



City Hall
206 N. Main St.
Toledo, Oregon 97391
6:00 p.m.

TOLEDO CITY COUNCIL
Meeting Type – Via Zoom Meeting Platform
July 15, 2020

Virtual Meeting: Due to the governor’s “Stay Home, Stay Healthy” order, the City Council will hold the meeting through the Zoom video meeting platform. The public is invited to attend the meeting electronically. E-mail lisa.figueroa@cityoftoledo.org to receive the meeting login information.

Public Comments: The City Council may take limited verbal comments during the meeting. Written comments may be submitted by email to lisa.figueroa@cityoftoledo.org 3:00 p.m. the day of the meeting to be included in the record. Comments received will be shared with the City Council and included in the record.

1. Call to Order and roll call

2. Visitors/Public Comment

(The public comment period provides the public with an opportunity to address the City Council regarding items not on the agenda. Please limit your comments to three (3) minutes).

3. Consent Agenda

Minutes from the Work Session held August 28, 2019 and the Regular Meetings held February 19, 2020 and March 18, 2020

4. Discussion and Decision Items

- Authorize the expenditure of up to \$ 40,000.00 for Heat/ AC units to replace worn & in-efficient electric units at City Library
- Discussion regarding framework for Wholesale Utility Rate Agreement
- Discussion regarding scope of Planning Commission
- **Committee updates**

5. Reports and Comments

6. Adjournment

Comments submitted in advance are preferable. Comments may be submitted by phone at 541-336-2247 extension 2060 or by e-mail at lisa.figueroa@cityoftoledo.org. The meeting is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting by calling city offices at (541) 336-2247. Page 1

1 **TOLEDO CITY COUNCIL**

2 **Work Session**

3 August 28, 2019

4 6:00 p.m.

5
6 **1. CALL TO ORDER**

7 Mayor Cross called the meeting to order at 6:00 p.m.

Present	Absent	
X		Mayor Rod Cross
X		Council President Joshua Smith
X		Councilor Jackie Kauffman
X		Councilor Heather Jukich
X		Councilor Bill Dalbey
X		Councilor Stu Strom
X		Councilor Betty Kamikawa

8
9
10 Staff present: City Manager Pro Tem (CM) Wes Hare, Police Chief (PC) Mike Pace, Finance
11 Director (FD) Judy Richter, Library Director (LD) Deborah Trusty, Fire Chief (FC) Larry
12 Robeson, City Recorder (CR) Lisa Figueroa, and City Attorney (CA) David Robinson

13
14 Visitors present: Matt Winkle, Stephanie Blair, Todd Michels, Bill Farley

15
16 **Visitors/Public Comment**

17 There were no visitor comments.

18
19 **Discussion and Information Items**

20 **City Manager Recruitment process**

21 CM Hare introduced Matt Winkle from Prothman. Mr. Winkle provided his background and said
22 Prothman is conducting are several City Manager (CM) recruitments at this time such as in the
23 cities of Wood Village and Coquille. He said they have an extensive outreach, they will advertise
24 throughout the western states and he provided examples of previous recruitment projects. He noted
25 the recruitment flyer would be similar to the one included in the packet. The Council identified
26 various qualities including:

- 27 • Communication skills; ability to communicate clearly and effectively with the Mayor,
28 Council staff
- 29 • Financial knowledge, financing mechanisms
- 30 • Grant writing experience
- 31 • Strong leadership
- 32 • Follow through
- 33 • City Manager (CM) experience preferred

34
35 The Council discussed several priority projects the new CM would need to address such as the
36 Mutual Agreement and Order with the Department of Environmental Quality and recruiting key
37 positions like the Public Works Director. They discussed the need for housing [rental and owner-
38 occupied]. Mayor Cross updated Mr. Winkle on the concept of a regional incinerator for the
39 disposal of bio-solids.

1 The Council commented on providing staff an opportunity to speak with candidates as well as
2 allowing the public to participate in a meet and greet setting with the finalists. Mr. Winkle
3 described the recruitment process and said the recruitment would take approximately four weeks.
4

5 The Council discussed the salary range for the CM position and there was a consensus to offer a
6 salary range of \$90,000-\$125,000. There was discussion about whether the position would be
7 required to live in the City limits and although the position is not required to, the Council expressed
8 preference to live within the Urban Growth Boundary. Mr. Winkle asked if the Council will pay
9 travel expenses for the spouse [if necessary]. There was a consensus of the Council that agreed to
10 pay for the spouse. Mayor Cross inquired whether Prothman would be able to recruitment for a
11 Public Works Director. Mr. Winkle said they could.
12

13 Bill Farley, resident, asked how much the recruitment will cost the city. CM Hare said the original
14 proposal was approximately \$17,000 but with expenses could cost approximately \$20,000.
15

16 The Council recessed for a short break at 7:45 p.m. and reconvened the meeting at 7:50 p.m.
17

18 **Town Hall discussion**

19 Councilor Jukich provided a copy of the Town Hall outline. The Council discussed the following
20 details for the Town Hall:

- 21 • October 26 at the high school beginning at 5:00 p.m. for food and 6:00 p.m. for the Town
22 Hall
- 23 • Have a moderator – Councilor Kamikawa will contact Kiera Morgan
- 24 • Consider having the High School Booster Club provide food – Mayor Cross will contact
25 the boosters
- 26 • Each Department Director could provide a report on their department
- 27 • Each Council member will discuss a specific topic
- 28 • First hour have people write down questions and get them to the moderator
- 29 • Have the Planning Commission in attendance to provide information
30

31 **Reports and Comments**

32 FD Richter updated the Council about the Fiscal Year 2017-2018 audit. She noted SB 1049 had a
33 component in regards to the Employer Incentive Fund and indicated the state provided a designated
34 amount of dollars to provide matching funds to motivate municipalities to make large deposits.
35 She said the state published a list of two groups; cities owing more than 200% and cities owing
36 less than 200%. She said Toledo falls within the 91% [unfunded actuarial liability] at \$1,650,997.
37 She said the entities below the 200% can submit their application in December for the amount they
38 are going to put toward their unfunded actuarial liability and said the maximum that Toledo could
39 submit was \$1,200,000, which would qualify for a \$300,000 match.
40

41 FC Robeson said the Department budgeted for two new vehicles and indicated he is looking for
42 trucks on a regular basis and has expanded the search nationwide. Councilor Strom asked for an
43 update on the Georgia-Pacific (GP) Mill fire rescue team. FC Robeson said the person who was
44 the lead position has moved out of town but GP is still working to establish their own fire rescue
45 team.
46

47 CM Hare said he met with Keven Shreeve of Civil West Engineering to discuss current projects.
48 He provided an update about a joint meeting with the Lincoln County Board of Commissioners in
49 September.

1 Councilor Kamikawa commented on the response to her question in regards to black sludge from
2 GP to the City’s wastewater system. She suggested the City implement a policy that requires those
3 types of incidents be reported to the City when they happen, including collecting samples to
4 determine who or what caused the plant to shut down and possibly applying penalties.

5
6 **Adjournment:**

7 The work session adjourned at 9:10 p.m.

8
9 ATTEST:

APPROVE:

10
11
12 _____
13 City Recorder Lisa Figueroa

Mayor Rod Cross

DRAFT

TOLEDO CITY COUNCIL
REGULAR MEETING
February 19, 2020
7:00 p.m.

1. CALL TO ORDER

Council President Joshua Smith called the meeting to order at 7:00 p.m.

Present	Absent	
X	X	Mayor Rod Cross
		Council President Joshua Smith
	X	Councilor Jackie Kauffman
	X	Councilor Heather Jukich
X		Councilor Bill Dalbey
X		Councilor Stu Strom
X		Councilor Betty Kamikawa

Staff present: City Manager Pro Tem (CM) Wes Hare, Finance Director (FD) Judy Richter, City Recorder (CR) Lisa Figueroa, City Attorney (CA) David Robinson, Police Chief (PC) Mike Pace, Co-Fire Chief (FC) Dave Inman, Co Fire Chief (FC) Joe Ammons, Sergeant (Sgt) Pitcher, Dispatch Supervisor (DS) Cassie Griffith, Library Director (LD) Deborah Trusty, Code Enforcement Officer (CO) Tony Bour

Visitors present: Polly Chavarria, Jim Chambers

2. PRESENTATIONS

Fire Department Recognition presentation

FC Ammons recognized several academy students for their completion of the Fire Academy. He said to graduate the [four month] Academy, they have to complete 160 hours of class and physical training and testing. CR Figueroa performed the oath of office for all the students. Fire Captain Greg Musil performed a firefighter’s prayer.

