



City Council Chambers
206 N. Main Street
Toledo, Oregon 97391
7:00 p.m.

TOLEDO CITY COUNCIL
Regular Session
September 19, 2018

1. **Call to Order**
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 five (5) minutes).
3. **Consent Agenda**
Minutes from the Regular Session held August 15, 2018 and the Regular Session held September 5, 2018
4. **Discussion and Information Items**
 - Committee Updates
5. **Decision Items**
 - Consider approving the replacement and installation of a System Control and Data Acquisition system & PLC upgrade at the Wastewater Treatment Plant facility by The Automation Group in the amount not to exceed \$96,323.00
 - Consideration of Draft Mutual Agreement and Order with the Department of Environmental Quality
6. **Reports and Comments**
 - Department Reports
 - City Manager's Report
 - Council Comments
 - Mayor Comments
7. **Adjournment**

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TOLEDO CITY COUNCIL MINUTES
REGULAR SESSION

Toledo City Council Chambers
August 15, 2018

1. Call To Order

Mayor Billie Jo Smith called the meeting to order at 7:00 p.m.

Councilors present: Joshua Smith, Council President (CP) Terri Strom, Jackie Kauffman, Bill Dalbey and Deanne Dunlap

Councilors absent: Michele Johnson

Staff present: City Manager (CM) Craig Martin, Police Chief (PC) Dave Enyeart, City Recorder (CR) Lisa Figueroa, Library Director (LD) Deborah Trusty and City Attorney (ACA) David Robinson

Visitors present: Tracy Mix, Heather Jukich, Stuart Strom, Bill Farley, Nancy Bryant

2. Visitors/Public Comment

Tracy Mix, resident, commented the city staff installed a larger culvert at the end of 7th Street and expressed appreciation for responding so quickly.

3. Consent Calendar

Motion-It was moved and seconded (**Strom/Kauffman**) to approve the consent calendar consisting of the City Council minutes of the work session held July 10, 2018 and the regular meeting held July 18, 2018. **Motion passed 6-0 with Councilor Johnson absent.**

4. Discussion and Information Items

Committee Updates

Mayor Smith reported on the Small Cities Regional Mayors meeting earlier today, where they discussed the bicycle and pedestrian trails. She said they are mapping areas along Highway 101 to install bicycle and pedestrian lanes and indicated a future meeting will include discussion with Oregon Department of Transportation. She encouraged the other Councilors to attend the meeting.

R.A.I.N. Program Status Update

David Youngentob, RAIN Venture Catalyst presented a status update. He said their program supports entrepreneurs in Lane, Linn, Benton and Lincoln County with support from the Ford Family Foundation, the cities of Newport, Toledo and Lincoln City. He indicated they have raised \$157,000 with funding from the City of Florence, the Lincoln County Board of Commissioners, and Foundations such as Oregon Community Foundation and the Ford Family Foundation. He said they have a ten week bootcamp for startup founders beginning September 5 with a Demo Day showing the startup businesses upon the completion of the program. He noted they received a \$300,000 Federal grant to launch a Seed Fund to be invested in equities in early stage companies and they will partner with Cascade Angels to raise a \$5 to \$10 million fund for under-represented entrepreneurs. He said they are accepting applications for the ten week

1 bootcamp. He provided a handout to the Council listing their accomplishments. The Council
2 thanked Mr. Youngentob for his presentation and suggested he contact the Port of Toledo.
3

4 **5. Decision Items**

5 **2018 Small Cities Allotment Grant Agreement**

6 PWD Adams presented the report and indicated the City submitted a project application late last
7 year for road improvements to apply asphalt, install sidewalks and a railing system to Arcadia
8 Drive. He summarized the Council discussion from the July 10, 2018 work session, which
9 indicated they wanted to revise the scope to remove the sidewalk and railing portion of the
10 project. He said the agreement includes \$50,000 for the asphalt overlay. The Council reviewed
11 the agreement and asked clarification questions regarding the funding of the project. It was noted
12 the City has \$85,000 earmarked for the project if needed in the future. Councilor Smith clarified
13 if the Council moves forward with the request, then the City is bound to complete the project
14 within two years. PWD Adams affirmed the clarification.
15

16 Ms. Mix, asked if this grant will have to be submitted every year. PWD Adams said it does.
17

18 **Motion**-It was moved and seconded (**Smith/Dalbey**) to accept Small City Allotment Agreement
19 number 32629 awarding \$50,000 in Grant funding for the asphalt overlay of Arcadia Drive and
20 authorize the City Manager to execute said document. **Motion passed 6-0, with Councilor**
21 **Johnson absent.**
22

23 **Utility Account Deposit, Refund and Establishment Policy for Utilities**

24 PWD Adams reviewed the report and indicated he made the changes recommended by the
25 Council. He noted he received questions from the Mayor and provided the answer with a copy to
26 the entire Council via e-mail. He indicated the process is already in practice and the resolution
27 would memorialize the procedure. He referenced bullet point three on page 22:

28 "Account deposits may be applied to account holders who are PROPERTY OWNERS
29 when they have established at least 12 consecutive months of regular & consistent
30 payments to the City for water service with no more than two service disconnect fees
31 within same 12 month period,"

