



Eugene City Council

125 E. 8th Ave., 2nd Floor
Eugene, OR 97401-2793
541-682-5010 • 541-682-5414 Fax
www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA

October 20, 2014

5:30 p.m. CITY COUNCIL WORK SESSION

Harris Hall

125 East 8th Avenue

Eugene, Oregon 97401

7:30 p.m. CITY COUNCIL MEETING

Harris Hall

125 East 8th Avenue

Eugene, Oregon 97401

**Meeting of October 20, 2014;
Her Honor Mayor Kitty Piercy Presiding**

Councilors

George Brown, President

Pat Farr, Vice President

Mike Clark

George Poling

Chris Pryor

Claire Syrett

Betty Taylor

Alan Zelenka

CITY COUNCIL WORK SESSION

Harris Hall

**6:00 p.m. A. WORK SESSION:
EWEB Riverfront Master Plan Update**

CITY COUNCIL PUBLIC HEARING
Harris Hall

- 1. Public Comment on Potential Removal of Traffic Island at Crest Drive and Lincoln Street**

- 2. PUBLIC HEARING:
An Ordinance Concerning Establishment of a Tax on Marijuana and Adding Sections 3.630 through 3.646 to the Eugene Code, 1971**
(Note: Time permitting, action on the Consent Calendar may be taken at the 5:30 p.m. work session.)

**time approximate*

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, FM assistive-listening devices are available or an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

City Council meetings and work sessions are broadcast live on the City's Web site. In addition to the live broadcasts, an indexed archive of past City Council webcasts is also available. To access past and present meeting webcasts, locate the links at the bottom of the City's main Web page (www.eugene-or.gov).

El Consejo de la Ciudad de Eugene aprecia su interés en estos asuntos de la agenda. El sitio de la reunión tiene acceso para sillas de ruedas. Hay accesorios disponibles para personas con afecciones del oído, o se les puede proveer un interprete avisando con 48 horas de anticipación. También se provee el servicio de interpretes en idioma español avisando con 48 horas de anticipación. Para reservar estos servicios llame a la recepcionista al 541-682-5010. Todas las reuniones del consejo estan gravados en vivo en Metro Television, canal 21 de Comcast y despues en la semana se pasan de nuevo.

For more information, contact the Council Coordinator at 541-682-5010,

[visit our website at www.eugene-or.gov](http://www.eugene-or.gov)

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Work Session: Eugene Water & Electric Board Riverfront Redevelopment Project Update

Meeting Date: October 20, 2014
 Department: Planning & Development
www.eugene-or.gov

Agenda Item Number: A
 Staff Contacts: Denny Braud
 541-682-5536

ISSUE STATEMENT

The adopted Eugene Water & Electric Board (EWEB) Riverfront Master Plan and EWEB's recent selection of the University of Oregon Foundation to redevelop the riverfront property presents a unique opportunity to transform the former industrial and utility use into an iconic waterfront that reflects the values of compact urban development, economic opportunity, neighborhood livability, and enhanced natural resources expressed in the Envision Eugene pillars. An update on the EWEB Riverfront Redevelopment Project will be provided at this work session.

BACKGROUND

For more than a decade, the community and City Council have been actively involved in visioning, planning, and implementing the EWEB Riverfront Redevelopment Project. The 2004 Eugene Downtown Plan identified the EWEB property as the best opportunity for downtown to connect to the riverfront. The Downtown Plan specifically identified "partner with EWEB to develop a master plan for the EWEB site" as a key project. The Downtown Plan also stipulated the process by which the riverfront could be developed, and required that a master plan first be completed with extensive public engagement and then submitted to the City Council for approval.

Based on a 2007 Memorandum of Understanding (MOU) between the City and EWEB, a jointly appointed Community Advisory Team (CAT) began working with EWEB, City staff, and consultants to develop the Master Plan. Development of the Master Plan was guided by the CAT which held over 40 public meetings, along with design team led charrettes, stakeholder interviews, presentations, and workshops. The extensive public involvement process resulted in creative input and comments from over a 1,000 community members. Ultimately, a community-supported design for the entire 27-acre property emerged and was unanimously approved by the EWEB board.

In March 2012, the City and EWEB entered into a second MOU which outlined continued collaboration with respect to the riverfront redevelopment project. The required regulatory framework was developed to provide the code and plan amendments for the Master Plan. In July

2013, the Master Plan, captured in code as the Downtown Riverfront Special Area Zone, was approved by the City Council.

The adopted code and Master Plan identify a portion of the riverfront property for cultural landscape and open space. In February 2014, the City and EWEB amended the 2012 MOU to outline agreements related to the desired publicly-owned park within the riverfront redevelopment project. Development of the park property is intended to enhance public access to the riverfront as well as to create a valuable amenity to future private development. The MOU provides for certainty that the park will remain in public ownership and sets forth a general timeline for the future development of the park. The basic terms of the MOU agreement include development of an approximately three-acre park, EWEB deeding the park property to the City for one dollar, the City funding not less than \$3 million of the park improvements consistent with the Master Plan and contingent on the appropriation of necessary funds, and EWEB providing not less than \$500,000 for future maintenance of the park property. The intent of the agreement is to have the park development occur concurrent with private development of the property, or within five years, whichever is sooner.

In March 2014, EWEB issued a Request for Qualifications/Information (RFQ) for redevelopment of the downtown riverfront property. Four strong development teams responded to the RFQ: Paradigm Properties, Trammell Crow, University of Oregon Foundation, and Williams & Dame. The extensive RFQ review process included a review panel (with EWEB staff, City of Eugene staff, and consultants), a public presentation by the three development team finalists, an advisor panel (with the Eugene City Manager included), and input from members of the original CAT.

At its October 7, 2014, meeting, the EWEB Board unanimously selected the UO Foundation team as the successful master developer of the surplus EWEB riverfront property. The EWEB Board also provided direction to the General Manager to enter into negotiations with the UO Foundation for a period of up to six months to develop an initial agreement for the sale and redevelopment of the property. The selected team includes the UO Foundation as lead development entity; Seattle-based Spectrum Development as fee developer; Eugene-based deChase Miksis, project management; Eugene residents Hugh Prichard and Harris Hoffman as project advisors; Eugene-based Rowell Brokaw Architects; and Vancouver, B.C.-based PWL Partnership, landscape architects. Selection of the master developer for the EWEB Riverfront property represents the culmination of many years of planning and community engagement to determine the appropriate level of development and desired mix of uses for the riverfront, and also represents the beginning of a new phase of implementation and redevelopment for the site.

The committed participation of the City, working closely with EWEB and the UO Foundation team, will be essential to ensuring the best public benefit outcomes for this long-envisioned redevelopment opportunity. The primary focus throughout will be guiding redevelopment of the property consistent with the community's vision as expressed in the EWEB Riverfront Master Plan and codified in the Downtown Riverfront Special Area Zone.