Yaquina restoration project

Midcoast Watershed Council Coordinator Evan Hayduk addressed the Council. He said the restoration project is a 55 acre site and is a south of Toledo on the North side of the Yaquina River on property owned by the Wetlands Conservancy. He said the project would build on past restoration completed in 2002 by the MidCoast Watershed & other partners to create breaches in the dyke that run along the entire perimeter, separating the tidal Marsh Zone from the river. He said they received another grant to complete the work this summer. He reported they will remove about 50 percent of the remaining dyke on the 30 acre portion and the dyke along the other 17 acres will remain intact because it is an easement access for repair work that needs to be done on a water pipe. He said they will initiate some tidal channels where there have not been any in the past. He said former City Manager Craig Martin signed a match form for \$3,000 [in-kind] for City crews to clear along the dyke access for construction.

1 CM Hare said he recommended this come before the Council to update them on the work that will
2 be done and to authorize the in-kind services.

3
4 **Motion** – It was moved and seconded (Dalbey/Strom) to authorize up to \$3,000 in-kind resources
5 to the MidCoast Watershed Council’s Yaquina Restoration Project and it carried unanimously.
6

7 **Police Department 2019 end of the year report**

8 PC Pace said the Police Department is comprised of three different units; the Dispatch Center; the
9 Police Department and Code Enforcement. He said the Dispatch Center handled 14,777 calls in
10 2019 through the 911 lines and the non-emergency business number. DS Griffith said there are six
11 dispatchers, who are trained to provide pre-arrival instructions on how to care for a patient. PC
12 Pace said the dispatch center offers several services including but not limited to:

- 13 • Receive, interpret, and dispatch incoming calls to fire, police, and other departments
- 14 • Provide medical aid on the phone while dispatching medical services;
- 15 • Issue burn permits
- 16 • Provide notary services
- 17 • Assist with fingerprint needs
- 18 • And other citizen contact needs

19
20 PC Pace said the Police Department includes seven sworn officers consisting of Chief, Sergeant,
21 Detective, and four patrol officers. He said about 80% of stops in 2019 resulted in warnings. He
22 reviewed the top ten violations, citations and traffic statistics per officer listed in the packet. He
23 said crimes were divided into three categories; person crimes (16%), property crimes (16%) and
24 society crimes (68%). PC Pace compared drugs seized between 2018 [Meth – 33.09 grams] and
25 2019 [328.11 grams]. He said the department increased traffic stops by approximately 40% in
26 2019.

27
28 PC Pace reviewed the Code Enforcement unit, which is currently contracted with TCB Security
29 and indicated Mr. Bour investigated 63 cases in 2019. He provided pictures of successful violation
30 cases. Mr. Bour answered clarification questions from the Council and indicated he sees more
31 success when he works with people. He listed the Department goals which include increased
32 participation in Lights of Hope, employee and community wellness, move into the new public
33 safety building among other goals. The Council inquired whether the department will increase the
34 code enforcement patrol. PC Pace indicated he would like to have the program in-house and hire
35 an employee to manage it all week long.

36
37 **3. VISITORS/PUBLIC COMMENT**

38 There were no comments.

39
40 **4. CONSENT AGENDA**

41 Minutes from the Regular Meeting and Executive Session held March 20, 2019 and the work
42 session held July 24, 2019.

43
44 **Motion** – It was moved and seconded (Strom/Dalbey) to approve the Consent Agenda as presented
45 and the motion carried unanimously.
46

1 **5. DISCUSSION AND INFORMATION ITEMS**

2 There were no items for discussion.
3

4 **6. DECISION ITEMS**

5 **Authorize the expenditure of up to \$60,000 to secure a backhoe for use by Public**
6 **Works staff and the surplus of worn out equipment**

7 CM Hare presented the council report and indicated staff is requesting authorization to spend up
8 to \$60,000. FD Richter said there was enough money in the Public Works Equipment Reserve
9 Fund. She said Public Works Supervisor Bill Zuspan and Equipment Mechanic Jeff Chatterton felt
10 there is an immediate need, they could purchase a used one this year and then consider new
11 equipment in the next fiscal year.
12

13 **Motion** – It was moved and seconded (Dalbey/Strom) Motion to authorize expenditure of up to
14 \$60,000 for purchase and transportation of a used backhoe and surplus backhoe # 9573, a 1995
15 John Deere Model 310-D with 5,323 hours and no longer of use to the City of Toledo and the
16 motion carried unanimously.
17

18 **Authorize purchase & installation of Municipal Court Software**

19 FD Richter provided a council report and indicated staff is currently managing their court
20 proceedings through an Access Database and Excel spreadsheets. She said those programs do not
21 integrate with the current accounting software and staff needs a more efficient way to track and
22 account court records. She said at this time, the fines equate to over \$500,000 and the
23 correspondence process is manual and very time consuming. She referenced the proposal in the
24 packet. She said the software from Tyler Technologies has a function in place to accept payments
25 online for vehicle impounds allowing people to secure the vehicles over the weekend rather than
26 waiting until City Hall offices open on Monday to make a payment. She noted staff visited the
27 City of Philomath, who uses the program and were able to see a demonstration of the software live
28 and indicated it communicates with the e-ticket program used by the Police Department.
29

30 **Motion** – It was moved and seconded (Kamikawa/Strom) to authorize the City Manager to enter
31 into a contract for the purchase and installation of Municipal Court software from Tyler
32 Technologies in an amount not to exceed \$25,000 and the motion carried unanimously.
33

34 **Resolution 1431, A Resolution to appropriate funds for Travel & Training and for the**
35 **purchase of a Rescue Vehicle for City of Toledo Fire Department**

36 FD Richter presented the council report. She said the Council approved the purchase of a fire
37 rescue truck in September of 2019, which was involved in an accident. She said insurance
38 reimbursed the City for all of the cost except \$1,000, which was the deductible. She said she
39 prepared a resolution for the Council to recognize the \$59,000 of unanticipated revenue and
40 authorize the expenditure of \$59,000 for a rescue truck. She noted there is an updated resolution
41 on the dais to include costs for Co-Fire Chief Joe Ammons to go back to Alabama to meet with
42 some of the people who helped during that situation. She stated those costs increase from \$7,000
43 to \$11,000.
44

1 **Motion** – It was moved and seconded (Strom/Dalbey) to approve Resolution No. 1431, a
2 resolution of the Toledo City Council to appropriate funds for Travel and Training and for purchase
3 of a Rescue Vehicle for the City of Toledo Fire Department and the motion carried unanimously.
4

5 **7. REPORTS AND COMMENTS**

6 FD Richter said the auditor will visit the office this week and thanked them for selecting her as
7 City Manager.
8

9 CM Hare announced the Council selected FD Judy Richter as the City Manager. He said a contract
10 would need to be negotiated and ratified by the Council before she assumes the position.
11

12 PC Pace noted the Police Department released a year in review video on their Facebook page.
13

14 LD Trusty indicated the library applied for two grants to offset some of the costs to update the
15 meeting room. She said there was some flooding in the meeting room downstairs following the
16 heavy rains recently but Public Works Supervisor Bill Zuspan will assess if there is any damage.
17

18 FC Inman said he was still in contact with Brindlee Mountain since his return to work and asked
19 them to notify him if they came across any other vehicles for purchase. He said they sent pictures
20 of a similar vehicle and even shipped the truck to the City to test it out. He said the the department
21 has tested it, it is compatible with the new bottle system and it appears to address the department's
22 needs.
23

24 Jim Chambers, resident inquired whether the equipment purchases are allowed under the City's
25 policies. CP Smith noted the purchasing policies were amended a few years ago, which increased
26 the purchasing authorities. There was discussion about the travel expenses and insurance costs.
27

28 **8. ADJOURNMENT**

29 The meeting adjourned at 8:37 p.m.
30

31 ATTEST:

APPROVE:

32
33
34
35 _____
City Recorder Lisa Figueroa

36 _____
Mayor Rod Cross

**TOLEDO CITY COUNCIL
REGULAR MEETING
March 18, 2020
6:00 p.m.**

1. CALL TO ORDER

Mayor Rod Cross called the meeting to order at 6:05 p.m.

Present	Absent	
X	_____	Mayor Rod Cross
X	_____	Council President Joshua Smith
X	_____	Councilor Jackie Kauffman
X (by telephone)	_____	Councilor Heather Jukich
_____	X	Councilor Bill Dalbey
X	_____	Councilor Stu Strom
X	_____	Councilor Betty Kamikawa

Staff present: City Manager (CM) Judy Richter, City Recorder (CR) Lisa Figueroa, Police Chief (PC) Michael Pace and City Attorney (CA) David Robinson

2. VISITORS/PUBLIC COMMENT

There were no comments.

3. CONSENT AGENDA

Minutes from the Work Session held April 24, 2019, the Regular Meeting and Executive Session held held December 4, 2019 and the Regular Meeting December 18, 2019

There were suggested amendments to the Minutes:

April 24, 2019

Page 1, line 41 should read as, "...is a 15 year exemption..."

Page 3, line 9 should read as, "...sludge incinerator facility..."