32 PWD Adams said a door hanger with a \$10.00 past due fee applied to the account. The Council
33 reviewed the information and asked questions in regards to the door hangers and PWD Adams
34 reviewed the process.
35

36 Heather Jukich, resident, commented that she had asked to have her deposit applied to her
37 account last month and indicated it was, but then this month she noted she received a check from
38 the City.
39

40 **Motion**-It was moved and seconded (**Smith/Kauffman**) to adopt Resolution No 1408 for 2018 –
41 A Resolution Setting Utility Account Deposit, Refund, and Establishment Policy for Water and
42 Wastewater Accounts. **Motion passed 6-0, with Councilor Johnson absent.**
43

1 **Leak Adjustment Policy for Utilities**

2 PWD Adams reviewed the amendments recommended by the Council listed in the bullet points
3 on page 26 of the packet, which identifies who would make determinations and outlines an
4 appeal process. He noted the third sub bullet point on page 25 which addresses an adjusted and
5 excess consumption to the “Winter Average” calculation. The Council discussed amending the
6 language in the current Municipal Code to match the language in the proposed resolution. After
7 further discussion, a consensus of the Council determined they could adopt the resolution and
8 then amend the Code at a later date.

9
10 Ms. Mix suggested the Code could have been drafted in a manner to address the negligence of a
11 homeowner because a homeowner would notice a leak from a leaky faucet, for example, versus a
12 leak beyond their control.

13
14 Ms. Jukich noted the Council consider renters in this equation because they cannot perform any
15 maintenance on the property they rent and rely on their landlord.

16
17 Councilor Dalbey noted the appeal process is essential would be available for customers for any
18 adjustments to their accounts.

19
20 Stuart Strom, resident, said it is his responsibility to maintain his property as a homeowner but
21 there may be instances where a leak occurs and indicated there should be some relief for the
22 homeowners.

23
24 **Motion**-It was moved and seconded (**Strom/Smith**) to adopt Resolution No. 1409 for 2018 – A
25 Resolution adopting a leak adjustment policy for Water and Wastewater Utility Accounts.

26 **Motion passed 6-0, with Councilor Johnson absent.**

27
28 **Motion**-It was moved and seconded (**Smith/Kauffman**) to direct staff to review and propose
29 amendments to Toledo Municipal Code 13.12.460(D) regarding a leak between the meter and the
30 building. **Motion passed 6-0, with Councilor Johnson absent.**

31
32 **Surplus Public Works Truck Vehicles #1103 and #0702**

33 PWD Adams provided a report. He referenced the packet and said they would be used as a
34 “trade-in” value to purchase two new vehicles. He said one vehicle would be disposed of as per
35 the policy allows and the other would be repurposed to another department. Councilor Smith
36 commented on whether having 4-wheel drive is a necessity and asked what the City anticipates
37 to spend on the new vehicles. PWD Adams replied it would cost approximately \$42,000 for both.
38 Councilor Smith asked if there is a possibility that the City can track how much money has been
39 spent to repair or maintain the City’s current fleet. CM Martin noted Public Works is using a new
40 work order module and tracking may be available in the future once data has been collected.
41 Several Councilors noted 4-wheel drive is needed during inclement weather. Councilor
42 Kauffman indicated she believes it is important that staff have the necessary equipment to handle
43 emergency situations.

1 Ms. Mix questioned whether the price is contingent on purchasing the two vehicles and
2 suggested the City surplus one vehicle and purchase one vehicle and then purchase another
3 vehicle next year.

4
5 Mr. Strom indicated the City would want to keep the vehicles current in order to provide services
6 to the community.

7
8 **Motion**-It was moved and seconded (**Smith/Strom**) to declare fleet vehicles surplus and dispose
9 of them as allowed within the adopted City of Toledo Purchasing Manual. **Motion passed 6-0,**
10 **with Councilor Johnson absent.**

11 12 **6. Reports And Comments**

13 **Department Reports**

14 PWD Adams reported he met with Port of Toledo Director Bud Shoemake regarding the building
15 and waterline project.

16
17 LD Trusty invited the public to the flagpole plaza dedication on Monday, August 20 at 10:00
18 a.m. in front of the Library.

19
20 PD Enyeart said National Night Out was a success and they provided hamburgers and hot dogs
21 for the public. He said Newport had their first event this year, which had over 500 attendees.

22 23 **7. City Manager's Report**

24 He said the City will receive the 2016-2017 financial audit, which will hopefully be filed it to the
25 state before the deadline, August 17 to avoid any withholding of the state shared revenues. He
26 said Accuity, Inc will provide a presentation to the Council at a future meeting. He announced
27 the Wooden Boat Show this weekend would be hosted by the Port of Toledo. He said the Toledo
28 Street Market will relocate to Memorial Field this week only to accommodate the Wooden Boat
29 Show. There was some discussion about the audit and it was noted the current agreement does
30 not include a review of practices.

31
32 Mayor Smith said she will not be able to have the chat with the Mayor tomorrow at the Toledo
33 Market.

