



Medford City Council Meeting

Agenda

December 21, 2017

6:00 P.M.

Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon

10. **Roll Call**
20. **Recognitions, Community Group Reports**
 - 20.1 Employee Recognition
30. **Oral Requests and Communications from the Audience**

Comments will be limited to 4 minutes per individual, group or organization. PLEASE SIGN IN.
40. **Public Hearings**
50. **Approval or Correction of the Minutes of the December 7, 2017 Regular Meeting**
60. **Consent Calendar**
70. **Items Removed from Consent Calendar**
80. **Ordinances and Resolutions**
 - 80.1 COUNCIL BILL 2017-142 SECOND READING – An ordinance authorizing execution of an agreement with the Chamber of Medford/Jackson County to provide promotional services for recreational, cultural, convention, and tourism-related activities and programs.
 - 80.2 COUNCIL BILL 2017-143 – SECOND READING – An ordinance amending section 5.256 of the Medford Municipal Code pertaining to the downtown district exclusion zone.
 - 80.3 COUNCIL BILL 2017-144 An ordinance awarding a contract in an amount of \$888,888.88 to Brown Contracting, Inc. for Americans with Disabilities (ADA) ramp repairs and replacements.
 - 80.4 COUNCIL BILL 2017-145 An ordinance adding sections 5.560, 5.561, 5.562, 5.563, 5.564, 5.565, 5.566, 5.567, and 5.568 of the Medford Municipal Code pertaining to the abatement of abandoned shopping carts.
 - 80.5 COUNCIL BILL 2017-146 An ordinance postponing the effective date of section 5.555 of the Medford Municipal Code pertaining to regulations for the keeping of poultry.
or
COUNCIL BILL 2017-146 An ordinance repealing section 5.555 of the Medford Municipal Code pertaining to regulations for the keeping of poultry.
 - 80.6 COUNCIL BILL 2017-147 An ordinance authorizing a contract amendment with Professional Credit Services to revise language pertaining to compensation and costs.

90. Council Business

90.1 Proclamations issued: None

90.2 Committee reports and communications

100. City Manager and Staff Reports

100.1 Former Fire Station #2 and Carnegie process by Kelly Madding

100.2 Local response to California Fires by Brian Fish

100.3 Further reports from City Manager

110. Adjournment



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 80.1

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DEPARTMENT: City Manager
PHONE: (541) 774-2000
STAFF CONTACT: Brian Sjothun, City Manager

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: December 21, 2017

COUNCIL BILL 2017-142

SECOND READING. An ordinance authorizing execution of an agreement with the Chamber of Medford/Jackson County to provide promotional services for recreational, cultural, convention, and tourism-related activities and programs.

SUMMARY AND BACKGROUND

Council is requested to consider approval of a five (5) year agreement, with two (2) potential renewal periods, with The Chamber of Medford/Jackson County, dba Travel Medford to provide promotional services for recreational, cultural, convention and tourism-related activities and programs. This contract would provide payment for such services totaling 25% of the total transient lodging tax (TLT) collected by the City.

Council approved two amendments to the agreement at the December 7, 2017 meeting. Those amendments within Section 5 and Section 6 of the proposed agreement have been incorporated into the agreement for consideration.

PREVIOUS COUNCIL ACTIONS

On December 7, 2017, the proposed agreement with the Chamber of Medford/Jackson County to provide promotional services for recreational, cultural, convention, and tourism-related activities and programs, Ordinance 2017-142, went before Council for vote. There were three no votes on the Ordinance. According to Medford City Charter Chapter VIII, Section 28(2) if there are more than two dissenting votes on an Ordinance the Ordinance must be heard at a second reading of the City Council. As such, Ordinance No. 2017-142 must be heard on December 21, 2017 for a second reading.

On June 15, 2017 – Council passed a motion to renew the agreement with Travel Medford and appointed Clay Bearson, Tim D'Alessandro, and Kim Wallan to negotiate an updated agreement.

On May 25, 2017 – A study session was held in order for staff to receive direction from Council regarding either renewing the agreement with Travel Medford or to issue a Request for Proposals in selecting a Destination Marketing Organization. Council directed staff to present both options for formal direction at a future Council meeting.

On March 17, 2016 - Council Bill 2016-34 was approved authorizing execution of an amended Agreement with the Chamber of Medford/Jackson County to include requested additions and to allow for an extension of time to finalize negotiations.

On June 17, 2010 – Council Bill 2010-137 was approved authorizing execution of an Agreement with the Chamber of Medford/Jackson County (Chamber) allowing payment to the Chamber of 25% of funds collected by the City from the Transient Lodging Tax.

ANALYSIS

The City of Medford currently has an agreement with the Chamber of Medford/Jackson County (Chamber), scheduled to expire on June 30, 2018, to provide promotion of the City of Medford for recreational, cultural, convention and tourist-related services and programs. These services are coordinated through a Destination Marketing Organization (DMO). Travel Medford serves as the City's DMO and is a division of The Chamber of Medford/Jackson County.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.1

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The Medford Municipal Code does not require the Council to formally advertise for services provided by a contracted DMO:

2.579 Advertising and Tourist Promotion Contracts

The manager may purchase advertising without competitive bidding or competitive quoting. Contracts for promoting the use of the city of Medford for recreational, cultural, convention and tourist-related activities and services are exempt from competitive bidding and competitive quoting.

[Added Sec. 3, Ord. No. 5510, Sept. 5, 1985.; Amd. Sec. 1, Ord. No. 6613, May 3, 1990; Amd. Sec. 39, Ord. No. 2002-37, March 7, 2002.]

Council passed a motion and directed staff to provide support along with arranging to negotiate a new agreement with Travel Medford along with appointing Councilmembers, Clay Bearson, Tim D'Alessandro, and Kim Wallan as the City negotiation team. Staff solicited comments from the Mayor and Council on items that should be considered for incorporation into the new agreement. The Council team and staff met on two different occasions to discuss and develop a draft agreement.

The draft agreement was presented to The Chamber/Travel Medford for their review. On October 12, 2017, both teams met and collaboratively agreed upon the terms of the contract that is being presented for consideration.

The proposed agreement contains items that are different than past versions and outlined as follows:

- Length of Term – Five (5) years for original term with renewal options for four (4) and six (6) year periods. The first term will place the expiration of the agreement on the same year as the end of the future biennium. The renewal options are even number years and will also expire at the end of future biennium.
- Event Promotion – Travel Medford will be required to spend no less than 5% of funds to expand existing events and/or attract new events that would provide for both day and overnight travelers. In addition, Travel Medford shall budget \$10,000 each year, in addition to the 5% listed previously, to help solicit, host and promote events at U.S. Cellular Community Park.
 - Travel Medford notes that in FY2016 there was \$15,000 budgeted for support of community events. This line item was increased for FY2017 to \$24,000 and for FY2018 to \$30,000. With the new requirement of spending no less than 5% this line item will increase to nearly \$50,000 for FY2019 which represents a 66% increase from the current budgeted total.
- Market Research & Advertising Effectiveness – These sections provide examples of research and survey methods required to report on the effectiveness of Travel Medford campaigns.
- Governance – Recognizes that Travel Medford has created a Travel Medford Tourism Council (TMTC) for the purpose of offering travel and hospitality expertise. The TMTC shall consist of thirteen (13) members which shall represent the lodging and other tourism industries with no one industry having a majority members.
- Purchasing & Contracting Requirements – Three bids will need to be sought for contracts that exceed \$25,000 and the TMTC shall review such bids.
- Reporting – Travel Medford will continue to provide a quarterly report to the City as well as an annual study session at the discretion of the Council to review activities or other areas as directed by the Council.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.1

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The termination clause remains unchanged where either party, upon 180 days' written notice to the other, may terminate the agreement.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Funding for FY2019 is contained in the 2017-19 Biennial Budget under the Community Promotion & Grants Fund 730. The details can be found on page 13-71 of the approved budget. Funding for subsequent years will be part of future biennial budget development and approval.

