



Multnomah County Oregon

Board of Commissioners & Agenda

connecting citizens with information and services

BOARD OF COMMISSIONERS

Diane Linn, Chair

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-3308 FAX (503) 988-3093

Email: mult.chair@co.multnomah.or.us

Maria Rojo de Steffey, Commission Dist. 1

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-5220 FAX (503) 988-5440

Email: district1@co.multnomah.or.us

Serena Cruz Walsh, Commission Dist. 2

501 SE Hawthorne Boulevard, Suite 600
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Phone: (503) 988-5219 FAX (503) 988-5440

Email: serena@co.multnomah.or.us

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501 SE Hawthorne Boulevard, Suite 600
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Email: district3@co.multnomah.or.us

Lonnie Roberts, Commission Dist. 4

501 SE Hawthorne Boulevard, Suite 600
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Phone: (503) 988-5213 FAX (503) 988-5262

Email: lonnie.j.roberts@co.multnomah.or.us

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DECEMBER 6 & 8, 2005 BOARD MEETINGS ^{REVISED} FASTLOOK AGENDA ITEMS OF INTEREST

| | |
|---------|---|
| Pg 2 | 9:30 a.m. Tuesday Animal Services Briefing |
| Pg 2 | 10:30 a.m. Tuesday Briefing on Models for Evidence Based Practice in Public Safety Systems |
| Pg 2 | 11:45 a.m. Tuesday Executive Session |
| Pg 3 | 9:30 a.m. Thursday Opportunity for Public Comment on Non-Agenda Matters |
| Pg 3 | 9:30 a.m. Thursday Resolution Declaring the Martha Washington Building Surplus |
| Pg 3 | 9:40 a.m. Thursday Thomas Turja ITAX Appeal Hearing |
| Pg 4 | 9:55 a.m. Thursday Resolution Vacating Portions of Unnamed Public Roads in Latourelle Falls |

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or: <http://www.mctv.org>

Tuesday, December 6, 2005 - 7:30 AM to 9:00 AM
Multnomah Building, Sixth Floor Commissioners Conference Room 635
501 SE Hawthorne Boulevard, Portland

LOCAL PUBLIC SAFETY COORDINATING COUNCIL EXECUTIVE COMMITTEE MEETING

A quorum of the Multnomah County Board of Commissioners may be attending the Local Public Safety Coordinating Council Executive Committee meeting. This meeting is open to the public. Agenda topics include Safety Priority Crime Trends Update and the National Model for Evidence Based Practices and the Oregon and Multnomah County Experiences. For further information, contact Judith Shiprack at (503) 988-5894.

Tuesday, December 6, 2005 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

BOARD BRIEFINGS

- B-1 Animal Services Briefing Regarding Progress on the Recommendations of the 2000 Multnomah County Animal Control Citizen Taskforce. Presented by Mike Oswald. 1 HOUR REQUESTED.
- B-2 Briefing on Models for Evidence Based Practice in Public Safety Systems. Presented by Elyse Clawson. 75 MINUTES REQUESTED.
-

Tuesday, December 6, 2005 - 11:45 AM
(OR IMMEDIATELY FOLLOWING BOARD BRIEFING)
Multnomah Building, First Floor Commissioners Conference Room 112
501 SE Hawthorne Boulevard, Portland

IF NEEDED EXECUTIVE SESSION

- E-1 The Multnomah County Board of Commissioners will meet in Executive Session Pursuant to ORS 192.660(2)(h). Only Representatives of the News Media and Designated Staff are allowed to attend. News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Session. No Final Decision will be made in the Session. Presented by Agnes Sowle. 15 MINUTES REQUESTED.

Thursday, December 8, 2005 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:30 AM

DEPARTMENT OF COMMUNITY SERVICES

- C-1 RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to DEREK AQUI and AUDREY YUE
- C-2 RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to RICHARD and ELIZABETH BOHRER

DEPARTMENT OF COUNTY HUMAN SERVICES

- C-3 ORDER Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

REGULAR AGENDA - 9:30 AM

PUBLIC COMMENT - 9:30 AM

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

NON-DEPARTMENTAL - 9:30 AM

- R-1 RESOLUTION Declaring the Martha Washington Building as Surplus Property and Authorizing Facilities and Property Management Division to Commence the Surplus Property Process
- R-2 Authorization to File Appeal of a Final Order in Claim No. M 118339 of Department of Land Conservation and Development of the State of Oregon (S. Fred Hall, Jr., Claimant)

DEPARTMENT OF COUNTY MANAGEMENT - 9:40 AM

- R-3 PUBLIC HEARING and Board Decision of Taxpayer Thomas A. Turja's Appeal of the Administrator's Final Determination Regarding his 2003 Multnomah County Income Tax (ITAX) Obligations Pursuant to ITAX Administrative Rule 11-614

DEPARTMENT OF COMMUNITY SERVICES - 9:55 AM

- R-4 RESOLUTION Vacating Portions of Unnamed Public Roads, Situated in the Unincorporated Town of Latourelle Falls, Pursuant to ORS 368.326 to 368.366

SCHOOL AND COMMUNITY PARTNERSHIPS - 10:00 AM

- R-5 Budget Modification OSCP-02 Adding a .65 FTE Research/Evaluation Analyst Position to the Office of School and Community Partnerships' Fiscal Year 2006 Budget
- R-6 NOTICE OF INTENT to Respond to an Oregon Department of Education Request for Proposal for 21st Century Community Learning Center Funding

DEPARTMENT OF HEALTH - 10:05 AM

- R-7 Budget Modification HD-13 Appropriating \$22,558 in Carryover Funds from Fiscal Year 2005 from the Poder es Salud Grant
- R-8 Budget Modification HD-14 Authorizing Seven Position Conversions and Reclassifications within the Health Department's Integrated Clinical Services and Community Health Services

DEPARTMENT OF COMMUNITY JUSTICE - 10:10 AM

- R-9 Budget Modification DCJ-13 Transferring \$38,161 General Fund from the Department of Community Justice to the Health Department to Fund a Full-time Contract Specialist for the Period of January 1, 2006 through June 30, 2006
- R-10 Budget Modification DCJ-18 Reclassifying 1.0 FTE Family Services Manager to Program Manager 2, as Determined by the Class/Comp Unit of Central Human Resources
- R-11 Amendment 1 to Intergovernmental Revenue Contract 0506024 with the Oregon Youth Authority Providing Additional Funding to Support the Work of the East Metro Gang Enforcement Team
- R-12 Intergovernmental Expenditure Agreement 4600005830 with the Gresham Police Department Providing Funding to Support the Work of the East Metro Gang Enforcement Team

R-13 Budget Modification DCJ-19 Appropriating \$90,000 from the State Oregon Youth Authority to Reduce the Impact of Criminal Street Gangs in East County

AUDITOR'S OFFICE - 10:30 AM

R-14 Multnomah County Auditor 2005 Annual Report. Presented by Suzanne Flynn. [Rescheduled from December 1, 2005]



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Lonnie Roberts
Multnomah County Commissioner
District 4



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(503) 988-5262 fax
Email: lonnie.j.roberts@co.multnomah.or.us
www.co.multnomah.or.us/cc/ds4/

MEMORANDUM

DATE: November 28, 2005

TO: Chair Diane Linn
Commissioner Maria Rojo de Steffey, District 1
Commissioner Serena Cruz, District 2
Commissioner Lisa Naito, District 3
Board Clerk Deb Bogstad

FROM: Kristen West
Staff Assistant to Commissioner Lonnie Roberts

RE: Notice of Meeting Excuse

Commissioner Roberts will be out of state until December 9, 2005 and he will consequently not be attending the Thursday, December 1 and December 8, 2005 Regular Board Meetings as well as the Tuesday, December 6, 2005 Board Briefings and Executive Session.



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 12/08/05
 Agenda Item #: C-1
 Est. Start Time: 9:30 AM
 Date Submitted: 11/10/05

BUDGET MODIFICATION: -

Agenda Title: **RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to DEREK AQUI and AUDREY YUE**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | | | |
|------------------------|---------------------------|---------------------------|-------------------------------------|
| Date Requested: | <u>December 8, 2005</u> | Time Requested: | <u>Consent Item</u> |
| Department: | <u>Community Services</u> | Division: | <u>Tax Title</u> |
| Contact(s): | <u>Gary Thomas</u> | | |
| Phone: | <u>503-988-3590</u> | Ext.: <u>22591</u> | I/O Address: <u>503/4/TT</u> |
| Presenter(s): | <u>Gary Thomas</u> | | |

General Information

1. What action are you requesting from the Board?

The Tax Title Section is requesting the Board to approve the private sale of a tax foreclosed property to DEREK AQUI AND AUDREY YUE.

2. Please provide sufficient background information for the Board and the public to understand this issue.

The subject property is a rectangular shaped parcel that came into county ownership through the foreclosure of delinquent tax liens on September 28, 2004. The parcel is approximately 12.4' wide at the base and 36' long on one side and 35' long on the other side. It is approximately 214sf in area. It is located between 3859 NW Thurman St and 3938 NW Gordon St. We propose to sell the property to the owners of the property on NW Gordon St. Looking at the past records it appears that the subject was left off the legal description of a previous sale.

The attached Exhibit A, a plat map shows the location of the property. Exhibit B, an aerial photo, shows the parcel in relation to the adjacent properties.

Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property, approximately 214 square feet, and its location

make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225

3. Explain the fiscal impact (current year and ongoing).

The Private Sale will allow for the recovery of the delinquent taxes, fees and expenses (see Exhibit C).

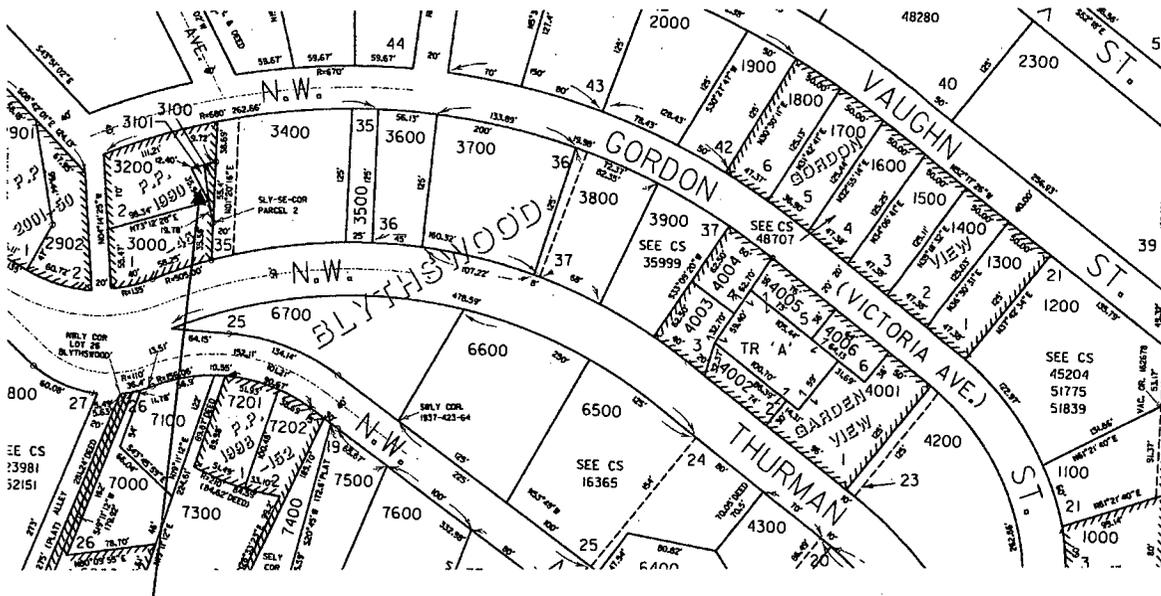
4. Explain any legal and/or policy issues involved.

No legal issues are expected. The parcel will be sold "As Is" without guarantee of clear title.

5. Explain any citizen and/or other government participation that has or will take place.

No citizen or government participation is anticipated.

EXHIBIT A



Subject 3938 NW Gordon ST

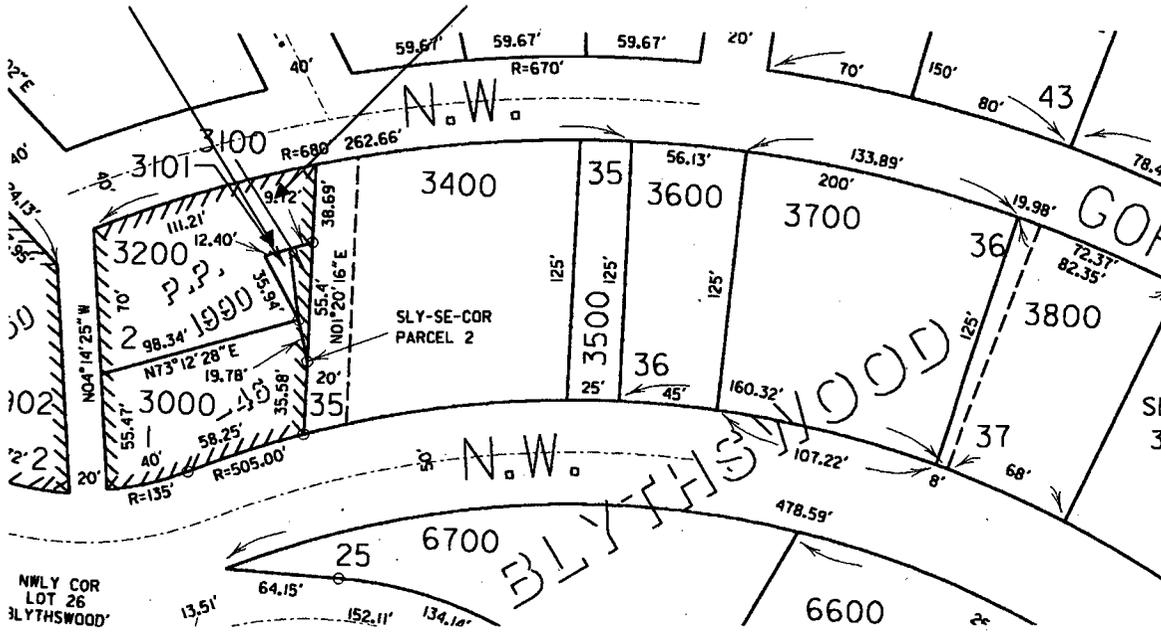


EXHIBIT B



Subject

**EXHIBIT C
PROPOSED PROPERTY LISTED FOR PRIVATE SALE
FISCAL YEAR 2005-06**

LEGAL DESCRIPTION:

A parcel of land being a portion of Partition Plat 1990-46 located in the Southwest one-quarter of Section 29, Township 1 North and Range 1 East more particularly described as follows:

Beginning at an angle point of Parcel 2 which is North12°52'48"West 19.78 feet from the most Southerly Southeast corner of Parcel 2; thence North26°32'35"West 35.94 feet; thence North79°42'36"East 12.40 feet; thence South06°24'37"East 34.58 feet to the place of beginning.

ADJACENT PROPERTY ADDRESS: 3938 NW Gordon St
TAX ACCOUNT NUMBER: R236821
GREENSPACE DESIGNATION: No designation
SIZE OF PARCEL: Approximately 214 square feet
ASSESSED VALUE: \$200

ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE

| | |
|---|-----------------|
| BACK TAXES & INTEREST: | \$63.05 |
| TAX TITLE MAINTENANCE COST & EXPENSES: | \$13.46 |
| RECORDING FEE: | \$26.00 |
| SUB-TOTAL | \$102.51 |
| MINIMUM PRICE REQUEST OF PRIVATE SALE | \$150.00 |

Required Signatures

**Department/
Agency Director:**

M. Cecilia Johnson

Date: 11/09/05

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BOGSTAD Deborah L

From: GRACE Becky J
Sent: Thursday, November 10, 2005 8:25 AM
To: BOGSTAD Deborah L
Subject: FW: AQUI PRIVATE SALE DEC 8 BOARD AGENDA

-----Original Message-----

From: CREAN Christopher D
Sent: Monday, November 07, 2005 12:42 PM
To: GRACE Becky J
Subject: RE: AQUI PRIVATE SALE DEC 8 BOARD AGENDA

Becky –

I have reviewed the proposed resolution and deed for the AQUI sale and they may be forwarded for signature as proposed.
Thanks.

- Chris

-----Original Message-----

From: GRACE Becky J
Sent: Monday, November 07, 2005 12:38 PM
To: CREAN Christopher D
Subject: AQUI PRIVATE SALE DEC 8 BOARD AGENDA

Hi Chris,

Attached for your review and approval are the Board Agenda Documents for the AQUI Private Sale.
Thanks,

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
RESOLUTION NO. _____

Authorizing the Private Sale of a Tax Foreclosed Property to DEREK G. AQUI AND AUDREY T. YUE.

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County acquired the real property described in Exhibit A through the foreclosure of liens for delinquent property taxes.
- b. The property has an assessed value of \$200 on the County's current tax roll.
- c. Although no written confirmation was obtained from the City of Portland, the Tax Title Division is confident that the shape and size of the property, approximately 214 square feet, and its location make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. DEREK G. AQUI AND AUDREY T. YUE have agreed to pay \$150 an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. Upon Tax Title's receipt of the payment of \$150, the Chair on behalf of Multnomah County is authorized to execute a Bargain and Sale Deed conveying to DEREK G. AQUI AND AUDREY T. YUE, the real property described in the attached Exhibit A.

ADOPTED this 8th day of December, 2005.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Christopher D. Crean, Assistant County Attorney

EXHIBIT A (RESOLUTION)

LEGAL DESCRIPTION:

A parcel of land being a portion of Partition Plat 1990-46 located in the Southwest one-quarter of Section 29, Township 1 North and Range 1 East more particularly described as follows:

Beginning at an angle point of Parcel 2 which is North12°52'48"West 19.78 feet from the most Southerly Southeast corner of Parcel 2; thence North26°32'35"West 35.94 feet; thence North79°42'36"East 12.40 feet; thence South06°24'37"East 34.58 feet to the place of beginning.

Multnomah County Deed No.: D062038

Tax Account No.: R236821

Until a change is requested, all tax statements
Shall be sent to the following address:
DEREK G. AQUI &
AUDREY T. YUE
3938 NW GORDON ST
PORTLAND OR 97210

After recording, return to:
MULTNOMAH COUNTY
TAX TITLE DIVISION
503/4

Bargain and Sale Deed D062038 for R236821

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to DEREK G. AQUI & AUDREY T. YUE, Tenancy by the Entirety, Grantees, the real property described in the attached Exhibit A.

The true consideration for this conveyance is \$150.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 8th day of December 2005, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Christopher D. Crean, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 8th day of December 2005, by Diane M. Linn, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09

EXHIBIT A (DEED)

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Tax Account No.: R236821

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 05-198

Authorizing the Private Sale of a Tax Foreclosed Property to DEREK G. AQUÍ and AUDREY T. YUE

The Multnomah County Board of Commissioners Finds:

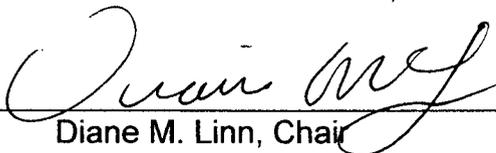
- a. Multnomah County acquired the real property described in Exhibit A through the foreclosure of liens for delinquent property taxes.
- b. The property has an assessed value of \$200 on the County's current tax roll.
- c. Although no written confirmation was obtained from the City of Portland, the Tax Title Division is confident that the shape and size of the property, approximately 214 square feet, and its location make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
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REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
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Beginning at an angle point of Parcel 2 which is North12°52'48"West 19.78 feet from the most Southerly Southeast corner of Parcel 2; thence North26°32'35"West 35.94 feet; thence North79°42'36"East 12.40 feet; thence South06°24'37"East 34.58 feet to the place of beginning.

Multnomah County Deed No.: D062038

Tax Account No.: R236821

Until a change is requested, all tax statements shall be sent to the following address:
DEREK G. AQUI &
AUDREY T. YUE
3938 NW GORDON ST
PORTLAND OR 97210

After recording, return to:
MULTNOMAH COUNTY
TAX TITLE DIVISION
503/4

Bargain and Sale Deed D062038 for R236821

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to DEREK G. AQUI & AUDREY T. YUE, Tenancy by the Entirety, Grantees, the real property described in the attached Exhibit A.

The true consideration for this conveyance is \$150.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

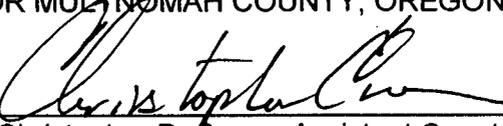
IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 8th day of December 2005, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Christopher D. Crean, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 8th day of December 2005, by Diane M. Linn, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09

EXHIBIT A (DEED)

LEGAL DESCRIPTION:

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Multnomah County Deed No.: D062038

Tax Account No.: R236821

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TAX TITLE DIVISION
503/4

Bargain and Sale Deed D062038 for R236821

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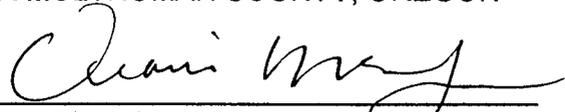
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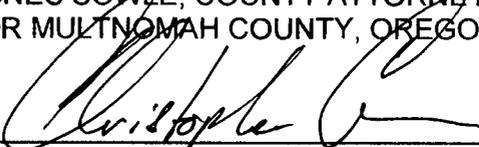


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

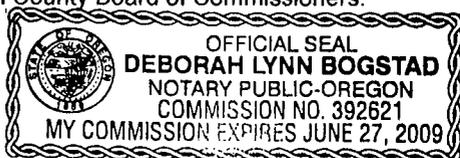
REVIEWED:

AGNES SOWZE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Christopher D. Crean, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 8th day of December 2005, by Diane M. Linn, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.



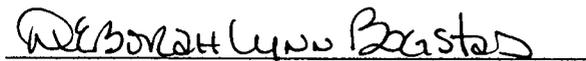

Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09

EXHIBIT A (DEED)

LEGAL DESCRIPTION:

A parcel of land being a portion of Partition Plat 1990-46 located in the Southwest one-quarter of Section 29, Township 1 North and Range 1 East more particularly described as follows:

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Multnomah County Deed No.: D062038
Tax Account No.: R236821



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: C-2
Est. Start Time: 9:30 AM
Date Submitted: 11/10/05

BUDGET MODIFICATION: -

Agenda Title: **RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to RICHARD and ELIZABETH BOHRER**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | | | |
|------------------------|---------------------------|---------------------------|-------------------------------------|
| Date Requested: | <u>December 8, 2005</u> | Time Requested: | <u>Consent Item</u> |
| Department: | <u>Community Services</u> | Division: | <u>Tax Title</u> |
| Contact(s): | <u>Gary Thomas</u> | | |
| Phone: | <u>503-988-3590</u> | Ext.: <u>22591</u> | I/O Address: <u>503/4/TT</u> |
| Presenter(s): | <u>Gary Thomas</u> | | |

General Information

1. What action are you requesting from the Board?

The Tax Title Section is requesting the Board to approve the private sale of a tax foreclosed property to RICHARD & ELIZABETH BOHRER.

2. Please provide sufficient background information for the Board and the public to understand this issue.

The subject property is a rectangular shaped strip that came into county ownership through the foreclosure of delinquent tax liens on September 28, 2004. The parcel is approximately 5' x 100' and is approximately 500 sq.ft. in size. It is located adjacent to 527-545 SE 78th Ave and we propose to sell it to the owner of that property.

The attached Exhibit A, a plat map shows the location of the property. Exhibit B, an aerial photo, shows the strip in relation to the adjacent properties.

Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property, approximately 500 square feet, and its location make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225

3. Explain the fiscal impact (current year and ongoing).

The Private Sale will allow for the recovery of the delinquent taxes, fees and expenses (see Exhibit C).

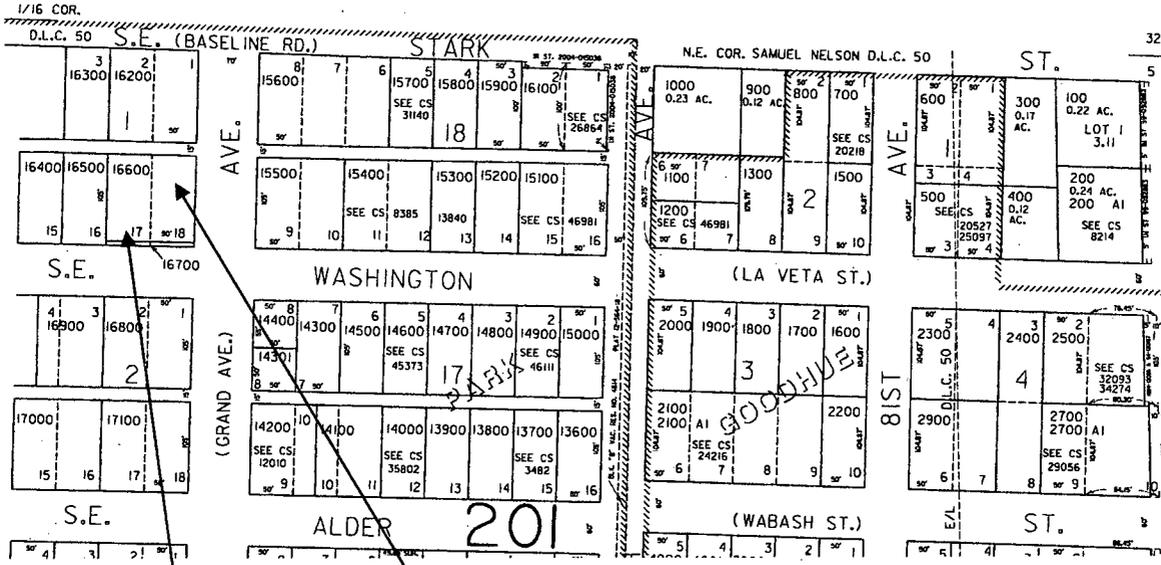
4. Explain any legal and/or policy issues involved.

No legal issues are expected. The parcel will be sold "As Is" without guarantee of clear title.

5. Explain any citizen and/or other government participation that has or will take place.

No citizen or government participation is anticipated.

EXHIBIT A



Subject 527-545 SE 78th Ave

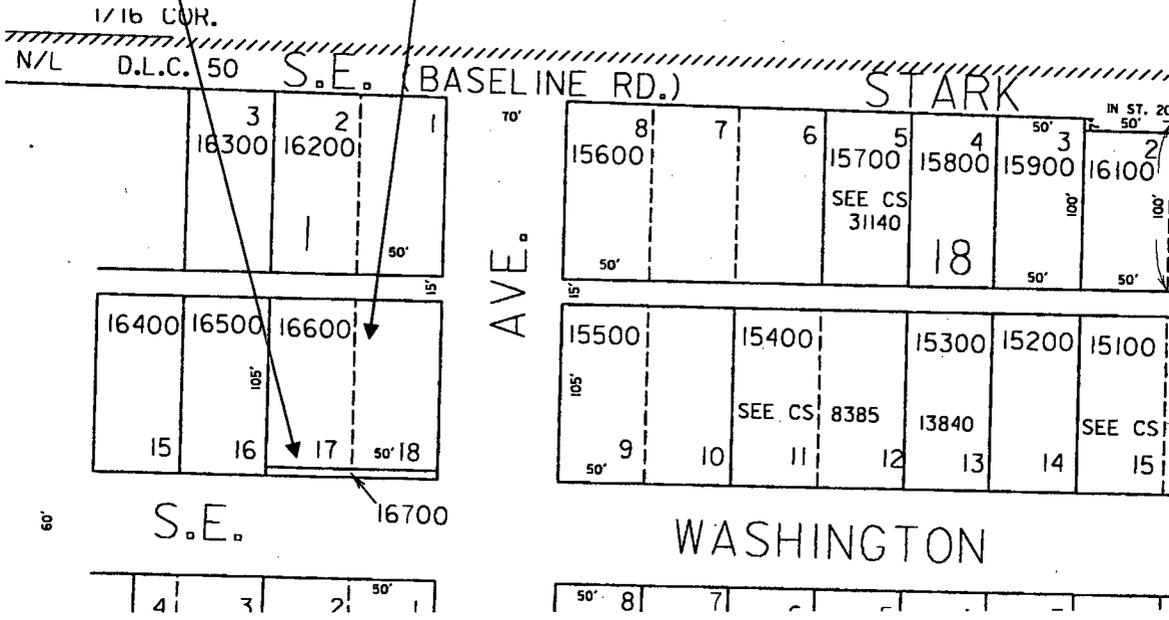


EXHIBIT B



Subject

527-545 SE 78th Ave

**EXHIBIT C
PROPOSED PROPERTY LISTED FOR PRIVATE SALE
FISCAL YEAR 2005-06**

LEGAL DESCRIPTION:

The South 5 feet of Lot 17 and Lot 18, Block 1 of the plat of Kinzel Park

ADJACENT PROPERTY ADDRESS: 527-545 SE 78th Ave.
TAX ACCOUNT NUMBER: R198865
GREENSPACE DESIGNATION: No designation
SIZE OF PARCEL: Approximately 500 square feet
ASSESSED VALUE: \$500

ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE

| | |
|---|-----------------|
| BACK TAXES & INTEREST: | \$66.22 |
| TAX TITLE MAINTENANCE COST & EXPENSES: | \$47.65 |
| RECORDING FEE: | \$26.00 |
| SUB-TOTAL | \$139.87 |
| MINIMUM PRICE REQUEST OF PRIVATE SALE | \$275.00 |

Required Signatures

**Department/
Agency Director:**

M. Cecilia Johnson

Date: 11/09/05

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BOGSTAD Deborah L

From: GRACE Becky J
Sent: Monday, November 14, 2005 2:27 PM
To: BOGSTAD Deborah L
Subject: FW: Bohrer Private Sale for December 1st

Sorry Deb and thanks again!

-----Original Message-----

From: CREAN Christopher D
Sent: Monday, November 07, 2005 12:41 PM
To: GRACE Becky J
Subject: RE: Bohrer Private Sale for December 1st

Becky –

I have reviewed the proposed resolution and deed documents for the Bohrer sale and they may be forwarded for signature as proposed. Thanks.

- Chris

-----Original Message-----

From: GRACE Becky J
Sent: Wednesday, November 02, 2005 1:14 PM
To: CREAN Christopher D
Subject: Bohrer Private Sale for December 1st

Hi Chris,

Attached for your review and approval are the December 1st Board Agenda Documents for the Bohrer Private Sale.
Thank you,

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Authorizing the Private Sale of a Tax Foreclosed Property to Richard W. Bohrer and Elizabeth A. Bohrer as co trustees of the Morning Glory Trust.

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County acquired the real property described below through the foreclosure of liens for delinquent property taxes.
- b. The property has an assessed value of \$500 on the County's current tax roll.
- c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property, approximately 500 square feet, and its location make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. Richard W. Bohrer and Elizabeth A. Bohrer have agreed to pay \$275.00, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. Upon Tax Title's receipt of the payment of \$275.00, the Chair on behalf of Multnomah County, is authorized to execute a Bargain and Sale deed conveying to Richard W. Bohrer and Elizabeth A. Bohrer co trustees of the Morning Glory Trust, the following described real property in Multnomah County, Oregon:

The South 5 feet of Lot 17 and Lot 18, Block 1 of the plat of KINZEL
PARK

ADOPTED this 8th day of December, 2005.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Christopher D. Crean, Assistant County Attorney

Until a change is requested, all tax statements
Shall be sent to the following address:
RICHARD W. & ELIZABETH A. BOHRER
2714 SW MOSSY BRAE RD
WEST LINN OR 97068-9304

After recording, return to:
MULTNOMAH COUNTY
TAX TITLE
503/4

Bargain and Sale Deed D062037 for R198865

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to Richard W. Bohrer and Elizabeth A. Bohrer as co trustees of the Morning Glory Trust, Grantees, the following described real property in Multnomah County, Oregon:

The South 5 feet of Lot 17 and Lot 18, Block 1, of the plat of Kinzel Park

The true consideration for this conveyance is \$275.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 8th day of December 2005, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Christopher D. Crean, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

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Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/05

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 05-199

Authorizing the Private Sale of a Tax Foreclosed Property to Richard W. Bohrer and Elizabeth A. Bohrer as co trustees of the Morning Glory Trust

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County acquired the real property described below through the foreclosure of liens for delinquent property taxes.
- b. The property has an assessed value of \$500 on the County's current tax roll.
- c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property, approximately 500 square feet, and its location make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. Richard W. Bohrer and Elizabeth A. Bohrer have agreed to pay \$275.00, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. Upon Tax Title's receipt of the payment of \$275.00, the Chair on behalf of Multnomah County, is authorized to execute a Bargain and Sale deed conveying to Richard W. Bohrer and Elizabeth A. Bohrer co trustees of the Morning Glory Trust, the following described real property in Multnomah County, Oregon:

The South 5 feet of Lot 17 and Lot 18, Block 1 of the plat of KINZEL PARK

ADOPTED this 8th day of December, 2005.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Christopher D. Crean, Assistant County Attorney

Until a change is requested, all tax statements
shall be sent to the following address:
RICHARD W. & ELIZABETH A. BOHRER
2714 SW MOSSY BRAE RD
WEST LINN OR 97068-9304

After recording, return to:
MULTNOMAH COUNTY
TAX TITLE
503/4

Bargain and Sale Deed D062037 for R198865

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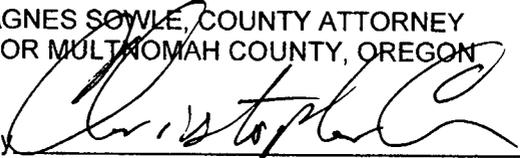
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BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Christopher D. Crean, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

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Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09

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BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn

Diane M. Linn, Chair

REVIEWED:

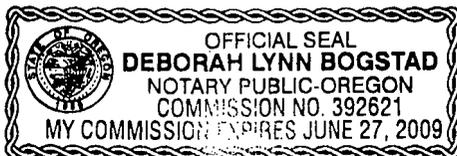
AGNES SOWLE COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Christopher D. Crean*

Christopher D. Crean, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

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Deborah Lynn Bogstad

Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 12/08/05
 Agenda Item #: C-3
 Est. Start Time: 9:30 AM
 Date Submitted: 11/21/05

BUDGET MODIFICATION: -

Agenda Title: ORDER Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | | | |
|------------------------|-------------------------|------------------------|------------------|
| Date Requested: | <u>December 8, 2005</u> | Time Requested: | <u>N/A</u> |
| Department: | <u>DCHS</u> | Division: | <u>MHASD</u> |
| Contact(s): | <u>Jean Dentinger</u> | | |
| Phone: | <u>(503) 988-5464</u> | Ext.: | <u>27297</u> |
| | | I/O Address: | <u>167/1/520</u> |
| Presenter(s): | <u>Consent Calendar</u> | | |

General Information

- 1. What action are you requesting from the Board?**
 Requesting adoption of order and approval of designees. The Mental Health and Addiction Services Division is recommending approval of the designees in the accordance with ORS 426.215.
- 2. Please provide sufficient background information for the Board and the public to understand this issue.**
 Outpatient mental health agencies depend upon certain staff having the ability to assess clients for "Director Designee Custody". This certification allows the designee to direct a police officer or secure transportation provider to take into custody any individual with mental health issues who is found to be dangerous to self or to others. Police then transport the individual to a hospital or other approved treatment facility for further evaluation. As agencies experience staffing turnover or increases, new staff needs to be trained and certified as designees.
- 3. Explain the fiscal impact (current year and ongoing).**
 None.
- 4. Explain any legal and/or policy issues involved.**
 In accordance with ORS 426.215.

5. Explain any citizen and/or other government participation that has or will take place.

None.

Required Signatures

**Department/
Agency Director:**

Pat Surface

Date: 11/29/05

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. _____

Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

The Multnomah County Board of Commissioners Finds:

- a) If authorized by a county governing body, a designee of a mental health program director may direct a peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody, and treatment of mental illness.
- b) There is a current need for specified designees of the Multnomah County Mental Health Program Director to have the authority to direct a peace officer to take an allegedly mentally ill person into custody.
- c) All the designees listed below have been specifically recommended by the Mental Health Program Director and meet the standards established by the Mental Health Division.

The Multnomah County Board of Commissioners Orders:

1. The individuals listed below are authorized as designees of the Mental Health Program Director for Multnomah County to direct any peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody or treatment for mental illness.
2. Added to the list of designees are:

Paulina Chiwangu
Terri-Lynn McDonald
Stacy Hall

David Ricciardelli
Kristy Ladd
Kara Edge

Yonas Burak
Sabrina Gomez
David Crosby

ADOPTED this 8th day of December, 2005.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLES, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON



By _____
Patrick Henry, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 05-200

Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

The Multnomah County Board of Commissioners Finds:

- a) If authorized by a county governing body, a designee of a mental health program director may direct a peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody, and treatment of mental illness.
- b) There is a current need for specified designees of the Multnomah County Mental Health Program Director to have the authority to direct a peace officer to take an allegedly mentally ill person into custody.
- c) All the designees listed below have been specifically recommended by the Mental Health Program Director and meet the standards established by the Mental Health Division.

The Multnomah County Board of Commissioners Orders:

1. The individuals listed below are authorized as designees of the Mental Health Program Director for Multnomah County to direct any peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody or treatment for mental illness.
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Paulina Chiwangu
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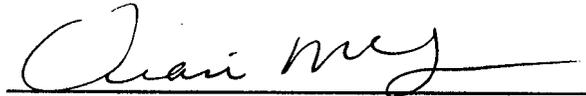
David Ricciardelli
Kristy Ladd
Kara Edge

Yonas Burak
Sabrina Gomez
David Crosby

ADOPTED this 8th day of December, 2005.



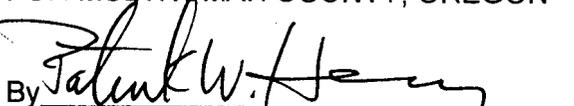
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

REVIEWED:

AGNES SOWLES, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Patrick Henry, Assistant County Attorney

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 12/08/05

SUBJECT: ALPHABET ASSESSMENT OF WULT COUNTY

COMMISSION AS A LONG TIME RESIDENT

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: ROY OKADA

ADDRESS: 1309 SW TEXAS

CITY/STATE/ZIP: PORTLAND ORE

PHONE: DAYS: 503-280-4989 EVES: 503-246-2998

EMAIL: ROKADA@TELEPORT.COM FAX: _____

SPECIFIC ISSUE: PUBLIC COMMENT

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-1
Est. Start Time: 9:30 AM
Date Submitted: 11/30/05

BUDGET MODIFICATION: -

| | |
|----------------------|---|
| Agenda Title: | RESOLUTION Declaring the Martha Washington Building as Surplus Property and Authorizing Facilities and Property Management Division to Commence the Surplus Property Process |
|----------------------|---|

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | | | |
|----------------------|---|---------------------|------------------------------------|
| Date | 12/08/05 | Time | 10 minutes |
| Requested: | _____ | Requested: | _____ |
| Department: | Non-Departmental | Division: | Commissioner Maria Rojo de Steffey |
| Contact(s): | Matthew Lashua | | |
| Phone: | 503 988 6796 | Ext. | 86796 |
| | | I/O Address: | 503/600 |
| Presenter(s): | Commissioner Rojo de Steffey, Doug Butler | | |

General Information

1. What action are you requesting from the Board?

Approval of the Resolution declaring the Martha Washington Building, 1115 SW 11th Avenue, Portland, Oregon, as Surplus Property and authorizing Facilities and Property Management Division to Commence the Surplus Property Process.

2. Please provide sufficient background information for the Board and the public to understand this issue.

The Martha Washington Building ("Property"), located at 1115 SW 11th Avenue, Portland, Oregon, is a 65,000 square foot residential property, with one remaining tenant, the River Rock treatment program operated by the Department of Community Justice. The program will no longer use the facility after December 2005 and the building will be vacant.

The Director of Facilities and Property Management ("Director") has determined that the Property is no longer required for County use. The County has no other program for the facility and it will soon

have no practical, efficient, or appropriate use for the Property, and will have no use for the Property in the near future. The Director recommends that the Property be declared surplus. The declaration of surplus makes no determination or recommendation as to the building's final disposition. It starts the public input process that will be used in a disposition recommendation. Facilities and Property Management, in conjunction with the Public Affairs Office, would commence the public notification requirements of the Surplus Property Process, including solicitation of public input on the appropriateness and feasibility of requiring that the redevelopment or reuse of the Property include an affordable housing component. Facilities and Property Management, in conjunction with the Public Affairs Office and Board Staff, will prepare a report to the Board, as specified under the Surplus Property Process, not later than 45 days from the date public input is due. The report will include comment and analysis on the reuse of the building with an affordable housing component.

3. Explain the fiscal impact (current year and ongoing).

Fiscal impact will depend upon the final disposition decision adopted by the Board. The Property's assessed value in 2005 was \$3,302,040. (Land Value \$1,647,590; Improvement Value \$1,654,450)

4. Explain any legal and/or policy issues involved.

Resolution 04-185 establishes policy for public input when a surplus declaration is made. The Director will ensure compliance with the policy.

5. Explain any citizen and/or other government participation that has or will take place.

Under Resolution 04-185, the Surplus Property Process adopted December 9, 2004, when the Board, by resolution, declares a property surplus, the Director places a sign on the property for not less than 45 days declaring it surplus. The sign will say:

“Notice of surplus property: this property has been designated surplus by the Multnomah Board of County Commissioners. Multnomah County is seeking input as to the future of this property. Interested parties are invited to express an interest in the property and any proposals for disposition. The Board will hold a public hearing to consider disposition of the property after receiving public input. All those who submit statements of interest will be notified by mail of the date and time of the hearing.”

The sign provides the date by which the statements must be submitted (approximately January 27, if adopted), an address where statements are to be submitted and contact information. A notice containing the same information will also be published in a newspaper of general circulation in the County once a week for three consecutive weeks with the last publication not less than one week prior to the date by which statements must be submitted. All notifications will include a specific solicitation on the appropriateness and feasibility of a requirement that a redevelopment or reuse of the Property include an affordable housing component.

Required Signatures

**Department/
Agency Director:**

Maria Pijo de Steffey

Date: 11/30/05

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Declaring The Martha Washington Building As Surplus Property And Authorizing Facilities And Property Management Division To Commence The Surplus Property Process

The Multnomah County Board of Commissioners Finds:

- a. By Resolution 04-185 dated December 9, 2004, the Multnomah County Board of Commissioners adopted a policy for declaring real property owned by the County as surplus ("Surplus Property Process").
- b. The Martha Washington Building ("Property"), located at 1115 SW 11th Avenue, Portland, Oregon, is a 65,000 square foot residential property, with one remaining tenant, the River Rock treatment program operated by the Department of Community Justice. The program will no longer use the facility after December 2005 and the building will be vacant.
- c. The Director of Facilities and Property Management ("Director") has determined that the Property is no longer required for County use. The County will soon have no practical, efficient, or appropriate use for the Property, and will have no use for the property in the near future. The Director recommends that the Property be declared surplus.
- d. Multnomah County is committed to supporting community efforts to increase the availability of affordable housing. It is in the best interests of the County to solicit public comment during the Surplus Property Process about the appropriateness and feasibility of requiring that the redevelopment or reuse of the Property include an affordable housing component.

