



City Hall – Council Chambers
206 N. Main Street
Toledo, Oregon 97391
6:00 p.m.

TOLEDO CITY COUNCIL
Work Session – also via Zoom Meeting Platform
March 22, 2023

Virtual Meeting: The City Council will hold the meeting for the City Council and staff in person as well as through the Zoom video meeting platform. The public is encouraged to attend the meeting electronically. Visit the meetings page on the city website for details including 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, Pledge of Allegiance and roll call**
2. **Proclamations/Presentations**
3. **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).
4. **Consent Agenda**
Minutes from the meetings held January 18, 2023 and February 15, 2023
5. **Discussion Items**
 - Discussion in regards to tobacco licensing
 - Proposed fiscal year 2023-2024 Capital Improvement Projects
6. **Decision Items**
 - Consider which City Councilors will attend the mediation with the Toledo Cemetery Association
 - Consider a System Development Charges assessment & lien agreement to create a lien for land located at 740-742 SE 6th Street, Toledo, OR also known as Blackberry Hill Apartments
7. **Reports and Comments**
 - Committee updates
8. **Adjournment**

Comments submitted in advance are preferable. Comments may be submitted 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

**TOLEDO CITY COUNCIL
REGULAR MEETING
January 18, 2023**

1. CALL TO ORDER

Mayor Rod Cross called the meeting to order at 6:00 p.m. also via Zoom in Toledo, Oregon.

Present	Absent	
X		Mayor Rod Cross
X		Council President Betty Kamikawa
X		Councilor Jackie Kauffman
X		Councilor Tracy Mix
X		Councilor Kim Bush
X		Councilor Wade Carey
		Vacant

Staff present: City Manager (CM) Judy Richter, Assistant City Manager/Human Resources Specialist (ACM) Sherry Meek, City Recorder (CR) Lisa Figueroa, Public Works Director (PWD) Bill Zuspan, Police Chief (PC) Michael Pace, City Attorney (CA) Mike Adams, Contract Planner (CP) Justin Peterson, Community Outreach Specialist (COS) Katy Keuter

2. PROCLAMATIONS/PRESENTATIONS

Marketing Toledo

COS Katy Keuter provided a presentation to the City Council in regards to marketing the City of Toledo. She commented on the multiple events plus recreation and outdoor opportunities available annually within the city. She compared marketing budgets between neighboring coastal municipalities and indicated it could be time for Toledo to consider a budget even if it is small to begin with in the first year. She noted Toledo does not have funding for marketing from transient lodging taxes like other cities such as Yachats or Lincoln City. She said she spoke with Jeremy Burke, owner of the *Ocean Waves* publication, who indicated he would write and include a story highlighting Toledo if they purchase advertisements for six months. The Council commented on the possibility of marketing Toledo and asked that a discussion/decision item be brought back to the Council on February 1.

3. PUBLIC HEARING

Mayor Cross opened the public hearing at 6:29 p.m. and asked Council members if they wish to declare any conflicts of interest or ex parte contacts. Councilors Kauffman, Bush, Carey, Kamikawa and Mayor Cross declared ex parte contacts because they have been to the site/have seen it recently. Mayor Cross called for CP Peterson to provide the council report.

CP Peterson said the application was submitted by the Port of Toledo to replace a gangway ramp, complete some excavation work, relocate the boathouse and remove three existing pilings. He said originally the joint permit application was also submitted to Army Corps [of Engineers], the Department of Environmental Quality (DEQ) and the Department of State Lands. He said part of the application requires a Land Use Compatibility Statement from the City. He said upon review, staff noticed it was in the floodway, which required an engineering hydrologic and hydraulic

1 analyses (H&H analysis). He said the Port of Toledo appealed staff's decision with the Planning
2 Commission through the variance process. He said the Port of Toledo presented information in
3 regards to the project and the Planning Commission decided in favor of the Port of Toledo and
4 stated an engineering analysis was not needed. He said after the public hearing, staff heard from
5 FEMA, who indicated the engineering analysis is needed and now staff appealed the Planning
6 Commission's decision to the City Council. He referenced the council packet and noted on Page
7 9 includes the need for the engineering analysis. He reviewed the variance criteria that was
8 included on page 11 of the staff report. He continued through the staff report and highlighted the
9 criterion. He said based on correspondence between Staff and FEMA, there is not enough evidence
10 to support approving the request without an H&H analysis. He said FEMA indicated they could
11 revoke flood insurance for the City if the request were approved.

12
13 CA Attorney reviewed the legalities of the approval. He noted if the City Council granted a
14 variance, they must ensure the variance does not conflict with any existing laws or ordinances.

15
16 Mayor Cross recognized the applicant. Debbie Scacco, Port of Toledo Manager addressed the City
17 Council. She said the project was adopted in the Port's 2021 Strategic Business Plan update. She
18 said they understand it is recommended not to approve variance, but request the City's support as
19 they challenge the restrictions.

20
21 Mayor Cross opened the floor for any comments in favor, against and/or neutral comments. After
22 hearing no comments, Mayor Cross asked the Council if they had any questions.

23
24 CA Adams identified the areas affected by the federal insurance coverage if the City lost coverage.
25 The Council inquired whether the applicant had money to cover the H&H analysis and Ms. Scacco
26 said they have on-going costs for the project. Several Council members expressed concern in
27 regards to the requirement and stated they felt it was unnecessary.

28
29 Mayor Cross closed the public hearing at 7:01 p.m.

30
31 **Motion** – It was moved and seconded (Carey/Bush) based on the testimony received, the staff
32 report, and the evidence and arguments before the City Council at the public hearing on January
33 18, 2023, and the findings made by the City Council in the public hearing, the City Council finds
34 that the request by the Port of Toledo, (fpv-1-22) does not comply with the criteria identified in
35 Toledo Municipal Code (TMC) 15.16.200 for a variance, TMC 15.16.220(d)(1)(a) and 44 CFR
36 60.3(d)(3) does require hydrologic and hydraulic analyses for development in the floodway, and
37 so the request by the Port of Toledo is denied and the motion carried unanimously.

38
39 Ms. Scacco thanked the Council and their position on the situation.

