



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • Chair • 248-3308
PAULINE ANDERSON • District 1 • 248-5220
GRETCHEN KAFOURY • District 2 • 248-5219
RICK BAUMAN • District 3 • 248-5217
SHARRON KELLEY • District 4 • 248-5213
JANE McGARVIN • Clerk • 248-3277

AGENDA OF
MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS
FOR THE WEEK OF
August 14 to August 18, 1989

Tuesday, August 15, 1989 - 9:30 AM - Planning Items . . . Page 2
NO INFORMAL MEETING AT 1:30 PM

Thursday, August 17, 1989 - 9:30 AM - Formal Page 3

Tuesday, August 15, 1989 - 9:30 AM

Multnomah County Courthouse, Room 602

In the matter of the decisions of the Planning Commission of July 19, 1989, reported to the Board for acceptance and implementation by Board Order:

- PR 5-89 Approve, subject to conditions, a Comprehensive Plan amendment for portions of Tax Lots '7', '13' and '34', Section 22, 1S-3E, to grant land use exceptions to Statewide Planning Goals 3 (Agriculture) and 14 (Urbanization) for three road segments proposed outside the Urban Growth Boundary;
- CS 5-89 Approve, subject to conditions, a change in zone designation from EFU to EFU, C-S, community service, for approximately 155 acres to allow its inclusion in a proposed 18-hole public golf course, portions of which would lie within the Gresham City Limits, all for property located at 8005 SE 242nd Avenue (Hogan Road)

PUBLIC HEARING - In the matter of reviewing the Decision of the Planning Commission of June 10, 1989, Case LD 4-89, approving, subject to conditions, requested two-lot land divisions, to create lots of 283,270 and 115,500 square feet each, in an MR-4 zoning district, for property located at 20255 NE Halsey Street - HEARING ON THE RECORD, ORAL ARGUMENTATION NOT TO EXCEED 10 MINUTES PER SIDE - Appeal filed by adjacent property owner

Thursday, August 17, 1989, 9:30 AM

Multnomah County Courthouse, Room 602

Formal Agenda

REGULAR AGENDA

DEPARTMENT OF GENERAL SERVICES

- R-1 Budget Modification DGS #1 reclassification of six (6) Property Appraiser Supervisors to Program Supervisors in the Assessment & Taxation Division with additional funds coming from salary savings (Continued from August 10)

ORDINANCES - DEPARTMENT OF GENERAL SERVICES

- R-2 Second Reading - An Ordinance relating to the Car Rental Tax; amending MCC 5.40.125 (to clarify exemption for vehicles rented by residents living in exemption area)

DEPARTMENT OF JUSTICE SERVICES

- R-3 Liquor License application submitted by Sheriff's Office with recommendation that same be approved for Supermarket Express, 16100 SE Stark (Package Store, Change of Ownership)

INFORMAL BRIEFINGS

1. Informal Review of Formal Bid:
 - a. Study of Minority/Women Business Utilization in Public and Private Contracts
2. Library Briefing - Mike Dolan

PUBLIC TESTIMONY WILL NOT BE TAKEN AT INFORMAL MEETINGS

Thursday Meetings of the Multnomah County Board of Commissioners are recorded and can be seen at the following times:

Thursday, 10:00 PM, Channel 11 for East and West side subscribers

Friday, 6:00 PM, Channel 27 for Rogers Multnomah East subscribers

Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers

ANNOTATED AGENDA

Thursday, August 17, 1989, 9:30 AM

Multnomah County Courthouse, Room 602

Formal Agenda

REGULAR AGENDA

DEPARTMENT OF GENERAL SERVICES

- R-1 Budget Modification DGS #1 reclassification of six (6) Property Appraiser Supervisors to Program Supervisors in the Assessment & Taxation Division with additional funds coming from salary savings (Continued from August 10)

HELD OVER FOR TWO (2) WEEKS

ORDINANCES - DEPARTMENT OF GENERAL SERVICES

- R-2 Second Reading - An Ordinance relating to the Car Rental Tax; amending MCC 5.40.125 (to clarify exemption for vehicles rented by residents living in exemption area)

SECOND READING ORDINANCE 627 APPROVED

DEPARTMENT OF JUSTICE SERVICES

- R-3 Liquor License application submitted by Sheriff's Office with recommendation that same be approved for Supermarket Express, 16100 SE Stark (Package Store, Change of Ownership)

APPROVED

0649C.1



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JANE McGARVIN • Clerk • 248-3277

August 17, 1989

Ms. Linda Alexander, Director
Department of General Services
1120 SW Fifth
Portland, OR

Dear Ms. Alexander:

Be it remembered, that at a meeting of the Board of County Commissioners held August 17, 1989, the following action was taken:

Request of the Director of General Services for)
the approval of Budget Modification DGS #1)
reclassification of six (6) Property Appraiser)
Supervisors to Program Supervisors in the)
Assessment & Taxation Division with additional)
funds coming from salary savings)
(Continued from August 10) R-1)