34 35 **8. Adjournment**

36
37 The meeting adjourned at 8:47 p.m.

38
39 ATTEST:

40
41 _____
42 City Recorder, Lisa Figueroa

APPROVE:

43 _____
Mayor, Billie Jo Smith

TOLEDO CITY COUNCIL MINUTES
REGULAR SESSION
Toledo City Council Chambers
September 5, 2018

1. Call to Order

Mayor Billie Jo Smith called the meeting to order at 7:00 p.m.

Councilors present: Michele Johnson, Joshua Smith, Council President (CP) Terri Strom, Jackie Kauffman, Bill Dalbey and Deanne Dunlap

Staff present: City Manager (CM) Craig Martin, Police Chief (PC) Dave Enyeart, City Recorder (CR) Lisa Figueroa, Library Director (LD) Deborah Trusty, and City Attorney (ACA) David Robinson

Visitors present: Nancy Bryant and Bill Farley

2. Visitors/Public Comment

There were no comments.

3. Consent Calendar

Motion-It was moved and seconded (**Strom/JSmith**) to approve the consent calendar consisting of the City Council minutes from the Regular Session and Executive Session held August 1, 2018 and the Work Session held August 7, 2018 as presented. **Motion passed 7-0.**

4. Discussion And Information Items

Committee Updates

Mayor Smith noted there is a Cascades West Council of Governments fundraiser at the Oregon Coast Aquarium on September 13 and encouraged everyone to attend.

5. Decision Items

Resolution No. 1410 – a resolution approving an interim rate for solid waste disposal services provided by Dahl Disposal

Operations Manager Chuck Lerwick and General Manager Joe Cook noted the proposed rates were overlooked in the previous rate schedule. Mr. Lerwick said Dahl has identified the need for establishing two additional garbage service tiers for Residential service: a. every other week service and once a month service with 95 gallon. He said if the rate is approved they will update their calendar and send it out to customers. He said since they implemented the yard debris pick up about three weeks ago; Dahl has collected approximately 100 tons of yard debris.

Motion-It was moved and seconded (**Kauffman/Johnson**) to adopt Resolution No. 1410 - A resolution approving an interim rate for solid waste disposal services provided by Dahl Disposal. **Motion passed 7-0.**

1 **Motion to approve the Toledo Employees Association Collective Bargaining Agreement**

2 CM Martin presented the report and indicated the Toledo Employees Association bargaining
3 agreement was negotiated beginning in April of this year and continued over a series of
4 meetings. He said there were a numerous changes to the document in regards to Janus rulings,
5 sick leave as well as recognized wage and benefits packages. He said he was told the employees
6 met about two weeks ago and approved the agreement unanimously. He said the working
7 parameters are clear. There was a question regarding Section 2 on page 29. CM Martin clarified
8 it would apply to employees who were in the bargaining unit and then promoted to a position
9 that is not represented such as a management position. CM Martin answered questions regarding
10 Commercial Drivers Licenses, the Library Classification Raise and the Joint Labor Management
11 Committee.

12
13 **Motion-It was moved and seconded (JSmith/Strom) to approve the 2018-2021 Toledo**
14 **Employees Association Collective Bargaining Agreement. Motion passed 7-0.**

15
16 **Motion to purchase two (2) 2018 F-150 4 WD SuperCab pickups per State Contract**

17 PWD Adams summarized the Council discussion held on August 15, 2018 to surplus two
18 vehicles in order to make room in the City's fleet to purchase two vehicles. He presented the
19 report and indicated this is a formal request for Council consideration.

20
21 Bill Farley, community member, inquired what will happen with the vehicles that were declared
22 surplus. CM Martin indicated the purchasing policy stipulates how surplus City property can be
23 disposed. He said the City will do its due diligence to get as much value as they can for the trade
24 in value.

25
26 **Motion-It was moved and seconded (Strom/JSmith) approving the purchase of two (2) new**
27 **2018 F-150 4 wheel drive Supercab pickups. Motion passed 7-0.**

28
29 **6. Reports and Comments**

30 **Department Reports**

31 LD Trusty reported the Library celebrated the purchase of 99 new books, which will be on
32 display before they are entered into the collection. She noted Assistant Library Director Harrison
33 Baker is a proponent of open source (OS) programs. She indicated the Library will have an OS
34 Petting Zoo to familiarize anyone willing to learn more about those programs.

35
36 PWD Adams reported the City has a new Utility Billing Clerk, Nancy Noteboom. He said Rick
37 Pina from the Maintenance Department has accepted the Jr. Facilities Operator position and will
38 begin on Monday, September 10. He said he is still working with the Port of Toledo to relocate
39 the waterline for their new building.

40
41 PC Enyeart reported the Fire Chaplain is moving out of state and noted it will be a big hole to fill
42 in the Public Safety Department.

43
44 **City Manager's Report**

45 CM Martin said the Council received a copy of the 2016-2017 financial audit. He said it was
46 filed by the auditors in time and the state will not withhold any state shared revenues from the

1 City. He said the Auditors will provide a presentation to the Council at a future meeting. The
2 Council asked if they could submit questions to the auditors for their presentations or if they
3 should ask them during the presentations. CM Martin replied to send questions to him and he
4 would forward the questions to the auditors.