40 41 **4. VISITORS/PUBLIC COMMENT**

42 There were no comments.
43
44
45
46

1 **5. CONSENT AGENDA**

2 **Minutes from the executive session and regular meeting held December 7, 2022**

3 Councilor Kauffman noted Todd Michels was listed instead of Councilor Bush.

4
5 **Motion** – It was moved and seconded (Mix/Carey) to approve the consent agenda as amended and
6 the motion carried unanimously.
7

8 **6. DISCUSSION ITEMS**

9 **Set date for City Council goal setting**

10 CM Richter indicated Mayor Cross secured Pete Wall as the facilitator and wanted to select a date
11 for goal setting. She said Mr. Wall is available most Saturdays in February and in the beginning
12 of March. After discussion, the Council settled on Saturday February 11 and CM Richter said she
13 would follow up with the Council.
14

15 CM Richter noted that several Council members are signed up for City Day at the Capital on
16 January 25, which means there will be no quorum for the work session. There was a consensus of
17 the Council to cancel the January 25 meeting.
18

19 **Review timeline for City Council recruitment**

20 CR Figueroa noted the packet includes a blank calendar so the Council may decide on a new
21 deadline. The Council indicated they would keep the recruitment open and if an application is
22 received, staff would extend the deadline two weeks from when the application was received in
23 case there are additional applicants.
24

25 **7. DECISION ITEMS**

26 **Approving an Intergovernmental Agreement with Lincoln City to protect against a dual-**
27 **office holding allegation being made against the Municipal Court Judge**

28 CA Adams provided the staff report. He noted the City can enter an Intergovernmental Agreement
29 (IGA) with another municipality for Municipal Judge Services. He answered clarification
30 questions in regards to the IGA for the Council.
31

32 **Motion** – It was moved and seconded (Kamikawa/Mix) to approve an Intergovernmental
33 Agreement with Lincoln City for a Municipal Court Judge and the motion carried unanimously.
34

35 The Council took a short recess at 7:30 p.m. and reconvened at 7:34 p.m.
36

37 **Provide direction for update to Seal Rock Water Agreement**

38 CM Richter provided the council report and said she was contacted by District Manager Adam
39 Denlinger. She said the agreement with the District expired December 31, 2022 and they are
40 interested in keeping Toledo as a backup water source. She said before she began negotiations, she
41 wanted to consult with the Council for direction. She indicated she and Mayor Cross participated
42 in the negotiations last time and said she feels they [District] needs to pay for infrastructure as
43 well. Mayor Cross said he would like to be involved again.
44

45 **Motion** – It was moved and seconded (Bush/Mix) to have the City Manager and Mayor to be the
46 negotiating team for the Seal Rock Water District Agreement and the motion carried unanimously.

1
2 **Ordinance No. 1406, an ordinance amending Toledo Municipal Code Chapter 1.16, Right of**
3 **Entry for Inspections, and declaring an emergency**

4 CA Adams delivered the council report and said a copy of the ordinance was posted for public
5 review as required by the Municipal Code. There was discussion in regards to someone collecting
6 greywater, pouring it down into the sewer system but not being connected to the City's system and
7 whether it were considered theft of services. The Council discussed several scenarios where a
8 sewer system is not needed.

9
10 **Motion** – It was moved and seconded (Carey/Kamikawa) to adopt by reading the title twice an
11 ordinance of the Toledo City Council amending Toledo Municipal Code Chapter 1.16, Right of
12 Entry for Inspections, and declaring an emergency and the motion carried unanimously.

13
14 **Ordinance No. 1407, an ordinance amending Toledo Municipal Code Chapter 1.20**

15 CA Adams presented the council report. There were no questions from the Council.

16
17 **Motion** – It was moved and seconded (Carey/Bush) to adopt by reading the title twice an ordinance
18 of the Toledo City Council amending Toledo Municipal Code Chapter 1.20, and declaring an
19 emergency and the motion carried unanimously.

20
21 **Ordinance No. 1408, an ordinance creating Toledo Municipal Code Chapter 1.24, Legislative**
22 **Subpoenas**

23 CA Adams provided the council report.

24
25 **Motion** – It was moved and seconded (Bush/Mix) to adopt by reading title twice an ordinance of
26 the Toledo City Council creating Toledo Municipal Code Chapter 1.24, and declaring an
27 emergency and the motion carried unanimously.

28
29 **Approval of Non-Represented Salary Schedule to reflect Cost of Living Adjustment of 3%**

30 CM Richter summarized the council report. She said the contract with the Toledo Public Safety
31 Association bargaining agreement was completed recently. She said they received a 4% salary
32 increase and typically the non-represented salary schedule was presented after both agreements
33 have been updated.

34
35 **Motion** – It was moved and seconded (Kamikawa/Carey) to approve the Non-Represented Salary
36 Schedule to reflect 3.0% COLA retroactive to July 1, 2022 and the motion carried unanimously.

37
38 **Consideration and approval of letter to the Governor from the City Council**

39 Mayor Cross presented a report to the City Council and referenced the letter he distributed to the
40 council before the meeting (a copy will be included with the archived packet). He said the letter is
41 addressed to Governor Kotek in regards to her executive orders that excluded 26 counties,
42 including Lincoln County from the homeless declaration of emergency. A consensus of the
43 Council agreed with the letter provided by Mayor Cross.

44
45 **8. REPORTS AND COMMENTS**

46 PC Pace updated the Council on department activities.

1
2 PWD Zuspan said the department is finishing up the Inflow & Infiltration (I&I) projects. He said
3 they found a void in some lines near 12th Street and the City had to fix that before they proceed
4 with completing any I&I in that area.

5
6 CA Adams indicated he will be out of the office next week.
7

8 CM Richter said the audit extension request was approved. She noted she was on a Zoom call with
9 CP Kamikawa and PWD Zuspan to review the draft Drinking Water Protection Plan, which will
10 be presented to the Council in a future meeting. She said there will be future projects for the
11 Council to consider based on that draft plan. She said there will be a change in the future for
12 Council meetings. She said Staff will provide a ‘dashboard’ or report once a month to the Council
13 instead of an oral report.
14

15 Councilor Kauffman noted motions adopting an ordinance do not need to include ‘read title twice’
16 and said it is a reminder for the Council to read the title twice.
17

18 Councilor Carey commented on serving as a Councilor and how Council members volunteer on
19 other committees. He indicated that when the Council are at the dais and provide updates from
20 their volunteer committees they must be cognizant of using the term “we” because that refers to
21 the Council and not the committee.
22

23 Councilor Bush said she attended the first committee meeting of the Summer Festival and there
24 was a lot of excitement. She said they are looking for more volunteers. She said they have a
25 Facebook page for details and they are planning to have it on July 14-16.
26

27 Councilor Mix said she attended the Summer Festival meeting as well and it was good to see the
28 support.
29

30 CP Kamikawa said she attended the Representative Wyden’s Town Hall recently. She said they
31 indicated there will be a way for cities to contact their office in regards to infrastructure. She
32 encouraged Councilors to participate on other committees the Council serves on such as Cascades
33 West Area Commission on Transportation or the Solid Waste Committee for the County.
34 Councilor Carey said he could serve on one of those committees in a few months.
35

36 Mayor Cross noted it was nice having a Council member attend the Port of Toledo or Pool District
37 meetings and then provide updates to the Council. He said he was on a call this week with the
38 Oregon Arts Commission, who would like to consider Art Toledo as an Arts District pilot program.
39 He said he would be in contact with several others at the end of the month. He said the
40 homelessness task force committee met recently and he will present some information to CM
41 Richter for her signature. He reported on the Town Hall held by Senator Merkley and said it was
42 very productive.
43
44
45
46

1 **9. ADJOURNMENT**

2 The meeting adjourned at 8:55 p.m.

3
4 Approve:

Attest:

5
6
7
8 _____
Mayor Rod Cross

City Recorder Lisa Figueroa

DRAFT

**TOLEDO CITY COUNCIL
REGULAR MEETING
February 15, 2023**

1. CALL TO ORDER

Mayor Rod Cross called the meeting to order at 6:00 p.m. also via Zoom in Toledo, Oregon.

