



## Medford City Council Meeting

# Agenda

**September 15, 2016**

**12:00 Noon AND 7:00 P.M.**

**Medford City Hall, Council Chambers  
411 West 8<sup>th</sup> Street, Medford, Oregon**

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### **10. Roll Call**

### **Employee Recognition**

### **20. Approval or Correction of the Minutes of the September 1, 2016 Regular Meeting**

### **30. Oral Requests and Communications from the Audience**

Comments will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

### **40. Consent Calendar**

### **50. Items Removed from Consent Calendar**

### **60. Ordinances and Resolutions**

60.1 COUNCIL BILL 2016-115 An ordinance authorizing execution of a quitclaim deed to release City interest in a 20-foot portion of a 40-foot storm drain easement located in the northerly portion of Innsbruck Ridge between Murryhill Terrace and Fawn Hills Circle.

60.2 COUNCIL BILL 2016-116 An ordinance awarding a contract in an amount of \$183,000 to USI to provide for an Insurance Consultant for the management of the City's health and optional insurance programs for three years.

60.3 COUNCIL BILL 2016-117 An ordinance amending the salary schedule for AFSCME Local 2621 to include the position of Traffic Signal Electrical Inspector.

60.4 COUNCIL BILL 2016-118 A resolution adopting election of lower limits for uninsured/underinsured motorist coverage.

60.5 COUNCIL BILL 2016-119 An ordinance authorizing execution of a Grant Agreement with the Housing Authority of Jackson County in the amount of \$200,000 in 2016 Community Development Block Grant funds for the Ross Lane Development Project.

### **70. Public Hearing**

70.1 COUNCIL BILL 2016-120 A resolution adopting the Consolidated Annual Performance and Evaluation Report (CAPER) pertaining to Community Development Block Grant (CDBG) funds for the 2015-16 program year.

### **80. Council Business**

### **90. City Manager and Other Staff Reports**

90.1 Travel Medford Quarterly and Annual Report by Eli Matthews

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90.2 Further reports from City Manager

**100. Propositions and Remarks from the Mayor and Councilmembers**

100.1 Proclamations issued:

Rogue Valley Genealogy Society 50<sup>th</sup> Year Heritage Month, September, 2016  
Medford First Christian Church Day, September 15, 2016

100.2 Further Council committee reports

100.3 Further remarks from Mayor and Councilmembers

**110. Adjournment to the Evening Session**

**EVENING SESSION  
7:00 P.M.**

**Roll Call**

**120. Oral Requests and Communications from the Audience**

Comments will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

**130. Public Hearings**

Comments are limited to a total of 30 minutes for applicants and/or their representatives. You may request a 5-minute rebuttal time. Appellants and/or their representatives are limited to a total of 30 minutes and if the applicant is not the appellant they will also be allowed a total of 30 minutes. All others will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

130.1 Consideration of an appeal of a denial of a Taxi Driver's ID Card notwithstanding a disqualifying event.

130.2 COUNCIL BILL 2016-121 A resolution authorizing the City Manager to proceed with the sale of surplus City-owned real property consisting of .34 acres located at the corner of 3<sup>rd</sup> and Front Streets.

**140. Ordinances and Resolutions**

**150. Council Business**

**160. Further Reports from the City Manager and Staff**

**170. Propositions and Remarks from the Mayor and Councilmembers**

170.1 Further Council committee reports

170.2 Further remarks from Mayor and Councilmembers

**180. Adjournment**



# CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.1

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**DEPARTMENT:** Public Works  
**PHONE:** 541-774-2100  
**STAFF CONTACT:** Cory Crebbin, Public Works Director

**AGENDA SECTION:** Ordinances and Resolutions  
**MEETING DATE:** September 15, 2016

## **COUNCIL BILL 2016-115**

An ordinance authorizing execution of a quitclaim deed to release City interest in a 20-foot portion of a 40-foot storm drain easement located in the northerly portion of Innsbruck Ridge between Murryhill Terrace and Fawn Hills Circle.

## **SUMMARY AND BACKGROUND**

Innsbruck Ridge is a phase of the Vista Pointe Planned Unit Development in east Medford. The original plat and subsequent engineering documents planned for a 40-foot wide (20-foot each side of lots 45, 46, 51 and 52) storm drain easement for an open drainage through the development. During construction the developer decided to pipe the open drainage due to the steep slopes (25-30%). The developer is now requesting to reduce the size of the original easement from 40-feet to 20-feet centered on the lot lines. Public Works no longer needs the 40-feet and agrees that the 20-foot width is acceptable for maintenance.

## **PREVIOUS COUNCIL ACTIONS**

None.

## **ANALYSIS**

The northerly portion of Innsbruck Ridge between Murryhill Terrace and Fawn Hills Circle has a natural drainage channel that runs through the development. This drainage is particularly steep in this area and during construction the developer's engineer requested changing from an open ditch to a piped system. Public Works agreed with the engineer's assessment and the facility is piped.

The plat for this development was recorded prior to completion of improvements (the developer bonded for improvements) and therefore showed a 40-foot wide storm drain easement centered between lots 44, 45, 51 and 52. Once the drainage was piped, the developer requested a reduction in the easement to 20-feet. Public Works staff determined that a 20-foot width will allow for maintenance of the drainage.

## **FINANCIAL AND/OR RESOURCE CONSIDERATIONS**

None.

## **TIMING ISSUES**

The developer has a sale contingent on the reduction.

## **COUNCIL OPTIONS**

Approve, modify or deny the ordinance.

## **STAFF RECOMMENDATION**

Approve the ordinance to quitclaim a portion of a storm drain easement in Innsbruck Ridge.

## **SUGGESTED MOTION**

I move to approve the ordinance to quitclaim a portion of a storm drain easement in Innsbruck Ridge at Vista Pointe.

## **EXHIBITS**

Ordinance  
Map

ORDINANCE NO. 2016-115

AN ORDINANCE authorizing execution of a quitclaim deed to release City interest in a 20-foot portion of a 40-foot storm drain easement located in the northerly portion of Innsbruck Ridge between Murryhill Terrace and Fawn Hills Circle.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That execution of a quitclaim deed to release City interest in a 20-foot portion of a 40-foot storm drain easement located in the northerly portion of Innsbruck Ridge between Murryhill Terrace and Fawn Hills Circle, which is on file in the City Recorder's office, is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this \_\_\_\_\_ day of September, 2016.

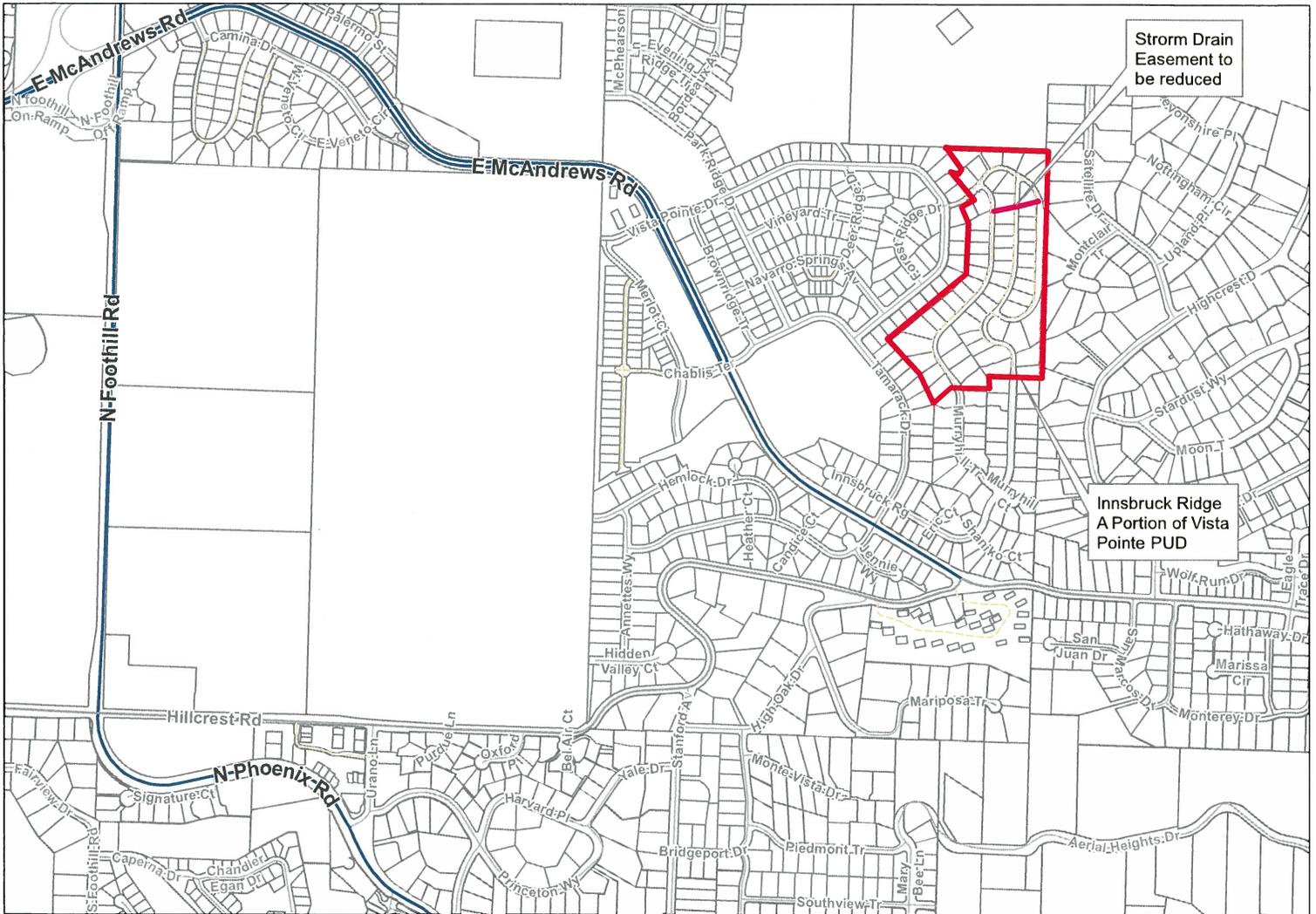
ATTEST: \_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