TIMING ISSUES

The Chamber of Medford/Jackson County, dba Travel Medford is requesting approval of the contract in order to move forward with the planning and purchasing of advertising that is completed 9-12 months in advance of publication.

COUNCIL OPTIONS

- Approve the ordinance as presented.
- Modify the ordinance as presented.
- Deny the ordinance and provide staff with direction.

STAFF RECOMMENDATION

Staff recommends approval of the contract.

SUGGESTED MOTION

I move to approve the ordinance authorizing an agreement with The Chamber of Medford/Jackson County, dba Travel Medford to provide destination marketing organization services as outlined in the agreement.

EXHIBITS

Ordinance
Proposed agreement

ORDINANCE NO. 2017-142

AN ORDINANCE authorizing execution of an agreement with the Chamber of Medford/Jackson County to provide promotional services for recreational, cultural, convention, and tourism-related activities and programs.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. That execution of an agreement with the Chamber of Medford/Jackson County to provide promotional services for recreational, cultural, convention, and tourism-related activities and programs, which agreement is on file in the City Recorder's office, is hereby authorized.

Section 2. The agreement shall be for a period of five years, with the first renewal option being for four years and the second renewal option being for six years.

Section 3. The effective date of this agreement is July 1, 2018, to June 30, 2023.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2017.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2017.

Mayor

AGREEMENT

THIS AGREEMENT is entered into between the City of Medford, a municipal corporation organized under the laws of Oregon, hereinafter referred to as "CITY" and The Chamber of Medford/Jackson County, DBA TRAVEL MEDFORD, hereinafter referred to as "CONTRACTOR".

WHEREAS, the voters of Medford on August 5, 1975, approved a charter amendment authorizing the City to levy a tax not exceeding six percent on the privilege of transient occupancy within the City and authorizing the utilization of a portion not exceeding twenty-five percent of the proceeds of the tax for the purpose of promoting the use of the City of Medford for recreational, cultural, convention and tourist-related services and programs;

WHEREAS, on December 6, 1984, the City Council enacted Ordinance No. 5316 levying a six percent transient lodging tax to be effective January 1, 1985; and

WHEREAS, as a result of the voter-approved increase of the transient lodging tax, on December 21, 2000, the City Council enacted Ordinance No. 2000-243 levying an eight percent transient lodging tax to be effective January 1, 2001; and

WHEREAS, on November 17, 2005, the City Council enacted Ordinance No. 2005-261 levying a nine percent transient lodging tax to be effective January 1, 2006;

For and in consideration of the mutual terms and conditions contained herein, the parties agree as follows:

TERMS OF AGREEMENT

1. **Definitions:** "Tourism promotion" means any of the following activities: (a) advertising, publicizing, or distributing information for the purpose of attracting and welcoming tourists; (b) conducting strategic planning and research necessary to stimulate future tourism development; (c) operating tourism promotion agencies; and (d) marketing special events and festivals designed to attract tourists. ORS 320.300(7).

"Tourism" means economic activity resulting from tourists. ORS 320.300(6).

"Tourist" means a person who, for business, pleasure, recreation, or participation in events related to the arts, heritage, or culture, travels from the community in which that person is a resident to a different community of residence, and that trip: (a) requires the person to travel more than 50 miles from the community of residence; or (b) includes an overnight stay. ORS 320.300(10).

2. **Length of Term.** This agreement shall be effective when signed by both parties. It shall remain in effect for five (5) years. There will be options for two renewals upon mutual agreement of the parties, the first for a four (4) year term, followed by an option to renew for a six (6) year term. CITY must notify CONTRACTOR of renewal at least 12 months in advance of expiration of the agreement. Either party, upon one hundred eighty (180) days' written notice to the other,

may terminate this agreement without further obligations. Waiver by either party of any breach or violation of this agreement shall not be construed or deemed as continuing waiver and shall not prevent the party from terminating this agreement for any subsequent breaches or violations.

3. **Contractor's Services.** CITY shall pay to CONTRACTOR, from funds lawfully appropriated during the fiscal years commencing July 1, 2018 and ending June 30, 2023, twenty-five percent (25%) of the net proceeds from the transient lodging tax collected by CITY. In exchange for that payment, CONTRACTOR shall provide the following tourism promotion services to CITY:

A. **Tourism Promotion Activities.** CONTRACTOR shall promote Medford as a destination for tourists and visitors. CONTRACTOR shall coordinate its tourism promotion activities, as appropriate, with other organizations such as Travel Southern Oregon, Travel Oregon, and other visitor promotion entities.

B. **Visitor Information Centers.** CONTRACTOR shall provide information and services for visitors in at least one Visitor Information Center(s) designated and operated by Contractor. This includes daily management, staffing, complete and updated brochures, and information provided in a friendly, attractive atmosphere.

C. **Event Promotion.** CONTRACTOR shall promote existing events and shall use best efforts to recruit and assist in recruiting new events. No less than 5% of funds paid by CITY to CONTRACTOR shall be utilized to expand existing events and/or to attract new events that would provide activities for both day and overnight travelers. CONTRACTOR shall budget \$10,000 each fiscal year to a line item devoted to soliciting, hosting, and promoting tournaments at US Cellular Community Park.

D. **Market Research.** CONTRACTOR shall conduct market research to determine the best use of the transient lodging tax funds paid to CONTRACTOR by CITY through methods such as:

- surveys and visitor profiles collected from users of the visitor centers
- surveys and visitor profiles of attendees and participants at tournaments and other events held at US Cellular Community Park
- surveys conducted via Travel Medford's web site and associated websites

Market research may also be conducted in consultation with Travel Oregon, Travel Southern Oregon, the City of Medford, the Travel Medford Tourism Council (TMTTC) and/or other organizations and entities, as appropriate.

E. **Advertising Effectiveness.** CONTRACTOR shall conduct research and surveys which measure the effectiveness of the advertising purchased and/or provided by CONTRACTOR.

4. **Administrative and Management Functions.** CITY recognizes that CONTRACTOR is an entity of The Chamber of Medford/Jackson County (CHAMBER), DBA Travel Medford. CONTRACTOR shall provide day-to-day management activities including the planning and acquisition of services, equipment, supplies, and facilities to fulfill the requirements of this agreement. CONTRACTOR shall be responsible for maintaining capable and competent staff, including management staff.

CONTRACTOR's executive staff or designee shall attend any City Council meeting as directed by City Council to provide updates, information, or other data on CONTRACTOR's plans and services. CONTRACTOR shall be allowed to charge against the funds provided by CITY to CONTRACTOR under this agreement an amount not exceeding 50% per year for salaries, fringe benefits, rent, and utilities to perform services for CITY under this agreement.

5. **Tourism Council**

- A. CITY recognizes that CONTRACTOR has created the Travel Medford Tourism Council (TMTC) for the purpose of offering travel and hospitality expertise, support, counsel, and direction to CONTRACTOR.
- B. Effective no later than July 1, 2018, the TMTC shall consist of thirteen (13) members, and shall include members representing the lodging industry and other tourism industries, with no single industry having a majority membership.
- C. Except for the change to the TMTC membership referenced in section 5.B above, governance of the TMTC shall be as provided for in Exhibit A – Travel Medford Tourism Council Policies & Procedures.
- D. CITY will provide a liaison to the TMTC.