Present	Absent	
X		Mayor Rod Cross
X		Council President (CP) Betty Kamikawa
X		Councilor Jackie Kauffman
X		Councilor Tracy Mix
X		Councilor Kim Bush
X		Councilor Wade Carey
		Vacant

Staff present: City Manager (CM) Judy Richter, Assistant City Manager/Human Resources Specialist (ACM) Sherry Meek, City Recorder (CR) Lisa Figueroa, Public Works Director (PWD) Bill Zuspan, Police Chief (PC) Michael Pace, Fire Chief (FC) Larry Robeson, City Attorney (CA) Mike Adams, Code Enforcement Officer (CO) Ron Bush

2. PROCLAMATIONS/PRESENTATIONS

Presentation – Sequoia Consulting

Rachael Maddock-Hughes provided a presentation to the Council. She commented on the status of Art Toledo. She said Art Toledo began in March of 2020 and the first round of phantom galleries opened in August of that same year. She said Sequoia Consulting has raised approximately \$150,000 over the last two years, which was used for various aesthetic projects and building facades. She said she submitted a contract renewal for consideration. CP Kamikawa asked if they can assist with congressionally directed spending. Ms. Maddock-Hughes replied they were able to secure \$1 million dollars for a blue economy project with the Economic Development of Lincoln County. There was discussion about maximum spending in regards to the grants sought and city related projects and Ms. Maddock-Hughes clarified their role in regards to grant writing and project management.

Presentation – Presentation Bond & Emergency Preparedness Oregon Coast Community College

Chris Rogers addressed the Council. He said Oregon Coast Community College (OCCC) plans to file a bond title in the upcoming election. He provided background about the Career and Technical Education (CTE) at the school and indicated after 2018, OCCC became independently accredited and could explore their own curriculum. He said the current buildings are nearly 15 years old and provided information in regards to the bond:

- The current bonds will expire in June of 2025
- Asking to raise \$32 million with a \$.26/000 levy
- They plan to build trades education facility and facilitate the evolution of existing buildings for safety upgrades, technology, modernization and more

- There are no other major education bond measures competing in the May, 2023

Mr. Rogers displayed building/structure examples from around the state in regards to upgrading facilities. He indicated the buildings will be flexible to accommodate future needs/classes. The Council asked if there was any discussion to include dormitories. Mr. Rogers indicated there was not, but they considered a Memorandum of Understanding to use the bungalows at the Hatfield Center nearby. He clarified OCCC wants to expand the current welding program they have with the Port of Toledo in Toledo. He noted he is willing to provide a tour of the facilities to the Council.

Presentation – Abandoned RV Abatement Pilot Program

Lincoln County Solid Waste District Manager Paul Seitz addressed the Council. He referenced the Council packet, which included information for a program to assist with the removal of recreational vehicles (RV) within the city limits. He said the program would offer every city in the County \$20,000 as part of the program. He said he could apply to RVs on private properties as well. He answered clarification questions for the Council in regards to the program and the removal process. He noted it would cover costs for RVs located on City streets or city parks but not state or federal roads. He asked for a vote from the Council to indicate they would participate in the program.

Interview – City Council applicant

CR Figueroa noted an application was submitted for the vacant City Council position, but the applicant withdrew their application.

3. VISITORS/PUBLIC COMMENT

There were no comments.

4. CONSENT AGENDA

Minutes from the regular meeting held January 4, 2023

Motion - It was moved and seconded (Kamikawa/Mix) to approve the consent agenda as presented and the motion carried unanimously.

5. DISCUSSION ITEMS

Consideration of Strategic Investment Program community fee

Mayor Cross indicated the City Council accepted the Strategic Investment Program (SIP) community fee at the last meeting and now they need to consider how and where the funds could be spent. He highlighted conditions of the fee from the agreement and the Oregon Revised Statutes and suggested the Council create a policy with criteria to determine if there is a direct impact on public services. He said he did not call Business Oregon for specific examples of how the money has been spent. The Council discussed the requirements and how it would affect the spending of the funds. The Council directed CA Adams to contact Business Oregon and they would provide him some examples of ways they would like to see the funds appropriated.

1 **6. DECISION ITEMS**

2 **Approve renewal of contract with Sequoia Consulting**

3 The Council requested to include an end date on the agreement as well as a maximum spending
4 amount. There was discussion as to what the maximum amount per month should be and the
5 Council concurred it should be no more than \$5,000 a month and it will expire at the end of the
6 calendar year.

7
8 **Motion** – It was moved and seconded (Mix/Carey) to approve the contract with an end date of
9 December 31, 2023 and a monthly cap of \$5,000 and authorize the City Manager to make the
10 amendments and sign the contract and the motion carried unanimously.

11
12 **Accept funds from Lincoln County for an abandoned recreational vehicle abatement**
13 **program**

14
15 **Motion** – It was moved and seconded (Kauffman/Bush) to participate in the program and the
16 motion carried unanimously.

17
18 **Resolution No. 1507, a resolution adopting a supplemental budget for fiscal 2022-2023**

19 CM Richter provided the council report and indicated a police officer who recently completed
20 training was recruited by the City of Prineville. She indicated Oregon State Law allows cities to
21 recuperate costs associated with training. She said the City could recover 66% from the City of
22 Prineville. She said it was an unforeseen circumstance and requires a supplemental budget.

23
24 **Motion** – It was moved and seconded (Mix/Kamikawa) to approve Resolution No. 1507, a
25 Resolution of the Toledo City Council adopting a Supplemental Budget for the Fiscal Year 2022-
26 2023 and making appropriations and the motion carried unanimously.

27
28 **Consider a 99 Year Lease for Olalla Meadows, a low income housing development by**
29 **Northwest Coastal Housing**

30 CA Adams provided the staff report and said a draft lease was included in the packet. He said the
31 lease stipulates if the property reverted back to the city, any existing apartments would have to be
32 leased under the same percentages. He said he believes there is a way for them [Northwest Coastal
33 Housing] to be exempt from property tax per ORS 307.110. He reviewed Articles 1 and 3 of the
34 contract in regards to renting the property to tax exempt entities. He noted Article 7 requires they
35 obtain insurance and name the City as additionally insured. He referenced Article 25, which
36 provides an option to purchase the property in the last six months of the 99-year term and said that
37 possibility was not considered or discussed by the Council. He said the purchase option does not
38 have to be included and the property could revert back to the city at the end of the lease. He said
39 the City received the final survey from the surveyor. He said there were no indications of a sewer
40 easement and a 20-foot access easement was created for Public Works.