The Multnomah County Board of Commissioners Resolves:

1. The Martha Washington Building is declared surplus. Facilities and Property Management, in conjunction with the Public Affairs Office, is directed to commence the public notification requirements of the Surplus Property Process, including solicitation of public input on an affordable housing component.
2. Facilities and Property Management, in conjunction with the Public Affairs Office and Board Staff, is directed to prepare a report to the Board, as specified under the Surplus Property Process, not later than 45 days from the date public input is due. The report will include the use of the building as an affordable housing component.

ADOPTED this 8th day of December, 2005.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
John S. Thomas, Deputy County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 05-201

Declaring the Martha Washington Building as Surplus Property and Authorizing Facilities and Property Management Division to Commence the Surplus Property Process

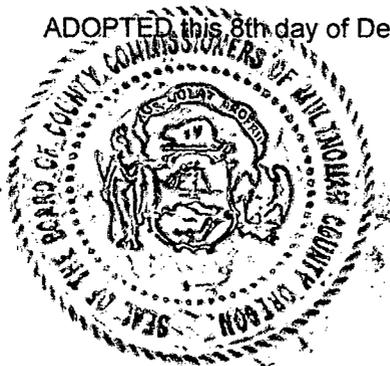
The Multnomah County Board of Commissioners Finds:

- a. By Resolution 04-185 dated December 9, 2004, the Multnomah County Board of Commissioners adopted a policy for declaring real property owned by the County as surplus ("Surplus Property Process").
- b. The Martha Washington Building ("Property"), located at 1115 SW 11th Avenue, Portland, Oregon, is a 65,000 square foot residential property, with one remaining tenant, the River Rock treatment program operated by the Department of Community Justice. The program will no longer use the facility after December 2005 and the building will be vacant.
- c. The Director of Facilities and Property Management ("Director") has determined that the Property is no longer required for County use. The County will soon have no practical, efficient, or appropriate use for the Property, and will have no use for the property in the near future. The Director recommends that the Property be declared surplus.
- d. Multnomah County is committed to supporting community efforts to increase the availability of affordable housing. It is in the best interests of the County to solicit public comment during the Surplus Property Process about the appropriateness and feasibility of requiring that the redevelopment or reuse of the Property include an affordable housing component.

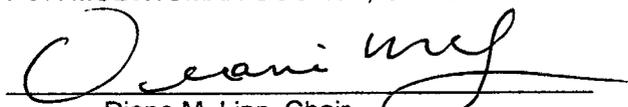
The Multnomah County Board of Commissioners Resolves:

1. The Martha Washington Building is declared surplus. Facilities and Property Management, in conjunction with the Public Affairs Office, is directed to commence the public notification requirements of the Surplus Property Process, including solicitation of public input on an affordable housing component.
2. Facilities and Property Management, in conjunction with the Public Affairs Office and Board Staff, is directed to prepare a report to the Board, as specified under the Surplus Property Process, not later than 45 days from the date public input is due. The report will include the use of the building as an affordable housing component.

ADOPTED this 8th day of December, 2005.

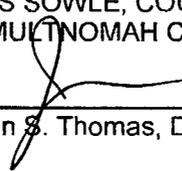


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
John S. Thomas, Deputy County Attorney



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-2 DATE 12-08-05
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-2
Est. Start Time: 9:35 AM
Date Submitted: 11/30/05

BUDGET MODIFICATION:

Agenda Title: **Authorization to File Appeal of a Final Order in Claim No. M 118339 of Department of Land Conservation and Development of the State of Oregon (S. Fred Hall, Jr., Claimant)**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Date Requested: December 8, 2005 Time Requested: 1 minute
Department: Non-Departmental Division: County Attorney's Office
Contact(s): Sandra Duffy
Phone: 503-988-3138 Ext. 83138 I/O Address: 501/500
Presenter(s): Sandra Duffy

General Information

1. What action are you requesting from the Board?

The County Attorney's Office is requesting that the Board approve a request by the County Attorney's Office to file an appeal of a Final Order by DLCD in which it granted Ballot Measure 37 waivers in Claim No. M 118339. The County Attorney's Office recommends that the appeal be filed.

2. Please provide sufficient background information for the Board and the public to understand this issue.

The State set aside state administrative rules for a 70-75 lot subdivision in rural Multnomah County. This is the first subdivision approval in Multnomah County under BM 37. In making its decision, the State did not deal with the transferability issue. Multnomah County made comments to the Hearings Officer requesting that she deal with the issue but she failed to do so.

The County's position is that subdivision regulations do not restrict Mr. Hall's use of his property and they do not diminish the value of his property, both of which are necessary for a valid BM 37 claim. The record does not show how Mr. Hall is harmed by the state regulations. The record does

not contain proof of how the subdivision regulations diminish the value of Mr. Hall's property. There is no substantial evidence in the record that would show that the lots created by the subdivision would be of more value than the value of the undivided parcel.

The goal in filing a Writ of Review is to get a court to address the transferability issue under BM 37 which would clarify matters substantially if the MacPherson case is reversed by the Supreme Court. At the least, we would hope that the court would remand the case back to the state requiring it to address the transferability issue when addressing claims. If the state had to address transferability of parcels, it would have to require more information from claimants and it would also have to determine how that relates to a diminishment in value. From the county's perspective, if the parcels aren't transferable, they are of no more value subdivided than undivided.

The procedure for the "appeal" (Writ of Review) would be to file a timely Notice of Writ of Review and then file a motion to abate the preparation of the record and the establishment of a briefing schedule pending the outcome of the Supreme Court appeal.

3. Explain the fiscal impact (current year and ongoing).

None. The costs of the appeal are absorbed in the regular tasks of the county's attorneys.

4. Explain any legal and/or policy issues involved.

This case will have applicability to all other Ballot Measure 37 cases. It is an efficient means to get a prompt decision from the court addressing a seminal issue in most Ballot Measure 37 cases.

5. Explain any citizen and/or other government participation that has or will take place.

N/A

Required Signatures

**Department/
Agency Director:**



Date: 11-30-2005



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-3
Est. Start Time: 9:40 AM
Date Submitted: 11/24/05

BUDGET MODIFICATION:

PUBLIC HEARING and Board Decision of Taxpayer Thomas A. Turja's Appeal of the Administrator's Final Determination Regarding his 2003 Multnomah County Income Tax (ITAX) Obligations Pursuant to ITAX Administrative Rule 11-614

Agenda Title: **County Income Tax (ITAX) Obligations Pursuant to ITAX Administrative Rule 11-614**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | |
|---|---|
| Date Requested: <u>December 8, 2005</u> | Time Requested: <u>30 mins</u> |
| Department: <u>County Management</u> | Division: <u>Finance/ITAX Administration</u> |
| Contact(s): <u>Dave Boyer</u> | |
| Phone: <u>(503) 988-3903</u> Ext.: <u>83903</u> | I/O Address: <u>503/531</u> |
| Presenter(s): <u>Dave Boyer</u> | |

General Information

1. What action are you requesting from the Board?

Taxpayers James B. Pham and Thomas A. Turja challenged the Administrator's final determination regarding their 2003 ITAX obligation, and timely notified the Administrator of their wish to appeal to the Board of County Commissioners pursuant to ITAX Administrative Rule 11-614 Appeal Rights. In each case, the Board must determine whether the taxpayer is subject to the tax, and the amount of their obligation. The Board's decision regarding the taxpayer's obligation is final.

2. Please provide sufficient background information for the Board and the public to understand this issue.

Taxpayers have the right to appeal any determination of the Administrator of the Multnomah County Income Tax by filing written protest. James B. Pham and Thomas A. Turja each filed such a protest, and are entitled to a hearing before the Board of County Commissioners.

3. Explain the fiscal impact (current year and ongoing).

The Administrator determined that Thomas Turja's tax obligation for 2003 is \$238.36.

The Administrator determined that James Pham's tax obligation for 2003 is \$163.04.

4. Explain any legal and/or policy issues involved.

Both Mr. Turja and Mr. Pham challenge the ITAX initiative as unlawful and unconstitutional.

5. Explain any citizen and/or other government participation that has or will take place.

Mr. Turja and Mr. Pham have submitted written statements. The Administrator has provided a written response to those statements. Mr. Turja and Mr. Pham may present relevant testimony and oral argument to the Board, and the Administrator may respond with relevant testimony and oral argument.

Required Signatures

**Department/
Agency Director:**

David A. Boyer

Date: 11/14/05

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:



Deborah Bogstad, Board Clerk
MULTNOMAH COUNTY OREGON

Multnomah County Board of Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214
(503) 988-3277 phone
(503) 988-3013 fax

November 15, 2005

Thomas A. Turja
9124 North Wall
Portland, OR 97203

RE: NOTICE OF HEARING ON MULTNOMAH COUNTY INCOME TAX
APPEAL [Account Number 26483777387]

Greetings Mr. Turja:

You filed a Notice of Appeal from the Final Letter of
Determination regarding your 2003 Multnomah County Income Tax.

A hearing has been scheduled for you to present your appeal
before the Multnomah County Board of Commissioners on **Thursday,
December 8, 2005, at 9:30 a.m. in the first floor Commissioners
Boardroom at 501 SE Hawthorne Boulevard, Portland.** At that
time you may present relevant testimony and oral argument regarding
your appeal. The ITAX Administrator will also be in attendance to
present relevant testimony and oral argument.

The decision of the Multnomah County Board of Commissioners
shall be final and no further administrative appeal shall be provided.

This Notice is provided pursuant to ITAX Administrative Rules
for the Multnomah County Personal Income Tax, Section 11-614,
Appeal Rights.

Sincerely,

A handwritten signature in cursive script that reads "Deborah L. Bogstad".

Deborah L. Bogstad, Board Clerk
Multnomah County Commissioners

cc: Dave Boyer
Jacquie Weber



Department of County Management
MULTNOMAH COUNTY OREGON

David Boyer, Director/CFO
501 SE Hawthorne, Suite 531
Portland, Oregon 97214
(503) 988-3903 phone
(503) 988-3292 fax

TO: Thomas Turja
Board of County Commissioners

FROM: Dave Boyer, Administrator, Multnomah County Income Tax

DATE: September 8, 2005 (Corrected from September 1, 2005 Submission)

SUBJECT: Staff Report: Administrator's Response in the Multnomah County Income Tax Determination Appeal of Thomas Turja

I. Introduction.

Mr. Turja challenges the County's imposition of the ITAX, contending that the imposition of the tax is unconstitutional because PERS retirement income is exempted from the income tax, as is federal retirement income. The following is the Administrator's response to Mr. Turja written statement filed with the Board on June 17, 2005.

II. The Oregon Supreme Court has upheld the authority of a home rule county to impose an income tax.

The Oregon Supreme Court has upheld the authority of a home rule county to impose an income tax in *Multnomah Kennel Club v. DOR*, 295 Or 279, 666 P2d 1327 (1983). That case involved the imposition of a business income tax by the county, and the court addressed the county authority issue as follows, "even in the absence of an express statutory grant, we hold it is an implicit power of a constitutional home rule county to levy taxes." 295 Or at 284. The rationale of the court in upholding the authority of the county to impose the business income tax applies equally to a personal income tax. Although the state also imposes a personal income tax on state residents, the state has not preempted the area of personal income taxation because, "The state is deemed to have exercised its power to preempt a field only where the intent to do so is apparent." 295 Or at 286. There is no provision in ORS Chapter 316 relating to state income tax that could be construed as intent by the legislature to preempt the field of income taxation.

III. The Multnomah County Income Tax does not violate uniformity of taxation required by Article IX Section 1 of the Oregon Constitution

Article IX Section 10 of the Oregon Constitution requires uniformity of taxation.

"The Legislative Assembly shall, and the people through the initiative may, provide by law uniform rules of assessment and taxation. All taxes shall be levied and collected under general laws operating uniformly through the State."

The Oregon Supreme Court has interpreted this constitutional provision as a requirement that tax levied by the state be uniform throughout the state, but a tax levied by a local government (county or city) for a local purpose must be uniform throughout the county or city. **Jarvill v. Eugene, 289 Or 157 (1980)**. The county income tax is imposed uniformly throughout the county at 1.25% of each resident's Multnomah Adjusted Income. All residents are subject to the tax, and residency status is determined according to the definitions set forth in the Administrative Rules.

Multnomah Adjusted Income is defined as "Oregon taxable income less the income exception allowed by this subchapter." Multnomah County Administrative Rules 11-620. The income exemptions include the exemption for PERS retirement income imposed by ORS 238.445, and any federal retirement benefit that is taxed as income by the state of Oregon, as well as personal exemptions allowed for filing status of single, married filing separately, married filing jointly, head of household, or qualifying widow or widower.

The decision to exempt the state and federal retirement benefits was based upon sound legal advice and was not in any way arbitrary. The Commissioners are very familiar with the legal opinion and it will not be reiterated here.

IV. The Multnomah County Income Tax does not violate the equal protection clause of the federal constitution or the privileges and immunities clause of the state constitution.

It is well settled in Oregon that providing an income tax exemption to recipients of PERS retirement benefits, and recipients of federal retirement benefits, while not providing the same exemption to recipients of retirement benefits from other states, or private pensions, is not a violation of the equal protection clause or the privileges and immunities clause. **Simpson v. Department of Revenue, 12 OTR 455 (1993); affirmed 318 Or 579 (1994); review denied 513 U.S. 868 (1994)**.

V. Conclusion

The Oregon Supreme Court has determined that Multnomah County, a Constitutional home rule county has the authority to impose a local income tax. The County's decision to exempt PERS retirement income and federal retirement income from taxation is supported by Oregon statute. The Oregon courts have previously determined that such exemption is not a violation of either the Oregon or the Federal Constitutions.

**Written Statement – Appealing the Final Determination Letter
from the Administrator of the Multnomah County ITAX.**

**From: Thomas A. Turja
9124 N. Wall
Portland, OR 97203
Account # 26483777387**

**RECEIVED
JUN 17 2005**

**To: The Multnomah County Commission
501 S.E. Hawthorne Blvd, Suite 600
Portland, OR 97214**

The reasons the Administrators determination is incorrect:

The ITAX initiative unlawfully discriminates against Multnomah County residents, who are taxpayers, and are not a PERS/FERS retiree. This initiative is unconstitutional, as will be proven in the following text.

The correct determination should be:

We appreciate your insight, and we now understand the County ITAX is unconstitutional. The County must find other options to generate revenue, or cut costs to balance our budget.

cc: Hardy Myers, Attorney General, Salem Office
Gordon Smith, Oregon Senator, Washington, D.C. Office
Ron Wyden, Oregon Senator, Washington, D.C. Office

Confidential

6/9/2005

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PERS Contract v. Constitution Pg 5-7

Horizontal Equity Pg 8

Article 1, Section 32 – Taxes and duties, uniformity of taxation Pg 9

Conclusion Pg 10-11

Attachment 1 – Portland Tribune Article Pg 12-13

Attachment 2 – Budget Manager’s message 9 Pg 14

Attachment 3 – Hardy Myers Document No. 8267 Pg 15-19

Attachment 4 – Final Determination Letter Pg 20

Introduction

In May of 2003, Multnomah County voters approved *measure 26-48*. This initiative imposes a three-year 1.25% income tax on county residents. The County Board adopted this measure in June 2003 by *ordinance 1012*.

The money raised on this temporary income tax measure is to go to county schools, health and senior care, public safety, and 5% to administer the program. The Oregon Constitution under *Article VI, Section 10* grants county voters authority to adopt a county charter, and Multnomah County *Charter 2.10* grants the county legislative authority "over matters of county concern to the fullest extent permitted by the constitutions and laws of the United States and the State of Oregon."

In November of 2004, County citizens voted against *measure 26-64* that would have repealed the temporary county income tax for the years of 2004 and 2005.

It's good to know that voters of Multnomah County understand the importance of funding schools. This is not my complaint.

The concern began when an article came out in the Portland Tribune dated Jan. 27, 2004. This article was written by Don Hamilton (Tribune Staff), and was titled "Public retirees excused from tax." (Attachment 1). Dave Boyer, the county's finance officer, and temporary ITAX Administrator commented in this article:

His quote was:

"When preparing the income tax measure last year, county officials thoroughly researched the tax code, but didn't find the PERS exemption."

The county admitted having limited experience in dealing with income tax issues, so they hired the law firm Ball Janik to explore the question. Ball Janik attorney Neil Kimmelfield quotes:

"The county could probably find legal grounds to argue in favor of taxing PERS benefits, but there is a substantial possibility that the courts would reject that argument."

Taxation issues have high visibility. How a tax administrator operates the measure directly reflects the character of the government agency. The collector must enforce a fair tax system evenly, or it will be seen as unfair and corrupt.

A good tax system will have few fluctuations and a high-degree of stability. With a state income tax system, the fluctuations can be quite large when the business cycle has a downturn. A downturn hit Multnomah County residents hard the past few years. The county sustained one of the highest unemployment rates in the nation for more than three years. This makes one understand the need to raise more money to balance the budget.

Creating a fair and equal tax system

Article IX Section 1 of the Oregon Constitution Requires:

That all taxes be levied and collected under general laws operating uniformly throughout the State.

Personal income tax under the Oregon Revised Statutes (ORS) is defined in ORS 316. The goals of the personal income tax are defined under ORS 316.003 and they are stated here:

316.003 Goals.

- (1) The goals of the Legislative Assembly are to achieve for Oregon's citizens a tax system which recognizes:
 - (a) Fairness and equity as its basic values; and
 - (b) That the total tax system should use seven guiding principles as measures by which to evaluate tax proposals.
- (2) The guiding principles are:
 - (a) Ability to pay;
 - (b) Fairness;
 - (c) Efficiency;
 - (d) Even distribution;
 - (e) The tax system should be equitable where the minimum aspects of a fair system are:
 - (A) That it shields genuine subsistence income from taxation;
 - (B) That it is not regressive;
 - (C) That it imposes approximately the same tax burden on all households earning the same income;
 - (f) Adequacy; and
 - (g) Flexibility.
- (3) To meet those goals of Oregon's tax system, any tax must be considered in conjunction with the effects of all other taxes on Oregonians. [199] C. 457 1a]

The ITAX violates the goals dictated under ORS 316.003. Multnomah County residents already pay more taxes per student than the State of Oregon allocates to the schools in the county. (*Oregonian May 8, 2005*). This is before the ITAX initiative. This tax is based on the income of county residents. It violates the fairness of that residency. The money is required for the county to provide services for safety and welfare of the people of the county. *Article IX Section 1, requires uniformity of taxes throughout the State.*

All residents/households should be taxed in the same manner. By exempting PERS/FERS, it violates the basic values of ORS 316.003. This tax initiative fails to tax all county households in the same manner. The goals of this tax, in addition, do not abide by the rule of ability to pay. Quoted under Multnomah County's FY 2005 adopted budget, under budget manager's message 9 (Attachment 2).

The Manager Quotes:

"There are a couple of reasons why collections are expected to fall short of original estimates. One factor that has a significant impact is the decision to exempt state and federal retirees from paying this tax. This represents approximately \$5 million that was assumed in the original forecast. We also discovered that the data used to develop estimates of the tax revenue in Multnomah County included taxpayers who filed from a Portland address but actually reside in other counties. Given that many of those taxpayers live in high-income areas of Portland we believe that could account for another \$5 million in "lost" tax revenue."

Two very important issues pop out:

First, the word "decision" used to exempt state and federal retirees. Remember, the Ball Janik attorney stated:

"The county can probably find legal grounds in favor of taxing PERS benefits." This decision made by Multnomah County to exempt that group was "Arbitrary." In fact, the intent of this initiative was not to exclude any resident.

The word "Arbitrary" is defined in the Oxford Dictionary - American Edition, as: (based on uninformed opinion or random choice). Synonyms listed under this definition include the following words - erratic, uncertain, inconsistent, unpredictable, whimsical, irrational, and subjective. Multnomah County Administrators were subjective when the "decision" was made to exempt PERS/FERS from paying this tax.

Second, is the \$5 million of "lost" tax revenue.

Taxpayers that live in high-income areas should not be filing from a Multnomah County residence if they lived elsewhere. The budget manager knows exactly which taxpayers were given immunity from their 2003 actual income tax returns. The budget manager even puts the word "lost" in parenthesis. These are wealthy residents with second homes. The county has no ability and no desire to stop this evasion of taxation.

When you combine both the exempt PERS/FERS with the wealthy evaders, the total is \$10 million or about 8% of the total budgeted receipts. Then the county adds another 5% or approximately \$6 million a year to administrate the tax. All this

adds up to about \$16 million or 13% of total receipts per year. This is definitely a material amount of loss. The goals of taxation stipulate to aim at taxpayers with the "ability to pay." This violates that goal. The 8% that is exempted from paying, comes from a representation of the public that definitely has the ability to pay.

Instead the county is demanding payment from a group that lost the most from this unfortunate business cycle downturn, "the unemployed." There is no ethical reason for this decision.

The ITAX Administrator defines unemployment as the replacement of taxable wages. If it replaces taxable income, why did unemployment benefits max out at \$405 per week? I made over three times that amount before the factory shut down. Unemployment income was approximately \$50,000 a year less than my prior salary. That's not replacing my taxable wages. Furthermore, this federal subsistence was extended, twice, to help out the unfortunate workers that lost their jobs. On the other hand, the benefit increase that does replace full and complete taxable wages is *Or Laws 1995, 569*. This legislative act increased all PERS members income (before tax) to offset their pension taxation. That issue will be discussed later in the text.

ORS 316.003(2)(e) states:

The tax should be equitable where the minimum aspects of a fair system are: (A) that it shields genuine subsistence income from taxation; (B) that it is not regressive; (C) that it imposes approximately the same tax burden on all households earning the same income.

This tax does not try to shield the tax burden from victims of this economic downturn, nor does it impose approximately the same tax burden on all households earning the same income. **This violates *ORS 316.003*.**

As a government body, Multnomah County may not violate either the state or federal constitutions. The county and its commissioners can be held liable if they engage in any activity that violates either constitution. ((*See 42 USC 1983*) (*Section 1983*) *ORS 30.265*)

All County Commissioners are required to take an oath to support both the state and federal constitution. (*See ORS 204.005, ORS 204.020*) The county commission has a duty to act in compliance with the constitution. This applies even when a court has not yet found a particular statute or government action unconstitutional. (*See Cooper & Eugene School District, 45, 301 Or 358, 364-65, 723 P2d 298 (1986)*)

This tax "rewards" more residents that have the ability to pay than those that do not. It was put together haphazardly, where equality rights are broken and there is no enforcement of wealthy taxpayer loopholes.

The ITAX violates *Article IX Section 1*, of the Oregon Constitution.

PERS Contract v. Constitution

PERS members have no valid reason to receive additional tax benefits

Much of this section will quote facts of *document N. 8267 (Attachment 3)*, written by Oregon State Attorney General, Hardy Myers.

First, lets understand the PERS contract with the State of Oregon:

The original purpose of [the tax exemption of PERS benefits] was to reduce payroll costs to the State of Oregon. The State would reduce current salaries paid to its employees in exchange for exempting the same employees' retirement benefits from state income taxes. *Simpson v. Dept. of Rev. 12 OTR 455 (1993)*.

Before 1991, Oregon exempted all income from state taxes for pension income of PERS. *ORS 316.680(1)(d)(1989)*. Federal retirees had a dollar limit for an exemption.

In 1989, under *Davis v. Michigan Dept. of Treasury, 489 US 803, 109 S ct 1500, 103 L Ed2d 891 (1989)*, the U.S. Supreme Court held that federal statutory and constitutional principles of intergovernment tax immunity prohibit a state from providing a tax exemption for state and local pension benefits without providing a similar exemption for federal pension benefits.

In 1991, to comply with *Davis*, the Oregon Legislature repealed the state income tax exemption for PERS and local government pension income. They also increased PERS retirement income benefits by up to 4% to partially offset the loss of the exemption. *Or Laws 1991, ch 796*.

After further law suits (including *Hughes v. state of Oregon, 314 Or*), legislature enacted PERS benefit increases that were designed to fully compensate PERS members for the loss of the tax exemption for benefits attributable to service performed before September 29, 1991. *Or Laws 1995, ch569*.

Federal retirees challenged the 1995 benefit increase, and were judged to receive the same state income tax benefits PERS members received prior to September 29, 1991.

Under the PERS Contract with the State of Oregon, the PERS members received full compensation for their taxed pensions. **There is no valid reason they should receive any additional income tax benefits (including grossing-up) from the State or any sub-section within Oregon.** The State had a contract with PERS indicating no county or city could further tax them. Multnomah County was obligated to cancel the ITAX measure at that point. *Article 1, Section 21* of the Oregon Constitution prohibits any law being passed that impairs the obligation of contracts; the plain language of *ORS 238.445* exempts PERS benefits from taxation by counties.

Multnomah County was forced to exempt PERS/FERS retirees, but in turn it made the ITAX more complex and violated the equality rights of taxation. The county was required to stop at that point and cut costs or find resources that abided by Oregon law.

Furthermore, *Senate Bill 497*, passed during the 73rd Oregon Legislative Assembly eliminated the special benefits to any PERS retiree that does not pay Oregon income tax. This legislative action applies to any PERS retiree that has moved to another state and is not an Oregon resident. This action was obviously adopted because PERS retirees were already compensated (in terms of income) with the vast majority.

Huckaba v. Johnson, 281 Or 23, 26, 573 P2d 305 (1978)

The Multnomah County Administrator, in his final determination letter, identifies this case for the reason the county is constitutional by exempting PERS/FERS retirees. He actually quotes: "*singling out of one particular class for taxation or exemption infringe upon no constitutional limitations.*" That's a bold statement. It's totally misleading and has since been addressed in the courts. That's all that needs to be said about that.

In *Huckaba*, a federal retiree challenged an Oregon statute that provided an income tax exemption for up to \$2400 of federal retirement income. Military retirement income received this benefit only after age 65. The reasoning being that military personnel generally enter the armed forces at an early age and are more likely to retire at an early age and get a second career. This gives it some rational.

Preceding cases upholding laws of the privileges and immunity clause have been issues relating to; non-residents verses residents, federal pensions verses state pensions, public pensions verses private pensions, and even individuals versus corporations. But, no cases have been filed between one equal taxpaying resident verses another equal taxpaying resident. No government agency has ever attempted discrimination based solely on residency alone, until now.

Article 1, Section 20, of the Oregon Constitution requires:

No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens.

A violation of this constitutional provision requires there to be (1) a privilege or immunity, (2) which is denied to an individual or class of citizens, (3) without a rational foundation in light of the purposes of the law or programs at issue.

For the county to change intent merely to become constitutional with *Article 1, Section 21*, their devious action does not fill the requirement of complying with rational basis.

In the ITAX measure, there is a privilege or immunity given to the PERS/FERS retirees, which is denied to an individual or class of citizens, and it has no rational foundation in light of the purpose for the law being issued.

The administrator stated in the final determination that:

The equal protection clause of the Fourteenth Amendment to the United States Constitution provides that "No State shall deny any person within its jurisdiction the equal protection of the law. The equal protection of the laws required by the Fourteenth Amendment does not prevent States from resorting to classifications for the purposes of legislation and they have a wide range of discretion in that regard.

That statement was put on the final determination letter. (Attachment 4). However, the Administrator for some reason left out this next quote from document N. 8267, from Hardy Myers, Oregon State Attorney General:

"If the classification is reasonable, not arbitrary and rests upon some ground of difference having a fair and substantial relation to the object of the legislation so that persons similarly situated shall be treated alike."

No government body is entitled this wide of discretion to abuse power. This goes way too far when it comes to fair constitutional rights. Multnomah County officials know better.

Exempting PERS retirees has no substantial relation to a residential income tax.

The Oregon Supreme Court has held that tax classifications survive constitutional scrutiny if there is a rational basis for the classification. However, it is not sufficient to merely point out differences between groups of taxpayers for divergent treatment. The differences justifying the attempted classification must bear a reasonable relationship to the legislative purpose.

The purpose of this measure is to tax residents for services provided. It has no relationship to the State of Oregon's contract with PERS members.

Even when an identifiable class exists, the courts generally have rejected attacks on class legislation "whenever the law leaves it open to anyone to bring himself or herself within the favored class on equal terms. State v. Clark, 291 Or 231, 240-41, 630 P2d 810 (1981); See also Wilson v. Dept. of Rev., 302 Or at 132.

No one has the ability to put themselves into the favored class. Either you are a PERS/FERS retiree or you are not.

This simply violates equal privileges that all residents are required under the Oregon Constitution (taxation issues or not).

Horizontal Equity

Multnomah County violates the horizontal equity of taxation.

Horizontal Equity is the most basic of applications of equal justice. In all government divisions big or small, if a person can prove that they are just like another, almost no one will deny that person a strong case for equality under all laws applying to the two of them. One would think if income were the only measure of a person, then two people with equal incomes would be treated as equals.

Income exclusions designated for an age group violate horizontal equity by benefiting taxpayers on the basis of age instead of the amount of income. Horizontal equity requires that those with equal status should be treated the same. They should pay the same amount of tax and receive the same amount of benefits. In other words, those starting as equals with the same before tax income should end up with the same after tax income.

Oregon gives private pension retirees as much as a 9% credit on the state income tax return. It does the same for federal and state retirees. Therefore, Oregon treats all pension income the same.

In 1995, *Or Laws 1995, Ch529 (House Bill 3349)*, authorized a 9.8 percent PERS increase to cover the amount of taxes that would be collected, so in essence, state and local government retirees did not lose any money out-of-pocket. The statute also expressly announces that the increase is paid "in compensation for damages suffered by members of PERS, by reason of subjecting PERS benefits to Oregon personal income taxation," it is intended as "full" complete and final payment of all members of the system.

That made all taxable income in Oregon equal. However, Multnomah County ITAX excludes federal and state retirees from paying.

The county will not win a constitutional ruling in this case. The constitution was adopted generations before this temporary ITAX. It will also be around generations after this temporary ITAX. Abiding by the laws of the constitution comes first, no matter how strongly an individual or government agency feels about a certain issue or how important that issue is.

This ITAX violates the horizontal equity of taxation and the equal privilege rights of the vast majority of taxpayers in Multnomah County.

Oregon Constitution Article 1, Section 32 – Taxes and duties, uniformity of taxation

Section 32 requires:

No tax or levy shall be imposed without the consent of the people or their representatives in the Legislative Assembly, and all taxation shall be uniform on the same class of subjects within the territorial limits of the authority levying the tax.

There is no contending that the tax did get the consent of the people. However, the county should have disclosed the PERS immunity "decision" on the title page of ballot measure 26-64 to appeal the ITAX in 2004-05. It wasn't mentioned at all.

What is being contested is the uniformity on the same class of subjects within the territorial limits of the authority levying the tax.

In fact, if you look at *Article 1, Section 20; Article 1, Section 32; and the U.S. Fourteenth Amendment* together, this issue becomes unambiguous. Common sense supports only one plausible interpretation. **The ITAX is not equitable.**

This is an income tax on residents of a territory. It goes to schools within the territory, to health and senior care within the territory, and to public safety for the territory. No one can deny that all people within that territory equally benefit from those services.

The U.S. Supreme Court allows a high degree of flexibility in classifying taxpayers. The Federal Government will let states handle their own tax affairs, as long as no federal worker or retiree gets unusual benefits. It will not tolerate any State income tax system that gives federal employees or retiree's favoritism over a majority of taxpayers.

Federal law dominates or "trumps" State law, so State equality and uniformity provisions cannot conflict with the Equal Protection Clause. States can decide to exempt a select group from paying a tax. As long as a State [*Davis v. Michigan Dept. of Treasury* 489 US, 803, 823] income tax draws no distinction between the federal employees or retirees and the vast majority.

If there is discrimination by a state against federal employees, it's just a matter of indifference to the Federal Government. As long as it can fairly be said that [*Davis* 489 US, 803, 824] federal employees are treated like other ordinary residents of the state.

Multnomah County's interest in adopting this discriminatory tax, no matter how substantial, is simply irrelevant to the nature of the two classes receiving inconsistent treatment. **This income tax of Multnomah County, gives special treatment to federal retirees over the vast majority of county taxpayers, it conflicts with federal law.**

Conclusion

To be equitable is to be just, and justice means lawfulness. This relationship concludes that equity is the highest of principles in both law making and law administration.

The Multnomah County Board of Commission as a government actor may not violate either the federal or state constitutions. In fact, the county and its commissioners may be held liable for engaging in activity that is in violation of either constitution. (See 42 USC 1983 "Section 1983"; ORS 30.265 (authorizing lawsuits against counties for violations of section 1983).

The Multnomah County residential income tax initiative is one of the most basic discriminatory legislative acts ever attempted. Two of the most basic rights people have are citizenship and equality. There is no common sense to treat residents as not equals in this case.

The PERS/TERS classification exists merely as a motive not to breach the contract and violate *Article 1, Section 21* of the Oregon Constitution. There is no other legislative purpose to omit PERS/FERS from taxation on this initiative. This is a residential tax for services for all citizens to receive.

In short, PERS/FERS members have won every prior lawsuit that justifies their pensions as **full and complete** compensation for their retirement. For the State of Oregon, or Multnomah County, to give any additional benefits to PERS/FERS members, without equal benefits to the ordinary taxpayer is **totally unacceptable by law.**

I Appeal these violations:

- 1) *Article IX, Section 1*, of the Oregon Constitution; violations include:
 - a) *ORS 316.003(1)(a)* Fairness & Equality.
 - b) *ORS 316.003(2)(a)* Ability to pay.
 - c) *ORS 316.003(2)(b)* Fairness.
 - d) *ORS 316.003(2)(d)* Even distribution.
 - e) *ORS 316.003(2)(e)(A)* Shields subsistence income.
 - f) *ORS 316.003(2)(e)(C)* Imposes same tax burden on all households.
 - g) *Article IX, Section 1* - All taxes shall be levied under general laws operating uniformly throughout the state.

- 2) *Article 1, Sections 20 and 32*, of the Oregon Constitution; violations include:
 - a) Equality of taxation rights
 - b) It was an "Arbitrary decision" to exempt PERS/FERS retirees.
 - c) There was no rational basis to exempt PERS/FERS.
 - d) The exemption bears no relationship to the legislative purpose.
 - e) The non-favored class cannot put themselves into the favored class.

3) Federal law violations:

- a) Special treatment is given to federal retirees over the ordinary taxpayers.
- b) Horizontal equity tax rights are violated.
- c) The legality of taxing the federal funded unemployment subsistence income.
- d) The moral rights for a county, to add a new tax, and subject the unemployed workers to the tax, while deciding to let their own public retirees off the hook.

4) The administrator states: "the Oregon legislature to promote the security of the Oregon employee retirement system prohibits counties from taxing Oregon PERS retirement benefits".

I'm not sure if the legislature actually says this, but please explain what the administrator means by: "to promote the security of the Oregon employee retirement system". This statement needs more clarification.

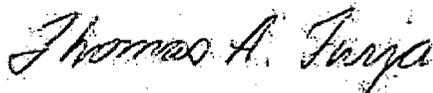
Each Multnomah County Commissioner is required by state law to take an oath to support both the federal and state constitutions. (See ORS 204.005, ORS 204.020). The County's duty to act in compliance with the constitution applies even when a court has not yet found a particular statute or government action unconstitutional. (See Coopers & Eugene School District, 4J, 301 Or 358, 364-65, 723 P2d 298 (1986)).

In essence, government officials have a duty to follow the constitution regardless of whether a court has ruled on the constitutionality of a particular issue. I emphasize to each one of you, carefully make the proper decision. If the decision is to reject my appeal, please advise me of my circuit court options and the timeframe allowed to file a lawsuit.

Finally at this time, what ever side the County Commission takes, I give my written request for privacy. This request is hereby submitted under OR Law Chapter 192.445(2)(b)(E):

This request asks for: Nondisclosure of home address, home telephone number, and electronic mail address.

Thank you very much,



Thomas A. Turja

Multnomah County Resident and Citizen

Attachment 1
Pg 1

Portland Tribune

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Public retirees excused from tax

Income tax loophole puts PERS benefits off-limits to county

By DON HAMILTON Issue date: Tue, Jan 27, 2004
The Tribune

Many retired public employees won't be required to pay Multnomah County's new income tax on their pension benefits, county officials discovered recently.

A little-known 1989 state law exempts Public Employees Retirement System benefits from being taxed by local government. Federal pensions won't face the county tax, either, because a U.S. Supreme Court ruling requires jurisdictions to tax state and federal pensions the same way.

The financial impact remains uncertain. Dave Boyer, the county's finance officer, said the hit might be more than \$1 million out of the \$128 million the county hopes to raise annually under the three-year tax.

"It's probably not substantial," said Bob Gravely, the county's income tax information director. "It won't blow a hole in the county tax."

The discovery of the special exemption comes as voters decide on Measure 30, the income tax increase passed by the Legislature in August to help balance the state's 2003-05 budget. The mail-in ballots are due Feb. 3.

Last May, Multnomah County voters established Oregon's first county income tax, earmarked for schools and other services cut by the state. The tax requires any Multnomah County resident who pays Oregon income taxes to file an additional county tax return.

But on Dec. 1, a retired assistant attorney general wrote county officials, citing the law and challenging their right to tax her PERS retirement income. The law says PERS benefits "shall be exempt from garnishment and all state, county and municipal taxes" except for the state income tax.

The law was part of a broader PERS reform that required PERS recipients to pay state income taxes on their benefits. PERS benefits had been exempt from state income taxes before then, although federal pension benefits were taxed. A 1989 U.S. Supreme Court ruling prohibited tax collectors from treating the pensions differently.

Boyer said that when preparing the income tax measure last year, county officials thoroughly researched the tax code but didn't find the PERS exemption.

"It's a state law, and we were not aware of it," he said. "It was not in the income tax laws. We did our due diligence but missed it."

Other interest groups are exempt from some local taxes. For example, the Legislature exempted real estate agents from local business taxes, Boyer said.

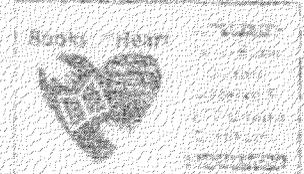
The county, having limited experience in dealing with income tax issues, hired the law firm Ball Janik to explore the question. In a Dec. 31 memo, Ball Janik attorney Neil Kimmelfield said the county could probably find legal grounds to argue in favor of taxing PERS benefits, but "there is a substantial possibility that the courts would reject that argument."

"The plain language of ORS 238.445," he wrote, "exempts PERS benefits from income taxation by counties."

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Pg 2

So the county decided to exempt the retirees from the tax. Multnomah County Attorney Agnes Sowle said losing in court could be expensive. First, the county would need an outside law firm with tax expertise. And, if it lost, it would have to refund the tax plus interest and could be required to pay penalties and the opponent's legal bill.

Louie Waldon, a retired Teamster living in Portland, doesn't think it's fair that some retirees pay while others don't.

"I don't mind paying the tax, but if I'm going to pay it, I prefer that everyone else is going to have to pay it, too," Waldon said. "I think we ought to have a new election on it."

County tax forms have already been printed, but the Web site tax form is being revised. It involves nothing more complicated than adding an extra line where taxpayers can subtract their PERS or federal pension income from their Oregon taxable income. Only then will the tax be calculated.

More than 10,000 taxpayers have made early payments on the tax, but refunds will be mailed to anyone whose tax is dropping because of the change.

For more information, call the Multnomah County tax line at 503-988-4829.

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Budget Manager's Message

ITAX Comparison FY 2004 to FY 2005

| Department | FY 2004 ITAX | FY 2005 ITAX | Difference |
|--------------|-------------------|-------------------|--------------------|
| DA | 2,112,000 | 2,112,000 | - |
| MCSO | 6,249,000 | 6,249,000 | - |
| DCJ | 5,900,000 | 5,900,000 | - |
| OSCP | 200,000 | 200,000 | - |
| DCHS | 14,410,000 | 14,410,000 | - |
| Health | 3,092,000 | 3,092,000 | - |
| B&S | 6,855,000 | 5,318,000 | (1,537,000) |
| Total | 38,818,000 | 37,281,000 | (1,537,000) |

The \$1.5 million difference is a result of one-time-only start-up expenses incurred in FY 2004 and unnecessary in FY 2005.

BM 30 & ITAX

The State did not release the final details of its BM 30 cuts prior to Multnomah County's June budget adoption. As such, we may be required to reopen the budget at a later time to reflect the reductions as we learn about them.

Because ITAX programs backfilled state programs which were reduced or eliminated, the BM 30 cuts will force us to reexamine the validity of the funding framework and distribution of ITAX revenues. The Board has indicated its commitment to meet the intent of the voters and the legal requirements of the Temporary Personal Income for Public Schools, Public Safety and Human Services.

We now have a fairly accurate picture of the status of ITAX revenue collections. Revenue estimates were made in an environment of uncertainty, due to a lack of historical experience. Through May we have received gross revenue of nearly \$100 million from 2003 tax returns. We ultimately expect to collect anywhere from \$115 - \$118 million when all 2003 tax collections are tallied.

There are a couple of reasons why collections are expected to fall short of original estimates. One factor that has a significant impact is the decision to exempt state and federal retirees from paying the tax. This represents approximately \$5 million that was assumed in the original forecast. We also discovered that the data used to develop estimates of tax revenue in Multnomah County included taxpayers who filed from a Portland address but actually reside in other counties. Given that many of those taxpayers live in high income areas of Portland we believe that could account for another \$5 million in "lost" tax revenue.

March 30, 1999

Attachment 3
Pg 1

No. 8267

This opinion is issued in response to a question from Jon Yunker, Director, Oregon Department of Administrative Services, concerning the state personal income tax treatment of private pension income.

QUESTION PRESENTED

Does Oregon unlawfully discriminate in taxing private pension income while:

1. Providing a pension benefit increase to Public Employees' Retirement System (PERS) retirees that is the functional equivalent of a rebate of Oregon personal income taxes attributed to their PERS pension income, and
2. Not taxing federal pension income?

ANSWER

No.

DISCUSSION

I. Background

Before 1991, Oregon exempted from state taxable income all pension income received from PERS. ORS 316.680(1)(d) (1989). The law further exempted all pension income received by retirees and their surviving spouses from non-PERS public retirement systems maintained by public employers within Oregon. ORS 316.680(1)(c) (1989). There was a limited exemption for pension income from federal retirement systems, subject to a maximum dollar limit. *Id.* There was no exemption for private pension income.

In 1989, the United States Supreme Court held that federal statutory and constitutional principles of intergovernmental tax immunity prohibit a state from providing a tax exemption for state and local government pension benefits without providing a similar exemption for federal pension benefits: *Davis v. Michigan Dept. of Treasury*, 489 US 803, 109 S Ct 1500, 103 L Ed2d 891 (1989). To comply with *Davis*, the 1991 Oregon legislature repealed the state income tax exemptions for PERS and local government pension income. Or Laws 1991, ch 823, § 3. The legislature also increased PERS retirement benefits by up to 4 percent to partially compensate PERS members for the loss of the tax exemption. Or Laws 1991, ch 796.

PERS members immediately commenced a lawsuit challenging the repeal of the tax exemption. The Oregon Supreme Court held that the repeal breached the employment contract between participating public employers and PERS members: to the extent it required taxation of benefits attributable to services performed before September 28, 1991, the effective date of the repeal. *Hughes v. State of Oregon*, 314 Or 1, 36, 838 P2d 1018 (1992). The *Hughes* court declined to comment on the appropriate remedy for the breach, noting that "[t]he legislature is the most appropriate branch of government in the first instance to choose among the available remedies." *Id.* at 33 n 36.