6. **Purchasing & Contracting Requirements.**

- A. For contracts exceeding \$25,000 for the purchase of goods, materials, and services, CONTRACTOR shall seek a minimum of three bids or proposals as appropriate, the TMTC shall review the bids and proposals, and CONTRACTOR shall award contracts. CONTRACTOR shall, to the best of its ability, ensure that such contract awards will result in 1) high quality products and services, and 2) cost savings.
- B. CONTRACTOR shall keep a written record of the source and amount of the bids or proposals received. If three bids or proposals are not available, a lesser number will suffice, provided that a written record is made of the effort to obtain the bids or proposals. If there is only one manufacturer or seller of a product or service of the quality or type required, CONTRACTOR may specify such manufacturer or seller.
- C. CONTRACTOR will provide tourism services without discrimination, and regardless of a business or entity's affiliation with the CHAMBER, in order to fulfill its duties to CITY as described in this agreement.
- D. The TMTC shall assist in the development of the Travel Medford annual strategic marketing plan, and shall review and approve the plan.

7. **Compliance with Agreement.** The following are agreed upon procedures to determine CONTRACTOR's compliance with this agreement.

A. BUDGET

- i. CONTRACTOR shall submit an annual budget to CITY for review by June 30 for the fiscal period that will begin on July 1 for each year of the agreement.
- ii. CONTRACTOR must at all times identify a bank account separate from the CHAMBER for receipt and disbursement of funds received under this contract.
- iii. All payments from CITY to CONTRACTOR under this agreement shall be made easily identifiable in CONTRACTOR's bank account.

B. REPORTING

- i. CONTRACTOR shall report the total of all funds disbursed by it under this agreement by the close of business on November 30 each year. The total amounts deposited shall be compared to the amount CITY paid to CONTRACTOR. Any difference in the amounts paid and received shall be noted and explained by CONTRACTOR.
- ii. CONTRACTOR shall provide its financial statement for each year (ending June 30) to CITY, as follows:
 - a. The actual funds received by CONTRACTOR under this agreement shall be traced to the CONTRACTOR's general ledger and compared to the proposed budget required by this agreement.
 - b. The funds that were received but were not spent by June 30 of each year shall be incorporated in the budget for the following year.
- iii. CONTRACTOR shall report quarterly to CITY. A full Study Session will be scheduled at the discretion of the City Council.

C. AUDIT.

CONTRACTOR shall provide CITY with a certified audit no less than six months prior to the end of each contract period for the fiscal year completed on June 30 of the same year.

The audit shall be performed by an accounting firm selected by CITY in accordance with professional standards. The cost of the audit shall be borne by CONTRACTOR.

8. **Personnel.**

A. CONTRACTOR represents that it employs, or will employ at its own expense, all personnel required in performing the services under this agreement.

- B. All of the services required hereunder will be performed by the CONTRACTOR or under its direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.
 - C. CONTRACTOR shall be responsible to ensure that it and any subcontractors comply with all applicable Federal, State and local laws regarding employee wages, hours, benefits, health care, and workers compensation, and shall ensure that all expenses and claims related thereto are paid promptly. The applicable provisions of ORS 279B and 279C are attached hereto as Exhibit B and incorporated herein by reference.
 - D. CONTRACTOR shall at all times be deemed an independent contractor and not an agent or partner or joint association with CITY. The parties acknowledge that any contracts entered into between CONTRACTOR and any third party shall not be obligation of CITY, and CONTRACTOR shall not represent that it has the power or authority to contractually bind or obligate CITY.
 - E. CONTRACTOR SHALL cooperate with any governmental agency as directed by CITY in preparation of various studies and reports related to the CONTRACTOR's activities hereunder.
 - F. CONTRACTOR shall not discriminate in providing services hereunder on the basis of age, race, sex, color, religion, or national origin.
9. **Payments.** CITY agrees to pay CONTRACTOR for the services provided under this agreement as provided for in Section 3 of this agreement. All payments shall be made no later than thirty (30) days after the month in which CITY receives collection from tax paid to Medford by operators.
10. **Access to Records.** CONTRACTOR shall maintain for at least three (3) years all books, documents, papers, and records which are pertinent to the services provided under this agreement for purposes of audit, examination, excerpts, and transcripts.

CITY'S Finance Director, or any persons authorized in writing by her, may examine during normal business hours the books and accounting records of CONTRACTOR after notifications to CONTRACTOR. Information regarding the contents of books, paper, and accounting records shall be considered confidential, provided that nothing shall prevent the disclosure to other Medford officials for the purpose of enforcing any provisions of this agreement.

11. Indemnity

CONTRACTOR hereby agrees to defend, indemnify, and hold harmless CITY, its officers, agents, and employees, from and against any and all liability, including but not limited to claims, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions, and costs of actions including, but not limited to, attorneys' fees for trial and on appeal, and for the preparation of same arising out of the CONTRACTOR's, its officers', agents', and employees' acts or omissions while performing services or actions associated with this agreement. Provided,

however, that CONTRACTOR shall not be required to indemnify CITY against liability for damages arising out of death or bodily injury to persons or damage to property caused solely by the negligence of CITY.

12. Insurance

CONTRACTOR shall obtain at its own expense and maintain continuously in effect during the term of this agreement the following minimum insurance:

- A. Commercial General Liability Insurance on an "occurrence" policy form covering Bodily Injury and Property Damage, Products/Completed Operations, Personal & Advertising Injury, and blanket Contractual Liability. Such insurance shall be primary and non-contributory, and provide limits of at least \$1,000,000 per Occurrence and a General Aggregate of at least \$2,000,000. *"The City of Medford and its officers, employees and agents while acting within the scope of their duties as such"* shall be named an Additional Insured by endorsement.
- B. Commercial Automobile Liability Insurance for Bodily Injury and Property Damage covering owned, non-owned, rented, and hired autos. Such insurance shall provide a combined single limit per accident of at least \$1,000,000.
- C. Workers Compensation Insurance meeting statutory requirements of Oregon Workers Compensation Law must be provided by CONTRACTOR (and any sub-contractor CONTRACTOR may use) for any subject workers, as well as Employers Liability Insurance with limit of at least \$500,000.

If CONTRACTOR is statutorily exempt from the requirement to provide Workers Compensation Insurance, CONTRACTOR shall complete, sign, and submit the City's form for ***Declaration of Exemption from Oregon Statutory Workers Compensation*** in lieu of Workers Compensations Insurance.

- D. Professional Liability Insurance (also known as "Errors and Omissions" or "malpractice liability" insurance for professionally trained, licensed, or certified service providers) with a limit of at least \$2,000,000. Such coverage may be on a "claims made" policy form. Should the Professional Liability Insurance policy be terminated for any reason, satisfactory "tail" coverage of an extended claims reporting period of at least two (2) years shall be required and provided at the sole expense of CONTRACTOR.

CONTRACTOR shall submit to CITY certificates of insurance for all policies listed above at time of this agreement, and at each subsequent insurance renewal for the life of this agreement. Certificate must include Additional Insured Endorsement for General Liability Insurance. Certificates of insurance for current coverage or activated tail coverage for Professional Liability Insurance, because it is a claims-made coverage, shall continue to be submitted to CITY for two (2) years following the effective term of this agreement. Certificate

Holder (and additional insured for General Liability) shall be shown as: City of Medford, 411 West 8th Street, Medford, OR 97501.