41
42 There was discussion about the possibility of securing two units for city staff to rent and how to
43 compete with other municipalities who can offer a higher rate of pay. There were several ideas
44 proposed and CM Richter said staff could conduct some research to see what other cities offer for
45 incentives and could bring back information for the Council to review.

1 **Intergovernmental Agreement with City of McMinnville for Municipal Court Judge Services**
2 CA Adams presented the council report and indicated the agreement is similar to an agreement
3 with Lincoln City, which will be re-considered by the Council at this meeting. He said state law
4 permits cities to enter into an agreement to allow a Municipal Judge to serve in multiple cities.
5

6 **Motion** – It was moved and seconded (Kamikawa/Mix) to approve the Intergovernmental
7 Agreement with the City of McMinnville and the motion carried unanimously.

8 **Intergovernmental Agreement with City of Lincoln City for Municipal Court Judge Services**
9

10 **Motion** – It was moved and seconded (Carey/Mix) to approve the Intergovernmental Agreement
11 (IGA) with Lincoln City and the motion carried unanimously.
12

13 **7. REPORTS AND COMMENTS**

14 CO Bush updated the Council and said there has been a lot of activity in both Toledo and Siletz.
15

16 PWD Zuspan said cities are required to monitor unmetered water usage in their city, which should
17 be kept under approximately 15% for water loss. He said last month Toledo measured 10.6% water
18 loss for January and said staff will be diligent in mitigating water loss.
19

20 FC Robeson said the department is in search of a new area for training for fire investigation. He
21 introduced Newport Fire Investigator Chris Rampley. Mr. Rampley provided a handout [copy with
22 the archived packet] in regards to using Conex boxes for fire training. He said those structures are
23 valuable in fire training and would allow the agency to teach classes of 15 fire investigation
24 students on an annual basis.
25

26 CA Adams said he finished a draft copy of the Livability Code which is being reviewed by staff
27 currently and will come before the Council for consideration in the future.
28

29 CM Richter noted there is still one vacancy on the City Council and three vacancies on the Budget
30 Committee.
31

32 Councilor Carey referenced the Police department stats and inquired why the traffic stats decreased
33 from the previous years. PC Pace indicated the police had more traffic stops during the pandemic.
34 PC Pace asked if there is anything else the Council would like to see in the dashboard. Councilor
35 Carey indicated he would like to see how much overtime is accumulated until the department is
36 fully staffed. Mayor Cross indicated he would like to see how often the police is called out for
37 social versus property crimes.
38

39 CP Kamikawa noted upcoming events in the County including Earth day compost and Household
40 waste events this spring. She reported on the homelessness discussion at the Small Cities meeting
41 earlier today. She expressed concern about homelessness as well as mental health and commented
42 on how those issues are not getting resolved.
43

44 Mayor Cross indicated every Mayor in Lincoln County supports the Homelessness Task Force
45 proposal. He said the proposal was to provide money directly to all cities in the state so that they

1 can provide services for the homeless. He called attention to the services provided by the League
2 of Oregon Cities and how they plan to move forward.
3

4 **8. ADJOURNMENT**

5 The meeting adjourned at 8:45 p.m.
6

7 Approve:

Attest:

8
9
10 _____
11 Mayor Rod Cross

City Recorder Lisa Figueroa



Office of Lincoln County Legal Counsel

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FEB 27 2022

Kristin Yuille
County Counsel
Brian Gardner
Assistant County Counsel
Douglas Holbrook
Assistant County Counsel
Gina Lekas
Paralegal & Risk
Management

February 17, 2023

City of Toledo
206 N. Main Street
P.O. Box 220
Toledo, OR 97391

Greetings. Lincoln County Public Health has reached out to the Board of Commissioners regarding enacting an ordinance to establish tobacco retailer density limits within the County. As there are very few tobacco retailers within Lincoln County, but not within city limits, I wanted to reach out to our municipal partners to gauge the interest/willingness in exploring this possibility, since without municipal interest, a possible County ordinance would not have much effect.

With the enactment of the statewide Tobacco Retailer Licensure ORS on January 1, 2022, the State now regulates tobacco licensing, and collects the licensure fees, but 431A.218 allows a local governing body to enforce standards regulating the retail sales of tobacco products and inhalant delivery systems for purposes related to public health and safety *in addition to* the standards set ORS.

The specific policy concerns for looking at tobacco density limits is to address public health and safety concerns with respect to where and how tobacco products are marketed and sold. The location, density, and type of tobacco retailers can contribute to health inequity in our community, and affect tobacco use rates, especially in relation to tobacco retailer proximity to our youth.

The specific rules that have been proposed to address these concerns are:

Tobacco Retail Density Rules:

- Restricts premises of tobacco retailers from within 1000 feet distance of any other premises of another tobacco retailer, as measured by the shortest distance of travel from any entrance of proposed location for the proposed tobacco retailer to any entrance of an existing tobacco retail location.
- Restricts premises of tobacco retailers from within 1000 feet distance from a public education facility serving any grades in kindergarten through grade 12 and any related auxiliary buildings and properties, as measured by the shortest

distance of travel from any entrance of proposed location for the proposed tobacco retailer to the parcel boundary of the school.

Exceptions to Rule:

- Any tobacco retailer operating lawfully on the date immediately prior to this ordinance becoming effective and,
- Any lawfully operating tobacco retailer that would otherwise become ineligible to receive or renew a tobacco retail license due to the creation of this ordinance or relocation of a school.

I would like to begin the discussion and gather input regarding this issue for presentation to the Lincoln County Board of Commissioners, and would appreciate your input, support, concerns, etc. I would also request that you consider meeting with Sara Herd, Health Education Specialist with Lincoln County Public Health. Sara has previously presented on this topic and can give updated information to facilitate this discussion. Please contact me once you have had a chance to review, discuss and consider and I am including Sara's contact information as well if you would like to schedule a presentation by Lincoln County Public Health. Thank you.

Sincerely,



Brian J. Gardner
Assistant County Counsel
Lincoln County

Sara Herd

Lincoln County Public Health
Health Education Specialist
Sherd@co.Lincoln.or.us
Phone 541-265-0595 | Cell: 541-272-9390
Mail: 36 SW Nye St. Newport, OR 97365

Capital Improvement Project (Expenditure) Detail Sheet

Department: Library

Purchase item: Light replacement & upgrade

Cost of item: \$ 21,000 approx.

Budget line item: 001-650-600400

Replacement: yes

Ongoing Impact: To install new lighting in Library

Explanation of need for purchase:

The existing lighting is past its life expectancy, staff has complained of dimly lit areas and possible unsafe conditions due to the lighting.