APPROVED \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

# Innsbruck Ridge Storm Drain





**CITY OF MEDFORD**  
**AGENDA ITEM COMMENTARY**

Item No: 60.2

www.ci.medford.or.us

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**DEPARTMENT:** Human Resources  
**PHONE:** 541-774-2010  
**STAFF CONTACT:** Mike Snyder

**AGENDA SECTION:** Ordinances and Resolutions  
**MEETING DATE:** September 15, 2016

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**COUNCIL BILL 2016-116**

An ordinance awarding a contract in an amount of \$183,000 to USI to provide for an Insurance Consultant for the management of the City's health and optional insurance programs for three years.

**SUMMARY AND BACKGROUND**

Staff issued a Request for Proposal for a single Agent of Record/Insurance Consultant to provide city-wide assistance to Human Resources and City employees in the management of the City's insurance programs and offerings. Prior arrangements included an agent of record for the AFSCME, Police and Fire employee groups and a separate agent of record for other City employees.

**PREVIOUS COUNCIL ACTIONS**

Last Agent of Record agreement adopted in September, 2011. Council action is required because the contract term of three (3) years exceeds \$100,000 (Year 1 - \$60,000, Year 2 - \$61,000 and Year 3 - \$62,000).

**ANALYSIS**

Adoption of this agreement enables the Human Resources Department the ability to consolidate consulting and informational services to fulfill contractual and statutory obligations necessary in administering required and optional City insurance programs. Additionally, a single agent of record provides opportunity for greater cost control and benefits planning for all City employees.

**FINANCIAL AND/OR RESOURCE CONSIDERATIONS**

No additional cost above and beyond what has already been negotiated with employee groups and provided for management employees.

**TIMING ISSUES**

The Human Resources Department is preparing for the 2017 insurance and benefit open enrollment. Approving the contract allows the new agent of record to obtain necessary information for rate bidding and renewal options.

**COUNCIL OPTIONS**

Approve or deny the contract.

**STAFF RECOMMENDATION**

Staff recommends approval of the contract.

**SUGGESTED MOTION**

I move to approve the contract authorizing USI to become the agent of record for the City of Medford.

**EXHIBITS**

Ordinance  
Agreement on file in the City Recorder's Office.

ORDINANCE NO. 2016-116

AN ORDINANCE awarding a contract in an amount of \$183,000 to USI to provide for an Insurance Consultant for the management of the City's health and optional insurance programs for three years.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That a contract in the amount of \$183,000 to provide for an Insurance Consultant for the management of the City's health and optional insurance programs for three years, which is on file in the City Recorder's Office, is hereby awarded to USI.

PASSED by the Council and signed by me in authentication of its passage this \_\_\_\_\_ day of September, 2016.

ATTEST: \_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

APPROVED \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor



**CITY OF MEDFORD**  
**AGENDA ITEM COMMENTARY**

Item No: 60.3

www.ci.medford.or.us

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**DEPARTMENT:** Human Resources

**AGENDA SECTION:** Ordinances and Resolutions

**PHONE:** 541-774-2010

**MEETING DATE:** September 15, 2016

**STAFF CONTACT:** Mike Snyder, Human Resources Director

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**COUNCIL BILL 2016-117**

An ordinance amending the salary schedule for AFSCME Local 2621 to include the position of Traffic Signal Electrical Inspector.

**SUMMARY AND BACKGROUND**

A collective bargaining agreement is currently in effect between The City of Medford and AFSCME Local 2621, Council 75, AFL-CIO Medford Municipal Employees Association (July 1, 2014 – June 30, 2017). The Public Works Department has transferred traffic signal electrical inspector responsibilities from maintenance (Traffic Signal Electrician), a position under the Teamsters Construction and Maintenance collective bargaining agreement, to the Engineering section of Public Works (Traffic Signal Electrical Inspector).

**PREVIOUS COUNCIL ACTIONS**

AFSCME collective bargaining agreement approved August 21, 2014, Ordinance 2014-100. Council action is required on collective bargaining agreements.

**ANALYSIS**

This transfer required that a Traffic Signal Electrical Inspector position be developed for the Engineering section of Public Works. Inspector duties were previously provided by a Traffic Signal Electrician under the Teamsters collective bargaining agreement with Construction and Maintenance. The new position falls under the AFSCME collective bargaining.

The proposed Letter of Agreement is necessary to amend Exhibit A (Salary Schedule) of the current collective bargaining agreement between The City of Medford and AFSCME Local 2621, Council 75, AFL-CIO Medford Municipal Employees Association to include the classification of Traffic Signal Electrical Inspector at range M45, and differential pay for qualifying certification.

**FINANCIAL AND/OR RESOURCE CONSIDERATIONS**

Funding for the proposed amendment is already included in the current biennial budget. There are no additional financial considerations.

**TIMING ISSUES**

None.

**COUNCIL OPTIONS**

Approve or deny the amendment.

**STAFF RECOMMENDATION**

Staff recommends approval of the amendment.

**SUGGESTED MOTION**

I move to approve the amendment adding the classification of Traffic Signal Electrical Inspector to the salary schedule at range M45 with the accompanying differential pay for qualifying certifications.

**EXHIBITS**

Ordinance

Letter of Agreement on file in the City Recorder's Office.

ORDINANCE NO. 2016-117

AN ORDINANCE amending the salary schedule for AFSCME Local 2621 to include the position of Traffic Signal Electrical Inspector.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. The salary schedule contained within the Collective Bargaining Agreement for AFSCME Local 2621, on file in the City Recorder's office, is hereby approved as amended.

PASSED by the Council and signed by me in authentication of its passage this \_\_\_\_\_ day of September, 2016.

ATTEST: \_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

APPROVED \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor



**CITY OF MEDFORD**  
**AGENDA ITEM COMMENTARY**

Item No: 60.4

www.ci.medford.or.us

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**DEPARTMENT:** Legal **AGENDA SECTION:** Ordinances and Resolutions  
**PHONE:** (541) 774-2020 **MEETING DATE:** September 15, 2016  
**STAFF CONTACT:** Kevin McConnell, Deputy City Attorney

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**COUNCIL BILL 2016-118**

A resolution adopting election of lower limits for uninsured/underinsured motorist coverage.

**SUMMARY AND BACKGROUND**

A resolution electing lower limits for uninsured motorist and underinsured motorist coverage (“UM/UIM”). The purpose of this resolution is to minimize the potential exposure to UM/UIM claims in excess of the coverage amounts required by state law. UM/UIM coverage fills the gap when an insured suffers damages for bodily injury or death in a motor vehicle accident caused by a negligent driver who is either uninsured or underinsured. This resolution adopts a formal policy electing to provide the minimum UM/UIM coverage required by law- currently \$25,000 (bodily injury to or death of one person in any one accident)/ \$50,000 (bodily injury to or death of two or more people in any one accident). *ORS 278.215; 742.502; 806.070.*

**PREVIOUS COUNCIL ACTIONS**

None.

**ANALYSIS**

The City is a self-insured public body. As such, it is obligated to provide UM/UIM coverage as required by state law. *ORS 742.502(2)* requires every motor vehicle bodily injury liability policy to provide UM/UIM coverage to the same limits as its bodily injury liability coverage, absent a signed written election of lower limits. The election must comply with all the applicable provisions of state law. Currently, the City’s bodily injury liability coverage limit is set at \$500,000. Consequently, the City’s UM/UIM coverage is also set at \$500,000. As such, if a city employee was to sustain injuries in a motor vehicle accident with an uninsured/underinsured driver, the employee could require the City’s UM/UIM coverage (\$500,000) be made available to compensate the employee for damages in excess of those covered by the uninsured’s/underinsured’s negligent driver’s policy and/or a worker’s compensation claim.