CONTRACTOR is responsible to assure that CITY receives a required thirty (30) days written notice prior to cancellation of, material change to, exhaustion of aggregate limits of, or intent not to renew any insurance policy for coverage required in this agreement. Ten (10) days will be accepted for cancellation due to non-payment of premium. CONTRACTOR shall itself provide the written notice in the event that its insurance companies will not or do not provide such notice. Failure to maintain proper insurance and/or provide timely notification of a change in coverage is grounds for potential immediate termination of this contract.

Notwithstanding insurance requirements stated or any modifications made thereto, in no case shall the presence or absence of any insurance coverage, or any insurance policy limit, provision, term, or condition reduce the obligations of the CONTRACTOR for liability granted generally by law or specifically in the terms of this agreement. In no case shall CITY be responsible for any amount of CONTRACTOR self-insurance, or any retention, deductible, or coinsurance amount required by CONTRACTOR's insurance policies.

13. Partial Invalidity

If any term, covenant, condition, or provision of this agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

14. Integration

This agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This agreement may not be modified or altered except in writing signed by both parties.

15. Jurisdiction

This agreement shall be administered and interpreted under the laws of the State of Oregon. Jurisdiction of litigation arising from this agreement shall be in that state. Any litigation arising from this agreement shall commence in Jackson County, Oregon.

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IN WITNESS WHEREOF, CITY and CONTRACTOR have caused this contract to be executed for and on their behalf by their duly authorized officer(s) on the day and year first above written.

THIS AGREEMENT is entered into this ____ day of _____, 2017.

CITY OF MEDFORD

By _____
Mayor

The Chamber of Medford/Jackson County, DBA TRAVEL MEDFORD

By _____



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.2

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DEPARTMENT: City Attorney's Office
PHONE: (541) 774-2020
STAFF CONTACT: Lori Cooper, City Attorney

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: December 21, 2017

COUNCIL BILL 2017-143

SECOND READING. An ordinance amending section 5.256 of the Medford Municipal Code pertaining to the downtown district exclusion zone.

SUMMARY AND BACKGROUND

On May 4, 2017, the City Council approved an ordinance expanding and updating section 5.256 of the Medford Code. That update included adding a designated downtown district as an exclusion zone.

Recently, the City received a letter from Jackson County requesting that the downtown district exclusion zone be expanded to include various governmental facilities such as the Jackson County Courthouse, the Jackson County Justice Building, the Jackson County District Attorney's office, and the Jackson County Juvenile Justice facility, as well as the parking lots adjacent to or associated with these buildings. An ordinance incorporating these areas into the downtown district exclusion zone was voted on by Council on November 2, 2017 but failed in a 4-3 vote.

On November 16, 2017, Council directed staff to draft an ordinance to include the Jackson County offices at 10 South Oakdale Ave. within the downtown district exclusion zone. On December 7, 2017, Council voted on a proposed ordinance that included Jackson County offices located at 10 South Oakdale Avenue in the downtown district exclusion zone. The ordinance passed on a 5-3 vote, but since there was more than one dissenting vote, it requires a second reading pursuant to the City Charter.

PREVIOUS COUNCIL ACTIONS

On November 3, 2011, Council Bill 2011-217 was approved adding section 5.256 to allow individuals to be excluded from city property after being warned to not engage in certain illegal or prohibited conduct.

On May 5, 2017, Council Bill 2017-40 was approved to allow exclusion notices to be issued to individuals engaging in certain illegal or prohibited conduct within a designated downtown district.

On November 2, 2017, Council Bill 2017-130 failed, which would have allowed for expansion of the downtown exclusion district to include various Jackson County governmental facilities.

On November 16, 2017 Council directed staff to bring forth an ordinance to include the area containing the Jackson County offices at 10 South Oakdale Avenue in the downtown exclusion district.

On December 7, 2017 a proposed ordinance to include Jackson County offices at 10 South Oakdale Ave in the downtown district exclusion zone was voted on by Council.

ANALYSIS

As discussed in previous AIC's and Council meetings:

- The exclusion period is 90 days long.
- There are exemptions which allow an excluded person to be in the exclusion area for various reasons (to seek social or medical services, to attend religious services, to seek employment, to attend public meetings or court hearings).



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 80.2

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- The Municipal Court has discretion to issue variances to excluded persons if the scope of the exclusion is unreasonable under the circumstances.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

None.

COUNCIL OPTIONS

- Approve the ordinance as presented.
- Modify the ordinance.
- Decline to adopt the ordinance and direct staff regarding further action.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the adoption of the Civil Exclusion ordinance expanding the exclusion zone to include 10 South Oakdale Ave.

EXHIBITS

Ordinance

Map

ORDINANCE NO. 2017-143

AN ORDINANCE amending section 5.256 of the Medford Municipal Code pertaining to the downtown district exclusion zone.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 5.256 of the Medford Code is amended to read as follows:

5.256 Civil Exclusion.

(1) Civil Exclusion Zones. Civil exclusion zones are designated to protect the public from those whose illegal conduct poses a threat to the public health, safety, and welfare. In accordance with the provisions of this section, the Chief of Police or designee may exclude any person who is cited to appear, arrested, or otherwise taken into custody for any offense listed in subsection (2) of this section within a civil exclusion zone. Nothing in this section shall be construed to authorize the exclusion of any person lawfully exercising free speech rights or other rights protected by the Oregon or federal constitution. However, a person engaged in such protected activity who commits acts that are not protected shall be subject to exclusion as provided by this section. Civil exclusion zones include the following places:

(a) City Property. Any property owned or managed by the City, including but not limited to parks, greenways, buildings, parking lots, or other land or physical structures. A person shall only be excluded from the city property that the person receives a notice of exclusion for.

(b) The Downtown District. Comprises the area bound by Bear Creek, the north right-of-way of Sixth Street, the west right-of-way of Oakdale Avenue, **the north right-of-way of West Main Street, the west right-of-way of Laurel Street, the south right-of-way of West Eighth Street, the west right-of-way of Oakdale Avenue,** and the south right-of-way of West Tenth Street (as shown on Map A).

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2017.