RELATED CITY POLICIES

Redevelopment of the EWEB Riverfront property supports many goals for Eugene and downtown, including:

Eugene Downtown Plan

- Incorporate the Willamette River as an integral element to downtown planning and development.
- Collaborate with EWEB to encourage relocation of their utility facilities. Create a “people place” that is active, vibrant, accessible and multi-use.
- Facilitate dense development in the courthouse area and other sites between the core of downtown and the river.
- Stimulate multi-unit housing in the downtown core and on the edges of downtown for a variety of income levels and ownership opportunities.
- Downtown development shall support the urban qualities of density, vitality, livability and diversity to create a downtown, urban environment.
- Actively pursue public/private development opportunities to achieve the vision for an active, vital, growing downtown.
- Use downtown development tools and incentives to encourage development that provides character and density downtown.
- Facilitate dense development in the courthouse area and other sites between the core of the downtown and the river.
- Promote adjacent park and open space areas as a valuable complement to downtown’s urban places. Improve connections between downtown and nearby nature areas.

Envision Eugene Pillars

- Promote compact urban development and efficient transportation options.
 - Integrate new development and redevelopment in the downtown, in key transit corridors and in core commercial areas.
 - Meet the 20-year multi-family housing need within the existing Urban Growth Boundary.
 - Make compact urban development easier in the downtown, on key transit corridors, and in core commercial areas.
- Provide housing affordable to all income levels.
- Provide ample economic opportunities for all community members.
- Protect, repair, and enhance neighborhood livability.
- Protect, restore, and enhance natural resources.

Regional Prosperity Economic Development Plan

- Strategy 5: Identify as a Place to Thrive - Priority Next Step - Urban Vitality
 - As we foster a creative economy, dynamic urban centers are an important asset. Eugene, Springfield and many of the smaller communities in the region recognize the importance of supporting and enhancing vitality in their city centers. Building downtowns as places to live, work and play will support the retention and expansion of the existing business community and be a significant asset to attract new investment. The Cities of Eugene and Springfield will continue to enhance their efforts to promote downtown vitality through development and redevelopment.

Eugene Climate & Energy Action Plan

- Increase density around the urban core and along high-capacity transit corridors
- Continue to expand and improve Eugene's bicycle and pedestrian infrastructure and connectivity to increase the percentage of trips made by bike and on foot.

City Council Goal of Sustainable Development

- Increased downtown development

COUNCIL OPTIONS

Information only. No options identified at this time.

CITY MANAGER'S RECOMMENDATION

Information only. No recommendation identified at this time.

SUGGESTED MOTION

No action required at this time.

ATTACHMENTS

None.

FOR MORE INFORMATION

Staff Contact: Denny Braud
Telephone: 541-682-5536
Staff E-Mail: denny.braud@ci.eugene.or.us



Riverfront Redevelopment

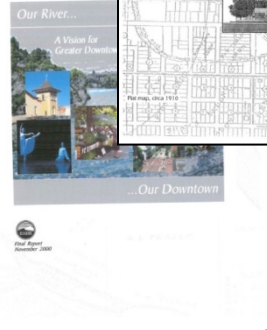
-7-



Riverfront Redevelopment



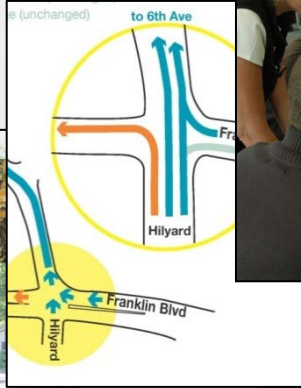
- What we've accomplished
- Current Status
- Opportunities and Challenges
- Key Next Steps



2000
Downtown
Vision



2002
Courthouse
District
Concept Plan



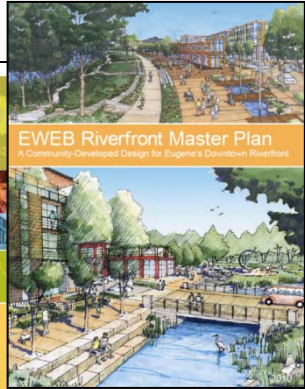
2004
Downtown
Plan Adopted



2006
Transportation
Improvements



2008
Selection of
Community
Advisory
Members



2012
Envision
Eugene

2013
Approval of
the Master
Plan

Applications Recommendation Work Commission CAT
Consultant Use Land
Public Hearing
Team Planning
Session
Workshop Meeting
Council City





-11-



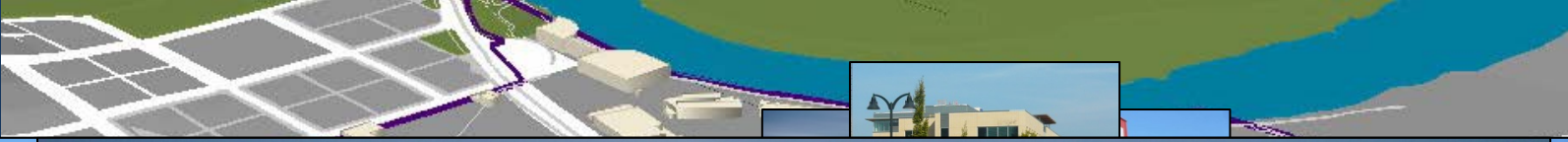
-12-



-13-

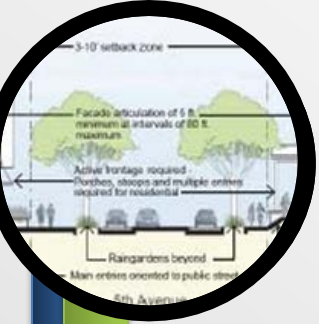


Item A.



-14-





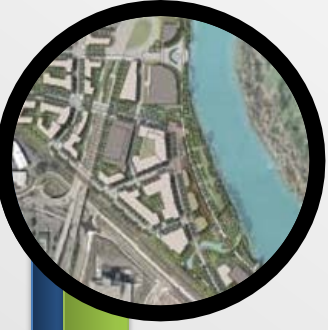
Master Plan and Code Amendments

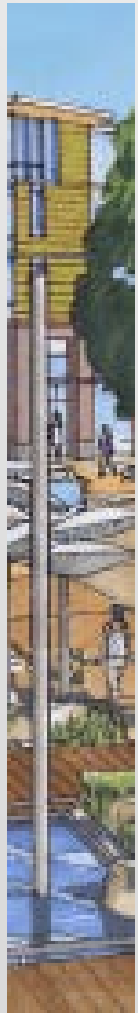
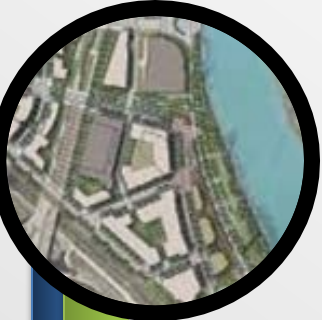


Key Elements of Master Plan

Key design concepts:

- A pedestrian-oriented, accessible and welcoming place
- Diverse mix of public and private uses
- Habitat enhancement, riverfront open space, integrated stormwater and green streets
- Flexible design framework while maintaining consistency with overall concept
- Redevelopment that contributes to the economic vitality of Eugene





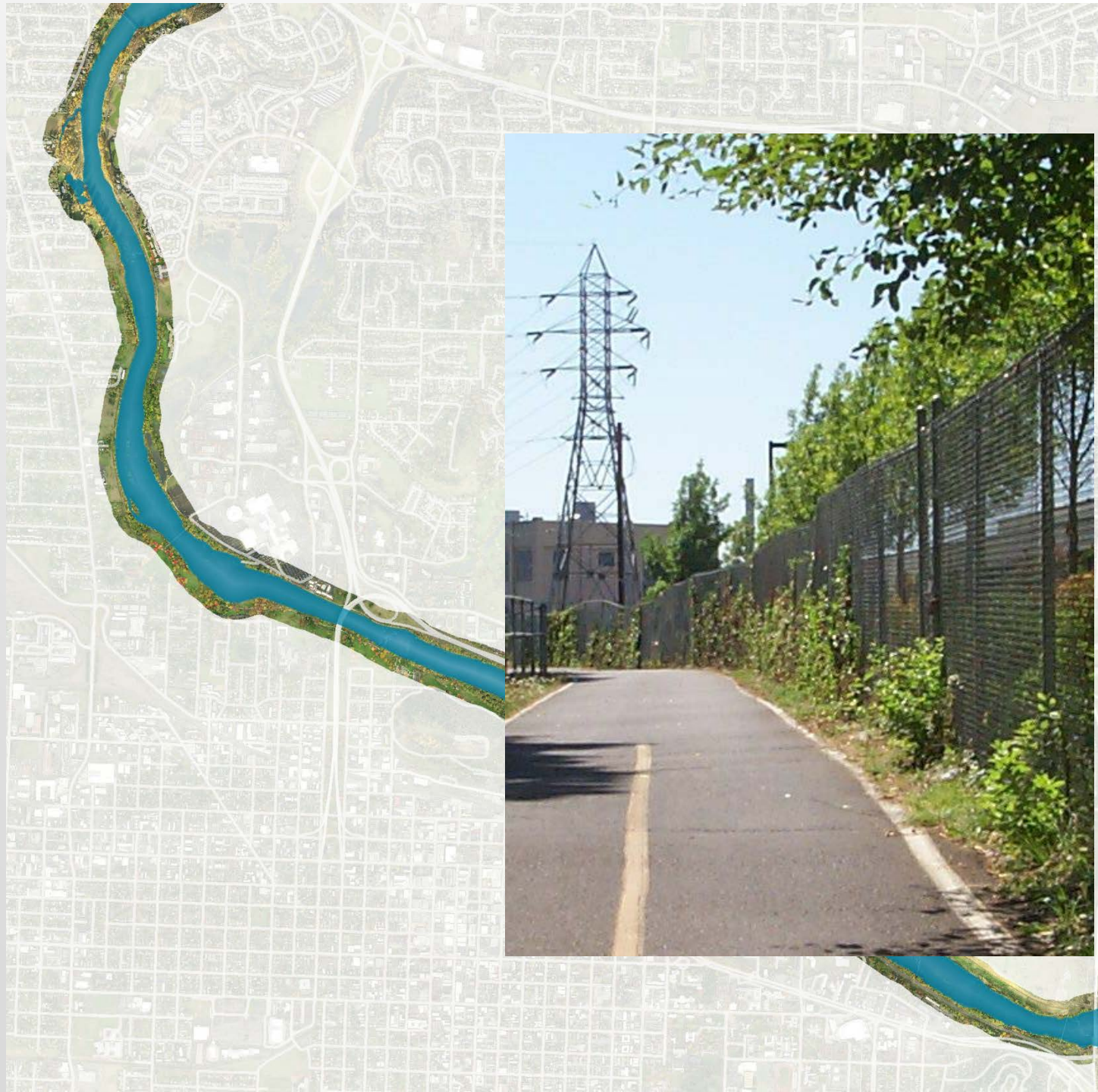
OPEN SPACE PROGRAM

- ① **Pollinator Knoll & Overlook**
 - Native meadow / upland prairie
 - Visible from down river
 - Publicly accessible overlook with up river views
 - Viewing shelter at top of knoll
 - Picnic grove / berry-picking patch at base of knoll
- ② **Urban Agriculture**
 - Community gardens
 - Community orchards
 - Potting sheds and garden storage
- ③ **River Overlook**
 - Terminus of 8th Avenue Great Street
 - Beautiful view across and upriver
 - Potential blueped crossing to Alton Baker Park
- ④ **Wetland Park**
 - Natural systems at work
 - Stormwater cleansing
 - Native plants
 - Seating areas
 - Walking paths and viewing decks
- ⑤ **Adventure Play Area**
 - Children's play area and overlook to wetland
 - Water play to drain into wetland
 - Natural play structures
- ⑥ **River Boardwalk**
 - Public promenade overlooking river
 - Seating terraces
 - ADA connections to continuous blue path & nature trail along top of bank
 - Connection to Restaurant Row patios and terraces

- ⑦ **Pedestrian-Oriented Streets**
 - Rain gardens and bioswales
 - Street trees and native plantings
 - Active frontages with "eyes on the street"
 - Special paving at feature areas
- ⑧ **Riverfront Park**
 - Native meadow grass that can be mown for festivals
 - Native plants and trees
 - Informal seating & pathways
 - Stormwater cleansing and collection
- ⑨ **Viewing Platform**
 - Educational aspect / interpretive site
 - Variety of seating opportunities
 - Rain Shelter
 - Provides views up and down river, and overlooks enhanced riparian zone

- ⑩ **Riparian Enhancement / Interpretive Sites**
 - Nature trail at top of bank
 - Seating areas along nature trail
 - Educational aspects / interpretive sites related to river, natural systems, cultural history, public art, etc.
- ⑪ **River Plaza**
 - Public gathering place / event location
 - Kinetic water feature
 - Festival street connection (when closed to traffic)
- ⑫ **Informal Seating Terrace**
 - Informal stone seating on blocks interweaves with native vegetation
 - Overlooks riverfront open space
- ⑬ **EWEB Water Plaza**
 - Existing Plaza and river overlook
- ⑭ **Train Plaza**
- ⑮ **Private Open Space**
- ⑯ **Riverbank Trail System**
- ⑰ **Water Intake / Interpretive Site**
- ⑱ **Public Access to Riverbank Trail System**
- ⑲ **Public Green Space**
- ⑲ **Public Access to Riverbank Trail System**
- ⑳ **Urban Gardens**







