

December 29, 2022

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John Day City Council  
City of John Day  
450 E. Main Street  
John Day, OR 97845

RE: Wastewater Treatment Plant Summary and Progress Report

Dear Council Members:

This document summarizes the City's wastewater treatment plant project and recommends actions to complete the project.

## **I. Current Financing**

Since 2016, the City has received 14 financial awards for the wastewater treatment plant and associated improvements, with a combined value of \$11,070,616. These awards are shown in Appendix A. Of these, five are complete, and nine are in progress.

An additional application for funding has been submitted to USDA Rural Development. This award is pending decision. Additional information has been requested that the city council will need to provide to LaDonn McElligot, the USDA loan officer.

These RFIs that must be submitted for USDA to complete the application include the following:

- A copy of the city's organizational documents;
- Number of gallons processed (winter water usage per OR Guide 6);
- Project engineer (still TBD);
- Risk and Resilience Assessment/Emergency Response Plan that includes cybersecurity for the sewer system;
- Evidence the facility will be consistent with land use requirements/development plans; OR Guide 14 can be used for this.
- Certification of Compliance with Federal, State, and Local Requirements (document provided)
- Financial statements for fiscal year ending 6/30/22 (pending from auditor).
- Copy of agreement/contract with City's auditor and city attorney.



As part of the application process, USDA will need to run the city, city manager, mayor, and anyone else that handles funds through their Do Not Pay system.

## II. **Permits**

The City received a new operating permit from Oregon DEQ that took effect on May 1, 2022. The archaeological, wetland, brownfield, and other permitting requirements are complete except for the compliance with the endangered species act (ESA) and recording the final contaminated media management plan (CMMP) for the former Iron Triangle property, discussed below.

### **A. ESA Compliance**

The City of John Day was designated as the lead agency for the CDBG project and issued a determination of "No Effect" for ESA compliance. City staff were notified that their decision was challenged following a petition by a Grant County resident to the National Marine and Fisheries Services (NMFS). Despite numerous requests, staff were not given a copy of the petition or correspondence.

USDA then agreed to be the lead federal agency to resolve the challenge and agreed to issue a request for informal ESA consultation with a finding of "May Effect, Not Likely to Adversely Effect."

USDA's finding was subsequently challenged by NMFS, who issued an insufficiency letter for the biological assessment and over-ruled USDA's determination with a finding of "May Effect, Likely to Adversely Effect."

This, in turn triggered the requirements for a formal consultation. Staff responded with updates to the biological assessment (BA) and a summary of the brownfield activities completed to date (see Brownfield memo and enclosures attached to the council packets).

Mason, Bruce and Girard (MBG) staff have updated the biological assessment per NMFS insufficiency letter and Joe Hitz with Sisul Engineering is completing an update to the stormwater management plan that will be included in the report as an appendix.

Once the BA is submitted and formal consultation completed, USDA will publish their decision and will allow for public comment. Upon completion of USDA's publication, the City will also need to publish the BA and allow for public comment as the lead agency for the CDBG federal funding.

Once this process is complete, the City will receive an environmental clearance for the project and USDA will be able to issue the letter of eligibility for their financing to complete the project construction.

### **B. Brownfield CMMP**

The Brownfield CMMP is complete and ready to record with DEQ upon recording the business park's final plat. Mike Springer will work with the Mayor to record the plat once the property pins are in place. Maul, Foster, and Alongi staff are under contract to complete the CMMP work when the City notifies them to proceed. The CMMP is included as Appendix B.

### **III. Contracts and Procurements**

The City has no engineering firms currently under contract for the final design. Sisul is completing their stormwater management plan as the City's civil engineer of record. CWM H2O and Mason Bruce and Girard are also contracted to provide support services.

Several task orders are enclosed from CWM H2O. These task orders can be directly awarded under the general professional services agreement council approved in June 2022. All are necessary to meet the DEQ permitting requirements for the new WPCF permit or the requirements of the reclaimed water distribution system grant with OWRD.

A draft RFP for the purple pipe design procurement is enclosed in the council packet and needs to be updated with dates based on the council's decision to procure these services.

Given the \$100,000 design threshold for the community renewable energy project, the City may direct award this work to a qualified professional services firm. Competitive procurement is not required for professional services under \$100,000.

Finally, the council will need to issue findings for alternative selection procedures to use the progressive design-build approach. USDA and the CDBG program office must approve these selection procedures before publishing the solicitation. USDA will not authorize the procurement or solicitation before receiving environmental approval but will review the draft findings and procurement strategy with the city staff and attorney.

### **IV. Summary**

John Day has nine (9) active grants or loans associated with this project and one in the application phase to complete the funding for the plant's construction. Three firms have ongoing work in support of the project, but no firm or staff will be guiding their efforts as of January 1.

The project's most significant risks are: (1) compliance with the terms of the grant and loan agreements; and (2) securing the professional staff to administer the grants and lead the project. These should be the top priorities for the new council moving forward.