

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 00-081

Approving Multnomah County School District No. 1J and Multnomah County, Oregon Intergovernmental Agreement 0010870 for a 99-Year Lease and Authorizing the County Chair to Execute Documents Necessary to Enter Into and Implement the Intergovernmental Agreement

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County, through its policies and business operations, seeks to establish partnerships where appropriate and desirable.
- b. It is the policy of the County to take actions that strengthen schools and the long-term health of the community.
- c. The County will benefit from the operation of a portion of the County fleet from a centrally located satellite facility.
- d. Multnomah County desires to vacate the Ford Building, which has exceeded its economic life, and acquire affordable space for the proper operation of the Multnomah County Facilities and Property Management Division.
- e. A portion of the Blanchard Education Center has been determined by the Board to be suitable and available for lease from Multnomah County School District No. 1J for use and occupancy by Multnomah County Facilities and Property Management Division.
- f. The 99-year lease of the real property described in the Multnomah County School District No. 1J and Multnomah County, Oregon Intergovernmental Agreement 0010870 will benefit Multnomah County.

The Multnomah County Board of Commissioners Resolves:

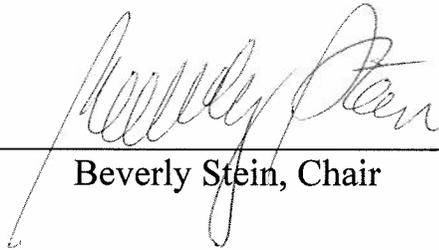
1. Multnomah County shall enter into the Multnomah County School District No. 1J and Multnomah County, Oregon Intergovernmental Agreement 0010870 described above.

2. The County Chair is authorized and directed to execute the Multnomah County School District No. 1J and Multnomah County, Oregon Intergovernmental Agreement 0010870 and any other documents required to implement the agreement.

ADOPTED this 25th day of May, 2000.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

John Thomas, Assistant County Attorney

Real Property Agreement

MULTNOMAH COUNTY SCHOOL DISTRICT NO. 1J AND MULTNOMAH COUNTY, OREGON INTERGOVERNMENTAL AGREEMENT – REAL PROPERTY

THIS AGREEMENT entered into in accordance with ORS Chapter 190 this 8 day of *JUNE*, 2000, between Multnomah County, a home rule subdivision of the State of Oregon, hereinafter referred to as "County" and Multnomah County School District No. 1J, a public school district organized under the laws of the State of Oregon, hereinafter referred to as "District."

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BACKGROUND AND INTENT

1.1 In September, 1999, the County and District signed a Memorandum of Understanding with the intent to enter into a long term agreement for the use and occupancy of a part of the District's Blanchard Education Center by the County and for the County to manage and maintain District's motor vehicle fleet. This Agreement will provide for the terms of 99-year lease of a parcel of land and approximately 38,907 square feet in the Blanchard building and 7,400 square feet of fleet shop and garage together with additional area for a fleet repair staging area, south loading docks, gasoline fuel pumps and for employee and fleet parking, to be used for County administrative offices, shop uses and other municipal functions.

1.2 By separate agreement entered into contemporaneously with this agreement ("the Fleet Agreement"), District and County have agreed that County will provide service to District for management and maintenance of District's motor vehicle fleet on terms and conditions set forth in that agreement and have agreed to the transfer from District to County of the shop equipment and parts inventory used for maintenance of District's motor vehicles.

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DEFINITIONS

2.1 As used in this Agreement, the following terms have the following meanings:

2.1.1 "Blanchard Premises" means the improved property which forms a portion of the Center and are described on Exhibit B attached hereto.

2.1.2 "Center" means the land and improvements known as the Blanchard Education Center located at 501 N Dixon, Portland, Oregon, the legal description of which is attached to this Agreement as Exhibit A.

2.1.3 "Flint Street Premises" means the improved property described on Exhibit C attached hereto.

2.1.4 "Leased Premises" means the land and improvements leased to the County pursuant to the terms of this Agreement consisting of the Blanchard Premises and the Flint Street Premises.

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LEASE OF PROPERTY

3.1 District hereby leases the Leased Premises to County and County hereby leases and accepts the Leased Premises from District on the terms and conditions set forth in this Agreement.

3.2 Notwithstanding the foregoing, District shall have the right to use and occupy the buildings located on the Flint Street Premises and that portion of the grounds adjacent to such buildings as depicted on Exhibit D attached hereto (such buildings and grounds are hereafter referred to as the "Flint Street Buildings") through June 30, 2003 (or such lesser period of time as may be elected by District), upon the following terms and conditions:

3.2.1 District shall not be required to pay rent.

3.2.2 County shall not be required to pay any sum related to District's use and occupancy of the Flint Street Buildings. District shall be responsible for all costs associated with its use and occupancy of the Flint Street Buildings including but not limited to utilities, maintenance, and repair or replacement in the event of destruction except as otherwise specified in this Agreement.

3.2.3 District shall have reasonable access to and from the Flint Street Buildings over the remainder of the Flint Street Premises.

3.2.4 Except for District's right of access, County shall have the exclusive right to possession of that portion of Flint Street Premises, which is not part of the Flint Street Buildings.

3.2.5 At all times during District's occupancy, District shall maintain the Flint Street Buildings in good repair and upon expiration of the three year occupancy shall surrender the Flint Street Buildings in substantially the same condition that they are in on the date of this Agreement, normal wear and tear excepted.

3.2.6 The Flint Street Premises is leased to County in order to satisfy the requirement under the Memorandum of Understanding that District provide County with certain parking spaces. The parties agree that the parking spaces available at the Flint Street Premises and in connection with the 40 parking spaces and four loading docks located on the fleet deck at the Blanchard Premises satisfy the parking requirements under the Memorandum of Understanding. On and after June 30, 2003, or such earlier date as District vacates the Flint Street Buildings, County may redevelop the Flint Street Premises at its sole cost and expense, including the removal of improvements thereon; provided, however, that at all times at least 60 parking spaces shall remain at the Flint Street Premises.

3.3 County shall have unrestricted but not exclusive access to the areas shown on Exhibit B (BESC-First Floor/Fleet Deck MULTCO Lease Area) including the two loading docks as shown on Exhibit B at all times subject to the following:

3.3.1 District's unrestricted right to ingress and egress to the fueling area and the parking areas on the east side of the Center at all times.

3.3.2 District's unrestricted access to the compactor and the loading dock shown on Exhibit B at all times except for one-hour periods at the beginning of the County day shift and the end of the County day shift. County will provide access to these areas during the restricted times on reasonable advance notice by District.

3.3.3 County's use of the area shown on Exhibit B shall be in accordance with law including restrictions on use imposed by fire marshal or other regulatory official or agency.

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TERM, POSSESSION, TERMINATION UPON SALE OR TRANSFER

4.1 The term of this lease shall begin on July 1, 2000. This lease shall expire on June 30, 2099, unless terminated earlier in accordance with the terms hereof.