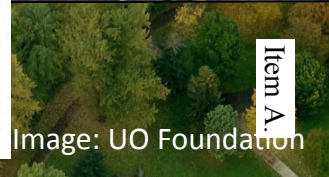
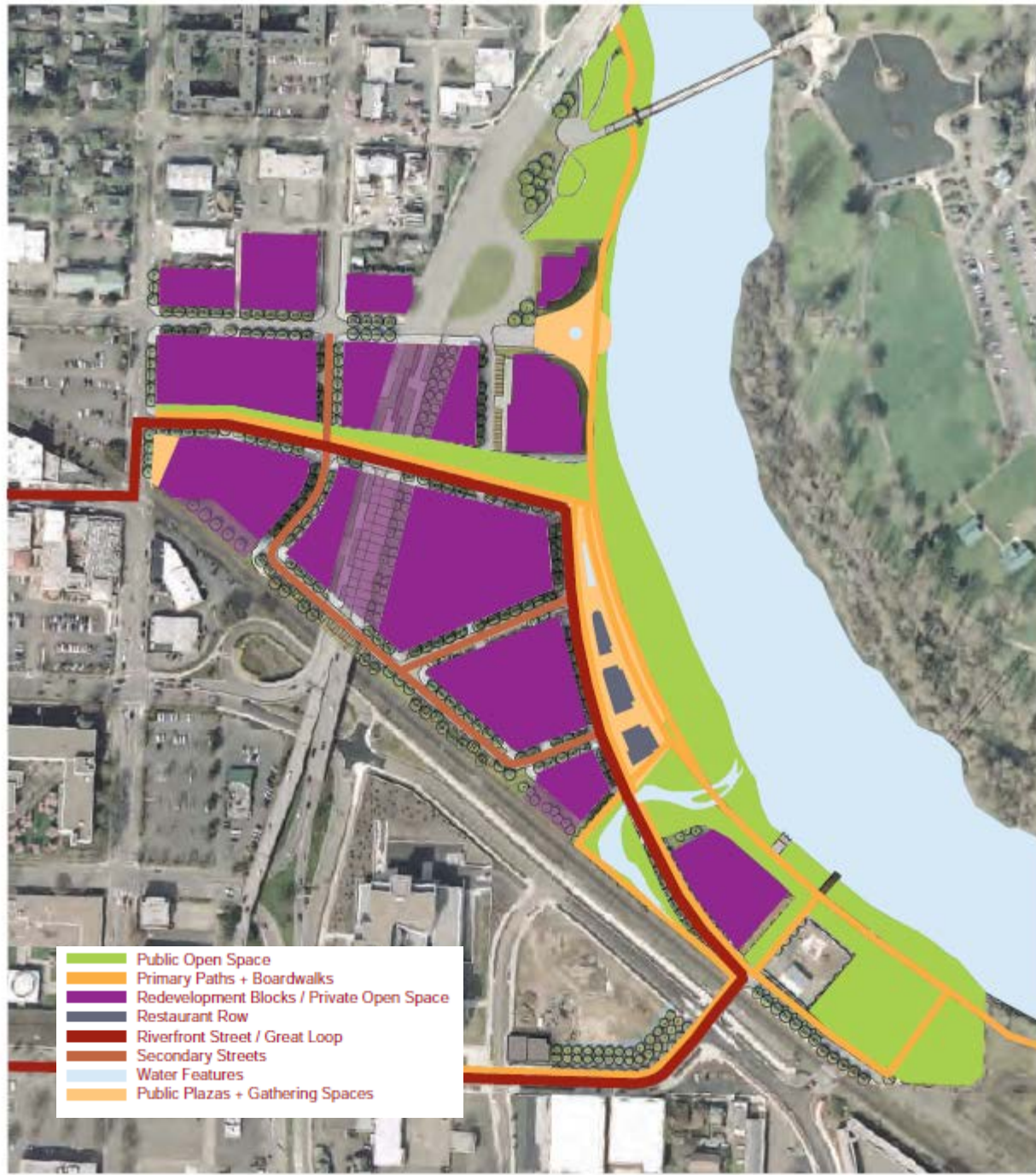
-20-

Image: UO Foundation

- UO Foundation
- Spectrum Development
- deChase Miksis
- Hugh Prichard and Harris Hoffman
- Rowell Brokaw Architects
- PWL Partnership



-21-

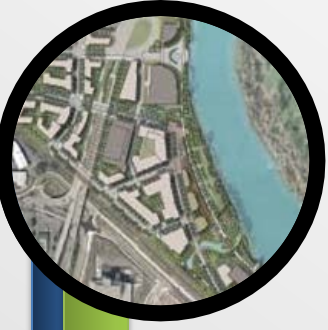


Item A

Image: UO Foundation

Next Steps

- EWEB - UO Foundation negotiations
- Project Team
- Environmental assessment
- Hazardous material remediation - Steam Plant
- Finalize public park agreement
- Identify public/private partnership opportunities
- Develop triple bottom line analysis tool
- Establish project framework - Master Plan consistency





Key City Role

- Stay true to the community's vision for an active, inviting people place
- Evaluate partnership opportunities and use of tools to build to the vision



Image: UO Foundation



-24-

EWEB Riverfront Master Plan

Public Benefits:

- \$110 million new construction
- Over 300 new housing units
- Adaptive reuse of historic buildings
- Estimated 700 permanent jobs, 650 construction jobs
- \$111 million added to the tax base
- \$2 million new annual property tax revenue