ATTEST: _____

City Recorder

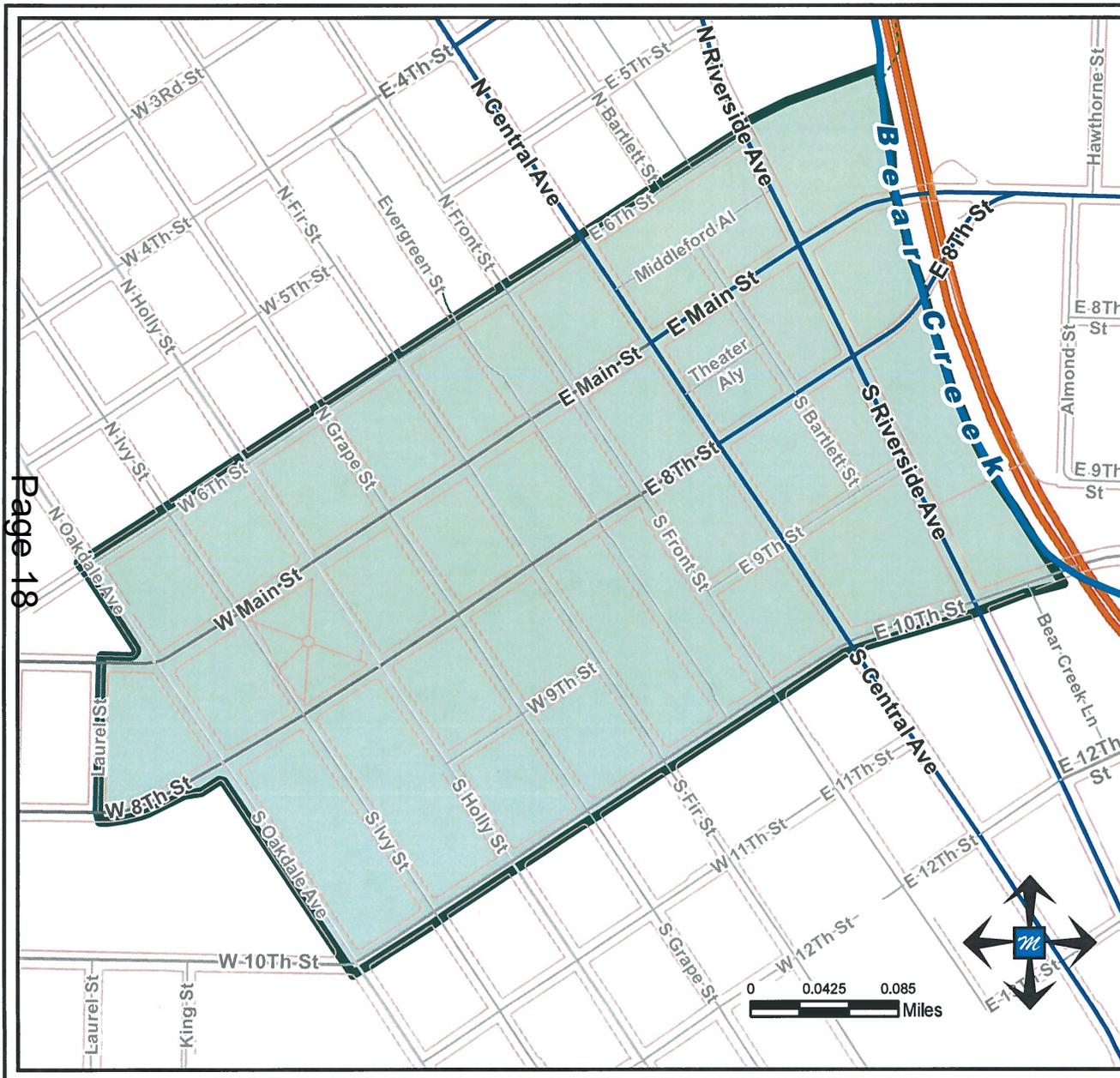
Mayor

APPROVED _____, 2017.

Mayor

NOTE: Matter in **bold** in an amended section is new. Matter ~~struck through~~ is existing law to be omitted. Three asterisks (***) indicate existing law, which remains unchanged by this ordinance but was omitted for the sake of brevity.

MAP A



Page 18

City of
Medford Downtown District
Civil Exclusion Zone

Legend

-  Sidewalks (Updated in 2010)
-  Downtown District Civil Exclusion Zone



Date: 11/20/2017

No guarantee or warranty is expressed or implied in terms of data accuracy or legitimacy. This product is intended for use as public information and precise interpretations of the official record should be solicited from the City of Medford.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.3

www.ci.medford.or.us

DEPARTMENT: Public Works
PHONE: (541) 774-100
STAFF CONTACT: Cory Crebbin, Public Works Director

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: December 21, 2017

COUNCIL BILL 2017-144

An ordinance awarding a contract in an amount of \$888,888.88 to Brown Contracting, Inc. for Americans with Disabilities (ADA) ramp repairs and replacements.

SUMMARY AND BACKGROUND

Brown Contracting, Inc., is the low bidder for a contract to perform Americans with Disabilities (ADA) Ramp repairs and replacements on various streets scheduled to receive asphalt overlays in 2018. The City contracts for some concrete work when it exceeds the capacity of Public Works crews.

Federal guidance was issued defining a street overlay as an "alteration" requiring installation or replacement of sidewalk ramps when work is performed. Accomplishing this concrete work with a separate contract will result in reasonable costs and result in performing the asphalt overlays on schedule.

PREVIOUS COUNCIL ACTIONS

On December 15, 2016, the Council awarded a contract to Brown Contracting, Inc., for 123 ramps that were installed during the period of January through July 2017.

On June 15, 2017, the Council approved Council Bill 2017-57 adopting the Biennial Budget 2017-2019 which includes this project on page 8-34.

ANALYSIS

Four bids were received, and Brown Contracting, Inc. was the apparent low bidder with a bid of \$888,888.88. The other three bids which were submitted were Roxy Ann Rock, Inc. - \$926,908.00, Suulutaaq, Inc. - \$1,140,475.00, and Siskiyou Cascade Construction - \$1,417,702.00. Because each ramp is unique, no engineer's estimate is created as the contractor designs each ramp before it is built. Unit costs pay for each location.

A total of 140 ramps will be installed as shown on the exhibit "Special Provisions: Work To Be Done." This work is necessary to meet the federal requirement that ADA ramps must be installed or upgraded to meet current ADA standards when a street is overlaid.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Expenditure of \$888,888.88, which is included on page 8-34 of the 2018/2019 budget.

TIMING ISSUES

The work will start after January 8, 2018, and is scheduled to be complete by May 11, 2018.

COUNCIL OPTIONS

- Approve the ordinance as presented.
- Modify the ordinance.
- Deny the ordinance and provide direction to staff regarding ADA ramp installation.

STAFF RECOMMENDATION

Approve the ordinance for a contract with Brown Contracting, Inc.



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 80.3

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SUGGESTED MOTION

I move to approve the ordinance for a contract in the amount of \$888,888.88 to Brown Contracting, Inc., for ADA Ramps.

EXHIBITS

Ordinance

Bid Tabulation

Special Provisions: Work To Be Done

Contract on file in the City Recorder's Office.

ORDINANCE NO. 2017-144

AN ORDINANCE awarding a contract in an amount of \$888,888.88 to Brown Contracting, Inc. for Americans with Disabilities (ADA) ramp repairs and replacements.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That a contract in an amount of \$888,888.88 for ADA ramp repairs and replacements, which is on file in the City Recorder's office, is hereby awarded to Brown Contracting, Inc.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2017.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2017.

Mayor

BID TABULATIONS ADA Ramps 2018 in the City of Medford

Project: ADA Ramps 2018 in the City of Medford
Location: Various Streets in the City of Medford
Project No: MST-1804
Date of Bid Opening: November 30, 2017

CITY OF MEDFORD
PUBLIC WORKS - OPERATIONS

Peter Brown
Public Works Operations
Engineering Tech III



Bidder Name	Total Bid
Brown Contracting Inc.	\$888,888.88
Suulutaaq Inc	\$1,140,475.00
Roxy Ann Rock Inc.	\$926,908.00
Siskiyou Cascade Construction	\$1,417,702.00