4.2 County shall be entitled to possession of the Leased Premises (other than the Flint Street Buildings) on July 1, 2000, or such later date upon which the parties may mutually agree. District shall remove all District personal property from the Leased Premises on or before such possession date.

4.3 Notwithstanding any other provision of this Agreement, this Agreement shall terminate at District's election upon the closing of any sale or transfer of both the Center and the Flint Street Premises, to a third party ("Sale"). In such event, District shall pay County, in cash:

4.3.1 An amount equal to the sum of the appraised value of the Blanchard Premises (including tenant improvements) or \$2,480,000, whichever is greater, plus the appraised value of the Flint Street Premises including any County improvements or \$427,000, whichever is greater. The sum shall be paid at closing of the Sale.

4.3.2 County's actual costs of moving personal property from the Blanchard Premises and the Flint Street Premises as a result of the Sale. This sum shall be paid by District within 30 days of receipt of documents from County showing the costs incurred by County.

4.4 Notwithstanding any other provision of this Agreement, if District sells or transfers either the Center or the Flint Street Premises, this Agreement shall terminate as to the premises sold and District shall pay to the County the sums provided in paragraph 4.3 with respect to such premises. In such event, County may elect to continue this Agreement with respect to the remaining premises or terminate this Agreement. If County elects to terminate

the Agreement, District shall pay to County the sums provided in paragraph 4.3. If County elects to continue the Agreement as to the premises not sold, then all provisions of this Agreement relating to such premises shall continue in full force and effect.

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RIGHT OF FIRST OPPORTUNITY AND FIRST REFUSAL

5.1 District agrees not to sell, transfer, exchange, grant an option to purchase, lease, or otherwise dispose of the Center or any portion thereof, with the exception of the warehouse areas on the L-1 level of the Center (the "Exempted Area"), without first offering the Center or portion thereof, as applicable, to County on the terms and condition set forth in this paragraph. If District receives a bona fide offer to purchase or lease the Center or portion thereof (other than the Exempted Area) which is acceptable to District, District shall give County written notice of the price, terms and conditions of the offer and a copy of the executed document containing the offer. If County fails to notify District that it exercises its right to purchase or lease within 30 days of the date of District's notice, District shall have the right to sell or lease the Center or portion thereof to the person making the offer on terms and conditions no more favorable than those stated in the offer. If County elects to exercise its right under this paragraph, County shall have 120 days from the date of its notice exercising its right under this paragraph to perform a due diligence investigation of the Center or portion thereof and to notify District in writing whether it will purchase or lease the Center or the applicable portion thereof. If County notifies District that it will not purchase or lease the Center or the applicable portion thereof, or fails to provide notice that it will purchase the Center or the applicable portion thereof within 120 days from the date of its notice to District, District shall have the right to sell or lease the Center or the applicable portion thereof to the person making the offer on terms and conditions no more favorable than those stated in the offer. If County notifies District that it will purchase or lease the Center or the applicable portion thereof, County will be obligated to purchase or lease the Center or the applicable portion thereof and the sale or lease will close within 90 days of such notice.

5.2 Prior to offering to sublease all or any portion of the Leased Premises to a third party, County shall offer the Leased Premises or portion thereof in writing to District for lease at fair market rent and terms. Prior to assigning its leasehold interest in the Blanchard Premises or the Flint Street Premises, County shall offer in writing to cancel this Agreement as it pertains to such Premises in exchange for a cash payment from District representing the fair market value of County's leasehold interest at the time of the offer. If District accepts the offer but the parties cannot agree on the fair market rent and terms, or the fair market value of the leasehold, the dispute shall be resolved in accordance with the procedures set forth in paragraph 12. If District fails to notify County within 30 days of the date of County's offer that it exercises its right under this paragraph to lease the Leased Premises or portion thereof, or cancel this Agreement, County may sublease the Leased Premises or assign its leasehold in the Blanchard Premises or the Flint Street Premises to another party; provided that District first grants its written consent thereto, but such consent shall not be unreasonably withheld. Consent to one sublease or assignment shall not relieve County from the obligations imposed under this Section 5.2 with respect to future subleases or assignments

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PAYMENTS

6.1 County shall pay to the District within 30 days of the execution of this agreement but no later than June 30, 2000, the sum of \$3,500,000 to be allocated as follows:

6.1.1 \$427,000 as a lump sum payment for the lease of the Flint Street Premises for the term of this lease;

6.1.2 \$2,480,000 as a lump sum payment for lease of the Blanchard Premises for the term of this lease;

6.1.3 \$82,005 as a lump sum payment for equipment under the Fleet Agreement;

6.1.4 An amount equal to the value of the inventory and fuel supplies under the Fleet Agreement;

6.1.5 An amount equal to the remainder after the above allocations. In consideration of this payment under this Section 6.15, the District shall credit the County's share under Paragraph 6.2 of all Major Repairs. For the purposes of this Agreement, "Major Repairs" means any single repair activity, the cost of which is equal to or greater than \$25,000. The amount to be credited under this Section shall be increased on a monthly basis by imputed interest at the Local Government Investment Pool interest rate to the then remaining amount not yet credited.

6.2 County shall pay to District fourteen and 4/10ths percent (14.4%) of District's operation, repair and maintenance costs for the Center.

6.3 The amount of County's obligation under Section 6.2 shall be determined and paid as follows:

6.3.1 District shall notify County by January 1 of each year of the estimated operation, repair and maintenance costs of the Center and the estimated amount to be paid by County for each fiscal year beginning on such July 1. County shall pay to district one-twelfth of such estimated annual amount on the first day of each month during each fiscal year.

6.3.2 District shall, within forty five (45) days after each such fiscal year furnish to County a statement showing in reasonable detail the actual operation, repair and maintenance costs for the Center during such previous fiscal year and County's portion thereof. County shall pay to District any difference by which the actual costs exceeded the estimated costs within thirty (30) days after receipt of the statement. Any difference by which the estimated costs exceeded the actual costs shall be credited against County's payment of estimated costs for the following fiscal year.

6.3.3 The District will credit the County's share of Major Repairs with amounts received under Section 6.1.5. Prior to crediting such amounts towards Major Repairs, District shall provide County with written notice thereof, which shall include in reasonable detail the use to which the amounts will be credited.

6.4 As used in this agreement, operation, repair and maintenance costs includes the cost of management, repair, replacement and maintenance of the roof, floors, exterior walls, building systems, common areas, parking areas and landscaping, security service, janitor service, grounds keeping, power, gas, lighting, heating, air conditioning, water and other utility services, garbage collection, and casualty insurance maintained by District on the Center. As used in this paragraph, operation, repair and maintenance costs does not include District's costs for repair, replacement and maintenance of District's improvements within the exterior walls of the Center.

6.5 Any payments due to District from County not paid when due, shall bear interest at the rate of interest earned by the Local Government Investment Pool from the due date until paid. Notwithstanding any dispute between District and County, County shall make all payments when due and shall not withhold any payments pending the final resolution of the dispute. In the event of a determination that County was not liable for payments or any portion thereof, the payments, or any excess as the case may be, together with interest on those payments in excess of payments at the same rate of interest as earned by the Local Government Investment Pool, shall be credited against subsequent payments due from County to District.