EWEB Riverfront Master Plan

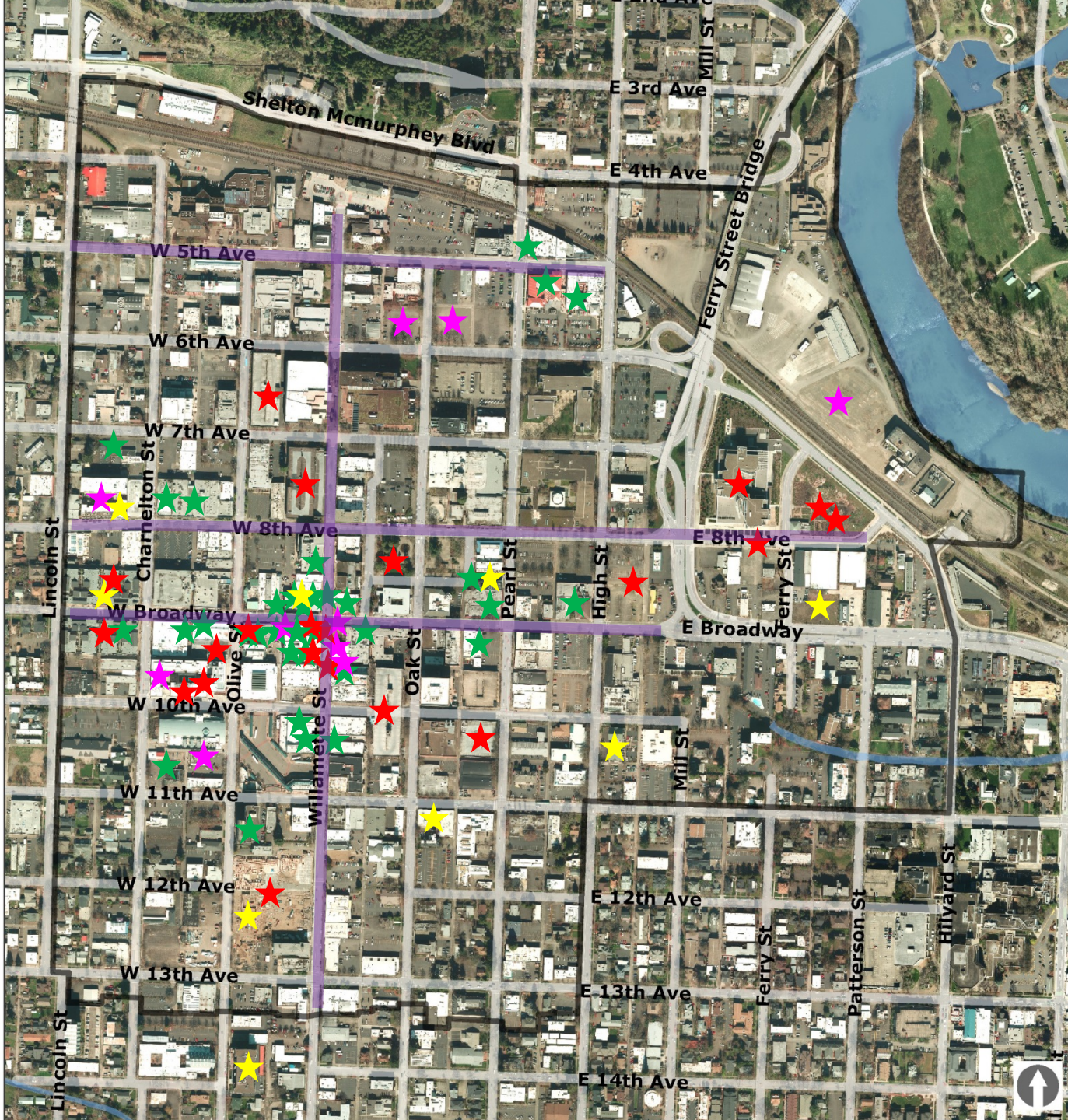
Urban Renewal Costs Assumptions:

- Railroad crossing at 8th Ave. \$ 1.5 M
- Park/Open Space \$ 5.9 M
- Roads \$ 1.8 M
- Historic Buildings, Other \$ 3.0 M
- Project Delivery/Admin \$ 2.9 M

Downtown Redevelopment Tools



- Downtown Revitalization Loans
- CDBG/Business Development Fund Loans
- CDBG/Housing Rehab Loans
- SDC Financing
- Urban Renewal
- Parking
- City Tenancy
- Downtown Services District
- Downtown Activity Zone
- Broadband Pilot
- Code Amendments
- Advocacy
- Alley Vacation
- MUPTTE
- LIRHPTE
- Low-Income Housing Tax Credits
- CDBG/Landbank
- HOME
- HUD 108
- BEDI Grant
- Recovery Zone Bonds
- EPA/Brownfields Assessment Grant
- EECBG