Upon motion of Commissioner Kafoury, duly seconded by
Commissioner Kelley, it is unanimously

ORDERED that the above-entitled matter be held over for two
(2) weeks to August 31, 1989.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS

By Jane McGarvin
Jane McGarvin
Clerk of the Board

jm
cc: Assessment & Taxation



MULTNOMAH COUNTY OREGON

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JANE MCGARVIN • Clerk • 248-3277

August 17, 1989

Ms. Linda Alexander, Director
Department of General Services
1120 SW Fifth
Portland, OR

Dear Ms. Alexander:

Be it remembered, that at a meeting of the Board of County Commissioners held August 17, 1989, the following action was taken:

Second Reading - An Ordinance relating to the)
Car Rental Tax; amending MCC 5.40.125 (to clarify)) ORDINANCE
exemption for vehicles rented by residents) NO. 627
living in exemption area) R-2)

Copies of the above-entitled Ordinance were available to all persons wishing a copy. Ordinance was read by title only.

A hearing was held; no one wished to testify.

Commissioner Kafoury moved, duly seconded by Commissioner Kelley that the second reading of the ordinance as substituted be approved.

Carrie Parkerson, Assistant Clerk, stated the substitute ordinance deletes the portion which read "this ordinance being necessary for health, safety and general welfare . . ." was deleted from Section 3 (emergency clause).

At this time, the motion was considered, and it is unanimously

ORDERED that said Ordinance be adopted.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS

By Jane McGarvin
Jane McGarvin
Clerk of the Board

jm
cc: County Counsel
Finance

August 17, 1989

Commissioner Anderson stated that it had been requested by the Chair and the Clerk of the Board that Commissioners speak into their microphones because it has been increasingly difficult to understand people on the tape of the meeting.

(Underlined sections are new or replacements; [bracketed] sections are deleted.)

BEFORE THE BOARD OF COMMISSIONERS

FOR THE COUNTY OF MULTNOMAH

ORDINANCE NO. 627

An ordinance relating to the Car Rental Tax; amending M.C.C. 5.40.125.

Multnomah County ordains as follows:

SECTION 1. AMENDMENT

M.C.C. 5.40.010 is amended to add:

(H) "Exemption area" means Multnomah, Washington and Clackamas Counties.

SECTION 2. AMENDMENT

M.C.C. 5.40.125(C) is amended to add:

(C) A motor vehicle rented by a resident of the exemption area [licensee] to temporarily replace a vehicle being repaired or serviced. [Under warranty agreement or insurance policy.]

SECTION 3. ADOPTION

Adopted this 17th day of August, 1989, being the date of its second reading before the Board of County Commissioners of Multnomah County.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY

[SEAL]

By *Pauline Anderson*
Vice - Chair

Reviewed

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By *John L. DuBay*

7211F

AUG 17 1989

ORDINANCES - DEPARTMENT OF GENERAL SERVICES

R-2 Second Reading - An Ordinance relating to the Car Rental Tax; amending MCC 5.40.125 (to clarify exemption for vehicles rented by residents living in exemption area)

(FIRST READING AUGUST 10 - R-5)

NOTE: Amended copy of Ordinance to delivered before August 17 meeting

DATE SUBMITTED _____

(For Clerk's Use)
Meeting Date AUG 17 1989
Agenda No. _____

R-3

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: LIQUOR LICENSE

Informal Only* _____
(Date)

Formal Only 8-17-89
(Date)

DEPARTMENT Sheriff's Office DIVISION _____

CONTACT Sgt. Ed Hausafus TELEPHONE 255-3600

*NAME(S) OF PERSON MAKING PRESENTATION TO BOARD Bill Vandever

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Application for a PACKAGE STORE (change of ownership) license renewal for the Supermarket Express, 16100 SE Stark; applicants David H and Paula R. Beaty with recommendation for approval.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

INFORMATION ONLY PRELIMINARY APPROVAL POLICY DIRECTION APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA CONSENT AGENDA

IMPACT:

PERSONNEL

FISCAL/BUDGETARY

General Fund

Other _____

1989 AUG 17 PM 1:22
CLERK OF COUNTY
OREGON

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Robert G. Shipper / wuv

BUDGET / PERSONNEL _____ /

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.



Multnomah County Sheriff's Office

12240 N.E. GLISAN ST., PORTLAND, OREGON 97230

ROBERT G. SKIPPER
SHERIFF

(503) 255-3600

MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ROBERT G. SKIPPER
Sheriff

DATE: August 1, 1989

SUBJECT: LIQUOR LICENSE RENEWAL

Attached is the Package Store (change of ownership) liquor license renewal for the Supermarket Express, 16100 SE Stark, Portland. The applicant(s) David H. and Paula R. Beaty have no criminal record and I recommend that the application be approved.