Motion – It was moved and seconded (Smith/Strom) to approve the Consent Agenda as amended and the motion carried unanimously.

Mayor Cross moved the decision item for consideration at this time.

4. DECISION ITEMS

Public Safety Building Feasibility Study

CM Richter introduced Ed Hodney, Project Manager and Sid Scott of Scott Edwards Architecture (SEA). Mr. Scott said SEA conducted a High Level Study in 2017 and then conducted a Seismic Study in 2018 to bring the building up to a Seismic Zone 4, which would be the requirement to have an essential facility. He said SEA believed the siding and the roofing from the building could be refurbished and reused because it was cedar and not that old. He said the building has had and continued to have leaks which indicates some damage but how much is unknown at this time. He said repairs could be completed once everything were removed to seismically upgrade the building. He reviewed the exterior site plan, which displayed a secured entry and gate installation.

1 The Council asked clarification questions in regards to public access and the second parking lot
2 on the hill. Mr. Hodney indicated SEA was brought in to update the feasibility report and determine
3 a floor plan and/or costs only. He said design and engineering will be handled by a consultant and
4 the Council's questions/concerns will be noted and reviewed when they reach the design phase.
5

6 Mr. Scott proceeded to the floor plan and noted the landscape areas would be removed and secured
7 for public entrance. He said the drive-thru would be enclosed to bring in vehicles and secured for
8 evidence. He indicated the vault would serve as an evidence holding area, the dispatch station
9 could include up to four stations and a kitchen would be located nearby with a quiet area for
10 dispatchers. He said this floor would include three office spaces. He said the second floor has
11 enough space for changing rooms, lockers, office space, storage and a bunk room in case someone
12 needs to stay the night. He reviewed the floor plan for the lower/basement level. He said this level
13 would be used as a multi-purpose and training area with an armory and additional storage. He said
14 there is approximately 10,000 square feet in the building and indicated they planned the area with
15 the idea of expansion in the future. The Council asked how much it would cost to upgrade. Mr.
16 Scott said it could cost approximately \$5 million dollars. There was discussion about funding
17 grants opportunities, financing and/or applying for bonds, etc.
18

19 **Motion** – It was moved and seconded (Smith/Kamikawa) to direct staff to move forward with
20 securing costs for evaluation and any necessary repairs to the exterior of the building; also direct
21 staff to move forward with securing financing for the project and to solicit design/construction
22 services and the motion carried unanimously.
23

24 **5. DISCUSSION ITEMS**

25 **Water and Wastewater rate study update**

26 CM Richter introduced Keven Shreeve from Civil West Engineering. Mayor Cross indicated he
27 spoke to CM Richter about having a tiered rate, (e.g. First 1,000 gallons is \$4.60, the second 1,000
28 is \$6.60, etc.) because it meets the need to collect enough revenue for maintenance. CM Richter
29 said she posed the question to Springbrook but has not received an answer yet. The Council
30 discussed this option and noted that a tiered rate may encourage water conservation for low users.
31

32 Mr. Shreeve indicated some cities increase their base rate to include the first 1,000 gallons, which
33 in a sense covers the low users or low/fixed income users. The Council considered several options
34 and inquired as to whether the meter reading wands were of any issue. CM Richter indicated staff
35 ordered a new stick. They expressed concern in being able to maintain the system on an on-going
36 basis with a viable rate system in place. She noted two instances recently where the City shut off
37 meters but the customers turned the meters back on without contacting the City. She said she had
38 one of those customers billed as if it were a regular bill and the other would be a lien on the
39 property. She said staff is going to read every meter over the next couple of months to ensure there
40 are no other similar instances. The Council inquired if information on the rate increase/study could
41 be included on the website and solicit public input on the new rate consideration.
42

43 **Lincoln County Public Health Information**

44 Mayor Cross referenced the information included in the packet and talked about the importance of
45 flattening the curve. He noted Newport Hospital has a small number of Intensive Care Unit beds
46 and there are not enough resources in Lincoln County.
47

1 **Resolution No. 1433**

2 Mayor Cross indicated there is a resolution before the Council tonight for consideration to declare
3 a state of emergency for Toledo.

4
5 **Motion** – It was moved and seconded (Smith/Kauffman) to approve Resolution No. 1433, a
6 resolution of the Toledo City Council declaring a state of emergency and the motion carried
7 unanimously.

8
9 **6. REPORTS AND COMMENTS**

10 Chief Pace noted the Academy was shut down. He said two City employees were at the Academy
11 when two students fell ill, one of which, was in the same class/level as one of the City’s employees
12 and as a precaution the Academy sent all students home. He said both employees are home on
13 quarantine as a precaution.

14
15 CM Richter said staff will still encourage people to pay their utility bills even though there will
16 not be any shut offs. She said she reviewed the agenda for the next meeting, she noted there was
17 nothing pressing and recommended the Council cancel the next meeting. The Council concurred.

18
19 CR Figueroa noted the ballot box will be relocated from City Hall to a drive up ballot box in front
20 of the Police Department. She said it will be available to the public 24/7 and City Hall will not
21 accept ballots any more.

22
23 Councilor Jukich indicated going forward she will stay home and continue to join meetings
24 telephonically.

25
26 Councilor Kamikawa said she is running for Lincoln County Board of Commission.

27
28 Mayor Cross indicated he has a meeting with the Mayors next week and a conference call with the
29 Governor’s office this week. He said he is working with Representative Gomberg on a different
30 way to allocate gas tax money for truck routes so the City can get more money for road
31 maintenance.

32
33 **7. ADJOURNMENT**

34 The meeting adjourned at 8:25 p.m.

35
36 ATTEST:

APPROVE:

37
38 _____
39 City Recorder Lisa Figueroa

Mayor Rod Cross

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 15, 2020	Authorize an expenditure of up to \$ 40,000.00 for Heat/ AC units to replace worn & in-efficient electric units at the City Library
Council Goal:	Agenda Type:	
Not applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
Public Works Director B.Zuspan	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to authorize an expenditure of up to \$40,000 for the purchase and installation of new gas powered heating and A/C units to replace worn and in-efficient units currently in use at the City Library.

Background:

The City Library is currently using electric only units that are extremely in-efficient and that require several expensive repairs each year. N W Natural gas has tentatively agreed to supply and install the gas service line from A St. to the S W Corner of the library for \$515.00. (taken from a separate fund) This would normally be an expense of up to \$6000.00. Expected savings monthly will be 30-50% of current energy bills. The air scrubber purification system protects and purifies the air and attacks contaminates on all surfaces. This project is a CIP project from the current adopted budget.

Fiscal Impact:	Fiscal Year:	GL Number:
\$ 40,000	2020-2021	035-350-621-700

Attachment:

1. : Quote from Airrow heating.

Airrow Heating & Sheet Metal

Custom proposal for:
Toledo Public Library
 137 NW 7th St
 Toledo, Oregon 97391
 541-336-3132 Deborah Trusty (Director)
librarydirector@cityoftoledo.org

April 28, 2020 3503 SW Coast Highway B Newport Or. 97366 541-265-8000 www.airrowheating.com CCB# 171126

Airrow Signature (Mfg. by Goodman/Amana/Daikin) **Natural Gas Furnaces and Air Conditioners**

Description of Work to be Performed

- Supply and install four (4) new Airrow Signature Series 96% natural gas furnaces to replace the existing six Trane air handlers (replace furnace #s 1, 2, 3, 4, 5 and 6).
- Supply and install four (4) new Airrow Signature Series air conditioners (outdoor) condensing unit on the east and south sides of the building to replace the existing Trane air conditioners (replace air conditioner #'s 1, 2, 3, 4, 5 and 6).
- Supply and install four (4) new Airrow Signature cased coils. To replace the existing Trane coils.
- Supply and install four (4) new thermostats (digital, programable and Wi-Fi capable).
- Supply and install four (4) new thermostat locking compartments with locking glass door.
- Supply and install new natural gas line from the new gas meter location (south west corner of building) to the new gas furnaces. Note the new gas line will run on the exterior of the south side of the building and will be ¾" galvanized hard pipe.
- Supply and install new supply and return air transitions to adapt the new furnaces to your existing supply air ducting and to your return air systems.
- Supply and install new exhaust flue (2" PVC) and vent to the outside of the building.
- Supply and install new combustion air intake (2" PVC) to pull combustion air from the outside of building.
- Supply and install new pleated filter and easy access filter base (located at the new furnaces).
- Supply and install new sheet metal transitions at the furnaces. Remove (or seal) all accessible insulation (if possible) on the interior of the existing plenums.
- Supply and install new refrigerant lines between the new coil (indoor) to the new air conditioner (outdoor).
- Supply and install condensate drain (including pump if needed) systems of ¾" PVC and to remove condensate from indoor coils routed to the outside of the building.
- Provide all needed mechanical permits with the local jurisdiction.
- Provide system startup and customer instructions and complete walk through.
- Provide "Commissioning" to bring the system to engineered airflow and refrigerant levels.
- Provide removal and proper disposal (recycle metal and old R-22 refrigerant) of the existing gas furnace and air conditioner.
- Provide electrical connections to the new furnaces and air conditioners (this also includes replacing the outdoor disconnect boxes that have been damaged).
- Supply and install new Air Scrubber Plus air purification system (continuously protects and purifies the air, and attacks contaminants on all surfaces).