-30-

Item A



-31-





Agripac/Courthouse Redevelopment





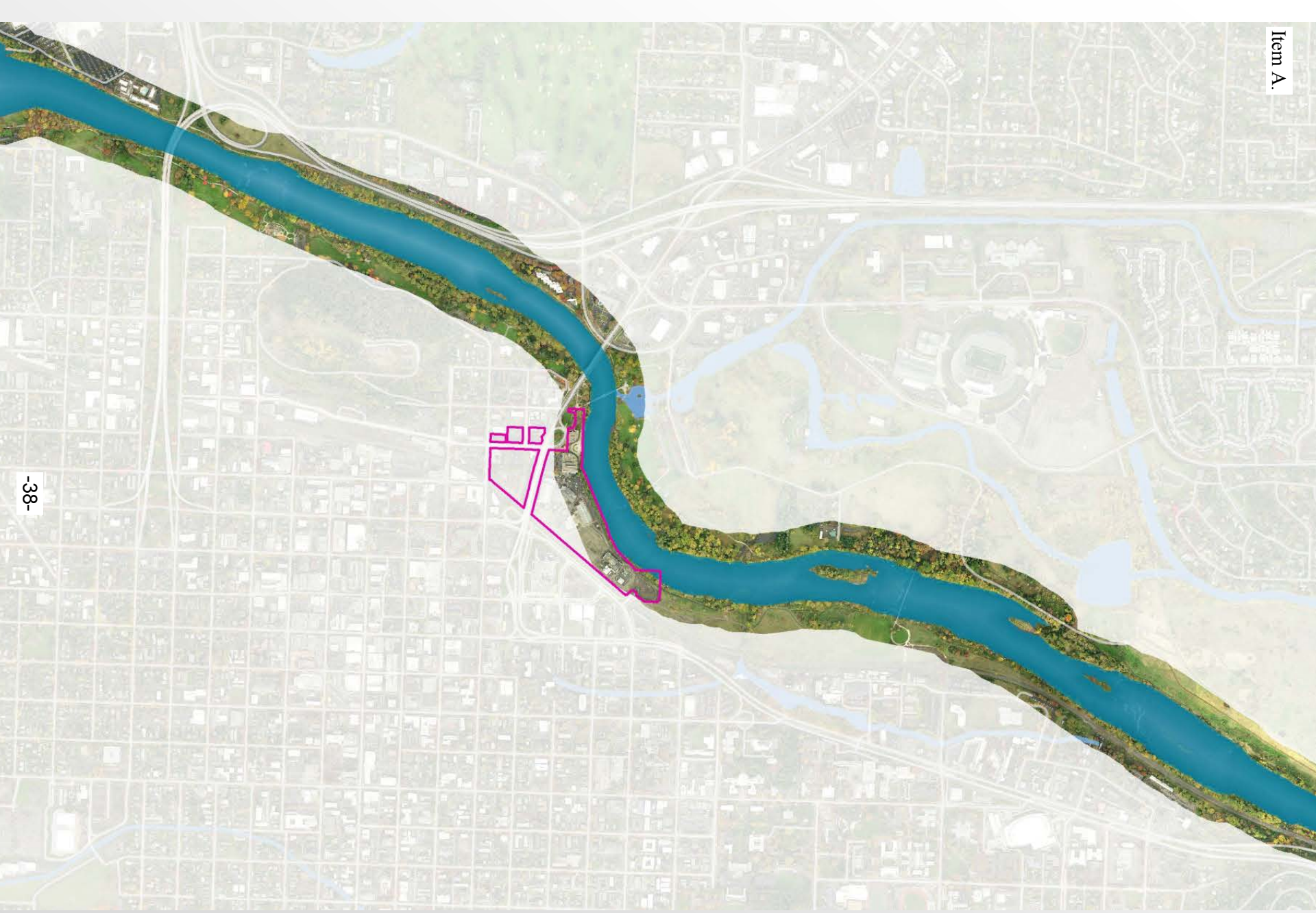
-35-



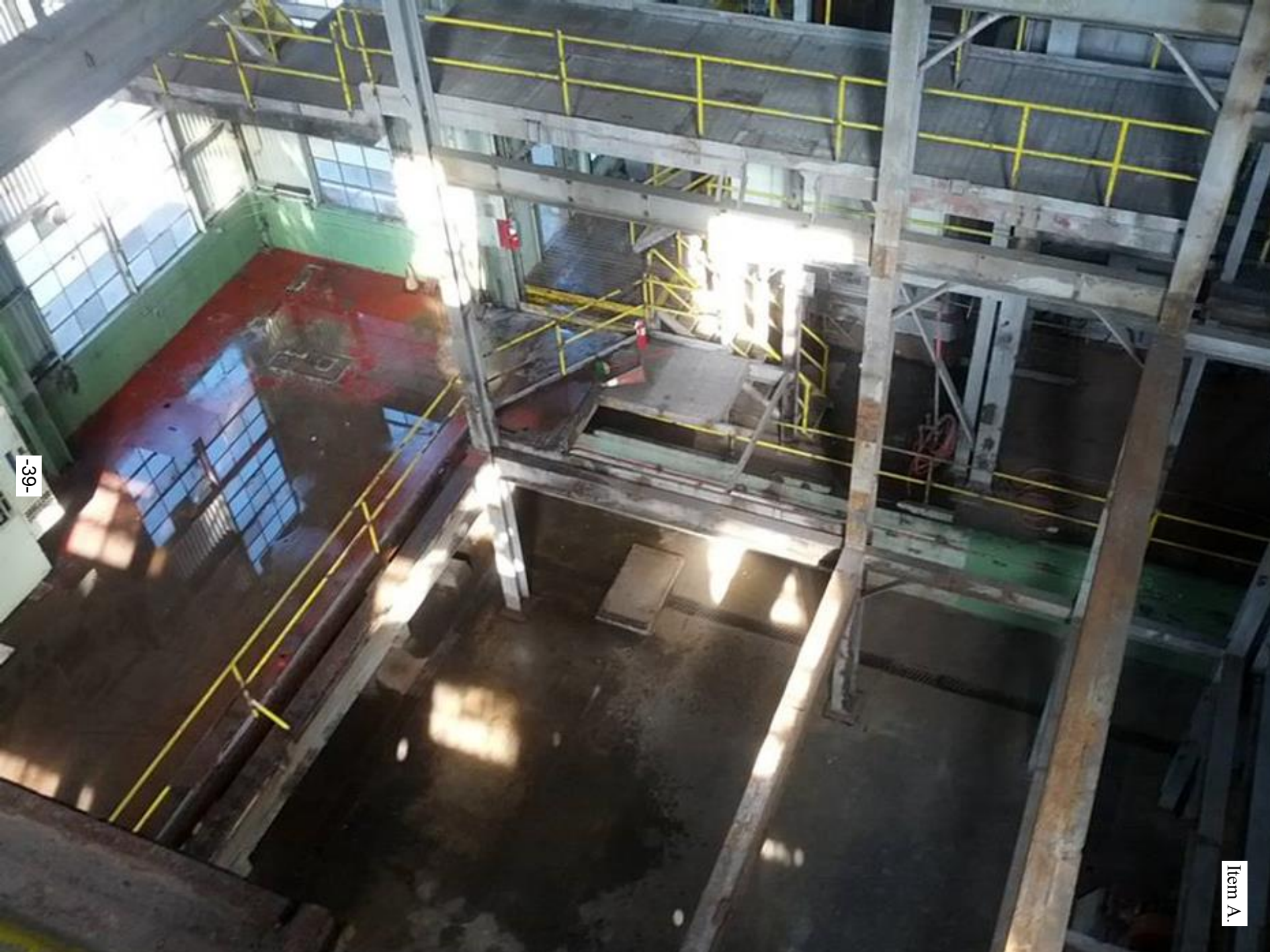


-37-

Item A.



-38-



-39-

Item A

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Comment on Potential Removal of Traffic Island at Crest Drive and Lincoln Street

Meeting Date: October 20, 2014
 Department: Public Works Engineering
www.eugene-or.gov

Agenda Item Number: 1
 Staff Contact: Mark Schoening
 Contact Telephone Number: 541-682-5243

ISSUE STATEMENT

This is an opportunity for the council to hear from community members about a proposal to remove the traffic island at the intersection of Crest Drive and Lincoln Street. Councilor Betty Taylor requested consideration of this action in response to constituent concerns that the current configuration is dangerous, especially in bad weather.

BACKGROUND

The traffic island at the intersection of Crest Drive and Lincoln Street was constructed in 2010 as part of the Crest Drive, Storey Boulevard and Friendly Street improvement project. The design of the street improvements, including the traffic island, was part of the context-sensitive solutions process led by the Crest Drive Community Team. The design of the street improvements was approved by the City Council after a public hearing.

The street improvements were funded by a combination of City funds and assessments to the abutting property owners. The traffic-calming features, including the traffic island, were funded with City funds. The General Fund was the source for City funds since the streets were functionally classified as local streets and not eligible for funding with transportation systems development charges.

State law requires that any vehicle crash that results in death or bodily injury or greater than \$1,500 damage to any vehicle or property, or any vehicle involved is towed from the scene, must be reported. The most recent crash history documentation available to the City is 2012. From the completion of construction through the end of 2012 there has not been any reported crashes at the intersection of Crest Drive and Lincoln Street.

The cost to remove the traffic island and repave the street is estimated at \$16,000.

The council held a work session on October 13, 2014, to discuss the proposed modification. The chair of the Crest Drive Citizens Association (CDCA) was notified of the work session by e-mail on July 18, 2014. An article on the work session was included in the CDCA electronic newsletter sent

on July 20, 2012. Staff has not received any public comment on this topic to-date.

RELATED CITY POLICIES

TransPlan Policies

- TSI System-Wide Policy # 4 Neighborhood Livability – Support transportation strategies that enhance neighborhood livability.
- TSI Roadway Policy #1 Mobility and Safety for all Modes – Address the mobility and safety needs of motorists, transit users, bicyclists, pedestrians, and the needs of emergency vehicles when planning and constructing roadway system improvements.

COUNCIL OPTIONS

The council may approve the removal of the traffic island, decline to take any action, or provide other direction.

CITY MANAGER’S RECOMMENDATION

The City Manager has no recommendation on this item.

SUGGESTED MOTION

No motion is suggested for this item.