EH/slr/21-AINT

Attachment

APPLICATION

STATE OF OREGON
OREGON LIQUOR CONTROL COMMISSION

Return To:

GENERAL INFORMATION

This application form costs \$5.00. A non-refundable processing fee is assessed when you submit this completed form to the Commission (except for Druggist and Health Care Facility Licenses). The filing of this application does not commit the Commission to the granting of the license for which you are applying nor does it permit you to operate the business named below.

No. 21116

1989 JUL 23
MULHOMAH COUNTY

(THIS SPACE IS FOR OLCC OFFICE USE)

(THIS SPACE IS FOR CITY OR COUNTY USE)

Application is being made for:

- DISPENSER, CLASS A
- DISPENSER, CLASS B
- DISPENSER, CLASS C
- PACKAGE STORE
- RESTAURANT
- RETAIL MALT BEVERAGE
- SEASONAL DISPENSER
- WHOLESALE MALT BEVERAGE & WINE
- WINERY
- Add Privilege
- Additional Privilege
- Change Location
- Change Ownership
- Change of Privilege
- Greater Privilege
- Lesser Privilege
- New Outlet
- Other

APPLICATION RECEIVED

OTHER:

\$37.50 - 90-Day
Temp + Pro Fee
#220 P. Silva

JUN 07 1989

OREGON LIQUOR CONTROL COMMISSION
LICENSE DIVISION

NOTICE TO CITIES AND COUNTIES: Do not consider this application unless it has been stamped and signed at the left by an OLCC representative.

THE CITY COUNCIL, COUNTY COMMISSION, OR COUNTY

COURT OF Mulhommah County
(Name of City or County)

RECOMMENDS THAT THIS LICENSE BE: GRANTED X

DATE 8/17/89 DENIED _____

BY Arnette Anderson
(Signature)

TITLE Vice Chair, Commission

CAUTION: If your operation of this business depends on your receiving a liquor license, OLCC cautions you not to purchase, remodel, or start construction until your license is granted.

Name of Corporation, Partnership, or Individual Applicants:

- 1) David H Bealy
- 2) _____
- 3) Paula R Bealy
- 4) _____
- 5) _____
- 6) _____

(EACH PERSON LISTED ABOVE MUST FILE AN INDIVIDUAL HISTORY AND A FINANCIAL STATEMENT)

2. Present Trade Name Supermarket Express

3. New Trade Name 16100 SE Stark Year filed _____
with Corporation Commissioner

4. Premises address 16100 S.E. Stark St Portland Ore
(Number, Street, Rural Route) (City) (County) (State) (Zip)

5. Business mailing address 16100 SE Stark St Portland Ore
(P.O. Box, Number, Street, Rural Route) (City) (State) (Zip)

6. Was premises previously licensed by OLCC? Yes X No _____ Year Current

7. If yes, to whom: Bill Vise Type of license: Alcy Store

8. Will you have a manager: Yes _____ No X Name _____
(Manager must fill out Individual History)

9. Will anyone else not signing this application share in the ownership or receive a percentage of profits or bonus from the business? Yes _____ No X

10. What is the local governing body where your premises is located? Portland
(Name of City or County)

11. OLCC representative making investigation may contact: David Bealy
460 McNeary #43 Dce Salem 393 3823
(Address) (Name) (Tel. No. - home, business, message)

CAUTION: The Administrator of the Oregon Liquor Control Commission must be notified if you are contacted by anybody offering to influence the Commission on your behalf.

DATE 5-15-89

Applicant(s) Signature
(In case of corporation, duly authorized officer thereof)

- 1) David H Bealy
- 2) Paula R Bealy
- 3) _____
- 4) _____
- 5) _____
- 6) _____



AUG 17 1989

#1

MULTNOMAH COUNTY OREGON

DEPARTMENT OF GENERAL SERVICES
PURCHASING SECTION
2505 S.E. 11TH AVENUE
PORTLAND, OREGON 97202
(503) 248-5111

GLADYS McCOY
COUNTY CHAIR

MEMORANDUM

TO: Jane McGarvin, Clerk of the Board

FROM: Lillie M. Walker, Director, Purchasing Section

DATE: August 9, 1989

RE: FORMAL BIDS AND REQUESTS FOR PROPOSALS SCHEDULED FOR INFORMAL BOARD

1989 AUG 9 3 PM 00
MULTNOMAH COUNTY
OREGON

The following Formal Bids and/or Professional Services Request for Proposals (RFPs) are being presented for Commissioners' review, and scheduled for Informal Board Review August 15, 1989.

BID/RFP NO.	TITLE/DESCRIPTION	INITIATING DEPARTMENT
RFP# 9P0495	Title: Study of Minority/Women Business Utilization in Public & Private Contracts Description:	DGS/Purch. Lillie Walker/ Buyer: Franna Ritz Phone: 5111 Contact: SAME AS ABOVE Phone:
	Title: Description:	Buyer: Phone: Contact: Phone:
	Title: Description:	Buyer: Phone: Contact: Phone:

cc: Gladys McCoy, County Chair
Board of County Commissioners
Linda Alexander, Director, DGS

Copies of the bids and RFPs are available from the Clerk of the Board.

