



Council Agenda Report

To: Mayor Grisanti and the Honorable Members of the City Council

Prepared by: Rob DuBoux, Public Works Director

Approved by: Steve McClary, Interim City Manager

Date prepared: January 27, 2022 Meeting date: February 28, 2022

Subject: Civic Center Water Treatment Facility Phase Two Update

RECOMMENDED ACTION: 1) Receive an update on the Civic Center Water Treatment Facility (CCWTF) Phase Two project; and 2) Provide direction regarding the implementation schedule.

FISCAL IMPACT: Funding for the design and engineering of this project was included in the Adopted Budget for Fiscal Year 2021-2022 in Account No. 310-9075-5100 (Civic Center Water Treatment Facility Phase Two) through a funding agreement with HRL Laboratories. The HRL agreement is fully encumbered and additional costs may be necessary. Staff will bring a recommendation to council after further analysis is completed.

WORK PLAN: This item was included as item 5a in the Adopted Work Plan for Fiscal Year 2021-2022.

DISCUSSION: On November 5, 2009, the Regional Water Quality Control Board (RWQCB) approved a resolution prohibiting the use of septic systems in the Malibu Civic Center Area. On September 21, 2010, the State Water Resources Control Board (SWRCB) approved the action taken by the RWQCB, thereby amending the State Basin Plan that includes the septic prohibition. The State Basin Plan established certain dates by which properties in the Civic Center area were required to cease discharge and provided for a municipally owned wastewater treatment facility to be constructed.

On June 27, 2011, the Council approved a Memorandum of Understanding (MOU) between the City, the RWQCB and SWRCB regarding the implementation of the Basin Plan Amendment for the Civic Center Area Prohibition. The MOU was amended in December 2014 to extend certain dates. Under the amended MOU, properties in Phase One of the Prohibition Area (primarily the commercial core of the Civic Center area) were

required to connect to a centralized wastewater treatment facility by June 2017. Phase Two properties (primarily residential) were required to connect to the centralized wastewater treatment facility by November 2022. The MOU includes a third phase that may be implemented but is dependent on the outcome of the first two phases.

On January 11, 2017, the MOU was amended a second time with the following changes:

- Phase One:
 - Changed completion date from June 30, 2017, to September 30, 2018
- Phase Two:
 - Changed completion date from November 5, 2022, to November 5, 2024
 - Required that the City and the RWQCB meet by January 30, 2019, to review the schedule outlined for Phase Two
 - Extended the deadlines for all milestones in Phase Two by two years
- Phase Three:
 - If Phase Three is necessary, extended the deadline for the completion of Phase Three by three years from 2025 to 2028
- Water Sampling:
 - Required the City to conduct water quality monitoring, including baseline monitoring in both the wet season and dry season prior to startup of Phase One and semi-annually thereafter
 - Required the City to submit a water monitoring and reporting program for water quality in the Malibu Lagoon and the ocean adjacent to Malibu Road by May 5, 2017
 - Required the City to conduct water monitoring and reporting program for water quality in the Malibu Lagoon and the ocean adjacent to Malibu Road by November 5, 2017, or earlier if funding became available
- Enforcement:
 - Extended the date for the RWQCB to enforce all State policies, plans or regulations if an assessment district is not approved for Phase Two from November 5, 2019, to November 5, 2021

All other terms and conditions of the MOU approved in 2011 and revised in 2014 remained the same.

On November 22, 2021, the Council approved the third revision to the Memorandum of Understanding (MOU) between the City, the RWQCB and SWRCB regarding the implementation of the Basin Plan Amendment for the Civic Center Area Prohibition. This amendment revised the deadline to form the assessment district from November 5, 2021, to June 30, 2022. All other terms and conditions remain the same.

The City's MOU with the RWQCB stipulates that all the properties within the Phase Two boundary shall be connected to the CCWTF by November 5, 2024. The MOU includes a

third phase that may be implemented but is dependent on the outcome of the first two phases. If there are reductions in bacteria and nitrogen in the Malibu Lagoon to the levels indicated in the MOU, then properties located Phase Three could be excluded in the prohibition. Phase Three has an implementation deadline of November 5, 2028.