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RIGHTS AND RESPONSIBILITIES OF THE PARTIES

7.1 County shall use the Leased Premises for administrative offices, storage, vehicle parking, vehicle fueling, maintenance and repair, shop uses, and other municipal functions. In connection with the use of their respective premises, County and District shall:

7.1.1 Conform to all applicable laws and regulations of any public authority affecting the Center and the Flint Street Premises and the use thereof, and any failure of compliance by a party created through that party's fault or by reason of that party's use at the expense of the party who fails to comply;

7.1.2 Refrain from any activity that would make it impossible to insure the Center or Leased Premises against casualty, would increase the insurance rate, or would prevent District from taking advantage of any ruling of the Oregon Insurance Rating Bureau, or its successor, allowing District to obtain reduced premium rates for long-term fire insurance policies, unless the party engaging in such activity pays the additional cost of the insurance.

7.1.3 Refrain from any use that would be reasonably offensive to the other party or personnel or owners or users of neighboring premises or that would tend to create a nuisance or damage the reputation of the Center or the Leased Premises.

7.1.4 Refrain from loading the electrical system or floors beyond the point considered safe by a competent engineer or architect selected by agreement of both parties.

7.2 Title to the Center, including the land on which it is located shall remain in the name of the District.

7.3 District makes no representations concerning the Leased Premises and County accepts the Leased Premises "AS IS."

7.4 District shall not be required to construct any alterations or improvements on the Leased Premises. County shall be permitted to construct, at County's sole expense, any alterations and improvements on and in the Leased Premises that are necessary or suitable for County's use, provided that such alterations and improvements do not interfere with District's reasonable use of the Center and are first approved in writing by District, which approval shall not be unreasonably withheld. District shall cooperate with County in applying for and obtaining any governmental permits required to construct County improvements and alterations necessary or suitable for County's use. No alterations or improvements shall be permitted which would constitute a "change of occupancy" under the City of Portland building code, unless County agrees to pay the cost of all improvements and alterations required under such building code as a result thereof. Any improvements or alterations made by County to the Leased Premises shall be the property of County, provided, however, that in the event County is required as a condition imposed by the City of Portland to issuance of a building permit to make improvements to the Center which are not located on the Leased Premises, such off-site improvements shall become the sole property of District upon their installation.

7.5 County may alter or modify Center building systems, such as the heating, ventilating and air conditioning systems which serve the Leased Premises, at County's sole cost or as otherwise then agreed by the parties, with the prior written approval of District, which shall not be unreasonably withheld.

7.6 County may install lighting and signage on the exterior and interior of the Center outside the Leased Premises appropriate to County's usage of the Property and may make other changes to the exterior of the Center, all with District's prior written approval, which approval shall not be unreasonably withheld.

7.7 Upon termination of this Agreement for any reason, County shall (a) remove all of its personal property from the Leased Premises; (b) quit and surrender the Leased Premises to District broom clean. Upon termination, County shall have the right, but not the obligation to remove any County improvements from the Leased Premises. All such removals shall be accomplished in a good and workmanlike manner so as not to damage the structural integrity or utility components of the Leased Premises or the Center. Any damage to the Center caused by the removal shall be repaired by County at its sole cost and expense.

7.8 Repair and maintenance shall be allocated as follows:

7.8.1 District shall be responsible for all repair and maintenance of the Center as set forth in Article 6. The level of repair and maintenance of the Leased Premises shall be of a reasonable level for the uses allowed in this Agreement. District shall have reasonable access to and through the Leased Premises for repair and maintenance or to provide the services described in paragraph 7.10. District shall provide County with a minimum of 24 hour notice of the need to access the Leased Premises except in the case of emergency

7.8.2 County shall maintain the interior of the Blanchard Premises in a neat, clean, and safe condition. County shall be solely responsible for repairs to the Leased Premises necessitated by the actions of its employees, agents, contractors, and invitees.

7.8.3 Additionally, after District has vacated the Flint Street Buildings, County shall have sole responsibility for the condition of the Flint Street Premises and shall indemnify, hold harmless, and defend District from any and all claims resulting or relating to the condition of the Flint Street Premises. At its election, County may demolish and remove the improvements at the Flint Street Premises, provided that County complies with all legal requirements related thereto. In the event County constructs new improvements on the Flint Street Premises, County shall have sole responsibility for all aspects of ownership of such improvements, including, without limitation, maintenance, repair, compliance with law, insurance, taxes (if any), and utilities.

7.9 Each year by May 1, District shall provide County with notice of maintenance and repair work which District plans to perform at the Center in the following fiscal year so that County can budget for its share of those items for which it is responsible. Failure to include any maintenance or repair work in such notice shall not relieve County from the obligation to pay its share thereof under Section 6.2.

7.10 District shall furnish all building standard utilities and services to the Center and Blanchard Premises during the term of this lease and to the Flint Street Premises while District occupies the same, including security service, janitor service, grounds keeping, power, gas, lighting, heating, air conditioning, water, other utility services, and garbage collection. The level of such utilities and services shall be of a reasonable level for the uses allowed in this Agreement at all times and shall not be less than that of the Center outside the Leased Premises. If County shall require any such services beyond the building standard and a reasonable level for the uses allowed in this Agreement, District shall provide such additional services at the sole expense of County. District shall have no liability for any interruption in utilities and County shall not be entitled to any offset unless interruption is caused by the negligence of District. After District no longer occupies the Flint Street Buildings, County shall be solely responsible for all such services delivered to the Flint Street Premises.

7.11 Neither party shall cause or permit any Hazardous Substance to be spilled, leaked, disposed of, or otherwise released on or under the Leased Premises. Either party may use or otherwise handle on the Leased Premises only those Hazardous Substances typically used in the prudent and safe conduct of the uses specified in Section 7.1. Either party may store such Hazardous Substances at the Center or on the Leased Premises only in quantities necessary to satisfy that party's reasonably anticipated needs. Both parties shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Leased Premises. Upon the expiration or termination of this Lease, County shall remove all Hazardous Substances from the Leased Premises. The term Environmental Law shall mean any federal, state, or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety or the environment. The

term Hazardous Substance shall mean any hazardous, toxic, infectious or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

7.12 Eminent Domain.

7.12.1 If a portion of the Leased Premises is condemned and Section 7.12.2 does not apply, the lease shall continue on the following terms:

(1) District shall be entitled to all of the proceeds of the condemnation.

(2) District shall proceed as soon as reasonably possible to make such repairs and alterations to the Leased Premises as are necessary to restore the remaining Leased Premises to a condition as comparable as reasonably practicable to that existing at the time of the condemnation. During the period of restoration, County's obligation to pay operation, repair and maintenance costs shall be reduced to the extent the Blanchard Premises cannot reasonably be used by the County for the purposes stated in this agreement.

(3) The condemnation proceeds shall be applied by the District as follows: first, to reimburse the District for its legal expenses and other costs incurred in recovering the proceeds; second, to the cost of restoration as set forth in subparagraph (2) above (if the cost of such restoration exceeds the remaining available proceeds, the difference shall be treated as repair costs under Section 6.2); and, third, to the parties in proportion to the value of their respective interests in the condemned premises.

7.12.2 If a condemning authority takes all of the Leased Premises, this lease shall automatically terminate effective as of the date the condemning authority takes possession. If a condemning authority takes all of the Blanchard Premises or all of the Flint Street Premises or a portion of either premises sufficient to render the remaining Leased Premises unsuitable for any of the uses that County was then making of such Leased Premises, then County may elect to terminate this lease as of the date that the condemning authority takes possession of the premises. In the event of a termination under this section, District shall be reimbursed for its legal and other costs incurred in recovering the condemnation proceeds and the parties shall be entitled to share in the remaining condemnation proceeds in proportion to the values of their respective interests in such premises.

7.12.3 Sale of all or part of the Leased Premises to a purchaser with the power of eminent domain in the face of a threat or probability of the exercise of the power shall be treated for the purposes of this Section 7.12 as a taking by condemnation.

7.13 Liens.

7.13.1 Except with respect to activities for which District is responsible, County shall pay as due all claims for work done on and for services rendered or material furnished to the Leased Premises, and shall keep the Leased Premises free from any liens. If County fails to pay any such claims or to discharge any lien, District may do

so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of 12% per annum from the date expended by District and shall be payable on demand. Such action by District shall not constitute a waiver of any right or remedy which District may have on account of County's default.

7.13.2 County may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, as long as District's property interests are not jeopardized. If a lien is filed as a result of nonpayment, County shall, within ten days after knowledge of the filing, secure the discharge of the lien or deposit with District cash or sufficient corporate surety bond or other surety satisfactory to District in an amount sufficient to discharge the lien plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the lien.

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DEFAULT AND REMEDIES

8.1 If County shall (a) fail to pay operation, repair and maintenance costs payable hereunder when due; or (b) fail to keep any other term, covenant, or condition herein; or (c) abandon or vacate the Leased Premises without consent of District; or (d) County's interest in the Agreement, the Leased Premises or any part thereof is assigned, encumbered, subleased or otherwise transferred without the prior written consent of District, either voluntarily or by operation of law; then, in any of such events, County shall be deemed to be in default.

8.2 If County, after written notice, fails to remedy any default within 60 days, or if the remedy requires more than 60 days, fails to begin and diligently pursue remedy of the default within 60 days, District may, at its option, without any further demand terminate this Agreement immediately upon giving written notice of such termination to County and upon such notice may re-enter the Leased Premises and eject all persons in possession therefrom. Any re-entry shall be allowed by County without hindrance, and District shall not be liable in damages for any such re-entry or be guilty of trespass. District may also pursue any other remedies available to it under applicable law by reason of County's default. County shall not be entitled to any refund of prepaid rent upon termination under this Section 8.2.

8.3 If District, after written notice, fails to remedy any default within 60 days, or if the remedy requires more than 60 days, fails to begin and diligently pursue remedy of the default within 60 days, County may terminate this Agreement immediately upon giving written notice of such termination to District. County may also pursue any other remedies available to it under applicable law by reason of District's default.

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INSURANCE

9.1 District shall maintain all-risk property insurance with a self-insured retention of \$1,000,000 on the Center and, during District's occupancy of the Flint Street Buildings, on the Flint Street Buildings. County at its sole expense and discretion may insure County's personal property and County's tenant improvements located on the Leased Premises. After District no longer occupies the Flint Street Buildings, the entire risk of loss to the Flint Street

Buildings or, if County constructs a new building on the Flint Street Premises, the entire risk of loss to such new building, shall be the sole and exclusive responsibility of County.

9.2 It is understood that District and County are both self-insured public bodies in the State of Oregon. If either party ceases to be self-insured, such party shall so notify the other party's risk manager in writing as soon as is practicable. In that event, the party ceasing to be self-insured ("Insuring Party") shall maintain worker's compensation insurance, commercial general liability insurance, property damage insurance and automobile liability insurance with respect to its use of and activities at the Center. The insurance shall name the other party ("Insured Party") and its officials and employees as additional insureds. The Insuring Party shall provide the Insured Party with evidence of such insurance.

9.3 Except as may be required by Section 9.4, the insurance referred to in Section 9.2 shall provide coverage for not less than \$200,000 for personal injury to each person, \$500,000 for each occurrence, and \$50,000 for occurrences involving property damage.

9.4 The limits of the insurance required by paragraph 9.3 shall be changed by a percentage equal to the percentage of any change in the maximum limit of liability imposed on political subdivisions of the State of Oregon during the term of this Agreement.

10 INDEMNIFICATION

10.1 Subject to the limits in the Tort Claims Act, ORS 30.265 *et seq.* and the Oregon Constitution, District agrees to defend, indemnify and save harmless County, its officers, agents, and employees from and against all claims, actions and liabilities, and all expenses incidental to the investigation and defense thereof, including attorney fees, arising out of or as a result of damage or injuries to persons (including death) or property in connection with District's use of those portions of the Center not subject to this Agreement or any condition of the Center not subject to this agreement except to the extent caused by County's negligence or breach of a covenant under this lease.

10.2 Subject to the limits in the Tort Claims Act, ORS 30.265 *et seq.* and the Oregon Constitution, County agrees to defend, indemnify and save harmless District, its officers, agents, and employees from and against all claims, actions and liabilities, and all expenses incidental to the investigation and defense thereof, including attorney fees, arising out of or as a result of damage or injuries to persons (including death) or property in connection with County's use of the Leased Premises or any condition of the Leased Premises, except to the extent caused by District's negligence or breach of a covenant under this lease.

11 CASUALTY DAMAGE AND SUBROGATION

11.1 If the Blanchard Premises or the Center is damaged by fire or other casualty during the term of this lease or if the Flint Street Buildings are damaged by fire or other casualty during District's occupancy thereof, the parties shall have the following rights and responsibilities:

11.1.1 Unless District gives the notice provided for in paragraph 11.1.2, District shall repair all damage to the Center and the Blanchard Premises with all reasonable dispatch and without unnecessary interference with County's use of the Blanchard Premises. If the Blanchard Premises require repair, District shall promptly notify County of the estimated time required to complete the repairs. During the period of any repair, County's obligation to pay operation, repair and maintenance costs shall be reduced to the extent the Blanchard Premises cannot reasonably be used by County for the purposes stated in this Agreement.

11.1.2 District may elect not to repair the Blanchard Premises or the Center and terminate this Agreement with respect to the Blanchard Premises or the Flint Street Premises by notice to County within 45 days of the date of the fire or casualty. If the District so elects, District shall pay to County the applicable sum described in paragraph 4.3.1 within 60 days of such election and shall pay County the sum described in paragraph 4.3.2 within 30 days or receipt of the documents required to be provided in that paragraph.

11.1.3 If the District fails to notify the County within 60 days of any damage to the Flint Street Buildings that it will repair the damage to the buildings, then District's right to occupy the Flint Street Buildings under Section 3.2 shall be terminated and District shall have no further rights with respect to the Flint Street Buildings and no further obligations with respect to such buildings. All repairs to the Flint Street Buildings during the period of occupancy of the Flint Street Buildings by District shall be at District expense.

11.2 Neither party shall be liable to the other for loss arising out of damage to or destruction of all or any portion of the Leased Premises or the Center or the contents thereof, when such loss is caused by any of the perils included within an all-risk property insurance policy. All claims of one party against the other for any and all such loss are hereby waived. Such absence of liability shall exist whether or not the damage is caused by negligence of either party or by any of their respective officers, employees, agents or guests. Except for the allocation of insurance proceeds provided for in paragraph 11.1.2, each party shall look solely to its respective insurance carriers for reimbursement of any such loss. The insurance carriers for each party shall not be entitled to subrogation under any circumstance.

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DISPUTE RESOLUTION

12.1 If a dispute arises concerning this Agreement, County and District agree that the dispute shall initially be submitted to mediation. The mediator will be selected by mutual agreement, and will be compensated equally by both parties. If the parties fail to agree on a mediator within ten days of notice by either party of a request for mediation, a mediator shall be appointed by the presiding judge of the Multnomah County Circuit Court upon the request of either party.

12.2 Any dispute under this Agreement not resolved by mediation shall be resolved in accordance with this paragraph. An arbitrator will be selected by mutual agreement, and will be compensated equally by both parties. If the parties fail to agree on an arbitrator within ten

days of notice by either party of a request for arbitration, each party shall submit to the presiding judge of the Multnomah County Circuit Court a list of three proposed arbitrators and the presiding judge shall appoint an arbitrator from among those proposed. Reasonable discovery shall be allowed in the arbitration. Each party shall bear its own costs and attorney fees in connection with the arbitration.

13
MISCELLANEOUS

13.1 County shall not assign its interest in this Agreement or a part thereof, let the Leased Premises or any portion thereof or permit use or occupancy of the Leased Premises or any portion thereof by other than County, its agents and employees, without first obtaining the written consent of District, which consent shall not be unreasonably withheld.

13.2 District, for the proper maintenance of the Leased Premises within the Center, the rendering of good service and providing of safety, order, and cleanliness, may make and enforce building regulations appropriate for such purposes, but not in enlargement of or inconsistent with the terms, covenants and material conditions of this Agreement.

13.3 No waiver of any breach of any covenant, term, or condition of this Agreement shall be effective unless in writing. No waiver of any breach shall be a waiver of any other breach.

13.4 This Agreement may be modified only by endorsement in writing attached to this Agreement, dated and signed by the parties. The parties shall not be bound by any oral or written statement of any servant, agent, or employee purporting to modify this Agreement.

13.5 Neither party shall not be deemed in default for the nonperformance or for any interruption or delay in performance of any of the terms, covenants, and conditions of this Agreement if due to any labor dispute, strike, lockout, civil commotion, or like operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, legal injunction, inability to obtain labor, services or materials, or act of God or other cause beyond the reasonable control of a party.

13.6 District covenants and agrees that, so long as this Agreement remains in effect with respect to any portion of the Leased Premises, it will not use such portion of the Leased Premises, nor take any other action (nor permit any person under its control to take any other action) with respect to such portion of the Leased Premises that would cause the interest on the County's Full Faith and Credit Obligation Financing Series 2000, dated April 1, 2000, issued to finance the acquisition of the Leased Premises, to become taxable to the holders of the Obligations under Section 103 of the Internal Revenue Code of 1986, as amended. The foregoing covenant shall not restrict in any manner the District's activities on any portion of the Center other than that portion of the Center which constitutes the Leased Premises. Additionally, the foregoing covenant shall not restrict in any manner the District's right to terminate this Agreement in accordance with its terms.

13.7 All exhibits which are referenced and attached to in this Agreement, are hereby incorporated by reference.

13.8 Notice between the parties shall be in writing, effective when personally delivered to the recipient's address specified below or, if mailed, effective forty-eight (48) hours following mailing, postage prepaid, to the recipient's address specified below or such address as wither party may specify by notice to the other:

If to County: Multnomah County
 Facilities & Property Management
 2505 SE 11th Avenue
 Portland, Oregon 97202

With copy to:

Multnomah County Attorney
1120 SW Fifth Avenue Suite 1530
Portland, Oregon 97204

If to District: Portland Public Schools
 Facilities and Asset Management Director
 501 N. Dixon Street
 Portland, Oregon 97227

With copy to:

Portland Public Schools
General Counsel
501 N. Dixon Street
Portland, Oregon 97227

13.9 This Agreement together with the Fleet Agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change in terms of this Agreement shall bind either party unless it is in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement. Each the County and the District, by the signature of its authorized representative, hereby

acknowledges that such party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

Multnomah County School District No. 1J

Multnomah County

By: [Signature]
Deputy Clerk

Date: JUN 08 2000

By: [Signature]
Beverly Stein, County Chair

Date: May 25, 2000

Reviewed:

Thomas Sponsler, County Attorney

By: [Signature]
John Thomas, Assistant County Attorney

APPROVED AS TO FORM

[Signature]
Attorney for School District No. 1
Multnomah County, Oregon

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-5 DATE 5/25/00
DEB BOGSTAD
BOARD CLERK

**REAL PROPERTY AGREEMENT
EXHIBIT A**

DESCRIPTION OF THE BLANCHARD EDUCATION CENTER AND DRAWING

Block 97, Albina

Lots 1 – 4 and 9 – 12, Block 16, Elizabeth Irving's Addition to the City of East Portland.

Block 18, Elizabeth Irving's Addition to the City of East Portland.

Block 3, Delmer Shaver's 2nd Addition.

Lots 1 and 2, Block 2 including part in vacated street, Delmer Shaver's 2nd Addition.

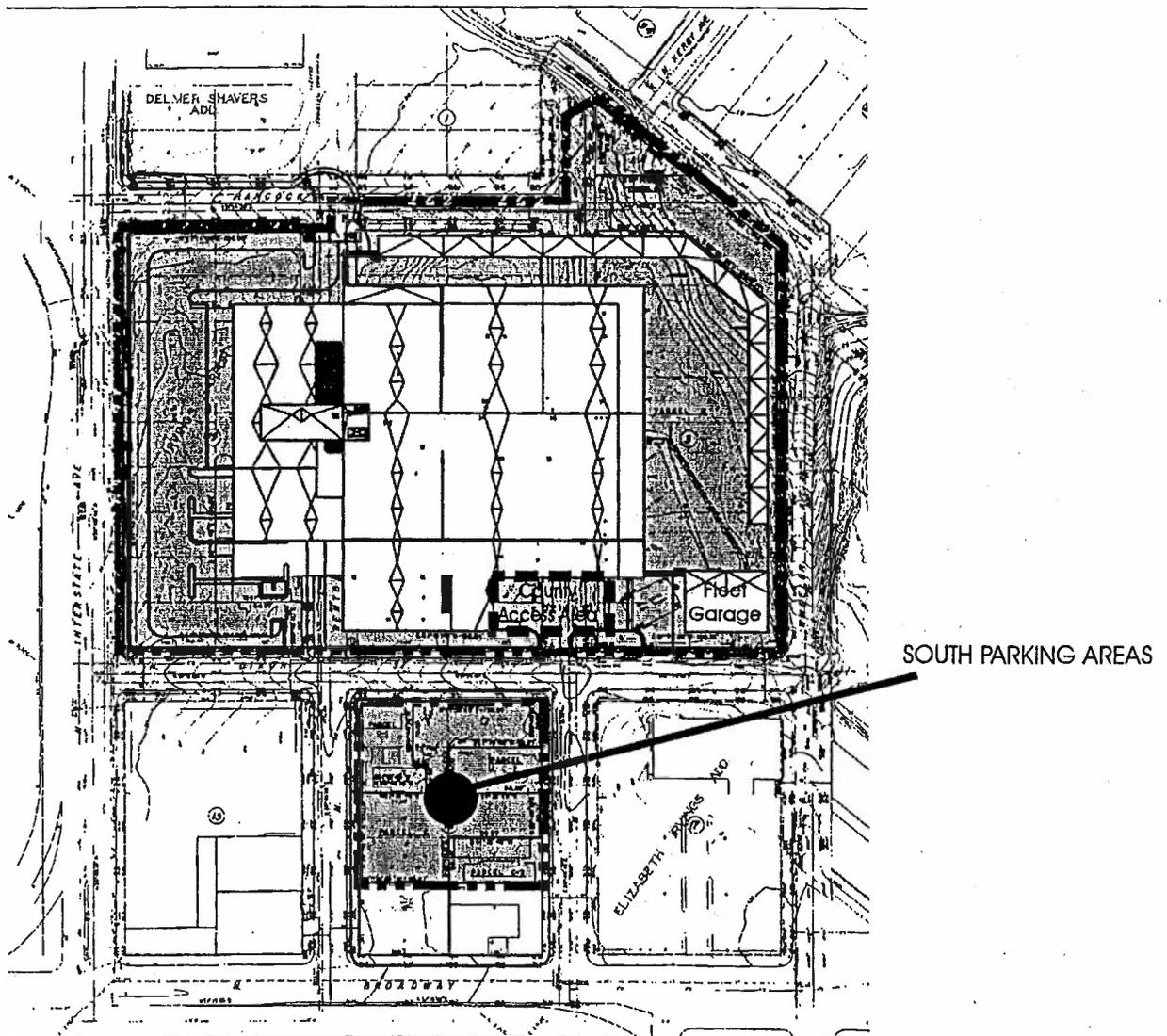
Block 19, Irving's Harbor View.

A tract of land located on the southwest $\frac{1}{4}$ of Section 27, Township 1 North, Range 1 East of the Willamette Meridian, Multnomah County, Oregon, said tract being a portion of North Hancock Street and North Ross Avenue as now vacated by the City of Portland Ordinance No. 142516, said tract being more particularly described as follows:

Beginning at the intersection of the center line of said North Hancock Street and North Ross Avenue; thence South $51^{\circ}14'00''$ West, along the center line of North Hancock Street, 38.10 feet; thence North $00^{\circ}06'15''$ East 60.76 feet to the center line of said North Ross Avenue; thence South $38^{\circ}43'45''$ East, 47.31 feet to the point of beginning.

A tract containing 901 square feet, more or less.

Real Property Agreement
Exhibit A
Legal Description for the "Blanchard Education Center" and Drawing



BESC FACILITY SITE

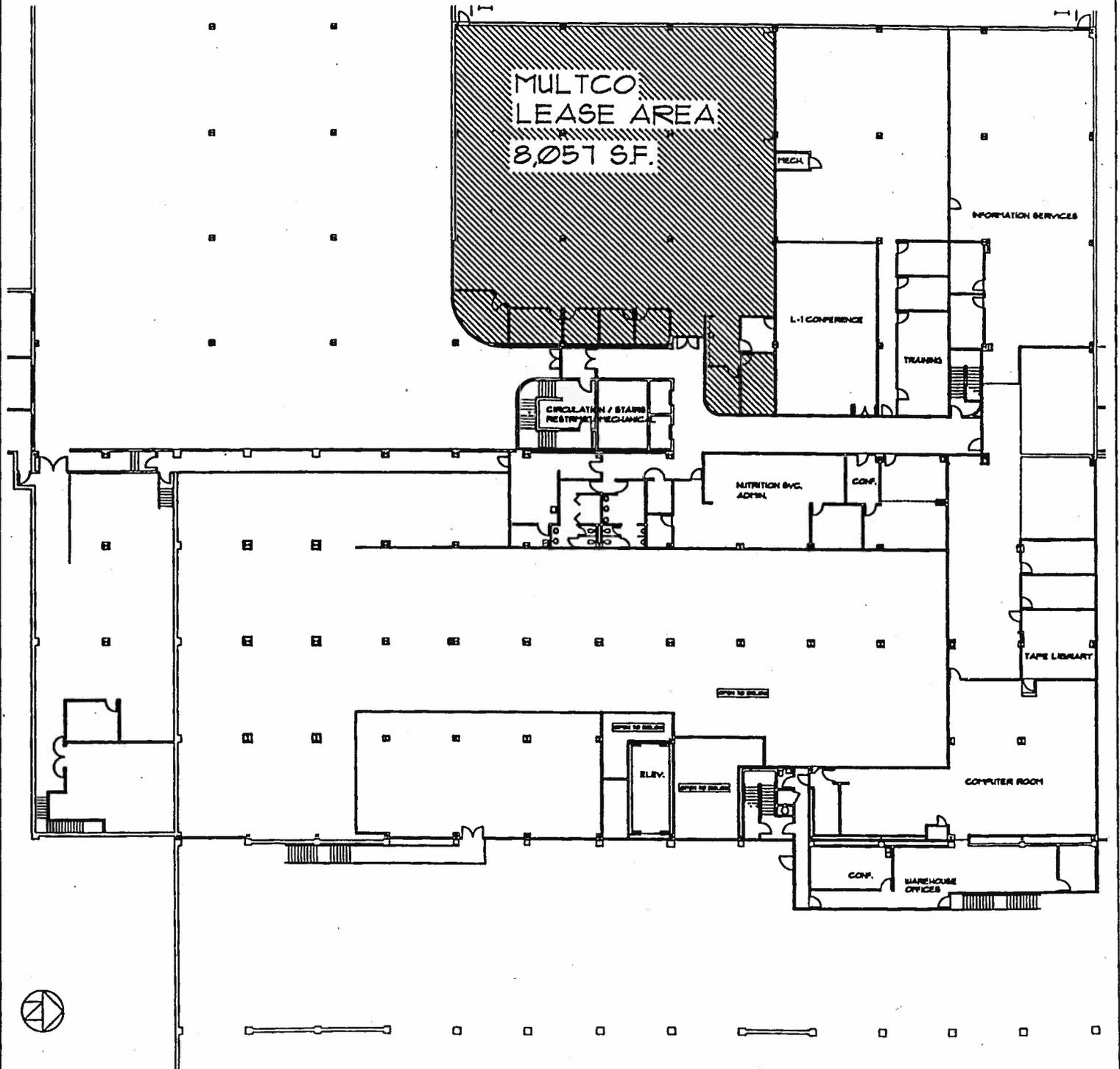
All of Blocks 18 and 19, Irvings Harbor View Addition plus Blocks 2 and 3 of Delmer Shavers Second Addition, plus Block 18 of Elizabeth Irvings Addition, plus Lots 1,3,9,10 and part of Lots 11 and 12 of Block 16 Elizabeth Irvings Addition. Bounded by: North Interstate and Wheeler Ave., N. Hancock St. and N. Dixon St.

Q.S. 2829, 2830

INCLUDING SOUTH PARKING AREAS

Lots 1,2,3,4,9,10,11.&12 of Block 16
Elizabeth Irvings Addition, bounded by
N Dixon, N Benton and N Ross Streets
Quarter Section 2830 Portland Oregon

EXHIBIT B DESCRIPTION OF BLANCHARD PREMISES



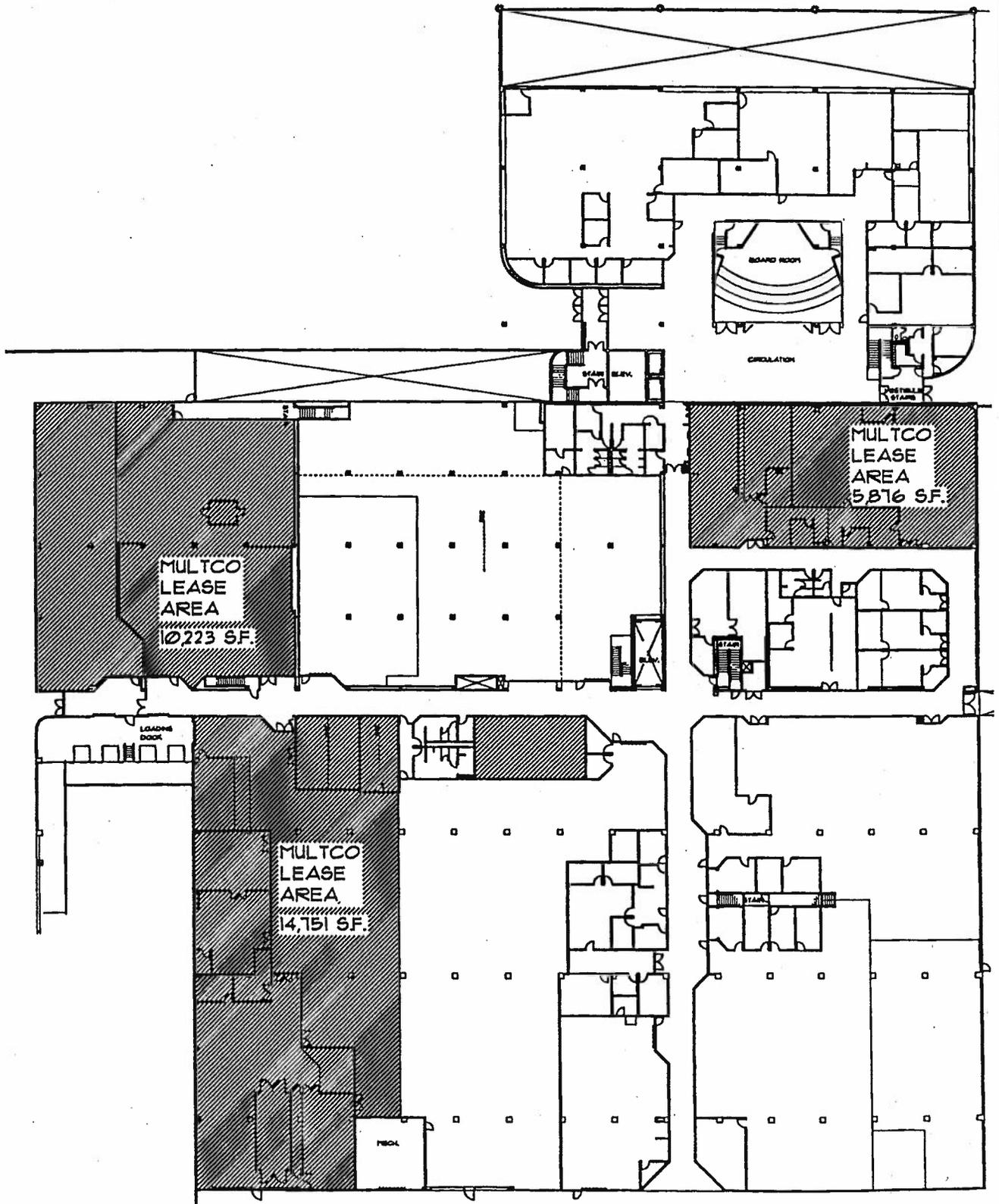
BESC - L-1 LEVEL

MULTNOMAH COUNTY LEASE AREA

4/2000

N.T.S.