Capital Expenditure Detail

Department: Public Works – Wastewater Collection

Purchase item: Cure In Place Procedure liner and manhole rehabs, projects as listed in 2011 Inflow & Infiltration Study

Cost of item: \$400,000

Budget line item: 042-420-620550

Replacement: No

Ongoing Impact(s):

Explanation of need for purchase:

Summary from a Capital Improvement Plan. A total combination of all the projects recommended in the 2011 study resulted in a priority list. It is not feasible for any public utility operator to complete all of their needed improvements immediately following an analysis.

There are 31 manholes chosen for this project. Manhole re-habs consist of a contractor to clean, prepare structures & seal any existing leaks, repair bases/rebuild channels as needed. Then line the entire manhole with a mainstay composite liner (spray in), reseal all chimney sweeps, (top portion of manhole) and submit completion reports for each manhole.

The Inflow & Infiltration (I&I) plan lists seven of the projects that are in the need of Cure In Place Procedure (CIPP). This is a specialized procedure where resin is soaked and cured, which creates a liner inside the main line.

The City has addressed I&I problems in the past by upsizing facilities to handle the high flows. While only repairing pipelines when it makes financial sense. In past studies it was determined that it was cost effective to treat the excess I&I problem than to rehabilitate the conveyance system. Extensive upgrades were completed to the wastewater treatment plant to control overflows caused by heavy rain fall.

Capital Expenditure Detail

Department:	Building & Property Reserve – Fire Department
Purchase item:	Storage Addition
Budgeted Funds:	\$40,000
Budget line item:	035-350-621500
Replacement:	No
Ongoing Impact:	General long-term maintenance and upkeep will continue to be necessary as assets age

Explanation of need for purchase:

This project will carry over into Fiscal Year 2022-2023 and now 23-24 budget for completion.

Creation of storage space attached to the existing training/community meeting room. The room is often used for functions not related to fire training and there is no place to store the tables and chairs when not in use. Additionally, there are times when meeting and training needs require different configurations of set-up and as such there is a lack of room configuration flexibility due to the lack of storage needs that have exceeded the current storage room.

It is planned the project will be built on the east wall where there is currently a planter and when completed, should provide approximately 130 square feet of storage area.

The delay for the project is a couple of issues. I had not anticipated the trouble initially with securing a contractor and the planning it would take. Now we have teamed up with the Toledo High school shop class to do the framing of the structure. Public works will assist with demo of the existing planter.

We have completed the building design and plans.

Capital Expenditure Detail

Department: Fire

Purchase item: Rescue Equipment

Apparatus replacement plan for 23/24 is for Technical tool replacement.

Cost of item: 60,000 available from Apparatus fund

Budget Line: 036-360-621800

Replacement (Y/N) if yes, Yes

Explanation of need for purchase:

Two new thermal imaging cameras to replace one we have like it and add a new camera to the other engine.

The Vehicle stabilization struts are older and very heavy. They can be replaced with a new set that weighs less than half which makes them more user friendly and safer.

The Hydraulic Extrication tools we have will be supplemented with some new battery powered tools. These new battery powered tools will use the Same batteries as the tools We will keep the 10,000 psi tools we have and be able to surplus our older 5,000 psi tools.

Ongoing Impact(s):

Capital Improvement Project (Expenditure) Detail Sheet

Department: PUBLIC WORKS –Facilities Maintenance-TPD (current)

Purchase item: Asphalt/ break area TPD

Cost of item: \$25,000

Budget line item: 035-350-621400

Replacement: Y/N

Ongoing Impact: Proper maintenance of facilities and buildings.

Explanation of need for purchase:

Existing area is in distress and requires maintenance regularly. Choice has been made to place asphalt and a picnic table with a cover to provide outdoor break area for Police Officers and Dispatchers.

Capital Expenditure Detail

Department: Building & Property Reserve

Purchase item: Restrooms for Arcadia Park

Cost of item: \$50,000 American Rescue Plan Act Funds

Budget line item: 035-350-621660

Replacement: No

Ongoing Impact: Will improve and provide additional recreational opportunities for the citizens of Toledo

Explanation of need for purchase:

Arcadia Park is used very frequently by people of all ages. Public restrooms would be an added benefit for all and would serve the skate park as well.

The restrooms will be constructed to allow for pressure washing if needed for cleaning. They will be equipped with programmable locks to limit access during nighttime hours for security.

Capital Expenditure Detail

Department:	Building & Property Reserve
Purchase item:	Renovation of Arcadia Park
Cost of item:	\$90,000
Budget line item:	035-350-621660 (American Rescue Plan Act \$25,000)
Replacement:	Will replace existing fence, lighting and tennis court surfaces
Ongoing Impact:	Will improve and provide additional recreational opportunities for the citizens of Toledo

Explanation of need for purchase:

The existing fence is rusted and in need of replacement. The lighting no longer works and the tennis court surface is rough and unusable. A grant application was submitted to Oregon Parks and Recreation for \$75,000 and the grant requires a \$15,000 match from the City.

The Public Works will remove the existing fence and install a new fence. The tennis court surface will be completely replaced and striped for tennis, Pickle ball and other sports as possible. Solar lighting with timers will be installed to provide more hours of use but limit the effect on neighboring homes.

This project will only move forward if the grant is secured. A new restroom is planned with upgrades for ADA accessibility.

The grant was resubmitted for 2022-2023 and was successful. The improvements to Arcadia Park ensure the City of Toledo's mission to provide efficient and necessary public services that protect and enhance the quality of life in Toledo.

Capital Expenditure Detail

Department: Public Works – Water Treatment Plant

Purchase item: Generator

Cost of item: \$550,000

Budget line item: 041-410-620500

Replacement: Yes

Ongoing Impact:

Explanation of need for the purchase:

The City's Water Treatment plant is equipped with an emergency power backup generator that is in need of replacement.

The emergency back-up generator at the Water Treatment Plant was evaluated to determine whether it could reliably provide power for the increase in electrical load due to the larger Backwash and Surface Wash pumps, as well as other facility electrical additions since the generator was originally installed.

The main concerns with the existing generator are its rated output of 100KW/125KVA, Generator age and the motor inrush currents for completing a backwash cycle. Due to the Across-the-Line starters of the Backwash (40HP) and Surface Wash (60HP) motors, this results in a worst case scenario for the generator to provide enough power to overcome the inrush current of these motors.

It is recommended that the Generator system be replaced with a minimum of 150KVA unit to reliably provide emergency back-up power to maintain full facility operations under current facility equipment electrical load requirements.

THIS IS A POSSIBLE CARRYOVER DUE TO UNCERTAIN DELIVERY DATE.

Capital Improvement Project (Expenditure) Detail Sheet

Department:	Public Works Water Treatment Plant/ Facilities
Purchase item:	Exterior building paint.
Cost of item:	\$ 20,000 approx.
Budget line item:	012-120-600400
Replacement:	yes
Ongoing Impact:	To continue to maintain proper maintenance of WTP and to remain visually appealing to the public.