5
6 **Council Comments**

7 Councilor Dunlap said there is a Toledo Main Street Watch group that has been meeting once a
8 month and plan to participate in the Great Oregon Shakeout on October 18 at 10:18 a.m.

9
10 Councilor Johnson commented people need to start taking care of their trees to clear the ivy and
11 be responsible in maintaining their property.

12
13 Councilor Smith noted there is a lot of ivy on the trees located on the Dairy Queen parking lot
14 and questioned whether it is the responsibility of the City staff to maintain that area. CM Martin
15 indicated he is not familiar with the location of the right-of-way on that property but could look
16 into it. There was discussion about hosting an ivy pull event in the community.

17
18 **Mayor Comments**

19 Mayor Smith noted she attended one of the library's programs with her family and said she was
20 impressed at the attendance.

21
22 **7. Adjournment**

23
24 The meeting adjourned at 7:53 p.m.

25
26 ATTEST:

APPROVE:

27
28
29 _____
30 City Recorder, Lisa Figueroa

Mayor, Billie Jo Smith

CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: September 19, 2018			
Ordinance ☐	Resolution ☐	Motion ☒	Information ☐
Date Prepared: September 13, 2018		Dept.: Public Works	
SUBJECT: SCADA & PLC Upgrade @ WWTP		Contact Person for this Item: Michael J. Adams, Public Works Director	

RECOMMENDATION: Motion approving the replacement and installation of a System Control and Data Acquisition (SCADA) system & PLC upgrade at the Wastewater Treatment Plant facility by *The Automation Group (TAG)* in the amount not to exceed \$96,323.00.

FISCAL IMPACT:

Funds have been budgeted for within the Operating Budget for 2018-2019 within the Sewer Reserve & PW Reserve Fund.

PW Reserve Fund: 040-400-620500 - \$16,323

Sewer Reserve Fund: 042-420-620500 - \$80,000

COUNCIL GOAL: Goal: Maintain and Improve Public Infrastructure and facilities.

BACKGROUND:

The Wastewater Treatment Plant (WWTP) has an existing System Control and Data Acquisition (SCADA) computer system that is critical to the effective operation of the entire plant. The current system is outdated and losing reliability that is becoming costly as well as providing the possibility of violations of our State Permit requirements.

The current SCADA system is operating with Windows XP, 32 bit technology and was installed approximately 2001 and has exceeded its capabilities to properly and effectively operate & control critical process equipment such as the Return Activated Sludge (RAS) and the Waste Activated Sludge (WAS) pumps.

This request is for the upgrade of the existing PLC and network system of the WWTP as well as for the SCADA system; exact details can be found in the attached quotes dated May 14 and July 18, 2018 from TAG. The total combined cost will be reduced by \$3,000 if the PLC upgrade and SCADA PC are replaced at the same time.

ATTACHMENT(S): May 14 and July 18 Quotes from TAG

PREPARED BY:

Michael J. Adams

Michael J. Adams, Public Works Director

SUBMITTED BY:

Craig Martin
Craig Martin, City Manager



The Automation Group, Inc.

CCB #172838
Phone: 541/359-3755

Quote #00001720
July 18, 2018

Matt MacPhail
Toledo WWTP

RE: Toledo WWTP PLC System Upgrade

Project Scope:

TAG is providing a price to Upgrade the Existing PLC and Network System at the WWTP. The PLC System will be upgraded to a New Compact Logic PLC System and utilize Ethernet Technology to communicate to the SCADA HMI and the VFDs. Two of the VFDs are the old original 1336Plus drives and are well past the end of their life and combined with the fact that you cannot retrofit them to Ethernet it would be a good time to upgrade them before they fail. The other two existing VFDs have been replaced in the past and are able to have an Ethernet card added. New 600V Ethernet Cable will be installed in the MCC and a new Ethernet Switch will be added to the Control Panel to connect the Ethernet Network. The Existing PLC Program will have to be converted to the new Control Logix language and TAG will utilize the Conversion tool to reduce the cost of recreating this. New software will also need to be purchased and installed on the SCADA PC to support the new PLC Platform. Below is a list of Materials and Tasks that will be needed to complete this project.

Materials:

- Compact Logix PLC System 1769-L36ERM with Modules to mirror existing system
- Stratix Ethernet Switch
- (2) Power Flex 753 VFDs sized to match existing 1336 Plus VFDs (RAS & WAS)
- (2) Ethernet Adapters for Existing Blower VFDs
- (4) 600v Rated Ethernet Cables for Drives
- Compact Logix Programming Software

Labor:

- Convert existing PLC Program
- Retag SCADA Graphics to PLC Logic
- Replace RAS & WAS Drives and preform Certified Startup for Warranty Extension (2-Year)
- Install Comm Cards on Blower Drives
- Remove Panelview and cover with plate
- Replace/Rewire New PLC and I/O
- Startup and Testing

Clarification/Exclusions:

- The WWTP will need to be operated in a manual manor during the Upgrade

Price.....\$76,527.00

Thank you,

Gary Jenks
(541) 912-3766
gjenks@tag-inc.us



Quote

The Automation Group, Inc.