Item No.	Item Description	Unit of Measure	Estimated Quantity	Low Bidder Brown Contracting Inc.		Suulutaaq Inc	Roxy Ann Rock Inc.	Siskiyou Cascade Construction
				Unit Bid	Amount	Unit Bid	Unit Bid	Unit Bid
1	MOBILIZATION	LS	1	\$85,000.00	\$85,000.00	\$85,000.00	\$206,000.00	\$50,000.00
2	TEMPORARY WORK ZONE TRAFFIC CONTROL, COMPLETE	LS	1	\$18,000.00	\$18,000.00	\$212,000.00	\$44,028.00	\$25,000.00
3	TEMPORARY PEDESTRIAN ACCESS ROUTING	LS	1	\$18,000.00	\$18,000.00	\$23,100.00	\$29,782.00	\$20,000.00
4	EROSION CONTROL	LS	1	\$4,548.88	\$4,548.88	\$16,700.00	\$41,763.00	\$5,512.00
5	4 INCH ASPHALT CONCRETE PAVEMENT REPAIR	SQYD	225	\$200.00	\$45,000.00	\$71.00	\$104.00	\$50.00
6	6 INCH ASPHALT CONCRETE PAVEMENT REPAIR	SQYD	650	\$205.00	\$133,250.00	\$92.00	\$126.00	\$70.00
7	CONCRETE CURBS, CURB AND GUTTER	FOOT	2500	\$93.00	\$232,500.00	\$29.00	\$56.00	\$55.00
8	CONCRETE WALKS	SQFT	22500	\$8.50	\$191,250.00	\$18.00	\$13.67	\$16.00
9	STANDARD VALLEY GUTTER	SQYD	160	\$500.00	\$80,000.00	\$165.00	\$68.00	\$144.00
10	EXTRA FOR NEW SIDEWALK RAMPS	EACH	140	\$581.00	\$81,340.00	\$1,600.00	\$297.00	\$5,285.00
				Total Bid =	\$888,888.88	\$1,140,475.00	\$926,908.00	\$1,417,702.00

SPECIAL PROVISIONS

WORK TO BE DONE

The Work to be done under this Contract consists of removal of concrete sidewalks and curb and gutter and install 140 new ADA compliant ramps at various locations, in the City of Medford, Oregon.

1. Removal of concrete sidewalks and curb and gutter.
2. Install new concrete sidewalks and curb and gutter including ADA compliant ramps.
3. In accordance to pedestrian disruption limitations as stated on TM844.
4. Perform additional and incidental Work as called for by the Specifications and Plans.

This project includes work at the following locations:

	Street	From	To	ADA Ramps to install
1	W BARNETT RD	S HOLLY ST	KENYON ST	3
2	CEDAR LINKS DR	LEXINGTON DR	WILKSHIRE DR	2
3	S CENTRAL AV	E 10TH ST	BANK ST	18
4	W CLARK ST	SUMMIT AV	N CENTRAL AV	16
5	COURT ST	OHIO ST	EDWARDS ST	11
6	S FRONT ST	E 8TH ST	E 10TH ST	6
7	S FRONT ST	E 12TH ST	South end	2
8	HILLCREST RD	BEL AIR CT	BARBARA JEAN WY	1
9	IRIS CR	PAPAGO DR	Cul-de-Sac	2
10	KING ST	DAKOTA AV	W 13TH ST	3
11	E MCANDREWS RD	COURT ST	BIDDLE RD	11
12	N PEACH ST	W 4TH ST	W 2ND ST	9
13	SHERMAN ST	HAWTHORNE ST	STARK ST	10
14	SPRING ST	SPRINGBROOK RD	WOODBIDGE DR	6
15	SPRINGBROOK RD	115' South of BLACKTHORN WY	OWEN DR	14
16	STEWART AV	S HOLLY ST	S RIVERSIDE AV	6
17	STEWART AV	100' West of S OAKDALE AV	140' East of S PEACH ST	12
18	SUNRISE AV	60' South of OREGON AV	SPRING ST	8
			Total	140

APPLICABLE SPECIFICATIONS

The Specification that is applicable to the Work on this Project is the 2008 edition of the "Oregon Standard Specifications for Construction".

All number references in these Special Provisions shall be understood to refer to the Sections and subsections of the Standard Specifications and Supplemental Specifications bearing like numbers and to Sections and subsections contained in these Special Provisions in their entirety.

CLASS OF PROJECT

This is a City of Medford Project.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.4

www.ci.medford.or.us

DEPARTMENT: City Manager
PHONE: (541) 774-2000
STAFF CONTACT: Brian Sjothun, City Manager

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: December 21, 2017

COUNCIL BILL 2017-145

An ordinance adding sections 5.560, 5.561, 5.562, 5.563, 5.564, 5.565, 5.566, 5.567, and 5.568 of the Medford Municipal Code pertaining to the abatement of abandoned shopping carts.

SUMMARY AND BACKGROUND

Council is requested to consider approval of an addition to the Medford Municipal Code (MMC) by adding sections 5.560 through 5.568 establishing a Shopping Cart Retrieval ordinance. The proposed code ordinance is in response to a growing problem with stolen and abandoned carts. Many of these carts are being retrieved by City staff as they are abandoned along the Bear Creek Greenway and public parks and right-of-ways. Council directed staff to review similar ordinances from other jurisdictions in developing the code for consideration.

PREVIOUS COUNCIL ACTIONS

On October 26, 2017 – A study session was held in order for staff to receive direction from Council on whether the City should enact a shopping cart retrieval ordinance and if so, what code language changes were needed in order to move forward. Council provided comments to staff and asked that the proposed ordinance move forward for formal consideration.

On June 29, 2017 – A study session was held in order for staff to present preliminary information and requested Council direction regarding a shopping cart retrieval ordinance. Staff received direction from Council to utilize other jurisdictions established ordinances and to present code language at a future study session for review and further consideration.

ANALYSIS

The removal of shopping carts for unauthorized use has created both financial and operational issues for businesses and the City. These carts are often found abandoned throughout Medford streets, parks and Bear Creek Greenway. Parks and Recreation, Police and Public Works staff spend resources collecting and disposing of carts on a daily basis.

The language in the proposed ordinance has not significantly changed from what was presented to Council at the October 26 study session. The only major change is giving stores one week, rather than 72 hours, to pick up their carts once they have been notified. This was at the request of the store representatives as some of them contract with a retrieval service that only operates once per week.

Emphasis of the proposed ordinance is for store owners/operators to properly affix the required notification upon each cart and within the store indicating that the removal of the cart from the premises is a crime under ORS 164.015. Proper notification will allow Medford Police to cite those in possession of the carts illegally and either to notify the store of where to retrieve the stolen property or to have staff return the stolen cart to the store location.

5.562 Cart Identification Required

- Every shopping cart must have a permanently affixed sign that contains all of the following information:
 - The identity of the owner of the shopping cart;
 - A **telephone number** of the owner for shopping cart return; and



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.4

www.ci.medford.or.us

- A statement that the unauthorized removal of the shopping cart from the premises is a crime under ORS 164.015.

5.563 Posted Notice

- "...post a sufficient number of signs on the owner's business premises that unauthorized appropriation of a shopping cart is a crime under ORS 164.015 and provide a toll free number..."

Other areas of the proposed ordinance are as follows:

5.560 Purpose; Nuisance Declared

- "...means to allow for the voluntary abatement of the nuisance by the owners of shopping carts through a notification and retrieval process."

5.561 Definitions

- "Abandoned cart" means any shopping cart that has been removed from the owner's premises without written consent of the owner and which is located on either public or private property.
- "Owner" means a person that, in connection with the operation of a business, makes a shopping cart available to a customer.

5.566 Duty to Retrieve Cart

- An owner, or owner's contractor, shall retrieve an abandoned cart within seven days from the date the report is made to the owner under MMC 5.565.

5.567 Custody and Disposition

- "...impose a civil penalty of fifty dollars (\$50) on the owner of the abandoned cart if the owner does not retrieve the abandoned cart within **seven calendar days** after the owner receives a report of an abandoned cart under MMC 5.565."

Staff held two meetings where store owners/managers/operators were invited to review and provide comments on the proposed ordinance. The stores have agreed to the proposed code language and will:

- Provide contact information to City staff
- Be available during greenway sweeps
- Install a marking or tracking number on carts
- Install proper signage noting that stealing shopping carts is a crime

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Parks and Recreation along with Medford Police estimates that the annual expense for the retrieval and disposal of unclaimed shopping carts is approximately \$10,000. This cost is an estimate based on the increase in disposal rates for the current calendar year. Staff is unable to determine if there will be a cost savings as a result of the ordinance, but there could be an ability to collect a fee from stores which do not retrieve their carts within the seven calendar days after notice. These fines would be used to offset the disposal costs.