Explanation of need for purchase:

The existing Water Treatment Plant was built in the 1930's and requires yearly maintenance to maintain its integrity and visual acceptance by the Public as well as governing state organizations that perform inspections at the WTP.

Capital Expenditure Detail

Department:	Water Reserve fund – Distribution
Purchase item:	New Ammon Reservoir
Cost of item:	\$2.3 million
Budget line item:	041-410-620520
Replacement:	Yes
Ongoing Impact(s):	The upgrade would follow the City Council’s goal to ‘Maintain and improve public infrastructure and facilities’

Explanation of need for purchase:

Ammon Reservoir is in need of maintenance and rebuilding. It is past its useful life in the present condition. The roof of Ammon Reservoir was found seriously defective, the upper beams are distorted and in need of replacement. This has been reported in the last two budget years but the work was not performed due to situation with Seal Rock Water.

Peterson Structural engineering has provided 90% of drawings at a cost for roof replacement of \$770,000. Upgrades will have to be made to make the reservoir structurally compliant and the reservoir is in need of a paint job, which could cost approximately \$350,000. The total maintenance cost of \$1million. Three years ago, an engineer estimated just over \$1 million for a new reservoir.

Catastrophic failure is a very real possibility under normal operating conditions and even greater risk with any form of earth movement.

This tank also serves Georgia Pacific & Cascade sawmill. Upgrading the reservoir would ensure the City supplies a reliable treated water storage facility for the City of Toledo that is a major contributor to the water hydraulics for customers.

Civil West Engineering is working to provide a current price to replace and update.

Capital Improvement Project (Expenditure) Detail Sheet

Department:	PUBLIC WORKS- water distribution
Purchase item:	Cla – Valve Maintenance
Cost of item:	\$ 21,000
Budget line item:	012-125-600420 (system repair)
Replacement:	NO
Ongoing Impact:	To insure accurate operation of pressure valves

Explanation of need for purchase:

These valves regulate the main line pressure in each of the different water pressure zones in the City. When proper maintenance is not performed, they can gather debris internally and “stick” in a position that can cause sever over pressuring of main lines and cause several water main ruptures at once.

Capital Expenditure Detail

Department:	Public Works – Wastewater Treatment Plant
Purchase item:	Helisieve Unit
Cost of item:	\$100,000
Budget line item:	042-420-620500
Replacement:	Yes
Ongoing Impact(s):	Follows the City Council's goal to 'Maintain and improve public infrastructure and facilities'

Explanation of need for purchase:

This device is a pre-screening system that removes large items before they enter the treatment facility. It is vital to the proper operation of the treatment plants remaining process.

Helisieve-2001 model

-Removes rags, sanitary napkins, large debris, and other large items before they enter the treatment facility. Removal of these items is necessary to prevent process disruptions due to pump, rake arm, aerator, and pipe clogs. This unit runs continually every day and moving parts have begun to show significant wear. The current equipment has been in place for 21 years, has exceeded its life expectancy and is performing poorly.

Grit concentrator-2002 model

-Removes abrasive grit that is harmful to any of the numerous moving parts at the wastewater treatment plant. (e.g. pumps, bearings, pipes, rake arms, grit cyclone, etc.) This unit runs three times a day, every day and has exceeded its life expectancy. The lack of performance of this piece of equipment is also causing the aeration basin to fill with grit, thus covering the aerators which is not allowing oxygen to be dissolved into the water. The oxygen is necessary to keep the micro-organisms, (that remove organics) alive.

THIS IS A POSSIBLE CARRY OVER DUE TO UNCERTAIN DELIVERY DATE.

Capital Improvement Project (Expenditure) Detail Sheet

Department:	PUBLIC WORKS
Purchase item:	GIS mapping system update
Cost of item:	\$ 75,000
Budget line item:	½ water \$37,500 012-125-607500 ½ sewer \$37,500 013-135-607500
Replacement:	Y/N-upgrade
Ongoing Impact:	To improve accuracy of City wide water and sewer mapping system

Explanation of need for purchase:

The City's mapping system for water and sewer is not much more than 50+ year old paper maps kept in the city shops that have years of penciled in changes, inaccurate valve locations, lines that may or may not exist. Several times over the past 4 years these inaccuracies have cost the City to pay additional costs due to the inaccuracies. This project will be conducted thru Civil West Engineering or another Engineering firm using GPS for valve locations, water meter boxes and any other facilities that are in the system. This would be a multiyear project to update new projects and instill the as-builts onto our mapping system that can be read on a tablet and carried into the field which reduces trips to the office for information and reduce reaction time in emergency situations.

Capital Expenditure Detail

Department:	Public Works-Water Plant
Purchase item:	Millcreek Phase 2 HDPE 12" replacement project / costs.
Cost of item:	\$400,000
Budget line item:	041-410-620-520
Replacement:	Yes
Ongoing Impact:	Meets the City Council's goal to 'Maintain and improve public infrastructure and facilities'

Explanation of need for purchase:

The current Transmission line is A/C pipe was installed in the 1950s and is currently crossing wetlands, swamps, pastures, rivers and hard to access areas. The line is failing at an increasing rate.

This line has suffered major failures since January 18, 2022

HDPE pipe is a type of flexible plastic pipe used for fluid transfer and is often used to replace ageing concrete or steel mains pipelines. It is made from the thermoplastic HDPE, its high level of impermeability and strong molecular bond make it suitable for high pressure pipelines.

Installing a reliable water transmission line will provide raw water from Millcreek reservoir to the Water Treatment Plant to efficiently process for citizens of Toledo and outside customers.

This is a carryover project due to permit acquisitions required by state agencies.

Capital Expenditure Detail

Department: Public Works – Water Distribution

Purchase item: New water main- Meadow Lane

Cost of item: \$30,000

Budget line item: 041-410-620520

Replacement: No

Ongoing Impact: Provide efficient and necessary public services that protect and enhance the quality of life in Toledo

Explanation of need for purchase:

The City plans to acquire Meadow Lane from Lincoln County Property Management. In an effort to upgrade the roadway, the City needs to first place a water main in the Right-of-Way to service four customers. This project is dependent on Lincoln County releasing the R.O.W. to the City.

Capital Improvement Project (Expenditure) Detail Sheet

Department:	Public Works Water Distribution
Purchase item:	Water line replacement- NE 10 th St & Main St.
Cost of item:	\$ 550,000 approx.
Budget line item:	041-410-600420
Replacement:	yes
Ongoing Impact:	To provide reliable water service and upgrade the Fire protection on 10 th St.

Explanation of need for purchase:

The existing 4" A/C water main is well past its life expectancy and has suffered many service line and main line ruptures in the past 6 years. There is a need to upgrade from 4" to 6" main line to accommodate new fire hydrants that the fire trucks can attach lines to and pump water from.