CCB #172838
Phone: 541/359-3755

Quote #00001648
May 14, 2018

Matt MacPhail
Toledo WWTP

RE: Toledo WWTP SCADA Upgrade

Project Scope:

TAG is providing a quote to upgrade the SCADA PC at the Waste Water Plant with the following Tasks and items listed below. TAG will be migrating the Legacy RSVIEW 32 Application to the New FTVIEW SE Station Application to run on the New Windows 10 PC as well as all other required software.

- Provide a Dell PC with the following major components
 - Tower 5810
 - E5-1620 Xeon CPU
 - Windows 10 Pro 64bit
 - RAID 1 Mirrored Drives (2) 2 TB Hard Drives
 - 16 GB RAM
 - Office 2016
 - 23" Monitor
- Provide Rockwell Upgrade to allow for an Upgrade of all existing software packages to be supported on Windows 10 Pro PC.
 - Logix 500
 - RSLinx Gateway
- Provide a software migration of the Existing RSVIEW 32 to FTVIEW SE Station and Application Migration.
 - Provide and Install FTVIEW SE Station & Studio Development Software
 - Import existing screens to new FTVIEW SE
 - Build new Alarm System
 - Convert Trends
- Labor to install and configure all PC Packages
- Labor to setup onsite, test and place into service

Clarification/Exclusions:

- System is a 1 to 1 conversion and no new features will be added under this contract

Price.....\$19,796.00

Thank you,

Gary Jenks
(541) 912-3766
gjenks@tag-inc.us

CITY OF TOLEDO
CITY COUNCIL INFORMATION

DATE INFORMATION CONSIDERED: September 19, 2018			
Ordinance ☐	Resolution ☐	Motion ☐	Information ☒
Date Prepared: September 13, 2018		Dept.: Public Works	
SUBJECT: DRAFT Mutual Agreement & Order (MAO) w/DEQ		Contact Person for this Item: Michael J Adams, Public Works Director	

INFORMATION BEFORE COUNCIL:

Consideration of DRAFT Mutual Agreement and Order (MAO).

FISCAL IMPACT:

Formal acceptance of final MAO with Department of Environmental Quality (DEQ) will require significant financial investment in the coming years. The information presented herein is an attempt to provide additional details and information to the City Council regarding this topic in its current DRAFT form.

COUNCIL GOAL: Be fiscally responsible & maximize available revenue
Maintain and Improve public infrastructure and facilities
Assure and provide services that protect the public.

BACKGROUND:

On December 27, 2005, the Department of Environmental Quality (DEQ) issued National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit Number 101713 (Permit) to the City of Toledo. The Permit authorizes the City to construct, install, modify or operate wastewater treatment control and disposal facilities (Facility) and discharge adequately treated wastewaters into the Yaquina River, waters of the state, in conformance with the requirements, limitations and conditions set forth in the Permit. The Permit expired on November 30, 2010, but is administratively extended as the City has made timely application for renewal.

Due to the current conditions of the sanitary sewer system, as well as the age and condition of the treatment plant facility, the City sometimes has difficulty maintaining compliance with the Permit during wet weather and heavy rain periods primarily due to excessive inflow and infiltration (I/I) of unwanted storm water leaking into the sewer system. As such, the City and DEQ have entered into negotiations of a legal agreement known as a MAO to settle pending and likely future violations in exchange for a schedule by the City to make improvements to the system.

The first draft of an MAO was created in August of 2017 and after some discussion between staff members of the City and DEQ, and after a presentation by DEQ at a Council work session January 9, 2018, the latest draft MAO version was presented to Council on September 11, 2018 at a regular scheduled work session for consideration. Also presented at that time was an anticipated timeline and potential project cost associated with meeting the timeline. After good discussion and consideration by the Council at the work session it was recommended this topic be brought forward at the next available regular City Council meeting for further discussion and consideration.

On September 12, 2018 staff communicated to DEQ what was discussed at the council work session and relayed City concerns regarding the financial impacts acceptance of the DRAFT MAO would have on the community. As such, staff submitted another revised MAO to be considered by DEQ as well as clarifying questions that need consideration as we attempt to move forward; the email and MAO revision has been attached for Council review.

OPTIONS:

- A. Await DEQ response to email sent by staff on September 12, 2018 and discuss further at that time.

This option will allow additional time for Council to consider long-term implications of future MAO strategy and to identify priority project(s) for funding option identification and probable cost implications evaluations.

- B. Identify additional MAO revisions and submit to DEQ for their consideration.

Similar to the above option, this option will also allow additional time for Council to consider long-term implications of future MAO strategy and to identify priority project(s) for funding option identification and probable cost implications evaluations.

- C. Other.

NEXT STEPS:

Upon consensus of council regarding this issue, Staff will prepare an appropriate RCA for an upcoming regular City Council meeting.