TIMING ISSUES

There are no timing issues at this time.

COUNCIL OPTIONS

- Approve the ordinance as presented.
- Modify the ordinance as presented.
- Deny the ordinance and provide staff with direction.



**CITY OF MEDFORD
AGENDA ITEM COMMENTARY**

Item No: 80.4

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STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the establishment of a Shopping Cart Retrieval ordinance for the City of Medford.

EXHIBITS

Exhibit A – Ordinance

Exhibit B – Compliance Examples – South Gateway Fred Meyer

ORDINANCE NO. 2017-145

AN ORDINANCE adding sections 5.560, 5.561, 5.562, 5.563, 5.564, 5.565, 5.566, 5.567, and 5.568 of the Medford Municipal Code pertaining to the abatement of abandoned shopping carts.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SHOPPING CART RETRIEVAL ORDINANCE

SECTION 1. Section 5.560 of the Medford Municipal Code is added to read as follows:

5.560 Purpose; Nuisance Declared.

The presence of abandoned shopping carts within the City is hereby declared to be a public nuisance, and the purpose of Medford Municipal Code (MMC) 5.560 – 5.568 is to provide a means to allow for the voluntary abatement of the nuisance by the owners of shopping carts through a notification and retrieval process. Notwithstanding any other nuisance abatement provision of this Chapter, the abatement of abandoned shopping carts shall be made pursuant to MMC 5.560 – 5.568.

SECTION 2. Section 5.561 of the Medford Municipal Code is added to read as follows:

5.561 Definitions.

Unless the context otherwise specifically requires, as used in MMC 5.562 – 5.568, the following definitions apply:

- (a) “Abandoned cart” means any shopping cart that has been removed from the owner’s premises without written consent of the owner and which is located on either public or private property.
- (b) “Code Enforcement Officer” means a City employee charged with the enforcement of MMC by the City Manager or the City Manager’s designee.
- (c) “Owner” means a person that, in connection with the operation of a business, makes a shopping cart available to a customer.
- (d) “Person” means a natural person, corporation, partnership, limited liability company, limited liability partnership, co-operative, trust, or other entity in law or fact.
- (e) “Premises” means the entire area of the real property owned, occupied or utilized by an owner, including any parking lot or other property provided by or on behalf of an owner for customer parking or use.
- (f) “Shopping cart” means a basket that is mounted on wheels and used for the transportation of goods, or any other similar device, that is provided by an owner for use by a customer.

SECTION 3. Section 5.562 of the Medford Municipal Code is added to read as follows:

5.562 Cart Identification Required.

Every shopping cart must have a permanently affixed sign that contains all of the following information:

- (a) The identity of the owner of the shopping cart;**
- (b) A telephone number of the owner for shopping cart return; and**
- (c) A statement that the unauthorized removal of the shopping cart from the premises is a crime under ORS 164.015.**

SECTION 4. Section 5.563 of the Medford Municipal Code is added to read as follows:

5.563 Posted Notice.

An owner shall conspicuously post a sufficient number of signs on the owner's business premises stating that unauthorized appropriation of a shopping cart is a crime under ORS 164.015 and providing a telephone number that members of the public may use to report abandoned shopping carts.

SECTION 5. Section 5.564 of the Medford Municipal Code is added to read as follows:

5.564 Telephone Number Required.

- (a) A telephone number shall be established, maintained, and made available to the public, at the owner's expense, for the purpose of reporting abandoned carts.**
- (b) More than one owner may use the same telephone number to share expenses. Any agreement by two or more owners to share a telephone number shall comply with the requirements of this section.**

SECTION 6. Section 5.565 of the Medford Municipal Code is added to read as follows:

5.565 Notification and Retrieval of Abandoned Carts.

- (a) A Code Enforcement Officer or any member of the public may report the location of an abandoned cart by calling the telephone number provided by the owner.**
- (b) If the City has notice of the location of an abandoned cart, a Code Enforcement Officer shall use the telephone number provided by the owner to report the location of the abandoned cart.**
- (c) If an abandoned cart does not have a sign with the information required by MMC 5.562, the City may take custody of the abandoned cart. If the owner can be identified, and after reasonable effort, the Code Enforcement Officer is unable to contact the owner of the abandoned cart and seven calendar days have passed, or if the owner cannot be identified, the Code Enforcement Officer may dispose of the abandoned cart as provided in MMC 5.567(b).**

SECTION 7. Section 5.566 of the Medford Municipal Code is added to read as follows:

5.566 Duty to Retrieve Cart.

An owner, or an owner's contractor, shall retrieve an abandoned cart within seven calendar days from the date the report is made to the owner under MMC 5.565.

SECTION 8. Section 5.567 of the Medford Municipal Code is added to read as follows:

5.567 Custody and Disposition.

(a) The Code Enforcement Officer may take custody of an abandoned cart and impose a civil penalty of fifty dollars (\$50) on the owner of the abandoned cart if the owner does not retrieve the abandoned cart within seven calendar days after the owner receives a report of an abandoned cart under MMC 5.565. The Code Enforcement Officer shall release the shopping cart to the owner after the civil penalty is paid.

(b) Disposition after Thirty Days. Title to any abandoned cart not reclaimed by the owner within thirty (30) days after notification from the Code Enforcement Officer, or to any abandoned cart where the City has been unable to identify the owner after reasonable efforts and which has been in the City’s custody for thirty (30) days, shall be forfeited to the City and the shopping cart may be sold or otherwise disposed of by the City.

SECTION 9. Section 5.568 of the Medford Municipal Code is added to read as follows:

5.568 Violation.

Failure by an owner to comply with MMC 5.562, 5.563, or 5.564, or to retrieve an abandoned cart under MMC 5.566 is an infraction, punishable by a fine not to exceed five hundred dollars.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2017.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2017.

Mayor

Exhibit B
Shopping Cart Ordinance
Compliance & Examples
Fred Meyer – South Gateway





CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.5

www.ci.medford.or.us

DEPARTMENT: City Attorney's Office
PHONE: (541) 774-2020
STAFF CONTACT: Eric Mitton, Deputy City Attorney

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: December 21, 2017

COUNCIL BILL 2017-146

An ordinance postponing the effective date of section 5.555 of the Medford Municipal Code pertaining to regulations for the keeping of poultry.

or

An ordinance repealing section 5.555 of the Medford Municipal Code pertaining to regulations for the keeping of poultry.

SUMMARY AND BACKGROUND

The purpose of this agenda item is to take formal action consistent with City Council's action at the November 2, 2017 meeting by either repealing the ordinance or postponing the effective date to July 1, 2018, or by providing further direction to staff. On October 5, 2017, City Council approved Medford Municipal Code 5.555, "Keeping of Poultry." Prior to the enactment of this code section, residential keeping of chickens was not subject to specific regulation, though the practice was still subject to general Municipal Code restrictions on noise, accumulation of feces, and other public nuisances. Based upon direction from City Council and input from Planning Commission (during a study session on September 11, 2017), staff drafted Medford Municipal Code 5.555, which has an effective date of January 1, 2018. At the November 2, 2017 City Council meeting, a number of residents objected to the Ordinance. Council voted to not enforce the new Code provision and instructed staff to reexamine the issue

PREVIOUS COUNCIL ACTIONS

On August 3, 2017, the City Council directed staff to prepare a draft ordinance for the keeping of chickens, and to seek recommendations from the Planning Commission.