<u>Four (4) Airrow Signature Two-Stage 96% GMEC96 Natural Gas Furnace</u>	39,829.00
<u>Four (4) American Standard High Eff. GSX13 Air Conditioners Efficiency: 13.00 SEER</u>	Included
<u>Full installation</u>	Included
Net Investment	39,829.00

Commercial Warranty: Compressor 5-Years Parts 5-Years Labor 1-Year

Thank you for the opportunity to earn your business!!

Accepted by _____ Date _____ Proposal Expires in 90 Days _____

Link to Air Scrubber:

https://www.airscrubberbyaerus.com/assets/airscrubberaerus_sellsheet.pdf

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 15, 2020	Discussion regarding framework for Wholesale Utility Rate Agreement
Council Goal:	Agenda Type:	
Adopt equitable water and sewer rates that provide sufficient revenue to complete needed infrastructure projects.	Discussion and Information	
Prepared by:	Reviewed by:	Approved by:
City Manager J. Richter	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Discussion regarding framework for successor agreement with Seal Rock Water District. Direction to staff regarding any additional information needed.

Background:

In October, 2017, Seal Rock Water District (SRWD) hand delivered a letter/resolution indicating their 3 year notice terminating the 2012 Water Purchase Agreement between the City of Toledo and SRWD. This agreement ends on October 31, 2020. Rob Mills, interim President of Seal Rock Water District Board, has written several letters suggesting elements of a successor agreement. During the joint meeting on July 1, 2020, both governing bodies agreed to negotiate an agreement by having two representatives from each entity meet for discussion and to possibly draft an agreement. This agreement would then be presented to each board/Council for approval/adoption.

Tonight is a chance for councilors to express opinions regarding the desired outcome. And to possibly develop some acceptable outcomes. Staff will be happy to furnish any other data or information as requested by council.

It is intended that the discussion be extended to the next meeting. Once consensus is reached by the Council, the City Manager will reach out to Seal Rock Water District to schedule a meeting for the Mayor and City Manager of Toledo and the SRWD interim President and the General Manager--sometime in August.

Fiscal Impact:	Fiscal Year:	GL Number:
N/A	2020-2021	N/A

Attachment:

1. SWRD/City of Toledo Water Purchase Agreement dated 2012
2. Letter from interim Board President (SRWD) dated June 25, 2020

Water Purchase Agreement

THIS AGREEMENT is entered into by and between the SEAL ROCK WATER DISTRICT, herein called "Purchaser," and the CITY OF TOLEDO, a municipal corporation of the State of Oregon, herein called "City."

Recitals

A. Purchaser is a domestic water supply district of the State of Oregon and is authorized by ORS Chapter 264 to supply inhabitants of the district with water for domestic purposes.

B. City is a municipal corporation of the State of Oregon and is authorized by the charter of the City of Toledo and the Toledo Municipal Code to maintain water works for the furnishing of water to the city, its property, its inhabitants, and to non-inhabitants. The Council of the City is further authorized to enter into contracts for the supply of water by the city and to sell water to persons, public and private, outside the city, on terms and conditions the Council finds appropriate.

C. City is further authorized by its charter to enter into agreements as the Council finds appropriate for cooperation, consolidation and maintenance of services with any other public corporation or unit of government.

D. ORS 190.003 to 190.110 authorizes units of local government to enter into intergovernmental agreements for the performance of their duties or for the exercise of powers conferred upon them.

E. The service and commodity provided by City pursuant to this Agreement are a special contract service and are not provided by City as a common utility service.

F. City wishes to sell and Purchaser wishes to buy water on a wholesale basis at a point of delivery to Purchaser as agreed by the parties.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the parties hereby agree as follows:

SECTION 1. NATURE OF SERVICE

1.1 Subject to the terms and conditions contained herein, City agrees to furnish and sell, and Purchaser agrees to purchase potable water on an annual basis during the term of this Agreement from the City's Water Treatment Plant ("WTP").

1.2 Water is to be delivered to Purchaser at the point of delivery, at such pressure or pressures, and at such flow rate or flow rates as are set forth in Exhibit 1.

1.3 City and Purchaser will meet all applicable federal and state drinking water regulatory requirements for their respective systems. Purchaser's supply of water shall be reduced or terminated only in accordance with the terms of this Agreement. The Parties acknowledge and agree that this is an Agreement to sell and deliver water to Purchaser, and City at all times retains the right to limit water delivery to Purchaser so that City retail customers are given priority; provided, however, City will reasonably endeavor to provide water to Purchaser at an equivalent level as is provided to City retail

customers.

1.4 The parties agree and acknowledge that the City is the owner and operator of the water supply, storage, transmission, and treatment system, and all facilities and infrastructure associated with the storage, treatment, transmission, and distribution systems used in its utility operations. The purchase of water or any other commodity or service under this Agreement shall not constitute purchase of ownership rights to water or any portion of the water system owned and operated by the City. The City and Purchaser agree to work cooperatively, as needed, in securing their respective water rights on the Siletz River.

1.5 City is not responsible for providing water service, distribution service, or other services to Purchaser's customers, which shall be the responsibility of Purchaser.

1.6 Unless Purchaser has the express written consent of the City to do otherwise, Purchaser will not sell, allow unmetered water use (except emergency events pursuant to the terms of this Agreement) or dispose of any of the Water purchased under this Agreement outside of its District boundaries. The supply of water to customers located outside of the Purchaser's District boundaries on the date of this Agreement is allowed.

1.7 In the event of localized emergency problems, Purchaser acknowledges temporary localized interruptions may occur for the duration of the emergency. Examples of such circumstances include, but are not limited to, main breaks, system failures, or weather related events. In the event of a general emergency affecting the entire City water system, general restrictions placed upon water deliveries to Purchaser will be determined by City and applied equitably to City retail customers and Purchaser, but ultimately City retail customers will be given priority as City determines.

SECTION 2. WATER REGULATIONS

Purchaser hereby agrees to comply with the standards set forth by the American Water Works Association ("AWWA"), regulating the design, installation, performance, and manufacture of products used in water treatment and supply, and covering utility management practices, to the extent such standards do not conflict with any material provisions of this Agreement.

SECTION 3. TERM AND TERMINATION

3.1 Duration of Agreement and Renewal.

3.1.1 Initial Term. This Agreement shall become effective on December 21, 2012 and shall continue in effect for an initial term ending June 30, 2037, unless terminated as provided herein. Except for Year 1, each "contract year" shall run from July 1 through June 30.

3.1.2 Renewal. Not less than five years prior to the expiration of the initial term or three years prior to the expiration of any renewal term, Purchaser may request renewal of this Agreement for an additional term of ten (10) years by providing written notice to City. City shall have 180 days from the date of Purchaser's renewal notice to determine whether to grant Purchaser's request for an additional term of ten (10) years. If City decides to grant Purchaser's request for renewal, City shall provide Purchaser written notice granting renewal of an additional term of ten (10) years under the same terms and conditions of this Agreement as may be amended between the parties or as required by this Agreement.

3.2 Termination. This Agreement may be terminated as follows:

3.2.1 Default. Failure of a Party to perform any substantial obligation contained in this Contract within 30 days after written notice from the other Party specifying the nature of the default or, if the default cannot be cured within 30 days, failure within such time to commence and pursue curative action with reasonable diligence, shall constitute a default entitling the other Party to terminate this contract. The other Party may then give notice of termination to the defaulting Party with such termination date to be not less than one (1) year from the date of notice. However, such termination date will be adjusted to be not less than one (1) year from the date of final completion of the dispute resolution process pursuant to Section 12 if the default is confirmed.

3.2.2 Nonpayment. Except for billing disputes pursuant to Section 10.4, in the event Purchaser is delinquent following the monthly billing in Section 10 by more than forty-five (45) days, City may notify Purchaser in writing that unless payment is made by the Purchaser service will be discontinued for nonpayment after thirty (30) days from the date of notice and the Agreement terminated. Purchaser may avoid termination by paying the amount demanded within the 30 days.

3.2.3 Dissolution. In the event of Purchaser's dissolution, this Agreement may be terminated immediately by City.

3.2.4 Voluntary Termination. Purchaser may terminate this Agreement upon providing written notice to the City not less than three years prior to the effective date of termination.