TO: THE SKANNER

Please run the following Classified Advertisement as indicated below, under your "CALL FOR BID" section

MULTNOMAH COUNTY

Proposals Due: September 12, 1989 at 2:00 P.M.

Proposal No. RFP# 9P0495

Sealed proposals will be received by the Director of Purchasing, 2505 S.E. 11th Ave., Portland, OR 97202 for:

A Study of Minority/Women Business Utilization in Public & Private
Contracts

Multnomah County reserves the right to reject any or all proposals.

Specifications may be obtained at: Multnomah County Purchasing Section

2505 S.E. 11th Avenue

Portland, OR 97202

(503) 248-5111

Little M. Walker, Director
Purchasing Section

PUBLISH: August 23, 1989

TO: THE OBSERVER

Please run the following Classified Advertisement as indicated below, under your "CALL FOR BID" section

MULTNOMAH COUNTY

Proposals Due: September 12, 1989 at 2:00 P.M.

Proposal No. RFP# 9P0495

Sealed proposals will be received by the Director of Purchasing, 2505 S.E. 11th Ave., Portland, OR 97202 for:

A Study of Minority/Women Business Utilization in Public & Private
Contracts

Multnomah County reserves the right to reject any or all proposals.

Specifications may be obtained at: Multnomah County Purchasing Section

2505 S.E. 11th Avenue

Portland, OR 97202

(503) 248-5111

Lillie M. Walker, Director
Purchasing Section

PUBLISH: August 23, 1989

TO: DAILY JOURNAL OF COMMERCE
Please run the following Classified Advertisement as indicated below, under your
"CALL FOR BID" section

MULTNOMAH COUNTY

Proposals Due: September 12, 1989 at 2:00 P.M.

Proposal No. RFP# 9P0495

Sealed proposals will be received by the Director of Purchasing, 2505 S.E. 11th Ave., Portland, OR 97202 for:

A Study of Minority/Women Business Utilization in Public & Private
Contracts

Multnomah County reserves the right to reject any or all proposals.

Specifications may be obtained at: Multnomah County Purchasing Section
2505 S.E. 11th Avenue
Portland, OR 97202
(503) 248-5111

Lillie M. Walker, Director
Purchasing Section

PUBLISH: August 17, 1989

RFP NO. 9P0495

**STUDY OF MINORITY/WOMEN BUSINESS UTILIZATION
IN PUBLIC AND PRIVATE CONTRACTS**

**MULTNOMAH COUNTY PURCHASING SECTION
2505 S.E. 11TH AVENUE
PORTLAND, OR 97202**

**PROPOSALS DUE: 2:00 P.M.
September 12, 1989**

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I. INTRODUCTION

In 1977 the Multnomah County Board of Commissioners adopted a program designed to increase the proportion of contract awards to minority and women business enterprises (M/WBE). This program included limiting competitive bidding on certain construction and other contracts estimated to cost less than \$50,000 to MBEs and a 1% incentive for non-minority, joint-venture or minority prime contractors who executed letters of intent to subcontract at least 10% of the total dollar amount of the award to an MBE.

In December, 1981, the Multnomah County Purchasing Section solicited request for proposals to review the M/WBE program in effect, and to develop plans to expand and increase opportunities for M/WBEs to participate in the Multnomah County Purchasing program. This contract resulted in the promulgation of Public Contract Review Board (PCRB) Rules 60.010 to 60.081.

In July, 1986 the program was again reassessed due to legislation passed in the 1985 Legislative Assembly resulting in Oregon Revised Statute 279.059, establishing "good faith effort" criteria to evaluate contracts wherein goals were set by public agencies and were not met.

In April, 1988, Multnomah County issued a construction bid. The low bidder was rejected for failure to meet the established MBE goal or to make a good faith effort. This resulted in a suit against Multnomah County based upon the Equal Protection Clause of the 14th Amendment of the U.S. Constitution. Judge Redden of the U.S. 9th District Court of Oregon ruled in favor of the plaintiffs and enjoined Multnomah County from further implementation of its PCRB Rules 60.010 through 60.081. The ruling cited a lack of statistical data relating the availability of minority and women business enterprises to the categories of contracts customarily let by the County.

In January, 1989, the U.S. Supreme Court ruled on a similar case, J.A. Croson vs. City of Richmond, resulting in a loss to the City of Richmond, however, the U.S. Supreme Court provided some guidance for race based contracting programs. Race based programs are permitted in instances where there is pervasive discrimination against MBEs in the local government's market area causing the local government to have a compelling interest to insulate its procurement process against that discrimination to avoid becoming a passive participant in race and/or gender discrimination.