If the Council adopts this resolution, state law requires that the City sign a statement electing said lower limits within 60 days after the resolution is adopted. The statement requires approval from the Oregon Department of Consumer and Business Services (“DCBS”) to be effective. *ORS 742.502(2)(b)*. The statement must:

- 1) Acknowledge that the City was offered uninsured motorist coverage with the limits equal to those for bodily injury liability;
- 2) Have a brief summary that is not part of the insurance contract and that describes what uninsured motorist coverage provides and what the underinsured coverage provides.
- 3) State the price for coverage with limits equal to the City’s bodily injury liability limits and the price for coverage with the lower limits the City requested.

As the City is self-insured, it cannot engage in this comparison. The City acts as its own insurance company, covering any losses that develop. It does not offer itself a price for coverage or calculate formal rates. Because there is no premium price for having UM/UIM as its Self-Insured Retention (SIR) and there is no premium difference or cost for electing a lower limit, compliance with formalities set out at *ORS 742.502(2)(b)* is not technically possible.

In *Ajir v. Buell*, 270 Or App 575 (2015), the *Ajir* court found that local public bodies are required to comply with all of the formalities of *ORS 742.502(2)(b)*. It stated that:



# CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.4

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“[t]he legislature's intent here is clear: Regardless of whether a local public body purchases a motor vehicle insurance policy or creates a policy of self-insurance, the public body's UM/UIM coverage “shall have the same limits” as the limits of the bodily injury liability coverage “*unless*” the public body signs a written statement of election containing the formalities required by ORS 742.502(2). *Ajir v. Buell*, 270 Or App 575, 583 (2015) (*emphasis added*).

ORS 742.502(2)(b) requires the DCBS to approve the form of statement that complies with ORS 742.502(2)(b). To that end, the DCBS promulgated a regulation specifically addressing election in writing of lower UM/UIM limits by an insured under a motor vehicle liability policy (OAR 836-054-0000). That regulation refers to a form labeled “Exhibit 1(9.2015),” which may be used by a local public body attempting to comply with the provisions of ORS 742.502(2)(b). Exhibit 1(9.2015) requires a local public body to address the formalities described above.

The DCBS is aware of this predicament, and has offered a solution. On May 12, 2016, the DCBS approved the use of Exhibit 1(9.2015) by self-insured local public bodies if each section calling for a comparison of prices for coverage is marked “N/A.” The DCBS found that a form so marked fulfills the requirements of ORS 742.502(2)(b) as well as the *Ajir* decision. Staff has provided an exhibit in the form of an e-mail dated May 12, 2016 from the DCBS evidencing said approval.

The City has completed Exhibit 1 (9.2015) in an effort to comply with state law- electing the minimum UM/UIM coverage required by law (\$25,000 for each person and \$50,000 for each accident). A copy of the City's Exhibit 1(9.2015) is attached hereto as Exhibit A. As the City completed Exhibit 1(9.2015) in the manner directed by DCBS, the City can argue that it is in compliance with all of the requirements set out in ORS 742.502(2)(b). If the Council adopts the resolution, the City's Risk Manager will then sign Exhibit 1(9.2015).

## **FINANCIAL AND/OR RESOURCE CONSIDERATIONS**

The City notes that even with the election of lower UM/UIM limits, city employees will still be compensated for injuries sustained on the job via a worker's compensation claim.

## **COUNCIL OPTIONS**

Approve or deny the resolution.

## **STAFF RECOMMENDATION**

Staff recommends approval of the resolution.

## **SUGGESTED MOTION**

I move to approve the resolution.

## **EXHIBITS**

Resolution, Exhibit A- Exhibit 1(9.2015), DCBS e-mail dated May 12, 2016

RESOLUTION NO. 2016-118

A RESOLUTION adopting election of lower limits for uninsured/underinsured motorist coverage.

WHEREAS, the City of Medford is insured for the purposes of self-insurance created and maintained by the City of Medford; and

WHEREAS, the City of Medford is obligated to respond in damages for accidents arising out of the ownership, operation, maintenance or use of motor vehicles established by ORS 806.070; and

WHEREAS, Oregon insurance law requires uninsured motorist coverage with limits equal to motor vehicle bodily injury liability insurance policy coverage limits, unless the insured elects uninsured limits that are lower than bodily injury liability coverage limits- but not lower than the minimum authorized by ORS 742.502(2)(a) and established by ORS 806.070; and

WHEREAS, the City Council of the City of Medford desires to elect lower limits for uninsured motorist coverage in the manner authorized by Oregon law; and

WHEREAS, Oregon law requires the authorized representative of the City sign a statement on a form approved by the Oregon Department of Business and Consumer Services electing lower limits for uninsured motorist coverage within 60 days after the time the City Council makes the election; and

WHEREAS, the Oregon Department of Business and Consumer Services has approved the form entitled "Exhibit 1 (9.2015), Election of Lower Limits for Bodily Injury Uninsured/Underinsured Motorist Coverage," attached to this resolution as Exhibit A; and

WHEREAS, the City of Medford's Risk Manager has authority to make the election for lower limits of uninsured motorist coverage on behalf of the City of Medford; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON,

Section 1. The City Council elects to have lower limits for uninsured motorist coverage than its bodily injury liability coverage limits, in the minimum amounts authorized by ORS 742.502(2)(a) and established by 806.070 (\$25,000 for each person and \$50,000 for each accident) ; and

Section 2. The City's Risk Manager is hereby authorized and directed to sign Exhibit 1(9.2015), Election of Lower Limits for Bodily Injury Uninsured/Underinsured Motorist Coverage, attached hereto as Exhibit A, to reflect the Council's election no later than 60 days after this resolution is adopted.

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PASSED by the Council and signed by me in authentication of its passage this \_\_\_\_\_ day of September, 2016.

ATTEST: \_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

## **ELECTION OF LOWER LIMITS FOR BODILY INJURY UNINSURED/UNDERINSURED MOTORIST COVERAGE**

Oregon law permits you to make certain decisions regarding the limits of your Uninsured and Underinsured Motorist Coverage. The coverage you are purchasing will provide a benefit to you if the person that caused the accident does not have insurance, or if they do not have enough insurance to pay your damages. This document, required by Oregon law, briefly describes this coverage and the options available.

### **COVERAGE DESCRIPTION**

*Bodily Injury Uninsured Motorist Coverage* provides you and your passengers money for damages you are legally entitled to be paid from the owner or operator of an uninsured motor vehicle because of bodily injury or death caused by an automobile accident.

*Bodily Injury Underinsured Motorist Coverage* provides you and your passengers with additional money for your damages when the at-fault party's Bodily Injury Liability insurance policy limit is not high enough to pay you and your passengers for all your losses. The total amount available cannot be more than the policy limit you choose for your Underinsured Motorist policy limit added to the Bodily Injury Liability policy limit of the at-fault party.

Your automobile liability policy must include Uninsured Motorist Coverage with limits equal to those for Bodily Injury Liability Coverage unless you elect lower limits. You may not, however, elect Uninsured Motorist Coverage limits that are less than \$25,000 for each person and \$50,000 for each accident.

## **ELECTION OF LOWER LIMITS FOR BODILY INJURY UNINSURED MOTORISTS COVERAGE**

Comparison of prices for Coverage:

\$ N/A is the premium for Bodily Injury Uninsured Motorists Coverage per insured private passenger type vehicle with limits equal to your Bodily Injury Liability Coverage limits as established by the Oregon Tort Claims Act in ORS 30.272. {Note: if there is more than one vehicle on the policy, and the premium will vary by vehicle, the insurer can consider this to be a variable field and complete the comparison by showing each vehicle with its corresponding premium charge. Or, if the insurer charges a flat amount for UM/UIM for the entire policy, they would show the price comparison between UM/UIM at the BI limits and UM/UIM at the lower limit chosen.}

\$ N/A is the premium for Bodily Injury Uninsured Motorists Coverage per insured vehicle as established by the Oregon in Tort Claims Act ORS 30.272, other than private passenger type vehicles with limits equal to your Bodily Injury Liability Coverage limits. {See note above}

\$ N/A is the premium for Bodily Injury Uninsured Motorists Coverage per insured private passenger type vehicle with the limits you selected, that are lower than your Bodily Injury Liability Coverage limits, \$25,000 for each person and \$50,000 for each accident. {See note above}

\$ N/A is the premium for Bodily Injury Uninsured Motorists Coverage per insured vehicle other than private passenger type vehicles with the limits you selected that are lower than your Bodily Injury Liability Coverage limits of \$25,000 for each person and \$50,000 for each accident. {See note above}

By signing below, I acknowledge that I had the opportunity to provide Uninsured Motorist coverage with limits equal to my Bodily Injury Liability coverage and I am electing to provide Bodily Injury Uninsured Motorists Coverage at limits lower than the Bodily Injury Liability Coverage limits of my policy.