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	March 22, 2023	Consider which City Councilors will attend the mediation with the Toledo Cemetery Association
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Attorney M. Adams	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to authorize [City Councilor(s) names] to attend the mediation with the Toledo Cemetery Association.

Background:

The mediation with the Toledo Cemetery Association (TCA) is scheduled to start at 10:00 a.m. on Friday, April 7, 2023. Judge Baldwin, retired Oregon Supreme Court Justice, agreed to mediate. The mediation team will visit the TCA property in the afternoon. The mediation will occur at City Hall.

Once an agreement is reached by the negotiating parties, the agreement will be submitted to the City Council for consideration and approval. It is recommended that no more than three City Council members attend the mediation. If a quorum of the City Council attends the mediation, it will have to be noticed as a public meeting and the negotiations will open to the public.

Fiscal Impact:	Fiscal Year:	GL Number:
Unknown	2022-2023	N/A

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	March 22, 2023	Consider a System Development Charges assessment & lien agreement to create a lien and run with the land located at 740-742 SE 6 th Street, Toledo, OR
Council Goal:	Agenda Type:	
Promote development of housing resources through programs such as rehabilitation loans, non-profit projects and lower barriers for private development	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Attorney M. Adams	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to approve the System Development Charges assessment & lien agreement with Northwest Coastal Housing for property located at 740-742 SE 6th Street, Toledo, OR also known as Blackberry Hill Apartments.

Background:

The attached agreement creates a lien against the property located at 740-742 SE 6th Street and would require Northwest Coastal Housing (NWCH) to repay System Development Charges (SDC) as well as other hookup fees if low income and veteran requirements (as noted) in Paragraph 3 are not met for a period of 30 years. If those requirements are met, NWCH would not have to repay the lien amount.

The total lien amount is an estimate, as the water meter installation cost will be defined after installation, so the agreement has a blank for that amount and for the total amount of the lien in two places. After that amount is defined (i.e. after installation of the water meter), the agreement will be recorded.

The agreement also creates covenants and equitable servitudes that will run with the land, which are binding on successors and assigns, to ensure that veteran and low income requirements are continued to be met for the 30 years.

Fiscal Impact:	Fiscal Year:	GL Number:
Unknown	2022-2023	N/A

Attachment

1. System Development Charges assessment & lien agreement

After Recording Return To:

City of Toledo
PO Box 220
Toledo, OR 97391

Send Tax Statements To:

Northwest Coastal Housing
PO Box 1457
Newport, Oregon 97386

**AGREEMENT AND ASSESSMENT LIEN
SYSTEM DEVELOPMENT CHARGES**

BETWEEN: CITY OF TOLEDO ("City")
PO Box 220
Toledo, Oregon 97391

AND: NORTHWEST COASTAL HOUSING ("NWCH")
PO Box 1457
Newport, Oregon 97386

DATED: _____, 2023.

Total amount of Lien: \$ _____

RECITALS

1. NWCH, an Oregon Domestic Non-Profit Corporation, developing low income housing in Lincoln County, is the owner of certain real property located in the County of Lincoln, City of Toledo, and State of Oregon currently described in the attached Exhibit A (the "Property").

2. In accordance with the provisions of ORS Chapter 223, NWCH hereby makes application and agrees to pay the system development charges representing a fee imposed upon persons who develop parcels of land that connect to or which will otherwise use or create a need for the sewer facilities, storm sewer, water facilities, streets, or parks of the City. NWCH, an Oregon Domestic Non-Profit Corporation, recognizes that a system development charge is a reasonable fee imposed upon the act of development and that it will benefit from improvements ultimately constructed with revenue from these fees.

3. The SDC and related fees (collectively, "Lien Amount") for the development of the Property is:

SDC Water Fee -	\$46,838.80
SDC Sewer Fee -	\$30,763.10
SDC Stormwater Fee -	\$2,809.17
SDC Transportation Fee -	<u>\$8,978.65</u>
Total SDC Fees:	\$89,389.72
Sewer Connection Fee -	\$130.00
Public Works Fee -	\$150.00
Water Meter Installation Fee -	\$ _____
Total Cost of Project:	\$ _____

4. As the City is prohibited from waiving the SDCs under applicable Toledo Municipal Code and Oregon Revised Statutes, due to its public purpose, City agrees to pay the Lien Amount incurred by NWCH on behalf of NWCH, provided it complies with the terms of this Agreement.

5. NWCH agrees that a lien in the amount of the Lien Amount shall attach to the Property. A lien will be imposed against the Property as security for collection of these charges. NWCH agrees to the placement of this lien, which is imposed as a result of its specific request for installment payments of system development charges. NWCH understands that it could avoid imposition of this lien by immediate payment of the system development charges and other fees ("Lien Amount") and thereby recognizes the benefit to it through the payment of the Lien Amount on its behalf and imposition of the lien if the low income and veteran requirements in Paragraph 3 below are complied with for the entire 30-year period.
6. NWCH agrees that the commitment to affordability conditions will run with the Property, or portion thereof, and will bind NWCH, and its assigns and successors; and

AGREEMENT

NOW THEREFORE, in order to effect a condition that NWCH continue to lease the property to low income veterans, and ensure repayment of the Lien Amount to the City if NWCH does not, the CITY and NWCH agree as follows:

1. **Recitals.** The above recitals are made a part of this Agreement, and incorporated by reference.
2. **Consideration.** The true and actual consideration for the payment of the Lien Amount by the City is the agreement to maintain of low income housing for veterans; however, the actual consideration consists of other property or values which is the whole consideration.
3. **Commitment to Affordability.** NWCH will only use the Property for construction of 9 income-restricted residential rental units and common areas, of which 100% shall be reserved for veterans, as that term is defined in ORS 407.0878, and will ensure that all rental units will be occupied by low income persons or held vacant for occupancy by same ("Qualified Units") for a period of 30 years from the execution of this instrument ("Affordability Period"). "Low income persons" means persons with a household income at or below 80% of the county median income. County median income levels are published annually by the U.S. Department of Housing and Urban Development ("HUD"). NWCH agrees that NWCH will maintain the low income rent affordability limits, for veterans, with respect to occupancy of the Qualified Units continuously for the 30-year period from the date of the execution of this instrument.
4. **Re-Payment of Lien Amount.** If at any time during the Affordability Period the Property, or any portion thereof, or any of the Qualified Units, is used in a manner inconsistent with this instrument, NWCH, or its assigns, or successors, without limitation, will repay the Lien Amount paid by the City on behalf of NWCH.
5. **Default.** The occurrence of any one or more of the following constitutes an event of default under this Agreement, triggering a repayment of the Lien Amount, as follows:
 - A. Failure by NWCH, or its assigns, or successors, without limitation, whether by action or inaction, to comply with any term or condition or fulfill any obligation under this Agreement and such failure continues and is not remedied within 30 days after written notice thereof is given by the City; provided, however, that if the failure is of such a nature that it cannot be cured within said 30-day period, then this provision is satisfied if reasonable effort to cure begins within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the cure within 90 days after City's notice is given to NWCH; or
 - B. Upon any transfer of the Property, or portion thereof, for any reason, without limitation, unless previously otherwise consented to by the Toledo City Council.
6. Upon default, if NWCH, its assigns, or successors, neglect or refuse to pay the Lien Amount within thirty (30) days when such payments are due and payable, the whole amount becomes delinquent and will be collected by foreclosure in the same manner and with the same penalties that the delinquent local improvement assessments are collected.
7. **Maintenance of Records; Reporting.**
 - A. **Records.** NWCH will maintain all documents necessary to make the reports described in Paragraph 7.B. below as required by the City throughout the Affordability Period and for six (6) years thereafter or as otherwise required by the City pursuant to this Agreement.