On October 5, 2017, the City Council adopted Ordinance No. 2017-109, enacting Medford Municipal Code 5.555, "Keeping of Poultry."

On November 2, 2017, in response to substantial public comment, the City Council voted 4-3 to not enforce Medford Municipal Code 5.555.

ANALYSIS

Because Municipal Code 5.555 has an effective date of January 1, 2018, the Council vote on November 2, 2017, was a statement of intent, but had no immediate legal effect. Once that effective date passes, though, leaving the ordinance in the Municipal Code in an unaltered format, but simply instructing City employees not to enforce it for an indefinite period, is conceptually and procedurally challenging. To take formal action consistent with the expressed intent from November 2, 2017, the ordinance could either be repealed, or its effective date could be postponed.

Repealing the existing ordinance would postpone the matter indefinitely, allowing staff to present different poultry regulations as staff resources allow. This would allow staff to assign this issue a priority consistent with other community needs and services.

Postponement of the effective date of the current ordinance for several months would encourage those community members who disagree with the current regulations to maintain contact with staff and provide specific, constructive input on regulations that would be preferable to those community members. It also binds the issue to a specific timeline, effectively requiring the revised regulations to be completed before the amended effective date. An amended effective date of July 1, 2018, is proposed.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.5

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Regardless of which course of action the City Council takes regarding Medford Municipal Code 5.555, owners of residential poultry are still required to comply with other applicable Municipal Code provisions, including Medford Municipal Code 5.225 (addressing noisy animals), Medford Municipal Code 5.500 (addressing accumulation of feces), and Medford Municipal Code 10.362 (restricting on-site farm product sales to the Exclusive Agriculture Overlay District with a Conditional Use Permit)).

Procedurally, either repeal of Municipal Code 5.555 or amendment of the effective date specified within that Code can be accomplished via an ordinance in the normal ordinance procedure as specified in Municipal Code 2.020. Because Municipal Code 5.555 is not a land use matter and is not contained within the Medford Land Development Code, but instead is a public nuisance ordinance within the "Offenses" chapter of the Municipal Code, no public hearing is required for this item.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

Medford Municipal Code 5.555, by its terms, becomes effective on January 1, 2018.

COUNCIL OPTIONS

- Approve the repeal ordinance as presented
- Approve the postponement ordinance as presented
- Decline to approve either ordinance as presented, and direct staff regarding further action

STAFF RECOMMENDATION

Staff recommends repeal.

SUGGESTED MOTION

I move to approve the ordinance repealing Medford Municipal Code 5.555.

or

I move to approve the ordinance postponing the effective date of Medford Municipal Code 5.555 to July 1, 2018.

EXHIBITS

Postponement ordinance

Repeal ordinance

ORDINANCE NO. 2017-146

AN ORDINANCE postponing the effective date of section 5.555 of the Medford Municipal Code pertaining to regulations for the keeping of poultry.

WHEREAS, on October 5, 2017 City Council adopted Ordinance 2017-109 with an effective date of January 1, 2018 regarding the keeping of poultry; and

WHEREAS, City Council now desires to revise the effective date of section 5.55 of the Medford Municipal Code to July 1, 2018; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That the effective date of section 5.555 of the Medford Municipal Code pertaining to regulation for the keeping of poultry is hereby postponed to July 1, 2018.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2017.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2017.

Mayor

ORDINANCE NO. 2017-146

AN ORDINANCE repealing section 5.555 of the Medford Municipal Code pertaining to regulations for the keeping of poultry.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 5.555 of the Medford Municipal Code is hereby repealed:

~~5.555 Keeping of Poultry.~~

~~(1) No person shall keep poultry on residential property, or on property legally developed as residential property, except in compliance with all of the following regulations and limitations and all other applicable provisions of the Medford Municipal Code:~~

- ~~a. No more than six (6) allowed poultry shall be kept or maintained on any single parcel.~~
- ~~b. Roosters are prohibited.~~
- ~~c. All allowed poultry must be confined to the property, and any compound, pen, run, shed, or fenced area of confinement shall not be located closer than 20 feet to a dwelling on any abutting parcel.~~
- ~~d. No compound, pen, run, shed, or fenced area of confinement shall be located within the required front yard setback, or be visible from a public street.~~
- ~~e. The owner of the allowed poultry shall maintain the property in a safe condition (including but not limited to keeping heat lamps the minimum manufacturer specified distance from flammable materials, and using electrical systems appropriate for an outdoor use); and in a sanitary condition (in accordance with Section 5.500). The construction and/or use of any compound, pen, run, shed, or fenced area of confinement shall comply with any applicable building and/or fire codes.~~

~~(2) As used in this section, "allowed poultry" means chickens, ducks, geese, swans and all other domesticated fowls or birds of comparable size.~~

~~(3) No person shall keep ostriches, emus, peacocks, turkeys, or similar birds on a residential property, or on property legally developed as residential property.~~

~~(4) Any violation of this section, or any odors, noise, or other unsanitary conditions which disrupt neighboring properties shall be declared a public nuisance, and may be abated in the manner provided for in Sections 5.520 through 5.535.~~

~~(5) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.~~

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2017.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2017.

Mayor

NOTE: Matter in bold is new.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 80.6

www.ci.medford.or.us

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

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: December 21, 2017

COUNCIL BILL 2017-147

An ordinance authorizing a contract amendment with Professional Credit Services to revise language pertaining to compensation and costs.

SUMMARY AND BACKGROUND:

The City contracted with Professional Credit Services (PCS) to collect delinquent utility accounts in November 2015. The compensation section of the contract is vague and is being interpreted differently by PCS and the City. This proposed amendment provides needed clarity to the satisfaction of both parties.

PREVIOUS COUNCIL ACTIONS

On October 15, 2015, Council approved Ordinance No. 2015-109, appointing PCS to provide utility billing collection agency services for a three-year term beginning November 1, 2015, with options to renew for up to two additional three-year terms.

ANALYSIS

PCS adds a 23% collection fee on all monies collected on the City's behalf. The City understood that it would receive 100% of the principal (amount owed to the City by its customers) and PCS would retain the 23% collection fee. PCS interpreted the contract to mean that the 23% would be added to the principal and they would retain 23% of the combined total. This resulted in the City receiving 94.71% of the principal amount referred to PCS, e.g. $100\% - (123\% \times 23\%) = 94.71\%$.

PCS and the City have corrected erroneous fund transfers, but constant vigilance and considerable extra effort by both parties has been required. This proposed language will reduce or eliminate such problems.

The contract is revised to clarify that the City receives 100% of the principal and PCS receives a 23% commission.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None. PCS honored the City's interpretation of the contract in practice.

TIMING ISSUES

PCS would like the contract amendment approved as soon as possible to avoid confusion with their staff regarding payments to the City.

COUNCIL OPTIONS

- Approve the ordinance.
- Modify the ordinance.
- Deny the ordinance and provide direction to staff regarding contract language clarification.

STAFF RECOMMENDATION

Approve the ordinance modifying the contract with Professional Credit Services.

SUGGESTED MOTION

I move to approve an amendment to the contract with Professional Credit Services.

EXHIBITS

Ordinance

Contract documents are available in the City Recorder's Office

ORDINANCE NO. 2017-147

AN ORDINANCE authorizing a contract amendment with Professional Credit Services to revise language pertaining to compensation and costs.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That a contract amendment with Professional Credit Services to revise language pertaining to compensation and costs, 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 _____, 2017.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2017.

Mayor