There is sufficient reason to believe that discrimination does, in fact, exist in the local market area. This belief is based upon public testimony given to the Oregon State Legislature's Joint Committee on Trade and Economic Development in 1987, where over 125 MBEs and WBEs testified to discriminatory contracting practices by

private sector prime contractors. In addition to this testimony, a staff report entitled "Financing Problems of Minority and Women Small Businesses," made to the Joint Legislative Committee on Trade and Economic Development, dated December 15, 1988, revealed discriminatory practices by some of the lending institutions, further handicapping minorities and women in the market. Also significant is the abrupt decrease in subcontract awards to MBEs and WBEs since Multnomah County was enjoined from establishing project goals, despite "soft" race and gender neutral incentives.

II. PROJECT OBJECTIVE

The objective of this request-for-proposal is to determine, with certainty, whether discrimination exists, and if so, to what extent does the County have a compelling interest to establish a race and gender based remedy to correct that discrimination.

The successful proposer will be required to perform a study of M/WBE utilization in public and private contracts. This will involve, 1) factual findings to determine if discrimination exists and to what extent; 2) an economic/market analysis; 3) legal conclusions; and 4) recommendation for legislative/administrative actions resulting from such findings and conclusions.

III. SCOPE OF WORK

The purpose of this RFP is to determine if, and to what extent discrimination exists, and to provide recommendations for race and/or gender conscious remedies which are narrowly tailored enough to meet the strict scrutiny test per the U.S. Supreme Court Decision in J.A. Croson Company vs. City of Richmond, Virginia. The Multnomah County Purchasing Section believes that each proposal must contain the following:

- A. Executive Summary, which includes:
 - 1. Methodology
 - 2. Summary of factual findings
 - 3. Economic/Market Analysis
 - 4. Legal Analysis and conclusions
 - 5. Recommendations for legislative/administrative action and M/WBE program design
 - 6. Appendices containing supporting documents.

With regard to Items 1 through 6 above, these summaries would include the following tasks, which are detailed in the PROPOSAL SUBMITTAL REQUIREMENTS:

- a. Identification of disadvantaged, minority and women's business entities qualified and available to participate in County contract and construction projects, including details of ethnic categories.
- b. Collection of evidence, both anecdotal and statistical, identifying public or private discrimination acts or practices resulting in the exclusion of disadvantaged, ethnic, or sexual categories from participation in public contracting in general and the construction industry in particular.
- c. Collection of evidence demonstrating the effects of past discrimination on disadvantaged, minority and women's business enterprises, including the effects of financial discrimination.
- d. Identification of the effects of implemented race and gender neutral efforts to increase M/WBE contract participation in public contracting and the need for additional implementation measures.

All proposal submittals must clearly demonstrate how the successful proposer will accomplish the tasks outlined in the scope of work.

IV. TERM OF CONTRACT

The term of the contract will be approximately three months beginning no later than August 15, 1989, and ending November 15, 1989. The completed study and recommendations must be submitted in report form to the Multnomah County Purchasing Director on or before November 15, 1989.

V. FUNDS AVAILABLE

The maximum amount available to conduct this study is \$20,000. It is anticipated that the scope of work may be performed within this price range.

VI. EQUAL OPPORTUNITY

All proposers must submit affirmative action/equal employment opportunity plans and workforce utilization forms. In addition, each proposer must identify any certified minority and/or woman business enterprise that will be subcontracting any portion or task in the proposal. If minority and/or woman business enterprises are not

identified as subcontractors, proposers must document good faith effort to subcontract with certified minority and woman business enterprises and include as an attachment to the RFP.

VII. PROPOSAL SUBMITTAL REQUIREMENTS

All proposer responses must include the following:

A. Qualifications of Firm: Describe the firm's qualifications and experience to perform the minority business utilization study and tasks detailed in the scope of work. Provide examples of similar projects that your firm has worked on, particularly those involving racial discrimination and business information analysis.

If subcontractors are to be used, include the work they will perform and the qualifications and experience of those firms.

B. Qualification of Key Personnel: Describe all relevant education and work experience for all key personnel and other personnel who will be assigned to perform tasks in the proposal submitted, including subcontractor personnel. Specify the source of legal review to determine if recommendations and remedies meet the test for legal sufficiency.

C. Cost Proposal: All proposal responses must include a statement of costs which includes all overhead, profits, subcontract agreements and cost, materials and supplies, travel and any other costs to perform the work described in the scope of work in this RFP. The total cost of the study must be stipulated.

D. Proposal for Completing Scope of Work: Each detailed proposal for performing the scope of work must address the following:

1. A clear, detailed description of the work tasks and methods to be utilized to complete the proposed scope of work, including anticipated labor hours to be committed to each task. Please identify task and key personnel assigned to each task.

2. Identify your method of conducting a M/WBE marketing analysis and matching that analysis with contract opportunities available in the Multnomah County Purchasing Section and the private sector contracts.