ATTACHMENT(S): Toledo Final Draft MAO08212018 - City comments post work session
Email correspondence from Public Works Director to DEQ.

PREPARED & SUBMITTED BY:

Michael J. Adams

Michael J Adams, Public Works Director

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:)
CITY OF TOLEDO,)
Permittee.) NO. WQ/M-WR-2017-211____
) LINCOLN COUNTY

WHEREAS:

1. On December 27, 2005, the Department of Environmental Quality (DEQ) issued National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit Number 101713 (Permit) to the City of Toledo (Permittee). The Permit authorizes the Permittee to construct, install, modify or operate wastewater treatment control and disposal facilities (Facility) and discharge adequately treated wastewaters into the Yaquina River, waters of the state, in conformance with the requirements, limitations and conditions set forth in the Permit. The Permit expired on November 30, 2010, but is administratively extended as Permittee made timely application for renewal.

2. The Permit has the following requirements:

- a. Schedule A, Condition (1)(a)(3) of the Permit states that the removal efficiency for biochemical oxygen demand (BOD₅) shall not be less than an 85% monthly average.
- b. Schedule B, Condition (3)(a) of the Permit requires Permittee to submit an annual inflow and infiltration (I/I) report to DEQ by February 1 of each year.
- c. Schedule F, Condition (B)(6)(c) of the Permit prohibits overflows.
- d. Schedule F, Condition (B)(6)(e) of the Permit requires Permittee to report overflows to DEQ within 24 hours of becoming aware of the overflow.

3. Permittee has violated the Permit as follows:

a. According to its discharge monitoring reports, Permittee failed to meet the 85% removal efficiency for BOD₅ as follows:

<u>Month</u>	<u>Reported BOD Removal Efficiency</u>
December 2015	65
January 2016	82
November 2016	76
December 2016	84
January 2017	83
February 2017	84

b. Permittee submitted its 2014 I/I report on March 13, 2015, its 2015 I/I report on June 29, 2017, and its 2016 I/I report on February 16, 2017.

c. On January 2, 2018, the Permittee discharged approximately 45,000 gallons of municipal water containing raw sewage from a broken sewer pipe into a storm drain near Sturdevant Road, which then discharged into the Olalla Slough, which is waters of the state and a tributary to the Yaquina River.

d. Permittee failed to orally report the January 2, 2018 overflow to DEQ within 24 hours of becoming aware of the overflow.

4. DEQ and the Permittee recognize that until tasks in Paragraph 8 are completed, Permittee might continue to violate the BOD removal efficiency requirement at times and have sanitary sewer overflows.

5. DEQ and Permittee recognize that the Environmental Quality Commission has the authority to impose a civil penalty and to issue an abatement order for violations of Permit conditions. Therefore, pursuant to ORS 183.415(5), DEQ and Permittee wish to settle those past violations referred to in Paragraph 3 and address future violations referred to in Paragraph 4

1 (unless caused negligently, willfully or intentionally) in advance by this Mutual Agreement and
2 Order (MAO).

3 6. The U.S. Environmental Protection Agency appropriately delegated the federal
4 NPDES permitting program to DEQ, making DEQ the primary administrator and enforcer of the
5 NPDES permits. DEQ believes that this MAO furthers the goals of the NPDES permitting
6 program by ensuring progress towards compliance and is consistent with DEQ's goal of
7 protecting human health and the environment. However, DEQ and Permittee recognize that this
8 MAO does not eliminate the possibility of additional enforcement of Permit requirements by the
9 U.S. Environmental Protection Agency or citizens under the federal citizen suit provisions.

10 7. This MAO is not intended to limit, in any way, DEQ's right to proceed against
11 Permittee in any forum for any past or future violations not expressly settled herein.

12 NOW THEREFORE, it is stipulated and agreed that:

13 8. The Environmental Quality Commission shall issue a final order:

14 A. Requiring Permittee to comply with the following compliance order:

15 a. By no later than January 1, 2020 complete the ~~Butler Bridge Pump~~
16 ~~Station and~~ Force Main Project.

17 Gravity Sewer Collection System Improvements:

18 b. By no later than March 1, 2019, Permittee must update ~~cost~~
19 ~~estimates~~ and develop funding alternatives to implement Priority
20 1, 2, and 3 Projects identified in Appendix C of the 2014 Civil
21 West Engineering Services Wastewater Facility Plan. These
22 include the Butler Bridge slope, NW 6th Street, SE 10th Street, N
23 Nye Street, E Graham Street, NE 12th Street, Alley Repair,
24 Business 20, Manhole Rehab, SE 5th Street, Alder Way, and SE
25 Alder Street projects (Priority 1, 2, and 3 Projects).
26

Commented [PWD1]: Requesting deletion due to Engineers request to acquire at least 2 years wet season flow data. Discussed with Julie @ DEQ 9/11/18 and she concurred this is doable and will confirm w/Raneil.

Commented [PWD2]: To be created by consulting engineer per email received 9/11/18 from Julie @ DEQ.