SECTION 4. ANNUAL JOINT MEETING

4.1 Annual Meeting. In order to provide greater cooperation in regards to capital planning, timely notification to Purchaser of proposed changes in rates, charges, and rate design and to maximize various funding options for capital improvements between the parties, the City shall host a joint meeting between the Purchaser and the City during the first quarter of each calendar year to discuss the Purchaser's anticipated water usage, the parties' capital improvement programs, and any proposed rate adjustments. Capital projects for which the Purchaser will be expected to participate financially will be described to the Purchaser in a written communication at least four (4) weeks prior to the annual meeting. The annual meeting shall afford the Purchaser an opportunity to provide input into such planned capital projects.

4.2 Water Rates, Charges, and Rate Design. A copy of any rate ordinance shall be forwarded to Purchaser, accompanied by a letter giving the dates on which the City Council is scheduled to consider rates. Purchaser may offer comments on the proposed rate ordinance in writing or in personal testimony before the City Council.

4.3 Protection of Confidential Information. Information exchanged between the parties may include documents related to the vulnerability or security of water supply systems. The parties agree that if either receives a public document request for such information, the party receiving that request shall, prior to release of any documents, expeditiously notify the entity about whose system information is sought and shall, in addition, assert all applicable exemptions to release of the documents available under the Oregon Public Records Law.

SECTION 5. SALE OF WATER

5.1 Quantity. City agrees to sell and provide to Purchaser a maximum of 50% of the potable water supply capacity of the City's WTP per day on a wholesale basis at the existing point of delivery to Purchaser as agreed by the parties. As of the date of this Agreement, 50% of the potable water supply capacity of the City's WTP per day is .935 MGD. Purchaser agrees to pay for a minimum amount of ninety (90) million gallons per year whether consumed or not, unless the amount is not consumed because of line breaks or other acts and events as described in Section 13.17 which exceed 48 continuous hours in duration; in which event, the minimum amount shall be prorated accordingly. This minimum monthly amount shall increase on July 1st of each year either by Purchaser's annual growth component of 1.5% as identified in Section 2.2.3 of the Purchaser's water mater plan dated November 2010, or the percentage increase in the total number of water meters added to Purchaser's system within the Purchaser's service area during the fiscal year, whichever is less.

5.2 Excess Demands. Purchaser agrees that when its daily purchase of potable water from the City exceeds 935,000 gallons during a 24-hour period, a meeting between the Purchaser and the City shall occur for the purpose of planning a response. The Purchaser and City may take such steps as are necessary or advisable to protect the system which may include, but are not limited to Purchaser modifying its operations to maintain its purchase at or less than 935,000 gallons per day, Purchaser's implementation of additional water conservation or use restriction measures, City reducing the supply of water flowing to Purchaser, and at the City's discretion, increasing the potable water supply capacity of the City's WTP if the Purchaser's consistent excess demands warrant such an increase. If the water system infrastructure does not allow the City to make such supply reductions, the City may construct control devices as may be needed to suitably control Purchaser's demands. The cost of such improvements up to a maximum of \$15,000 shall be fully recovered through a surcharge billed to Purchaser and added in equal installments to the Purchaser's monthly invoices during the four months following completion of construction. For purposes of this section, the City has sole discretion in determining whether Purchaser has imposed excess demands on the system using any information available to the City.

5.3 Increased System Capacity to Meet Increased Demand.

5.3.1 If Purchaser requests an increase to the maximum contract water quantity specified in Section 5.1 that, in the discretion of the City, cannot prudently be granted because it exceeds the City's capacity of the system to deliver water to Purchaser, Purchaser may request that the City undertake a study funded by Purchaser to determine what, if any, enhancements or alterations to the system, would produce sufficient system capacity to meet the increased demand.

5.3.2 Upon Purchaser's written agreement to fund such a study of system enhancements or alterations, the City shall undertake the study; provided that the City's obligations shall be contingent on the negotiation of a mutually satisfactory intergovernmental agreement between the City and Purchaser establishing the nature, timing, and funding of the study.

5.3.3 Upon completion of any system study provided for in this subsection, the Purchaser may request the City to undertake system enhancements or alterations sufficient to meet the Purchaser's proposed increased demand.

5.3.4 Upon request for system enhancements or alterations, the City may agree to undertake the enhancements or alterations requested, under such terms and conditions as the City and Purchaser

mutually agree in writing. The parties may utilize joint funding agreements, or such other arrangements as are determined by both parties to be mutually beneficial at the time.

5.3.5 The Purchaser and the City acknowledge that the Purchaser currently expects to issue general obligation bonds to finance certain capital improvements to the WTP and/or the City's water system (the "Improvements"). If the Purchaser notifies the City that it intends to issue such general obligation bonds, or any other debt, to finance the Improvements, the City agrees to cooperate with the Purchaser in taking any steps necessary to assist the Purchaser in securing or refinancing the debt so that the interest on the debt (and any obligations that refinance such debt) is exempt from federal income tax pursuant to Section 103 of the Internal Revenue Code of 1986, as amended. The City's cooperation shall include a) entering into any tax covenants requested by the Purchaser and its bond counsel relating to the City's future use of the Improvements; b) allowing the Purchaser to receive water from the City's water system at the levels contemplated in Section 5 during the entire term of the debt issued for the Improvements (including any debt that refinances such debt); c) identifying the assets that are financed with the Purchaser's debt, and d) otherwise assisting with the issuance of the debt.

SECTION 6. RATES AND CHARGES

6.1 Wholesale Rates.

6.1.1 The City shall establish wholesale water rates that include all of the City's costs of administering and operating those portions of the water system necessary to supply water to the Purchaser under the terms of this Agreement.

6.1.2 The wholesale rate will be a single charge per unit of water purchased (1 unit equals 1000 gallons) delivered to the point of delivery identified in Section 1.

6.1.3 The wholesale rate shall be based on the City's annual costs of administering and operating those portions of the water system related to delivery of water to the Purchaser, and will have three primary cost elements: capital, operating and administration, as described in Section 6.2 through 6.4. The City will evaluate these costs of delivering water to the Purchaser on an annual basis, based on its audited statements, and adjust rates on January 1st of each year to assure that revenues from the Purchaser will cover these costs. City agrees to provide Purchaser a copy of its trial balances by October 1st, and a copy of its completed audit by January 1st of each year.

6.2 Capital Costs. Capital costs shall be determined either as major capital improvements or minor capital improvements as follows:

6.2.1 Major Capital Improvements.

6.2.1.1 Major capital improvements are those improvements that require the City to finance the improvements, and are related to delivery of water to the Purchaser. In the event of a major capital improvement, the Purchaser shall pay for its share of the improvement either through:

6.2.1.1.1 A single cash payment to the City of 50% of the total cost for the capital improvement, representing Purchaser's share of the capital improvement, in which event the wholesale rate shall not be adjusted; or

6.2.1.1.2 An increase in the wholesale rate sufficient to pay Purchaser's share as defined in Section 6.2.1.1.1 of the City's annual debt service payments for the proposed capital improvements. Any balance of Purchaser's share shall be due and payable upon termination of this Agreement unless Purchaser has given notice of termination of this Agreement pursuant to Section 3.2 prior to the City incurring bonded indebtedness or similar financing for the improvement.

6.2.1.2 In either Section 6.2.1.1.1 or 6.2.1.1.2, the payment or wholesale rate will be determined net of any grants-in-aid of construction that the City or Purchaser receive for the proposed major capital improvements.

6.2.1.3 The Purchaser and City may agree to a combination of a cash payment or wholesale rate adjustment, so long as the same principle ratio of quantity purchase by the Purchaser to total capacity of the WTP is preserved.

6.2.2 Minor Capital Improvements.

6.2.2.1 Minor capital improvements are those improvements which are related to delivery of water to the Purchaser, and that the City pays for with either cash on hand or with cash on hand plus a cash contribution from the Purchaser.

6.2.2.2 If the Purchaser pays an amount equal to its share of the minor capital improvement then no adjustment to the wholesale rate will occur.

6.2.2.3 If the Purchaser pays an amount less than its share of the minor capital improvement and the City pays the balance, then the wholesale rate will be increased in an amount sufficient to pay the equivalent monthly payment required to pay that amount amortized over a term agreed between the Parties at the interest rate reported in the Oregon Bond Index published by the Oregon Treasurer's Office Debt Management Division for 10-year bonds (rated Aa2/AA/AA) if the term of the loan is 10 years or less, or for 20-year bonds if the term of the loan is 11 years or more. Any balance of Purchaser's share shall be due and payable upon termination of this Agreement, unless Purchaser has given notice of termination of this Agreement pursuant to Section 3.2 prior to the City constructing the improvements.

6.3 Operating and Maintenance Costs. Operating and maintenance ("O&M") costs shall be determined as follows:

6.3.1 Operation and Maintenance of the Water Sources to the WTP. O&M costs from the water source to the WTP shall be accounted for and recorded annually by the City. 100% of these costs will be allocated between the parties based on the ratio of actual water use by the Purchaser and the combined water use of the Parties.