ATTACHMENTS

- A. Photo of traffic island at Crest Drive and Lincoln Street

FOR MORE INFORMATION

Staff Contact: Mark Schoening
Telephone: 541-682-5243
Staff E-Mail: mark.a.schoening@ci.eugene.or.us

Attachment A



Crest Drive – Lincoln Street Traffic Circle

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Concerning Establishment of a Tax on Marijuana and Adding Sections 3.630 through 3.646 to the Eugene Code, 1971

Meeting Date: October 20, 2014
 Department: City Manager's Office
www.eugene-or.gov

Agenda Item Number: 2
 Contact: Glenn Klein
 Contact Telephone Number: 541-682-8447

ISSUE STATEMENT

At the November 2014 election, voters will be asked whether to pass Ballot Measure 91, the "Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act." The Eugene City Council is seeking public input on whether the council should adopt an ordinance that would impose local taxes on the sale of marijuana in the event that Measure 91 passes.

BACKGROUND

If Measure 91 passes this November, adults 21 or older will be allowed to recreationally use or grow marijuana (and make products in small amounts for non-commercial purposes). While Measure 91 is intended to regulate only recreational marijuana, the measure presents language that may impact local governments' ability to charge taxes or fees on recreational *and* medical marijuana.

Measure 91 authorizes commercial production, processing and retail subject to licensing by the Oregon Liquor Control Commission (OLCC). OLCC will begin accepting license applications on or before January 2016. Measure 91 is not intended to amend or alter the Oregon Medical Marijuana Act; regulation of medical marijuana will remain under Oregon Health Authority's (OHA) jurisdiction.

OLCC will levy a tax against producers of \$35 per ounce for flowers; \$10 per ounce for leaves; and \$5 per immature plant. The tax proceeds will be deposited into "Oregon Marijuana Account." The Marijuana Account will be separate from the State's General Fund. Tax proceeds will then be distributed as follows:

- 40 percent to Common School Fund
- 20 percent to State's Mental Health Alcoholism and Drug Services
- 15 percent to State Police
- 10 percent to cities - to assist local law enforcement in performing its duties under the Act. (Prior to 2017, the distributions will be made according to population; after 2017, the

- distributions will be based on population and number of licenses issued by OLCC.)
- 5 percent to OHA for alcohol and drug abuse prevention

There is nothing in **current** Oregon law that prohibits a local government from taxing or charging fees on marijuana. It is possible that courts will interpret Measure 91 – if voters approve it – to preempt a city or county from adopting or imposing taxes or fees on marijuana. Absent a court decision, there is no guarantee that a local tax or fee imposed prior to the passage of Measure 91 would survive beyond the effective date of the initiative. Alternatively, the Legislature may modify the language to allow taxes passed prior to the measure being grandfathered or repeal the prohibition on the local taxation of marijuana entirely.

Because the state of the law is unknown, cities throughout the state are considering whether or not to pass a local tax. Currently, Ashland, Medford, King City, Milwaukie, and Tigard have passed a local tax. The City of Springfield held a public hearing on the tax on October 13, 2014, and is scheduled to act on the Ordinance on October 20, 2014. Lane County’s marijuana tax ordinance is scheduled for a second reading and public hearing on October 21, 2014.

There are several potential tax structures. The City of Ashland imposed a gross receipts tax on the sale of medical marijuana, recreational marijuana (should it be legalized by Oregon voters in November) and marijuana-infused products. The ordinance imposes a five percent tax on medical marijuana and a 10 percent tax on recreational marijuana. Alternatively, the City may consider imposing a tax rate based on per ounce sale of flowers, leaves, and immature plants—like Measure 91’s tax structure.

The council could choose to impose no tax, impose a tax only with respect to recreational use, or impose a tax on the sale of marijuana for both recreational use and medical use. The council also could choose to impose the tax on the producer, the processor, the wholesaler and/or the retailer.

If the council chooses to adopt an ordinance, the council should act at its October 27 meeting to do so (in order to act before the November election). In order to be able to act on October 27, the council will need to give direction immediately following the public hearing on what should be taxed and how the tax should be structured.

COUNCIL OPTIONS

No formal action is sought at this meeting; council action is scheduled for October 27, 2014.

However, if the council wants to pursue adoption of a tax, the council should give direction at the October 20 meeting so that a final ordinance can be prepared. Options include:

- (1) Don’t adopt any tax; adopt a tax on the sale for recreational use; or adopt a tax on the sale for both recreational and medical use.
- (2) Impose a tax on the sale to the consumer; impose a tax on the sale to the processor, wholesaler or retailer; or impose a sale on all of the above.
- (3) Establish a tax that is a percentage of the gross receipts of the seller; establish a tax similar to Measure 91’s structure (\$35 per ounce on all marijuana flowers; \$10 per ounce on all marijuana

leaves; and \$5 per immature marijuana plant); or establish a tax that is pegged to state (Measure 91) tax – for example, city tax equal to 50 percent of the rate imposed by the State.

CITY MANAGER’S RECOMMENDATION

The City Manager has no recommendation.

SUGGESTED MOTION

No motion is proposed for this work session. Staff will be available to assist councilors with crafting a motion should the council indicate a desire to proceed with adoption of an ordinance on October 27.

ATTACHMENTS

A. Proposed Ordinance

FOR MORE INFORMATION

Staff Contact: Glenn Klein, City Attorney
Telephone: 541-682-8447
Staff E-Mail: glenn.klein@ci.eugene.or.us

ORDINANCE NO. _____

AN ORDINANCE CONCERNING ESTABLISHMENT OF A TAX ON MARIJUANA AND ADDING SECTIONS 3.630 THROUGH 3.646 TO THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 3.630 through 3.646 of the Eugene Code, 1971, are added to provide as follows:

3.630 **Marijuana Tax – Purpose.** The purpose of the levy of the taxes imposed by sections 3.630 through 3.646 of this code is for raising funds for the payment of direct and indirect expenses related to enforcement of marijuana laws in general, educational and public health programs to mitigate any negative consequences associated with the consumption of marijuana and marijuana products, programs to prevent the illegal diversion of marijuana to persons under the age of 21; and to otherwise pay the expenses of operating and improving the city and its facilities.

3.632 **Marijuana Tax – Definitions.** As used in sections 3.630 through 3.646, the following words and phrases mean:

City manager. The city manager or the manager’s designee.

Consumer. A person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.

Designated primary caregiver. An individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person’s application for registry identification care or in other written notification to the Oregon Health Authority.

Immature marijuana plant. A marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter. A marijuana plant that does not meet all three criteria shall be considered a mature plant.

Marijuana. All parts of the plant Cannabis family Moraceae, whether growing or not, other than marijuana extracts.

Marijuana extract. A product obtained by separating the resins from marijuana by solvent extraction, using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol and carbon dioxide.

Marijuana items. Marijuana, marijuana products and marijuana extracts.

Marijuana processor. A person who processes marijuana within the city.

Marijuana producer. A person who produces marijuana within the city.

Marijuana products. Products that contain marijuana or marijuana extracts and are intended for human consumption, but does not include marijuana by itself or a marijuana extract by itself.