3. Describe your method to determine if racial discrimination has occurred and still exists, i.e., interviews with M/WBEs, testimonies, existing data, etc.
 4. Describe what data/resources are known and available to you for evaluating minority and majority business utilization.
 5. Describe method of any proposed internal audit to be conducted on the Multnomah County purchasing site.
 6. Insert timelines for completing each task in the scope of work in the proposal.
 7. Recommendations for any other avenues of investigation/research that you feel are appropriate based upon the Crosan Supreme Court decision.
 8. Identify and include issues that may need to be resolved in completing the scope of work or include any suggestions for supplementing the described scope of work or assistance required of Multnomah County for successful completion of the study and recommendations.
- E. References: Provide a minimum of two (2) references of similar types of projects supportive of your firm's capabilities.
- F. Executive Summary as outlined in III. SCOPE OF WORK, A., 1 through 6.

VIII. SELECTION PROCESS AND PROPOSAL EVALUATION

Overview of the Selection Process - All proposal submittals will be initially reviewed for completeness and must include all required attachments. Only complete proposal submittals will be evaluated. The selection of the successful proposer will be determined by the highest scores as described below.

Evaluation of the Proposal - Proposals will be rated pursuant to the following criteria;

Study design: Is the design method valid and can be expected to accomplish each task identified in the scope of work?
20 points assigned

Demonstrated experience: Does the proposer firm have experienced key staff who have proven ability to investigate and analyze business practices and racial discrimination and develop and present statistical data?
15 points assigned

Legal expertise: Is the legal counsel on whom the proposer will rely sufficiently experienced and qualified to guide the design and implementation of the proposers study and determine legal sufficiency of recommendations?

15 points assigned

Staffing level: Does the proposer firm have sufficient qualified staff available or subcontractors to complete the study and recommendations within the timelines stated in the proposal submitted?

15 points assigned

Proposal format and proficiency in presenting written materials: Is the proposal organized in an understandable language and format? Has the proposer submitted examples of other written materials which demonstrate report writing skills? Has the proposer utilized certified minority/women business' as a subcontractor or equal opportunity/affirmative action plans? If not, has the proposer provided evidence of good faith efforts to subcontract with minority or women business'?

15 points assigned

Price: Is the cost for tasks to be undertaken reasonable for completion of the study and recommendation as proposed?

10 points assigned

Recommendations/Suggestions: Does the proposer have other experience or expertise pertinent to the proposed study?

10 points assigned

Interview and Final Selection: Up to five (5) finalists with the highest combined scores may be selected for an oral interview by the evaluation panel for the purpose of clarification. The final selection will be based on the total score obtained of a possible maximum 100 points, plus references supportive of proposers ability to perform the study.

All references will be verified. A non-supportive reference may be considered just cause for proposal rejection or a substantial decrease in points.

Proposal Submission: Respondents must submit an original and five (5) copies of the proposal to: Purchasing Director, Multnomah County, 2505 S.E. 11th Avenue, Portland, Oregon, 97202, no later than 2:00 p.m. on September 12, 1989. LATE PROPOSALS WILL NOT BE ACCEPTED.

IX. CLARIFICATION

Any vendor requiring clarification of the information or protesting any provision herein, must submit specific comments in writing to:

Lillie Walker, Purchasing Director
Purchasing Section
2505 S.E. 11th Avenue
Portland, OR 97202

The deadline for submitting such questions or comments is July 18, 1989. A written response will be provided to those questions which are deemed appropriate, copies of which will be sent to all vendors in receipt of this RFP. Questions will not be answered verbally except those which would clarify specifications and requirements of this RFP and as further provided herein. However, any actions or changes resulting from these communications will be forwarded to all bidders as an addendum to this RFP.

Oral instructions or information concerning the specifications for the projects or requirements given out by County officers, employees, or agents to prospective bidders shall not bind the County. Any addenda shall be issued by the Purchasing Director not later than five (5) days prior to the specified date for proposal submittal.

X. REJECTION OF PROPOSALS

Multnomah County reserves the right to reject any or all responses to this Request for Proposal.

XI. COST OF PREPARATION OF RESPONSE

Costs incurred by any agency in the preparation of the response to this Request for Proposal are the responsibility of the responding agency and will not be reimbursed by the county.

XII. CANCELLATION

Multnomah County reserves the right to cancel award of the contract at any time before execution of the contract by both parties if cancellation is deemed to be in the best interest of Multnomah County. In no event shall Multnomah County have any liability for the cancellation of award. The bidder assumes the sole risk and responsibility for all expenses connected with the preparation of its proposal.

XIII. COMPLIANCE WITH GOVERNMENT REGULATIONS

The successful proposer will comply with all federal, state and local laws, codes, regulations and ordinances applicable to the work to be performed under this contract. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for contract cancellation. Damages or costs resulting from noncompliance shall be the responsibility of the successful proposer.