**I understand that the coverage selection I have indicated above shall remain in force until a named insured or the authorized representative of the named insured rescinds it in writing or until the motor vehicle bodily injury liability limits of my policy are changed.**

City of Medford, Oregon

By: \_\_\_\_\_  
Bonnie Huard, Risk Manager  
City of Medford

\_\_\_\_\_  
Date



# CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.5

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**DEPARTMENT:** Parks & Recreation

**PHONE:** 541-774-2408

**STAFF CONTACT:** Angela Durant, Grants Administrator

**AGENDA SECTION:** Ordinances and Resolutions

**MEETING DATE:** September 15, 2016

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## **COUNCIL BILL 2016-119**

An ordinance authorizing execution of a Grant Agreement with the Housing Authority of Jackson County in the amount of \$200,000 in 2016 Community Development Block Grant funds for the Ross Lane Development Project.

## **SUMMARY AND BACKGROUND**

The City of Medford awarded \$200,000 in 2016 Community Development Block Grant (CDBG) funds to the Housing Authority of Jackson County's (HAJC) Ross Lane Development Project for off-site infrastructure improvements including City-required public streets, curbs and sidewalks; related sewer, water, and storm drain connections; and installation of fire hydrants for the construction of a 64-unit affordable housing complex. As identified in the 2015-2019 Consolidated Plan for Housing and Community Development, providing affordable housing opportunities to low-income and special needs populations is a high priority need for the City of Medford. This project will help the City exceed expected consolidated plan five-year outcomes in the area of Public Facility or Infrastructure Activities for Low/Moderate Income (LMI) Housing Benefit.

## **PREVIOUS COUNCIL ACTIONS**

On May 5, 2016, Council approved Council Bill 2016-57, adopting the City's 2016 Action Plan, allocating CDBG funding to the Ross Land Development Project.

## **ANALYSIS**

The City's CDBG grant funds for capital improvement projects are allocated to eligible organizations providing services within the City of Medford. Funding for this project was recommended by the Housing and Community Development Commission on May 4, 2016 and approved by City Council on May 5, 2016. Funding will support infrastructure requirements for the construction of a multi-family, LMI housing complex.

Rental units will be deed restricted for 60 years to households earning 50% Area Median Income (AMI). There are 12 Section 8 Housing Choice Project-Based Vouchers for Family Strengthening households and 12 Veterans Administration Supportive Housing (VASH) vouchers for homeless veterans. Voucher subsidies limit rents to no more than 30% of household income.

## **TIMING ISSUES**

The City Council must approve the agreement prior to HAJC proceeding with development.

## **COUNCIL OPTIONS**

Approve, amend or deny the resolution.

## **STAFF RECOMMENDATION**

Staff recommends approval of the ordinance to authorize the execution of the grant agreement.

## **SUGGESTED MOTION**

I move to approve the ordinance to authorize the execution of the 2016 CDBG grant agreement with Housing Authority of Jackson County for the Ross Lane Development Project.

## **EXHIBITS**

Resolution

The agreement is on file in the Recorder's Office.

ORDINANCE NO. 2016-119

AN ORDINANCE authorizing execution of a Grant Agreement with the Housing Authority of Jackson County in the amount of \$200,000 in 2016 Community Development Block Grant funds for the Ross Lane Development Project.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That execution of a Grant Agreement with the Housing Authority of Jackson County in the amount of \$200,000 in 2016 Community Development Block Grant funds for the Ross Lane Development Project, which agreement is on file in the City Recorder's office, is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this \_\_\_\_\_ day of September, 2016.

ATTEST: \_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

APPROVED \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor



# CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 70.1

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**DEPARTMENT:** Parks & Recreation

**PHONE:** 541-774-2408

**STAFF CONTACT:** Angela Durant, Grants Administrator

**AGENDA SECTION:** Public Hearing - Noon

**MEETING DATE:** September 15, 2016

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## **COUNCIL BILL 2016-120**

A resolution adopting the Consolidated Annual Performance and Evaluation Report (CAPER) pertaining to Community Development Block Grant (CDBG) funds for the 2015-16 program report.

## **SUMMARY AND BACKGROUND**

The City of Medford recently completed its first year of the 2015-2019 Consolidated Plan, which is the driving document for the Community Development Block Grant (CDBG) program. Per federal regulations, the City is required to submit a Consolidated Annual Performance and Evaluation Report (CAPER) to the U.S. Department of Housing and Urban Development (HUD) by September 28, 2016. The CAPER details accomplishments made between July 1, 2015 and June 30, 2016, as well as progress made toward achieving five-year expected outcomes identified in the Consolidated Plan.

## **PREVIOUS COUNCIL ACTIONS**

On May 7, 2015, Council approved Council Bill 2015-46, adopting the 2015-2019 Consolidated Plan for Housing and Community Development and the 2015 Action Plan.

## **ANALYSIS**

HUD regulations require the City to initiate a 15-day public comment period and conduct a public hearing to solicit citizen input pertaining to the CAPER. The comment period began August 30, 2016 and ends September 15, 2016. This public hearing is the final step prior to seeking Council approval of a resolution to adopt the 2015 CAPER for submission to HUD by September 28, 2016.

The CAPER provides information associated with: 1) Comparison of one-year expected versus actual outcomes; 2) Analysis of racial and ethnic composition of families assisted; 3) Resources, investments and leveraging; 4) Evaluation of progress in providing affordable housing; 5) Evaluation of homeless and other special needs; 6) Other actions to address community needs; 7) Program monitoring; and 8) Explanation of any changes in program objectives.

## **TIMING ISSUES**

The 2015 CAPER must be approved by Council and submitted to HUD no later than September 28, 2016.

## **COUNCIL OPTIONS**

Approve, amend, or deny the resolution.

## **STAFF RECOMMENDATION**

Staff recommends approval of a resolution to adopt the City of Medford 2015 CAPER.

## **SUGGESTED MOTION**

I move to approve the resolution to adopt the City of Medford 2015 CAPER.

## **EXHIBITS**

Resolution

Exhibit A- Summary of Goals & Objectives Met

The 2015 CAPER is on file at the City Recorder's Office, Santo Community Center and on the City's website.

RESOLUTION NO. 2016-120

A RESOLUTION adopting the Consolidated Annual Performance and Evaluation Report (CAPER) pertaining to Community Development Block Grant (CDBG) funds for the 2015-16 program year.

WHEREAS, each year a CAPER is developed and adopted indicating how the activities funded during the program year will meet the needs identified in the City's Consolidated Plan for Housing and Community Development which is a comprehensive planning document identifying the City's overall housing and community development issues and outlining a five-year strategy to address those issues which was adopted by the City Council on May 7, 2015; and

WHEREAS, this public hearing is a Housing and Urban Development (HUD) requirement to solicit citizen input regarding the City's CAPER to use CDBG funds for the 2015-16 program year and outlines the goals and strategies that have been met during this first program year; and

WHEREAS, the City Council must approve the 2015-16 CAPER prior to submitting it to HUD for approval, which document in its entirety is available in the City Manager's Office and, as required by HUD, is available for public comment for a 15-day period which ends on September 15, 2016; and

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON that the Consolidated Annual Performance and Evaluation Report (CAPER) pertaining to Community Development Block Grant (CDBG) funds for the 2015-16 program year, which is on file in the City Recorder's Office, is hereby adopted.

PASSED by the Council and signed by me in authentication of its passage this \_\_\_\_\_ day of September, 2016.

ATTEST: \_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

**Exhibit A**  
**CITY OF MEDFORD**  
**Community Development Block Grant Program**  
**2015-2019 Consolidated Plan for Housing & Community Development**  
**Summary of Goals & Objectives Met during the 2015 Program Year**

Page 20

<b>Goal 1</b>	<b>Improve the Condition and Availability of Affordable Housing over a Five-Year Period</b>
<b>Goal Objectives &amp; Strategies</b>	<p><b>Objective 1.1:</b> Improve and maintain living conditions, safety and long-term affordability of rental and/or homeowner housing occupied by low/moderate-income households.</p> <p><b>Strategy 1.1.1:</b> Provide no interest loans to low/moderate-income homeowners for the correction of recognized hazards to health and safety such as leaking roofs, failed heating systems, unsafe wiring, failed plumbing and other necessary eligible repairs.</p> <ul style="list-style-type: none"> <li>• <b>Homeowner Repair Program - Housing Authority of Jackson County (HAJC)</b> <span style="float: right;"><u>Funding</u> \$252,240</span></li> </ul> <p><b>Strategy 1.1.2:</b> Support programs that provide low/moderate-income homeowners and/or renters with minor and emergency repairs, and rehabilitation and weatherization assistance.</p> <ul style="list-style-type: none"> <li>• <b>Homeowner Repair Program – HAJC</b> <span style="float: right;">*</span></li> <li>• <b>Navigator and Companion Program for Seniors &amp; Persons with Disabilities- ACCESS</b> <span style="float: right;">3,653</span></li> </ul> <p><b>Objective 1.2:</b> Create more opportunities for low/moderate-income residents to secure affordable and livable rental and/or homeowner housing.</p> <p><b>Strategy 1.2.1:</b> Provide financial assistance to help potential low/moderate-income homeowners with down payment and closing costs.</p> <ul style="list-style-type: none"> <li>• <b>No Accomplishments to Date</b></li> </ul> <p><b>Strategy 1.2.2:</b> Support programs that provide financial assistance to low/moderate-income residents with rental deposits, rent and utility payments and foreclosure prevention services.</p> <ul style="list-style-type: none"> <li>• <b>Reducing Homelessness Program - St. Vincent de Paul</b> <span style="float: right;">7,000</span></li> <li>• <b>Pathways to Self-Sufficiency – Center for NonProfit Legal Services</b> <span style="float: right;">3,000</span></li> <li>• <b>Navigator and Companion Program for Seniors &amp; Persons with Disabilities – ACCESS</b> <span style="float: right;">*</span></li> </ul>