Marijuana retailer. A person who sells marijuana items to a consumer in the city.

Marijuana wholesaler. A person who purchases marijuana items for resale to a person other than a consumer within the city.

Person. Any natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, joint venture, or any other legal entity.

Processes. Any of the following:

- (1) The processing, compounding, or conversion of marijuana into marijuana products or marijuana extracts;
- (2) The processing, compounding, or conversion of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis;
- (3) The packaging or repackaging of marijuana items;
- (4) The labeling or relabeling of any package or container of marijuana items.

Produces. The manufacture, planting, cultivation, growing or harvesting of marijuana.

Registry identification card holder. A person who holds a valid registry identification card issued by the Oregon Health Authority.

Sale or Sold. Any transfer, exchange or barter, in any manner or by any means, for a consideration, and includes and means all sales made by a person. It includes a gift by a person engaged in the business of selling marijuana items, for advertising, as a means of evading sections 3.630 through 3.646 of this code, or for any other purpose. The term includes the transfer of useable marijuana and immature marijuana plants from a medical marijuana facility to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.

Useable marijuana. Dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.

3.634 Marijuana Tax – Tax Imposed.

- (1) There is levied and shall be collected upon all sales of marijuana items to a consumer by a marijuana retailer a gross receipts tax at the rate of six percent of the amount of the sale.
- (2) There is levied and shall be collected upon all sales of marijuana items by

marijuana producers, marijuana processors and marijuana wholesalers an excise tax of eight percent. The excise tax shall be imposed as follows:

- (a) Marijuana producers: Upon the sale of marijuana items to a marijuana wholesaler, marijuana processor or marijuana retailer.
 - (b) Marijuana processors: Upon the sale of marijuana items to a marijuana retailer.
 - (c) Marijuana wholesalers: Upon the sale of marijuana to a marijuana processor or marijuana retailer.
- (3) There is levied and shall be collected upon all sales of useable marijuana, immature marijuana plants and marijuana items to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder by a medical marijuana facility a gross receipts tax at the rate of six percent of the amount of the sale.

3.636 Marijuana Tax – Collection; Administration; and Enforcement.

- (1) Every marijuana producer, wholesaler, processor, retailer and medical marijuana facility subject to sections 3.630 through 3.646 of this code shall collect the applicable tax as provided for in section 3.634. The tax collected by a marijuana producer, wholesaler, processor, retailer and medical marijuana facility constitutes a debt owing to the city.
- (2) The city manager shall enforce the provisions of sections 3.630 through 3.646 of this code and shall have the power to adopt rules and regulations consistent with sections 3.630 through 3.646 of this code as may be necessary to aid in its enforcement.
- (3) Every marijuana producer, wholesaler, processor, retailer and medical marijuana facility shall keep complete and accurate electronic records in an accounting format established by the city manager relating to the sale of useable marijuana, immature marijuana plants and marijuana items. All records shall be kept for a period of three years. The city manager shall have the right to inspect such records at all reasonable times.
- (4) It shall be unlawful for any marijuana producer, wholesaler, processor, retailer and medical marijuana facility subject to sections 3.630 through 3.646 of this code to engage in the sale of useable marijuana, immature marijuana plants and marijuana items without a business license as required by the code.
- (5) The following deductions shall be allowed against sales of useable marijuana, immature marijuana plants and marijuana items received by a marijuana producer, wholesaler, processor, retailer and medical marijuana facility.
 - (a) Refunds of sales actually returned;
 - (b) Any adjustments in sales which amount to a refund, providing such adjustment pertains to the actual sale of useable marijuana, immature marijuana plants and marijuana items and does not include any adjustments for the other services furnished by a marijuana producer, wholesaler, processor retailer or medical marijuana facility.
- (6) All amounts of such taxes collected by a marijuana producer, wholesaler, processor, retailer or medical marijuana facility are due and payable to the city manager on a monthly basis on or before the last day of the month immediately following for the preceding month, and are delinquent if not paid by the due date. Each person subject to sections 3.630 through 3.646 of this code shall make a return to the city manager, on forms provided by the city, specifying the total sales and amount of tax collected. At the time the return is

filed, the full amount of the tax collected shall be remitted. For good cause shown, the city manager may extend the time for filing a return or paying the tax for not more than one month. Any further extension may be granted only by the council.

- (7) If an extension is granted, a marijuana producer, wholesaler, processor, retailer or medical marijuana facility shall pay interest at the rate of three percent per month on the amount of the tax due, without proration for a fraction of a month. If a return is not filed and if the tax and interest due are not paid in full by the end of the extension period, the interest shall become part of the tax for computation of penalties prescribed in section 3.995 of this code.

3.638 Marijuana Tax – Penalties and Interest.

- (1) Any marijuana producer, wholesaler, processor, retailer or medical marijuana facility that fails to remit any portion of the tax imposed within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the tax owed.
- (2) Any marijuana producer, wholesaler, processor, retailer or medical marijuana facility that fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance became delinquent shall pay a second delinquency penalty of 15 percent of the amount of the tax, in addition to the amount of the tax and penalty first imposed.
- (3) If the city manager determines that the nonpayment of any remittance due under sections 3.630 through 3.646 of this code is due to fraud, a penalty of 25 percent of the amount of the tax shall be added thereto, in addition to the penalties stated in subsection (1) of this section.
- (4) In addition to the penalties imposed, any marijuana producer, wholesaler, processor, retailer or medical marijuana facility that fails to remit any tax imposed shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (5) Every penalty imposed, and such interest as accrues under the provisions of this section, shall become a part of the tax required to be paid.

3.640 Marijuana Tax – Appeal. Any marijuana producer, wholesaler, processor, retailer or medical marijuana facility aggrieved by any decision of the city manager with respect to the amount of tax imposed or interest and penalties may appeal to the council by filing a notice of appeal pursuant to section 2.021 of this code.

3.642 Marijuana Tax – Action to Collect.

- (1) Any tax required to be paid to the city or collected and has not been paid to the city by any marijuana producer, wholesaler, processor, retailer or medical marijuana facility shall be deemed a debt owed to the city.
- (2) Within three years after the tax becomes payable or within three years after a determination becomes final, the city may bring an action in the name of the city in the courts of this state, another state, or the United States to collect the amount delinquent and penalties and interest.

3.646 Marijuana Tax – Violation of Ordinance.

- (1) Violation of a provision of sections 3.630 through 3.646 of this code constitutes a violation punishable by a fine as set forth in section 3.995 of this code. Each day in which a violation is caused or permitted to exist constitutes a separate violation.
- (2) The remedies provided by this section are not exclusive and shall not prevent the city from exercising any other remedy available under the law, nor shall the provisions of sections 3.630 through 3.646 of this code prohibit or restrict the city or other appropriate prosecutor from pursuing criminal charges under state law.

Section 2. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this
____ day of _____, 2014

Approved by the Mayor this
____ day of _____, 2014

City Recorder

Mayor