B. Reporting. NWCH will provide reports satisfactory in form and content to the City with respect to the NWCH's compliance with the terms and conditions of this Agreement yearly during the month of December, without being requested by the City, and as required from time to time by the City. Such reports contemplate a list of the number of units, without any personally identifiable information of the residents, time period of each rental term for such units, and certification that each resident meets the definition of low income and veterans in Paragraph 3 of this Agreement.

8. Restrictive Covenants and Equitable Servitudes to Run with the Land.

A. Inducement. NWCH represents and warrants that the consent to City paying the Lien Amount for the Property with the commitment to affordability for veterans in Paragraph 3 is an inducement to the City to pay the Lien Amount, for the City to enter this Agreement, and for the NWCH to operate the Property in accordance with and otherwise comply with this Agreement. In consideration of such consent, the NWCH has entered into this Agreement and has agreed to restrict the uses to which the Property can be used by the veteran and low income terms and conditions set forth herein including Paragraph 3. Therefore, the NWCH covenants, agrees and acknowledges that City has relied on the veteran and income terms and conditions in Paragraph 3 in determining to consent to pay the Lien Amount on behalf of NWCH.

B. Covenants; Equitable Servitudes.

(1) The parties hereby declare their express intent that throughout the entire term of the Affordability Period, the covenants, restrictions, charges and easements set forth herein will be deemed covenants running with the land of the Property and will create equitable servitudes running with the land of the Property, and will pass to and be binding upon NWCH's successors in title including any purchaser, grantee or lessee of any portion of the Property and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee or lessee of any portion of the Property and any other person or entity having any right, title or interest therein.

(2) Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof or interest therein (other than a rental agreement or lease for a dwelling unit) will contain an express provision making such conveyance subject to the covenants, restrictions, charges and easements contained herein; provided, however, that any such contract, deed or other instrument will conclusively be held to have been executed, delivered and accepted subject to such covenants, regardless of whether or not such covenants are set forth or incorporated by reference in such contract, deed or other instrument.

(3) Any and all legal requirements for the provisions of this Agreement to constitute restrictive covenants running with the land of the Property defined in Exhibit A and applying to the Property as a whole, or to create equitable servitudes with respect to same in favor of City, are deemed satisfied in full.

C. Burden and Benefit.

(1) The City hereby declares its understanding and intent that the burdens of the covenants and equitable servitudes set forth herein touch and concern the land of the Property, and the Property as a whole, in that the NWCH's legal interest in the Property is rendered less valuable thereby.

(2) NWCH hereby further declares its understanding and intent that the benefits of such covenants and equitable servitudes touch and concern the land of the Property, and the

Property as a whole, by enhancing and increasing the enjoyment and use of the Property by NWCH's low income veterans, intended beneficiaries (in addition to NWCH) of such covenants, reservations and restrictions, and by furthering the public purposes for which payment of the Lien Amount was issued.

9. **Lien Docket.** This Agreement will be recorded, and docketed in the Docket of the City Liens of the City until the amount of the system development charges and other fees are paid in full, or the Affordability period has expired, although if this Agreement including the veteran and low income requirements in Paragraph 3 is complied with for the Affordability Period, such Lien Amount will never be due, and such lien has priority over all other liens and encumbrances whatsoever.

10. **No Impairment of Governmental Powers.** Nothing in this Assignment is intended, nor will it be construed, to in any way limit the actions of the City of Toledo in the exercise of its governmental powers. It is the express intention of the parties hereto that the City of Toledo will retain the full right and ability to exercise their governmental powers with respect to NWCH, this Agreement, the Property, and the transactions contemplated by the development of the Property to the same extent as if the City were not a party to this Agreement or the transactions contemplated thereby, and in no event will City have any liability in contract arising under this Agreement by virtue of any exercise of their governmental powers.

11. **Authority.** The undersigned represents and warrants that they have been delegated authority to execute this Agreement on behalf of their respective entities, and intend to bind them.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

NORTHWEST COASTAL HOUSING

By: _____
Name: Sheila Stiley
Title: Executive Director

STATE OF OREGON) ss
County of Lincoln)

The foregoing instrument was acknowledged before me on _____, 2023, by Sheila Stiley, Executive Director of Northwest Coastal Housing, who executed the foregoing instrument on behalf of Northwest Coastal Housing.

Notary Public of Oregon
My Commission expires:

CITY OF TOLEDO

By: _____
Name: Judy Richter
Title: City Manager

STATE OF OREGON) ss
County of Lincoln)

This instrument was acknowledged before me on _____, 2023, by Judy Richter, City Manager of the City of Toledo, who executed the foregoing instrument on behalf of City of Toledo.

Notary Public of Oregon
My Commission expires:

EXHIBIT A

Tax Lot 11600 on Lincoln County Tax Assessor's Map 11-10-17-BD (the "Property"), more particularly described as:

A tract of land located in the Southeast One-Quarter of the Northwest One-Quarter of Section 17, Township 11 South, Range 10 West, Willamette Meridian, City of Toledo, Lincoln County, Oregon, and being more particularly described as follows:

Commencing at the northwest corner of Lot 1, Block 9, of the plat "Nashes Addition", also being on the south right-of-way line of SE 5th Street (30.00 feet from the centerline); thence along said south right-of-way line South 87°17'07" East 73.92 feet to the Point of Beginning; thence continuing along said right-of-way line, South 87°17'07" East 172.51 feet to a point on the west line of document number 2000-40750, Lincoln County Deed Records; thence along said west line South 02°06'40" West 146.29 feet to a point on the North right-of-way line of SE 6th Street (30.00 feet from the centerline); thence along said North right-of-way North 85°30'27" West 172.63 feet to the southeast corner of Book 222, Page 0843 Lincoln County Deed Records; thence along said East line North 02°06' 14" East 140.94 feet to the Point of Beginning. The above described tract of land contains 0.57 acres, more or less.

Bearings for this description are based on State Plane Grid bearing, Oregon State Plane, North Zone 3601, NAD83(2011) Epoch: 2010.0000. Distances shown are International Foot ground values.