The wastewater treatment process at the CCWTF includes a Membrane Bioreactor (MBR) system to process the wastewater. An MBR system treatment process includes a reduced footprint compared to conventional wastewater treatment systems and produces exceptional water quality capable of meeting the Regional Board's stringent water quality requirements. The system allows for ease of expansion and configuration flexibility and a reliable operation. The treatment process also includes an Ultraviolet (UV) disinfection system that allows the treated wastewater to be used as recycled water. The treated and disinfected wastewater is then sent to the recycled water distribution system where the property owners within the prohibition zones can use the recycled water for irrigation. Treated wastewater that is not used is sent to the injection wells located on Malibu Road.

The design of Phase One was completed in June 2015 and the construction was completed in September 2018. All properties within Phase One were connected to the CCWTF prior to the MOU deadline of September 30, 2018. Phase One included the construction of new the CCWTF wastewater treatment facility and 32,000 linear feet of wastewater and recycled water lines. Phase One also included the construction of two wastewater pump stations, Bluffs Park and Legacy Park and two injection wells on Malibu Road.

On August 12, 2019, Council approved a professional services agreement with Woodard and Curran (W&C) for the engineering design of the CCWTF Phase Two. W&C has been designing the Civic Center Water Treatment Facility upgrades necessary to accommodate the additional wastewater flow from the properties in Phase Two. These improvements include expanding the existing bioreactor structure, installing new membrane and disinfection units, and additional mechanical and electrical equipment to support the additional wastewater flow. W&C has also been designing the wastewater collection and recycled water system expansion. The current wastewater collection and recycled water lines will be extended to a portion of the Serra neighborhood, Malibu Colony, condos on Civic Center Way and to HRL Laboratories. The design of these systems is complete and ready for construction bidding.

On January 12, 2015, the Council certified the Environmental Impact Report (EIR) which provided a project-level analysis of Phase One. The EIR provided a programmatic-level analysis of Phases Two and Three. A project-level CEQA analysis of Phase Two was completed and an addendum to the certified CEQA document was created. On February 1, 2021, the Planning Commission approved the addendum. Since it has yet to be determined whether Phase Three will be required, no consideration has been given to additional CEQA documentation for that phase.

On April 8, 2019, the City entered into an agreement with HRL to provide funding for the design and engineering assessment of the CCWTF Phase Two. The agreement provides for HRL to fund the project design and the development of an assessment district and then be reimbursed after an assessment district for Phase Two is formed and bonds are issued. If formation of an assessment district for Phase Two is not successful, the agreement provides that HRL will have the opportunity to form its own assessment district and either apply the funds provided as a credit or be reimbursed by the City for costs incurred on the design for the entire Phase Two project.

The CCWTF Phase Two project costs will be paid by the property owners within the prohibition zone. The establishment of an assessment district provides a method for the property owners to fund the capital costs of the project. The Municipal Improvement Act of 1913 provides the City with the legal authority to form an assessment district to finance public improvements, provided that only those parcels which receive a “special benefit.” Proposition 218 requires that an assessment engineer prepare a report determining the “special benefits” received from the proposed improvements for each property within the proposed assessment district.

CCWTF Phase Two total project costs is estimated at \$65 million. Construction bids are currently expected on March 22, 2022. The total project costs will be adjusted upon receiving the construction bids. Funding for the assessment district will come from a combination of municipal bonds and a State low interest loan. If available, grants and other funding sources may be added to the project.

The property owners in Phase Two will vote to approve or disapprove the formation of the assessment district. If the Assessment District for Phase Two is approved, property owners will be assessed their fair share of the costs determined by the City’s assessment engineer. Property owners will have the option of prepaying their assessment during a cash collection period and will not be charged interest. The assessments will be levied on each parcel for a period of 30 years.

The properties within the Serra and Malibu Colony neighborhoods include private streets. Separate utility and construction easements are needed to place the new wastewater and recycled water improvements. There are a total of 36 easements needed for this project. The City received eight executed easements to date. Staff has been working closely with the remaining property owners to secure the required easements. These easements are needed prior to the formation of the assessment district.

Individual property owners will be responsible for improvements needed on their respective parcels to connect to the wastewater collection system. Property owners will also be responsible for the ongoing operation and maintenance costs of the CCWTF.

Staff has been searching for additional funding options in addition to financing from low interest rate loans and municipal bonds. The State Water Board has a variety of financial assistance programs that can apply to the CCWTF Phase Two project. The Clean Water State Revolving Fund Program (CWSRF) provides agencies with a low interest rate loans for wastewater projects. The CWSRF program has financing terms up to 30 years, no funding limits and the repayment begins one year after the completion of construction. The City used this financial assistance for Phase One as well as other State grants to finance the project.