	<p><b>Strategy 1.2.3:</b> Support the creation of higher density, mixed-income and mixed-use housing in the redevelopment of the downtown area.</p> <ul style="list-style-type: none"> <li>● <b>Fire Hydrant Installation for LMI Housing Benefit – HAJC</b> <span style="float: right;"><b>24,000</b></span></li> </ul> <p><b>Strategy 1.2.4:</b> Provide financial assistance to acquire land and/or improve infrastructure in support of new affordable housing.</p> <ul style="list-style-type: none"> <li>● <b>Fire Hydrant Installation for LMI Housing Benefit – HAJC</b> <span style="float: right;">*</span></li> <li>● <b>Morian Park Land Acquisition for LMI Housing Benefit – Habitat for Humanity</b> <span style="float: right;"><i>(Expended in 2014)</i></span></li> </ul> <p><b>Strategy 1.2.5:</b> Support for housing programs that help homeless persons transition from homelessness to permanent housing.</p> <ul style="list-style-type: none"> <li>● <b>Sheltering &amp; Safety Net Services for At-risk &amp; Homeless Youth &amp; Families – Hearts with a Mission</b> <span style="float: right;"><b>18,750</b></span></li> <li>● <b>Wrap-around Case Management for Homeless Youth &amp; Families – Maslow Project</b> <span style="float: right;"><b>15,000</b></span></li> <li>● <b>Transitional Living &amp; Financial Empowerment Program – Community Works</b> <span style="float: right;"><b>10,000</b></span></li> <li>● <b>Reducing Homelessness Program - St. Vincent de Paul</b> <span style="float: right;">*</span></li> <li>● <b>Navigator &amp; Companion Program for Seniors &amp; Persons with Disabilities - ACCESS</b> <span style="float: right;">*</span></li> </ul> <p><b>Strategy 1.2.6:</b> Reduce barriers to affordable housing by developing a plan to address the Regulatory Barriers Report for Medford, which will include plans to reduce these barriers.</p> <ul style="list-style-type: none"> <li>● <b>No Accomplishments to Date</b></li> </ul>
<p><b>Goal 2</b></p> <p><b>Goal Objectives &amp; Strategies</b></p>	<p><b>Improve the Ability of Low/Moderate-Income and Special Needs Populations to Become Self-Sustaining</b></p> <p><b>Objective 2.1:</b> Improve the opportunities of low/moderate-income residents and special needs populations to become self-sustaining through the availability and accessibility of essential support services offered directly through public service agencies.</p> <p><b>Strategy 2.1.1:</b> Support public services agencies that assist low/moderate-income and special needs populations with safety net services to overcome barriers including mental illness, substance abuse, domestic violence, child abuse, physical and mental disabilities and homelessness.</p> <ul style="list-style-type: none"> <li>● <b>Senior Advocacy Program – Medford Senior Center</b> <span style="float: right;"><b>7,250</b></span></li> <li>● <b>Recruit and Train CASA Staff for Abused Children – CASA of Jackson County</b> <span style="float: right;"><b>4,500</b></span></li> <li>● <b>Sheltering &amp; Safety Net Services for At-risk &amp; Homeless Youth &amp; Families – Hearts with a Mission</b> <span style="float: right;">*</span></li> <li>● <b>Wrap-around Case Management for Homeless Youth &amp; Families – Maslow Project</b> <span style="float: right;">*</span></li> </ul>

	<ul style="list-style-type: none"> <li>● <b>Transitional Living &amp; Financial Empowerment Program – Community Works</b> *</li> <li>● <b>Reducing Homelessness Program - St. Vincent de Paul</b> *</li> <li>● <b>Navigator &amp; Companion Program for Seniors &amp; Persons with Disabilities - ACCESS</b> *</li> </ul> <p><b>Strategy 2.1.2:</b> Support programs that provide fair housing services and education to low/moderate-income and special needs populations.</p> <ul style="list-style-type: none"> <li>● <b>Pathways to Self-Sufficiency – Center for NonProfit Legal Services</b> *</li> </ul> <p><b>Strategy 2.1.3:</b> Support programs that assist low/moderate-income residents to become self-sustaining through job skills training and workforce readiness programs, transportation services and the availability and affordability of day care and after school care.</p> <ul style="list-style-type: none"> <li>● <b>No Child Left Alone After School Program – Rogue Valley YMCA</b> 7,250</li> <li>● <b>After School Programs – Kids Unlimited</b> 6,750</li> <li>● <b>Tuition &amp; Assistance Program – Roots &amp; Wings Child Development</b> 3,653</li> </ul> <p><b>Strategy 2.1.4:</b> Support programs that provide loans and technical assistance to small businesses, and promote development of mechanisms that will encourage micro-enterprise such as the creation of small business incubators.</p> <ul style="list-style-type: none"> <li>● <b>No Accomplishments to Date</b></li> </ul>
<p><b>Goal 3</b></p>	<p><b>Improve Living Conditions in by Addressing Community Development Projects that Improve Public Infrastructure, Public Facilities and Neighborhood Revitalization Over a Five Year Period</b></p>
<p><b>Goal Objectives &amp; Strategies</b></p>	<p><b>Objective 3.1:</b> Improve community infrastructure and facilities, reduce blighting influences, and preserve and build community through neighborhood revitalization in low/moderate-income neighborhoods.</p> <p><b>Strategy 3.1.1:</b> Provide assistance to repair and improve public infrastructure including street improvements, sidewalks, water and sewer improvements, curbs, gutters, lighting and street trees in low/moderate-income neighborhoods.</p> <ul style="list-style-type: none"> <li>● <b>Fire Hydrant Installation for LMI Housing Benefit – HAJC</b> *</li> </ul> <p><b>Strategy 3.1.2:</b> Provide assistance to develop neighborhood facilities such as youth centers, senior centers, parks and recreation facilities, open space and community centers.</p> <ul style="list-style-type: none"> <li>● <b>Jackson Park Renovation – Medford Parks &amp; Recreation Department</b> 40,000</li> <li>● <b>Senior Center Parking Lot Renovation – Medford Senior Center</b> 24,727</li> </ul>

**Strategy 3.1.3:** Support the removal of dilapidated structures and other blighting influences in low/moderate-income areas and on a spot blight basis.

- **No Accomplishments to Date**

**Strategy 3.1.4:** Actively enforce City codes to improve the habitability and safety of housing and eliminate blighting influences in neighborhoods.

- **No Accomplishments to Date**

*(Note: Funding amounts have been rounded; \* represents funding amount previously referenced.)*



# CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 130.1

www.ci.medford.or.us

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**DEPARTMENT:** Legal **AGENDA SECTION:** Public Hearing - Evening  
**PHONE:** 541-774-2020 **MEETING DATE:** September 15, 2016  
**STAFF CONTACT:** Eric Mitton, Senior Assistant City Attorney

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## **PUBLIC HEARING**

Consideration of an appeal of a denial of a Taxi Driver's ID Card notwithstanding a disqualifying event.

## **SUMMARY AND BACKGROUND**

MC 8.425 states that a Taxi Driver's ID Card may issue "if and only if" the applicant is free of disqualifying events, which include conviction for felony property crimes within the last five years. The Medford Police Department denied the issuance of an ID Card to Ms. Perez based on that provision (and another disqualifying event, lack of a valid license, which since has been remedied). Ms. Perez appealed, and the Unified Appeal Board, performing the intermediate level of appeal, reached the same result.

City Council, the final level of appeal from the denial of a ID Card, has discretion to issue an ID Card notwithstanding the existence of a disqualifying event, pursuant to MC 8.004(6). Ms. Perez has timely appealed to City Council seeking a discretionary issuance of an ID Card notwithstanding the disqualifying event.

## **PREVIOUS COUNCIL ACTIONS**

None.

## **ANALYSIS**

Pursuant to MC 8.425(2)(e)(iv), a Taxi Driver's ID Card may issue if and only if and only if the applicant has not been convicted of a felony property crime within five years of the date of application. On October 6, 2015, the Jackson County Circuit Court convicted Ms. Perez of five felony property crimes:

- Aggravated Theft in the First Degree (Felony Class B, arising on 3/15/14)
- Aggravated Identity Theft (Felony Class B, arising on 5/16/14)
- Identity Theft (Felony Class C, arising on 2/12/15)
- Identity Theft (Felony Class C, arising on 3/15/15)
- Tampering with Drug Records (Felony Class C, arising on 2/12/15)

Ms. Perez admits these convictions exist but nevertheless seeks issuance of a license. It is anticipated that Ms. Perez will offer not only her own testimony but also additional evidence or testimony regarding rehabilitation since those convictions.