6.3.2 Operation and Maintenance of the WTP. O&M costs for the WTP shall be accounted for and recorded annually by the City, 100% of these costs will be allocated between the parties based on the ratio of actual water use by the Purchaser and the combined water use of the Parties.

6.3.3 Operation and Maintenance of The Transmission Lines From The WTP to The Point of Discharge to The Purchaser. O&M costs of the transmission lines from the WTP to the point of discharge to the Purchaser are accounted for and recorded by the City; however, only a portion of these costs will be allocated to the Purchaser because the Purchaser does not benefit from all of the repair and

maintenance of these lines. The Water Rate Analysis dated October 16, 2008 places this portion at 66%. Without specifically identifying which parts of the transmission line system constitutes the 66%, 66% of the total annual transmission line costs will be allocated between the parties based on the ratio of actual water use by the Purchaser and the combined water use of the Parties.

6.3.4 Operation and Maintenance of Associated Tools, Equipment, and Rolling Stock Owned and Maintained By The City For The Benefit of The Water System. The City accounts for O&M costs of the tools, equipment, and rolling stock owned and maintained by the City for the benefit of the water system in an equipment reserve fund that shares equipment across all City public works functions (e.g., water, sewer, streets, parks) and allocates a portion of these costs to each public works function based on estimated usage. These costs allocated to the Water Department will be allocated between the parties based on the ratio of actual water use by the Purchaser and the combined water use of the Parties.

6.4 Administrative Costs. The City's total administrative costs are composed of City Council, City Manager, Public Works Director, Utility Billing, Accounting and Finance, and Legal services. The City annually allocates these costs to all of its Departments including the Water Department based on expected costs. The City will not apply any franchise fee or other charge against the wholesale water rate that is intended to bolster the General Fund (or any other non-water fund) of the City. These costs allocated to the Water Department will be allocated between the parties based on the ratio of actual water use by the Purchaser and the combined water use of the Parties.

SECTION 7. CONNECTIONS AND METERING

7.1 City shall own, provide and maintain meter(s), valves and controls in proper order at the Point of Delivery for the Purchaser's transmission line. City shall arrange to have the meter(s) calibrated annually by an independent calibration consultant certified and qualified to provide calibration services. City and Purchaser shall share equally in the cost of calibrating the meter annually. Purchaser will be notified of the calibration so they may attend. A copy of the calibration report shall be provided to Purchaser. A meter registering not more than two percent (2%) above or below the set calibration standards shall be deemed to be accurate. The previous readings of any meter disclosed by the calibration to be inaccurate shall be corrected for the three (3) months previous to such calibration in accordance with the percentage of inaccuracy found by such calibration.

7.2 Purchaser shall own, provide and maintain appropriate cross connection control devices on its transmission line so as to prevent any contamination of the City water system. Purchaser shall provide City with proof of annual testing and compliance with applicable statutes and administrative rules regarding cross connection backflow control devices.

7.3 Purchaser agrees to design and construct all future transmission pipelines and all fixtures and appurtenances to AWWA standards to minimize adverse impacts and assure compatibility of Purchaser's and City's water systems with each other.

SECTION 8. WATER RESOURCE CONSERVATION

8.1 General.

8.1.1 The obligations in this Section will apply to both the City and Purchaser. Both parties agree that the City's water rights shall be used beneficially, efficiently and without waste during the

term of this Agreement.

8.1.2 The parties encourage the development of joint conservation programs where such partnerships are of mutual benefit and produce increased efficiencies in program costs or water savings; provided, however, that funding for joint conservation programs will be established by separate agreement between the parties.

8.2 Water Conservation Obligations and Submission of a Water Conservation Plan.

8.2.1 The Purchaser must operate water systems that are fully metered at the individual customer level or have an implementation program to complete installation of such meters.

8.2.2 Purchaser shall submit a Water Conservation Plan for its water system to the City every 5 years. Each Conservation Plan submitted must include programs specified in State of Oregon Water Resources Department Water Management and Conservation Plan Rules, as they are from time to time amended, and include other measures identified by the water supplier that would improve water use efficiency and operational measures to reduce peak event impacts on the City's system.

8.2.3 A Water Management and Conservation Plan approved by and updated as required by the State of Oregon pursuant to the Department of Water Resources Water Management and Conservation Plan Rules will in all cases be deemed sufficient to meet the requirements for a Conservation Plan under this Agreement.

8.3 Purchaser shall report annually to the City at the meeting pursuant to Section 4 regarding the implementation of its Conservation Plan. Every five years after approval of its Conservation Plan, Purchaser shall report to the City the estimated actual water savings from its Conservation Plan.

SECTION 9. WATER CURTAILMENT AND PROTECTION OF THE WATER SYSTEM

9.1 During times when water supplies are not adequate to meet the aggregate of all demands placed upon the City water system, the City and Purchaser shall have a plan in place to reduce or curtail demands so that fire, life, safety and other high priority needs are met. During such events, City's retail customers shall have priority; accordingly, City reserves the right to reduce or cease providing water to Purchaser pursuant to this Agreement.

9.2 By signing this Agreement, Purchaser and City acknowledge that unforeseen or unavoidable circumstances may limit the amount of water available to City for sale and distribution, whether temporarily or permanently. Should the available water supply fall below the aggregate of all demands placed on the City system, or should it be reasonably predicted that supply will fall below demands before other supplies are available, the City may declare that a water shortage is in effect. The City and Purchaser will then coordinate and implement action pursuant to the Curtailment Plan developed herein.

9.3 The City and Purchaser will each maintain a Curtailment Plan in accordance with state law. The Curtailment Plan shall be designed to accomplish reductions in demand necessary, in the event of a water shortage, to protect the system's capacity to supply water for fire, life, safety, and other high priority needs. Purchaser may adopt the City Curtailment Plan or its own plan that is substantially equivalent to the City Plan.

9.4 Whenever the City has declared a water shortage, any adopted Curtailment Plan shall be in effect. If there is no adopted Curtailment Plan, the City shall require implementation of measures it deems necessary or advisable to reduce all demands, retail and wholesale, proportionally based on annual retail usage for the previous year and on annual purchase quantities furnished under this Agreement for the previous year.

9.5 If the City declares a water shortage, Purchaser shall implement measures sufficient to meet the requirements of the Curtailment Plan. Purchaser may do this through implementation of measures contained in the Curtailment Plan, similarly effective measures found in Purchaser's own plan or required as part of a State declared drought under ORS 536.720-740.

9.6 The City shall monitor compliance with the Curtailment Plan on a schedule established in the Plan or at least every two weeks throughout the duration of the declared water shortage.

9.7 If, after the City declares a water shortage, Purchaser is unable to achieve the required reductions in the use of water supplied under this contract, the City may act to reduce the amount of water supplied to the Purchaser so that it does not exceed that amount specified under curtailment measures.

9.8 The parties acknowledge that this is a water purchase agreement with the goal that the City will provide water to the Purchaser. In the event of a general emergency or weather-related water shortage affecting the entire water supply system, general restrictions placed upon water deliveries to Purchaser will be applied as equally as possible to City retail customers, but ultimately supply may be reduced or terminated for the benefit of City retail customers as City determines.

9.9 The parties recognize that the City may temporarily interrupt or reduce deliveries of water to Purchaser if City determines that such interruption or reduction is necessary or reasonable in case of system emergencies or to install equipment, make repairs, replacements, investigations, and inspections are performed or other maintenance work on the City water system is necessary. The City shall give Purchaser reasonable notice of any such interruption or reduction, the reasons for and the probable duration, and will use best efforts to minimize interruptions to Purchaser.

SECTION 10. BILLING AND PAYMENT

10.1 Monthly Billing. The City shall bill Purchaser at the address in Section 14.2 on or about the 1st day of each month, with an itemized statement of the amount of water furnished to the Purchaser and the amount charged for the billing period.

10.2 Payment Schedule. Bills are due upon receipt and subject to a collection fee if not paid on or before the thirtieth day following the billing date, and subject to an interest rate at the statutory rate on unpaid accounts if not paid within 45 days of the invoice date.

10.3 Charges in Case of Meter Failure. Should the meter at the point of delivery fail to measure accurately the water passing through said meter, the charge for water used during the time the meter is out of service shall be based on the City's estimates of the volume of water supplied based on usage patterns and statistics for prior periods.

10.4 Disputes. In the case of disputes over billings for water, the Parties shall first attempt to resolve the dispute informally between themselves within 15 days of the bill sent to the Purchaser. If

the parties are unable to informally resolve the dispute, Purchaser shall pay the undisputed amount when due and the disputed amount shall be placed in an escrow account pending resolution through the Dispute Resolution process in Section 12. The Purchaser shall pay interest at the statutory rate on unpaid accounts on any disputed amounts found through dispute resolution or litigation to be due the City.

SECTION 11. INSURANCE, INDEMNITY AND HOLD HARMLESS

11.1 Purchaser Insurance. Purchaser will retain all liability for service to customers, operation, maintenance and construction of its water system. Purchaser will purchase and carry in full force and effect during the term of this Agreement, a liability insurance policy in the amount of \$2,000,000 Comprehensive General Liability coverage protecting City and Purchaser from liability of any nature whatsoever arising from Purchaser's performance of its obligations under this Agreement.

11.2. City Insurance. City will retain all liability for operation, maintenance and construction of its water system. City will have in full force and effect during the term of this Agreement, a liability coverage in the amount of \$2,000,000 Comprehensive General Liability coverage protecting Purchaser and City from liability of any nature whatsoever arising from City's performance of its obligations under this Agreement.

11.3 Indemnification. To the extent allowed by the Oregon Constitution and the Oregon Revised Statutes not to exceed monetary limits of the Oregon Tort Claims Act, each party will indemnify, defend, save and hold harmless the other and the others officers and employees from any and all claims, suits, and liabilities arising out of the negligent acts or omissions of indemnifying party's performance under this Agreement or related to this Agreement. These indemnity obligations shall not include any obligation of one party to indemnify the other for actions or omissions of the other or the others officers, employees, or agents. In the event of joint acts, each party shall be responsible for its own acts or those of its own officers, employees or agents. If any aspect of this indemnification shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

11.4 Hold Harmless. Purchaser agrees that no liability for damages will attach to City on account of any failure of supply or changes in pressure, flow rate, or water quality due to circumstances beyond the reasonable control of City, acting in accordance with the standards of care common and usual in the municipal water supply industry. Examples, of such circumstances include, but are not limited to, natural events such as earthquakes, landslides and floods and human caused events such as terrorism, malevolent acts, contamination of the water supply, and acts of war.

SECTION 12. DISPUTE RESOLUTION

The Parties agree that this Agreement is conditional upon the faithful performance by both Parties of all the terms and provisions stated herein. In case of disputes arising out of this Agreement, including default of any provisions or disputes regarding the interpretation of any provision of the Agreement, subject to the terms of this Section, either party may seek all remedies available at law or in equity, including termination upon giving notice of termination for default of this Agreement pursuant to Section 3.2. The parties agree, however, prior to the commencement of any suit or termination for default, they shall first engage in dispute resolution as provided in this Section.

Step 1. Notice of Dispute

Prior to commencement of litigation of a dispute, either party must first provide the other with a written notice describing the dispute and submitting the dispute to resolution under this Section. Such notice shall commence the dispute resolution process.

Step 2. Negotiation

Each party shall designate a person or persons to negotiate the dispute on its behalf, shall make a good faith effort to exchange information and data related to the dispute, and shall meet to negotiate a dispute resolution. If the dispute is resolved at this step, the parties will memorialize the Agreement by a written determination of such resolution, signed by the designated representatives of the parties.

Step 3. Mediation

If the dispute has not been resolved within 45 days of the date of the notice of dispute, or such longer time as is mutually agreed by the parties, the parties shall submit the matter to mediation. The parties shall attempt in good faith to agree on a mediator. If they cannot agree, they shall request a list of three mediators from an entity or firm providing mediation services. The parties shall attempt in good faith to mutually agree on a mediator from the list provided, but if they cannot agree, each party shall select one name. The two selected shall select a third person and the dispute shall be heard by a panel of three mediators.

Any common costs of mediation, including the cost of mediation, shall be borne equally by the parties. Each party shall bear its own individual costs therefore. Mediation shall not continue more than 105 days past the initial notice of dispute unless mutually agreed by the parties. If the dispute is resolved at this step, a written determination of such resolution shall be signed by the designated representatives of the parties.

SECTION 13. MISCELLANEOUS

13.1 Assignment. Neither this Agreement nor any of the rights, interests, or obligations under this Agreement may be assigned by any party without the prior written consent of the other party.

13.2 Notices. All notices and other communications under this Agreement must be in writing and will be deemed to have been given if delivered personally, mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties at the following addresses:

City of Toledo
Attn: City Manager
P.O. Box 220
Toledo, OR 97391

Seal Rock Water District
10349 NW Rand Street
P.O. Box 190
Seal Rock, OR 97376

Any notice or other communication will be deemed to be given (a) on the date of personal delivery, or (b) at the expiration of the third day after the date of deposit in the United States mail.

13.3 Amendments. This Agreement may be amended only by an instrument in writing executed by all the parties, which writing must refer to this Agreement.

13.4 Construction. The captions used in this Agreement are provided for convenience only and will not affect the meaning or interpretation of any provision of this Agreement. All references in this Agreement to "Section" or "Sections" without additional identification refer to the Section or

Sections of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Whenever the words *include* or *including* are used in this Agreement, they will be deemed to be followed by the words *without limitation*.

13.5 Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

13.6 Further Assurances. Each party agrees (a) to execute and deliver such other documents and (b) to do and perform such other acts and things, as any other party may reasonably request, to carry out the intent and accomplish the purposes of this Agreement.

13.7 Time of Essence. Time is of the essence with respect to all dates and time periods set forth or referred to in this Agreement.

13.8 Waiver. Any provision or condition of this Agreement may be waived at any time, in writing, by the party entitled to the benefit of such provision or condition. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

13.9 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Oregon, without regard to conflict-of-laws principles.

13.10 Attorney Fees. If any suit or action is instituted to interpret or enforce the provisions of this Agreement, to rescind this Agreement, or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue will be entitled to recover with respect to such issue, in addition to costs, reasonable attorney fees incurred in the preparation, prosecution, or defense of such suit or action as determined by the trial court, and if any appeal is taken from such decision, reasonable attorney fees as determined on appeal.

13.11 Injunctive and Other Equitable Relief. The parties agree that the remedy at law for any breach or threatened breach by a party may, by its nature, be inadequate, and that the other parties will be entitled, in addition to damages, to a restraining order, temporary and permanent injunctive relief, specific performance, and other appropriate equitable relief, without showing or proving that any monetary damage has been sustained.

13.12 Venue. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement will be brought against any of the parties in Lincoln County Circuit Court of the State of Oregon or, subject to applicable jurisdictional requirements, in the United States District Court for the District of Oregon, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to such venue.

13.13 Exhibits. The exhibits referenced in this Agreement are part of this Agreement as if fully set forth in this Agreement.

13.14 Severability. If any provision of this Agreement is invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of this Agreement will not be in any way impaired.

13.15 Entire Agreement. This Agreement (including the documents and instruments referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.

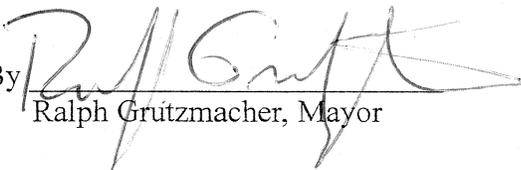
13.16 Survival of Covenants. Any provision of this Agreement which, by its terms has or may have application after the expiration or earlier termination of this Agreement, including all covenants, agreements, and warranties, will be deemed to the extent of such application to survive the expiration or termination of this agreement.

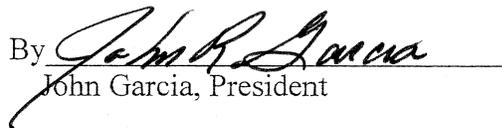
13.17 Force Majeure. No party will be considered in default in the performance of its obligations under this Agreement to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or in the future, which is beyond the reasonable control of the affected party, including, but not limited to, Acts of God, earthquake, drought, labor disputes, civil commotions, war and the like. In the event a party claims that performance of its obligations was prevented or delayed by any such cause, that party will promptly notify the other party of that fact and of the circumstance preventing or delaying performance. Such party so claiming a cause of delayed performance will endeavor to the extent reasonable to remove the obstacles which preclude performance. This Force Majeure provision will also apply to each party in performing its duties and obligations under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 19th day of December, 2012.

CITY OF TOLEDO

SEAL ROCK WATER DISTRICT

By 
Ralph Grutzmacher, Mayor

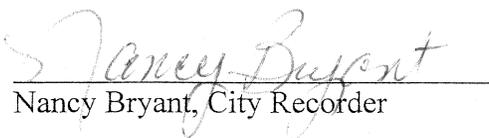
By 
John Garcia, President

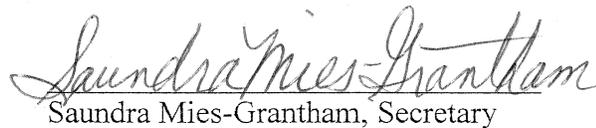
Dec 19, 2012
Date

27 Dec 2012
Date

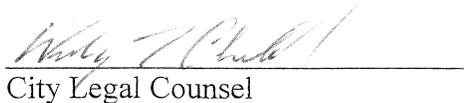
Attest:

Attest:


Nancy Bryant, City Recorder


Sandra Mies-Grantham, Secretary

Approved as to form:


City Legal Counsel

December 19, 2012
Date


District Legal Counsel

Dec. 21, 2012
Date



Seal Rock Water District

January 2, 2013

City Manager
City of Toledo
PO Box 220
Toledo, OR 97391

Dear Michelle Amberg:

Enclosed is a signed original copy of Water Purchase Agreement between the Seal Rock Water District and the City of Toledo.