In 1993 and 1994, PERS members filed two lawsuits, subsequently consolidated, to recover damages for the breach of their employment contract. After several years of litigation, the case was settled. Pursuant to the settlement agreement, the legislature enacted PERS benefit increases that were designed to fully compensate PERS members for the loss of the tax exemption for benefits attributable to service performed before September 29, 1991. Or Laws 1995, ch 569; Or Laws 1997, ch 175.

Federal retirees challenged the 1995 benefit increase, alleging that it was a tax rebate that illegally favored state and local government retirees over federal retirees. The Oregon Supreme Court held that the 1995 increase was the functional equivalent of a tax rebate and that, under *Davis*, the state could not provide such a rebate without providing similar tax treatment to federal retirees. *Vogl v. Dept. of Rev.*, 327 Or 193, 208, 960 P2d 373 (1998). The court declined to direct a remedy, but remanded the case to the Tax Court for further proceedings. *Id.* at 212. On remand, the case was certified as a class action and the parties agreed to a stipulated judgment, which was entered by the court. The judgment requires the Oregon Department of Revenue to refund state personal income taxes paid by members of the class to the extent those taxes were attributable to federal pension income based on services performed before September 29, 1991. In addition, the Department of Revenue must allow class members to exclude from their taxable income in future tax years all federal pension income attributable to services performed before September 29, 1991.

H. Legality of Providing Unequal Tax Treatment to Private Pension Income

State legislative power is plenary subject only to limitations imposed by the state and federal constitutions and preemptive federal statutes and regulations. *See, e.g., Latourette v. Clackamas Co. et al.* 131 Or 168, 170, 281 P 182 (1929). Accordingly, our review is confined to determining whether the disparate tax treatment afforded private pension income violates a limitation found in one of those authorities.

No federal statutes or regulations prohibit the states from treating public and private pension income differently for tax purposes. Therefore, the scope of our inquiry is limited to whether such different treatment violates any state or federal constitutional provision. Disparate tax treatment potentially implicates three constitutional limitations: (a) the tax uniformity requirements of Article I, section 32, and Article IX, section 1, of the Oregon Constitution; (b) the equal privileges and immunities guarantee in Article I, section 20, of the Oregon Constitution; and (c) the equal protection guarantee of the Fourteenth Amendment to the United States Constitution.

We begin by analyzing the state constitutional limitations. *See, e.g., Sterling v. Cupp*, 290 Or 611, 614, 625 P2d 123 (1981); *Cooper v. OSAA*, 52 Or App 425, 432, 629 P2d 386 (1981), *rev den* 291 Or 504, 634 P2d 1347 (1981) (citing *State v. Spada*, 286 Or 305, 594 P2d 815 (1979)). *See also* Linde, *First Things First, Rediscovering the State's Bill of Rights*, 9 Bal L Rev 379 (1980).

A. Tax Uniformity Provisions Under the Oregon Constitution

Two provisions in the Oregon Constitution require uniform taxation. Article I, section 32, provides, in part, that:

all taxation shall be uniform on the same class of subjects within the territorial limits of the authority levying the tax.

Article IX, section 1, provides:

The Legislative Assembly shall, and the people through the initiative may, provide by law uniform rules of assessment and taxation. All taxes shall be levied and collected under general laws operating uniformly throughout the State.

The Oregon Supreme Court has held that tax classifications survive constitutional scrutiny under these provisions if there is a rational basis for the classification. The court explained:

What is required in assessing a constitutional challenge to classification for tax benefit is a review of the grounds for the classification to determine if it rests upon a rational basis. The legislature may make distinctions of degree having a rational basis, and when subjected to judicial scrutiny they must be presumed to rest on that basis if there is any conceivable state of facts which would support it. * * * It, however, is not sufficient to merely point out differences between the groups of taxpayers for divergent treatment. The differences justifying the attempted classification must bear a reasonable relationship to the legislative purpose.

Huckaba v. Johnson, 281 Or 23, 26, 573 P2d 305 (1978) (citations omitted).

In *Huckaba*, a federal retiree challenged an Oregon statute that provided an income tax exemption for up to \$2,400 of federal retirement income other than military retirement income. Military retirees were eligible for this exemption only after reaching age 65. Moreover, the exemption for military retirees was reduced, dollar for dollar, by any earned income received by the retiree during the taxable year. ORS 316.067(1)(c) and (3) (1975). The Department of Revenue argued that the reason for this disparate treatment was that military personnel, unlike other federal employees, were eligible for retirement after 20 years of service, regardless of age. Because military personnel generally enter the armed forces at a relatively early age, they are more likely than other federal employees to retire while still young enough to pursue a second career and to earn additional retirement benefits in that career. The court held that this rationale established a reasonable basis for the challenged law and, therefore, the disparate treatment afforded military retirees did not violate Article I, section 32, or Article IX, section 1, of the Oregon Constitution. 281 Or. at 28-31. The *Huckaba* court emphasized that a tax classification need not be narrowly drawn, but may instead be a general one based on characteristics typical of the affected class:

General rules are essential if a system of the magnitude and complexity of the Personal Income Tax Act is

to be administered with a modicum of efficiency, even though application of the rule may produce seemingly arbitrary consequences in some cases. A nonmilitary federal retiree may, in fact, after retirement obtain employment and create an additional retirement fund. Or conversely an Armed Forces retiree may be unable to enter a new career and be required to subsist on his military retirement pay. Making these determinations would require individualized proof as each income exclusion was claimed. The legislature could reasonably choose between a system of individualized inquiry and a general rule based on the source of the retirement benefit. The former method would introduce complexities in the administration of an already complex tax system and increase the expense of administration. The choice between these competing policies is a legislative determination and the decision to accord the benefit on the basis of an easily ascertainable criterion does not offend constitutional principles.

Id. at 30-31.

More recently, the courts have upheld Oregon's taxation of public retirement benefits paid by the state of Alaska from 1985 through 1990, even though PERS benefits were exempt from tax during that time period. *Simpson v. Dept. of Rev.*, 12 OTR 455 (1993), *aff'd* 318 Or 579, 870 P2d 824 (1994). The taxpayer in *Simpson* had argued that the failure to exempt benefits paid by Alaska's pension plan violated, among other things, Article I, section 32, of the Oregon Constitution. 12 OTR at 456. The tax court rejected the taxpayer's argument, noting:

The purpose of [the tax exemption for PERS benefits] is to reduce payroll costs to the State of Oregon. The state can reduce current salaries paid to its employees in exchange for exempting the same employees' retirement benefits from state income taxes; this is certainly within the legislature's power. This court has previously found such purpose is a "rationale [sic] predicate" for the classification.

Id. at 457-8 (footnote omitted) (citing *Lindau v. Dept. of Rev.*, 10 OTR 92, 93 (1985)). The tax court further observed that the taxpayers did not challenge the taxation of retirement benefits received from private pension plans, "recognizing that they may be substantially different." 12 OTR at 457 n 3. On appeal, the Oregon Supreme Court affirmed the tax court's holding, stating that the taxpayers "have not advanced any viable legal basis supporting their contentions." 318 Or at 581.

Under *Huckaba*, the state has broad discretion to establish tax classifications as long as the distinction supporting the classifications rests on a rational basis, which "any conceivable state of facts" would support. *Huckaba*, 281 Or at 26. *Simpson* stands for the further proposition that the state may rationally decide to compensate Oregon public employees by providing a tax exemption instead of additional cash compensation or other employee benefits, while taxing non-PERS pension income. 12 OTR at 457-8, *aff'd* 318 Or 579; *see also Lindau v. Dept. of Rev.*, 10 OTR at 93. The same rationale applies to the 1995 and 1997 PERS benefit increases, which compensated PERS members for the loss of the tax exemption. Thus, we conclude that Oregon's constitutional tax uniformity provisions do not require equal tax treatment of PERS benefits and private pension income.

Under *Davis*, discussed above, federal principles of intergovernmental immunity require equal treatment of Oregon government and federal pension income. The state's decision not to tax federal pension income attributable to services performed before September 29, 1991, was for the purpose of correcting a violation of those federal law principles and complying with the terms of a court judgment. Under the circumstances, the state's decision not to tax federal pension income was manifestly rational. In contrast, the federal intergovernmental immunity principles do not require equal tax treatment of public and private pension income. Accordingly, we conclude that the state does not violate Oregon's constitutional tax uniformity provisions in providing a tax exemption for federal pension income without providing a similar exemption for private pension income.

To summarize, we conclude that the state's taxation of private pension income does not violate Article I, section 32, or Article IX, section 1, of the Oregon Constitution.

B. Equal Privileges and Immunities Under the Oregon Constitution

Article I, section 20, of the Oregon Constitution provides:

No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens.

A violation of this constitutional provision requires there to be (1) a privilege or immunity, (2) which is denied to an individual or class of citizens, (3) without a rational foundation in light of the purposes of the law or program at issue.

A. Privilege or Immunity

To establish a violation of Article I, section 20, the plaintiff must first show that there is a privilege or immunity that someone else is receiving. *State v. Scott*, 96 Or App 451, 455, 773 P2d 394 (1989). Recipients of private pension income are taxed on that income, while recipients of PERS and federal pension income either are not taxed or are compensated for the tax by a commensurate increase in their pension income. Thus, private retirees are denied a privilege that is provided to PERS and federal retirees.

B. Discrimination Against a Class

The next issue is whether the taxation of private pension income constitutes a denial of a privilege to a cognizable "class" of citizens within the meaning of Article I, section 20. The Oregon Supreme Court has consistently held that laws establishing classifications do not automatically violate Article I, section 20.

"This court will not invalidate a law on the simple grounds that the law classifies individuals or groups of individuals. 'Every law itself can be said to 'classify' what it covers from what it excludes.'" *State v. Clark, supra*, 291 Or at 240. Article I, section 20, prohibits those schemes that classify "persons or groups by virtue of characteristics which they have apart from the law in question."

Wilson v. Dept. of Rev., 302 Or 128, 131-32, 727 P2d 614 (1986).

Generally, to be cognizable under Article I, section 20, a class must be identifiable by virtue of social or personal characteristics that exist apart from the classification created by the challenged government action; classes that are created solely by the challenged law itself "are entitled to no special protection and, in fact, are not even considered to be classes for the purposes of Article I, section 20." *Sealey v. Hicks*, 309 Or 387, 397, 788 P2d 435 (1990); see also *Greist v. Phillips*, 322 Or 281, 292, 906 P2d 789 (1995); *Hale v. Port of Portland*, 308 Or 508, 524-26, 783 P2d 506 (1989). Even when an identifiable class exists, the courts generally have rejected attacks on class legislation "whenever the law leaves it open to anyone to bring himself or herself within the favored class on equal terms." *State v. Clark*, 291 Or 231, 240-41, 630 P2d 810 (1981); see also *Wilson v. Dept. of Rev.*, 302 Or at 132.

Although these principles are easily articulated, their application to specific cases can be problematic. The Supreme Court's analysis of "true classes" under Article I, section 20, has not been entirely clear or consistent. See *Neher v. Charter*, 124 Or App 220, 225-26 n 3 (summarizing cases), 862 P2d 1307 (1993), rev'd 319 Or 417, 879 P2d 156 (1994). Based on the current status of the law, we believe it is an open question whether the Supreme Court would consider such groups as "private retirees," "federal retirees" and "PERS retirees" to be "true classes." Compare *State ex rel Huddleston v. Sawyer*, 324 Or 597, 932 P2d 1145 (1997) and *Wilson v. Dept. of Rev.*, 302 Or 128, with *Sealey v. Hicks*, 309 Or 387. We need not step into this quagmire because our analysis of the third element of Article I, section 20, is determinative. Therefore, we will assume, solely for purposes of reaching an analysis of the third element, that these groups are cognizable classes under Article I, section 20.

C. Rational Basis Test

We next consider whether anything about the source of the private retirees' pension income justifies the discriminatory tax treatment. A discriminatory classification violates Article I, section 20, only if it "either is impermissibly based on persons' immutable characteristics and reflects 'invidious' social or political premises or has no rational foundation in light of the enabling statute's purposes." *Northwest Advancement v. Bureau of Labor*, 96 Or App 133, 142, 772 P2d 943, rev'd en 308 Or 315 (1989). The tax classification at issue here is based on the source of the taxpayer's pension income and therefore does not constitute "invidious" discrimination based on immutable personal characteristics of the disfavored class. See Letter of Advice dated October 14, 1985, to Raymond P. Thorne, Administrator, Employment Division (OP-5878) at 3 (distinction based upon tax rates does not create suspect class). The issue, therefore, is whether the classification lacks a rational foundation in light of its purposes. See *Huckaba v. Johnson*, 281 Or at 26.

For the reasons discussed in Part IIA above, there is a rational basis for providing favorable tax treatment to federal and PERS pension income while taxing private pension income. The Oregon Supreme Court has applied the same rational basis test to determine whether discriminatory tax treatment of pension income violates Article I, section 20. *Huckaba*, 281 Or 23. Because there is a rational basis for the disparate tax treatment afforded private retirees, we conclude that the disparity does not violate Article I, section 20, of the Oregon Constitution.

D. Equal Protection Under the United States Constitution

The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that "No State shall * * * deny to any person within its jurisdiction the equal protection of the laws." The Oregon Supreme Court has noted:

The equal protection of the laws required by the Fourteenth Amendment does not prevent states from resorting to classifications for the purposes of legislation and they have a wide range of discretion in that regard * * * if the classification is reasonable, not arbitrary and rests upon some ground of difference having a fair and substantial relation to the object of the legislation, so that persons similarly situated shall be treated alike. *This latitude is notably wide in classifications for purposes of taxation.*

Dutton Lbr. Corp. v. Tax Com., 228 Or 525, 539, 365 P2d 867 (1961) (citations omitted, emphasis added) (citing *Royster Guano Co. v. Virginia*, 253 US 412, 40 S Ct 560, 64 L Ed 989, 990 (1920)).

Oregon courts generally find a classification to be constitutional under the federal equal protection clause if it is constitutional under Article I, section 20, of the Oregon Constitution. *See e.g., State v. Freeland*, 295 Or 367, 370, 667 P2d 509 (1983) ("The test of unequal treatment under Or. Const. art. I, § 20, is not always the same as the tests articulated from time to time under the federal equal protection clause, although the clauses are sufficiently similar that compliance with article I, section 20 usually will also satisfy the 14th amendment"); *State v. Clark*, 291 Or at 243 ("for most purposes analysis under Article I, section 20 and under the federal equal protection clause will coincide"); *Cooper v. OSAA*, 52 Or App at 432 (scope of Article I, section 20, and the federal equal protection clause are generally the same). For the reasons discussed above, we find that the tax classification at issue here rests on a rational basis, and we therefore conclude that the disparate tax treatment afforded private pension income does not violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

HARDY MYERS
Attorney General

Go to: _____



Created 04/14/99
Webmaster:



Multnomah County Personal Income Tax
ITAX Administrator
PO Box 279
Portland, OR 97207-0279
503-988-ITAX (4829)
www.multcotax.org



The ITAX Administrator has reviewed your protest under the provisions of ITAX Administrative Rule § 11-614(A) and has denied your protest and issues this Final Letter of Determination.

The Oregon Constitution Article VI, section 10 grants county voters authority to adopt a county charter.

Multnomah County Charter Section 2.10 grants the county legislative authority "over matters of county concern to the fullest extent permitted by the constitutions and laws of the United States and the State of Oregon." Multnomah County has authority to enact laws taxing incomes to pay for county services required for the health, safety and welfare of the people of the county.

On May 20, 2003, Multnomah County voters approved Measure 26-48 imposing a three year 1.25% income tax for county schools, health and senior care and public safety. On June 19, 2003, by Ordinance 1012, the Board adopted the voter-approved Measure.

In addition, the Oregon legislature to promote the security of the Oregon employee retirement system prohibits counties from taxing Oregon PERS retirement benefits in ORS 238.445(1). Multnomah County, like the United States and Oregon taxes unemployment insurance because it replaces taxable wages. It's not unconstitutional for Oregon not to tax Social Security benefits but to tax unemployment benefits. It also not unconstitutional for Multnomah County not to tax social security or PERS benefits, but to tax unemployment benefits.

Equal protection of the laws as required by the Fourteenth Amendment or the Oregon privileges and immunities clause does not prevent the state of Oregon or Multnomah County from resorting to classifications for the purpose of legislation and they have a wide range of discretion. That latitude is notably wide in classifications for purposes of taxation. Inequalities that result from singling out of one particular class for taxation or exemption infringe upon no constitutional limitations. *Huckaba v. Johnson*, 281 Or 23 (1978).

Consequently, the Administrator has determined that the Multnomah County personal income tax is constitutional and was properly adopted.

You have 30 days from the date of this letter to pay this billing or to file a written notice of appeal. If you file a written notice of appeal within the 30 days allowed by the administrative rules, you must then file a written statement with the facts and legal issues relating to your appeal to the Multnomah County Board of Commissioners within 90 days from the date of this letter. You may refer to "Your Right to Appeal" for information regarding the content of this statement or call the Help Desk at (503) 988 - ITAX (4829) for any clarification.

Approved:

David A. Boyer
ITAX Administrator
Chief Financial Officer
Multnomah County, Oregon

Dated: April 20, 2005

(P 20)
~~20~~

Multnomah County Personal Income Tax
ITAX Administrator
PO Box 279
Portland, OR 97207-0279
503-988-4829
www.multicotax.org



February 4, 2005

THOMAS TURJA
9124 N WALL AVE
PORTLAND OR 97203-2660

RE: 2003 Multnomah County Personal Income Tax Return
RESPONSE REQUIRED NO LATER THAN: March 6, 2005
Account Number(s) 26483777387

Dear Taxpayer[s]:

In May 2003, the voters of Multnomah County approved a County Personal Income Tax (ITAX) upon all residents of Multnomah County for schools, healthcare, senior services and public safety.

We have received information from the Oregon Department of Revenue for the 2003 tax year which indicates that you have filed your 2003 Oregon income tax return using a Multnomah County address. This would support our conclusion that you appear to be a Multnomah County resident subject to the County (ITAX).

We realize that for various valid reasons some taxpayers, who are not residents of the County, have utilized Multnomah County addresses to file Oregon returns or register their driver's licenses using Multnomah County addresses. We apologize for any inconvenience this letter may cause you if this is your situation.

However, while the vast majority of Multnomah County residents have filed and paid their 2003 Multnomah County income tax, many have not. It is not fair to those residents who have voluntarily complied with the tax to support basic services that others who are also responsible for the tax have not. Our matching program is the only way we have to ensure the fundamental fairness of this tax.

Important: If you are not a Multnomah County resident, please provide us with your primary residence address information, including when it became your primary residence and any other information that supports your residency. Upon receipt of this information, we may request some additional documentation to verify your residency. Please use the Reply section on the back to supply any explanation about your residency.

Important: If you are a Multnomah County resident please complete and file a return by March 6, 2005. The return should include penalty and interest calculations. If you submit your return and payment by March 6, 2005, you may also request in writing a penalty waiver, which the County will review. If you cannot pay in full by March 6, 2005, you may request a 6-month payment plan.

For your convenience enclosed is the 2003 ITAX return. A self-calculating form is also available on our Website, www.multcotax.org. This form can automatically compute penalties and interest. Rules regarding the calculation of penalties and interest are included with this package.

If we do not receive your completed tax return, payment (or payment plan request) by March 6, 2005 or supporting information if you are not a Multnomah County resident, we will compute a return based upon the information obtained from the Department of Revenue and send you a tax assessment that will include penalty and interest. The County will not consider a penalty waiver request in this case.

If you have any questions or need additional assistance please call 503-988-4829. Thank you for your prompt attention to this request.

Please complete the Reply section below and return to:

Multnomah County ITAX
PO Box 279
Portland, OR 97207-0279

Reply Information

Account Number(s) 26483777387

- Attached is my tax return and payment
- Attached is my tax return and I am requesting a payment plan
- I am not a Multnomah County resident. *This information must be provided in writing.* I have included a written explanation of my residency during 2003 and have attached the following documentation:
 - Property tax statement for permanent residence outside of Multnomah County.
 - Rental agreement for permanent residence outside of Multnomah County.
 - Utility bill (electric, water, gas, cell phone etc.) for permanent residence outside of Multnomah County.
 - Phone listing for permanent residence outside of Multnomah County.
 - Other *please describe* _____

Signed: _____
THOMAS TURJA

Dated: _____

Signed: _____

Dated: _____

Multnomah County Personal Income Tax
ITAX Administrator
 PO Box 279
 Portland, OR 97207-0279
 503-988-4829
 www.multcotax.org



March 15, 2005

Initial Letter of Determination

You have been sent a letter asking you to respond by filing a 2003 Multnomah County income tax return or to explain why you are not responsible for paying the (Multnomah County Personal Income Tax (ITAX)). You have failed to send in a return or an explanation.

The Administrator has determined based on the available evidence that you are a County resident as defined in §11-605 and subject to the (ITAX) under §11-625.

You have 30 days from the date of this letter of determination to pay the assessed tax, penalty, and interest or to file a written protest. Please include a copy of this initial letter of determination with your protest, which should provide the facts and legal issues explaining why you are not responsible for the tax.

You may refer to "Your Right to Appeal" for information regarding the content of this protest and the appeals process or visit our website at www.multcotax.org or call (503) 988-4829 for any clarification.

| | | |
|---|-------------|-------------|
| Primary Account Number | 26483777387 | |
| Secondary Account Number | | |
| 2003 Oregon taxable income (as reported by State of Oregon) | | \$17,059.00 |
| Income exemption | | \$2,500.00 |
| Multnomah adjusted income | | \$14,559.00 |
| Residency Fraction | | 1 |
| Multnomah County Taxable Income | | \$14,559.00 |
| Tax Rate | | 1.25% |
| 2003 Multnomah County Tax | | \$182.00 |
| Penalty | | \$45.50 |
| Interest | | \$10.86 |
| Total Prepayments and Withholdings | | \$0.00 |
| Total Determination of Amount Due/(Refund Due) | | \$238.36 |

If you are in agreement with this letter of determination of total amount due, you should detach the payment coupon below and return with your payment to stop the accruing of additional interest. If a refund is due, you may expect the check within 4-6 weeks. If you choose to ignore this letter, you will be placed into our normal collection process.

✂ DETACH AND RETURN WITH PAYMENT



MULTNOMAH COUNTY ITAX
 PO BOX 279
 PORTLAND, OR 97207-0279

| ACCOUNT # | DUE DATE | PMT DUE |
|-------------|----------|----------|
| 26483777387 | 4/14/05 | \$238.36 |

*Please make your check payable to Multnomah County ITAX.
 Please do not include any other correspondence with your payment.
 Payments due on weekends or holidays must be received the previous business day.
 Postmark is not receipt.*

| |
|------------------------|
| DOR 2003 |
| AMOUNT ENCLOSED |
| \$ |

THOMAS TURJA
 9124 N WALL AVE
 PORTLAND OR 97203-2660

MULTNOMAH COUNTY ITAX
 PO BOX 279
 PORTLAND, OR 97207-0279

Multnomah County Personal Income Tax
ITAX Administrator
PO Box 279
Portland, OR 97207-0279
503-988-ITAX (4829)
www.multcotax.org



MULTNOMAH
COUNTY

April 20, 2005

Final Letter of Determination

See attached on Second Page

DETACH AND RETURN WITH PAYMENT



MULTNOMAH COUNTY ITAX
PO BOX 279
PORTLAND, OR 97207-0279

| ACCOUNT # | DUE DATE | BALANCE DUE |
|-------------|----------|-------------|
| 26483777387 | 05/21/05 | \$238.36 |

*Please make your check payable to Multnomah County ITAX.
Please do not include any other correspondence with your payment.
Payments due on weekends or holidays must be received the previous business day.
Postmark is not receipt.*

AMOUNT ENCLOSED

\$

THOMAS TURJA
9124 N WALL AVE
PORTLAND, OR 97203-2660

Multnomah County Personal Income Tax

ITAX Administrator

PO Box 279

Portland, OR 97207-0279

503-988-ITAX (4829)

www.multcotax.org



MULTNOMAH
COUNTY

The ITAX Administrator has reviewed your protest under the provisions of ITAX Administrative Rule § 11-614(A) and has denied your protest and issues this Final Letter of Determination.

The Oregon Constitution Article VI, section 10 grants county voters authority to adopt a county charter.

Multnomah County Charter Section 2.10 grants the county legislative authority "over matters of county concern to the fullest extent permitted by the constitutions and laws of the United States and the State of Oregon." Multnomah County has authority to enact laws taxing incomes to pay for county services required for the health, safety and welfare of the people of the county.

On May 20, 2003, Multnomah County voters approved Measure 26-48 imposing a three year 1.25% income tax for county schools, health and senior care and public safety. On June 19, 2003, by Ordinance 1012, the Board adopted the voter-approved Measure.

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Approved:

David A. Boyer
ITAX Administrator
Chief Financial Officer
Multnomah County, Oregon

Dated: April 20, 2005

May 4, 2005

503/531/sation

Notice of Appeal to Final letter of Determination:

RECEIVED
MAY 05 2005

This is a written notice appealing the final determination letter dated April 20, 2005 by the Administrator of the ITAX. This appeal is hereby presented to the Multnomah County Commissioners as of May 04, 2005.

This appeal comes from:

Thomas A. Turja
9124 N Wall
Portland, OR 97203
Account # 26483777387

Attached is a copy of the final determination dated April 20, 2005. On April 22, I made a similar appeal on my initial final letter of determination dated April 1, 2005. I had rejected that determination for not addressing my unemployment compensation issue, along with other content issues. I appealed to insure my 30-day deadline did not elapse.

Considering this subsequent final determination letter dated April 20, 2005, I ask the County Commission to identify which determination they want me to officially address?

Please mail a letter before May 22nd, as my earlier appeal requested (30 days from my original appeal dated April 22nd). If I do not receive a response from the County, I will use the original date of April 1, 2005 as the final letter of determination. This way no Multnomah County appeal rules will be misinterpreted.

Thank you in advance,

Tom

Es
Certified Copy

Script/Procedure for ITAX Hearings Before the Multnomah County Board of Commissioners

INTRODUCTION:

Chair: This is the time set for public hearing on the claim of THOMAS TURJA under Administrative Rule Section 11-614 for the ITAX. Is THOMAS TURJA present? Please come forward and have a seat at the presenter table. I am Diane Linn, Chair of the Multnomah County Board of Commissioners. Also in attendance are Vice-Chair Lisa Naito and Commissioners Serena Cruz Walsh and Maria Rojo de Steffey, Commissioner Roberts is excused.

All information relevant to your appeal may be submitted and will be considered in this hearing. The evidence may be in any form including oral and written testimony, letters, documents, case law, other written materials or other items.

The Commission will base its decision on the evidence presented, along with the information on the appeal in your file. The Board decision will be by Order adopted by the Board.

DISCLOSURES: [Any ex parte contacts or conflicts of interest by the Board should be disclosed at this time.]

Chair: I have no ex parte contacts or conflicts of interest to disclose.

or if the Chair has disclosures to make

I have the following disclosures to make: _____

Chair: Commissioner Naito? Commissioner Cruz? Commissioner Rojo? [If there are *none*, each Commissioner should say "*none*" on the record.]

[If there are disclosures of ex parte contacts, participants should be given an opportunity to rebut the substance of any disclosure. "Does anyone have any rebuttal testimony relating to any disclosure?"]

[If there are any disclosures of conflicts of interest, the Commissioner in question shall state whether he/she can still be fair in conducting the hearing and making a decision.]

CONDUCT OF THE HEARING:

Chair: I will ask for testimony and other evidence in the following order:

1. ITAX Staff Report from ITAX Administrator Dave Boyer
2. Taxpayer/Appellant **THOMAS TURJA** testimony/evidence presentation
3. Commission discussion, questions, deliberation, and possible decision
4. Future scheduling (continued hearing) if necessary

BOARD DECISION:

Following the hearing testimony, discussion, questions and deliberations, the commissioners will **move, second and vote on a motion approving or denying THOMAS TURJA'S appeal of the ITAX Administrator's Final Determination regarding his Multnomah County Income Tax Obligations; directing the County Attorney to prepare an Order memorializing the board's decision; and adopting said Order.**

The Board Clerk will provide a true copy of the executed Order memorializing the Board's decision to the Taxpayers/Appellant.

12.07.05

Deborah,

This is my reply to the administrator's response.

Please give a copy to each Commissioner as my input.

AFTER they have all read my reply, I'm OK with them deciding the appeal.

Sorry I can't attend. However, I've taken up too much of all of your time as is.

Sorry for that,

Joan Jurys

12.07.05

Deborah,

This is my reply to the administrator's response.

Please give a copy to each Commissioner as my input.

AFTER they have all read my reply, I'm OK with them deciding the appeal.

Sorry I can't attend. However, I've taken up too much of all of your time as is.

Sorry for that,

Isma Juifs

Reply Brief – Challenging the content of the Administrator’s response dated September 8, 2005.

**From: Thomas A. Turja
9124 N. Wall
Portland, OR 97203
Account # 26483777387**

**To: The Multnomah County Commission
501 S.E. Hawthorne Blvd, Suite 600
Portland, OR 97214**

The reasons the Administrator’s response is incorrect:

The following reply will address among others, all three of the following issues contained in the administrator’s September 8, 2005 letter:

- 1) The Oregon Supreme Court has upheld the authority of a home rule county to impose an income tax.**
- 2) The Multnomah County Income Tax does not violate uniformity of Taxation required by Article IX, Section 1 of the Oregon Constitution.**
- 3) The Multnomah County Income Tax does not violate the equal protection clause of the Federal Constitution or the privileges and immunities clause of the State Constitution.**

Multnomah County Response II

Administrator's response – The Oregon Supreme Court has upheld the authority of a home rule county to impose an income tax.

Article 6, Section 10 of the Oregon Constitution grants counties the authority, by legal voter approval, to adopt a county charter. This includes taxes. The only restrictions are, and they are big ones, that the charter **must** abide by the Constitutions and Statutes of the State of Oregon and the United States of America.

Measure 26-48 passed this 1.25% Income Tax. All legal county voters were eligible to vote. The title page on the measure stated: Taxable income is taxable income under Oregon law (after deductions) of Multnomah County residents. The word "Residents" is plainly defined under *ORS 316.027* for personal income taxation.

This measure had no intent to exempt any resident. When the county received a challenge from a retired Assistant Attorney General (*Attachment 1*), it hired the law firm Ball Janik to advise them on the legal aspects of taxing PERS retirement income.

The Ball Janik response memorandum is attached as (*Attachment 2*). It seems no one from the County asked the law firm the question; "If we exempt PERS/FERS retirement Income, would that violate tax uniformity laws?" This is unacceptable. The memorandum, attachment 2, is the only legal advise the County received on the legality of the PERS/ITAX issue (*Attachment 3*). If there was any other advise received by the County or the Board of County Commissioners, I ask you to stop right here and send the appropriate documents. These are public documents under the disclosure statutes.

The purpose of this tax is to pay for schools, safety, and senior care for residents of Multnomah County. There is no relationship between the PERS contract with the State of Oregon and this new temporary Multnomah County ITAX. Oregon taxable income must remain constant to all residents. This is affirmed under *ORS 316.012 (2)*, which defines residents meaning under federal law.

Multnomah County Response III

The Multnomah County Income Tax does not violate uniformity of taxation required by Article IX, Section 1 of the Oregon Constitution.

The administrator identifies Jarvill v. City of Eugene, 289 Or 157 (1980) to support the tax uniformity laws. In the Jarvill case, the Supreme Court upheld the authority of the City of Eugene to impose a tax on gross sales and receipts derived from business activity in the city, holding that "a municipal corporation may assume powers to impose taxes and to select the kinds of taxes most appropriate in order to provide governmental services." Id. At 169.

Multnomah County's levy to impose this tax is not my concern. My concern is the collecting of the tax uniformly. The ballot measure was levied by the residents of Multnomah County fairly. The problem began when the county exempted a source of taxable income after the ballot measure passed. All income must be treated the same for this temporary income tax to be constitutionally legal.

Any other type of tax would not exempt any resident from the tax base. If it were a property tax, a gasoline tax, a sales tax or a sin tax, none of these would identify a residential exempt group. The Jarvill v. City of Eugene ruling did not identify that a select business group could be exempt from this tax.

Article 9, Section 1 of the State Constitution plainly states that the county must "Levy and Collect" an income tax uniformly. When writing the Constitution, the legislators obviously used the word "collected" for its exact meaning (making payment).

It is not constitutional for the county to change the word collected, with the word imposed. The county has indicated that the tax is imposed on all residents. This can mean all residents with Oregon taxable income are enforced to file a Multnomah County Income Tax form. PERS retirees, in this case, are still "imposed" to do something. However, their State Taxable Income is exempt on the County Tax form. Paying nothing on that income. This is not collecting the tax uniformly throughout the territory as required by Oregon Statutes.

The State of Oregon had to make PERS retirement income equal to FERS retirement income under intergovernmental tax immunity laws. It also had to make sure all Oregon residents; private or public were treated fairly. .

Multnomah County Response IV

Multnomah County Income Tax does not violate the equal protection clause of the Federal Constitution or the privileges and immunities clause of the State Constitution.

The administrator states that it is well settled in Oregon that providing an income tax exemption to recipients of PERS retirement benefits, and recipients of federal retirement benefits, while not providing the same exemption to recipients of retirement benefits from other states, or private pensions, is not a violation of the equal protection clause or the privileges and immunities clause.

The Multnomah County ITAX is a residential income tax on all residents of the county. Comparing pension income between public, private, and non-residential sources is of no concern of this appeal. The ITAX measure identified nothing about types of personal income.

This is a residential tax that was promoted to help all county residents equally. There is no relationship between the PERS contract with the State of Oregon and this Multnomah County ITAX measure.

Simpson v. Department of Revenue is noted on the administrator's response as affirmed in 1994. This case was decided before *Oregon Law 1995, CH 569, HB 3349* was adopted. That gave all PERS retirees full, complete, and final payment for their retirement.

Article IX, Section 10 states:

(1) Notwithstanding any existing State or Federal Laws an employee of the State of Oregon or any political subdivision of the State of Oregon who is a member of a retirement system or plan established by law, charter or ordinance, or will receive a retirement benefit from a system or plan offered by the state or a political subdivision of the state, must contribute to the system or plan an amount equal to six percent of their salary or gross wage.

{Created through initiative petition filed May 10, 1993 and adopted by the people Nov. 8, 1994}

(3) On and after January 1, 1995, the state and political subdivisions of the state shall not thereafter contract or otherwise agree to increase any salary, **benefit**, or other compensation payable to an employee for the purpose of offsetting or compensating an employee for the obligation imposed by subsection (1) of this section.

Or Law 1995, Ch569 was adopted after January 1, 1995. The Multnomah County ITAX is strictly a new law. No resident paid it before, no resident exemptions were anticipated on taxable income, and no residents have the rights to an exemption benefit without equal exemptions given to all residents. *If ORS238.445* exempts PERS benefits from all county and municipal taxes, then the county was obligated to find other revenue that would abide by constitutional law.

As for the Federal Statutes, this issue is unambiguous. There is no Oregon law, such as *ORS238.445(2)*, that even references the fact that Oregon taxable federal retirement income is exempt from county or municipal taxes. The Ball Janik memorandum (*Attachment 2*) advises the county that that income is taxable.

This creates a disparate tax structure that violates the equal tax treatment of residents.

The U.S Supreme Court allows a high degree of flexibility in classifying taxpayers. The Federal Government will let states handle their own tax affairs, as long as no federal worker or retiree gets unusual benefits. **It will not tolerate any State income tax system that gives federal employees or retiree's favoritism over a majority of taxpayers.**

Federal law dominates or "trumps" State law, so State equality and uniformity provisions cannot conflict with the Equal Protection Clause. States can decide to select an exempt group from paying a tax. As long as a State (*Davis v. Michigan Dept. of Treasury 489 US, 803, 823*) income tax draws no distinction between the federal employees or retirees and the vast majority.

It is the Davis case decision that ultimately changed PERS retirement income to be taxed by Oregon.

Conclusion

The Multnomah County Administrator's response does not include any defense that cites a case ruling after 1995. This is when all the major changes in PERS retirement income took place. All the cases that the Administrator has included have changed dramatically when PERS retirement income became taxable in the State of Oregon.

This tax uniformity issue needs to be addressed entirely for constitutional scrutiny. The reason this issue is so important now, is that other income tax measures are being discussed for future years. The city of Portland's mayor, Tom Potter, is heading up a task force to investigate a possible three county income tax through Metro. This tax will have the same issues as the Multnomah County ITAX.

The intent of the State Legislation is not to enable differences between neighbors regarding new income taxes imposed on residents.

The State Legislature's intent is clearly defined in Article 6, Section 10 (3) of the Oregon Constitution. It states:

On or after January 1, 1995, the State and political subdivisions of the State shall not thereafter contract or otherwise agree to increase any salary, benefit, or other compensation payable to an employee.

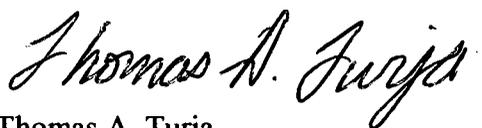
It is also clear in *Or Law 1995, Ch569* where the legislation writes, "*this is intended to be full, complete and final payment to all members of the system.*"

The US Supreme Court is equally as clear in *Davis v. Michigan Dept. of Treasury* writing "*It will not tolerate any State income tax system that gives federal employees or retiree's favoritism over a majority of taxpayers.*"

The *Davis v. Michigan Dept. of Treasury* Case was a precedent decision changing PERS retirement benefits in Oregon. There is no reason to believe that the Oregon Supreme Court would go against their wording in this case.

I understand the power of the administrative process and the commission. I trust that the commission's experience, realization of the statutory policies, and the responsible treatment of the facts will render a properly thought out decision.

Sincerely,



Thomas A. Turja

RECEIVED
NOV 28 2003
COUNTY COUNSEL FOR
MULTNOMAH COUNTY, OR

AMY VERANTH

[REDACTED]

Multnomah County
I-Tax
P.O. Box 279
Portland, OR 97207

Re: Income Tax on County Residents

Dear Sir or Madam:

Oregon law provides that, with certain exceptions, any pension, annuity or retirement allowance provided under ORS Chapter 238, i.e., PERS benefits, "shall be exempt from . . . all state, county and municipal taxes heretofore or hereafter imposed." ORS 238.445(1). In 1991, an exception was added for state personal income tax, ORS 238.445(2), which the Oregon Supreme Court ruled could only apply to PERS members with respect to services performed after September 29, 1991, the date the law was changed. *Hughes v. State of Oregon*, 314 Or 1, 838 P2d 1018 (1992).

Oregon law does not provide any exception for county or municipal taxes. Accordingly, I believe that my PERS retirement benefits are entirely exempt from the recently enacted income tax for Multnomah County residents.

Please tell me whether or not you agree with this conclusion so that I may pay the appropriate amount of income tax to Multnomah County.

Thank you.

Sincerely,


Amy Veranth

cc: Multnomah County Counsel

MEMORANDUM

TO: David Boyer
FROM: Neil Kimmelfield
DATE: December 31, 2003
CLIENT: 7618.2
RE: Imposition of Multnomah County's personal income tax on PERS benefits and federal retirement benefits

QUESTIONS

May Multnomah County (the "County") impose the County's personal income tax ("ITAX") on benefits paid to State retirees under the Oregon Public Employees Retirement System ("PERS")? If not, may the County impose the ITAX on retirement benefits paid to federal retirees?

CONCLUSIONS

- Although an argument may be made in support of imposing the ITAX on PERS benefits, there is a substantial possibility that the courts would reject that argument and hold that ORS 238.445 exempts PERS benefits from the ITAX.
- Federal retirement benefits are partially excluded from ITAX taxable income by County Ordinance No. 1012 and ORS 316.680(1)(f) regardless of the treatment of PERS benefits under the ITAX. If ORS 238.445 exempts PERS benefits from the ITAX, any otherwise taxable federal retirement benefits also are exempt from the ITAX.

DISCUSSION

1. Imposition of the ITAX. County Ordinance No. 1012 generally imposes the ITAX, at a rate of 1.25%, on "Oregon taxable income for residents of Multnomah County." Ordinance No. 1012, as amended by Ordinance No. 1018 (October 23, 2003), generally provides that, for purposes of the ITAX, a "resident" of the County is an individual who either (a) is domiciled in the County or (b) maintains a permanent place of abode in the County and spends in the aggregate more than 200 days of the taxable year in the County.

2. General exemption of PERS benefits from local taxes. Chapter 238 of the Oregon Revised Statutes contains the general statutory provisions relating to PERS. ORS 238.445 provides, in pertinent part:

(1) Except as provided in this section, the right of a person to a pension, an annuity or a retirement allowance, to the return of

contribution, the pension, annuity or retirement allowance itself, any optional benefit or death benefit, or any other right accrued or accruing to any person under the provisions of this chapter, and the money in the various funds created by ORS 238.660 and 238.670, shall be exempt from garnishment and all state, county and municipal taxes heretofore or hereafter imposed

(2) Subsection (1) of this section does not apply to state personal income taxation of amounts paid under this chapter.

3. Argument that PERS benefits are not exempt from the ITAX. The following argument may be made in support of the position that ORS 238.445 does not exempt PERS benefits from the ITAX:

- (1) ORS 238.445(2) was adopted in response to Davis v. Michigan Dept. of Treasury, 489 U.S. 803 (1989), in which the U.S. Supreme Court held that statutory and constitutional principles of intergovernmental tax immunity are violated by state exemption of pension benefits paid by state and local governments without a corresponding exemption of pension benefits paid by the federal government. ORS 238.445(2) was adopted for the purpose of eliminating the prohibited discrimination inherent in ORS 238.445(1) so that pension benefits paid by the federal government could be taxed by the state. There is no indication that the legislature intended to perpetuate the inherently discriminatory nature of ORS 238.445(1) at the county and municipal levels.¹
- (2) The phrase “state personal income taxation”, as used in ORS 238.445(2), is a broad term that does not refer to any specific taxes (such as the personal income tax imposed by the state under ORS Chapter 316). Thus, ORS 238.445(2) arguably applies to all state personal income taxes without regard to whether they are imposed by the state, a county, or a municipality.
- (3) Since the County’s authority to levy taxes is derived from the State Constitution, the County may be viewed as an instrumentality of the state for purposes of ORS 238.445(2), and the ITAX may be viewed as a “state personal income tax”.
- (4) The reference to “state personal income taxation” in ORS 238.445(2) may have been intended only to distinguish personal income taxes from other kinds of taxes. It appears that, when ORS 238.445(2) was adopted, no county or municipality in Oregon imposed a tax on personal income. Therefore, it is unlikely that the legislature considered the effect of the language on counties and municipalities and that the legislature intentionally excluded counties and municipalities from subsection (2).²

¹ I have not done the legislative history research that would be necessary to find support for these statements.

² Same comment as in footnote 1.

4. Argument that imposition of ITAX on PERS benefits is prohibited.

- (1) The plain language of ORS 238.445 exempts PERS benefits from income taxation by counties. Subsection (1) exempts PERS benefits from all state, county and municipal taxes of any kind, and subsection (2) provides an exception only for personal income taxes imposed by the state, but not for personal income taxes imposed by counties or municipalities.
- (2) Since subsection (1) lists three types of jurisdictions that can impose taxes, it is clear that the legislature understood that each type of jurisdiction is distinct from the others, and there is nothing in subsection (2) that suggests the legislature intended the word "state" to have a broader meaning than in subsection (1).
- (3) The term "state", as generally used in Oregon tax-related statutes, does not include counties and municipalities. See, e.g., Jarvill v. City of Eugene, 289 Or. 157, 613 P.2d 1 (1980), in which the Oregon Supreme Court held that, for purposes of determining the Oregon Tax Court's jurisdiction, the "plain and natural meaning" of the phrase "tax laws of this state" includes only tax laws enacted by the "state governmental authority" and not tax laws enacted by a city government.
- (4) Since the ITAX is imposed by the County and not by the state, ORS 238.445(2) does not apply to the ITAX, and ORS 238.445(1) prohibits the County from imposing the ITAX on PERS benefits.

5. Evaluation of arguments. The argument that ORS 238.445 exempts PERS benefits from the ITAX is more persuasive than the contrary argument.

In general, courts infer legislative intent from the language of the statute and resort to legislative history only if the statutory language is ambiguous. Thus, the arguments supporting the position that ORS 238.445 does not exempt PERS benefits from the ITAX depend on both (1) a determination that ORS 238.445(2) is ambiguous and (2) a finding, based on the statutory language and the legislative history, that the legislature intended to except county and municipal income taxation from the general exemption of PERS benefits. It would be easy for a court to conclude that there is no ambiguity in the statute and that its plain language exempts PERS benefits from the ITAX. It is possible that the legislative history contains a clearly articulated intent to permit local governments to impose personal income taxes on PERS benefits, but that possibility is not a strong one. I have not done the investigation of legislative history that would be required to reach a definite conclusion on this point.

6. Consequences of possible legislative clarification. Assuming, for the sake of this discussion, that ORS 238.445(2) does not permit county taxation of PERS benefits, it is theoretically possible for the state legislature to amend ORS 238.445(2) to refer expressly to county personal income taxes as well as state personal income taxes. Even if the legislature were to do so, however, it is likely that, under Hughes v. State, 314 Ore. 1, 838 P.2d 1018 (1992), the amendment would be unconstitutional to the extent it permitted the County to impose the ITAX on

PERS benefits attributable to work performed by PERS members before the date of the amendment.

In Hughes, the Oregon Supreme Court held that, to the extent the 1991 amendments that included the adoption of ORS 238.445(2) caused state taxation of PERS benefits attributable to work performed prior to the date of the amendments, the amendments would impair the state's then-extant contractual obligation not to tax PERS benefits, in violation of Article I, section 21, of the Oregon Constitution. Similarly, if the legislature were now to extend ORS 238.445(2) to county personal income taxation, the extension could not constitutionally apply to benefits attributable to work performed before the date of the amendment, unless it were determined that the pre-amendment statute (i.e., ORS 238.445(2) in its current form) already permits county personal income taxation of PERS benefits.

If the legislature amended ORS 238.445(2) to permit county taxation of only those PERS benefits that are attributable to post-amendment work performed by PERS members, the amendment would have little or no value to the County.

If the legislature amended ORS 238.445(2) to permit county taxation of all PERS benefits (e.g., by simply adding the word "county" to the provision), despite the likely constitutional invalidity of the amendment, it is arguable that the County could validly impose the ITAX on all PERS benefits on the ground that county taxation of PERS benefits would no longer be prohibited by state law. Assuming the validity of this argument (which is in doubt), imposition of the ITAX on PERS benefits would likely give rise to breach-of-contract claims by PERS retirees residing in the County against their former state and local government employers. See Stovall v. State By and Through Oregon Dept of Transp., 324 Or. 92, 922 P.2d 646 (1996). Thus, it should be assumed that the state legislature will not amend ORS 238.445(2) to expressly permit county personal income taxation of PERS benefits.

7. Imposition of ITAX federal retirement benefits.

Under County Ordinance 1012 itself, federal retirement benefits are subject to the ITAX only to a limited extent.

Ordinance 1012 provides that the ITAX applies to "Taxable income under Oregon law." ORS 316.680(1)(f) provides that, in determining Oregon taxable income, federal taxable income is reduced by a fraction of federal retirement benefits, where the numerator is equal to the taxpayer's number of months of federal service before October 1, 1991, and the denominator is the total number of months of the taxpayer's federal service. Thus, for example, if an individual taxpayer began working for the federal government on October 1, 1961, and retired on October 1, 2001, 75% of the individual's federal retirement benefits are excluded from Oregon taxable income.

Assuming that ORS 238.445 prohibits the County from imposing the ITAX on PERS benefits, the doctrine of intergovernmental tax immunity, as codified in 4 U.S. Code § 111, prohibits the County from imposing the ITAX on the portion of pension benefits received by federal retirees that is not excluded from Oregon taxable income under ORS 316.680(1)(f). See

Davis v. Michigan Dept. of Treasury, 489 U.S. 803 (1989); Ragsdale v. Dept. of Revenue, 312 Or. 529, 823 P.2d 971 (1992).

cc: Steve Janik



OFFICE OF
MULTNOMAH COUNTY ATTORNEY

AGNES SOWLE
County Attorney

JOHN S. THOMAS
Deputy County Attorney

501 S.E. HAWTHORNE, SUITE 500
PORTLAND, OREGON 97214

FAX 503.988.3377
503.988.3138

SCOTT ERIK ASPHAUG
MICHELLE A. BELLIA
DAVID N. BLANKFELD
CHRISTOPHER CREAN
SANDRA N. DUFFY
SUSAN DUNAWAY
PATRICK HENRY
KATIE A. LANE
JENNY M. MORF
MATTHEW O. RYAN
KATHRYN A. SHORT
JACQUELINE A. WEBER
Assistants

September 2, 2005

Tom Turja
9124 N. Wall
Portland, OR 97203

Re: Public records request

Dear Mr. Turja:

You left a telephone message for me on September 2, 2005, requesting copies of any additional legal advice provided to the County or the Board of County Commissioners regarding the PERS/ITAX issue. This is to advise that there are no additional documents that meet your request.

Regarding your letter of August 31, 2005, I will respond to that request for clarification under separate cover.

Sincerely,

Jacqueline A. Weber
Assistant County Attorney

Cc: Dave Boyer

BOGSTAD Deborah L

From: WEBER Jacquie A
Sent: Monday, December 12, 2005 4:58 PM
To: 'Tom Turja'; BOGSTAD Deborah L
Cc: DA; SOWLE Agnes; LINN Diane M; NAITO Lisa H; ROBERTS Lonnie J; ROJO DE STEFFEY Maria; CRUZ Serena M
Subject: RE: Hearing Postponement

Mr. Turja, in her role as Board Clerk, Ms. Bogstad is a public official and any and all correspondence she receives in that role is a public record, and she is required to fully inform the Board of any communication regarding an issue before the Board that she receives in her role as Board Clerk. Ms. Bogstad acted appropriately. If you have any further need to discuss this matter, you may contact me, or Agnes Sowle, the County Attorney.

-----Original Message-----

From: Tom Turja [mailto:tturja@msn.com]
Sent: Monday, December 12, 2005 3:06 PM
To: BOGSTAD Deborah L
Cc: WEBER Jacquie A; DA; SOWLE Agnes; LINN Diane M; NAITO Lisa H; ROBERTS Lonnie J; ROJO DE STEFFEY Maria; CRUZ Serena M
Subject: Re: Hearing Postponement

Deborah,

I don't care if their considered public records or not It was addressed to you and only you.

----- Original Message -----

From: BOGSTAD Deborah L
To: Tom Turja
Cc: WEBER Jacquie A ; DA ; SOWLE Agnes ; LINN Diane M ; NAITO Lisa H ; ROBERTS Lonnie J ; ROJO DE STEFFEY Maria ; CRUZ Serena M
Sent: Monday, December 12, 2005 8:10 AM
Subject: RE: Hearing Postponement

ORS 192.410(6) per the State of Oregon Attorney General's Public Records and Meetings Manual. Submissions provided to the Multnomah County Board Clerk are public records, including handwritten notes and emails.

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

-----Original Message-----

From: Tom Turja [mailto:tturja@msn.com]
Sent: Friday, December 09, 2005 12:32 AM
To: BOGSTAD Deborah L
Cc: WEBER Jacquie A; DA; SOWLE Agnes; LINN Diane M; NAITO Lisa H; ROBERTS Lonnie J; ROJO DE STEFFEY Maria; CRUZ Serena M

12/12/2005

Subject: Re: Hearing Postponement

Deborah,

That hand written note was directed to you and only you. I will check the rule on personal notes. My intention has never been misleading. My issue, as Dave Boyer stated to the four board members, is uniformity of taxation in the county. This issue needs to be addressed publicly. Something the county doesn't what to do. I probably will honor this order. However, for the best interest of all parties involved, please consider eliminating all penalty and interest charges for both of us for both years.

Tom

----- Original Message -----

From: BOGSTAD Deborah L

To: Tom Turja

Cc: WEBER Jacquie A ; DA ; SOWLE Agnes ; Diane Linn ; Lisa Naito ; Lonnie Roberts ; Maria ROJO DE STEFFEY ; Serena Cruz

Sent: Thursday, December 08, 2005 6:16 PM

Subject: RE: Hearing Postponement

Mr. Turja I am truly sorry you feel you were rudely treated, it has never been my intention to be or appear to be rude and I am positive no disrespect was meant in the conduct of an appeal hearing before the Board wherein the appellant chose not to appear in person.

When I spoke with you regarding this third rearrangement of your requested appeal hearing, all five Commissioners were scheduled to be present. On November 28 I was informed Commissioner Roberts would be out of state on December 8. The required notice of hearing had already been sent and frankly, "requiring" attendance of all five Commissioners is not something you or I have the authority to do. Everyone has emergencies or other obligations that disrupt planned events.

Yesterday afternoon (December 7) when you arrived in my office and submitted your *Reply Brief – Challenging the content of the Administrator's response dated September 8, 2005*, 12 page accompanying documents and hand written note advising that you could not attend the December 8th hearing, I complied with your request and immediately made copies of all your documents and delivered them to Chair Linn, Commissioners Naito, Cruz and Rojo, County Attorney Agnes Sowle and Dave Boyer. In the hearing this morning receipt of your submitted documentation was acknowledged as was your note wherein you stated that you were "ok with them deciding the appeal" and that you were sorry to have "taken up too much of all of our time". I don't understand why you felt the Board would continue your hearing to another date when you were not requesting that it be rescheduled.

12/12/2005

I will be mailing a copy of the Board Order to you next week. Take care and best wishes.

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

-----Original Message-----

From: Tom Turja [mailto:tturja@msn.com]
Sent: Thursday, December 08, 2005 4:47 PM
To: BOGSTAD Deborah L; Tom Turja
Cc: WEBER Jacquie A; DA; SOWLE Agnes
Subject: Re: Hearing Postponement

Deborah,

I just got home and I must say that was quite rude. My reply was to be given at the hearing.....

Then, after they had time to read over it, they were to gather again at the next meeting and discuss it. This is quite immoral at best. Please understand, I know my opportunity has been lost, however I also required for my own best interest all (5) Commissioner's to be in attendance.

The most honest one was not. How convenient!

I hope at least the penalties and interest is still negotiable, for my household taxes. (Both 2003 and 2004). I believe the county can at least agree to that. The amount of both of our penalties and interest for both years is nothing to the county. It is a lot to us.

Sorry for being nice,

Tom

----- Original Message -----

From: Tom Turja
To: BOGSTAD Deborah L
Cc: WEBER Jacquie A ; DA ; SOWLE Agnes
Sent: Thursday, September 22, 2005 10:29 AM
Subject: Re: Hearing Postponement

Deborah,

Once I receive my documents that have been requested. I can be available any Thursday. My only requirement is that all five Commissioners to be in attendance that session.

Thank you,

Tom

----- Original Message -----

From: BOGSTAD Deborah L

To: Tom Turja

Cc: WEBER Jacquie A ; DA ; SOWLE Agnes

Sent: Monday, September 19, 2005 5:09 PM

Subject: RE: Hearing Postponement

Mr. Turja, please be patient, the Board has only heard one ITAX appeal so far. The script you refer to was prepared to assist the Chair and Commissioners in the hearing procedure. An order has not been prepared on your case. The actual Board motion following an ITAX hearing, yours or anyone else's will be:

**CHAIR LINN/PRESIDING
OFFICER FOLLOWS
ATTORNEY PREPARED ITAX
HEARING SCRIPT**

FOLLOWING HEARING:

**COMMISSIONER _____
MOVES
COMMISSIONER _____
SECONDS
ORDER APPROVING OR
DENYING APPEAL OF ITAX
ADMINISTRATOR'S FINAL
DETERMINATION**

**OPPORTUNITY FOR BOARD
COMMENTS**

**ALL IN FAVOR, VOTE AYE,
OPPOSED ____?**

**THE MOTION FAILS
OR
THE ORDER IS ADOPTED**

After the hearing and Board vote, the County Attorney's Office will prepare the appropriate order and I will obtain Chair Linn's signature place a control number on it and send a copy to you.

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

-----Original Message-----

From: Tom Turja [mailto:tturja@msn.com]
Sent: Monday, September 19, 2005 4:33 PM
To: BOGSTAD Deborah L
Cc: WEBER Jacquie A; DA; SOWLE Agnes
Subject: Re: Hearing Postponement

Deborah,

I have attached a copy of the ITAX Commissioner Hearing Script included in my package materials on the county website.

Please explain the following, so I understand.

1) Page 1, Paragraph 3 states: The Board decision will be by Order adopted by the Board.

Please explain what this means and I request a copy of the Order that was adopted by the Board.

2) Page 2, under AFTER TESTIMONY.

Commissioner_____ I move approval of the order prepared by the County Attorney which is in accordance with the Final Determination as prepared by the ITAX Administrator.

I have not received any copy of the Order prepared by the County Attorney which is in accordance with the Final Determination. Why? I should have the right to this before any hearing.

My concern is that the Commission already has their minds made up and will not be just calling balls and strikes on this issue. I'm so sorry about all these requests. But please understand, I need to know all the rules beforehand, so I can prepare an appropriate testimony.

Thank you all in advance,

Tom Turja

----- Original Message -----

From: BOGSTAD Deborah L
To: Tom Turja
Cc: WEBER Jacquie A ; DA ; SOWLE Agnes

Sent: Monday, September 19, 2005 2:08 PM

Subject: RE: Hearing Postponement

This is to acknowledge receipt of your e-mail Mr. Turja. Either my supervisor County Attorney Agnes Sowle or Ms. Weber will direct me on this matter. Ms. Weber is out of the office today, so it may be tomorrow before you get a response to your request for postponement. Meanwhile, thank you for the heads up. Take care.

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

-----Original Message-----

From: Tom Turja [mailto:tturja@msn.com]

Sent: Monday, September 19, 2005 12:13 PM

To: BOGSTAD Deborah L

Cc: WEBER Jacquie A; DA

Subject: Hearing Postponement

Deborah,

I'm sorry to inform you of this, however my hearing this Thursday will have to be postponed one more time.

The public documents I asked for are insufficient. I need to reconcile my requests before I'll agree to a hearing.

I have been straight forward with my request for public documents. In fact, your reply was the only one I received this last week that satisfied my request. I thank you for that.

Please understand, I must protect my position to feel fairly treated.

Thank you for understanding.

Tom Turja

cc: Jacquie Weber
Michael Schrunk

12/12/2005



Deborah Bogstad, Board Clerk

MULTNOMAH COUNTY OREGON

**Multnomah County Board of Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214
(503) 988-3277 phone
(503) 988-3013 fax**

December 14, 2005

Thomas A. Turja
9124 North Wall
Portland, OR 97203

**RE: NOTICE OF HEARING ON MULTNOMAH COUNTY INCOME TAX
APPEAL [Account Number 26483777387]**

Greetings Mr. Turja:

I am providing you with a copy of Order 05-203 denying appeal of the ITAX administrator's final determination regarding your 2003 Multnomah County Income Tax adopted by the Multnomah County Board of Commissioners on December 8, 2005. The Board's decision is final and no further administrative appeal shall be provided.

Sincerely,

Deborah L. Bogstad

Deborah L. Bogstad, Board Clerk
Multnomah County Commissioners

enclosure

cc: Dave Boyer
Jacquie Weber

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 05-203

Order Denying Appeal of ITAX Administrator's Final Determination

The Multnomah County Board of Commissioners Finds:

- a. Thomas A. Turja timely filed a Notice of Appeal from the Administrator's Final Letter of Determination of his 2003 Multnomah County Income Tax.
- b. Appellant challenges the County's imposition of the Multnomah County Income Tax (ITAX) as unlawfully discriminating against County residents who are not PERS/FERS retirees and unconstitutional because PERS/FERS income is exempted from the ITAX.
- c. The County's decision to exempt PERS/FERS income from taxation is supported by Oregon statute and is not a violation of either the Oregon or federal constitutions.
- d. The imposition of the ITAX on Appellant is lawful.

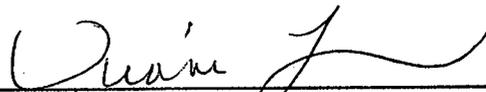
The Multnomah County Board of Commissioners Orders:

1. Thomas A. Turja's Appeal of the Administrator's determination of his 2003 Multnomah County Income Tax liability is denied.

ADOPTED this 8th day of December 2005.



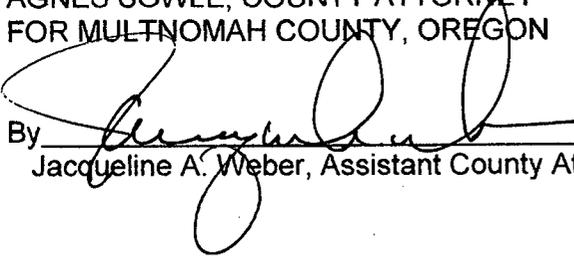
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Jacqueline A. Weber, Assistant County Attorney



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-4
Est. Start Time: 9:55 AM
Date Submitted: 11/10/05

BUDGET MODIFICATION: -

Agenda Title: **RESOLUTION Vacating Portions of Unnamed Public Roads, Situated in the Unincorporated Town of Latourelle Falls, Pursuant to ORS 368.326 to 368.366**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | | | |
|------------------------|---------------------------|------------------------|-------------------------------------|
| Date Requested: | <u>December 8, 2005</u> | Time Requested: | <u>5 minutes</u> |
| Department: | <u>Community Services</u> | Division: | <u>Land Use & Trans Program</u> |
| Contact(s): | <u>Patrick J. Hinds</u> | | |
| Phone: | <u>503-988-3712</u> | Ext. | <u>83712</u> |
| | | I/O Address: | <u>455/2</u> |
| Presenter(s): | <u>Patrick Hinds</u> | | |

General Information

1. What action are you requesting from the Board?

The Land Use and Transportation Program recommends that the Board approve the attached Resolution vacating portions of un-named public roads situated in the unincorporated Town of Latourelle Falls.

2. Please provide sufficient background information for the Board and the public to understand this issue.

Situated in the Northwest One-Quarter of Section 29, Township 1 North, Range 5 East, W.M., these un-named streets were created by the subdivision TOWN of LATOURELLE FALLS, recorded on June 3, 1887, in Plat Records Book 2, Page 105.

These un-named public roads are not improved, and Multnomah County does not maintain these roads. The area being considered for vacation is not being used for transportation purposes today.

Although the Town of Latourelle Falls has a rich history and was once a vibrant logging community, its ability to expand is presently restricted by the ability of the water district to provide service. Additionally, Latourelle Falls is wholly within the Columbia Gorge National Scenic Area, which

may also restrict the Town's ability to expand. Approximately 15 families live in Latourelle Falls.

The areas being proposed for vacation are more particularly described in the Resolution.

The street vacation petition being considered today contains the acknowledgement and consent of 100% of the abutting and adjoining property owners, as defined by ORS 368.336. Title to the area being vacated will vest as provided by ORS 368.366(1)d.

3. Explain the fiscal impact (current year and ongoing).

None. These public roads are not maintained by Multnomah County. No public money is spent on these roadways. All costs associated with this vacation request are the responsibility of the petitioner.

4. Explain any legal and/or policy issues involved.

The County Road Official, as required by ORS 368.351(1), has reviewed the petition and finds that these streets are no longer needed for public purposes and declares the vacation of these portions of the un-named public roads described in the petition to be in the public interest.

This proposed street vacation was initiated by a petition from an abutting property owner, which contains the consent of 100 percent of the remaining abutting property owners. Therefore, under ORS 368.351, the County may proceed to complete this vacation without additional notice and publication.

5. Explain any citizen and/or other government participation that has or will take place.

This is a citizen-initiated petition.

These streets are located in an area of Multnomah County that is unincorporated. The proposed action is consistent with community involvement, development, and any applicable intergovernmental cooperation.

Required Signatures

Department/
Agency Director:

Robert A Maestre

Date: 11/08/05

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Vacating Portions of Un-named Public Roads, situated in the Unincorporated Town of Latourelle Falls, pursuant to ORS 368.326 to 368.366.

The Multnomah County Board of Commissioners Finds:

- a. The portions of the un-named public roads affected by this vacation were created and dedicated to the public by the TOWN OF LATOURELLE FALLS subdivision, recorded June 3, 1887, in Book 2, Page 105, Multnomah County Plat Records (public roads). These public roads are unimproved. Multnomah County does not maintain or have plans to develop these public roads.
- b. Mr. Ted Hoff, petitioner, has submitted a petition to vacate these public roads, that is in compliance with ORS 368.341(3). A copy of the petition is attached to this Resolution as Exhibit A.
- c. The public roads to be vacated are described in the attached Petition, Exhibit A, Page 3.
- d. The County Road Official has filed a report pursuant to ORS 368.351(1) that contains an assessment that the proposed vacation is in the public interest. (See Agenda Placement Request included with this Resolution.)
- e. As allowed under ORS 368.351(2), the attached petition:
 - contains the acknowledged signatures of owners of 100 percent of any private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated; and
 - indicates the owners' approval of the proposed vacation.
- f. Pursuant to ORS 368.351, the County may make a determination about this vacation without additional notice and publication required under ORS 368.346.
- g. The entire portion being vacated will remain subject to the rights of any existing public utility that has improvements located within the existing right of way.
- h. As required under MCC 27.054, the County has received a total of \$1265.00 from the petitioner, of which \$200.00 applies to the feasibility study that was performed by the County. The remaining \$1065.00 will be applied to the vacation proceeding. The total costs for this vacation, including administrative

costs, are \$2,422.98. Administrative costs include \$65.00 for the County Surveyor posting the vacation and staff time for research, review, analyses, advertising, and document preparation. The balance owed by the petitioner, at the date of this hearing is \$1,157.98.

- i. Vacation of the County's right-of-way interest in this property serves the public interest.

The Multnomah County Board of Commissioners Resolves:

1. Subject to the petitioner's payment of all funds due as provided under MCC 27.054, the portions of the un-named public roads as more particularly described in the attached Exhibit A are vacated as public roads, excepting the easement rights any existing utilities may have in the vacated property under ORS Chapter 368.
2. Pursuant to MCC 27.054, the total cost for this vacation proceeding incurred by the County is \$2,422.98, and Mr. Ted Hoff, the petitioner, is directed to pay the remaining amount of \$1,157.98 to the County.
3. The Land Use and Transportation Program of the Department of Community Services will record and file this Resolution in accordance with ORS 368.356(3), only upon receipt of the total amount due under MCC 27.054.
4. Upon the recording and filing of this Resolution, the County Surveyor will mark the plat, if applicable, as provided under ORS 271.230.

ADOPTED this 8th day of December, 2005.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Matthew O. Ryan, Assistant County Attorney

Land Vacation Petition

To Whom It May Concern:

Initiation of Proceedings

ORS 368.341 1.c

This document constitutes a petition by

Ted Hoff
5820 S.E. 20th
Portland, OR 97202

to Multnomah County for vacation of two unused rights-of-way (Property number one and Property number two) as described herein and shown in the attached survey map No. 59144 as recorded in the Multnomah County Survey Records.

Reason to Vacate

ORS 368.341 3.b.

Because of an unusually-wide 60' Latourelle Rd. right-of-way, the combined 44' property depth of lots 1 and 2 (block 3) is reduced to 34'. That does not allow enough room for even a modest residential structure. A successful petition will result in a building site approximately 65' deep – enough for a single family residence.

The information described below is included in or attached to this document:

Names and addresses of owners of adjacent properties

ORS 368-341 3.e

Oregon Parks and Recreation Dept.,
725 Summer St. NE Suite C
Salem OR, 97301-1266

Union Pacific Railroad. Real Estate Department,
1800 Farnam Rd.,
Omaha, NE 68102

Ted Hoff
5820 SE 20th
Portland, OR 97202

Signatures of adjacent owners:

ORS 368.341 3.f

1) A document bearing the notarized signature of a representative of the State of Oregon (Dave Wright, Oregon State Department of Parks & Recreation Resource Mgmt. and Planning Division Administrator). The state of Oregon is the owner of the real property (Block 3, Lot 5) abutting the east side the county property to be vacated and described below as **Property number one**).

2) A document bearing the address of the owner (UPRR) and notarized signature of the owner's representative. The Union Pacific Railroad is the owner of the railroad right-of-way directly north of the county properties described below as **Property number one** and **Property number two**.

3) A document bearing the address and notarized signature of the owner (Ted Hoff) of the real property abutting the south side of the county property described below as **Property number two**.

NOTE: A letter is attached stating that, in the opinion of Multnomah County, no signatures are necessary from Mr. and Mrs. Jim Griffin, the nearest property owners to the west. Since the Griffins on the west are no longer considered abutting property owners, that leaves only three parties; The State of Oregon, Ted Hoff and The Union Pacific Railroad. Those signatures are attached.

Property Descriptions

A feasibility Study

Feasibility studies of this proposed vacation have been carried out by Mr. Patrick Hinds and approved by Multnomah County. Copies are attached.

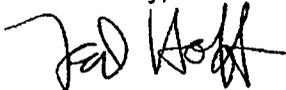
A Letter from Mr. Robert Maestre, Deputy Director, Community Services

Mr Maestre's letter indicates that the property to the east of the subject property, owned by Mr. and Mrs. Jim Griffin, is not considered abutting property.

Vacation Petition Fee

A check in the amount of \$1065.00 made out to Multnomah County is enclosed.

Sincerely,



Ted Hoff

Property number one:

A tract of land being a portion of "Town of Latourelle Falls", located in the NW ¼ of Section 29, T.1N., R.5E., W.M., Multnomah County Oregon, being described as follows:

Beginning at the intersection of the North Right-of-Way line of Latourelle Road (County Road No. 566, 60' wide) with the East line of Lot 1, Block 3, said "Town of Latourelle Falls"; thence North, along the East line of Lots 1 and 2, said Block 3, and the Northerly extension thereof, a distance of 58.65 feet to the Southerly line of the O.W.R.&N. Co. Railroad as established in Book 47, Page 13 (1881), Multnomah County Deed Records; thence along said Southerly line, along the arc of a 1004.93 foot radius curve to the left (the long chord of which bears S89°18'56"E, a distance of 12.00 feet), through a central angle of 00°20'31", a distance of 12.00 feet to the Easternmost line of the 12 foot wide public alley within said Block 3; thence South, along said line, a distance of 58.58 feet to the North Right-of-Way line of said Latourelle Road; thence West, along said North Right-of-Way line, a distance 12.00 feet to the point of beginning.

Said tract contains **704** square feet, more or less.

Property number two:

A tract of land being a portion of "Town of Latourelle Falls", located in the NW ¼ of Section 29, T.1N., R.5E., W.M., Multnomah County Oregon, being described as follows:

Beginning at the NW corner of Lot 2, Block 3, said "Town of Latourelle Falls"; thence North, along the Northerly extension of the West line of said Lot 2, a distance of 30.50 feet to the Southerly line of the O.W.R.&N. Co. Railroad as relocated and established in Book 263, Page 215 (1900), Multnomah County Deed Records; Thence along said Southerly line, along the arc of a 1482.70 foot radius curve to the left (the chord of which bears S87°16'09"E, a distance of 10.41 feet), through a central angle of 00°24'08", a distance of 10.41 feet to a point on the Southerly line of the O.W.R.&N. Co. Railroad as established in Book 47, Page 13 (1881), Multnomah County Deed Records; thence along said Southerly line, along the arc of a 1004.93 foot radius curve to the left (the long chord of which bears S86°36'05"E, a distance of 89.76 feet), through a central angle of 05°07'10", a distance of 89.79 feet to a point on the Northerly extension of the East line of said Lot 2; thence South, along said Northerly extension, a distance of 24.65 feet to the NE corner of said Lot 2; thence West, along the North line of said Lot 2, a distance of 100.00 feet to the point of beginning.

Said tract contains **2,703** square feet, more or less.

Signature Sheet

I, the undersigned, am a legal representative of the State of Oregon Department of Parks & Recreation which owns the property (Block 3, Lot 5) immediately east of Ted Hoff's property, Block 3, Lots 1 and 2. I we have read and approve of this petition by Ted Hoff to Multnomah County for vacation of the property as described above and in the attached survey map No. 59144 as recorded in the Multnomah County Survey Records.

* *Dave Wright*

Dave Wright
(Oregon State Department of Parks &
Recreation Resource Mgmt. and Planning
Division Administrator)

x 8-31-04

Date

Notary Information:

State of Oregon SS

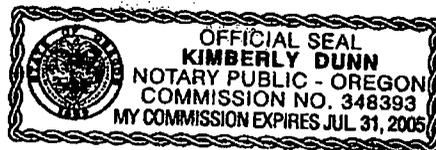
County of *Mason*

Signed before me on *August 31*, 2004

Kimberly Dunn

Notary Public, Oregon L.S.

My commission expires: *7/31/05*



Signatures of adjacent owners:

ORS 368.341 3.f

I, the undersigned, represent Union Pacific Railroad which is the owner of the railroad right-of-way property to the north of **Property number one** and **Property number two** described above. I have read and approve of this petition to Multnomah County for vacation of the property as described in this petition and in the attached survey map No. 59144 as recorded in the Multnomah County Survey Records.



Union Pacific Railroad Representative

8/29/05
Date

Notary Information:

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

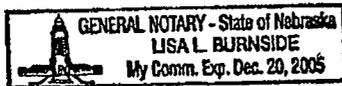
On August 29 2005, before me, a Notary Public in and for said County and State, personally appeared Ted Stenstrom who is the General Director – Real Estate of Union Pacific Railroad Company, a Delaware corporation, and who is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to in the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Notary Public

(Seal)



Signature Sheet

I, the undersigned, am the owner of Block 3, lots 1 and 2 and Block 4, Lots 9 and 10 (immediately south across 2nd St). I have read and approve of this petition to Multnomah County for vacation of the property as described in this petition and in the attached survey map No. 59144 as recorded in the Multnomah County Survey Records.

Ted Hoff 9/10/04
Ted Hoff Date

Notary Information:

State of Oregon SS

County of Multnomah

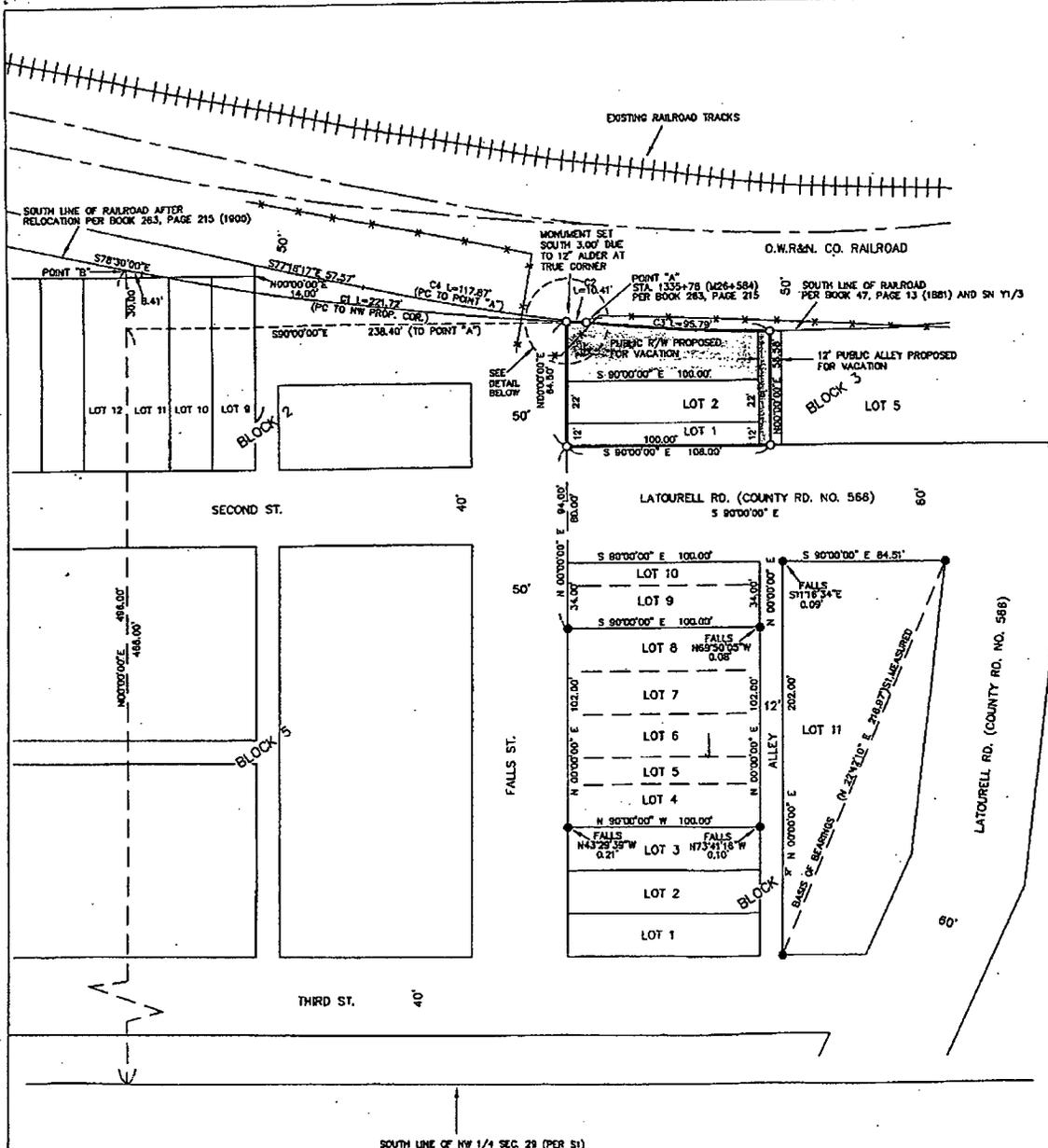
Signed before me on September 10, 2004

Melissa Grahek Opperman
My commission expires: 3/5/08



RECORD OF SURVEY

A PORTION OF "TOWN OF LATOURELLE FALLS"
 LOCATED IN THE NW 1/4 SEC. 29, T.1N., R.5E., W.M.,
 MULTNOMAH COUNTY, OREGON
 MARCH 13, 2004



LEGEND

- 5/8" X 30" IRON REBAR WITH POINTED TIP AND YELLOW PLASTIC CAP MARKED "CLAYTON LS 2832" SET ON MARCH 13, 2004
- FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "SEIGER LS 2847" PER SN 58548, HELD UNLESS NOTED OTHERWISE
- SN SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
- SI DATA FROM SN 58548
- P DATA FROM "TOWN OF LATOURELLE"
- R/W RIGHT-OF-WAY
- PROP. PROPERTY
- COR. CORNER
- 4' BARBED WIRE FENCE

SCALE: 1"=40'

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO DETERMINE THE BOUNDARIES OF LOT 1 (EXCEPTING THE SOUTH 10' THEREOF LYING WITHIN LATOURELLE RD.) AND LOT 2, BLOCK 3, "TOWN OF LATOURELLE FALLS", AND PORTIONS OF PUBLIC RIGHTS-OF-WAY ADJACENT THERETO WHICH ARE PROPOSED FOR VACATION.

THE BASIS OF BEARINGS WAS HELD BETWEEN MONUMENTS FROM SN 58548, AS SHOWN. A CALCULATED BEARING FROM SAID SN 58548 WAS HELD. THE BOUNDARIES OF THE LOTS WITHIN SN 58548 WERE DETERMINED BY HOLDING THESE MONUMENTS, AND THE REMAINING LOTS WITHIN SAID PLAT, AS WELL AS THE SOUTH LINE OF THE NW 1/4 SEC. 29, WERE THEN DETERMINED BY HOLDING PLAT AND SN 58548 DATA.

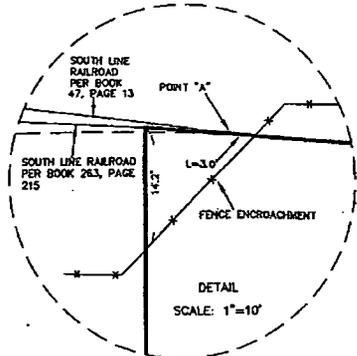
POINT "A" WAS DETERMINED BY HOLDING 489' NORTH OF THE SOUTH LINE OF THE NW 1/4, AND 236.4' EAST OF THE WEST LINE OF LOT 11, BLOCK 2, PER BOOK 283, PAGE 215 (1900), MULTNOMAH COUNTY DEED RECORDS. POINT "A" REPRESENTS THE INTERSECTION OF THE SOUTH LINE OF THE O.W.R.&N. CO. RAILROAD RIGHT-OF-WAY (AS ESTABLISHED BY BOOK 47, PAGE 13 (1891)), AND THE RELOCATED SOUTH LINE OF SAID RAILROAD AS ESTABLISHED BY SAID BOOK 283, PAGE 215.

POINT "B" WAS DETERMINED BY HOLDING 495' NORTH OF THE SOUTH LINE OF SAID NW 1/4, ALONG THE EXTENSION OF SAID WEST LINE OF LOT 11, PER SAID BOOK 283, PAGE 215. THE SAID RELOCATED SOUTH LINE OF THE RAILROAD (ALSO BEING THE WESTERLY PORTION OF THE NORTH LINE OF THE SUBJECT PROPERTY) WAS THEN DETERMINED BY FITTING A 1482.7' RADIUS CURVE WITH A TANGENT LEAVING SAID CURVE TO THE WEST BEARING N78°30'W BETWEEN SAID POINTS "A" AND "B", PER SAID BOOK 283, PAGE 215.

THE SOUTHERLY LINE OF THE RAILROAD, EAST OF SAID POINT "A", WAS DETERMINED BY HOLDING DATA FROM SAID BOOK 283, PAGE 215, WHICH AGREES WITH DATA NOTED AS "ORIG." ON UNION PACIFIC MAP C.E. 81279 (SN V1/3 AT MULTNOMAH COUNTY SURVEY RECORDS). STATION 1335+78 WAS HELD AT POINT "A", PER SAID BOOK 283, PAGE 215, AND SAID SOUTH LINE WAS ROTATED AROUND POINT "A" SUCH THAT IT INTERSECTED THE NORTHERLY EXTENSION OF THE EAST LINE OF LOT 8, BLOCK 2 AT A POINT 14' NORTHERLY OF THE INTERSECTION OF SAID LINE WITH THE RELOCATED SOUTH RAILROAD LINE, PER SAID BOOK 283, PAGE 215.

THE WEST LINE OF LOT 2, BLOCK 3 WAS THEN EXTENDED NORTH TO INTERSECT THE SAID RELOCATED SOUTH RAILROAD LINE, AND THE CENTERLINE OF THE 12' WIDE PUBLIC ALLEY ADJOINING SAID LOTS 1 AND 2 WAS ESTABLISHED USING PLAT DATA, AND EXTENDED NORTH TO INTERSECT THE SOUTH RAILROAD LINE.

THIS SURVEY WAS PREPARED FOR MR. TED HOFF.



| CURVE | LENGTH | RADIUS | DELTA | CHORD | DISTANCE |
|-------|---------|----------|----------|-------------|----------|
| C1 | 221.72' | 1482.70' | 8°34'05" | S82°47'02"E | 221.52' |
| C2 | 10.41' | 1482.70' | 0°24'08" | S87°15'09"E | 10.41' |
| C3 | 95.79' | 1004.93' | 2°27'41" | S88°45'21"E | 95.75' |
| C4 | 117.87' | 1004.93' | 8°43'13" | S89°39'54"E | 117.80' |

SURVEY PREPARED BY:
 JAMES S. CLAYTON, PLS
 6447 SE 29TH WAY
 GRESHAM, OREGON 97080
 (503)663-4669

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

 OREGON
 JUNE 30, 1987
 JAMES S. CLAYTON
 2832
 RENEWAL DATE: 12/31/2005

I CERTIFY THAT THIS SURVEY WAS
 PREPARED USING HP 4844A DM
 ON CONTINENTAL MAGCING JPC4M2
 POLYESTER FILM.

MULTNOMAH COUNTY
 SURVEY RECORDS
 DATE FILED APRIL 15, 2004
 REGISTER NUMBER 59144

59144

59144

59144



Dept. of Business and Community Services

MULTNOMAH COUNTY OREGON

Land Use and Transportation Program

1600 SE 190th Avenue
Portland, Oregon 97233-5910
(503) 988-5050

June 25, 2004

Ted Hoff
5820 SE 20th Avenue
Portland, OR 97202

RE: Latourelle Falls property vacation

Dear Mr. Hoff:

After reviewing your e-mail letter dated June 2, 2004, it appears that tax lots 300 and 400, directly West of your tax lot 200 (as they appear on the Tax Assessor's map 1N5E29BD) and directly West of the area you are requesting for a street vacation, are not abutting properties, as defined by statute, to the area being proposed for vacation. The abutters to the area that you have proposed for vacation are the railroad to the North and State of Oregon to the East and your lots.

You may proceed with submitting a petition to the Transportation Division of Multnomah County for the vacation of this property. The petition must be in compliance with the Oregon Revised Statutes, specifically ORS 368.326 - 368.426.

Please be advised that all costs associated with the proposed vacation are the responsibility of the petitioner and that the final vacation decision will be made by the Multnomah County Board of County Commissioners. Also, be advised that this street vacation can not create any land-locked parcels.

As questions or concerns arise, please do not hesitate to call Patrick Hinds at 503-988-3712.

Sincerely,

Robert Maestre
Deputy Director, Community Services

cc: Mike Phillips
Patrick Hinds
File

PHRJ4417.DOC

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 05-202

Vacating Portions of Unnamed Public Roads, Situated in the Unincorporated Town of Latourelle Falls, Pursuant to ORS 368.326 to 368.366

The Multnomah County Board of Commissioners Finds:

- a. The portions of the un-named public roads affected by this vacation were created and dedicated to the public by the TOWN OF LATOURELLE FALLS subdivision, recorded June 3, 1887, in Book 2, Page 105, Multnomah County Plat Records (public roads). These public roads are unimproved. Multnomah County does not maintain or have plans to develop these public roads.
- b. Mr. Ted Hoff, petitioner, has submitted a petition to vacate these public roads, that is in compliance with ORS 368.341(3). A copy of the petition is attached to this Resolution as Exhibit A.
- c. The public roads to be vacated are described in the attached Petition, Exhibit A, Page 3.
- d. The County Road Official has filed a report pursuant to ORS 368.351(1) that contains an assessment that the proposed vacation is in the public interest. (See Agenda Placement Request included with this Resolution.)
- e. As allowed under ORS 368.351(2), the attached petition:
 - contains the acknowledged signatures of owners of 100 percent of any private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated; and
 - indicates the owners' approval of the proposed vacation.
- f. Pursuant to ORS 368.351, the County may make a determination about this vacation without additional notice and publication required under ORS 368.346.
- g. The entire portion being vacated will remain subject to the rights of any existing public utility that has improvements located within the existing right of way.
- h. As required under MCC 27.054, the County has received a total of \$1265.00 from the petitioner, of which \$200.00 applies to the feasibility study that was performed by the County. The remaining \$1065.00 will be applied to the vacation proceeding. The total costs for this vacation, including administrative

costs, are \$2,422.98. Administrative costs include \$65.00 for the County Surveyor posting the vacation and staff time for research, review, analyses, advertising, and document preparation. The balance owed by the petitioner, at the date of this hearing is \$1,157.98.

- i. Vacation of the County's right-of-way interest in this property serves the public interest.

The Multnomah County Board of Commissioners Resolves:

1. Subject to the petitioner's payment of all funds due as provided under MCC 27.054, the portions of the un-named public roads as more particularly described in the attached Exhibit A are vacated as public roads, excepting the easement rights any existing utilities may have in the vacated property under ORS Chapter 368.
2. Pursuant to MCC 27.054, the total cost for this vacation proceeding incurred by the County is \$2,422.98, and Mr. Ted Hoff, the petitioner, is directed to pay the remaining amount of \$1,157.98 to the County.
3. The Land Use and Transportation Program of the Department of Community Services will record and file this Resolution in accordance with ORS 368.356(3), only upon receipt of the total amount due under MCC 27.054.
4. Upon the recording and filing of this Resolution, the County Surveyor will mark the plat, if applicable, as provided under ORS 271.230.

ADOPTED this 8th day of December, 2005.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Matthew O. Ryan, Assistant County Attorney

Land Vacation Petition

To Whom It May Concern:

Initiation of Proceedings

ORS 368.341 1.c

This document constitutes a petition by

Ted Hoff
5820 S.E. 20th
Portland, OR 97202

to Multnomah County for vacation of two unused rights-of-way (Property number one and Property number two) as described herein and shown in the attached survey map No. 59144 as recorded in the Multnomah County Survey Records.

Reason to Vacate

ORS 368.341 3.b.

Because of an unusually-wide 60' Latourelle Rd. right-of-way, the combined 44' property depth of lots 1 and 2 (block 3) is reduced to 34'. That does not allow enough room for even a modest residential structure. A successful petition will result in a building site approximately 65' deep – enough for a single family residence.

The information described below is included in or attached to this document:

Names and addresses of owners of adjacent properties

ORS 368-341 3.e

Oregon Parks and Recreation Dept.,
725 Summer St. NE Suite C
Salem OR, 97301-1266

Union Pacific Railroad. Real Estate Department,
1800 Farnam Rd.,
Omaha, NE 68102

Ted Hoff
5820 SE 20th
Portland, OR 97202

Signatures of adjacent owners:

ORS 368.341 3.f

- 1) A document bearing the notarized signature of a representative of the State of Oregon (Dave Wright, Oregon State Department of Parks & Recreation Resource Mgmt. and Planning Division Administrator). The state of Oregon is the owner of the real property (Block 3, Lot 5) abutting the east side the county property to be vacated and described below as **Property number one**.
- 2) A document bearing the address of the owner (UPRR) and notarized signature of the owner's representative. The Union Pacific Railroad is the owner of the railroad right-of-way directly north of the county properties described below as **Property number one and Property number two**.
- 3) A document bearing the address and notarized signature of the owner (Ted Hoff) of the real property abutting the south side of the county property described below as **Property number two**.

NOTE: A letter is attached stating that, in the opinion of Multnomah County, no signatures are necessary from Mr. and Mrs. Jim Griffin, the nearest property owners to the west. Since the Griffins on the west are no longer considered abutting property owners, that leaves only three parties; The State of Oregon, Ted Hoff and The Union Pacific Railroad. Those signatures are attached.

Property Descriptions

A feasibility Study

Feasibility studies of this proposed vacation have been carried out by Mr. Patrick Hinds and approved by Multnomah County. Copies are attached.

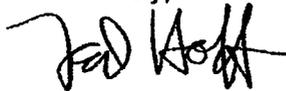
A Letter from Mr. Robert Maestre, Deputy Director, Community Services

Mr Maestre's letter indicates that the property to the east of the subject property, owned by Mr. and Mrs. Jim Griffin, is not considered abutting property.

Vacation Petition Fee

A check in the amount of \$1065.00 made out to Multnomah County is enclosed.

Sincerely,



Ted Hoff

Property number one:

A tract of land being a portion of "Town of Latourelle Falls", located in the NW ¼ of Section 29, T.1N., R.5E., W.M., Multnomah County Oregon, being described as follows:

Beginning at the intersection of the North Right-of-Way line of Latourelle Road (County Road No. 566, 60' wide) with the East line of Lot 1, Block 3, said "Town of Latourelle Falls"; thence North, along the East line of Lots 1 and 2, said Block 3, and the Northerly extension thereof, a distance of 58.65 feet to the Southerly line of the O.W.R.&N. Co. Railroad as established in Book 47, Page 13 (1881), Multnomah County Deed Records; thence along said Southerly line, along the arc of a 1004.93 foot radius curve to the left (the long chord of which bears S89°18'56"E, a distance of 12.00 feet), through a central angle of 00°20'31", a distance of 12.00 feet to the Easternmost line of the 12 foot wide public alley within said Block 3; thence South, along said line, a distance of 58.58 feet to the North Right-of-Way line of said Latourelle Road; thence West, along said North Right-of-Way line, a distance 12.00 feet to the point of beginning.

Said tract contains **704** square feet, more or less.

Property number two:

A tract of land being a portion of "Town of Latourelle Falls", located in the NW ¼ of Section 29, T.1N., R.5E., W.M., Multnomah County Oregon, being described as follows:

Beginning at the NW corner of Lot 2, Block 3, said "Town of Latourelle Falls"; thence North, along the Northerly extension of the West line of said Lot 2, a distance of 30.50 feet to the Southerly line of the O.W.R.&N. Co. Railroad as relocated and established in Book 263, Page 215 (1900), Multnomah County Deed Records; Thence along said Southerly line, along the arc of a 1482.70 foot radius curve to the left (the chord of which bears S87°16'09"E, a distance of 10.41 feet), through a central angle of 00°24'08", a distance of 10.41 feet to a point on the Southerly line of the O.W.R.&N. Co. Railroad as established in Book 47, Page 13 (1881), Multnomah County Deed Records; thence along said Southerly line, along the arc of a 1004.93 foot radius curve to the left (the long chord of which bears S86°36'05"E, a distance of 89.76 feet), through a central angle of 05°07'10", a distance of 89.79 feet to a point on the Northerly extension of the East line of said Lot 2; thence South, along said Northerly extension, a distance of 24.65 feet to the NE corner of said Lot 2; thence West, along the North line of said Lot 2, a distance of 100.00 feet to the point of beginning.

Said tract contains **2,703** square feet, more or less.

Signature Sheet

I, the undersigned, am a legal representative of the State of Oregon Department of Parks & Recreation which owns the property (Block 3, Lot 5) immediately east of Ted Hoff's property, Block 3, Lots 1 and 2. I we have read and approve of this petition by Ted Hoff to Multnomah County for vacation of the property as described above and in the attached survey map No. 59144 as recorded in the Multnomah County Survey Records.

Dave Wright

Dave Wright
(Oregon State Department of Parks &
Recreation Resource Mgmt. and Planning
Division Administrator)

X 8-31-04

Date

Notary Information:

State of Oregon SS

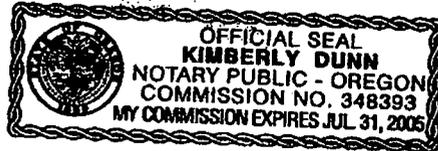
County of Marion

Signed before me on August 31, 2004

Kimberly Dunn

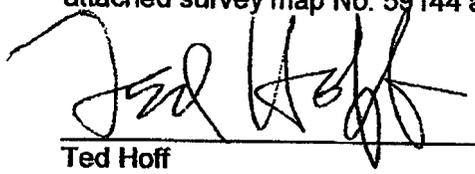
Notary Public, Oregon L.S.

My commission expires: 7/31/05



Signature Sheet

I, the undersigned, am the owner of Block 3, lots 1 and 2 and Block 4, Lots 9 and 10 (immediately south across 2nd St). I have read and approve of this petition to Multnomah County for vacation of the property as described in this petition and in the attached survey map No. 59144 as recorded in the Multnomah County Survey Records.

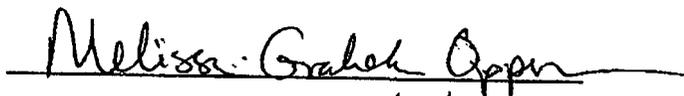
 9/10/04
Ted Hoff Date

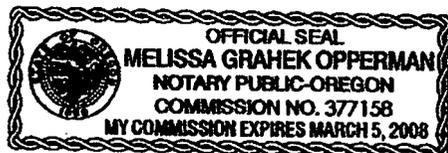
Notary Information:

State of Oregon SS

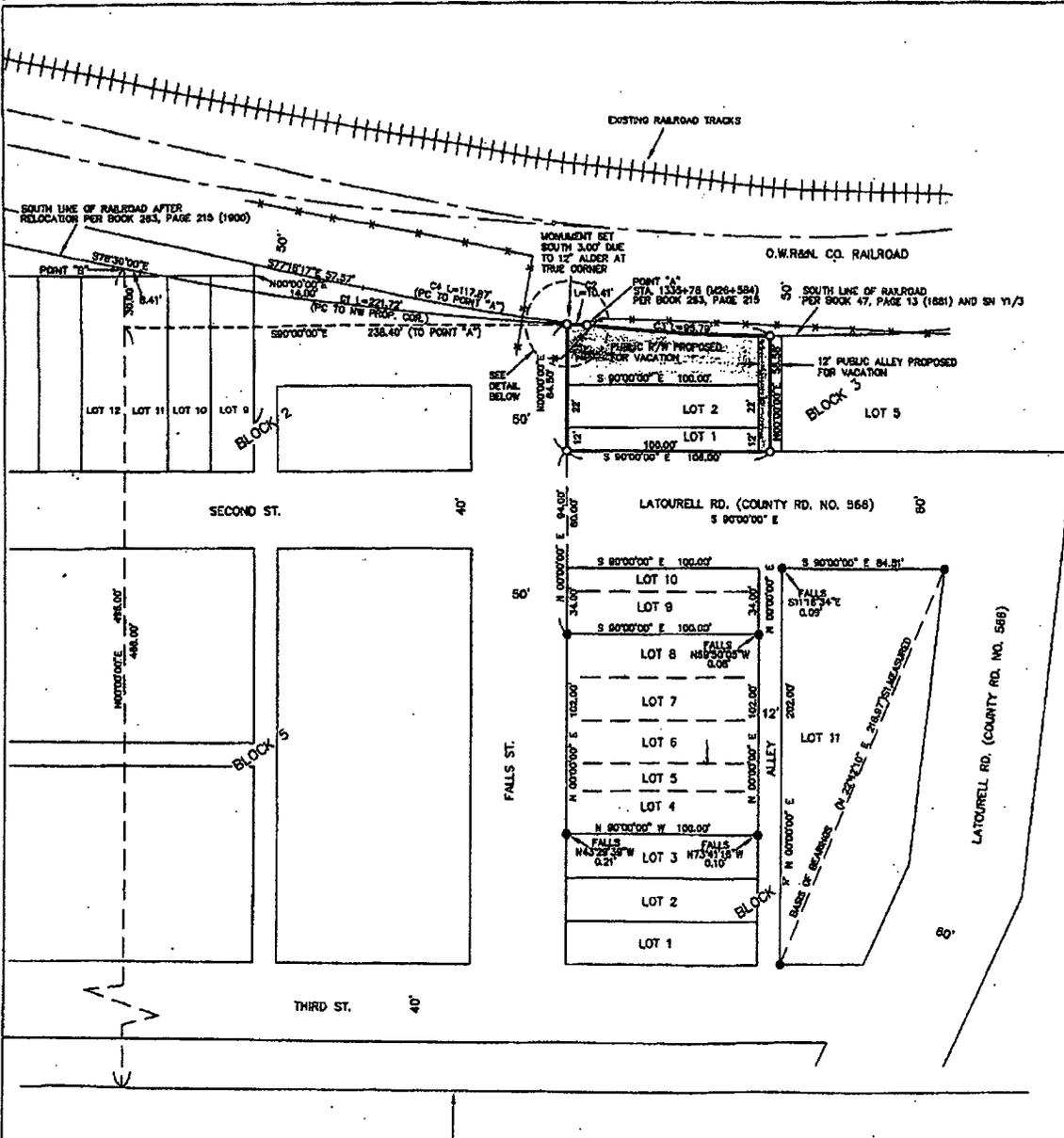
County of Multnomah

Signed before me on September 10, 2004


My commission expires: 3/5/08



RECORD OF SURVEY
 A PORTION OF "TOWN OF LATOURELLE FALLS"
 LOCATED IN THE NW 1/4 SEC. 29, T.1N., R.5E., W.M.,
 MULTNOMAH COUNTY, OREGON
 MARCH 13, 2004



- LEGEND**
- 3/8" x 30" IRON REBAR WITH POINTED TOP AND YELLOW PLASTIC CAP MARKED "CLAYTON LS 2832" SET ON MARCH 13, 2004
 - FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "SIEGER LS 2847" PER SN 68548, HELD UNLESS NOTED OTHERWISE
 - SN SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
 - SI DATA FROM SN 58548
 - P DATA FROM "TOWN OF LATOURELLE"
 - R/W RIGHT-OF-WAY
 - PROP. PROPERTY
 - COR. CORNER
 - +— 4' BARBED WIRE FENCE

SCALE: 1"=40'

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO DETERMINE THE BOUNDARIES OF LOT 1 (EXCEPTING THE SOUTH 10' THEREOF LYING WITHIN LATOURELLE RD.) AND LOT 2, BLOCK 3, "TOWN OF LATOURELLE FALLS", AND PORTIONS OF PUBLIC RIGHTS-OF-WAY ADJACENT THERETO WHICH ARE PROPOSED FOR VACATION.

THE BASIS OF BEARINGS WAS HELD BETWEEN MONUMENTS FROM SN 58548, AS SHOWN. A CALCULATED BEARING FROM SAID SN 58548 WAS HELD. THE BOUNDARIES OF THE LOTS WITHIN SN 58548 WERE DETERMINED BY HOLDING THESE MONUMENTS, AND THE REMAINING LOTS WITHIN SAID PLAT, AS WELL AS THE SOUTH LINE OF THE NW 1/4 SEC. 29, WERE THEN DETERMINED BY HOLDING PLAT AND SN 68548 DATA.

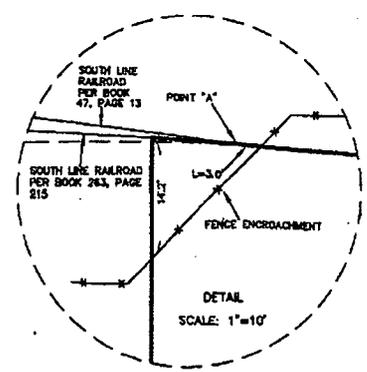
POINT "A" WAS DETERMINED BY HOLDING 448' NORTH OF THE SOUTH LINE OF THE NW 1/4, AND 238.4' EAST OF THE WEST LINE OF LOT 11, BLOCK 3, PER BOOK 263, PAGE 215 (1900), MULTNOMAH COUNTY DEED RECORDS. POINT "A" REPRESENTS THE INTERSECTION OF THE SOUTH LINE OF THE O.W.R&N. CO. RAILROAD RIGHT-OF-WAY (AS ESTABLISHED BY BOOK 47, PAGE 13 (1881)), AND THE RELOCATED SOUTH LINE OF SAID RAILROAD AS ESTABLISHED BY SAID BOOK 263, PAGE 215.

POINT "B" WAS DETERMINED BY HOLDING 448' NORTH OF THE SOUTH LINE OF SAID NW 1/4, ALONG THE EXTENSION OF SAID WEST LINE OF LOT 11, PER SAID BOOK 263, PAGE 215. THE SAID RELOCATED SOUTH LINE OF THE RAILROAD (ALSO BEING THE WESTERN PORTION OF THE NORTH LINE OF THE SUBJECT PROPERTY) WAS THEN DETERMINED BY FITTING A 1482.7' RADIUS CURVE WITH A TANGENT LEAVING SAID CURVE TO THE WEST BEARING N78°30'W BETWEEN SAID POINTS "A" AND "B", PER SAID BOOK 263, PAGE 215.

THE SOUTHERLY LINE OF THE RAILROAD, EAST OF SAID POINT "A", WAS DETERMINED BY HOLDING DATA FROM SAID BOOK 263, PAGE 215, WHICH AGREES WITH DATA NOTED AS "CORR." ON UNION PACIFIC MAP C.E. 81270 (SN 11/3 AT MULTNOMAH COUNTY SURVEY RECORDS) STATION 1335+78 WAS HELD AT POINT "A", PER SAID BOOK 263, PAGE 215, AND SAID SOUTH LINE WAS ROTATED AROUND POINT "A" SUCH THAT IT INTERSECTED THE NORTHERLY EXTENSION OF THE EAST LINE OF LOT 8, BLOCK 2 AT A POINT 14' NORTHERLY OF THE INTERSECTION OF SAID LINE WITH THE RELOCATED SOUTH RAILROAD LINE, PER SAID BOOK 263, PAGE 215.

THE WEST LINE OF LOT 2, BLOCK 3 WAS THEN EXTENDED NORTH TO INTERSECT THE SAID RELOCATED SOUTH RAILROAD LINE, AND THE CENTERLINE OF THE 12' WIDE PUBLIC ALLEY ADJOINING SAID LOTS 1 AND 2 WAS ESTABLISHED USING PLAT DATA, AND EXTENDED NORTH TO INTERSECT THE SOUTH RAILROAD LINE.

THIS SURVEY WAS PREPARED FOR MR. TED HOFF.



| CURVE TABLE | | | | | |
|-------------|--------|---------|-----------|--------|----------|
| CURVE | LENGTH | RADIUS | DELTA | CHORD | DISTANCE |
| C1 | 221.76 | 1482.20 | 83°30'00" | 389.97 | 221.57 |
| C2 | 10.41 | 1482.20 | 22°45'00" | 382.63 | 10.41 |
| C3 | 88.74 | 1004.83 | 87°27'41" | 382.40 | 88.74 |
| C4 | 117.87 | 1004.83 | 84°31'13" | 382.39 | 117.80 |

MULTNOMAH COUNTY
 SURVEY RECORDS
 DATE FILED APRIL 15, 2004
 REGISTER NUMBER 59144

SURVEY PREPARED BY:
 JAMES S. CLAYTON, PLS
 6447 SE 23TH WAY
 GRESHAM, OREGON 97080
 (503)663-4688

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
 JUNE 30, 1987
 JAMES S. CLAYTON
 2832

RENEWAL DATE: 12/31/2005

I CERTIFY THAT THIS SURVEY WAS PREPARED USING HP 4844A INK OR CONTINENTAL MARINO JPC482 POLYESTER FILM.

59144

59144

59144

Dept. of Business and Community Services

MULTNOMAH COUNTY OREGON

Land Use and Transportation Program

1600 SE 190th Avenue
Portland, Oregon 97233-5910
(503) 988-5050

June 25, 2004

Ted Hoff
5820 SE 20th Avenue
Portland, OR 97202

RE: Latourelle Falls property vacation

Dear Mr. Hoff:

After reviewing your e-mail letter dated June 2, 2004, it appears that tax lots 300 and 400, directly West of your tax lot 200 (as they appear on the Tax Assessor's map IN5E29BD) and directly West of the area you are requesting for a street vacation, are not abutting properties, as defined by statute, to the area being proposed for vacation. The abutters to the area that you have proposed for vacation are the railroad to the North and State of Oregon to the East and your lots.

You may proceed with submitting a petition to the Transportation Division of Multnomah County for the vacation of this property. The petition must be in compliance with the Oregon Revised Statutes, specifically ORS 368.326 - 368.426.

Please be advised that all costs associated with the proposed vacation are the responsibility of the petitioner and that the final vacation decision will be made by the Multnomah County Board of County Commissioners. Also, be advised that this street vacation can not create any land-locked parcels.

As questions or concerns arise, please do not hesitate to call Patrick Hinds at 503-988-3712.

Sincerely,



Robert Maestre
Deputy Director, Community Services

cc: Mike Phillips
Patrick Hinds
File

PHRJ4417.DOC



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-5
Est. Start Time: 10:00 AM
Date Submitted: 11/07/05

BUDGET MODIFICATION: OSCP - 02

Agenda Title: **Budget Modification OSCP-02 Adding a .65 FTE Research/Evaluation Analyst Position to the Office of School and Community Partnerships' Fiscal Year 2006 Budget**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | | | |
|------------------------|--|------------------------|----------------|
| Date Requested: | <u>Next Available</u> | Time Requested: | <u>2 mins</u> |
| Department: | <u>OSCP</u> | Division: | <u></u> |
| Contact(s): | <u>Kathy Tinkle, Heather McGillivray</u> | | |
| Phone: | <u>503 988-3691</u> | Ext. | <u>26858</u> |
| | | I/O Address: | <u>167/200</u> |
| Presenter(s): | <u>Kathy Tinkle</u> | | |

General Information

1. What action are you requesting from the Board?

The Office of School and Community Partnerships requests the approval of Budget Modification OSCP-02. This budget modification adds a .65 FTE Research/Evaluation Coordinator position to the Office of School and Community Partnerships' Fiscal Year '06 budget. This is a full-time position, with an estimated hire date of mid-November 2005.

2. Please provide sufficient background information for the Board and the public to understand this issue.

This position will plan, coordinate and provide expert level applied research and evaluation services for the programs and services within the Office of School and Community Partnerships, with particular focus on the SUN Service System within the School-Age Policy Framework.

The Office of School and Community Partnerships has been without a position with this level of expert research and evaluation expertise since its formation as a separate Department. The impact of this lack of personnel has been significant in terms of the ability of the Office of School and

Community Partnerships to develop a new, integrated evaluation plan and set of outcomes for services within the SUN Service System; to speak fully to the outcomes and results of its programming; to drive program changes and to provide evaluative input to the Board of County Commissioners for budget decisions.

Evaluation and management of evaluation efforts at this level is one of the top 5 priorities within the Department this year. For this reason, the Department has prioritized the use of other dollars in the budget to meet this urgent need.

This position will also support the Office of School and Community Partnerships' implementation of the Stand for Children recommendations approved by the Board of County Commissioners in August. The recommendations call for the prioritization of specific outcomes, their measurement and yearly reporting.

3. Explain the fiscal impact (current year and ongoing).

This is a full-time position, with an estimated hire date of mid-November 2005. The Fiscal Year '06 net cost of this position, including payroll, M&S, and Internal Services, is \$55,000.

The Fiscal Year '06 Adopted budget for the Office of School and Community Partnerships includes \$54,000 in Professional Services to pay for evaluation services.

Budget modification OSCP-02 reduces the Office of School and Community Partnerships' Fiscal Year '06 budget for Professional Services by \$54,000, plus a \$1,000 reduction in Business Services Finance, and increases the budget for Personnel, M&S, Internal Services, and Business Services HR, by a total of \$55,000.

The Office of School and Community Partnerships anticipates an ongoing need for this position due to the critical nature of this work.

4. Explain any legal and/or policy issues involved.

None.

5. Explain any citizen and/or other government participation that has or will take place.

This position will fill a need identified among the multi-jurisdictional partners (County, City of Portland and school districts) for outcomes/results to support monitoring and accountability efforts.

ATTACHMENT A

Budget Modification

If the request is a **Budget Modification**, please answer all of the following in detail:

- What revenue is being changed and why?
There are no revenue changes.
- What budgets are increased/decreased?

Budget modification OSCP-02 reduces the Office of School and Community Partnerships' Fiscal Year '06 budget for Professional Services by \$54,000. Based on established Business Services rates for Fiscal Year '06, the reduction in Professional Services also results in a \$1,000 reduction in Business Services Finance.

The net reduction of \$55,000 will be used to increase the Office of School and Community Partnerships' Fiscal Year '06 budget for Personnel, M&S, Internal Services, and Business Services HR, by a total of \$55,000. This will fund a full-time Research/Evaluation Coordinator position from mid-November 2005, through the remainder of Fiscal Year '06.

- What do the changes accomplish?
Budget modification OSCP-02 will re-allocate professional service dollars designated for evaluation efforts to fund a 65 FTE Research/Evaluation Coordinator to carry out the objectives of the department.
- Do any personnel actions result from this budget modification? Explain.
Yes, this budget modification creates a new Research/Evaluation Analyst Senior position.
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?
Based on established Fiscal Year '06 rates for Business Services, budget modification OSCP-02 includes a \$694 increase in the Office of School and Community Partnerships' Fiscal Year '06 Business Services HR budget.
- Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?
N/A
- If a grant, what period does the grant cover?
N/A
- If a grant, when the grant expires, what are funding plans?
N/A

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: OSCP - 02

Required Signatures

**Department/
Agency Director:**

Salvino T. Pae II.

Date: 10/26/05

Budget Analyst:

Michael D. Gaspin

Date: 11/07/05

Department HR:

Shirlee Robertson

Date: 11/07/05

Countywide HR:

Date:

Budget Modification ID: **OSCP_02****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2006

| Line No. | Fund Center | Fund Code | Func. Area | Accounting Unit | | | Cost Element | Current Amount | Revised Amount | Change Increase/ (Decrease) | Subtotal | Description |
|----------|-------------|-----------|------------|-----------------|-------------|---------------|--------------|----------------|----------------|-----------------------------|----------|-------------------------|
| | | | | Internal Order | Cost Center | WBS Element | | | | | | |
| 1 | 21-78 | 1000 | 40 | | | SCPSP.SUN.CGF | 60170 | 59,031 | 44,031 | (15,000) | (15,000) | Professional Services |
| 2 | | | | | | | | | | | | |
| 3 | 21-02 | 1000 | 40 | | | SCPOP.CGF | 60170 | 113,124 | 74,124 | (39,000) | | Professional Services |
| 4 | 21-02 | 1000 | 40 | | | SCPOP.CGF | 60360 | 4,414 | 3,414 | (1,000) | (40,000) | Shared Services Finance |
| 5 | | | | | | | | | 0 | | | |
| 6 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60000 | 135,734 | 168,639 | 32,905 | | Permanent |
| 7 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60130 | 41,494 | 51,553 | 10,059 | | Salary Related Expens |
| 8 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60140 | 25,533 | 33,409 | 7,876 | | Insurance Benefits |
| 9 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60240 | 2,156 | 4,156 | 2,000 | | Supplies |
| 10 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60180 | 662 | 862 | 200 | | Printing |
| 11 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60260 | 1,172 | 1,572 | 400 | | Travel & Training |
| 12 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60270 | 83 | 143 | 60 | | Local Travel/Mileage |
| 13 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60365 | 5,525 | 6,196 | 671 | | Shared Services HR |
| 14 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60370 | 1,994 | 2,694 | 700 | | Intl Svc Telephone |
| 15 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60410 | 248 | 322 | 74 | | Intl Svc Motor Pool |
| 16 | 21-79 | 1000 | 40 | | | SCPSS.CGF | 60460 | 395 | 450 | 55 | 55,000 | Intl Svc Distribution |
| 17 | | | | | | | | | 0 | | | |
| 18 | 72-10 | 3506 | 20 | | 711100 | | 50310 | | 1,000 | 1,000 | | Intl Svc Reimbursement |
| 19 | 72-10 | 3506 | 20 | | 711100 | | 60240 | | (1,000) | (1,000) | 0 | Supplies |
| 20 | | | | | | | | | 0 | | | |
| 21 | 72-80 | 3506 | 20 | | 712006 | | 50310 | | (671) | (671) | | Intl Svc Reimbursement |
| 22 | 72-80 | 3506 | 20 | | 712006 | | 60240 | | 671 | 671 | 0 | Supplies |
| 23 | | | | | | | | | 0 | | | |
| 24 | 72-60 | 3503 | 20 | | 709525 | | 50310 | | (700) | (700) | | Intl Svc Reimbursement |
| 25 | 72-60 | 3503 | 20 | | 709525 | | 60200 | | 700 | 700 | 0 | Communications |
| 26 | | | | | | | | | 0 | | | |
| 27 | 72-10 | 3500 | 20 | | 705210 | | 50316 | | (7,876) | (7,876) | | Svc Reimb Insurance |
| 28 | 72-10 | 3500 | 20 | | 705210 | | 60330 | | 7,876 | 7,876 | | Insurance Claims |
| 29 | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | 0 | 0 | Total - Page 1 |
| | | | | | | | | | 0 | 0 | 0 | GRAND TOTAL |

Budget Modification ID: OSCP_02

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2006

| Line No. | Fund Center | Fund Code | Func. Area | Accounting Unit | | | Cost Element | Current Amount | Revised Amount | Change Increase/ (Decrease) | Subtotal | Description |
|----------|-------------|-----------|------------|-----------------|-------------|-------------|--------------|----------------|----------------|-----------------------------|------------------------|-------------|
| | | | | Internal Order | Cost Center | WBS Element | | | | | | |
| 30 | 72-55 | 3501 | 0020 | | 904100 | | | (74) | (74) | | Intl Svc Reimbursement | |
| 31 | 72-55 | 3501 | 0020 | | 904100 | | | 74 | 74 | | Supplies | |
| 32 | | | | | | | | 0 | | | | |
| 33 | 72-55 | 3504 | 0020 | | 904400 | | | (55) | (55) | | Intl Svc Reimbursement | |
| 34 | 72-55 | 3504 | 0020 | | 904400 | | | 55 | 55 | | Postage | |
| 35 | | | | | | | | 0 | | | | |
| 36 | | | | | | | | 0 | | | | |
| 37 | | | | | | | | 0 | | | | |
| 38 | | | | | | | | 0 | | | | |
| 39 | | | | | | | | 0 | | | | |
| 40 | | | | | | | | 0 | | | | |
| 41 | | | | | | | | 0 | | | | |
| 42 | | | | | | | | 0 | | | | |
| 43 | | | | | | | | 0 | | | | |
| 44 | | | | | | | | 0 | | | | |
| 45 | | | | | | | | 0 | | | | |
| 46 | | | | | | | | 0 | | | | |
| 47 | | | | | | | | 0 | | | | |
| 48 | | | | | | | | 0 | | | | |
| 49 | | | | | | | | 0 | | | | |
| 50 | | | | | | | | 0 | | | | |
| 51 | | | | | | | | 0 | | | | |
| 52 | | | | | | | | 0 | | | | |
| 53 | | | | | | | | 0 | | | | |
| 54 | | | | | | | | 0 | | | | |
| 55 | | | | | | | | 0 | | | | |
| 56 | | | | | | | | 0 | | | | |
| 57 | | | | | | | | 0 | | | | |
| 58 | | | | | | | | 0 | | | | |
| | | | | | | | | | 0 | 0 | Total - Page 2 | |
| | | | | | | | | | 0 | 0 | GRAND TOTAL | |



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-6 DATE 12.08.05
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-6
Est. Start Time: 10:02 AM
Date Submitted: 11/14/05 revised

BUDGET MODIFICATION: -

Agenda Title: NOTICE OF INTENT to Respond to an Oregon Department of Education Request for Proposal for 21st Century Community Learning Center Funding

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Date Requested: December 8, 2005 Time Requested: 5 mins
Department: OSCP Division: N/A
Contact(s): Diana Hall
Phone: 503-988-4222 Ext. 84222 I/O Address: 167
Presenter(s): Diana Hall, Kathy Tinkle

General Information

1. What action are you requesting from the Board?

The Office of School and Community Partnerships is requesting Board approval of a Notice of Intent to respond to an Oregon Department of Education request for proposal for 21st Century Community Learning Center (21st CCLC) funding for a SUN Community School, including a parent literacy coordinator, at Lynch Wood Elementary School in Centennial School District.

2. Please provide sufficient background information for the Board and the public to understand this issue.

SUN Community Schools were founded by the elected officials of the Multnomah County, OR and the City of Portland, in 1999 as a partnership of city, county, state, and local school districts.

SUN Community Schools (SUN CS) are part of the County's SUN Service System. The SUN Service System (created through the School Age Policy Framework) is an aligned system of care, providing the social and support services to youth, families and individuals that lead to educational success and self-sufficiency.

SUN CS are the school-based delivery sites for a comprehensive set of services within the SUN Service System. SUN CS coordinate and provide a wide range of high-quality educational, recreational and developmental activities, as well as health and social services.

SUN Community Schools link with other community institutions, such as the libraries, parks and community centers, mental health services, school based and neighborhood health clinics and area churches and businesses in order to:

- Improve student achievement, attendance, behavior and other skills for healthy development
- Promote family involvement
- Increase business and community involvement
- Improve the system of collaboration
- Make better use of public facilities

The key goal in SUN is to improve student achievement, skills and assets. SUN Community Schools link the extended-day activities with the school-day teachers and curriculum to ensure that children and families are receiving consistent, high-quality education and social service delivery. By design, the SUN CS target youth who are experiencing academic challenges and are not meeting state and local district benchmarks.

There are currently 50 SUN Community Schools located in 6 school districts. Centennial School District and the DSCP came together to partner in writing this grant with community partner Metropolitan Family Service which operates the Regional Service Center agency in this Region. Other partners include Campfire, Police Activities League, and El Programa Hispano. Lynch Wood Elementary will be a new SUN Community School and was selected using the criteria established in the SAPF selection process originally, as well as being the district's next priority for services from the County.

Lynch Wood Elementary faces significant challenges to improving student success with 71% free and reduced lunch and 20% English Language Learners. In addition, the number of English language learners in the school district has grown by over 153% since 1998-99. Academic achievement among all students at Lynch Wood is falling, and it is clear that poor, non-white and ELL students are far from being able to succeed in the next stages of their educational careers. In third grade, about one in four students at Lynch Wood do not meet state reading or math standards. By fifth grade, more than one in three does not meet reading or math standards. The 21st CCLC grant would allow the County to partner with Lynch Wood Elementary to support their work toward improving student achievement and family stability. It will also allow for a .5 FTE family literacy and education coordinator to be hired by the County to provide a similar model to the SUN Community School/Touchstone collaboration in place in the existing full-service model.

Lynch Wood Elementary has strong championship of its Principal and staff for this effort, as well as a number of assets that will make SUN successful. This grant would allow SUN to significantly support this struggling school and would create a link with the middle school SUN Community School in its catchment area.

3. Explain the fiscal impact (current year and ongoing).

If the grant is funded, program funding in the approximate amount of \$155,000 per year would be available through Oregon Department of Education beginning in February 2006. The grant is a three-year grant with possible extension for 2 additional years. The grant will fund contracted SUN

CS programming and site management services, as well as a .5 FTE County position to support family literacy and educational services. The County position will be limited duration, in a classification that will still need to be determined

4. Explain any legal and/or policy issues involved.

The work under this grant is integrated into the SUN Service System/School Age Policy Framework and covered under Intergovernmental agreements between the County and District.

5. Explain any citizen and/or other government participation that has or will take place.

In the current application, Metropolitan Family Service, the City of Portland, Centennial School District, Campfire, Police Activities League, and El Programa Hispano are participating as partners and have been involved in the planning. The school principal, staff, parents and students have been involved in needs assessment and planning of the SUN Community School design and specific activities.

Once SUN development is underway, stakeholders (including parents, youth and community members) will be systematically involved in SUN community school planning through SUN advisory committees, informal feedback and surveys/focus groups.

ATTACHMENT A

Grant Application/Notice of Intent

If the request is a Grant Application or Notice of Intent, please answer all of the following in detail:

- Who is the granting agency?
Oregon Department of Education
- Specify grant (matching, reporting and other) requirements and goals.
The purpose of the grant is to provide an opportunity for Lynch Wood Elementary to establish a community learning center to:
 - Provide opportunities for academic enrichment
 - Offer a broad array of additional services such as youth development; counseling; and art, music and recreation.
 - Offer family literacy and related educational developmentGoals include raising student achievement in reading and math. Annual reporting on progress and outcomes is required.
- Explain grant funding detail – is this a one time only or long term commitment?
The initial grant is for three years beginning in February 2006, with the option for renewal for an additional two years.
- What are the estimated filing timelines?
Deadline is November 22, 2005
- If a grant, what period does the grant cover?
The initial grant period is February 2006 through January 2007.
- When the grant expires, what are funding plans?
For any programs supported by the grant, but beyond the ability of the SUN Service System to fund, OSCP will continue to pursue program dollars and build the school's capacity for fundraising as part of the resource development for the SUN Service System/School Age Policy Framework. The school is located in the City limits and has received some programming dollars from Parks and Recreation in past and current years that could help sustain programming in future years.
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?
The grant indirect is capped at 6.28% The remainder of the indirect costs will be covered through personnel savings due to the grant design and commitment on the part of OSCP to budget the remainder into the Office budget. Other County personnel costs covered under the grant include a .5FTE limited duration position.

ATTACHMENT B

Required Signatures

**Department/
Agency Director:**

Jalanzo T. Poettr.

Date: 11/14/05

Budget Analyst:

Michael D. Jaspri

Date: 11/22/05

Department HR:

Date: _____

Countywide HR:

Date: _____



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-7 DATE 12.08.05
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-7
Est. Start Time: 10:05 AM
Date Submitted: 11/10/05

BUDGET MODIFICATION: HD - 13

Agenda Title: Budget Modification HD-13 Appropriating \$22,558 in Carryover Funds from Fiscal Year 2005 from the Poder es Salud Grant

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Date Requested: December 8, 2005 Time Requested: 5 mins
Department: Health Department Division: CHP3
Contact(s): Angela Burdine, Budget Manager
Phone: 503 988-3663 Ext. 26457 I/O Address: 167/210
Presenter(s): Noelle Wiggins, Health Services Specialist

General Information

1. What action are you requesting from the Board?

Request approval of appropriation of \$22,558 which are carryover funds from the FY05 Poder es Salud Grant. These funds were unspent in the previous fiscal year and were not part of the FY06 adopted budget. The funds will be used to pay for services from the Latino Network and Emmanuel Community Services.

2. Please provide sufficient background information for the Board and the public to understand this issue.

In September 2002 the Health Department received a federal grant from the Centers for Disease Control (CDC) to build on and expand the existing Latino Network Project. The project has been a positive influence in the Latino community, by promoting the use of Popular Education to increase the community's ability to advocate for its needs. The Health Departments, Community Capacitation Center has been responsible for the capacitation (empowering training) and support of the Community Health Worker (CHWs), also known as promotes de salud (health promoters).

We are currently in year three of the three year grant period. The funds represented in this budget modification are carryover funds from grant year two. These funds will enable us to ensure a stable

level of service to the project through September 2006.

3. Explain the fiscal impact (current year and ongoing).

Increase the Health Departments CHP3 Community Capacitation Program budget by \$22,558 in FY06. These extra funds are one time only and will be spent in FY06.

4. Explain any legal and/or policy issues involved.

n/a

5. Explain any citizen and/or other government participation that has or will take place.

The main purpose of the modification is to reallocate funding to two community based organizations in order to ensure a stable level of service.

ATTACHMENT A

Budget Modification

If the request is a **Budget Modification**, please answer all of the following in detail:

- What revenue is being changed and why?
Health Departments fed/state revenue budget will be increased by \$22,558 as a result of carryover from the Poder es Salud Grant.
- What budgets are increased/decreased?
The Health Departments, CHP3, Community Capacitation Program budget will be increased by \$22,558.
- What do the changes accomplish?
Appropriates funding to pay for services provided by the Latino Network and Emmanuel Community Services.
- Do any personnel actions result from this budget modification? Explain.
None
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?
The funds will cover indirect.
- Is the revenue one-time-only in nature?
Yes, these funds are carryover from a previous grant year.
- If a grant, what period does the grant cover?
September 2002 through September 2005 With no-cost extension, grant will now end September 2006
- If a grant, when the grant expires, what are funding plans?

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: HD - 13

Required Signatures

**Department/
Agency Director:**

Lillian Shuly

Date: 11/04/05

Budget Analyst:

Debra

Date: 11/10/05

Department HR:

Patricia Keller

Date: 11/08/05

Countywide HR:

Date: _____

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 06

| Line No. | Fund Center | Fund Code | Func Area | Accounting Unit | | | Cost Element | Current Amount | Revised Amount | Change Increase/ (Decrease) | Subtotal | Description |
|----------|-------------|-----------|-----------|-----------------|-------------|-------------|--------------|----------------|----------------|-----------------------------|---|-------------|
| | | | | Internal Order | Cost Center | WBS Element | | | | | | |
| 1 | 40-40 | 32063 | 0030 | | | 4FA27-03-1 | 50170 | (22,558) | (22,558) | | GY03 grant funds unspent in FY05 and unbudgeted in FY06; using funds to extend existing positions | |
| 2 | 40-40 | 32063 | 0030 | | | 4FA27-03-1 | 60000 | 13,357 | 13,357 | | | |
| 3 | 40-40 | 32063 | 0030 | | | 4FA27-03-1 | 60130 | 4,083 | 4,083 | | | |
| 4 | 40-40 | 32063 | 0030 | | | 4FA27-03-1 | 60140 | 3,493 | 3,493 | | | |
| 5 | 40-40 | 32063 | 0030 | | | 4FA27-03-1 | 60240 | 50 | 50 | | | |
| 6 | 40-40 | 32063 | 0030 | | | 4FA27-03-1 | 60350 | 136 | 136 | | | |
| 7 | 40-40 | 32063 | 0030 | | | 4FA27-03-1 | 60355 | 1,439 | 1,439 | | | |
| 8 | | | | | | | | 0 | | 0 | | |
| 9 | | | | | | | | 0 | | | | |
| 10 | 70-80 | 3500 | | | 705210 | | 50316 | (3,493) | (3,493) | | Insurance (60140) | |
| 11 | 70-80 | 3500 | | | 705210 | | 60330 | 3,493 | 3,493 | | Insurance (60140) | |
| 12 | | | | | | | | 0 | | | | |
| 13 | 19 | 1000 | | | 9500001000 | | 50310 | (136) | (136) | | Central Indirect (60350) | |
| 14 | 19 | 1000 | | | 9500001000 | | 60470 | 136 | 136 | | Central Indirect (60350) | |
| 15 | | | | | | | | 0 | | | | |
| 16 | 40-90 | 1000 | | | 409050 | | 50370 | (1,439) | (1,439) | | Department Indirect (60355) | |
| 17 | 40-90 | 1000 | | | 409001 | | 60240 | 1,439 | 1,439 | | Use additional dept indirect to offset over-expenditures due to emergency responses | |
| 18 | | | | | | | | 0 | | | | |
| 19 | | | | | | | | 0 | | | | |
| 20 | | | | | | | | 0 | | | | |
| 21 | | | | | | | | 0 | | | | |
| 22 | | | | | | | | 0 | | | | |
| 23 | | | | | | | | 0 | | | | |
| 24 | | | | | | | | 0 | | | | |
| 25 | | | | | | | | 0 | | | | |
| 26 | | | | | | | | 0 | | | | |
| 27 | | | | | | | | 0 | | | | |
| 28 | | | | | | | | 0 | | | | |
| 29 | | | | | | | | 0 | | | | |
| 30 | | | | | | | | 0 | | | | |
| 31 | | | | | | | | 0 | | | | |
| 32 | | | | | | | | 0 | | | | |
| 33 | | | | | | | | 0 | | | | |
| 34 | | | | | | | | 0 | | | | |
| 35 | | | | | | | | 0 | | | | |
| | | | | | | | | 0 | | 0 | GRAND TOTAL | |

5. ANNUALIZED PERSONNEL CHANGE

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

| | | | | | | ANNUALIZED | | | |
|---------------------------------|-------|-------------|--------------------------|-----------------|-------------|---------------|--------------|--------------|---------------|
| Fund | Job # | HR Org Unit | Position Title | Position Number | FTE | BASE PAY | FRINGE | INSUR | TOTAL |
| 1505 | 6001 | 63576 | OFFICE ASSISTANT 2 | 710282 | 0.07 | 2,031 | 621 | 904 | 3,556 |
| 1505 | 6021 | 63576 | PROGRAM DEVELOPMENT SPEC | 710281 | 0.21 | 11,326 | 3,462 | 2,589 | 17,377 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
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| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| TOTAL ANNUALIZED CHANGES | | | | | 0.28 | 13,357 | 4,083 | 3,493 | 20,933 |

6. CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

| | | | | | | CURRENT YEAR | | | |
|---------------------------------|-------|-------------|--------------------------|-----------------|-------------|---------------|--------------|--------------|---------------|
| Fund | Job # | HR Org Unit | Position Title | Position Number | FTE | BASE PAY | FRINGE | INSUR | TOTAL |
| 1505 | 6001 | 63576 | OFFICE ASSISTANT 2 | 710282 | 0.07 | 2,031 | 621 | 904 | 3,556 |
| 1505 | 6021 | 63576 | PROGRAM DEVELOPMENT SPEC | 710281 | 0.21 | 11,326 | 3,462 | 2,589 | 17,377 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
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| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| TOTAL CURRENT FY CHANGES | | | | | 0.28 | 13,357 | 4,083 | 3,493 | 20,933 |



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # 28 DATE 12-08-05
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-8
Est. Start Time: 10:05 AM
Date Submitted: 11/15/05

BUDGET MODIFICATION: HD - 14

**Budget Modification HD-14 Authorizing Seven Position Conversions and
Reclassifications within the Health Department's Integrated Clinical
Agenda Title: Services and Community Health Services**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | |
|--|--------------------------------------|
| Date Requested: <u>December 8, 2005</u> | Time Requested: <u>5 mins</u> |
| Department: <u>Health Department</u> | Division: <u>ICS and CHS</u> |
| Contact(s): <u>Angela Burdine, Budget Manager</u> | |
| Phone: <u>503 988-3663</u> Ext. <u>26457</u> | I/O Address: <u>167/210</u> |
| Presenter(s): <u>Wendy Lear, Finance Manager</u> | |

General Information

1. What action are you requesting from the Board?

Approval of seven staffing adjustments within the Health Department resulting from conversions of budgeted on-call funds and vacant positions to full-time positions and reclassification of existing positions. The net change to the budget is 1.60 FTE for FY06.

2. Please provide sufficient background information for the Board and the public to understand this issue.

The changes are as follows:

- Convert budgeted on-call funds to a 0.4 FTE Health Information Technician in the Integrated Clinical Services, Child Assessment Services Program to correct an oversight in the FY06 budget process and better define the hours the position is needed.
- Convert budgeted on-call funds to a 0.8 Health Assistant 2 position in the Community Health Services, Immunization Program to fill the role as immunization forecaster. In addition to routine job duties (initial client screening, providing immunization information and identifying needed immunizations), this person will back up vaccine management and inventory for seven delegate

agencies (community clinics) and all MCHD primary care clinics.

- Convert budgeted on-call funds to a 1.0 Program Supervisor in the Integrated Clinical Services, Mid County Clinic.

- Convert vacant 1.0 Clinic Medical Assistant to a 0.8 Community Health Nurse in the Integrated Clinical Services, North Portland Clinic giving more flexibility to the position and the duties assigned.

- Convert 1.0 FTE Disease Intervention Specialist to a 1.0 FTE Program Supervisor in the Community Health Services, STD Program as approved by Class/Comp to better fit the needs of the program. The position is needed in order to meet "best practice" standards for supervision of 7 DIS, improve the span of control for the STD Prevention and Treatment Program manager, and fulfill the terms of the STD/VD contract with the State.

- Convert a vacant 1.0 FTE Health Services Administrator position to a 0.6 FTE Physician position in the Integrated Clinical Services, Medical Director Program. This was deemed necessary due to the inability to obtain applicants for the HS Administrator position.

- Convert 1.0 Program Development Specialist position to a 1.0 Program Development Sr position in the Community Health Services, Environmental Health Program as approved by Class/Comp to better fit the duties of the position.

3. Explain the fiscal impact (current year and ongoing).

There is no net financial impact to the budget. There is, however, a net increase of 1.6 FTE to the Health Departments FY06 budget.

4. Explain any legal and/or policy issues involved.

N/A

5. Explain any citizen and/or other government participation that has or will take place.

N/A

ATTACHMENT A

Budget Modification

If the request is a **Budget Modification**, please answer **all** of the following in detail:

- What revenue is being changed and why?
N/A
- What budgets are increased/decreased?
N/A
- What do the changes accomplish?
Classification changes to seven positions within the Health Department
- Do any personnel actions result from this budget modification? Explain.
Change the following FTE and Classifications:
add 0.4 FTE Health Information Technician in the Integrated Clinical Services, Child Assessment Services Program
add 0.8 Health Assistant 2 position in the Community Health Services, Immunization Program
add 1.0 Program Supervisor in the Integrated Clinical Services, Mid County Clinic.
change 1.0 Clinic Medical Assistant to a 0.8 Community Health Nurse in the Integrated Clinical Services, North Portland Clinic
change 1.0 FTE Disease Intervention Specialist to a 1.0 FTE Program Supervisor in the Community Health Services, STD Program
change a vacant 1.0 FTE Health Services Administrator position to a 0.6 FTE Physician position in the Integrated Clinical Services, Medical Director Program
change 1.0 Program Development Specialist position to a 1.0 Program Development Specialist Sr position in the Community Health Services, Environmental Health Program
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?
All indirects are included in funding
- Is the revenue one-time-only in nature?
n/a
- If a grant, what period does the grant cover?
N/A
- If a grant, when the grant expires, what are funding plans?
N/A

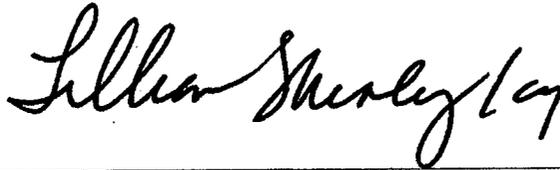
NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: HD - 14

Required Signatures

**Department/
Agency Director:**



Date: 11/14/05

Budget Analyst:



Date: 11/15/05

Department HR:



Date: 11/10/05

Countywide HR:

Date: _____

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 06

| Line No. | Fund Center | Fund Code | Func Area | Accounting Unit | | | Cost Element | Current Amount | Revised Amount | Change Increase/ (Decrease) | Subtotal | Description |
|----------|-------------|-----------|-----------|-----------------|-------------|----------------|--------------|----------------|----------------|-----------------------------|----------|---|
| | | | | Internal Order | Cost Center | WBS Element | | | | | | |
| 1 | 40-79 | 1000 | 0030 | | | 44835-GF | 60000 | 59,846 | 75,776 | 15,930 | | Child Assessment Services: convert on-call dollars to 0.4 HIT |
| 2 | 40-79 | 1000 | 0030 | | | 44835-GF | 60100 | 26,581 | 333 | (26,248) | | |
| 3 | 40-79 | 1000 | 0030 | | | 44835-GF | 60130 | 18,525 | 23,395 | 4,870 | | |
| 4 | 40-79 | 1000 | 0030 | | | 44835-GF | 60140 | 16,235 | 21,683 | 5,448 | | |
| 5 | | | | | | | | | 0 | | 0 | |
| 6 | | | | | | | | | 0 | | | |
| 7 | 40-70 | 1000 | 0030 | | | 47600-GF | 60000 | 26,062 | 19,093 | (6,969) | | Convert 1.0 CMA (full year) to 0.8 CHN (8 months) |
| 8 | 40-70 | 1000 | 0030 | | | 47600-GF | 60120 | 1,398 | 3,511 | 2,113 | | |
| 9 | 40-70 | 1000 | 0030 | | | 47600-GF | 60130 | 8,117 | 6,196 | (1,921) | | |
| 10 | 40-70 | 1000 | 0030 | | | 47600-GF | 60140 | 6,524 | 3,092 | (3,432) | | |
| 11 | 40-70 | 1000 | 0030 | | | 47600-GF | 60240 | 269 | 10,478 | 10,209 | | |
| 12 | | | | | | | | | 0 | | 0 | |
| 13 | | | | | | | | | 0 | | | |
| 14 | 40-30 | 20570 | 0030 | | | 4SA09 | 60000 | 46,660 | 63,437 | 16,777 | | Convert unused on-call dollars to 0.8 HA2 |
| 15 | 40-30 | 20570 | 0030 | | | 4SA09 | 60100 | 66,016 | 37,677 | (28,339) | | |
| 16 | 40-30 | 20570 | 0030 | | | 4SA09 | 60130 | 14,264 | 18,888 | 4,624 | | |
| 17 | 40-30 | 20570 | 0030 | | | 4SA09 | 60140 | 11,769 | 18,707 | 6,938 | | |
| 18 | | | | | | | | | 0 | | 0 | |
| 19 | | | | | | | | | 0 | | | |
| 20 | 40-70 | 26020 | 0030 | | | 47550-00-26020 | 60000 | 1,201,534 | 1,246,796 | 45,262 | | Convert unused on-call dollars to 1.0 Program Supervisor |
| 21 | 40-70 | 26020 | 0030 | | | 47550-00-26020 | 60100 | 166,210 | 98,256 | (67,954) | | |
| 22 | 40-70 | 26020 | 0030 | | | 47550-00-26020 | 60130 | 372,555 | 386,392 | 13,837 | | |
| 23 | 40-70 | 26020 | 0030 | | | 47550-00-26020 | 60140 | 319,172 | 328,027 | 8,855 | | |
| 24 | | | | | | | | | 0 | | 0 | |
| 25 | | | | | | | | | 0 | | | |
| 26 | 40-30 | 1000 | 0030 | | | 43100-GF | 60000 | 776,697 | 779,795 | 3,098 | | Convert 1.0 DIS to 1.0 Program Supervisor |
| 27 | 40-30 | 1000 | 0030 | | | 43100-GF | 60100 | 27,494 | 23,248 | (4,246) | | |
| 28 | 40-30 | 1000 | 0030 | | | 43100-GF | 60130 | 237,912 | 238,859 | 947 | | |
| 29 | 40-30 | 1000 | 0030 | | | 43100-GF | 60140 | 193,803 | 194,004 | 201 | | |
| 30 | | | | | | | | | 0 | | 0 | |
| 31 | | | | | | | | | 0 | | | |
| 32 | 40-80 | 1000 | 0030 | | | 47050-GF | 60000 | 457,807 | 459,506 | 1,699 | | Convert vacant 1.0 HSA to 0.6 Physician |
| 33 | 40-80 | 1000 | 0030 | | | 47050-GF | 60120 | 17,942 | 17,901 | (41) | | |
| 34 | 40-80 | 1000 | 0030 | | | 47050-GF | 60130 | 139,871 | 142,729 | 2,858 | | |
| 35 | 40-80 | 1000 | 0030 | | | 47050-GF | 60140 | 80,310 | 75,794 | (4,516) | | |
| 36 | | | | | | | | | 0 | | 0 | |
| 37 | | | | | | | | | 0 | | | |
| 38 | 70-80 | 3500 | | | 705210 | | 50316 | | (13,494) | (13,494) | | Insurance (60140) |
| 39 | 70-80 | 3500 | | | 705210 | | 60330 | | 13,494 | 13,494 | | Insurance (60140) |
| 40 | | | | | | | | | 0 | | | |
| | | | | | | | | | | 0 | 0 | GRAND TOTAL |

5. ANNUALIZED PERSONNEL CHANGEChange on a full year basis even though this action affects only a part of the fiscal year (FY).

| | | | | | | ANNUALIZED | | | |
|---------------------------------|-------|-------------|-------------------------------|-----------------|-------------|----------------|---------------|---------------|----------------|
| Fund | Job # | HR Org Unit | Position Title | Position Number | FTE | BASE PAY | FRINGE | INSUR | TOTAL |
| 1505 | 6321 | 63184 | HEALTH INFORMATION TECHNICAL | 709767 | 0.40 | 15,930 | 4,870 | 5,448 | 26,248 |
| 1505 | 6012 | 61529 | CLINIC MEDICAL ASSISTANT | 712047 | (1.00) | (33,385) | (9,201) | (10,996) | (53,582) |
| 1505 | 6315 | 61529 | COMMUNITY HEALTH NURSE | tbd | 0.80 | 39,873 | 10,989 | 11,417 | 62,279 |
| 1505 | 6294 | 61186 | HEALTH ASSISTANT 2 | tbd | 0.80 | 25,324 | 6,980 | 10,472 | 42,776 |
| 1505 | 9361 | 61528 | PROGRAM SUPERVISOR | tbd | 1.00 | 67,555 | 20,652 | 13,216 | 101,423 |
| 1505 | 6024 | 61195 | DISEASE INTERVENTION SPECIAL | tbd | (1.00) | (45,122) | (13,794) | (11,758) | (70,674) |
| 1505 | 9351 | 61195 | PROGRAM SUPERVISOR | tbd | 1.00 | 49,746 | 15,207 | 12,058 | 77,011 |
| 1505 | 9693 | 61518 | HEALTH SERVICES ADMINISTRATOR | 712347 | (1.00) | (77,688) | (21,411) | (13,876) | (112,975) |
| 1505 | 9490 | 61518 | PHYSICIAN | 712347 | 0.60 | 79,387 | 24,269 | 9,360 | 113,016 |
| 1505 | 6021 | 63707 | PROGRAM DEVELOPMENT SPEC | 710702 | (0.35) | (18,642) | (5,699) | (4,301) | (28,642) |
| 1505 | 6021 | 63707 | PROGRAM DEVELOPMENT SPEC | 710702 | (0.65) | (34,620) | (10,583) | (7,987) | (53,190) |
| 1505 | 6088 | 63707 | PROGRAM DEVELOPMENT SPEC/ | 710702 | 0.35 | 18,642 | 5,699 | 4,301 | 28,642 |
| 1505 | 6088 | 63707 | PROGRAM DEVELOPMENT SPEC/ | 710702 | 0.65 | 34,620 | 10,583 | 7,987 | 53,190 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| TOTAL ANNUALIZED CHANGES | | | | | 1.60 | 121,620 | 38,561 | 25,341 | 185,522 |

6. CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

| | | | | | | CURRENT YEAR | | | |
|---------------------------------|-------|-------------|-------------------------------|-----------------|-------------|---------------|---------------|---------------|----------------|
| Fund | Job # | HR Org Unit | Position Title | Position Number | FTE | BASE PAY | FRINGE | INSUR | TOTAL |
| 1505 | 6321 | 63184 | HEALTH INFORMATION TECHNICAL | 709767 | 0.40 | 15,930 | 4,870 | 5,448 | 26,248 |
| 1505 | 6012 | 61529 | CLINIC MEDICAL ASSISTANT | 712047 | (1.00) | (33,385) | (9,201) | (10,996) | (53,582) |
| 1505 | 6315 | 61529 | COMMUNITY HEALTH NURSE | tbd | 0.53 | 26,416 | 7,280 | 7,564 | 41,260 |
| 1505 | 6294 | 61186 | HEALTH ASSISTANT 2 | tbd | 0.53 | 16,777 | 4,624 | 6,938 | 28,339 |
| 1505 | 9361 | 61528 | PROGRAM SUPERVISOR | tbd | 0.67 | 45,262 | 13,837 | 8,855 | 67,954 |
| 1505 | 6024 | 61195 | DISEASE INTERVENTION SPECIAL | tbd | (0.67) | (30,232) | (9,242) | (7,878) | (47,352) |
| 1505 | 9361 | 61195 | PROGRAM SUPERVISOR | tbd | 0.67 | 33,330 | 10,189 | 8,079 | 51,598 |
| 1505 | 9693 | 61518 | HEALTH SERVICES ADMINISTRATOR | 712347 | (1.00) | (77,688) | (21,411) | (13,876) | (112,975) |
| 1505 | 9490 | 61518 | PHYSICIAN | 712347 | 0.60 | 79,387 | 24,269 | 9,360 | 113,016 |
| 1505 | 6021 | 63707 | PROGRAM DEVELOPMENT SPEC | 710702 | (0.35) | (18,642) | (5,699) | (4,301) | (28,642) |
| 1505 | 6021 | 63707 | PROGRAM DEVELOPMENT SPEC | 710702 | (0.65) | (34,620) | (10,583) | (7,987) | (53,190) |
| 1505 | 6088 | 63707 | PROGRAM DEVELOPMENT SPEC/ | 710702 | 0.35 | 18,642 | 5,699 | 4,301 | 28,642 |
| 1505 | 6088 | 63707 | PROGRAM DEVELOPMENT SPEC/ | 710702 | 0.65 | 34,620 | 10,583 | 7,987 | 53,190 |
| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| TOTAL CURRENT FY CHANGES | | | | | 0.73 | 75,797 | 25,215 | 13,494 | 114,506 |



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # 2-A DATE 12-08-05
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-9
Est. Start Time: 10:10 AM
Date Submitted: 11/01/05

BUDGET MODIFICATION: DCJ - 13

Agenda Title: Budget Modification DCJ-13 Transferring \$38,161 General Fund from the Department of Community Justice to the Health Department to Fund a Full-time Contract Specialist for the Period of January 1, 2006 through June 30, 2006

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | |
|---|--|
| Date Requested: <u>December 8, 2005</u> | Time Requested: <u>3 min</u> |
| Department: <u>Dept. of Community Justice</u> | Division: <u>ECC Management</u> |
| Contact(s): <u>Shaun Coldwell</u> | |
| Phone: <u>503-988-3961</u> Ext. <u>83961</u> I/O Address: <u>503/250</u> | |
| Presenter(s): <u>Kathleen Treb</u> | |

General Information

1. What action are you requesting from the Board?

The Department of Community Justice (DCJ) requests approval of a budget modification to transfer \$38,161 General Fund to the Health Department to fund a full-time Contract Specialist January 1 through June 30, 2006

2. Please provide sufficient background information for the Board and the public to understand this issue.

The Health Department currently staffs two Contract Specialists to handle Department of Community Justice (DCJ) contract preparation. Following a reorganization of the contract-related tasks in DCJ, the remaining Contract writing tasks at DCJ are being transferred to the Health Department. To support this workload, DCJ is funding a full-time Contract Specialist in the Health Department for the final six months of the fiscal year 2006. The personnel position is anticipated to be annualized and included in the Health Department Business & Quality Services Program Offer # 40062 for fiscal year 2007. The Health Department does not anticipate any increased costs for supervision or other staffing changes resulting from this staffing increase. The job classification for

this position has been approved by HR Class Comp. The General Fund dollars paying for this staff position result in a (.40) FTE reduction to a current Community Justice Manager position in DCJ's Employee, Community & Clinical Services Management Program Offer # 50002.

3. Explain the fiscal impact (current year and ongoing).

This budget modification reduces General Fund support in DCJ Program Offer # 50002 by (\$38,161) and increases General Fund support in the Health Department Program Offer # 40062 by + \$38,161.

4. Explain any legal and/or policy issues involved.

It is the policy of Multnomah County to make all employment decisions without regard to race, religion, color, national origin, sex, age, marital status, disability, political affiliations, sexual orientation, or any other non-merit factor.

5. Explain any citizen and/or other government participation that has or will take place.

N/A

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- What revenue is being changed and why?
\$38,161 General Fund support transfers from the Department of Community Justice to the Health Department. This action decreases General Fund support in DCJ by (\$38,161) and increases General Fund support in the Health Department by + \$38,161.
Insurance service reimbursement increases by \$981.
HR Ops decreases by (\$48).
- What budgets are increased/decreased?
.DCJ personnel services is decreased by (\$37,934).
Health Department's personnel services is increased by \$37,442.
Insurance expense increases by \$981.
HR Ops expense decreases by (\$48).
- What do the changes accomplish?
A DCJ Community Justice Manager position is reduced by (0.40) FTE. A full-time Contract Specialist is added to the Health Department for the remaining 6 months of the 2006 fiscal year.
- Do any personnel actions result from this budget modification? Explain.
Yes. DCJ total FTE are reduced by (0.40) FTE. Health Department's total FTE are increased by 0.50 FTE.
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?
HR Operations decreases by (\$767) in DCJ and increases in the Health Dept by \$719 due to the different rates assigned to the departments. County Indirect, central Finance and departmental overhead costs are not applicable in this budget modification.
- Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?
The annualization of the Contract Specialist in the Health Department for fiscal year 2007 is contingent upon approval of the Health Department's program offer by the Board of County Commissioners
- If a grant, what period does the grant cover?
N/A
- If a grant, when the grant expires, what are funding plans?
N/A

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: DCJ - 13

Required Signatures

**Department/
Agency Director:**

Sharon Anderson for Joanne Fuller

Date: 10/28/05

Budget Analyst:

CE

Date: 10/28/05

Department HR:

James J. Opoka

Date: 10/31/05

Countywide HR:

David B. Turner

Date: 10/31/05

Budget Modification ID: **DCJ_13**

EXPENDITURES & REVENUES

Budget/Fiscal Year: 2006

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

| Line No. | Fund Center | Fund Code | Func. Area | Accounting Unit | | | Cost Element | Current Amount | Revised Amount | Change Increase/ (Decrease) | Subtotal | Description |
|----------|-------------|-----------|------------|-----------------|-------------|-------------|--------------|----------------|----------------|-----------------------------|----------|--------------------------------|
| | | | | Internal Order | Cost Center | WBS Element | | | | | | |
| 1 | 50-50 | 1000 | 50 | | 500200 | | 60000 | 729,764 | 704,953 | (24,811) | | Decr Perm, (0.40) FTE CJM |
| 2 | 50-50 | 1000 | 50 | | 500200 | | 60130 | 227,819 | 220,235 | (7,584) | | Decr Sal-Rel, (0.40) FTE CJM |
| 3 | 50-50 | 1000 | 50 | | 500200 | | 60140 | 162,976 | 157,977 | (4,999) | | Decr Ins, (0.40) FTE CJM |
| 4 | 50-50 | 1000 | 50 | | 500200 | | 60365 | 24,700 | 23,933 | (767) | | Decr HR Ops, 2.05% |
| 5 | | | | | | | | | 0 | | (38,161) | Total, DCJ ECC Mgmt GF |
| 6 | 40-90 | 1000 | 30 | | 409155 | | 60000 | 0 | 24,096 | 24,096 | | Incr Perm, + 0.50 Contr Spc |
| 7 | 40-90 | 1000 | 30 | | 409155 | | 60130 | 0 | 7,366 | 7,366 | | Incr Sal-Rel, + 0.50 Contr Spc |
| 8 | 40-90 | 1000 | 30 | | 409155 | | 60140 | 0 | 5,980 | 5,980 | | Incr Ins, + 0.50 Contr Spec |
| 9 | 40-90 | 1000 | 30 | | 409155 | | 60365 | 0 | 719 | 719 | | Incr HR Ops, 1.92% |
| 10 | | | | | | | | | 0 | | 38,161 | Total, Health Contracts GF |
| 11 | 72-10 | 3500 | 20 | | 705210 | | 50316 | | (981) | (981) | (981) | Insurance revenue |
| 12 | 72-10 | 3500 | 20 | | 705210 | | 60330 | | 981 | 981 | 981 | Offsetting Insurance expense |
| 13 | 72-80 | 3506 | 20 | | 712006 | | 50310 | | 48 | 48 | 48 | HR Ops Svc Reimb |
| 14 | 72-80 | 3506 | 20 | | 712006 | | 60240 | | (48) | (48) | (48) | HR Ops expense |
| 15 | | | | | | | | | 0 | | | |
| 16 | | | | | | | | | 0 | | | |
| 17 | | | | | | | | | 0 | | | |
| 18 | | | | | | | | | 0 | | | |
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| 20 | | | | | | | | | 0 | | | |
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| 28 | | | | | | | | | 0 | | | |
| 29 | | | | | | | | | 0 | | | |
| | | | | | | | | | 0 | | 0 | Total - Page 1 |
| | | | | | | | | | 0 | | 0 | GRAND TOTAL |

ANNUALIZED PERSONNEL CHANGE

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

| | | | | | | ANNUALIZED | | | |
|---------------------------------|-------|-------------|---------------------------|-----------------|-------------|----------------|--------------|--------------|-----------|
| Fund | Job # | HR Org Unit | Position Title | Position Number | FTE | BASE PAY | FRINGE | INSUR | TOTAL |
| 50-05 | 9620 | 62761 | Community Justice Manager | 701564 | (0.80) | (49,622) | (15,168) | (9,998) | (74,788) |
| 40-90 | 6015 | 63186 | Contract Specialist | 712513 | 1.00 | 48,192 | 14,732 | 11,960 | 74,884 |
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| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| TOTAL ANNUALIZED CHANGES | | | | | 0.20 | (1,430) | (436) | 1,962 | 96 |

CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

| | | | | | | CURRENT YEAR | | | |
|---------------------------------|-------|-------------|---------------------------|-----------------|-------------|--------------|--------------|------------|-----------|
| Fund | Job # | HR Org Unit | Position Title | Position Number | FTE | BASE PAY | FRINGE | INSUR | TOTAL |
| 50-05 | 9620 | 62761 | Community Justice Manager | 701564 | (0.40) | (24,811) | (7,584) | (4,999) | (37,394) |
| 40-90 | 6015 | 63186 | Contract Specialist | 712513 | 0.50 | 24,096 | 7,366 | 5,980 | 37,442 |
| | | | | | | | | | 0 |
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| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| TOTAL CURRENT FY CHANGES | | | | | 0.10 | (715) | (218) | 981 | 48 |



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # 2-10 DATE 12-08-05
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-10
Est. Start Time: 10:12 AM
Date Submitted: 11/01/05

BUDGET MODIFICATION: DCJ - 18

Agenda Title: Budget Modification DCJ-18 Reclassifying 1.0 FTE Family Services Manager to Program Manager 2, as Determined by the Class/Comp Unit of Central Human Resources

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | |
|--|---|
| Date Requested: <u>December 8, 2005</u> | Time Requested: <u>3 minutes</u> |
| Department: <u>Dept. of Community Justice</u> | Division: <u>Juvenile Services</u> |
| Contact(s): <u>Shaun Coldwell</u> | |
| Phone: <u>503-988-3961</u> Ext. <u>83961</u> | I/O Address: <u>503/250</u> |
| Presenter(s): <u>James Opoka</u> | |

General Information

1. What action are you requesting from the Board?

The Department of Community Justice (DCJ) requests approval of a budget modification to reclassify a Family Services Manager position which has been reviewed by the HR Class Comp and deemed necessary for change in classification.

2. Please provide sufficient background information for the Board and the public to understand this issue.

Reclassification of a 1.0 FTE Family Services Manager to a Program Manager 2 was approved for recommendation to the Board of County Commissioners by HR Class Comp on September 30, 2005, to become effective retroactively to March 27, 2005. This position is unclassified, executive level. The former classification will be abolished and the person filling this position is the only occupant of that former classification. The position is located in the Family Court Services program, Program Offer # 50052A.

3. Explain the fiscal impact (current year and ongoing).

The \$3,377 increased cost of this position is offset by reductions in the Temporary personnel line

item budget, for a net zero impact in Family Court Services personnel expense and FTE.

4. Explain any legal and/or policy issues involved.

It is the policy of Multnomah County to make all employment decisions without regard to race, religion, color, national origin, sex, age, marital status, disability, political affiliations, sexual orientation, or any other non-merit factor.

5. Explain any citizen and/or other government participation that has or will take place.

N/A

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

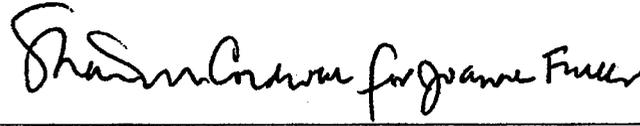
- What revenue is being changed and why?
Insurance revenue increases by \$50.
- What budgets are increased/decreased?
Insurance expense increases by \$50.
- What do the changes accomplish?
A Family Services Manager position is reclassified to a Program Manager 2 position.
- Do any personnel actions result from this budget modification? Explain.
Yes. A Family Services Manager is reclassified to a Program Manager 2 position with no change in total FTE.
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?
There is no net budgetary change, and, therefore, no impact on county indirect, central finance and human resources, and departmental overhead costs.
- Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?
N/A
- If a grant, what period does the grant cover?
N/A
- If a grant, when the grant expires, what are funding plans?
N/A

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: DCJ - 18

Department/
Agency Director:



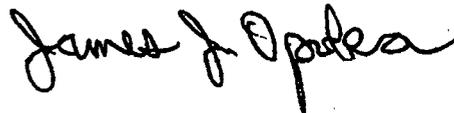
Date: 10/28/05

Budget Analyst:



Date: 10/28/05

Department HR:



Date: 10/31/05

Countywide HR:



Date: 10/31/05

Budget Modification ID: **DCJ_18**

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2006

| Line No. | Fund Center | Fund Code | Func. Area | Accounting Unit | | | Cost Element | Current Amount | Revised Amount | Change Increase/ (Decrease) | Subtotal | Description |
|----------|-------------|-----------|------------|-----------------|-------------|-------------|--------------|----------------|----------------|-----------------------------|----------|------------------------------|
| | | | | Internal Order | Cost Center | WBS Element | | | | | | |
| 1 | 50-50 | 1516 | 50 | | 509040 | | 60000 | 428,278 | 430,750 | 2,472 | | Incr Perm FS Mgr to PgMg2 |
| 2 | 50-50 | 1516 | 50 | | 509040 | | 60100 | 11,681 | 8,778 | (2,903) | | Decr Temp base |
| 3 | 50-50 | 1516 | 50 | | 509040 | | 60130 | 130,924 | 131,680 | 756 | | Incr Sal-Rel, FS Mg to PgMg2 |
| 4 | 50-50 | 1516 | 50 | | 509040 | | 60135 | 1,509 | 1,134 | (375) | | Decr NB Sal-Related |
| 5 | 50-50 | 1516 | 50 | | 509040 | | 60140 | 96,305 | 96,454 | 149 | | Incr Ins, FS Mg to PgMg2 |
| 6 | 50-50 | 1516 | 50 | | 509040 | | 60145 | 397 | 298 | (99) | | Decr NB Insurance |
| 7 | | | | | | | | | 0 | | 0 | Total Family Court Fnd 1516 |
| 8 | | | | | | | | | 0 | | | |
| 9 | | | | | | | | | 0 | | | |
| 10 | | | | | | | | | 0 | | | |
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| 28 | | | | | | | | | 0 | | | |
| 29 | | | | | | | | | 0 | | | |
| | | | | | | | | | | 0 | 0 | Total - Page 1 |
| | | | | | | | | | | 0 | 0 | GRAND TOTAL |

ANNUALIZED PERSONNEL CHANGE

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

| | | | | | | ANNUALIZED | | | |
|---------------------------------|-------|-------------|----------------------------------|-----------------|-------------|--------------|------------|------------|--------------|
| Fund | Job # | HR Org Unit | Position Title | Position Number | FTE | BASE PAY | FRINGE | INSUR | TOTAL |
| 50-50 | 9684 | 61574 | Reclass from FS Mgr to Pgm Mgr 2 | 705103 | (1.00) | (81,576) | (24,938) | (13,721) | (120,235) |
| 50-50 | 9360 | 61574 | Reclass to Pgm Mgr 2 from FS Mgr | 705103 | 1.00 | 84,953 | 25,694 | 13,870 | 124,517 |
| | | | | | | | | | 0 |
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| | | | | | | | | | 0 |
| TOTAL ANNUALIZED CHANGES | | | | | 0.00 | 3,377 | 756 | 149 | 4,282 |

CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

| | | | | | | CURRENT YEAR | | | |
|---------------------------------|-------|-------------|--------------------------------------|-----------------|-------------|--------------|------------|-----------|--------------|
| Fund | Job # | HR Org Unit | Position Title | Position Number | FTE | BASE PAY | FRINGE | INSUR | TOTAL |
| 50-50 | 9684 | 61574 | Reclass from FS Mgr to Pgm Mgr 2 | 705103 | (1.00) | (81,576) | (24,938) | (13,721) | (120,235) |
| 50-50 | 9360 | 61574 | Reclass to Pgm Mgr 2 from FS Mgr | 705103 | 1.00 | 84,953 | 25,694 | 13,870 | 124,517 |
| | | | Sal-Rel & Ins on Temp base (\$2,903) | | | | (367) | (99) | (466) |
| | | | | | | | | | 0 |
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| | | | | | | | | | 0 |
| | | | | | | | | | 0 |
| TOTAL CURRENT FY CHANGES | | | | | 0.00 | 3,377 | 389 | 50 | 3,816 |



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-11
Est. Start Time: 10:15 AM
Date Submitted: 11/21/05

BUDGET MODIFICATION: -

**Amendment 1 to Intergovernmental Revenue Contract 0506024 with
Oregon Youth Authority Providing Additional Funding to Support the
Agenda Title: Work of the East Metro Gang Enforcement Team**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | | | |
|------------------------|--|------------------------|------------------|
| Date Requested: | <u>December 8, 2005</u> | Time Requested: | <u>5 minutes</u> |
| Department: | <u>Dept. of Community Justice</u> | Division: | <u>JSD</u> |
| Contact(s): | <u>Robb Freda-Cowie</u> | | |
| Phone: | <u>503-988-5820</u> | Ext. | <u>85820</u> |
| | | I/O Address: | <u>503/250</u> |
| Presenter(s): | <u>Carla Piluso, Gresham Chief of Police and Joanne Fuller</u> | | |

General Information

1. What action are you requesting from the Board?

The Department of Community Justice (DCJ) requests approval of intergovernmental agreements between Multnomah County and the Oregon Youth Authority and Multnomah County and the City of Gresham Police Department to fund law enforcement efforts aimed at reducing the impact of criminal street gangs in East County.

2. Please provide sufficient background information for the Board and the public to understand this issue.

The number of East county gang related prosecutions brought by the District Attorney's Office has steadily increased since the year 2000. To reduce the impact of criminal street gangs to the citizens, schools, businesses and neighborhoods in East County, the legislature recently appropriated funds for the City of Gresham Police Department, the Sheriff's Office and other East county law enforcement agencies to support a coordinated response -- the East Metro Gang Enforcement Team (EMGET).

These funds are being appropriated through the Department of Community Justice's existing

contract with the Oregon Youth Authority for Gang Transition Services (GTS). The intergovernmental agreements between the Department of Community Justice and the Oregon Youth Authority and the City of Gresham Police Department establish the mechanisms for the transfer of these funds from the state to the East county police agencies.

3. Explain the fiscal impact (current year and ongoing).

See budget modification DCJ-19 for discussion of fiscal impact.

4. Explain any legal and/or policy issues involved.

The intergovernmental agreements have been reviewed and approved by the county attorney's office.

5. Explain any citizen and/or other government participation that has or will take place.

N/A.

Required Signatures

**Department/
Agency Director:**



Date: 11/17/05

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

Legal Review of Agreements

PERSEN Deb #0506024 and #4600005830

From: WEBER Jacquie A
Sent: Wednesday, November 16, 2005 11:48 AM
To: PERSEN Deb
Cc: FREDA-COWIE Robb
Subject: RE: 2 Agreements Going Before Board on Dec 8th - Need legal review. Thanks.

Both documents may be circulated for signature.

-----Original Message-----

From: PERSEN Deb
Sent: Tuesday, November 15, 2005 4:48 PM
To: WEBER Jacquie A
Cc: FREDA-COWIE Robb
Subject: 2 Agreements Going Before Board on Dec 8th - Need legal review. Thanks.

I passed on the Gresham Police Dept IGA (above file) for your review and I am including the amendment from Oregon Youth Authority (PDF file above) that gives Mult Co the \$750,000 to pass through to Gresham PD to support East Multnomah Gang Enforcement Team. OYA is amending DCJ's current Gang Transition Services agreement by adding \$750,000 to the biennial revenue and adding Attachment B, which stipulates the relationship County will establish w/ Gresham PD concerning the expenditure of these additional funds.

Please review both documents and let me know if they are legally sufficient for signature by the County Chair. Your email approval will be used as confirmation. Thanks.

Deb Persen, Contract Specialist

-----Original Message-----

From: HLTHNetCopiers
Sent: Tuesday, November 15, 2005 4:36 PM
To: PERSEN Deb
Subject: Attached Image

From: WEBER Jacquie A
Sent: Wednesday, November 16, 2005 11:48 AM
To: PERSEN Deb
Cc: FREDA-COWIE Robb
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-----Original Message-----

From: HLTHNetCopiers
Sent: Tuesday, November 15, 2005 4:36 PM
To: PERSEN Deb
Subject: Attached Image

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Contract #: 0506024 (10199a)

Pre-approved Contract Boilerplate (with County Attorney signature) Attached Not Attached

Amendment #: 1

| CLASS I Contract \$75,000 and less per 12 month period | CLASS II Contract over \$75,000 per 12 month period | CLASS III A Government Contracts (190 Agreement) |
|--|--|--|
| <input type="checkbox"/> Professional Services Contract <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Public Works Construction Contract <input type="checkbox"/> Architectural & Engineering Contract <input type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Expenditure Contract | <input type="checkbox"/> Professional Services Contract <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Public Works Construction Contract <input type="checkbox"/> Architectural & Engineering Contract <input type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Expenditure Contract | <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input type="checkbox"/> Revenue <hr/> <p style="text-align: center;">CLASS III B Government Contracts (Non-190 Agreement)</p> <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input checked="" type="checkbox"/> Revenue <hr/> <input type="checkbox"/> Interdepartmental Contract |

Department: DCJ
 Originator: David Koch
 Contact: Deb Persen

Division: Juvenile Justice
 Phone: 85636
 Phone: 83202

Date: 11/16/05
 Bldg/Rm: 311
 Bldg/Rm: 167/210

Description of Contract: The Gang Transition Services agreement is amended to add \$750,000, which will pass through to Gresham PD through Agreement #4600005830. Gresham PD is the agency assuming the administrative, fiscal and supervisory oversight of the East Metro Gang Enforcement Team (EMGET) and includes Fairview PD, Troutdale PD, and Mult Co Sheriff's Office. EMGET's goal, through joint law enforcement activities, is to reduce gang violence and criminal activity in East Multnomah County.

RENEWAL: PREVIOUS CONTRACT #(S): _____
 RFP/BID: _____ RFP/BID DATE: _____
 EXEMPTION #/DATE: AR10.010A ORS/AR #: _____
 EFFECTIVE DATE: _____ EXPIRATION DATE: _____
 CONTRACTOR IS: MBE WBE ESB QRF State Cert Self Cert Non-Profit N/A (Check all boxes that apply)

| | | | | | |
|-------------------------------------|---|---------------|-----------------|--|---|
| Contractor | <u>Oregon Youth Authority</u> | | | Remittance address | _____ |
| Address | <u>530 Center Street, NE, Suite 200</u> | | | (If different) | _____ |
| City/State | <u>Salem, OR</u> | | | Payment Schedule / Terms | |
| Zip Code | <u>97301-3765</u> | | | <input type="checkbox"/> Lump Sum \$ _____ | <input type="checkbox"/> Due on Receipt |
| Phone | <u>(503) 378-8261 (Robin Cole, Asst Director)</u> | | | <input type="checkbox"/> Monthly \$ _____ | <input type="checkbox"/> Net 30 |
| Employer ID# or SS# | _____ | | | <input type="checkbox"/> Other \$ _____ | <input type="checkbox"/> Other |
| Contract Effect Date | <u>07/01/05</u> | Term Date | <u>06/30/07</u> | <input type="checkbox"/> Requirements Funding Information: | |
| Amendment Effect Date | <u>11/01/05</u> | New Term Date | _____ | Original Requirements Amount | \$ _____ |
| Original Contract Amount \$ | <u>2,508,412</u> | | | Total Amt of Previous Amendments | \$ _____ |
| Total Amt of Previous Amendments \$ | _____ | | | Requirements Amount Amendment | \$ _____ |
| Amount of Amendment \$ | <u>750,000</u> | | | Total Amount of Requirements | \$ _____ |
| Total Amount of Agreement \$ | <u>3,258,412</u> | | | | |

REQUIRED SIGNATURES:

Department Manager Sharon Corcoran for Jeanne Fuller DATE 11/30/05
 Purchasing Manager _____ DATE _____
 County Attorney Jacquie Weber reviewed 11/16/05 DATE _____
 County Chair [Signature] DATE 12-8-05
 Sheriff _____ DATE _____
 Contract Administration _____ DATE _____

COMMENTS: _____

APPROVED - MULTNOMAH COUNTY
 BOARD OF COMMISSIONERS
 AGENDA # R-11 DATE 12-08-05
 DEBORAH L. BOGSTAD, BOARD CLERK

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio tape, oral presentation, and computer disk. To request an alternate format call the State of Oregon, Oregon Youth Authority, Budget and Contracts Unit at (503) 373-7371.

AMENDMENT
STATE OF OREGON
INTERGOVERNMENTAL AGREEMENT
(Gang Transition Services)



Contract Log #10199a

This is Amendment No. 1 to Contract No. 10199 (as amended from time to time the "Agreement") dated July 1, 2005 between the STATE OF OREGON, acting by and through its OREGON YOUTH AUTHORITY ("Agency" or "OYA"), and MULTNOMAH COUNTY ("County").

1. The Agreement is hereby amended as follows: **New Language is indicated by bolding and underlining and [deleted language is indicated by bolding and bracketing]:**

a. Amend the Agreement document, page 1, Section 3, entitled "Consideration" paragraph "a" to change the maximum not to exceed amount from **[\$2,508,412.00]** to **\$3,258,412.00**.

b. Amend the Agreement document, page 1, Section 4, entitled "Documents" to read as follows:

4. Documents. This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A (the Statement of Work) **and Exhibit B (East Metro Gang Enforcement)**. Exhibits **A and B are [is]** attached hereto and incorporated herein by this reference.

2. Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. County certifies that the representations, warranties, and certifications contained in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

3. This Amendment is effective the date on which this Amendment is fully executed by the parties and fully approved as required by applicable statutes and rules.

Certification: The individual signing on behalf of County hereby certifies and swears under penalty of perjury: (a) that the number shown on this form is County's correct tax payer identification; (b) County is subject to backup withholding because (i) County is exempt from backup withholding, (ii) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified County that County is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of County, s/he has authority and knowledge regarding County's payment of taxes, and to the best of her/his knowledge, County is not in violation of any Oregon tax laws including, without limitation, the following pursuant to OAR 150-305.385(6)-(B): For purposes of this certification, "Oregon tax laws" means the tax laws names in ORS 305.380 (4), including without limitation the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the homeowners and renters property tax relief program, and local taxes administered by the Department of Revenue (Multnomah County Business Income Tax, Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan District Self-Employment Tax; (d) County is an independent contractor as defined in ORS 670.600; and (e) the supplied County data is true and accurate.

I hereby certify and affirm I am eligible and authorized to sign this agreement on behalf of the County.

By: [Signature] Date: 12.8.05
Title: County Chair

By: [Signature] Date: 11.30.05
Title: Director, Department of Community Justice
Janice Fuller

Reviewed by Multnomah County Attorney:

By: Jacque Weber Date: 11.16.05
Assistant County Attorney *JW*

SS# or Fed Tax ID#: 93-6002309

Mailing Address: 501 SE Hawthorne Blvd, Suite 250
Portland, OR 97214

Facsimile: 503-988-3990

AGENCY: STATE OF OREGON, acting by and through its Oregon Youth Authority

By: _____ Date: _____
Manager of Budget and Contracts

Mailing Address: 530 Center St. NE, Suite 200
Salem, Oregon 97301-3740

Facsimile: (503) 373-7921

Approved as to Legal Sufficiency by the **Attorney General's Office** (Required if total amount owing under the Contract, including amendments, exceeds \$75,000):

By: [Signature] Date: 11/1/05
Assistant Attorney General

Reviewed by **OYA Contracts Specialist:**

By: _____ Date: _____

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-11 DATE 12.08.05
DEBORAH L. BOGSTAD, BOARD CLERK

EXHIBIT B

Intergovernmental Agreement

Agreement Number: 10199a

County: Multnomah County

1. STATEMENT OF WORK:

1.1 Background: Criminal street gang violence in the cities of Gresham, Fairview, Troutdale, Wood Village and unincorporated areas of East Multnomah County has steadily increased since the year 2000. The number of criminal street gang related cases being prosecuted by the Multnomah County District Attorney's Office have shown a similar increase. These cases include gun related incidents, attempted murder, murder and assaults.

1.2 Vision: To reduce the impact of criminal street gangs to the citizens, schools, businesses and neighborhoods of the cities of Gresham, Fairview, Troutdale, Wood Village and unincorporated areas of east Multnomah County through law enforcement presence, operational strategies and tactics, and to conduct a thorough coordinated approach designed to enhance community livability.

1.3 To meet the vision, the County, through its Department of Community Justice (DCJ), shall contract with the City of Gresham Police Department, hereafter called "City". County shall require the City to be responsible for conducting and coordinating the following activities:

- a. Provide a high level of coordinated law enforcement;
- b. Locate and identify individuals affiliated with criminal street gangs;
- c. Gather and share intelligence information related to criminal street gang activity;
- d. Investigate crimes associated with criminal street gangs; and
- e. Provide an increased level of police presence in known or suspected criminal street gang affected areas.

The County shall require the City to:

- a. Conduct monthly, multi-agency, coordinated missions;
- b. Track the number of criminal street gang related contacts;
- c. Track the number of weapons seized from criminal street gang members;
- d. Track the number of arrests of criminal street gang members;
- e. Track the number of East Metro Gang Enforcement Team (EMGET) cases referred to the District Attorney for prosecution; and
- f. Conduct quarterly meetings in east county jurisdictions with the public.

The County shall also require the City to provide the administration and supervision of the EMGET. The team shall consist of the following full-time personnel:

- a. One (1) Gresham Police Sergeant;
- b. Two (2) Gresham Police Officers;
- c. One (1) Fairview Police Officer;
- d. One (1) Troutdale Police Officer;
- e. One (1) Multnomah County Sheriff Deputy; and
- f. One (1) City of Gresham Administrative Assistant.

1.4 County shall provide written reports to the Agency as follows:

- a. Financial reports on a form designated by the Agency according to the following schedule:
 - (i) For the period beginning upon execution of this Amendment through June 30, 2006, due by July 31, 2006
 - (ii) For the period July 1, 2006 through December 31, 2006, due by January 31, 2007
 - (iii) A final report for the period beginning upon execution of this Amendment through June 30, 2007, due by July 31, 2007
- b. A program progress report due by July 31, 2006 for the period beginning upon execution of this Amendment through June 30, 2006
- c. A report for the legislature due by February 1, 2007 for the period beginning upon execution of this Amendment through December 31, 2006

- d. A final program report due by July 31, 2007 for the period beginning upon execution of this Amendment through June 30, 2007

1.5 Supervising Representatives: The Supervising Representatives for purposes of this Exhibit B shall be:

AGENCY: Robyn Cole, Assistant Director, Field Operations Manager
(503) 378-8261
530 Center Street NE, Suite 200, Salem, Oregon, 97301

COUNTY: Kathleen Treb, Assistant Director
(503) 988-6131
501 SE Hawthorne Blvd, Suite 250, Portland, OR 97214
Aimee Ortiz, Financial Specialist 2
(503) 988-3701 Ext. 25456
501 SE Hawthorne Blvd, Suite 250, Portland, OR 97214

Should a change in the Agency's or County's Supervising Representative become necessary, Agency or County will notify the other party of such change. Such change shall be effective without the necessity of executing a formal amendment to this Agreement.

2. CONSIDERATION:

2.1 As consideration for the services provided by the County under this Agreement, the Agency, subject to the provision of ORS 293.462 (payment of overdue account charges) and the terms and conditions of this Agreement, will pay to the County, by warrant(s) an amount not to exceed **\$750,000.00**, which includes a 20% administrative charge of 10% each to County and City, to be paid within 30 days from the beginning of each quarter as follows:

- a. For the period beginning upon execution of this Amendment through December 2005 an amount of \$30,000.00;
- b. For the period beginning January 2006 through March 2006 an amount of \$30,000.00;
- c. For the period beginning April 2006 through June 2006 an amount of \$30,000.00;
- d. For the period beginning July 2006 through September 2006 an amount of \$165,000.00;
- e. For the period beginning October 2006 through December 2006 an amount of \$165,000.00;
- f. For the period beginning January 2007 through March 2007 an amount of \$165,000.00;
- g. For the period beginning April 2007 through June 2007 an amount of \$165,000.00.

No more than 20% of the aggregate funds paid under this Agreement to County may be expended on County's and City's administrative costs.

2.2 If expenditures for a quarter exceed the quarterly amount, the County may submit an exception report, using the financial reporting form designated by the Agency, to the Agency seeking additional reimbursement for the Agency's consideration. If the exception is granted, the amount will be subtracted from the final quarterly payment.

2.3 Disbursement and Recovery of Funds.

- a. **Disbursement Generally.** Subject to the conditions precedent set forth below, Agency shall disburse the funds in accordance with the disbursement schedule set forth in 2.1 of this Exhibit B. The mere disbursement of funds to County does not vest in County any right to retain those funds. Disbursements are considered an advance of funds to County which County may retain only if properly expended, in accordance with terms and conditions of this Agreement, prior to the termination of this Agreement.
- b. **Conditions Precedent to Disbursement.** Agency's obligation to disburse funds to County under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
 - (i) Agency has received sufficient funding, appropriations and other expenditure authorizations to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement.

(ii) No default as described in Section 12 of this Agreement has occurred.

(iii) County is in compliance with ORS 279B.220, 279B.230, 279B.235, 279B.270, 279A.010(1)(ee), 279A.010(1)(ff), and 279A.010(1)(gg).

(iv) County's representations and warranties set forth in Section 9 of this Agreement are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.

(v) County has expended, in accordance with the terms and conditions of this Agreement, substantially all of the funds previously disbursed to County under this Agreement. If County has not expended substantially all of the prior disbursements in accordance with the terms and conditions of this Agreement, Agency may reduce the amount of the final disbursement accordingly.

c. Recovery of Funds

(i) **Notice of Underexpenditure or Misexpenditure.** In the event of an Underexpenditure or a Misexpenditure (each as defined below) of any moneys disbursed to County under this Agreement, Agency and County shall engage in the process described in this Section 2.3.c to determine the appropriate amount that Agency may recover from County, and the appropriate method for implementing such recovery. For purposes of this Section 2.3.c, an "Underexpenditure" means money disbursed to County by Agency under this Agreement that remains unexpended by County at Agreement termination when Agreement termination is prior to June 30, 2007, and "Misexpenditure" means money disbursed to County by Agency under this Agreement and expended by County that:

(a) Is identified by Agency or County as expended in a manner other than that permitted by this Agreement, including without limitation, any money expended by County, contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money; or

(b) Is identified by Agency or County as expended on the delivery of a Service that did not meet the standards and requirements of this Agreement with respect to that Service.

In the event of an Underexpenditure or a Misexpenditure identified by Agency, Agency shall provide to County notice thereof. In the event of an Underexpenditure or a Misexpenditure identified by County, County shall provide Agency notice thereof.

(ii) **County's Response to Underexpenditure or Misexpenditure.** From the earlier date of County's receipt of the Agency's notice of, or County's identification of, an Underexpenditure or Misexpenditure, County shall have 60 calendar days to either:

(a) Make a payment to the Agency in the full amount of the Underexpenditure or Misexpenditure; or

(b) Notify the Agency that County wishes to repay the amount of the Underexpenditure or Misexpenditure from future payments pursuant to Section 2.3.c(iv) below; or

(c) If Agency has notified County of an Underexpenditure, or of a Misexpenditure under Section 2.3.c(i)(b), notify the Agency that it wishes to engage in the applicable appeal process set forth in Section 2.3.c(iii) below.

If County fails to respond within the time required under Section 2.3.c(ii) above, Agency may recover the amount of the Underexpenditure or Misexpenditure from future payments as set forth in Section 2.3.c(iv) below.

(iii) **Appeals Process.** If County notifies Agency under Section 2.3.c(ii) (c) that it wishes to engage in an appeal process, County and the Agency shall engage in non-binding discussions to give the County an opportunity to present reasons why it believes that there is, in fact, no Underexpenditure or Misexpenditure or that the amount of the Underexpenditure or Misexpenditure

is different than the amount identified by the Agency, and to give the Agency the opportunity to reconsider its notice based on such presentation and discussion. If after such discussions Agency and County disagree as to whether there has been an Underexpenditure or Misexpenditure or to the amount thereof, the parties may either agree to consider further appropriate dispute resolution processes, or if they are unable to agree upon such processes, the Agency may notify County that it intends to recover the amount of noticed Underexpenditure or Misexpenditure from future payments pursuant to Section 2.3.c(iv) below.

(iv) Recovery From Future Payments. Upon determination that it will recover an Underexpenditure or Misexpenditure from future payments as permitted in this Section 2.3.c, Agency may recover the Underexpenditure or Misexpenditure by offsetting the amount thereof against future amounts owed to County by Agency, including, but not limited to, any amount owed to County by Agency under this Agreement or any amount owed to County by Agency under any other Agreement or agreement between County and Agency, present or future. Agency shall provide County written notice of its intent to recover the amount of the Underexpenditure or Misexpenditure from amounts owed County by Agency as set forth in this Section 2.3.c(iv), and shall identify the amounts owed by Agency which the Agency intends to offset (including the Agreement or contracts, if any, under which the amounts owed arose). County shall then have 14 calendar days from the date of Agency's notice in which to request the deduction be made from other amounts owed to County by Agency and identified by County. Agency shall comply with County's request for alternate offset, unless the County's proposed alternative offset would cause the Agency to violate federal or state statutes, administrative rules or other applicable authority. In the event that Agency and County are unable to agree on which specific amounts, owed to County by Agency, the Agency may offset in order to recover the amount of the Underexpenditure or Misexpenditure, then the Agency may select the particular amounts from which it will recover the amount of the Underexpenditure or Misexpenditure, within the following limitations: Agency shall first look to amounts owed to County (but unpaid) under this Agreement. If that amount is insufficient, then Agency may look to any other amounts currently owing or owed in the future to County by Agency. In no case, without the prior consent of County, shall the Agency deduct from any one payment due County under the contract or agreement from which Agency is offsetting funds an amount in excess of twenty-five percent (25%) of that payment. The Agency may look to as many future payments as necessary in order to fully recover the amount of the Underexpenditure or Misexpenditure.

(v) Reversion. Any funds disbursed to the County pursuant to this Agreement that are not spent by June 30, 2007, the County shall repay to the State in a manner specified by the State. In the event this Agreement is amended to extend the term of the Agreement, any funds disbursed to the County for the period beginning upon execution of this Amendment and ending June 30, 2007 cannot be expended after June 30, 2007 and must be returned to the State.

(vi) Additional Provisions related to parties rights/obligations with respect to Underexpenditures or Misexpenditures.

(a) Agency's right to recover Underexpenditures and Misexpenditures from County under this Agreement is not subject to or conditioned on County's recovery of any money from any other entity.

(b) If the exercise of the Agency's right to offset under this provision requires the County to complete a re-budgeting process, nothing in this provision shall be construed to prevent the County from fully complying with its budgeting procedures and obligations, or from implementing decisions resulting from those procedures and obligations.

(c) Nothing in this provision shall be construed as a requirement or agreement by the County to negotiate and execute any future contract with the Agency.

(d) Nothing in this Section 2.3.c shall require County or Agency to act in violation of state or federal law or the Constitution of the State of Oregon.

(e) Nothing in this Section 2.3.c shall be construed as a waiver by either party of any process or remedy that might otherwise be available.

2.4 County may expend the funds disbursed under this Agreement only for Allowable Costs that are authorized pursuant to this Agreement. "Allowable Costs" are defined as those costs which are reasonable and necessary for delivery of services under this Agreement, determined in accordance with the Office of Management and Budget (OMB) Circular A-122 as revised from time to time.

2.5 If the County allocates any indirect costs to this Agreement, the County will make available to the Agency, upon request, a written cost allocation plan covering the handling and distribution of indirect costs. If all costs are direct costs to this Agreement, no cost allocation plan is required. In no event shall this subsection be construed to allow the County to require the Agency to pay any indirect costs allocated to this Agreement by County.

The County shall make available upon request by the Agency a monthly detailed administrative financial report to support the actual monthly administrative expenditures required under this Agreement.

2.6 The Agency reserves the right to periodically audit and review the actual expenses of the County for the following purposes:

- 1) To document the relation between the established payments under this Agreement and the amounts spent by the County.
- 2) To document that the amounts spent by the County are reasonable and necessary to assure quality service.
- 3) To assure that the County's expenses are allowable in accordance with Federal OMB Circulars A-87 or A-122 on Allowable Costs. In the event a periodic audit and review by the Agency shows that the County's expenses are not allowable under Federal OMB Circulars A-87 or A-122 on Allowable Costs in any material respect, Agency may terminate this Agreement.

2.7 In addition to any other rights accorded to the Agency under this Agreement, if the County fails to comply with the provisions of subsections 2.3, 2.4 and 2.6 above, the Agency may terminate this Agreement pursuant to Section 11 c.(ii)(D) and invoke the remedies available to it and/or may exercise its rights under subsection 2.3.c. of this Exhibit B.

2.8 It is agreed that the not-to-exceed amount provided under subsection 2.1 of this Exhibit B and in Section 3 of the Agreement document may be reduced by the Agency as a result of Legislative action. The Agency will provide the County with written notice of any such change. Notwithstanding the order of precedence listed in Section 4 of this Agreement, this Subsection 2.8 of this Exhibit B takes precedence over all other provisions of this Agreement including all Exhibits.

3. AMENDMENT:

This Agreement may be amended one or more times by mutual agreement of the parties for time, money, terms, conditions, and/or services. Any such amendment is not effective until approved by all parties and all necessary legal approvals have been obtained from the Department of Justice.

(Balance of page left intentionally blank)



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 12/08/05
 Agenda Item #: R-12
 Est. Start Time: 10:20 AM
 Date Submitted: 11/21/05

BUDGET MODIFICATION: -

**Intergovernmental Expenditure Agreement 4600005830 with Gresham
Police Department Providing Funding to Support the Work of the East**
Agenda Title: Metro Gang Enforcement Team

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | | | |
|------------------------|--|------------------------|------------------|
| Date Requested: | <u>December 8, 2005</u> | Time Requested: | <u>5 minutes</u> |
| Department: | <u>Dept. of Community Justice</u> | Division: | <u>JSD</u> |
| Contact(s): | <u>Robb Freda-Cowie</u> | | |
| Phone: | <u>503-988-5820</u> | Ext. | <u>85820</u> |
| | | I/O Address: | <u>503/250</u> |
| Presenter(s): | <u>Carla Piluso, Gresham Chief of Police and Joanne Fuller</u> | | |

General Information

1. What action are you requesting from the Board?

The Department of Community Justice (DCJ) requests approval of intergovernmental agreements between Multnomah County and the Oregon Youth Authority and Multnomah County and the City of Gresham Police Department to fund law enforcement efforts aimed at reducing the impact of criminal street gangs in East County.

2. Please provide sufficient background information for the Board and the public to understand this issue.

The number of East county gang related prosecutions brought by the District Attorney's Office has steadily increased since the year 2000. To reduce the impact of criminal street gangs to the citizens, schools, businesses and neighborhoods in East County, the legislature recently appropriated funds for the City of Gresham Police Department, the Sheriff's Office and other East county law enforcement agencies to support a coordinated response -- the East Metro Gang Enforcement Team (EMGET).

These funds are being appropriated through the Department of Community Justice's existing

contract with the Oregon Youth Authority for Gang Transition Services (GTS). The intergovernmental agreements between the Department of Community Justice and the Oregon Youth Authority and the City of Gresham Police Department establish the mechanisms for the transfer of these funds from the state to the East county police agencies.

3. Explain the fiscal impact (current year and ongoing).

See budget modification DCJ-19 for discussion of fiscal impact.

4. Explain any legal and/or policy issues involved.

The intergovernmental agreements have been reviewed and approved by the county attorney's office.

5. Explain any citizen and/or other government participation that has or will take place.

N/A.

Required Signatures

**Department/
Agency Director:**



Date: 11/17/05

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:



IGA Contract

Vendor Address

GRESHAM CITY OF POLICE DEPT
1333 NW EASTMAN PARKWAY
GRESHAM OR 97030

Information

Contract Number 4600005830
Date 11/16/2005
Vendor No. 12043
Contact/Phone DCJ Contracts /
503-988-4124
Validity Period: 11/01/2005 - 06/30/2007
Minority Indicator: Not Identified

Estimated Target Value: 681,818.00 USD

| Item | Material/Description | Target Qty | UM | Unit Price |
|------|---|-------------|---------|------------|
| 0001 | <p><i>This agreement supports the work being undertaken by the East Metro Gang Enforcement Team (EMGET) composed of Gresham PD, Fairview PD, Troutdale PD and Mult Co Sheriffs Office. EMGET's objective is to reduce gang violence and criminal activity in the areas of Gresham, Fairview, Troutdale, Wood Village and the adjoining unincorporated areas of East Multnomah County.</i></p> <p>H10000017 FY06 Intervention/Outreach (USD)</p> <p>Plant: F022 Community Justice Requirements Tracking Number: AR10.010A Account Code = CJ007.GTS.EMGET Quarterly Payments As Follows: 1st \$27,273; 2nd \$27,273; 3rd \$27,272</p> | 81,818.000 | Dollars | \$ 1.0000 |
| 0002 | <p>H10000017 FY07 Intervention/Outreach (USD)</p> <p>Plant: F022 Community Justice Requirements Tracking Number: AR10.010A Account Code CJ007.GTS.EMGET Quarterly Payments As Follows: 1st \$150,000; 2nd \$150,000; 3rd \$150,000; 4th \$150,000</p> | 600,000.000 | Dollars | \$ 1.0000 |

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Contract #: 4600005830

Pre-approved Contract Boilerplate (with County Attorney signature) Attached Not Attached

Amendment #: _____

| CLASS I Contract \$75,000 and less per 12 month period | CLASS II Contract over \$75,000 per 12 month period | CLASS III A Government Contracts (190 Agreement) |
|--|--|--|
| <input type="checkbox"/> Professional Services Contract <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Public Works Construction Contract <input type="checkbox"/> Architectural & Engineering Contract <input type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Expenditure Contract | <input type="checkbox"/> Professional Services Contract <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Public Works Construction Contract <input type="checkbox"/> Architectural & Engineering Contract <input type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Expenditure Contract | <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input type="checkbox"/> Revenue <hr/> <p style="text-align: center;">CLASS III B Government Contracts (Non-190 Agreement)</p> <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input type="checkbox"/> Revenue <hr/> <input type="checkbox"/> Interdepartmental Contract |

Department: DCJ
 Originator: Kathleen Treb
 Contact: Deb Persen

Division: Administration
 Phone: 86131
 Phone: 83202

Date: 11/16/05
 Bldg/Rm: 503/250
 Bldg/Rm: 167/210

Description of Contract: This agreement funds the East Metro Gang Enforcement Team (EMGET) composed of Gresham PD, Fairview PD, Troutdale PD, and Mult. Co. Sheriffs Office. Through joint law enforcement presence, strategies and tactics, EMGET's goal is to reduce the gang violence and criminal activity that has been steadily increasing over the past five year in East Multnomah County. Money provided by the Oregon Youth Authority will be passed through to Gresham PD who has administrative, fiscal and supervisory oversight of EMGET.

RENEWAL: PREVIOUS CONTRACT #(S): _____
 RFP/BID: _____ RFP/BID DATE: _____
 EXEMPTION #/DATE: AR10.010A ORS/AR #: _____
 EFFECTIVE DATE: _____ EXPIRATION DATE: _____
 CONTRACTOR IS: MBE WBE ESB QRF State Cert Self Cert Non-Profit N/A (Check all boxes that apply)

| | | | | | |
|-------------------------------------|-----------------------------------|---------------|----------|--|---|
| Contractor | City of Gresham Police Department | | | Remittance address | _____ |
| Address | 1333 NW Eastman Parkway | | | (If different) | _____ |
| City/State | Gresham, OR | | | Payment Schedule / Terms | _____ |
| Zip Code | 97030 | | | <input type="checkbox"/> Lump Sum \$ _____ | <input type="checkbox"/> Due on Receipt |
| Phone | (503) 618-2813 (Adam Drost) | | | <input type="checkbox"/> Monthly \$ _____ | <input type="checkbox"/> Net 30 |
| Employer ID# or SS# | _____ | | | <input checked="" type="checkbox"/> Other \$ _____ | <input type="checkbox"/> Other |
| Contract Effect Date | 11/01/05 | Term Date | 06/30/07 | <input type="checkbox"/> Requirements Funding Information: | |
| Amendment Effect Date | _____ | New Term Date | _____ | Original Requirements Amount | \$ _____ |
| Original Contract Amount \$ | 681,818 | | | Total Amt of Previous Amendments | \$ _____ |
| Total Amt of Previous Amendments \$ | _____ | | | Requirements Amount Amendment | \$ _____ |
| Amount of Amendment \$ | _____ | | | Total Amount of Requirements | \$ _____ |
| Total Amount of Agreement \$ | 681,818 | | | | |

REQUIRED SIGNATURES:

Department Manager *Shawn Cordova for Joanne Fullen* DATE 11/30/05

Purchasing Manager _____ DATE _____

County Attorney Jacque Weber reviewed 11/16/05 DATE _____

County Chair *Chris May* DATE 12-8-05

Sheriff _____ DATE _____

Contract Administration _____ DATE _____

COMMENTS: _____

APPROVED: MULTNOMAH COUNTY
 BOARD OF COMMISSIONERS
 AGENDA # R-12 DATE 12-08-05
 DEBORAH L. BOGSTAD, BOARD CLERK

PERSEN Deb #0506024 and #4600005830

From: WEBER Jacquie A
Sent: Wednesday, November 16, 2005 11:48 AM
To: PERSEN Deb
Cc: FREDA-COWIE Robb
Subject: RE: 2 Agreements Going Before Board on Dec 8th - Need legal review. Thanks.

Both documents may be circulated for signature.

-----Original Message-----

From: PERSEN Deb
Sent: Tuesday, November 15, 2005 4:48 PM
To: WEBER Jacquie A
Cc: FREDA-COWIE Robb
Subject: 2 Agreements Going Before Board on Dec 8th - Need legal review. Thanks.

I passed on the Gresham Police Dept IGA (above file) for your review and I am including the amendment from Oregon Youth Authority (PDF file above) that gives Mult Co the \$750,000 to pass through to Gresham PD to support East Multnomah Gang Enforcement Team. OYA is amending DCJ's current Gang Transition Services agreement by adding \$750,000 to the biennial revenue and adding Attachment B, which stipulates the relationship County will establish w/ Gresham PD concerning the expenditure of these additional funds.

Please review both documents and let me know if they are legally sufficient for signature by the County Chair. Your email approval will be used as confirmation. Thanks.

Deb Persen, Contract Specialist

-----Original Message-----

From: HLTHNetCopiers
Sent: Tuesday, November 15, 2005 4:36 PM
To: PERSEN Deb
Subject: Attached Image

From: WEBER Jacquie A
Sent: Wednesday, November 16, 2005 11:48 AM
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Cc: FREDA-COWIE Robb
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Deb Persen, Contract Specialist

-----Original Message-----

From: HLTHNetCopiers
Sent: Tuesday, November 15, 2005 4:36 PM
To: PERSEN Deb
Subject: Attached Image

INTERGOVERNMENTAL AGREEMENT NO. 4600005830
(Non-190 Agreement)

This is an Agreement between **City of Gresham Police Department (CITY)** and **Multnomah County**, acting by and through its Department of Community Justice (COUNTY).

PURPOSE/BACKGROUND:

This agreement will support the work being undertaken by the East Metro Gang Enforcement Team (EMGET). EMGET was formally established through a multi-agency agreement in April, 2005 and comprises the City of Gresham Police Department, City of Fairview Police Department, City of Troutdale Police Department, and Multnomah County Sheriff's Office. The role of EMGET is to establish a combined operational law enforcement team to address the criminal street gang violence that has steadily increased over the past five years and devise coordinated activities and effective responses to reduce its impact on the citizens, schools, businesses and neighborhoods of the cities of Gresham, Fairview, Troutdale, Wood Village and the adjoining unincorporated areas of East Multnomah County. Through joint law enforcement presence, operational strategies and tactics, EMGET endeavors to reduce gang violence and criminal activity and thereby contribute to enhanced community livability.

The parties agree as follows:

1. **TERM** The term of this agreement shall be from November 1, 2005 to June 30, 2007.
2. **RESPONSIBILITIES OF CITY**
 - a. The CITY, acting by and through EMGET, will accomplish the following activities:
 - 1) Develop and provide an enhanced level of coordinated law enforcement;
 - 2) Locate and identify individuals affiliated with criminal street gangs;
 - 3) Gather and share intelligence information related to criminal street gang members;
 - 4) Investigate crimes associated with criminal street gangs; and
 - 5) Provide an increased level of police presence in known or suspected criminal street gang affected areas.
 - b. The CITY will accomplish the following performance expectations and gathering of statistical information:
 - 1) Conduct monthly, multi-agency, coordinated missions;
 - 2) Track the number of criminal street gang related contacts;
 - 3) Track the number of weapons seized from criminal street gang members;
 - 4) Track the number of arrests of criminal street gang members;
 - 5) Track the number of EMGET cases referred to the District Attorney for prosecution; and

- 6) Conduct quarterly meetings in East County jurisdictions with the public.
- c. The CITY shall provide administrative and supervisory oversight of EMGET. The EMGET team will consist of the following full-time personnel:
 - 1) One (1) Gresham Police Sergeant;
 - 2) Two (2) Gresham Police Officers;
 - 3) One (1) Fairview Police Officer;
 - 4) One (1) Troutdale Police Officer;
 - 5) One (1) Multnomah County Sheriff Deputy; and
 - 6) One (1) City of Gresham Administrative Assistant.
- d. The CITY will submit written reports, as defined herein, to COUNTY according to the following schedule:
 - 1) Financial reports, using a format/form designated by COUNTY, will be submitted to COUNTY according to the following timetable:
 - a) For the period beginning upon execution of this Agreement through June 30, 2006; due by July 21, 2006.
 - b) For the period July 1, 2006 through December 31, 2006; due by January 19, 2007.
 - c) A final report for the period beginning upon execution of this Agreement through June 30, 2007; due by July 20, 2007.
 - 2) A program progress report, using a format agreed upon by both parties that identifies EMGET's progress in meeting the performance expectations and program standards described herein, covering the period beginning upon execution of this Agreement through June 30, 2006, will be due by July 21, 2006.
 - 3) A program report to be developed for the State of Oregon legislature covering the period beginning upon execution of this Agreement through December 31, 2006 will be due by January 19, 2007.
 - 4) A final program report covering the period upon execution of this Agreement through June 30, 2007 will be due July 20, 2007.
 - 5) All reports, referenced above, will be sent to the following Department of Community Justice (DCJ) contact:

Les Walker, Finance Supervisor
Department of Community Justice
501 SE Hawthorne Blvd., Suite 210
Portland, OR 97214

3. RESPONSIBILITIES OF COUNTY

- a. **Payment:** COUNTY agrees to pay the CITY an amount not to exceed \$681,818 over the term of this Agreement. Payment schedules, disbursement of funds, and billing requirements are described in Section 12, "Additional Terms and Conditions."
- b. **Report Distribution:** COUNTY will forward to the Oregon Youth Authority agency contact all reports that CITY is responsible for preparing and submitting, as described herein, in accordance to the time periods identified in the COUNTY's Agreement with the State of Oregon, Oregon Youth Authority. Should a change in the reporting schedule occur, COUNTY will notify CITY of such change.
- c. **COUNTY Contacts:** The following COUNTY representatives are the designated contacts for finance, program and contracting questions and/or communication.

Finance: Les Walker, Finance Supervisor
(503) 988-3701 Ext 24913
Lester.a.walker@co.multnomah.or.us

Program: Kathleen Treb, Assistant Director
(503) 988-6131
Kathleen.a.treb@co.multnomah.or.us

Contract: Deb Persen, Contract Specialist
(503) 988-3202
Deb.s.persen@co.multnomah.or.us

4. **TERMINATION** This agreement may be terminated by either party upon thirty (30) days written notice.
5. **INDEMNIFICATION** Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, COUNTY shall indemnify, defend and hold harmless CITY from and against all liability, loss and costs arising out of or resulting from the acts of COUNTY, its officers, employees and agents in the performance of this agreement. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300 CITY shall indemnify, defend and hold harmless COUNTY from and against all liability, loss and costs arising out of or resulting from the acts of CITY, its officers, employees and agents in the performance of this agreement.
6. **INSURANCE** Each party shall each be responsible for providing worker's compensation insurance as required by law. Neither party shall be required to provide or show proof of any other insurance coverage.
7. **ADHERENCE TO LAW** Each party shall comply with all federal, state and local laws and ordinances applicable to this agreement.
8. **NON-DISCRIMINATION** Each party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.

9. **ACCESS TO RECORDS** Each party shall have access to the books, documents and other records of the other which are related to this agreement for the purpose of examination, copying and audit, unless otherwise limited by law.
10. **SUBCONTRACTS AND ASSIGNMENT** Neither party will subcontract or assign any part of this agreement without the written consent of the other party.
11. **THIS IS THE ENTIRE AGREEMENT** This Agreement constitutes the entire Agreement between the parties. This Agreement may be modified or amended only by the written agreement of the parties.

12. ADDITIONAL TERMS AND CONDITIONS:

- a. **Maximum Payment:** The maximum payment under this Agreement, including expenses, will be **\$681,818**.
- b. **Allowable Expenses:** Expenses that are allowed under this Agreement include the following:
- 1) Actual base-salaries and fringe benefit expenses of EMGET-related personnel;
 - 2) EMGET-related overtime and fringe benefit expenses;
 - 3) EMGET-related training expenses; and
 - 4) Up to a maximum of 10% administrative charge will be allowed to cover CITY's administrative, fiscal, and oversight responsibilities for EMGET.
- c. **Payment Schedule:** COUNTY will pay CITY in the specified amounts covering the time periods described as follows:

| Payment Amounts | Payment Periods |
|-----------------|---|
| \$27,273 | Agreement Execution through December 2005 |
| \$27,273 | January 2006 through March 2006 |
| \$27,272 | April 2006 through June 2006 |
| \$150,000 | July 2006 through September 2006 |
| \$150,000 | October 2006 through December 2006 |
| \$150,000 | January 2007 through March 2007 |
| \$150,000 | April 2007 though June 2007 |

- d. **Billing Requirements:** CITY will submit an invoice for each quarterly payment period and for the specified amount as listed in section c., **Payment Schedule**. Invoices shall be sent at the beginning of each quarter, with the first invoice sent at the time of Agreement execution. The invoice shall be numbered, dated and reference the Agreement number (#4600005830), which will assist COUNTY in tracking all invoices received from CITY over the term of the Agreement. Invoices shall be sent to:

Accounts Payable

Department of Community Justice
501 SE Hawthorne Blvd., Suite 250
Portland, OR 97214

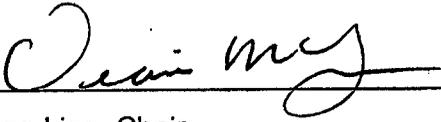
COUNTY will process invoices within 30 days after receipt of the invoice.

- e. **Recovery of Funds:** Any funds disbursed to the CITY pursuant to this Agreement that are not spent by June 30, 2007, the CITY shall repay to the COUNTY in a manner specified by the COUNTY. In the event this Agreement is amended to extend the term of the Agreement, any funds disbursed to the CITY for the period beginning upon execution of this Agreement and ending June 30, 2007 cannot be expended after June 30, 2007 and must be returned to the COUNTY.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the dates set forth below their respective signatures.

MULTNOMAH COUNTY, OREGON

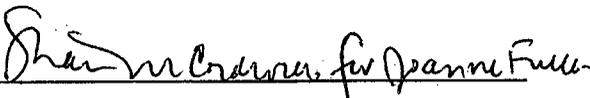
CITY OF GRESHAM

By: 
Diane Linn, Chair

By: _____
Charles Becker, Mayor

Date: 12.8.05

Date: _____

By: 
Joanne Fuller, DCJ Director

By: _____
Erik Kvarsten, City Manager

Date: 11/30/05

Date: _____

Reviewed:
AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY

Approved As To Form:

Approved As to Form:

By: Jacque Weber email review
Jacque Weber, Assistant Attorney

By: _____
Susan Bischoff, City Attorney

Date: 11/16/05

Date: _____

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # 2-12 DATE 12-08-05
DEBORAH L. BOGSTAD, BOARD CLERK

EMGET Quarterly Report

East Metro Gang Enforcement Team

July, August, and September 2005



Funded by The State of Oregon and Member Agencies

Team Members:

GPD Sergeant Tony Silva
 GPD Detective Tom Walker
 GPD Officer Scott Hogan
 GPD Officer Matt Fagan
 GPD Officer Chris Wheeler

GPD AAI Kristina Rice
 FPD Officer Doug Asboe
 MCSO Deputy Ryan Burkeen
 TPD Officer Pam Bailey
 TPD Officer Carey Kaer

MONTHLY STATISTICS:

| | July | August | September |
|--|------|--------|-----------|
| Mission Driven Contacts | 663 | 772 | 697 |
| Contacts w/Suspected Gang Members | 125 | 167 | 146 |
| New Gang members Identified/Documented | 22 | 22 | 28 |
| Guns Seized | 2 | 5 | 2 |
| Felony Arrests | 21 | 26 | 18 |
| Misdemeanor Arrests | 26 | 22 | 23 |
| Total Arrests | 47 | 58 | 41 |
| Cases Referred to DA | 23 | 24 | 16 |

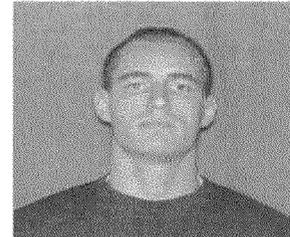
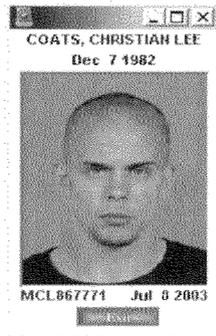
DEFINITIONS:

Mission Driven Contacts: These are citizens that are contacted as a result of East Metro Gang Enforcement Team officer's routine daily patrol. This number reflects the high visibility of the unit and our drive to improve public awareness of our presence and our gang enforcement efforts. As a standard, East Metro Gang Enforcement Team officers are in full uniform and in fully marked police vehicles with "Gang Enforcement" decals on the rear quarter panel.

Contact with Suspected Gang Members: This number shows the number of times we contact known gang members. This again reinforces our enforcement efforts and our ability to track and document these gang members and their affiliates. This will have a direct result in the expeditious pursuit, arrest, and conviction of violent gang members and is part of the campaign to explain to gang members the consequences of their criminal behavior.

New Gang Members Documented: This is the number of gang members that are new to our area or that we now have had enough contact and proper documentation per Oregon State Intelligence Network (OSIN) standards to fully document them as gang members.

GVRT ACTIVATIONS:



081405 GPD #05-10563 Intimidation I 1825 NE Division

Coats, Christian, m/w, 120782,
Henry, William, m/w, 012576,
Celis, Ariane, f/w, 121982,
Mothersbaugh, Dennis, m/w, 112779

Officers dispatched to a fight call at the 7-11, where four white suspects were fighting with three black men. Dispatch advised the officers that one of the suspects was in possession of a machete and that the suspect vehicle had left the scene. Witness accounts of what transpired at 7-11 conclude that three suspects (Coats, Celis, and Mothersbaugh) were yelling at three black men, using racial epithets and shouting "White Power". During the verbal altercation, Suspect Henry assisted the three suspects by tossing a machete out his car window, which was then used to threaten the victims. Suspect Henry then provided a ride to the three suspects when sirens could be heard outside the store. Upon leaving 7-11, the suspect vehicle left the parking lot and then came back in another entrance, where the driver attempted to run over the victims. The suspect vehicle then left Eastbound on Division and was located a short time later. Suspects were arrested and taken into custody.

Prosecution Update: An indictment for crimes stemming from the above-mentioned incident was signed in Multnomah County on August 23, 2005.
Christian Coats has been formally charged with Attempted Murder, Attempted Assault I (x2), Intimidation I (x3), Menacing (x3), and Harassment.
William Henry has been formally charged with Attempted Murder, Attempted Assault I (x2), Intimidation I (x3), and Menacing (x3).
Ariane Celis has been formally charged with Attempted Assault I (x2), Intimidation I (x3) and Menacing (x3).
Dennis Mothersbaugh was not indicted after the grand jury found that he attempted to diffuse the situation and calm the suspects down.

GVRT ACTIVATIONS (CONTINUED):

| | | | |
|---------------|---------------|------------|----------------|
| 091805 | GPD #05-12176 | Assault II | 18340 SE Stark |
|---------------|---------------|------------|----------------|

Officers responded to a fight call that turned into a shots fired call at the Oregon Flea Market. Witnesses report seeing a red, late '90s Pontiac drive slowly in front of the entrance to the Flea Market. The occupants of the vehicle began to throw gang signs to the crowd and chanted things like "18 only" in Spanish. At this point, some rival gang members began shouting back. The 18th Street members suddenly turned and walked back to their car. At this point, witnesses report hearing a shot. All five 18th Street members returned to their vehicle and exited the parking lot, heading east. The shooting victim was eating lunch with her family in the parking lot of the Flea Market. She saw the altercation, and as the group was walking away, felt a pain in her left thigh. She did not immediately realize she had been shot. During the course of the investigation, it was revealed that Hamilton Bryan Ramirez-Garcia had been the gunman during the commission of these crimes. Ramirez-Garcia was contacted and taken into custody.

Prosecution Update: An indictment for crimes stemming from the above mentioned incident was signed in Multnomah County on October 20, 2005. Hamilton Bryan Ramirez-Garcia was formally charged, as an adult, with Assault II, Attempt Assault I, Assault III, Unlawful Possession of a Firearm, and Unlawful Use of a Firearm. These charges were all enhanced with Firearm language.

SIGNIFICANT EVENTS:

| | | | |
|---------------|--------------|---------------|----------------|
| 062605 | GPD #05-8272 | Att. Asslt. I | 18225 SE Stark |
|---------------|--------------|---------------|----------------|

Loftin-Pettefer, Tiffany Renee "Baby Doll", f/h, 082289, (GVRT Activation from June 2005) Officers responded to a shooting at the Carls Jr. across from the Flea Market on SE Stark. The intended juvenile victim was a rival gang member of the Brown Pride Chicanas. Loftin was unfamiliar with the function of the gun, as she ejected three live rounds before she fired the shot at the victim. Loftin fled from the scene on foot, but was later located with four of her friends/ witnesses at 172 and Pine.

Prosecution Update: Tiffany Loftin was charged on 07/25/05 in Multnomah County Juvenile Court with the following crimes stemming from the above-mentioned incident: Attempt Assault I, Attempt Assault II, Unlawful Use of a Weapon, Menacing, Unlawful Possession of a Firearm, Reckless Endangerment of Another Person, Possession of a Loaded Firearm in a Public Place, and Pointing a Firearm at Another Person. On 07/25/05, Tiffany Loftin pled guilty to the following charges: Attempt Assault I, Unlawful Use of a Weapon, and Unlawful Possession of a Firearm. On 08/09/05, Tiffany Loftin was sentenced to a Youth Correctional Facility until the age of 25.

SIGNIFICANT EVENTS (CONTINUED):



072805 GPD #05-9791 Search Warrant 645 SE Kane #301
Smith, Nubian, b/m, 070375

Officers executing a high risk search warrant looking to recover a handgun used in a nightclub or retaliatory shooting in Portland, arrived at the location to serve the search warrant and arrest the suspect. Officers had information that the suspect often smoked cigarettes on his back patio and determined that one of his smoke breaks would be an opportune time to serve the warrant to lower the risk of a hostile/hostage situation within the apartment. Diversionary devices were deployed, and Suspect Smith turned to run into the apartment. The suspect was subsequently tasered and taken into custody.



090505 GPD #05-11559 Robbery II Cleveland Transit Center
Christopher Michael Smith, m/w, 031585
Richard Dean Yarbor, m/w, 021487

Officers responded to Robbery call at the Cleveland Station Transit Stop. Victim reported he has been roughed up by two individuals that he knows by the street names of "Pyro" and "Porky", and that his cell phone, cigarettes, and money had been taken. His cell phone was later returned to him. Subsequent investigation reveals the identification of these individuals. Upon questioning, both suspects admit to the Robbery and explain that they were "just playing around." Both suspects were arrested and taken into custody.

Prosecution Update: An indictment for crimes stemming from the the above-mentioned incident was signed in Multnomah County on September 23, 2005. Christopher Smith was formally charged with one count of Robbery II. Richard Yarbor was formally charged with one count of Robbery II.

INVESTIGATION CONTINUING:

071305 GPD #05-9119 Att. Murder 172/Burnside
Officers responded to shots fired. Upon arrival, three b/m juvenile victims were contacted. The victims states they were pedestrians and the Suspects were driving a small, 4-door, light blue Honda with fancy wheels and a lowered body. The front passenger threatened the victims by brandishing a firearm. The firearm was handed to the driver, who fired 10 rounds before leaving the scene. One of the victims believes he recognized one of the Suspects from rehab. Upon further investigation, it was determined that one of the shots fired broke a window at 17 NE 172nd Ave. The investigation is continuing.

082005 GPD #05-10810 Att. Murder 200 SE 188
Victim left Riviera Garden Apartments to get some beer and cigarettes with a friend. While walking there, the victim was approached by a passenger of a white sedan and asked for a cigarette. Victim responded that he did not have one for the passenger/suspect. The suspect then pulled a medium-framed, black, semi-automatic handgun from his waistband and fired two shots, followed by a third shot, which is when the victim was hit. The suspect is a Hispanic male, 5'9", stocky build, with black hair slicked back. The victim believes the suspect as well as the other passengers in the car are members of 18th Street, and told the officers he was not flying his colors the night of the shooting. The victim also has no information on any planned retaliation from SS13. The investigation is continuing.

COMMUNITY OUTREACH:

071305 Presentation on Gangs and Meth, with GPD Det. Tony Cobb- approximately 30 in attendance.
080205 National Night Out event at Red Sunset Park- approximately 1000 in attendance.
080405 Gang Presentation to the Troutdale Rotary Club- 9 in attendance.
081105 Gang Presentation to the Gresham Breakfast Lions Club- 24 in attendance.
082405 Meet and Greet, Gresham Police event at the Rockwood Library- approximately 75 in attendance.
090805 Gang Presentation to the Fairview Apartment Managers- 7 in attendance.
092005 Gang Presentation to the Rockwood Station Apartment Managers- 9 in attendance
092305 Gang Presentation to DOJ on local gang issues and trends- 30 in attendance.

TRAINING:

071905-072205 Six EMGET team members attended the 14th annual National Gang Violence Conference in Anaheim, CA. This conference included over 1,600 law enforcement personnel and provided the most current information regarding gange, gang trends, and investigation and information-gathering techniques.

080305, 081005, 082105, 083105 Two EMGET Officers provided in-service training to the Multnomah County Sheriff's Department. A total of 75 students were in attendance.



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-13 DATE 12-08-05
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-13
Est. Start Time: 10:25 AM
Date Submitted: 11/10/05

BUDGET MODIFICATION: DCJ - 19

Agenda Title: Budget Modification DCJ-19 Appropriating \$90,000 from the State Oregon Youth Authority to Reduce the Impact of Criminal Street Gangs in East County

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Date Requested: December 8, 2005 **Time Requested:** 10 minutes
Department: Dept. of Community Justice **Division:** Juvenile Services Division
Contact(s): Shaun Coldwell
Phone: 503-988-3961 **Ext.** 83961 **I/O Address:** 503/250
Presenter(s): Carla Piluso, Gresham Chief of Police and Joanne Fuller

General Information

1. What action are you requesting from the Board?

The Department of Community Justice (DCJ) requests approval of a budget modification to appropriate \$90,000 from the Oregon Youth Authority that will be passed through to the City of Gresham Police Department to reduce the impact of criminal street gangs in East County.

2. Please provide sufficient background information for the Board and the public to understand this issue.

An Intergovernmental Agreement with The Oregon Youth Authority will provide \$90,000 for DCJ to pass through to the City of Gresham Police Department to reduce criminal street gang violence in the cities of Gresham, Fairview, Troutdale, Wood Village and unincorporated areas of East Multnomah County in FY06 and \$660,000 in FY07. The number of gang related cases being prosecuted by the District Attorney's Office has steadily increased since the year 2000. To reduce the impact of criminal street gangs to the citizens, schools, businesses and neighborhoods in East County, the City of Gresham Police Department will provide the following:

- a. Provide a high level of coordinated law enforcement;
- b. Locate and identify individuals affiliated with criminal street gangs;

- c. Gather and share intelligence information related to criminal street gang activity;
- d. Investigate crimes associated with criminal street gangs; and
- e. Provide an increased level of police presence in known or suspected criminal street gang affected areas.

In addition to the above, the City of Gresham Police Department shall track the number of criminal street gang related contacts, number of weapons seized from gang members, and the number of arrests of gang members. This information will be used in a written progress report to the Oregon Youth Authority as required by the Intergovernmental Agreement.

3. Explain the fiscal impact (current year and ongoing).

This budget modification includes revenue and expenditures covering the period November 1, 2005 through June 30, 2006. The FY06 amount is \$90,000 and \$660,000 will be included in the FY07 budget for a total of \$750,000.

4. Explain any legal and/or policy issues involved.

N/A

5. Explain any citizen and/or other government participation that has or will take place.

ATTACHMENT A

Budget Modification

If the request is a **Budget Modification**, please answer all of the following in detail:

- What revenue is being changed and why?
State Oregon Youth Authority revenue increases by \$90,000 for FY 2006.
- What budgets are increased/decreased?
Juvenile Services Division, Gang Resource Intervention Team (GRIT) pass through budget increases by \$81,818.
Central Indirect increases by \$532.
Department Indirect increases by \$3,755.
Finance Operations Cost increases by \$3,895.
- What do the changes accomplish?
Pass Through increases by \$81,818 to provide funding to the City of Gresham Police Department to reduce criminal activity in East County.
- Do any personnel actions result from this budget modification? Explain.
N/A
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?
The Intergovernment Agreement allows for a 10% maximum administrative cost to include Central Indirect, Department Indirect and Finance Operations Cost.
- Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?
The Department of Community Justice is acting as a pass through agency for this revenue and is not aware of future plans that the City of Gresham Police Department may have.
- If a grant, what period does the grant cover?
The Grant period is November 1, 2005 through June 30, 2007.
- If a grant, when the grant expires, what are funding plans?
This grant is pass through funding. When the grant terminates, Gresham will no longer receive funding from OYA.

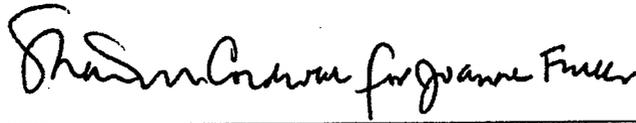
NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: DCJ - 19

Required Signatures

Department/
Agency Director:



Date: 11/10/05

Budget Analyst:



Date: 11/10/05

Department HR:

Date: _____

Countywide HR:

Date: _____

Budget Modification ID: **DCJ-19**

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2006

| Line No. | Fund Center | Fund Code | Func. Area | Accounting Unit | | | Cost Element | Current Amount | Revised Amount | Change Increase/ (Decrease) | Subtotal | Description |
|----------|-------------|-----------|------------|-----------------|-------------|-----------------|--------------|----------------|----------------|-----------------------------|-----------------------------------|-------------|
| | | | | Internal Order | Cost Center | WBS Element | | | | | | |
| 1 | 50-50 | 23190 | 50 | | | CJ007.GTS.EMGET | 50180 | (90,000) | (90,000) | | Incr Revenue OYA East County Gang | |
| 2 | 50-50 | 23190 | 50 | | | CJ007.GTS.EMGET | 60160 | 0 | 81,818 | 81,818 | Pass Through to Gresham | |
| 3 | 50-50 | 23190 | 50 | | | CJ007.GTS.EMGET | 60350 | 0 | 532 | 532 | Central Indirect .65% rate | |
| 4 | 50-50 | 23190 | 50 | | | CJ007.GTS.EMGET | 60355 | 0 | 3,755 | 3,755 | Dept Indirect 4.59% rate | |
| 5 | 50-50 | 23190 | 50 | | | CJ007.GTS.EMGET | 60360 | 0 | 3,895 | 3,895 | Fin Ops 4.76% | |
| 6 | | | | | | | | 0 | | | | |
| 7 | 19 | 1000 | 20 | | 9500001000 | | 50310 | (532) | (532) | | Indirect Reimb Rev GF | |
| 8 | 19 | 1000 | 20 | | 9500001000 | | 60470 | 532 | 532 | | offsetting exp GF | |
| 9 | | | | | | | | 0 | | | | |
| 10 | 50-00 | 1000 | 50 | | 509600 | | 50370 | (3,755) | (3,755) | | Indirect Rev GF | |
| 11 | 50-00 | 1000 | 50 | | 509600 | | 60170 | 3,755 | 3,755 | | Prof Svc Bus Svc | |
| 12 | | | | | | | | 0 | | | | |
| 13 | 72-10 | 3506 | 20 | | 711100 | | 50310 | (3,895) | (3,895) | | Fin Ops Svc Reimbursement | |
| 14 | 72-10 | 3506 | 20 | | 711100 | | 60240 | 3,895 | 3,895 | | offsetting expenditure | |
| 15 | | | | | | | | 0 | | | | |
| 16 | | | | | | | | 0 | | | | |
| 17 | | | | | | | | 0 | | | | |
| 18 | | | | | | | | 0 | | | | |
| 19 | | | | | | | | 0 | | | | |
| 20 | | | | | | | | 0 | | | | |
| 21 | | | | | | | | 0 | | | | |
| 22 | | | | | | | | 0 | | | | |
| 23 | | | | | | | | 0 | | | | |
| 24 | | | | | | | | 0 | | | | |
| 25 | | | | | | | | 0 | | | | |
| 26 | | | | | | | | 0 | | | | |
| 27 | | | | | | | | 0 | | | | |
| 28 | | | | | | | | 0 | | | | |
| 29 | | | | | | | | 0 | | | | |
| | | | | | | | | | 0 | 0 | Total - Page 1 | |
| | | | | | | | | | 0 | 0 | GRAND TOTAL | |



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 12/08/05
Agenda Item #: R-14
Est. Start Time: 10:30 AM
Date Submitted: 11/21/05

BUDGET MODIFICATION: -

Agenda Title: **Multnomah County Auditor 2005 Annual Report**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

| | | | |
|------------------------|-------------------------|------------------------|--------------------------------|
| Date Requested: | <u>December 8, 2005</u> | Time Requested: | <u>15 minutes</u> |
| Department: | <u>Non-Departmental</u> | Division: | <u>Auditor - Suzanne Flynn</u> |
| Contact(s): | <u>Judy Rosenberger</u> | | |
| Phone: | <u>503 988-3320</u> | Ext. | <u>83320</u> |
| Presenter(s): | <u>Suzanne Flynn</u> | | |
| I/O Address: | <u>503/601</u> | | |

General Information

- 1. What action are you requesting from the Board?**
Board Briefing
- 2. Please provide sufficient background information for the Board and the public to understand this issue.**
The Auditor will discuss the work completed by her office in FY04-05
- 3. Explain the fiscal impact (current year and ongoing).**
- 4. Explain any legal and/or policy issues involved.**
- 5. Explain any citizen and/or other government participation that has or will take place.**

Required Signatures

**Department/
Agency Director:**



Date: 11/22/05

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

Multnomah County Auditor

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Dear Citizens of Multnomah County,

The County Charter requires the Auditor to conduct performance audits or other studies that measure or improve County operations. During performance audits, auditors examine the organization's goals and objectives and determine if they are being met. The Office follows government auditing standards as recommended by the U.S. Government Accountability Office. Since FY02, the Office has also followed up each audit with a detailed review of the progress made towards implementing recommendations.

Beginning in FY04, the Auditor's Office entered new territory. In partnership with the Portland City Auditor, we began to audit the eight school districts in Multnomah County. This was the result of the personal income tax that was approved by county voters in May 2003. The temporary tax was designed to fund school districts along with public safety, health care, and senior programs. Part of the funding was specified for audits of the school systems.

To date, four audits of the school districts have been completed. These are available on the special web site www.multnomahschools.org. We have also continued to work hard on auditing County programs.

I think the work we do is important to citizens. I also believe that the Office should be a leader in accountability. This annual report to citizens is part of how we are accountable for the services we provide. I would like to thank Multnomah County's leaders and employees for working with us to improve the efficiency and effectiveness of services.

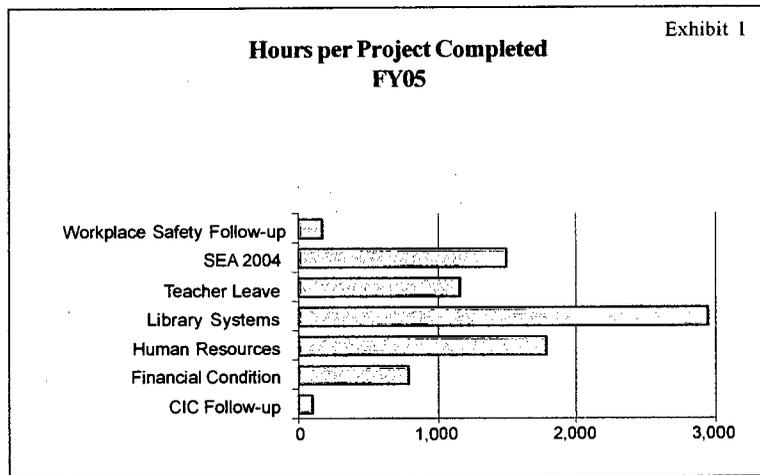
Sincerely,



Suzanne Flynn
Multnomah County Auditor

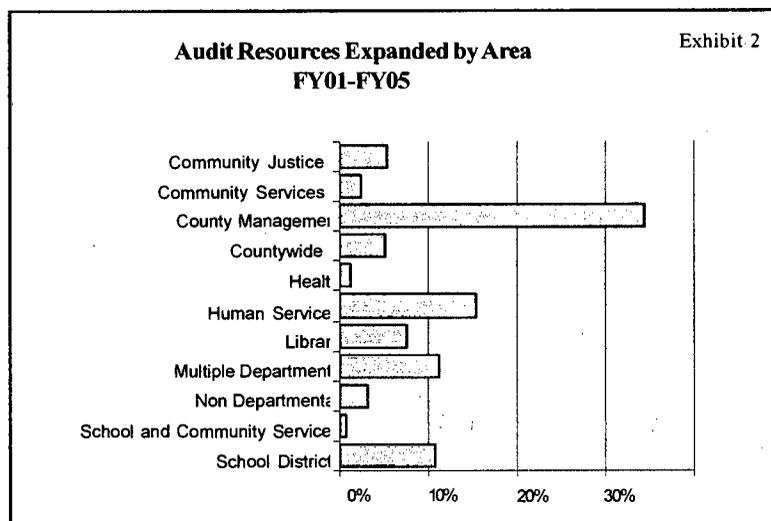


In FY05, the Office completed seven projects: six were on County programs, and one was on the school districts. The largest audit this past year was on the County's Library System



Each fiscal year, the Office develops an audit schedule. Audit areas are selected based upon the potential for savings or improvement, evidence of problems, the potential for loss or risk, the time since the last audit, and audit staff resources. Some audits involve several departments in the County.

The following chart shows the distribution of audit hours by department in the last five years. In the past year we focused extensively on County Management looking for efficiencies.



In FY05 actual expenditure for the Office was \$1,030,579. Most of the spending was for personnel (78%). The cost per hour was \$54. In the Office, there were eight auditors who collectively had 95 years of auditing experience, seven advanced degrees, and six professional auditor certifications. Once adjusted for inflation, total spending has increased 46% since FY01 (Exhibit 3). The addition of two auditor positions to audit school districts and increases in internal business and insurance costs explains most of the increase.

**Expenditures FY01-05
(adjusted for inflation)**

Exhibit 3

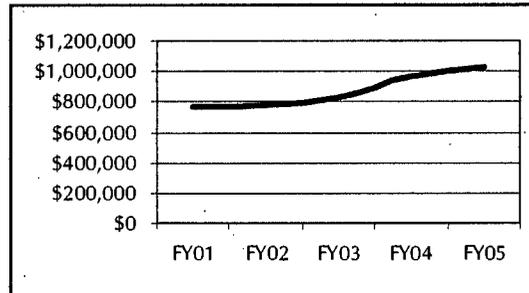
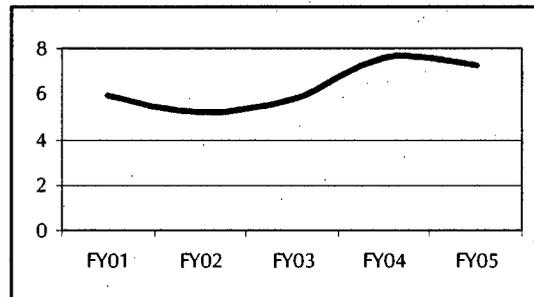


Exhibit 4 shows staffing levels in the past five years. The decrease in audit staff full-time equivalent (FTE) in FY02 and FY03 reflects a reduction in staff hours rather than positions. The increase in FY04 was the result of adding two auditors funded to audit school districts.

**Audit Staff
FY01-FY05**

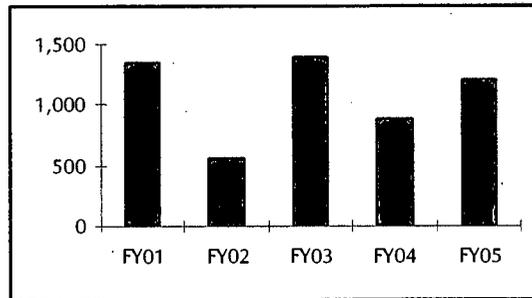
Exhibit 4



Audit projects vary considerably by topic and complexity. As a result, the time that it takes to complete an audit also varies. In FY03, the Office completed an audit of the County's capital construction process, one of the largest audits ever undertaken. To complete the audit it took three auditors almost 3,900 hours over the course of three fiscal years. The drop in average hours per audit completed in FY02 and sharp increase in FY03 is the result of the shorter projects completed in FY02 and the large audit completed in FY03. In FY05 the Office completed 2 large audits, which increased the average.

**Average Hours per Audit Completed
FY01-FY05**

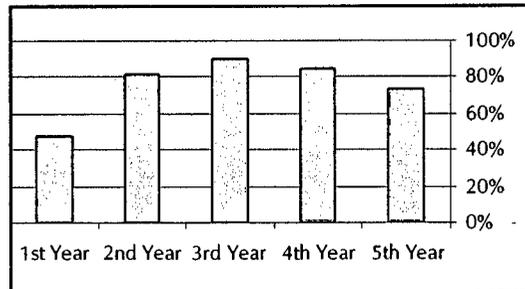
Exhibit 5



Audit recommendations are to improve the efficiency or the effectiveness of County operations. How quickly a recommendation is implemented depends upon its complexity. Exhibit 6 shows that by the fourth and fifth years after an audit is completed most of the recommendations have been implemented.

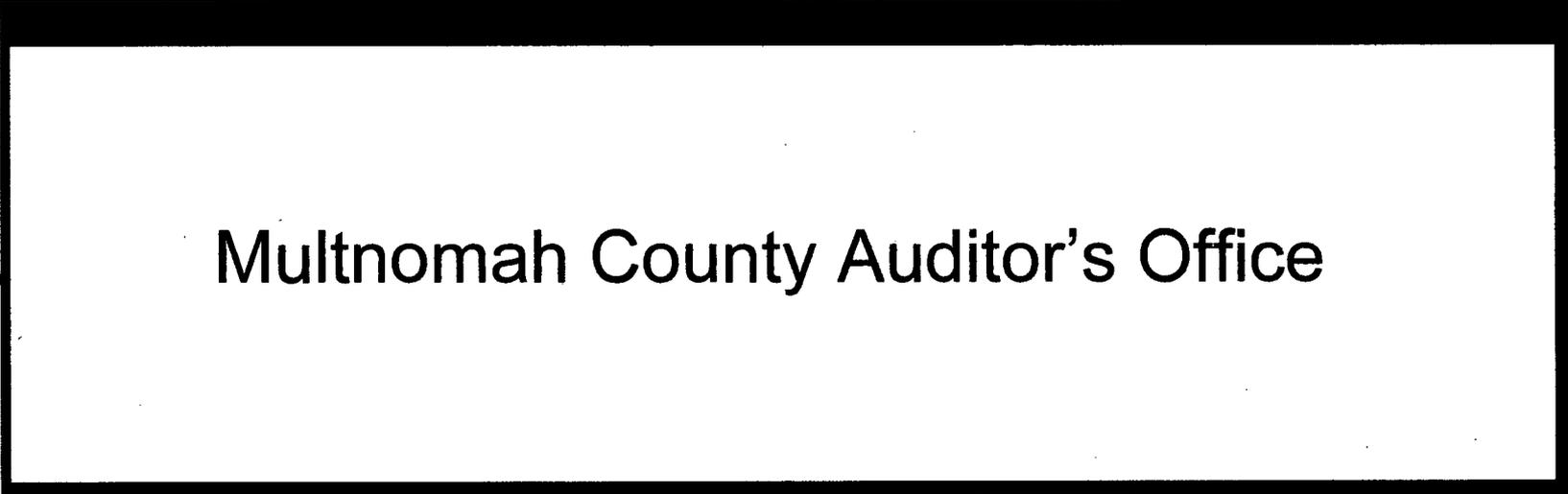
**Implementation Rate
FY01-FY05**

Exhibit 6





Annual Report FY04-05



Multnomah County Auditor's Office

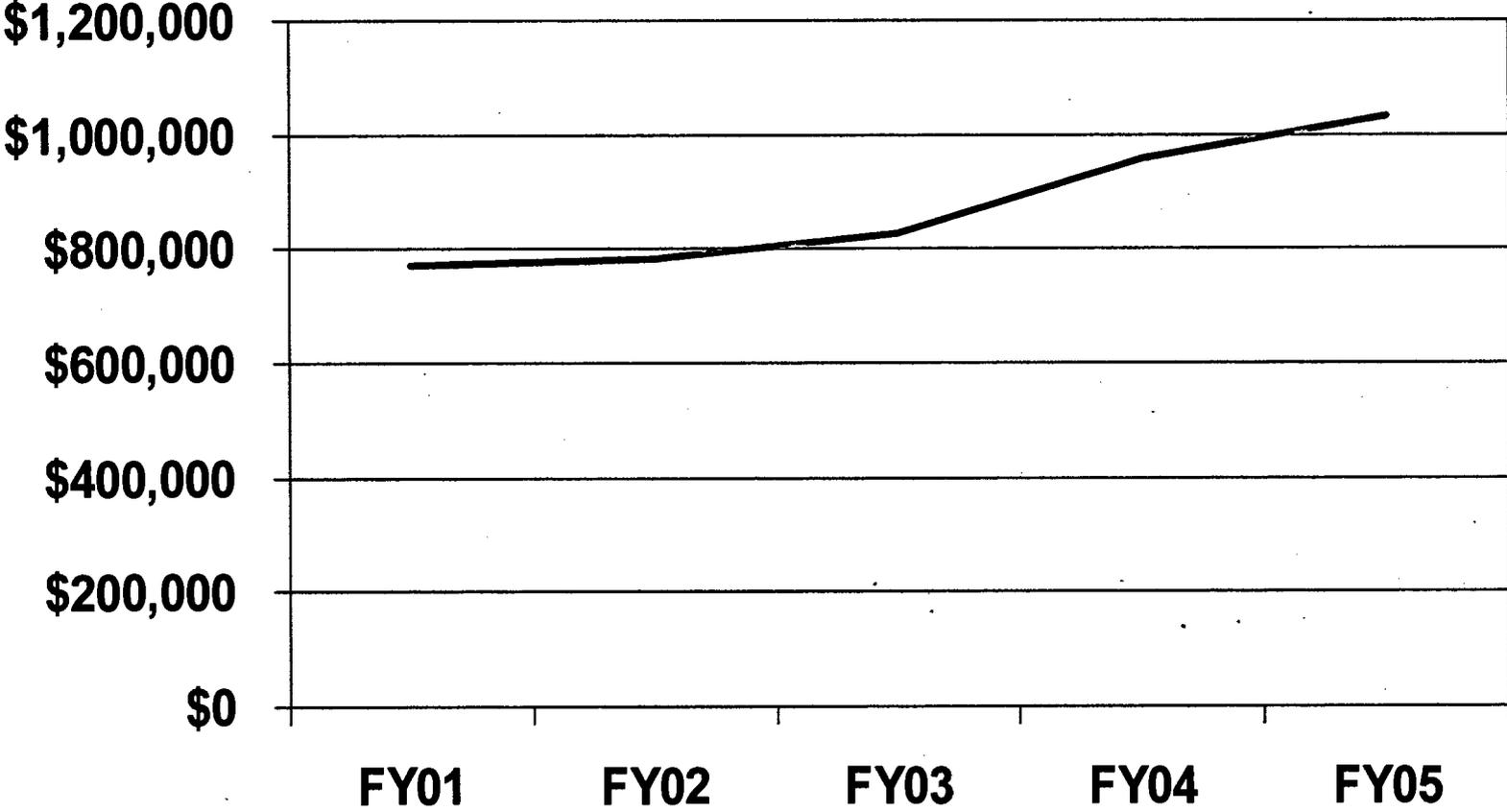
Mission

To ensure that County government is honest,
efficient, effective, equitable,
and fully accountable to its citizens.

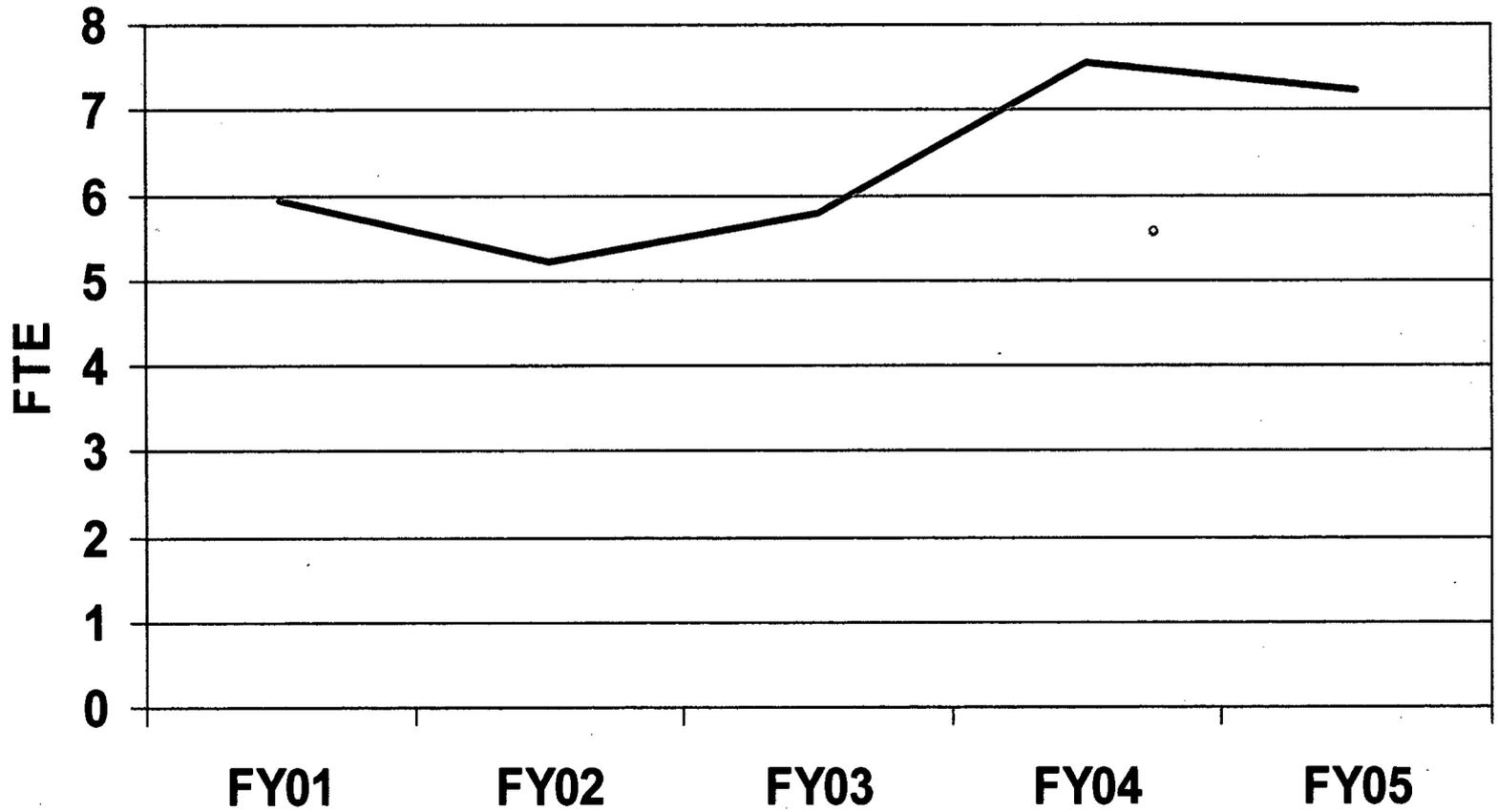
Projects Completed FY05

- 4 County audits
 - Library System
 - Human Resources
 - Financial Condition
 - SEA – Health and Social Services
- 2 follow-up audits
 - Workplace Safety
 - CIC
- 1 audit of County school districts
 - Teacher Leave
- Other
 - Citizen Survey

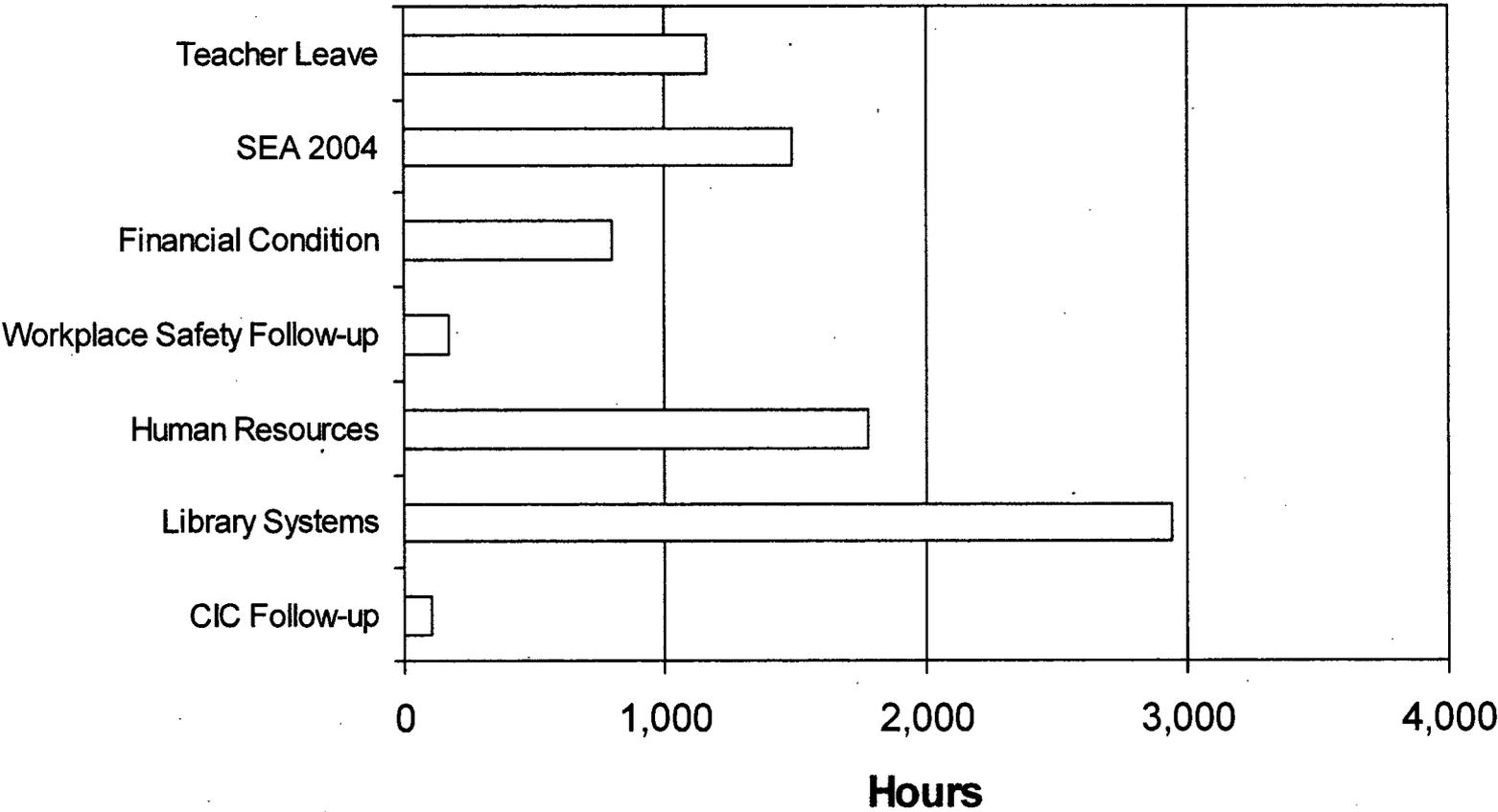
Spending



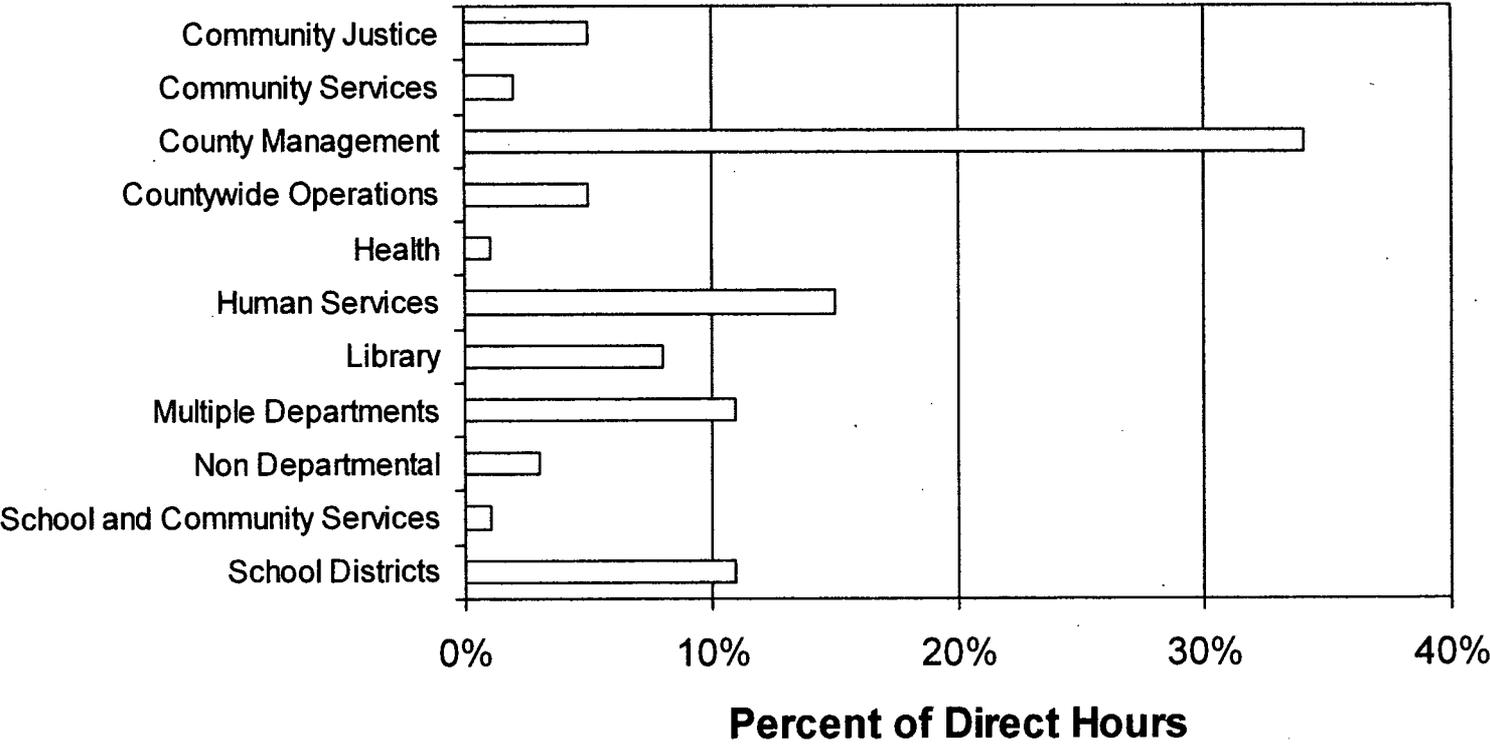
Staffing



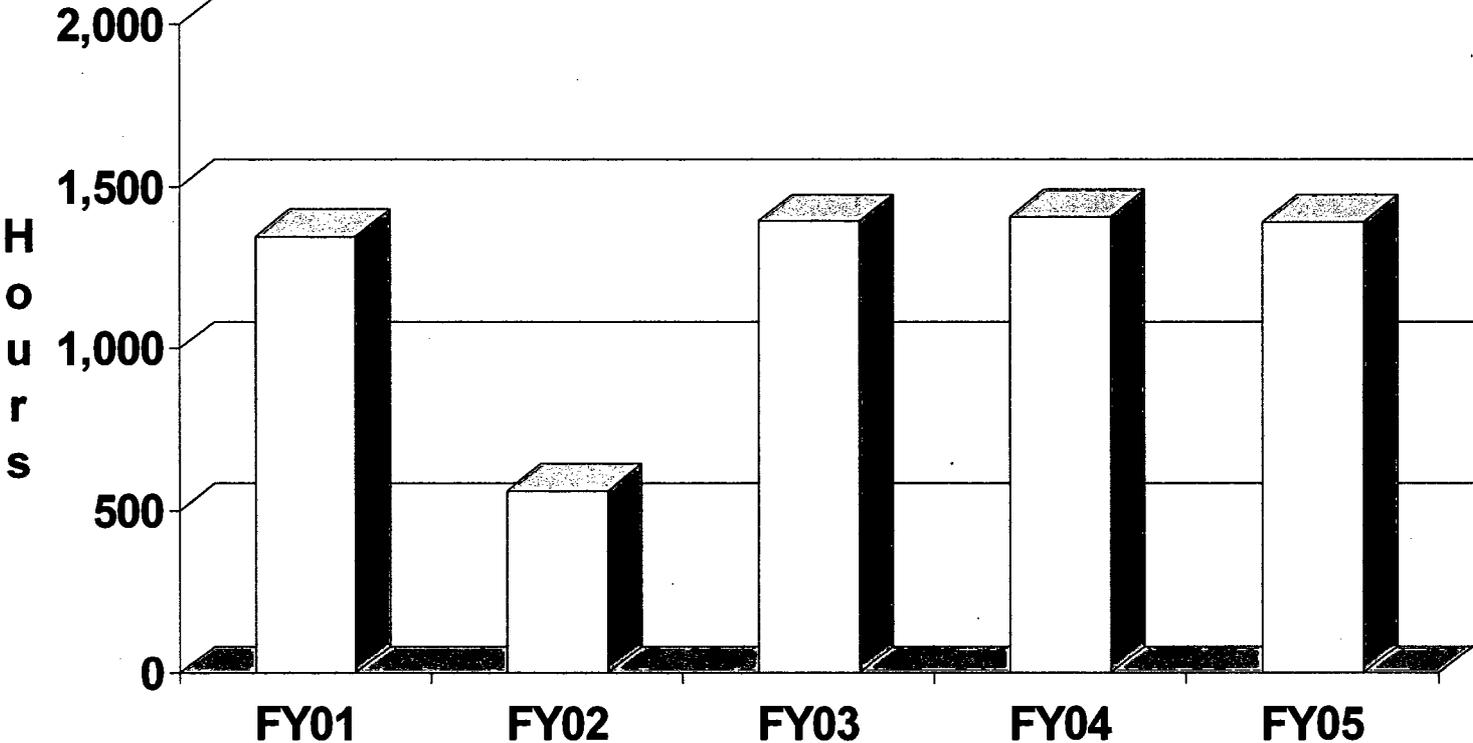
Direct Hours per Project Completed FY05



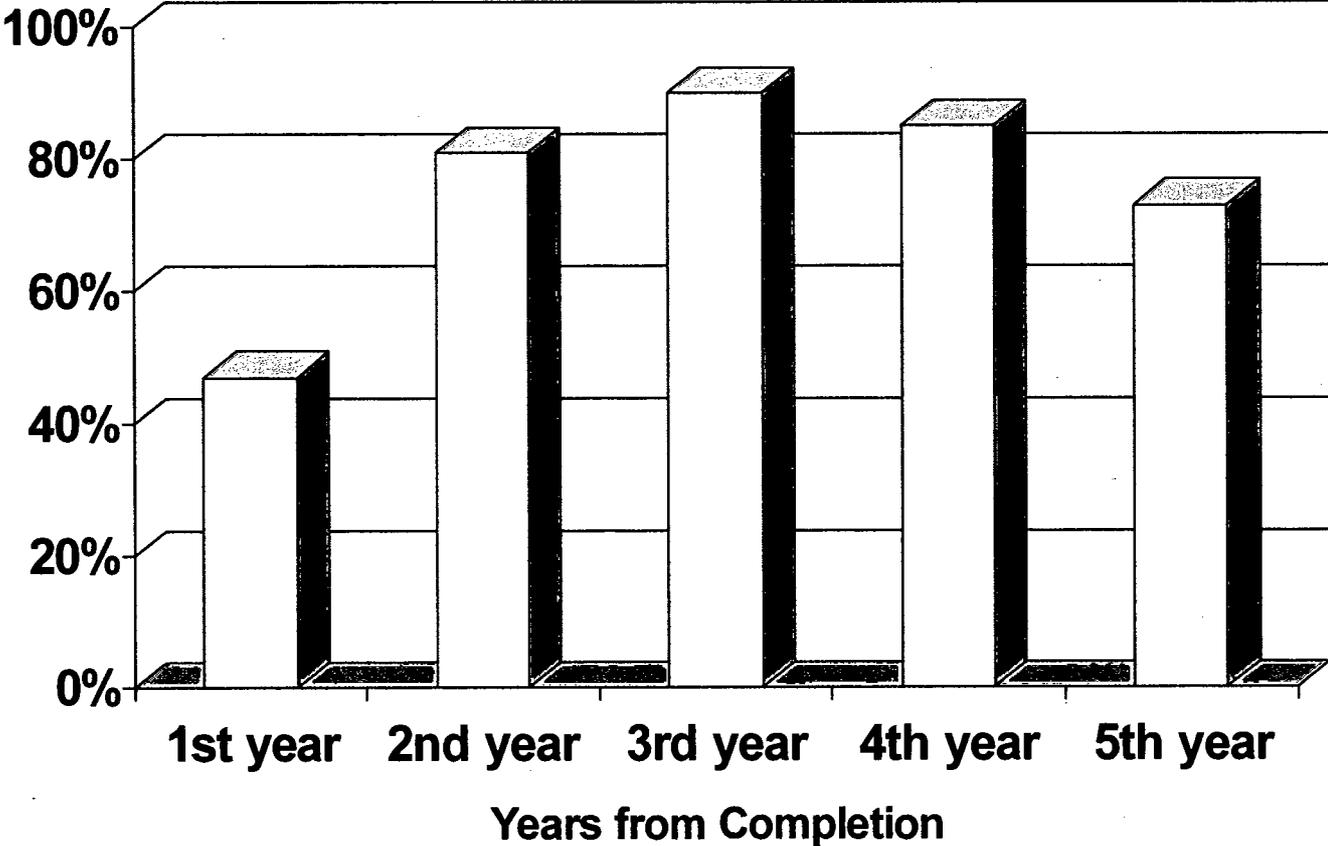
Audit Resources by Department FY01-FY05



Average Hours per Audit Completed FY01-FY05



Recommendations Implemented



Professional Excellence

- Nationally recognized in 1999 and 2002 for outstanding audits
- Judged to have met government auditing standards by peers
- 95 collective years of auditing experience
- Seven advanced degrees, six professional auditor certifications
- Active participation in National Association of Local Government Auditors and National Intergovernmental Audit Forum