In December 2020, the City submitted a project application to the State Water Board for financial assistance under the CWSRF program. On May 3, 2021, the City was notified that the CCWTF Phase Two was included on the State Water Board's funding list under the CWSRF program. Staff has been in constant contact with the State Water Board regarding the timing of the funding. It is anticipated that the CWSRF funds for this project could be available in early fall 2022. Once finalized by the State Water Board, a funding agreement will be presented to City Council for approval.

The State Water Board also manages various grants offered from the State and Federal Government. At the State level, the Budget Act of 2021 appropriated \$1.55 billion for infrastructure projects. The bill specified that \$650 million is for wastewater projects, with a priority given to those projects that are converting septic systems to a centralized sewer system. The State's implementation plan for this funding is anticipated to be completed in March 2022. The Federal Government has environmental grants within the newly approved Infrastructure Investment and Jobs Act. These grants are environmentally related to drinking water and wastewater infrastructure. The Environmental Protection Agency (EPA) is currently working on grant guidelines. Representatives from the EPA indicated that the guidelines may be available within a few months and will be issued to the State Water Board to implement. Since the City has received approval from the State Water Board to be included in the CWSRF program, no other applications are necessary for State or Federal funded grants.

The current MOU has the following deadlines for Phase Two:

- **June 30, 2022** – Commence the formation of an assessment district for all properties within the Malibu Civic Center Area Phase Two and provide that information to the Water Board.
- **June 30, 2022** - Complete and release a Bid Package for construction of the Phase Two Wastewater Treatment Facility.
- **November 5, 2022** – Complete contractor selection and initiate construction of the Phase Two facility.
- **November 5, 2024** – Complete Phase Two project, including successful startup of the Phase Two Wastewater Treatment Facility and the connection of all properties

within Phase Two boundaries to the Wastewater Treatment Facility. The City is required to operate the Facility in compliance with the WDRs.

Staff is moving forward with meeting the assessment district formation MOU deadline. CCWTF Phase Two construction documents are currently out to bid with construction bids due on March 22, 2022. These construction bids will be used to finalize the overall project costs and finalize the assessment district engineer's report. To meet the MOU assessment district formation deadline of June 30, 2022, the City is required to adopt a resolution of intention to form the proposed assessment district at the April 11, 2022, City Council meeting. Assessment district ballots would then be mailed to the property owners within the Phase Two boundary with a final public hearing scheduled on June 13, 2022, to count the assessment district ballots. If the majority of the ballots come back in favor of the assessment district, staff will complete the necessary steps to form the assessment district and the City would meet the MOU deadline.

As stated above, it is unlikely that the CCWTF Phase Two project would receive any grants until after the formation of the proposed assessment district. The proposed assessment district will be formed with individual assessments calculated based upon the full project costs.

Staff has also been monitoring the current supply chain issues related to construction materials and equipment. Certain construction materials have been found to take up to a year to obtain. This could have an impact on the completion schedule and meeting the MOU deadlines to complete the project and to have property owners connect by November 5, 2024.

In order to accommodate the additional time to obtain potential grants and other funding sources, and to account for the potential project construction delays due to supply chain issues, staff recommends that the City request an extension of the project from the Regional Board. The following is the recommended deadline extensions:

- **February 28, 2023** – Commence the formation of an assessment district for all properties within the Malibu Civic Center Area Phase Two and provide that information to the Water Board.
- **December 31, 2023** – Complete and release a Bid Package for construction of the Phase Two Wastewater Treatment Facility.
- **March 31, 2023** – Complete contractor selection and initiate construction of the Phase Two facility
- **August 31, 2025** – Complete Phase Two project, including successful startup of the Phase Two Wastewater Treatment Facility and the connection of all properties within Phase Two boundaries to the Wastewater Treatment Facility. The City is required to operate the Facility in compliance with the WDRs.

- **June 30, 2029** – If necessary, complete Phase Three and all non-excluded properties connected to the Wastewater Treatment Facility.

If the City can secure additional funding requirements prior to these deadlines, the City could start the formation of the assessment district earlier. The revised deadlines will also assist with supply chain issues. The proposed 8-month extension could also have a positive impact on the current supply chain issues.

As an alternative, Council may elect to proceed forward with the project with the current MOU deadlines. This would require the City to proceed forward with the formation of the assessment district by June 30, 2022, without the potential of obtaining any additional outside funding, and begin construction during the fall of 2022.

ATTACHMENTS: None.