We are very pleased that the agreement has been finally reached after a long process and hard effort of both parties. I was not part of the negotiating team and didn't notice the minor error on page 11 until today. When the negotiation for the new water agreement started we were in our old office and when we moved into our new office the agreement was not updated. The new physical address of our office is 1037 NW Grebe Street and our mailing address remains the same.

Thank you and I hope you had a great holiday.

Sincerely,

Joy S King
Office Supervisor

enclosure



PO Box 190 – 1037 NW Grebe Street – Seal Rock, Oregon 97376
Phone: 541.563.3529 – Fax 541.563.4246 Website: www.srwd.org
My Water Usage Customer Portal: bit.ly/mywaterusage



Seal Rock Water District

Date: June 25, 2020
To: Judy Richter, City Manager
City of Toledo
From: Rob Mills, Board President
Seal Rock Water District
RE: Future Water Purchase Considerations

Dear Ms. Richter and City Council

As an outcome of our recent correspondence with city manager Judy Richter, the SRWD Board of Commissioners welcomes the invitation to meet with the Toledo City Council on July 01, 2020. SRWD would like to offer for City Council consideration our perspectives and recommendations for a new water purchase agreement between SRWD and the City to follow the expiration of the current contract on October 31, 2020.

As you know, SRWD is developing a primary source water supply that is intended to be operational by late 2021. Until fully operational, we will continue to ensure a revenue stream for the City and rely on its supply of source water to meet the needs of our customers. We seek to develop with the City a mutually beneficial agreement for our purchase of water for the period November 01, 2020 through December 31, 2021.

SRWD proposes the following as basic elements of an eventual agreement for the Council's consideration. We anticipate that the Council will view these as reasonable components for the framework of an agreement to be worked out in more detail in a subsequent meeting of representatives from SRWD and the City.

Basic elements of an agreement for the City's consideration include:

- SRWD could agree to a rate increase of \$3.95/1000 gal. beginning November 01, 2020 through December 31, 2021. This represents a 7.5% increase which is consistent with the average rate increase over the past 10 years. This would allow the city to recognize continued revenue of approximately \$400K annually through 2021.
- SRWD could agree to pay the inside monthly base rate for a 6-inch commercial meter. As a wholesale customer, SRWD has not been subject to a monthly base rate. This represents a compromise that would allow the city to recognize even greater benefit.
- SRWD could consider a stipulated minimum annual purchase. SRWD's overall water consumption has decreased significantly due to advanced monitoring technology; standards for determining "minimum" may need to be redefined.
- SRWD would like to request that the City consider the district's investment of nearly \$2.3 million in recent years in the City's major capital improvements be considered as justification for receiving the inside residential rate.
- SRWD remains open to negotiating an emergency supply agreement for water from the City beyond 2021.

Sincerely,

Robert Mills
SRWD, Board President

IF HEARING IMPAIRED, PLEASE CALL TTY# 1-800-735-1232
SRWD is an Equal Opportunity Service Provider.

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 15, 2020	Discussion regarding scope of Planning Commission
Council Goal:	Agenda Type:	
Not applicable	Discussion and Information	
Prepared by:	Reviewed by:	Approved by:
City Manager J. Richter	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Discussion/Education around the scope of the duties of the Planning Commission

Background:

The City of Toledo is required by Oregon Law to have a planning commission. Many of the roles and responsibilities are defined by State Law or City Charter.

Fiscal Impact:	Fiscal Year:	GL Number:
N/A	2019-2020	N/A

Attachment:

1. Staff report from Planning Assistant, Arlene Inukai



The Toledo Planning Commission is made up of seven community members, appointed by the Mayor and City Council to serve a four-year term. Current members are: Anne Learned-Ellis (Planning Commission President), Cora Warfield (Planning Commission Vice President), Geoff Wilkie, Todd Michels, and Robert Duprau. There are two vacancies on the Planning Commission. The Planning Commission holds 12 regular meetings a year and may conduct special meetings or worksessions periodically. Regular meetings are held the second Wednesday of the month at 7:00 pm in the Toledo City Hall Council Chambers.

The Planning Commission is the decision making body for the following actions:

1. Request for exception to the requirements of the zoning ordinance;
2. Request for conditional use under the zoning ordinance;
3. Creation of a street or way under the land division ordinance;
4. A land division (major partition, subdivision, and planned development); and
5. Any other specific task assigned by the council for final decision.

The Planning Commission makes recommendations to the City Council on the following matters:

1. Amendment to the text or change in the map of the Toledo comprehensive land use plan;
2. Amendment to the text or change in the zoning map of the zoning ordinance;
3. Vacation of land;
4. Annexation of land to the city; and
5. Any other questions requiring commission consideration by law.

The Commission is also involved with long-range planning projects, land division ordinance revisions, and floodplain ordinance variances. Currently, the Planning Commission are reviewing two policy (zoning ordinance) revisions—creating residential and commercial sign standards and housing updates in the residential zones. The Commissioners are also working on a Council assignment for the Olalla Slough park development project and pedestrian link to Sturdevant Road.

The Planning Commission also serves as the City's Tree Board. The Tree Board can develop/update/administer a written plan (adopted by the City Council) and can investigate a special tree matter or question.

The Toledo Municipal Code also states that, upon request, the Planning Commission shall have the power (except as otherwise provided by law), to recommend and make suggestions to the City Council for the following:

- A. The laying out, vacation, widening, extending, parking on and location of streets, boulevards, sidewalks, and pedestrian, bicycle and other paths;
- B. The relief of traffic congestion
- C. The betterment of housing and sanitation conditions;
- D. The establishment of zones or districts limiting the use of premises, and the use, height, area and bulk of buildings and structures;

- E. The establishment and alteration from time to time of building setback lines on private property adjacent to any alley, street or other public way;
- F. Planning for the regulation of the future growth, development and edification of the municipality in respect to its public and private buildings and works, streets, parks, grounds, vacant lots and plans consistent with the future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper services of all public utilities, harbor, shipping, and transportation facilities;
- G. Advertisement of industrial advantages and opportunities of the municipality and the availability of real estate within the municipality for industrial settlement;
- H. Encouraging industrial settlement within the municipality;
- I. Making of economic surveys of the present and potential possibilities of the municipality with a view to ascertaining its industrial needs;
- J. Studying the needs of existing local industries with a view to strengthening and developing those industries and stabilizing employment conditions;
- K. Studying, conducting public hearings, and making recommendations on proposed land use actions within the urban growth boundary; and
- L. Exercising any and all powers, functions and authority delegated to or conferred upon the commission by the laws of Oregon, the Charter of the city of Toledo, this chapter, or any other ordinance of this city; and in general to study and propose such measures as may be advisable for the promotion of the public interest, health, morals, safety, comfort, convenience, and welfare of the city.

RESOLUTION NO. ???

**A RESOLUTION DECLARING TOLEDO'S STANCE AGAINST RACISM,
DISCRIMINATION, AND SOCIAL INJUSTICE**

WHEREAS, We, the Mayor and City Council, City Manager, and City Staff adhere to the belief that equity, equality and equal justice are the corner stone of our nation, state and community; and

WHEREAS, we believe that a diverse community and workplace adds significantly to the creative nature of ideas, the richness of experiences, and to the high quality of life that our community seeks to obtain on a daily basis; and

WHEREAS, we are committed to creating an inclusive, welcoming, and equitable environment for every citizen of our community; and

WHEREAS, we condemn all forms of discrimination and will work to respect, support, and nurture the full potential of all members of our community, in their businesses, their occupations, and in all positive community development endeavors; and

WHEREAS, we denounce discrimination on the basis of age, race, gender, sexual orientation, religion, or national origin and fight for a public environment that is respectful and free of hate, discrimination, misogyny, and unlawful abuse in all of its forms; and

WHEREAS, as a City government, we will continue working to develop a stronger consciousness of injustice and bigotry, and to promote equity in City policies and practices; and

WHEREAS, to all our residents, especially of color, know that we respect you, we hear you, and we acknowledge your pain;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TOLEDO THAT:

Section 1. The City of Toledo supports the efforts and goals of advancing racial equality, actively and intentionally counteracting racist practices, and the removal of systemic obstructions for People of Color.

Section 2 The City of Toledo will work to create a diverse, equitable, and inclusive community and workplace.

Section 3 The City of Toledo will support the creation of a safe space for conversations, learning opportunities, and advancing policies and procedures to fight racism and inequity.

Approved and adopted on July ??, 2020.