- 1 c. By no later than December 1, 2019, Permittee must submit
2 documentation that all inflow sources (missing cleanout caps,
3 roof drains, storm water cross connections, etc.) identified in the
4 2011 Inflow and Infiltration study have been eliminated.
- 5 d. By no later than December 1, 2020, Permittee must clean,
6 television inspect, and smoke test the entire public wastewater
7 collection system and submit a document to DEQ that includes a
8 summary of the findings. The document must rate all deficiencies
9 found using a nationally recognized system. The document must
10 also include a plan, schedule, and budget to address prioritized
11 deficiencies.
- 12 e. By no later than May 1, 2021, Permittee must award bids and
13 issue a notice to proceed for the Priority 1, ~~2, and 3~~ Projects.
- 14 f. By no later than December 1, 2022, Permittee must submit
15 documentation that the Priority 1, ~~2, and 3~~ Projects are
16 substantially complete.

Commented [PWD3]: Based upon review of MAO and project schedule identified herein, completing all projects by 2022 is financially difficult to commit to at this time.

17 B. Requiring Permittee to meet the following waste discharge limitations,
18 measured as specified in the Permit, until this MAO is terminated per paragraph 14 or 19.

19 OTHER PARAMETERS (year-round)

LIMITATIONS

20 BOD Removal Efficiency

When monthly average influent flow is greater
21 than 2 MGD, must not be less than 65%.

When monthly average influent flow is greater
22 than 1.5 MGD but less than 2 MGD, must not be
23 less than 75%.

24
25
26 C. Requiring Permittee, upon receipt of a written Penalty Demand Notice from

1 DEQ, to pay the following civil penalties:

2 (1) \$600 for each day of violation of the compliance order set forth in
3 Paragraph 8(A).

4 (2) \$100 for each violation of the waste discharge limitation set forth in
5 Paragraph 8(B).

6 9. If any event occurs that is beyond Permittee's reasonable control and that causes or
7 may cause a delay or deviation in performance of the requirements of this MAO, Permittee shall
8 immediately notify DEQ verbally of the cause of delay or deviation and its anticipated duration,
9 the measures that have been or will be taken to prevent or minimize the delay or deviation, and
10 the timetable by which Permittee proposes to carry out such measures. Permittee shall confirm
11 in writing this information within five (5) working days of the onset of the event. It is
12 Permittee's responsibility in the written notification to demonstrate to DEQ's satisfaction that the
13 delay or deviation has been or will be caused by circumstances beyond the control and despite
14 due diligence of Permittee. If Permittee so demonstrates, DEQ shall extend times of
15 performance of related activities under this MAO as appropriate. Circumstances or events
16 beyond Permittee's control include, but are not limited to, acts of nature, unforeseen strikes, work
17 stoppages, fires, explosion, riot, sabotage, or war. Increased cost of performance or a
18 consultant's failure to provide timely reports are not considered circumstances beyond
19 Permittee's control.

20 10. The violations set forth in Paragraph 3 are expressly settled herein as follows:

21 A. For the violation of Schedule A, Condition (1)(a)(3) of the Permit Set forth in
22 Paragraph 3(a) above, DEQ hereby assesses a civil penalty of \$350. The determination of the civil
23 penalty is attached as Exhibit No. 1 and is incorporated herein.

24 B. For the violation Schedule B, Condition (3)(a) of the Permit set forth in
25 Paragraph 3(b) above, DEQ has not assessed a civil penalty.

26 C. For the violation of Schedule F, Condition (B)(6)(c) of the Permit set forth in

Paragraph 3(c) above, DEQ hereby assesses a civil penalty of \$1,800. The determination of the civil penalty is attached as Exhibit No. 2 and is incorporated herein.

D. For the violation of Schedule F, Condition (B)(6)(e) of the Permit set forth in Paragraph 3(d) above, DEQ hereby assesses a civil penalty of \$1,800. The determination of the civil penalty is attached as Exhibit No. 3 and is incorporated herein.

E. The total civil penalty amount is \$3,950.

11. Permittee and DEQ hereby waive any and all of their rights to any and all notices, hearing, judicial review, and to service of a copy of the final order herein. DEQ reserves the right to enforce this order through appropriate administrative and judicial proceedings.

12. Regarding the order set forth in Paragraph 8(A) above, Permittee acknowledges that Permittee is responsible for complying with that order regardless of the availability of any federal or state grant monies.

13. The terms of this MAO may be amended by mutual agreement of DEQ and Permittee.

14. DEQ may amend the compliance order and conditions, or terminate, this MAO upon finding that such modification or termination is necessary because of changed circumstances or to protect public health and the environment. DEQ shall provide Permittee a minimum of thirty (30) days written notice prior to issuing an Order amending or terminating the MAO. If Permittee contests the Order, the applicable procedures for conduct of contested cases in such matters shall apply.

15. This MAO shall be binding on the parties and their respective successors, agents, and assigns. The undersigned representative of each party certifies that he or she is fully authorized to execute and bind such party to this MAO. No change in ownership or corporate or partnership status relating to the Facility shall in any way alter Permittee's obligations under this MAO, unless otherwise approved in writing by DEQ.

16. All reports, notices and other communications required under or relating to this

1 MAO should be directed to Julie Ulibarri, DEQ Western Region Eugene Office, 165 East 7th
2 Avenue, Eugene, Oregon, 97401, phone number 541-687-7437. The contact person for
3 Permittee shall be Michael J. Adams, Public Works Director, City of Toledo, P.O Box 220,
4 Toledo, Oregon, 97391, phone number 541-336-2247 ext. 2070.

5 17. Permittee acknowledges that it has actual notice of the contents and requirements of
6 this MAO and that failure to fulfill any of the requirements hereof will constitute a violation of
7 this MAO and subject Permittee to payment of civil penalties pursuant to Paragraph 8(C) above.

8 18. Any stipulated civil penalty imposed pursuant to Paragraph 8(C) shall be due upon
9 written demand. Stipulated civil penalties shall be paid by check or money order made payable
10 to the "Oregon State Treasurer" and sent to: Business Office, Department of Environmental
11 Quality, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232. Within 20 days of
12 receipt of a "Demand for Payment of Stipulated Civil Penalty" Notice from DEQ, Permittee may
13 request a hearing to contest the Demand Notice. At any such hearing, the issue shall be limited
14 to Permittee's compliance or non-compliance with this MAO. The amount of each stipulated
15 civil penalty for each violation and/or day of violation is established in advance by this MAO
16 and shall not be a contestable issue.

17 19. This MAO shall terminate at the end of the day on the date the final compliance task
18 in Paragraph 8A above is to be completed. However, Permittee remains liable for stipulated
19 penalties for any violations of the MAO occurring during the period the MAO was in effect and
20 demanded pursuant to Paragraph 18.

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CITY OF TOLEDO,
PERMITTEE

Date

Michael J. Adams
Public Works Director

DEPARTMENT OF ENVIRONMENTAL QUALITY and
ENVIRONMENTAL QUALITY COMMISSION

Date

Kieran O'Donnell, Manager
Office of Compliance and Enforcement
on behalf of DEQ pursuant to OAR 340-012-0170
on behalf of the EQC pursuant to OAR 340-011-0505

Lisa Figueroa

From: Public Works Director
Sent: Thursday, September 13, 2018 5:16 PM
To: Lisa Figueroa
Subject: FW: Toledo MAO Status Update
Attachments: Toledo Final Draft MAO08212018 - City comments post work session.docx; DRAFT Toledo Final MAO Timeline 08212018.pdf; MAO Const Cost Escalations and funding - per project.pdf; MAO Const Cost Escalations and funding.pdf

Please save as a pdf (w/o attachments) for inclusion of the packet info as we discussed, thanks!

Michael J. Adams
Public Works Director



(541) 336-2247 x2070
pwdirector@cityoftoledo.org

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From: Public Works Director
Sent: Wednesday, September 12, 2018 11:40 AM
To: 'ULIBARRI Julie'
Cc: NOMURA Ranei; Craig Martin - City of Toledo
Subject: Toledo MAO Status Update

September 12, 2018

Hello Julie –

Thank you for taking my call this morning and letting me update you on the work session the City Council had last night to review the latest DRAFT MAO. As I mentioned during the call, I am sending this email to you for DEQ consideration and to get some clarifying answers to some questions that need to be part of the ultimate consideration by the Council moving forward.

Attached you will find an MAO Timeline and project cost escalations summary document that was provided to the Council in an attempt to explain what the commitment to the DRAFT MAO language would look like if they were to agree to the MAO in its present form. With all the MAO related projects combined this community will be looking at an approximate \$4.6 Million dollar investment over the next five years and I believe you would agree this is a significantly large financial commitment to agree to in the form of an agreement – investments that have the potential to require anywhere from \$130K - \$200K annually debt service for the next 40 years. In addition, we still have other improvements that need to be made that are not MAO related as well as regular investments throughout each year during normal operations.

Based on this last review, comments received last night, and what we have briefly discussed earlier today, I respectfully request your review and consideration of the following.

- Please consider the attached red-line DRAFT MAO; additional requests may come forward when/if I receive suggestions from Council later.
- Potential cost implications to the City should they decide NOT to have an official MAO needs to be part of the analysis. If an MAO agreement is not reached:
 - Would the current proposed civil penalty of \$3950 remain the same or would it increase? If so, approximately how much?
 - If the City continued to do work on the system similar to what is already identified but had a future violation in any given year, is there any way we could “estimate” possible penalty fee amounts?
- Due to the current political climate locally and the potential of a new Council at the beginning of next year, it will most likely be necessary to delay an actual formal decision on a MAO agreement until early next year. What is the DEQ perspective on when a final decision by the City needs to be made of agreeing to an MAO agreement or not? Obviously sooner than later is desirable however the more detailed information I can provide the policy makers the better their decision will be for all involved.

Thank you again for your consideration of the above and be sure and let me know if you have questions for me. In the meantime, this item is currently scheduled to be on the Regular Council agenda for next weeks’ meeting for further analysis and consideration.

Respectfully,

Michael J. Adams

Public Works Director



City of Toledo, Oregon 97391

(541) 336-2247 x2070

pwdirector@cityoftoledo.org

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