## **FINANCIAL AND/OR RESOURCE CONSIDERATIONS**

The City Attorney's Office has some concern about potential civil liability exposure to the City under *Brennan v. City of Eugene* if a license is issued; that issue is briefed in the Executive Summary. No other financial and/or resource considerations exist.

## **TIMING ISSUES**

Pursuant to MC 1.025, Council must hear this appeal within 30 days of the City Recorder's receipt of the Notice of Appeal, which was filed on September 1, 2016.

## **COUNCIL OPTIONS**

- (1) Affirm the opinion of the Unified Appeal Board, denying Ms. Perez a Taxi Driver's ID Card; or
- (2) Reverse the opinion of the Unified Appeal Board, granting Ms. Perez a Taxi Driver's ID Card.



**CITY OF MEDFORD**  
**AGENDA ITEM COMMENTARY**

Item No: 130.1

[www.ci.medford.or.us](http://www.ci.medford.or.us)

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**STAFF RECOMMENDATION**

Staff recommends that the decision of the Unified Appeal Board be affirmed, i.e., that Ms. Perez be denied a Taxi Driver's ID Card.

**SUGGESTED MOTION**

I move to affirm the opinion of the Unified Appeal Board.

**EXHIBITS**

Executive Summary

## **Executive Summary**

September 8, 2016

### **Description**

Consideration of an appeal of the Unified Appeal Board's affirmation of the Medford Police Department's denial of a Taxi Driver's ID Card. (Business License # 16-41515)

Appellant contends that notwithstanding her disqualifying criminal convictions, Council should exercise the discretion permitted in MC 8.004(6) to issue a Taxi Driver's ID Card. Council is the one and only level of appeal that has discretion under the Code to issue a license notwithstanding disqualifying events.

### **What are the issues before the City Council?**

The sole issue before City Council is whether a Taxi Driver's ID Card should issue to Appellant.

### **City Council Scope of Review**

The City Council's scope of review is listed in Medford Code Sections 1.025(4) and 8.004(6). The former states:

*At the hearing the appellant or other parties interested may present witnesses and offer evidence in support of their case and, in the discretion of the council or appellate board, evidence may be heard to sustain the administrative decision.*

The latter states:

*In addition to the Council's authority under Section 1.025, Council may authorize issuance of a taxi driver's ID card if Council finds reliable indicia of rehabilitation from a disqualifying event listed in Section 8.425. In making its decision, Council may consider information including but not limited to: evidence of (a) successful completion of addiction recovery or substance abuse program; (b) successful completion of anger management or cognitive behavioral training; (c) successful family programming treatment; (d) gainful employment; (e) stable housing; (f) testimony from a mentor; (g) testimony from victims or victims services organizations; (h) testimony from professionals in the field of criminal rehabilitation, probation, transition or parole; (i) reference from employers; (j) lack of additional convictions or traffic citations; or (k) lack of fines owed to Municipal Court.*

### **Chronology**

1. On October 6, 2015, the Jackson County Circuit Court convicted Appellant of Aggravated Theft in the First Degree, Aggravated Identity Theft, two counts of Identity Theft, and Tampering with Drug Records, all felony crimes.
2. On November 6, 2015, Tiffany Perez submitted an application for a Taxi/Limo Driver License (i.e., a Taxi Driver's ID Card under MC 8.425).

3. On November 10, 2015, Lt. Mike Budreau of the Medford Police Department issued a letter denying issuance of the Taxi Driver's ID Card based upon a lack of a valid driver's license (since remedied) and conviction of a felony property crime within five years of the date of application.
4. On November 13, 2015, Appellant timely appealed from the denial.
5. A substantial delay occurred in the appeal process due to a lack of members in the Unified Appeal Board sufficient to constitute a quorum.
6. On August 25, 2016, the Unified Appeal Board, now with members sufficient to constitute a quorum, met and heard Ms. Perez's appeal. The Board voted 5-0 to affirm the denial of the Taxi Driver's ID Card.
7. On August 31, 2016, the Unified Appeal Board issued its Opinion arising out of the August 25, 2016 hearing.
8. On September 1, 2016, Appellant timely filed a notice of appeal to Council.

### **Medford Code Criteria**

The applicable approval criteria are found in Medford Land Development Code (MLDC) Sections 10.290 and 10.253.

#### **8.425 Taxi Driver's ID Card**

- (1) *No person shall operate a taxicab who does not have a taxi driver's ID Card issued by the Police Department.*
- (2) *A taxi driver's ID card shall be issued by the Police Department upon receipt of written application, certified copy of The Oregon State Police Background Check, and a fee as set forth in 8.400, if and only if the Police Department finds that the applicant:*
  - (a) *Is twenty-one years of age or older; and*
  - (b) *Possesses a valid motor vehicle operator's license; and*
  - (c) *Has not been declared a habitual traffic offender within five (5) years of the date of this application; and*
  - (d) *If the applicant has ever been declared a habitual traffic offender, has not been convicted of a traffic crime within five (5) years of the date of this application; and*
  - (e) *Has not been convicted of any of the following crimes or any similar crimes in any degree at any time:*
    - (i) *Any felony crime committed against another person*
    - (ii) *Any person who is a registered sex offender*

- (iii) Any felony crime involving use of a weapon*
- (iv) Any felony property crime within five (5) years of the date of this application*
- (v) Any traffic crime within three (3) years of the date of this application*
- (vi) Any drug offense within five (5) years of the date of this application*
- (vii) Any misdemeanor person crime within three (3) years of the date of this application*
- (viii) Any misdemeanor property crime within three (3) years of the date of this application*
- (ix) Any misdemeanor crimes against public order within two (2) years*
- (f) Did not knowingly make any false statement in the application for the license.*
- (3) The Finance Director shall revoke the taxi driver ID card of a driver who fails to meet the qualifications set out in this section after a permit has been issued to that person. A person whose permit is denied or revoked may reapply after one year if the applicant meets the qualifications set forth in this section for a new applicant.*
- (4) A taxi driver's ID card is not transferable.*

(Underlining added). Nevertheless, Council has discretion to authorize issuance of an ID Card notwithstanding a disqualifying event as described in the "City Council Scope of Review" section above.

### **Notice of Appeal**

A single Notice of Appeal was filed by Appellant on September 1, 2016, which is within 10 days of the date the Opinion of the Unified Appeal Board was mailed, as required in MC 1.025(1). The Notice of Appeal does not dispute the factual or legal determinations as to the requirements of MC 8.425, but instead focuses solely on Council's discretion to disregard those disqualifying events on account of Appellant's asserted indicia of rehabilitation, including her continuing participation in Recovery Opportunity Court and support from the taxi company itself.

### **Staff Response:**

#### **I. Appellant's convictions are serious.**

One single felony property crime is sufficient under MC 8.425 to disqualify an individual from driving a taxi for a five-year period. Here, Appellant has five such convictions from four separate events, summarized below.

Beginning in March 2014 and continuing through February 2015, Ms. Perez committed five felonies (of which she pleaded guilty to and was convicted of on October 6, 2015), including the

theft of \$10,000 or more, three separate counts of identity theft, and forgery of a prescription for the controlled substance oxycodone.

**II. Appellant's convictions are recent.**

All five of Appellant's felony convictions were entered on October 6, 2015. It is the date of conviction, not the date of the underlying offense, that is used to calculate the five-year disqualification for a Taxi Driver's ID Card. Even with the substantial delays associated in convening a quorum for the Unified Appeal Board's intermediate appeal, Appellant is still less than one year out from the convictions. This is a substantial deviation from the five years specified in MC 8.425.

For comparison, it should be noted that Appellant's five felony property convictions arise out of four separate events spanning a full year. Three of the five felony offenses were committed in 2015. This is not a case of a single act of misconduct in the distant past.

**III. There is some potential for civil liability exposure for the City if a license is issued.**

The City Attorney's Office has some concerns that issuing an ID Card under the facts of this case may result in potential civil liability exposure to the City. In *Brennen v. City of Eugene*, 285 Or 401 (1979). The Oregon Supreme Court held that once a City enacts a code provision (in *Brennen*, requiring taxi drivers to be insured for a mandatory minimum amount), the City had a duty to follow that Code provision. The City issued a taxi license to an applicant, even though the applicant was severely underinsured. When a third party was then injured by that taxi driver, the Oregon Supreme Court ultimately determined that the City of Eugene was liable for the difference between what was actually collected from the taxi driver and the minimum amount of insurance specified in the City's Code.

Appellant notes in her Notice of Appeal that Five-Star Taxi has sufficient liability insurance and that Appellant would be a covered driver under that policy. That is a misunderstanding of the concern raised by the City Attorney's Office; staff does not assert that there is insufficient automotive liability insurance coverage for Appellant. Instead, the City Attorney's Office cited the *Brennen* case for the proposition that the City should follow its own Code when determining whether a Taxi Driver ID Card should issue.