XIV. ASSIGNMENT

The successful proposer shall not assign, sell, transfer, or delegate any of the requirements, rights or responsibilities under this contract, in whole or in part, without prior written approval from Multnomah County.

XV. PAYMENT OF OBLIGATIONS

The successful proposer agrees to make payment promptly as due to all persons furnishing services, supplies, and equipment to successful proposer for the performance of work under this contract. If successful proposer fails, neglects or refuses to pay such claims as they become due, the proper officer(s) representing Multnomah County, after ascertaining that the claims are just, due and payable, may pay the claims and charge the amount of the payment against funds due or to become due the successful proposer under this contract. The payment of claims in this manner shall not relieve the successful proposer with respect to any unpaid claims.

XVI. INDEPENDENT CONTRACTOR STATUS

The services to be rendered under any contract resulting from this Request-For-Proposal are to be those of an independent contractor. The successful proposer must certify that its firm is operating as an independent contractor and is not an officer, employee or agent of Multnomah County as those terms are used in ORS 30.265.



MULTNOMAH COUNTY OREGON

DEPARTMENT OF GENERAL SERVICES
PURCHASING SECTION
2505 S.E. 11TH AVENUE
PORTLAND, OREGON 97202
(503) 248-5111

GLADYS McCOY
COUNTY CHAIR

MEMORANDUM

TO: Board of County Commissioners
Gladys McCoy, County Chair
Pauline Anderson, Commissioner
Rick Bauman, Commissioner
Gretchen Kafoury, Commissioner
Sharron Kelley, Commissioner
Linda Alexander, Director, Dept. of General Services
Kathy Busse, Director, Dept. of Administrative Services

FROM: *L. Walker* Lillie M. Walker, Director
Purchasing Section

DATE: August 11, 1989

RE: MINORITY/WOMAN BUSINESS ENTERPRISE UTILIZATION STUDY

1989 AUG 11 PM 4:14
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON

Attached is a copy of a request-for-proposal for a Minority/Woman Business Enterprise (M/WBE) Utilization Study for which I am requesting Multnomah County Board of County Commission approval for issuance. The technical amendment and Budget Modification for funding this study was approved in June, 1989.

The intent of the M/WBE Utilization Study is to determine if discrimination against M/WBEs exists in the Multnomah County market area and to provide recommendations for remedial action to correct discrimination, if found.

The results of the study could serve two purposes: 1) to build a legal foundation for implementation of an affirmative action in contracting program, and 2) to insulate Multnomah County from suit from M/WBE firms and organizations if discrimination is not found to be a factor in the lack of contract awards to M/WBEs.

Also attached is a memorandum from John L. DuBay, Assistant County Counsel commenting on the proposed M/WBE Utilization Study for your review and issuance of this request-for-proposal.

LMW:CLS



MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY COUNSEL
1120 S.W. FIFTH AVENUE, SUITE 1530
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138

BOARD OF COUNTY COMMISSIONERS
GLADYS McCOY, CHAIR
PAULINE ANDERSON
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GRETCHEN KAFOURY

M E M O R A N D U M

COUNTY COUNSEL
LAURENCE KRESSEL
CHIEF ASSISTANT
ARMINDA J. BROWN

ASSISTANTS
JOHN L. DU BAY
SANDRA N. DUFFY
J. MICHAEL DOYLE
H. H. LAZENBY, JR.
PAUL G. MACKAY
MARK B. WILLIAMS

TO: Larry Kressel
County Counsel

FROM: John L. DuBay
Assistant County Counsel (106/1530)

DATE: June 12, 1989

RE: Proposed MBE/WBE Study

The note from Bill Farver requests assurance that the proposed MBE/WBE study can contribute to a valid MBE/WBE participation program after the Supreme Court's ruling in City of Richmond v. J. A. Croson Co., ___ U.S. ___, (1988).

In Croson, the Court struck down Richmond's set aside program that called for 30% participation by MBE's in city construction contracts. As in most such cases the opinion is more instructive as to what can't be done to institute this type of program than what can be done. Justice O'Connor's majority opinion discounted the weight to be given the five following facts relied upon by the lower court in reaching its conclusion that there was an adequate factual basis for the 30% quota:

- (1) the ordinance declares itself to be remedial;
- (2) several proponents of the measure stated their views that there had been past discrimination in the construction industry;
- (3) minority businesses received .67% of prime contracts from the city while minorities constituted 50% of the city's population;
- (4) there were very few minority contractors in local and state contractors' associations;
- (5) in 1977, Congress made a determination that the effects of past discrimination had stifled minority

Larry Kressel
June 12, 1989
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participation in the construction
nationally.

Slip Op. at 24.

The Court discussed each of these "facts" in turn, and in rejecting them as a basis for a race conscious preference program articulated an intention to accept only evidence of identified discrimination against specific groups or individuals as a sufficient predicate. The Court said:

None of these "findings," singly or together, provide the City of Richmond with a "strong basis in evidence for its conclusion that remedial action was necessary." Wygant, 276 U.S. at 277 (plurality opinion). There is nothing approaching a prima facie case of a constitutional or statutory violation by anyone in the construction industry. Id. at 274-275; see also Id. at 293 (O'Connor, J., concurring).

Slip Op. at 24.

The emphasis in the opinion seems to stress the importance of evidence of discriminatory acts by the perpetrators rather than generalized effects on the victims of discrimination. However, the Court did reject the notion that a local government can adopt a race based contract participation program only as a measure to remedy its own past actions. Recognizing that the school board in Wygant had a race based layoff program affecting its own work force, the Court disavowed the applicability of the holding in that case to Richmond's subcontracting program. Noting that Richmond had legislative authority over its own procurement policies, and could use its spending powers to remedy private discrimination, if it identifies that discrimination with the particularity required by the Fourteenth Amendment, the Court said:

To this extent, on the question of the city's competence, the Court of Appeals erred in following Wygant by rote in a case involving a state entity which has state-law authority to address discriminatory practices within local commerce under its jurisdiction.

Larry Kressel
June 12, 1989
Page 3

Thus, if the city could show that it had essentially become a "passive participant" in a system of racial exclusion practiced by elements of the local construction industry, we think it clear that the city could take affirmative steps to dismantle such a system.

Slip Op. at 17.

Note, however, that Justice Scalia's dissent thinks that State action to undo the effects of past discrimination by racial classification is only justified to eliminate maintenance of the States' own system of unlawful racial classification. Scalia, J., dissent at 3.

The majority clearly recognizes the States' authority to dismantle, by affirmative steps, a system of racial exclusion practiced by elements of the construction industry. A post-Croson affirmative action program is possible, but until the Court approves a program, we have little assurance a County program can be made bullet proof. To buttress a new program as much as possible, a study like the one proposed is essential to develop the factual base identifying discriminatory practices, either by the government or by industry, and their effects. However, I would like to see the direction of the study as outlined in the four tasks listed at the top of page three of the RFP, finely tuned a bit.

I recommend the tasks be restated as follows:

1. Identification of disadvantaged, minority and women's business entities qualified and available to participate in County contracts and construction projects, including details of ethnic categories.
2. Collection of evidence, both anecdotal and statistical, identifying public or private discriminatory acts or practices resulting in the exclusion of disadvantaged, ethnic, or sexual categories from participation in public contracting in general and the construction industry in particular.
3. Collection of evidence demonstrating the effects of past discrimination on

Larry Kressel
June 12, 1989
Page 4

disadvantaged, minority and women's business enterprises, including the effects of financial discrimination.

4. Identification of the effects of implemented race and gender neutral efforts to increase M/WBE contract participation in public contracting and the need for additional implementation measures.

In addition to the burden of identifying practices of discrimination, local governments must narrowly tailor a remedial program to do no more than undo the effects of past practices. That burden will depend upon the validity of the evidentiary basis for the conclusion that discrimination exists. Narrow tailoring will likely require more creative legislation than exhibited in the past.

Frankly, I'm concerned about how any study will take account of the beneficial effects of the terminated County M/WBE program. That is, won't the County's success in increasing M/WBE participation skew any statistics covering the period since 1984? This, it seems to me, is another reason the factual base should not rely too heavily on statistical comparisons of M/WBE share of the contracting activity. The more important reason, though, is that the Court doesn't seem to give statistics great weight these days.

DATE SUBMITTED _____

(For Clerk's Use)
Meeting Date AUG 17 1989
Agenda No. #2

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: Regular Library Work Session

Informal Only* Aug/15/89 P.M.
(Date)

Formal Only _____
(Date)

DEPARTMENT Chair DIVISION _____

CONTACT Michael Dolan TELEPHONE X 3308

*NAME(S) OF PERSON MAKING PRESENTATION TO BOARD _____

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Update and discussion:
Negotiations with Library Association of Portland
Central Library roof.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

INFORMATION ONLY PRELIMINARY APPROVAL POLICY DIRECTION APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 30 minutes

IMPACT:

- PERSONNEL
- FISCAL/BUDGETARY
 - General Fund
 - Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Madyn McCoy

BUDGET / PERSONNEL _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

DATE SUBMITTED _____

(For Clerk's Use)

Meeting Date _____

Agenda No. _____

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: _____

Informal Only* _____
(Date)

Formal Only _____
(Date)

DEPARTMENT _____ DIVISION _____

CONTACT _____ TELEPHONE _____

*NAME(S) OF PERSON MAKING PRESENTATION TO BOARD _____

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

INFORMATION ONLY PRELIMINARY APPROVAL POLICY DIRECTION APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA _____

IMPACT:

PERSONNEL

FISCAL/BUDGETARY

- General Fund

Other _____

1989 AUG 10 AM 11:53
MULTI-COUNTY
OREGON
COUNTY COMMISSIONER

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: _____

BUDGET / PERSONNEL _____ / _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.