatment services to approximately 20,000 City of Portland residents, and roughly 40,000 residents of the City of Lake Oswego. Service and cost-sharing responsibilities are defined in an existing intergovernmental agreement established in 1984 (the "1984 Agreement"). The TCWTP is currently in need of major, significant maintenance and upgrades.

Staff from the cities of Lake Oswego and the City of Portland have been in discussion for multiple years regarding potential upgrades to or replacement of the TCWTP to ensure adequate and efficient service to both cities over the long-term, and to continue to meet environmental regulatory requirements.

Ordinance 190127 authorized Portland to collaborate with Lake Oswego to proceed with the procurement process for a public-private partnership to design, build, finance, operate and maintain ("DBFOM") a replacement sewer treatment plant within the City of Lake Oswego. The procurement process is being led and managed by the City of Lake Oswego as they will become the long-term owner of the new treatment plant and will have the direct contractual relationship with the DBFOM provider. Portland will pay for Lake

Oswego for wastewater collection and treatment services rendered under the new DBFOM arrangement. (This is the reverse of the current arrangement, where Portland owns/operates and Lake Oswego pays for services.)

If the City of Lake Oswego procurement is successful and DBFOM of a new Lake Oswego-owned treatment plant proceeds, future City Council action will be required to approve a new intergovernmental agreement to specifically address costs and responsibilities under that new arrangement.

If a DBFOM agreement is not successful, the City of Portland will continue to own and operate TCWTP.

Financial and Budgetary Impacts

The legislation provides Portland the opportunity to acquire 50% equity interest in land to be used for building a new, Lake Oswego-owned treatment facility or capital reinvestment at TCWTP that will utilize the acquired land. The long-term financial impacts to Portland are not to exceed \$11M dollars, comprised of \$5,923,000 of cash and up to \$5,077,000 of forgiven depreciation and assets in-progress expense owed to Portland from Lake Oswego for the use of TCWTP. Portland will have no operations or maintenance expenses with regard to the acquired land.

Passing of the legislation will allow Portland to remit \$5,923,000 of cash from the Sewer System Operating Fund to Lake Oswego for Portland's 50% equity interest in the land. This \$5,923,000 represents an additional, one-time expense in fiscal year 2022-23 with budget authority to be established in the upcoming Spring BMP. Forgiving up to \$5,077,000 of depreciation and assets in-progress will reduce current and future revenues for the wholesale agreement with Lake Oswego. However, given the alternative of paying up to \$11M in cash for the land, it creates substantial cash savings for Portland. Additionally, the \$11M of total land acquisition cost is a high estimate, and Portland anticipates the total cost being under \$11M dollars.

Portland will not incur additional staffing expenses in purchasing the land. Staff time to model the fiscal impacts to Portland has been achieved within existing staff levels. This legislation provides an amendment to the Interim IGA between Lake Oswego and Portland, representing the expansion of financial terms stipulated in the 2020 agreement.

Community Impacts and Community Involvement

The project to replace TCWTP is led by Lake Oswego staff, with the new plant being located in Lake Oswego. Community outreach and community involvement has been stewarded by Lake Oswego through various council meetings and virtual open houses. The following URLs provide access to different sources of information.

The following URL provides access to project website:

<http://www.lakeoswegowastewater...>

The following URL provides access to video recordings of Lake Oswego City Council meetings, where the proposed project is discussed on numerous occasions:

<https://www.ci.oswego.or.us/boc...>

100% Renewable Goal

The legislation has no impact on City energy use.

Budget Office Financial Impact Analysis

The cities of Lake Oswego and Portland have maintained a decades-long relationship regarding a sewage treatment plant (the Tryon Creek Wastewater Treatment Plant, or “TCWTP”) located within the City of Lake Oswego, and built, maintained, owned and operated by the City of Portland via the Bureau of Environmental Services (“BES”). This ordinance amends the Intergovernmental Agreement (IGA) with the City of Lake Oswego to build a new wastewater treatment facility in Lake Oswego to replace the Tryon Creek Wastewater Treatment Plant (TCWTP).

For context, Ordinance 190127 authorized Portland to collaborate with Lake Oswego to proceed with the procurement process for a public-private partnership to design, build, finance, operate and maintain (“DBFOM”) a replacement sewer treatment plant within the City of Lake Oswego. The procurement process is being led and managed by the City of Lake Oswego as they will become the long-term owner of the new treatment plant and will have the direct contractual relationship with the DBFOM provider. Once completed, Portland will pay for Lake Oswego for wastewater collection and treatment services rendered under the new DBFOM arrangement. (This is the reverse of the current arrangement, where Portland owns/operates and Lake Oswego pays for services.)

The amendment provides Portland the opportunity to acquire 50% equity interest in land to be used for building a new, Lake Oswego-owned treatment facility or capital reinvestment at TCWTP that will utilize the acquired land. The cost of this amendment is anticipated at up to \$11 million in total value, with \$5,923,000 in cash and a \$5,077,000 credit to Lake Oswego, which represents the forgiven depreciation and assets in-progress expense owed to Portland from Lake Oswego for the use of TCWTP.

Due to the timing of conversations between the bureau and Lake Oswego, the bureau was not able to request a movement of funds from contingency to the Sewer Operating Fund in the FY 2022-23 Fall Supplemental Budget. The bureau has sufficient budget authority available in the FY 2022-23 Sewer System Operating Fund to cover the amendment. The bureau will request a draw from contingency in the FY 2022-23 Spring Supplemental Budget to cover the costs of this ordinance.

If the land procurement is successful and a new wastewater treatment plant is constructed, future City Council action will be required to approve a new IGA and related costs. Anticipated expenses for this transition have been factored

into the bureau's economic forecast. At present, it is not expected to result in subsequent draws on contingency or affect future rates. The bureau will continue to manage and operate TCWTP until this project is completed.

Agenda Items

6 Time Certain in January 4, 2023 Council Agenda

Passed to second reading

Passed to second reading January 11, 2023 at 9:30 a.m.

32 Regular Agenda in January 11, 2023 Council Agenda

Passed

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Mayor Ted Wheeler Yea