**Summary**

The City Attorney's Office does not dispute that Appellant is actively participating in Recovery Opportunity Court and has been in compliance with that program's requirements to date. The City Attorney's Office also does not dispute that Appellant has been diligent, professional, and courteous in pursuing a Taxi Driver's ID Card through the City's various appeals processes.

However, the “disqualifying events” of MC 8.425 include a provision that directly addresses the type of convictions that Appellant had in October 2015. That Code provision creates a general standard of a five-year denial for even one felony property crime, and Appellant received five such convictions.

City Council certainly has sufficient authority under the Code to make a finding that Appellant has provided sufficient evidence of rehabilitation and issue a Taxi Driver’s ID Card to Appellant despite her disqualifying convictions. However, for all the reasons stated above, staff does not recommend disregarding the disqualifying events in Appellant’s particular case.

### **City Council Options**

After considering the testimony and evidence that Appellant provides before and during her hearing before City Council, Council can either:

- (1) find that Appellant has provided sufficient indicia of rehabilitation to disregard her disqualifying criminal convictions of October 6, 2015, and issue Appellant a Taxi Driver’s ID Card, or
- (2) find that Appellant has not provided sufficient indicia of rehabilitation to disregard her disqualifying criminal convictions of October 6, 2015, and affirm the denial of a Taxi Driver’s ID Card.

### **Recommendation**

Staff recommends that Council enter a finding that Appellant has not provided sufficient indicia of rehabilitation to disregard her disqualifying criminal convictions of October 6, 2016, and affirm the denial of a Taxi Driver’s ID Card.

### **EXHIBITS**

- 1 Application for Taxi/Limo Driver License #16-41515
- 2 Denial letter of November 10, 2015, from Lt. Mike Budreau
- 3 Appellant’s Appeal Letter of November 13, 2015
- 4 Opinion of Unified Appeal Board, dated August 31, 2016
- 5 Appellant’s City Council Notice of Appeal, dated September 1, 2016



CITY OF MEDFORD

Business Licenses  
200 S. Ivy Street, 2nd Floor  
Medford, Oregon 97501  
P: 541.774.2025  
F: 541.618.1726  
businesslicenses@cityofmedford.org



TAXI / LIMO DRIVER

APPLICATION FOR BUSINESS AND REGULATORY LICENSES

The Medford Code requires annual licensing of each business operating in the city. Applicant must notify city within 30 days of any change in application information and keep all necessary county/state/federal licenses and permits current. Failure to do so will be treated as a misrepresentation and may result in revocation of license. Sign permits must be obtained from the Planning Department prior to any installation or painting of outdoor advertising.

Business start date 11.6.15  Independent Contractor  Employee Taxi / Limo Company 5 Star Taxi

Name of Driver or DBA Name Tiffany Perez ~~H234~~

Driver's Legal Name and Date of Birth Tiffany Perez 10.30.76

Taxi Company Address 6041 Franquette Medford OR 97501  
Street Address City State Zip Code

Driver's Mailing Address 550 Mae St Medford OR 97501  
Street Address City State Zip Code

Driver Phone Number(s) (541) 890-6891 business phone  or private phone  or both

Emergency Phone Number (required) (541) 324-1162 email address: tperez225@hotmail.com

Taxi / Limo Company Owner Name Alex Borgia Phone Number (541) 245-5555

Please describe the business activity and any necessary business activity. taxi driver

I have received a copy of the Medford Municipal Code for Taxicabs and Limousines Sections 8.400 through 8.499 and I agree to abide by the terms of these sections if my application is approved

[Signature]  
Initial

I understand I am to have a valid City of Medford taxi ID card in my possession at all times while driving taxi / limo within the city limits of Medford. I understand I am to display my taxi ID card in a clear plastic sleeve in the back left corner of rear window

[Signature]  
Initial

I, the undersigned applicant, attest that the facts stated herein are true as I reasonably believe. I understand that this is a "sworn statement" and that any material misrepresentation contained herein will be cause for denial or revocation of license.

Signature: [Signature] Title: \_\_\_\_\_ Date 11.6.15

DO NOT WRITE BELOW THIS LINE - FOR OFFICE USE ONLY

Business License # 16-41515  
License Fee \$ 60.-  
Additional Fees \$ 30.-  
TOTAL \$ 90.-

Receipt No. 92263  
92264  
Receipt Date 11/6/15  
Check No. cc + cash  
Your Initials [Signature]

EXHIBIT 1

5



CITY OF MEDFORD  
411 W. 8<sup>TH</sup> ST  
MEDFORD, OR 97501



Medford Police Dept.  
Criminal Investigations

PHONE: (541) 774-2230  
FAX: (541) 618-1733

November 10, 2015

Ms. Tiffany Perez  
550 Mae St.  
Medford, OR 97504

Dear Ms. Perez,

Upon investigating your application for a Medford Taxi Driver ID Card, I have found that your Oregon Driver's License has been suspended as of 09/25/15. Medford Municipal Code 8.425 (2), (b), precludes you from receiving a Medford Taxi Driver ID Card, because you do not possess a valid motor vehicle operator's license.

I also found that on 10/06/15, you were convicted of Aggravated Identity Theft, a felony. Medford Municipal Code 8.425 (2) (e) (iv) precludes you from receiving a Medford Taxi Driver ID Card, because you were convicted of a felony property crime within five years of the date of application.

I am therefore denying your application for a Taxi Driver ID Card. To appeal this decision, you must notify Christy Taylor in the Building Department at 541-774-2367, of your intent to request an evidentiary hearing to dispute the proposed decision. You have 15 days from the date of this letter to contact Ms. Taylor.

I have enclosed a copy of Medford Municipal Code 8.425 for your reference. 5 Star Taxi has been notified of the denial.

Sincerely,

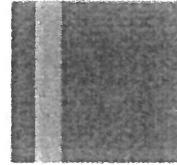
Lt. Mike Budreau  
Commander, Investigations Division  
541-774-2212

CC: 5 Star Taxi  
jfh

*Your Police - Our Community*

**EXHIBIT 2**

Tiffany Perez  
550 Mae St.  
Medford OR 97504  
(541) 890-6891



November 13, 2015

City of Medford  
Christy Taylor  
411 W 8th St  
Medford OR 97501

Dear Christy,

I am writing to appeal the Medford Taxi Driver ID Card denial. One of the reasons for the denial has been taken care of. My license has been reinstated as of November 12<sup>th</sup> 2015. The second reason for my denial, the Aggravated Identity Theft conviction, is the main issue. I've spoken with the cab company, 5 Star, and they would still like me to get approved if at all possible. They are aware of the conviction. Please call Jamie with 5 Star at (541) 816-9913. I am currently in ROC court. I have fulfilled all requirements with this program to date. If you need further information please contact Lisa McCreadie through the court at (541) 776-7171 ext. 236. She is not available today but I will be contacting her on Monday so she can provide her input. If there is any other information you need from me please contact me by either email or phone.

Warm regards,

Tiffany Perez



**EXHIBIT 3**

**8.425 Taxi Driver's ID Card**

- (1) No person shall operate a taxicab who does not have a taxi driver's ID Card issued by the Police Department.
- (2) A taxi driver's ID card shall be issued by the Police Department upon receipt of written application, certified copy of The Oregon State Police Background Check, and a fee as set forth in 8.400, if and only if the Police Department finds that the applicant:
- (a) Is twenty-one years of age or older; and
  - (b) Possesses a valid motor vehicle operator's license; and
  - (c) Has not been declared a habitual traffic offender within five (5) years of the date of this application; and
  - (d) If the applicant has ever been declared a habitual traffic offender, has not been convicted of a traffic crime within five (5) years of the date of this application; and
  - (e) Has not been convicted of any of the following crimes or any similar crimes in any degree at any time:
    - (i) Any felony crime committed against another person
    - (ii) Any person who is a registered sex offender
    - (iii) Any felony crime involving use of a weapon
    - (iv) Any felony property crime within five (5) years of the date of this application
    - (v) Any traffic crime within three (3) years of the date of this application
    - (vi) Any drug offense within five (5) years of the date of this application
    - (vii) Any misdemeanor person crime within three (3) years of the date of this application
    - (viii) Any misdemeanor property crime within three (3) years of the date of this application
    - (ix) Any misdemeanor crimes against public order within two (2) years
  - (f) Did not knowingly make any false statement in the application for the license.
- (3) The Finance Director shall revoke the taxi driver ID card of a driver who fails to meet the qualifications set out in this section after a permit has been issued to that person. A person whose permit is denied or revoked may reapply after one year if the applicant meets the qualifications set forth in this section for a new applicant.
- (4) A taxi driver's ID card is not transferable.