EXHIBIT B
DESCRIPTION OF BLANCHARD PREMISES



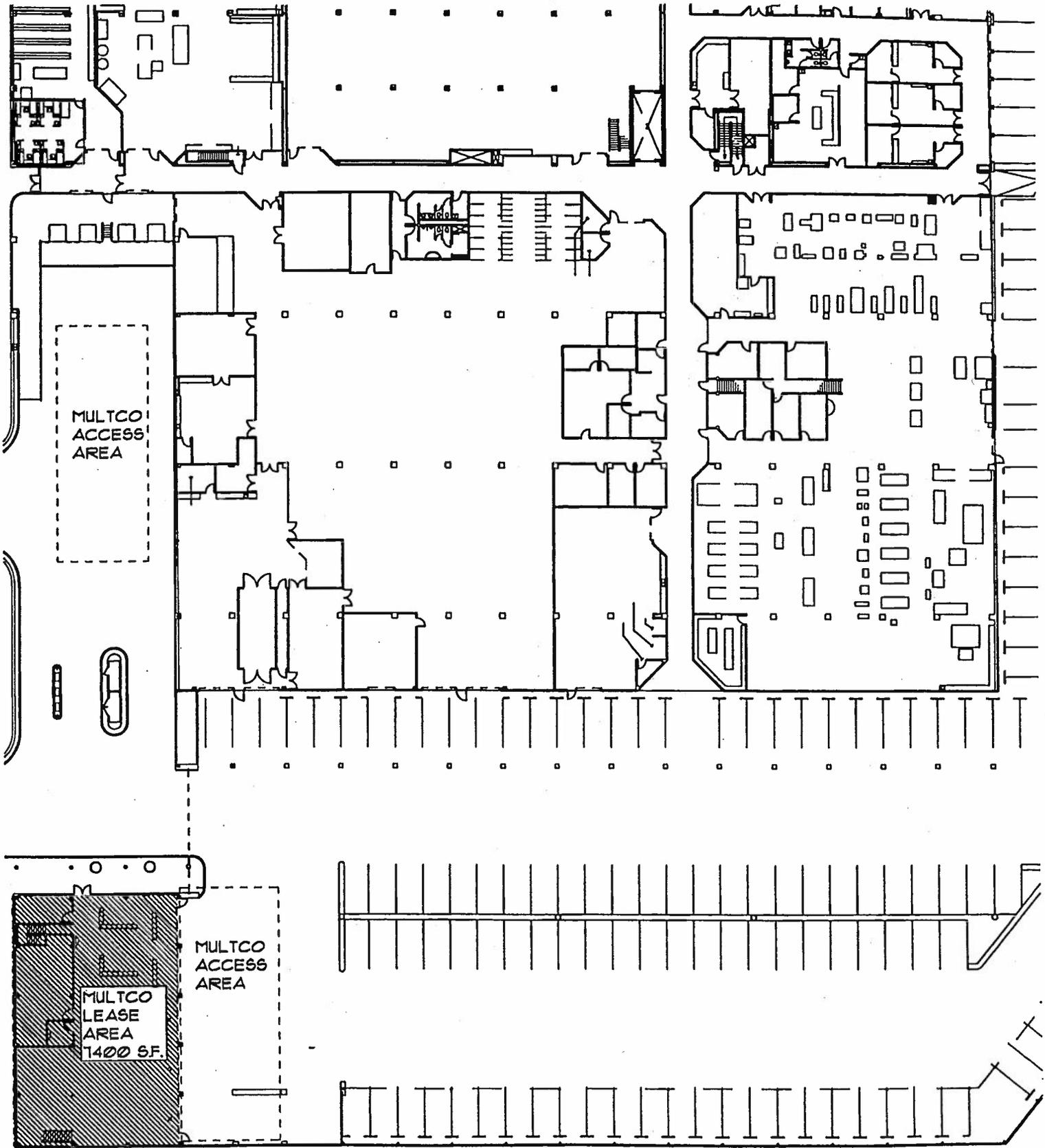
BESC - 1st FLOOR

MULTNOMAH COUNTY LEASE AREA

4/2000

N.T.S.

EXHIBIT B



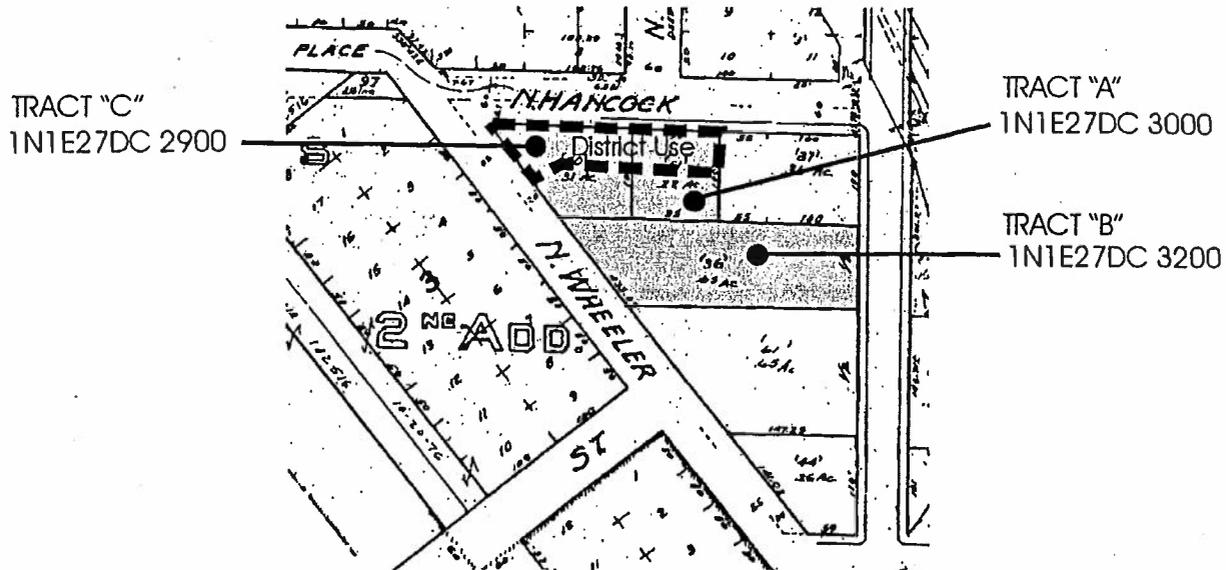
BES-C-FIRST FLOOR/FLEET DECK
MULTCO LEASE AREA

**REAL PROPERTY AGREEMENT
EXHIBIT C**

LEGAL DESCRIPTION FOR THE "FLINT STREET PREMISES" AND DRAWING

Tax Lot 3200 0.67 Acres Section 27 1N 1E
Tax Lot 3000 0.22 Acres Section 27 1N 1E
Tax Lot 2900 0.31 Acres Section 27 1N 1E

Real Property Agreement
Exhibit C
Legal Description for the "Flint Street Premises" and Drawing



BESC FLINT STREET LOTS

Lots 36, 50 & 51 S.E. ¼ Section 27 1N 1E
Delmer Shavers 2nd Addition, bounded by
N Hancock, N Wheeler and N Flint Streets
Quarter Section 2830 Multnomah County
Portland Oregon

TRACT "A"- A tract in Section 27, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah, and State of Oregon, described as follows:
Beginning at a point on the South line of North Hancock Street, 155 feet West of the West line of North Flint Street; thence West along said South line 95 feet; thence South 100 feet; thence East 95 feet; thence North 100 feet to the point of Beginning.

TRACT "B"- A tract in Section 27, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah, and State of Oregon, described as follows:
Beginning at a point on the West line of North Flint Street, which is 100 feet South of the intersection of said West line with the South line of North Hancock Street; thence West, parallel with said South street line 339.26 feet to the Northeastly line of North Wheeler Avenue; thence Southwesterly along said Northeastly line 124.22 feet to the Southwest corner of Parcel "C" conveyed to Williamsen & Bleid, Incorporated, by deed recorded February 6, 1956 in Deed Book 1768, Page 52; thence East along the South line of said Williamsen & Bleid tract 261.51 feet to the West line of North Flint Street; thence North along said West street line 96.74 feet to the point of beginning.

TRACT "C"- A tract in Section 27, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah, and State of Oregon, described as follows:
Beginning at a point on the South line of North Hancock Street, 250 feet West of the West line of North Flint Street; thence South 100 feet; thence West 89.26 feet, more or less, to the Northeastly line of North Wheeler Avenue; thence Northwestly along said Northeastly line to the South line of North Hancock Street; thence East to the point of beginning.

Real Property Agreement
Exhibit C
Legal Description for the "Flint Street Premises" and Drawing

N. HANCOCK ST.