[Amd. Sec. 1 Ord. No. 6762, Nov. 1, 1990; Amd. Sec. 1, Ord. No. 8040, Apr. 4, 1996; Amd. Sec. 1, Ord. No. 1999-11, Feb 4, 1999; Amd. Sec. 3, Ord. No. 2000-73, April 20, 2000; Amd. Sec. 6, Ord. No. 2003-178, June 19, 2003; Amd. Sec. 6, Ord. No. 2005-174, Aug. 18, 2005. Fee effective Oct. 1, 2005; Amd. Sec. 4, Ord. No. 2007-147, July 5, 2007; Amd. Sec. 6, Ord. No. 2008-172, Aug. 21, 2008; Amd. Ord. No. 2010-237, Nov. 4, 2010; Amd. Ord. No. 2011-



**CITY OF MEDFORD  
UNIFIED APPEAL BOARD**

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**APPELLANT:** Tiffany Perez **MEETING DATE:** August 25, 2016  
**MATTER:** Denial of Taxi/Limo Driver License #16-41515

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**OPINION OF UNIFIED APPEAL BOARD**

This Opinion is furnished pursuant to MC 8.440 and 8.004(5). This matter came before the Unified Appeal Board on August 25, 2016. The voting members present were Bob Berg, Mark Dew, Ben Marincus, Marcy Pierce, and Jim Akery. Also present were Sam Barnum (Secretary of the Board), Greg Kleinberg, Mike Budreau, Nikki Anders, Tina Garvin, Eric Mitton, and Tiffany Perez. After hearing argument from Mr. Mitton (of the City Attorney's Office) and Ms. Perez (Applicant), the Board finds as follows:

FINDINGS OF FACT

- 1) Applicant applied for a taxi driver's ID card under MC 8.425, was denied, and timely filed an appeal pursuant to MC 8.440.
- 2) Applicant pleaded guilty to, and was convicted of, a series of felony property crimes in Jackson County Circuit Court Case Nos. 15CR15374 and 15CR15389.
- 3) Those convictions were all entered on October 6, 2015, and Applicant does not dispute the existence of said convictions.

DETERMINATION OF ISSUES PRESENTED

- 1) MC 8.425(2)(e)(iv) states in part that a taxi driver's ID card shall only issue "if and only if" the individual has not been convicted of a felony property crime within five years of the date of the application.
- 2) It has been less than five years since the date of the convictions, and thus, those convictions are a disqualifying event for purposes of MC 8.425.
- 3) Denial of the license is "consistent with the requirements of the application or license in question" pursuant to MC 8.004(5).

Based upon the above, the Board voted 5-0 to affirm the denial of the taxi ID license.

APPEAL RIGHTS

Applicant may appeal this Opinion to City Council pursuant to MC 8.004(6) and MC 1.025. MC 8.004(6) states:

In addition to the Council's authority under Section 1.025, Council may authorize issuance of a taxi driver's ID card if Council finds reliable indicia of rehabilitation from a disqualifying event listed in Section 8.425. In making its decision, Council may consider information including but not limited to: evidence of (a) successful completion of addiction recovery or substance abuse program; (b) successful completion of anger management or cognitive behavioral training; (c) successful family programming treatment; (d) gainful employment; (e) stable housing; (f) testimony from a mentor; (g) testimony from victims or victims services organizations; (h) testimony from professionals in the field of criminal



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rehabilitation, probation, transition or parole; (i) reference from employers; (j) lack of additional convictions or traffic citations; or (k) lack of fines owed to Municipal Court.

MC 1.025 states that an appeal must be filed with the City Recorder within ten (10) days of the date that Applicant receives notice of this Opinion. AC 1.025(1) states that an appeal is made by filing "a written notice of appeal together with a written statement listing the reason for requesting the revocation or modification of the decision."

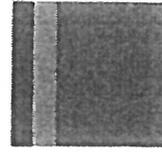
Dated this 21 day of AUGUST, 2016.

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SAM BARNUM  
Director of Building Department  
Secretary of Unified Appeal Board

Prepared by:  
Eric B. Mitton, OSB No. 065925  
City Attorney's Office

Tiffany Perez  
550 Mae St.  
Medford OR 97504  
(541) 890-6891  
tperez225@hotmail.com



City of Medford  
411 W 8<sup>th</sup> St  
Medford OR 97501

I am writing to appeal the Medford Taxi Driver ID Card denial and the subsequent affirmation of that denial by the Unified Appeal Board. One of the reasons for the denial has been taken care of. My Oregon driver's license has been reinstated as of November 12<sup>th</sup> 2015. The second reason for my denial, is for a "disqualifying event" under municipal code 8.425. The code as I understand it has been applied properly in my case. According to the city attorney, Mr. Mitten, because the code was applied properly there was liability on the city's part if the appeal board chose to approve the license thereby negating municipal code 8.425.

The basis for my appeal is the discretion given to the council under municipal code 8.004(6). Specifically the code states:

In addition to the Council's authority under Section 1.025, Council may authorize issuance of a taxi driver's ID card if Council finds reliable indicia of rehabilitation from a disqualifying event listed in Section 8.425. In making its decision, Council may consider information including but not limited to: evidence of (a) successful completion of addiction recovery or substance abuse program; (b) successful completion of anger management or cognitive behavioral training; (c) successful family programming treatment; (d) gainful employment; (e) stable housing; (f) testimony from a mentor; (g) testimony from victims or victims services organizations; (h) testimony from professionals in the field of criminal rehabilitation, probation, transition or parole; (i) reference from employers; (j) lack of additional convictions or traffic citations; or (k) lack of fines owed to Municipal Court.

Code 8.004 specifically allows discretion from a "disqualifying event" in code 8.425 thereby mitigating any liability that could potentially be put on the city. The cab company, 5 Star, is aware of the conviction and they would like me to get approved. I am currently in ROC court. I have fulfilled all requirements with this program to date. I will have either written and/or oral statements from those on the court team available at my appeal. If I can provide any further information please contact me.

Warm regards,

A handwritten signature in black ink, appearing to read 'Tiffany Perez', with a large loop at the end.

Tiffany Perez



EXHIBIT 5



# CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 130.2

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**DEPARTMENT:** City Manager's Office      **AGENDA SECTION:** Public Hearing - Evening  
**PHONE:** 541-774-2000      **MEETING DATE:** September 15, 2016  
**STAFF CONTACT:** John W. Hoke, Deputy City Manager

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## **COUNCIL BILL 2016-121**

A resolution authorizing the City Manager to proceed with the sale of surplus City-owned real property consisting of .34 acres located at the corner of 3<sup>rd</sup> and Front Streets.

## **SUMMARY AND BACKGROUND**

The City of Medford purchased the property at the corner of 3<sup>rd</sup> and Front Streets in February 1919. The property was used for a fire station for many years and has been vacant for a number of decades. A couple of months ago, Mr. Jack Schmidt expressed interest in purchasing the property to expand his business. ORS. 221.725 allows cities to dispose of real property when the City Council considers it necessary or convenient to do so.

## **PREVIOUS COUNCIL ACTIONS**

Council directed staff to sell the property at the August 18, 2016 Executive Session as it is surplus property.

## **ANALYSIS**

The City received an offer to purchase the property at 3<sup>rd</sup> and Front Streets (372W25AA2200) from Jack Schmidt of Precision Electric. Mr. Schmidt offered to purchase the property for \$150,000 and offered \$10,000 in earnest money. Mr. Hoke consulted with a commercial realtor regarding the amount and based on the discussion, countered with \$160,000 and for Mr. Schmidt to pay all closing costs. The property is zoned Community Commercial. Mr. Schmidt accepted the counter proposal. The public hearing is being held to allow for citizens to voice their opinions regarding the sale of the property.

## **FINANCIAL AND/OR RESOURCE CONSIDERATIONS**

\$160,000 revenue

## **TIMING ISSUES**

The goal is to close within 30 days of the offer, which would be September 25, 2016.

## **COUNCIL OPTIONS**

Approve, modify or deny the ordinance.

## **STAFF RECOMMENDATION**

Staff recommends approval of the ordinance.

## **SUGGESTED MOTION**

I move to approve the ordinance authorizing the sale of the property located at the corner of 3<sup>rd</sup> and Front Street known as 372W25AA Tax Lot 2200.

## **EXHIBITS**

Resolution

Purchase Agreement on sale in the City Recorder's office.

RESOLUTION NO. 2016-121

A RESOLUTION authorizing the City Manager to proceed with the sale of surplus City-owned real property consisting of .34 acres located at the corner of 3<sup>rd</sup> and Front Streets.

WHEREAS, the City has conducted a public hearing pursuant to ORS 221.725; and

WHEREAS, the City Council determines that the real property consisting of .34 acres located at the corner of 3<sup>rd</sup> and Front Streets which is Tax Lot 2200, is surplus to the needs of the City of Medford; now, therefore,

BE IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON, that the City Manager is hereby directed to proceed with the sale of City-owned real property consisting of .34 acres located at the corner of 3<sup>rd</sup> and Front Streets.

PASSED by the Council and signed by me in authentication of its passage this \_\_\_\_\_ day of September, 2016.

ATTEST: \_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor